



Office of the Refugee Applications Commissioner



Annual Report 2001

لاجئ Refugiat БЕЖЕНЕЦ Réfugié
Réfugié Refugiat Adabo
Adabo Refugiat Réfugié لاجئ
БЕЖЕНЕЦ Adabo Refugiat



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Foreword by Refugee Applications Commissioner

I am delighted to present to the Minister for Justice, Equality and Law Reform the first report produced by this Office under the terms of Section 7 of the Refugee Act 1996. This report covers the period from 20th November 2000 to 31 December 2001. Following the implementation of the Refugee Act 1996, the Office of the Refugee Applications Commissioner was established as an independent office to consider applications for refugee status and to make recommendations to the Minister on whether such status should be granted. The Office is also responsible for the investigation and preparation of reports to the Minister for Justice, Equality and Law Reform on applications from those granted refugee status who subsequently seek permission for a family member to enter and reside in the State.

The report begins with a brief description of the development of the asylum process to date. A general overview of the operations of the Office is given and I have also detailed some of the recent developments in my Office including the setting up of a new unit to develop Policies and Procedures in the Case Processing area and the establishment of a Customer Service Centre which it is hoped will provide a greatly improved service for our clients. I am proud of the fact that during the year we have significantly improved our processing capacity and are now making a significant impact on the number of outstanding cases. In fact, during the second half of the year we processed many more cases each month than were received.

As a new Office we faced a number of challenges during this year, not least of which was the doubling in size of our organisation. I am committed to ensuring that all applications for asylum are treated and processed in an open, fair, courteous and efficient manner and accordingly significant emphasis has been placed on the training and on-going development of all staff.



The focus of the office in the first year has been on ensuring a successful transition from the previous administrative regime to the new statutory basis for the assessment of applications for refugee status and the putting in place of an overall strategy to ensure that policies and procedures are equitable, qualitative and in line with best international standards and procedures. My priority for the coming year is to look at the further development of structures, policies and procedures to maximise the efficiency of the office. With the consent of the Minister for Finance, sanction has been given to recruit legal support to assist me in providing guidance for staff in the development of firm policy positions and procedures to assist in the investigation of applications.

I would like to take this opportunity to thank the staff of my Office for their dedication, hard work and commitment to high standards in achieving considerable progress in the first year of our operation. I would also like to acknowledge the support of the Department of Justice, Equality and Law Reform, the Refugee Appeals Tribunal, and other state agencies and organisations involved in the asylum process. I would, in particular, like to acknowledge the ongoing support and advice given by the Dublin Office of the United Nations High Commissioner for Refugees (UNHCR).

A handwritten signature in dark ink, reading 'Berenice O'Neill'.

Berenice O'Neill
Commissioner

Corporate Identity

On the implementation of the Refugee Act 1996, the Office of the Refugee Applications Commissioner adopted a corporate logo. This logo is shown on all of our official documents and letters as well as on any publications of the Office.



Mission Statement

The mission statement of the Office of the Refugee Applications Commissioner in accordance with the Refugee Act 1996 is

- (i) to investigate applications from persons seeking a declaration for refugee status and to issue appropriate recommendations to the Minister for Justice, Equality and Law Reform

and

- (ii) to investigate applications by refugees to allow family members to enter and reside in the State and report to the Minister for Justice, Equality and Law Reform on such applications

and in so doing, to provide a high quality service to our customers through the implementation of policies and procedures which are fair and open, treating all applicants with courtesy and sensitivity.

Who is an Asylum Seeker?

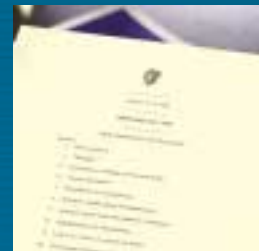
An asylum seeker is a person who seeks to be recognised as a refugee in accordance with the terms of the 1951 Geneva Convention relating to the status of refugees and the related 1967 Protocol, which provide the foundation for the system of protection of refugees generally.

Definition of a Refugee

The definition of a refugee in Irish law is “a person who, owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to such fear, is unwilling to return to it...”

[Section 2 of the Refugee Act 1996 (as amended)].

Introduction



1

Introduction

Introduction to the Asylum Area

Throughout the 1990s the number of asylum seekers in Europe rose dramatically. In fact it grew from approximately 425,000 in 1990 to 4.2 million in 1999. The closer one gets to the countries of origin of the main asylum generating countries, the more the scale of the problems facing refugees and the issue of displaced persons becomes more profound. For example, the worldwide population of refugees has, according to UNHCR figures, ranged from 11.5 to 18.3 million at different stages in the 1990s. We have all witnessed, albeit at a safe and sanitised distance through television, the humanitarian crises, wars and famines which have unfolded in various parts of the world and which generated the refugee movements during that time. The words of the UN High Commissioner for Refugees, Sadako Ogata, on the occasion of the 50th anniversary of the UNHCR provide sobering reading..."

...the major upheavals of the past half century - a seemingly unending string of conflicts and crises have resulted in the displacement of tens of millions of people"

It is against this backdrop that the importance of the Geneva Convention (1951) and the New York Protocol (1967), which Ireland signed up to in 1956 and 1968 respectively, can be seen. Like many other European countries, the numbers seeking asylum in Ireland increased dramatically since the early 1990s.

History of Refugee Status Determination in Ireland

Applications for asylum in the early years of the 1990s were in the main made in Shannon by applicants from a small number of

countries. The Refugee Status Determination process in use at that time involved an applicant being interviewed by an official of the Immigration and Citizenship Division of the then Department of Justice, and the report of the interview being sent to the UK Office of the UNHCR to be assessed.

In 1995 this arrangement was formalised with the then UNHCR representative for the UK and Ireland and became known as the "Von Arnim" procedures. These arrangements provided that the UNHCR would assess claims for refugee status with the then Department of Justice dealing with all other aspects of the claim. However these administrative arrangements were not designed to deal with the substantial increase in the volume of applications which subsequently occurred.

In the four years from 1992 to 1996 applications for asylum had increased from 39 to 1,179. While the Refugee Act 1996 was passed in June 1996, it was not brought into operation for some time thereafter. It became clear in 1997 that due to the rising number of applications being lodged, the structures provided for in the Act would be incapable of dealing effectively with the volumes of applications then being received. The Act was commenced on a phased basis, with section 24(1) coming into force on 1st October 1996 and Sections 1, 2, 5, 22 and 25 taking effect from 29th August 1997. The greater parts of the Act were brought into operation in November 2000. Furthermore, the Dublin Convention, which came into operation on 1 September 1997, provides a mechanism for determining which convention country is responsible for examining an application for refugee status.

Following consultations with the UNHCR, new procedural arrangements for processing asylum

Year	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
No. of applications	39	91	362	424	1,179	3,883	4,626	7,724	10,938	10,325

claims were put in place with effect from 10 December 1997. The new administrative procedures, known as the "Hope Hanlan" procedures, provided for a system of determination of applications by the Department of Justice, Equality & Law Reform and the right to an independent appeal. The Hope Hanlan procedures, with some minor amendments along the way, provided the basis for dealing with asylum claims in the State up to the commencement in full of the Refugee Act 1996 on 20 November 2000.

Legal Framework

Under the Act, two independent statutory offices were established to consider applications/appeals for refugee status and to make recommendations to the Minister on whether such status should be granted. These two offices are the Office of the Refugee Applications Commissioner (ORAC), which considers applications for a declaration as a refugee at first instance and the Refugee Appeals Tribunal (RAT) which considers applications for a declaration at appeal stage.

The statutory functions of the Refugee Applications Commissioner are set out in the Refugee Act 1996 (as amended) by the Immigration Act 1999 and the Illegal Immigrants (Trafficking) Act 2000. Throughout this report, the term "Refugee Act 1996" means the "Refugee Act 1996 (as amended)".

The Office also has regard to the following Statutory Instruments (S.I.) in the discharge of its business

- S.I. No. 342 of 2000 - Refugee Act, 1996 (Appeals) Regulations, 2000
- S.I. No. 343 of 2000 - Dublin Convention (Implementation) Order 2000
- S.I. No. 344 of 2000 - Refugee Act, 1996 (Places and Conditions of Detention) Regulations, 2000.
- S.I. No. 345 of 2000 - Refugee Act 1996 (Application Form) Regulations, 2000

- S.I. No. 346 of 2000 - Refugee Act, 1996 (Temporary Residence Certificate) Regulations, 2000

Core Functions of the Office of the Refugee Applications Commissioner

The Refugee Act 1996 states that the Refugee Applications Commissioner shall be independent in the exercise of his or her functions.

The functions of the Refugee Applications Commissioner, as required by the Refugee Act 1996, are of a statutory and non-statutory nature. The key statutory responsibilities are;

- to investigate applications from those who seek a declaration of refugee status and to issue appropriate recommendations to the Minister for Justice, Equality and Law Reform on such applications, and
- to investigate applications by refugees to allow family members to enter and reside in the State and report to the Minister for Justice, Equality and Law Reform on such applications.

It is also the Commissioner's responsibility to issue Temporary Residence Certificates to asylum seekers; to direct the presentation of the Commissioner's case to the Refugee Appeals Tribunal where recommendations made by the Commissioner are appealed to the Tribunal; and to furnish to the Refugee Appeals Tribunal, the Refugee Advisory Board, the Minister for Justice, Equality & Law Reform and the UNHCR such information as they consider necessary for the purpose of their functions under the Act. While ultimately responsible for fulfilling these statutory functions under the Act, the Commissioner may delegate these functions to any member of his/her staff.

The Refugee Applications Commissioner also has non-statutory functions. These include ensuring that all applications for asylum at first

stage are treated and processed in a fair, courteous and efficient manner; issuing directives on the practical application of the Refugee Act 1996 and procedures and standards of work; ensuring that adequate information on countries of origin of asylum seekers and international jurisprudence and practice in the area of asylum is available to fulfil the remit of the Office; participating in international fora on asylum related matters; staff performance, training and development; dealing with press queries; preparation and management of the budget and business plan.

Key Values of the Office

As an initial step in developing the strategic and business planning process of the Office, a Framework Document was produced early in 2001. This framework document set out the objectives of the Office together with identifying the goals, key values, stakeholders, environment, principles, critical success factors and outcomes applicable to the Office [see Appendix 1].

The key values of the Office are as follows:

- **Independence** - Independence of its process and decision making.
- **Fairness** - Fair procedures which are notified to asylum seekers.
- **Firmness** - Firmness in implementing statutory obligations.
- **Commitment to excellence** - Performing work to a standard that will ensure the production of high quality and timely outputs.
- **Openness** - Communicating with asylum seekers, the Minister for Justice, Equality and Law Reform, UNHCR, Non Governmental Organisations and the general public in a way which will instil confidence in the operation of the Office.
- **Serving the key stakeholders** - Commitment to service of asylum seekers and other stakeholders.



- **Commitment to Staff** - Recognising that staff are the most valuable resource of the Office and fostering an environment in which they can work effectively and develop their potential for the benefit of the Office specifically, and their career generally.
- **Efficiency in use of resources** - Ensuring efficiency in the use of available resources without compromising quality.

Funding and Staffing for the Office

The funding for the Office of the Refugee Applications Commissioner is provided by the State through the Department of Justice, Equality & Law Reform.

The Refugee Act 1996 provides that members of the staff of the Commissioner shall be Civil Servants within the meaning of the Civil Service Act 1956.

The Refugee Act 1996 allows the Refugee Applications Commissioner to appoint authorised officers to carry out the majority of her statutory functions. All staff (with the exception of the Service Officers and Service Attendants) working in the Office have been appointed authorised officers. New staff are designated authorised officers on appointment.

Organisational Management Structure

During 2001, the senior management structure was comprised of the Commissioner and two Principal Officers. The approved staff compliment of the Office is as follows:

Grade	Number
Principal Officer	2
Assistant Principal Officer	16
Higher Executive Officer	62
Executive Officer/Staff Officer	115
Clerical Officer	95
Service Officer/Attendant	21
Legal Researcher	2
Total	313

An Organisation Chart is attached at Appendix 2.

Reporting Requirements

The reporting requirements for the Commissioner as set out in the Refugee Act 1996 are as follows:

- to submit a report to the Minister for Justice, Equality and Law Reform on his/her activities not later than 3 months after the end of each year. The Minister will lay a copy of the Annual Report before each House of the Oireachtas.
- to provide to the Minister, on an on-going basis, all necessary information to enable him/her to discharge his/her ministerial accountability and responsibility in relation to the Office
- to keep all proper and usual accounts of all monies received or expended and all such special accounts (if any) as the Minister may direct
- to submit these accounts to the Comptroller and Auditor General for audit on a date specified by the Minister. A copy or extracts from these accounts, together with the report of the Comptroller and Auditor General will be furnished to the Minister who will bring both before each House of the Oireachtas.



Review of the operations of the Office



2

Review of the Operations of the Office

Growing the Organisation

Against a background of continuing high levels of applications, one of the first challenges facing the Office in 2001 was managing the intake, induction and training of a large number of staff in the first year of operation. On 20 November 2000, there were 153 staff serving in the Office and by the end of 2001, this number had risen to 282. The recruitment process was very labour intensive and considerable resources were devoted to this task. Training and development of both new and existing staff was a priority and a programme was put in place to ensure that appropriate training was provided to all staff (see Chapter 10 for more details).

During the year a number of new units were set up within the Office. These included a Policies and Procedures Unit which aims to support the work of Case Processing by developing procedures which are clear and consistent (see Chapter 6). A new Customer Service Centre was also established to provide a more uniform and efficient service for all our customers and staff. This unit provides a central

contact point for all written and a large number of telephone enquiries and is also the liaison point for outside agencies (see Chapter 3). A centralised Case Processing Support and Country of Origin Research service was also established.

Processing

At the commencement of the Refugee Act 1996 on 20 November 2000, 9,431 applicants were awaiting decision at first stage and of these 3,242 related to applications made prior to the year 2000. In the period to 31/12/2001, an additional 11,457 applications were received.

By the end of 2001, a significant impact had been made on the number of cases on hand

- Over 12,000 interviews were scheduled during 2001 which is over twice the number which were scheduled in 2000
- By the end of 2001, all applicants who lodged a claim before 2001 had been offered a substantive interview (with some minor exceptions)
- 12,577 cases were brought to conclusion in the period 20/11/2000 -31/12/2001 as follows:

Total cases finalised 20/11/2000 - 31/12/2001 (More detailed information is available in Appendix 3)	
Recommendations to Grant	467
Recommendations to Refuse	
• substantive, after interview	4,056
• manifestly unfounded, after interview	600
• Section 11 (9), failure to appear at interview	1,975
Withdrawals processed	4,873
Determinations for transfers to other countries under the Dublin Convention	234
Unprocessable	372
Total	12,577



Customer Service

The Office has a diverse customer base as it deals with applicants of over 130 different nationalities. Our core business involves interviewing applicants to assess their claim of a well founded fear of persecution. All staff received specialised training on the application of the Convention grounds. At the risk of stating the obvious there is no quota system in operation. Applicants are not in competition with each other or the indigenous population for services. We are entirely 'demand-led', literally whoever turns up at the door forms our client base. During 2001 we produced documentation in 24 languages and had a number of interpreters available at all times in the Reception Area. Contact was also established with relevant bodies involved in the asylum process (Chapter 3).

Temporary Residence Certificate/ Fingerprinting Project

As provided for under the Refugee Act 1996 all persons who applied for asylum after 20/11/2000 were issued with a Temporary Residence Certificate (TRC) and were

fingerprinted. Accordingly, when the Office was established, a project was put in place to take fingerprints from those applicants whose applications had not been finally determined and who had applied prior to this date. In addition these applicants had to be issued with a TRC. Approximately 15,500 sets of prints were taken by 31 December 2001, of which 6,500 were from the backlog and 9,000 from new applicants.

Unaccompanied Minors

Dealing with the needs of this particular group of applicants required special sensitivity and awareness at each stage of the process. In this regard, special training modules were organised for our staff and were delivered by the UNHCR. Close co-operation with the Health Boards, who are responsible for the care and welfare of minors, facilitated the introduction of unaccompanied minors procedures and training.

When we consider that an applicant is an unaccompanied minor (under 18 years of age), they are referred to the appropriate Health Board. If the applicant's age is considered

borderline, they are given the benefit of the doubt and they are accepted as a minor.

Age assessment testing was also introduced, on a pilot basis, during the year in response to the concerns we had at the increasing numbers of persons claiming to be unaccompanied minors but who appeared to be older than 18 years. In cases such as these, the applicant is invited to make an application as an adult but is given the opportunity of undergoing an examination for age assessment, to facilitate them in establishing their age.

Family Reunification

Processing of family reunification applications commenced in this Office in March 2001. By 31 December 2001, 118 applications have been referred to the Office. The number of family members/dependants referred to in these applications is 284. By the end of 2001, 77 applications had been finalised and were returned to the Minister for Justice, Equality and Law Reform for decision. The number of family members/dependants referred to in these applications is 197 (See Chapter 9).

Legal Challenges

In the first year of operation there were many challenges facing the organisation. A significant issue was the number of judicial reviews taken and the need to respond to these legal challenges. In the main, applicants sought to have recommendations on applications for a declaration as a refugee to be judicially reviewed in accordance with Section 5 of the Illegal Immigrants (Trafficking) Act 2000. Essentially the process involves the court considering the technicalities by which a decision was reached. Most judicial reviews are concerned with how the decision was made and not what was decided, and the focus is very much on whether the stated procedures are carried out, in accordance with law, and constitutional and natural justice. 58 judicial reviews were lodged against the

Commissioner's recommendations in 2001 and 37 of these have been resolved while 21 await finalisation at end 2001 (excluding Dublin Convention). The majority of applications did not comply with the statutory time limit provision and most of these were struck out in the High Court. Nevertheless, observations have been provided to Counsel in all cases and affidavits have been sworn whenever Counsel has deemed it necessary to do so. In addition, 19 judicial reviews were taken in relation to the Dublin Convention and by end 2001, six cases had been resolved.

Customer Service



3

Customer Service

Customer Service Developments

As a newly established organisation with a wide variety of customers, we have placed considerable emphasis on developing effective customer service structures and liaison arrangements. We developed a Customer Service Action Plan after detailed consultation with the relevant parties and believe that having a Plan is essential for maintaining and developing good customer relationships. The customers of our Office range from our applicants to Non Governmental Organisations (NGOs), and also include the Refugee Appeals Tribunal, the UNHCR and other organisations like Health Boards and Government Departments as well as our own staff.

A new Customer Service Centre (CSC) was established at the beginning of November 2001. During the short time since its establishment, the unit has:

- established revised procedures for the handling of postal enquiries to the Office
- provided a liaison point for the Immigration/Repatriation Division and the Ministerial Decisions Unit of the Department of Justice, Equality and Law Reform, the Garda National Immigration Bureau, the Department of Social, Community and Family Affairs, the Health Boards, the Reception and Integration Agency, the Refugee Appeals Tribunal and the Refugee Legal Service, and
- consolidated file management systems and procedures within the office.

The Customer Service Centre aims to provide an efficient service for all our customers and staff and is a useful barometer of the issues facing the organisation. Customer Service, in the context of this organisation, means dealing with enquiries/communications about a range of issues. These include applicants' enquiries/communications about the progress

of their applications, change of address notifications, withdrawal of applications and giving information on procedures for residency applications to the Department of Justice, Equality and Law Reform and on the asylum system in general. Legal Representatives for applicants also contact CSC and a large amount of work is done supplying them with copies of documentation, principally through the Refugee Legal Service. CSC also replies to general enquiries from the public and acts as a link between enquirers, legal representatives etc., and other Units in the Office as well as referring callers to other Offices/Departments where appropriate.

The Centre deals with approximately 1,200 work items per week of which 350 relate to file movements, 250 to telephone enquiries and 600 to written items of correspondence.

Liaison Structures

CSC is also responsible for the ongoing development of liaison structures with other Departments, Offices and NGOs, the enhancement of file movement systems and the implementation of Customer Service Policy within the Office.

As a first step, meetings were held with all relevant organisations and Customer Liaison Panels were established. The first meeting of the NGO panel was held in the Office of the Refugee Applications Commissioner in October 2001 and a further meeting took place in December 2001. The following organisations nominated representatives to the NGO panel:

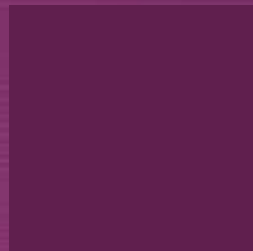
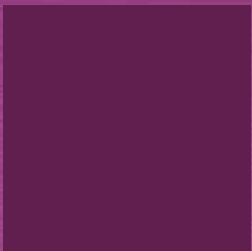
- Vincentian Refugee Centre
- Irish Refugee Council
- Irish Immigrant Support Centre (NASC)
- Spiritan Asylum Services Initiatives (SPIRASI)
- African Refugee Network
- Integrating Ireland Network.



Liaison is ongoing with representatives of the Statutory/Legal Sectors who are associated with asylum related areas and the first formal meeting of a Liaison Panel for this group took place in January 2002. The Customer Service Action Plan will be finalised, after consultation with customer groups, and published early in 2002.



Initial Application Stage



The Initial Stage of the Application Process

Reception

While the initial application for declaration of refugee status is made at a port of entry in 20% of cases, almost 80% of all applications are made in this Office. The Reception Unit deals with all of these applicants and it is this Unit's responsibility to accept applications and to complete their initial interview under Section 8 of the Refugee Act 1996. A detailed breakdown of the place of application is given at Appendix 3.

When applicants visit the Reception Unit to have their application accepted, a number of distinct processes are involved. These include the applicant being:

- interviewed
- fingerprinted
- photographed, and
- given a Temporary Residence Certificate.

The purpose of this interview is to try to establish the applicant's identity, nationality and country of origin, mode of transport and route travelled, reason for coming to Ireland, legal basis for entry into the State and other relevant details. Most applicants arrive undocumented and it is not always possible to verify the details they supply.

Each applicant is given the opportunity to read all the information that they have given at their interview under Section 8 of the Refugee Act 1996 to confirm its accuracy and to have any inaccuracies amended. As well as being given a copy of their application for a declaration as



a refugee, applicants are also given the following documents: Information leaflet for applicants, Questionnaire in support of application, Notice under Art. 3 of the Dublin Convention (Implementation) Order, 2000, Change of address form and Refugee Legal Service Information Leaflet. The applicant is also informed of their right to consult a solicitor and/or the UNHCR. The Refugee Legal Service (which is independent from this Office) is also located in the same building as ourselves.

Fingerprinting

Section 9(A)(1) of the Refugee Act provides for the fingerprinting of asylum applicants over the age of 14 years by an Authorised Officer or an Immigration Officer. The purpose of fingerprinting is to detect multiple applications in the State, and to facilitate in determining which Convention Country is responsible for examining an asylum application under the Dublin Convention (all EU Member States together with Norway and Iceland have acceded to the Dublin Convention).

Pending the introduction of an electronic system, which is currently being planned, a manual system was introduced following the implementation of the Refugee Act 1996. All persons who applied after 20/11/00 are fingerprinted on the day of their application (9,196 sets as at 31/12/01). Applicants who applied prior to this date, and whose applications had not been finally determined (approx. 10,000), were recalled to attend for fingerprinting, either to this Office or to various centres around the country in the case of some applicants in direct provision, where Authorised Officers have taken prints and issued applicants with Temporary Residence Certificates to replace their old Asylum Seeker Cards. By the end of 2001, a total of 6,456 applicants over the age of 14 who applied prior to the implementation of the Refugee



Act 1996 had been fingerprinted, 22 of whom were found to have made multiple applications in the State.

Copies of fingerprints, with all personal details excluded, are sent daily to the Fingerprinting Bureau in Garda HQ, where they are scanned on to a separate electronic asylum fingerprint database for comparison only with other asylum fingerprints, and for storage. A Code of Practice was signed by the Department of Justice, Equality and Law Reform, the Office of the Refugee Applications Commissioner and the Garda Síochána in this regard to ensure the integrity of the entire process.

Volume of Business

In 2001 while we had approximately 10,000 applications we had approximately 30,000 callers to this Office, which equates to 600 callers per week. Security of applicants and staff is an ongoing concern and all callers to the Office pass through a metal detector. This high volume of return callers was mainly because of the fact that a number of agencies operated out of Timberlay House, and the 'one-stop shop concept' created a significant level of repeat business. These agencies included the Reception and Integration Agency, the Northern Area Health Board and the Refugee Legal Service.

Given that the arrival of applicants is entirely unpredictable and that many different issues can arise, the Office is a complex one to manage with interpreters on duty in the Reception area and documentation currently produced in 24 languages. A wide range of queries from asylum seekers are also dealt by the Reception Unit, such as:

- Applicants returning questionnaires
- Applicants seeking renewal/or replacement of Temporary Residence Certificates
- Applicants reporting loss/problem with Temporary Residence Certificates
- Withdrawal of application for a declaration as a refugee
- Inquiries about right to work of asylum seeker
- Notification of change of address
- Immigration enquiries
- Notification of residency applications
- Notification of voluntary repatriations
- Applicants requesting return of documents
- Applicants lodging papers
- Appeals Tribunal inquiries
- Reception and Integration Agency enquiries, and
- Health Board enquiries.

From the 20 November, 2000 to the 31 December 2001 11,457 applications for a declaration were made. In line with our commitment to the delivery of quality services, the need to improve the facilities available to applicants on 'day one' will be a priority in 2002.

Dublin Convention



5

Dublin Convention

What the Convention is

The Dublin Convention is so-called because it was signed in Dublin in 1990 during the Irish Presidency of the EU. The Convention was drawn up to prevent what was termed at the time 'refugees in orbit', a situation which pertained prior to the Dublin Convention when thousands of asylum seekers were moved around Europe with no particular EU State accepting responsibility for processing their asylum applications. In addition the Dublin Convention also provides an asylum applicant with a guarantee that one Country will accept responsibility for processing his/her asylum application.

The Convention provides a mechanism for determining the Convention country responsible for examining an application for asylum, in accordance with the relevant provisions of the Refugee Act 1996, the Dublin Convention and the Dublin Convention (Implementation) Order 2000. All EU Member States together with Norway and Iceland have acceded to the Dublin Convention.

Under the Dublin Convention, Ireland may request another Convention country to accept responsibility for an asylum application and have it processed in that country. In addition requests from other Convention Countries for the transfer of asylum applicants into this State are also processed. The Convention is, of course, a two way process and results in 'transfers in' and 'transfers out' of Convention countries.

How the Convention Operates

Following the completion of the initial Section 8 interview, applicants are advised in writing in their own language that they may be transferred under the Dublin Convention to another Convention Country, for the purposes of having their asylum application processed (this notice is provided for under Article 3.3 of

the Dublin Convention (Implementation) Order 2000). Applicants have five days to make written representations about a possible decision to transfer their application.

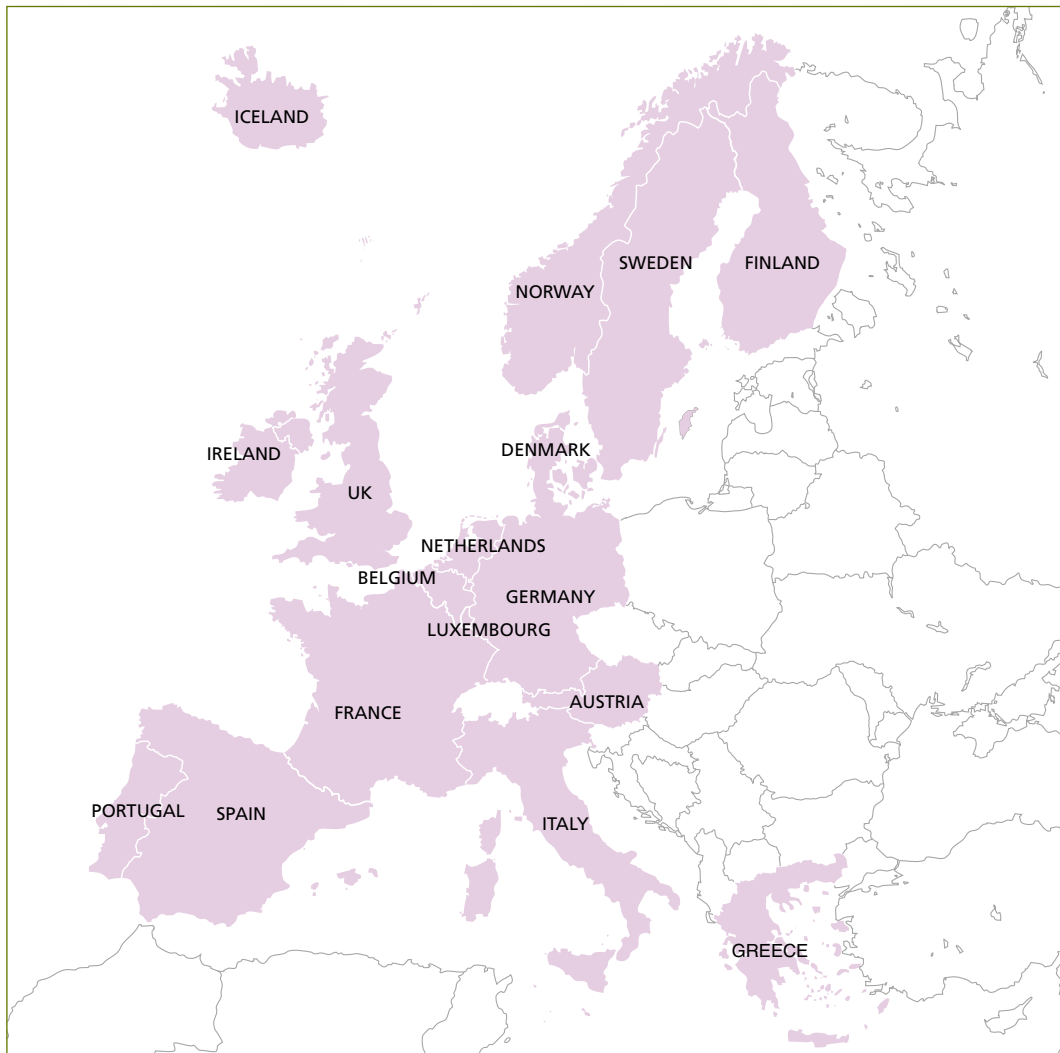
Ireland makes enquiries with other Convention Countries pursuant to Article 15 of the Dublin Convention using fingerprint and photographic evidence to establish whether or not applicants:

- (i) have made an asylum application in another Convention Country or
- (ii) entered Ireland through another Convention Country or
- (iii) have a valid residence permit or valid visa for another Convention Country or
- (iv) have a family member recognised as having refugee status in another Convention Country and that family member is legally resident in that particular country.

Requests for Humanitarian reasons [Articles 3 (4) and 9] are also considered by Ireland and other Convention Countries, these requests are based in particular on family and cultural grounds.

If a positive identification is established during the Article 15 enquiry, a formal request is made by us to that country asking them to admit the applicant for the purpose of processing the asylum claim. Once the claim is lodged, we have six months from the date of application to ask another Convention Country to take charge of the application. Convention Countries have up to three months to respond to these requests.

Following acceptance of responsibility for dealing with the application by another Convention Country the asylum seeker is notified by registered post of the decision to have them transferred and they have five working days to appeal the decision. If no appeal is lodged, the file is sent to the Immigration and Repatriation Unit in the Department of Justice, Equality and Law Reform to effect the transfer.



If an appeal is lodged, the applicant's file is sent to the Refugee Appeals Tribunal to process the appeal. If the appeal is successful the application is admitted to the substantive process for determination. If the appeal is unsuccessful the Tribunal also refers the applicant's file to the Immigration and Repatriation Unit of the Department of Justice, Equality and Law Reform to effect the transfer to the Convention Country.

This Office also processes Article 15 requests under the Dublin Convention from other Convention Countries. If positive identifications are established under these requests and Ireland is deemed responsible for the asylum applications, we then process the formal request from the Convention Countries and admit asylum applicants to this State for

the purpose of having their asylum applications examined here.

In relation to Dublin Convention, 19 Judicial Reviews were taken by applicants. Out of these 19 cases, 11 were heard up to and including 31 December 2001. The judicial reviews in the main consisted of challenges to:

- the Dublin Convention
- the Dublin Convention (Implementation) Order 2000
- the practices and procedures governing the Dublin Convention
- Challenges to the manner in which the Humanitarian clauses [Article 3(4) and 9 of the Dublin Convention] are operated/interpreted by ORAC

- ORAC's interpretation of the Dublin Convention and or the Dublin Convention (Implementation) Order 2000
- that asylum applicants have a right to have their asylum claim examined fully in this State
- the applicant's rights under the Irish Constitution
- the rights of parents of children born in Ireland to remain in this country with their children and to have their asylum application fully considered in this State.

Statistics relating to the Dublin Convention process are included in Appendix 4.

Investigation of Applications



6

Investigation of Applications

Background

Processing applications is the core function of this Office and the requirements are set out in some detail at sections 11, 12 and 13 of the Refugee Act 1996. For every application processed, this involves the scheduling of an individual interview for the applicant, the objective research of the claims made and the making of recommendations to the Minister for Justice, Equality and Law Reform as to whether an application should be granted or refused. The number of applications for refugee status lodged in 2001 was 10,325, one of the highest in the EU per capita. This compares, for example, with 424 applications lodged in 1995, and underlines the enormous increase in the scale of operations which has had to be managed.

The primary responsibilities of the Case Processing units are:

- to fairly and efficiently investigate applications for a declaration as a refugee and to make a recommendation on such applications to the Minister for Justice, Equality and Law Reform in accordance with the Refugee Act 1996, having regard to relevant country of origin information and
- to investigate applications referred by the Minister for Justice, Equality and Law Reform in relation to refugees who apply for permission to be granted to a family member to enter and to reside in the State

The basis of the asylum process is the 1951 United Nations Geneva Convention and the 1967 Protocol relating to the status of refugees, which is given statutory effect in Ireland by the Refugee Act 1996. Prior to the implementation of the Act, administrative procedures were in place for dealing with applications for asylum based upon Ireland being a signatory to the Convention.

The Investigation

As part of the substantive process, applicants for asylum are interviewed in accordance with the statutory procedure set out at Section 11 of the Refugee Act 1996. Interviews are conducted by authorised officers, all of whom are trained for this purpose, and currently take place in specially designed interview rooms based in Timberlay House, Lower Mount Street. Since 20 November 2000, over 12,400 interviews (average 950 per month) have been scheduled. With the deployment of additional staff, in the second half of the year, the number of interviews scheduled in each month from August to December 2001 was approximately 1,250.

To gather information on an applicant's claim for protection and to enable authorised officers prepare for interview, every applicant is given a detailed questionnaire (available in 24 languages) to complete when they apply. Applicants are also given a detailed information leaflet setting out the procedures through which their application will be processed. They are also provided with details of available legal services (including the Refugee Legal Service which is available at a nominal fee to applicants) and are encouraged to avail of legal advice. The main purpose of the questionnaire is to gather important information in relation to a claim for asylum and it is an opportunity for applicants to provide as much detail as possible in advance of the interview. The completed questionnaire is, where necessary, translated into English and the issues raised are researched before interview. If necessary, the interview is conducted with the aid of an interpreter and the applicant may be accompanied by a solicitor. It is the practice of the Office, where possible, to respect gender sensitivities where gender specific issues are relevant to the claim. In practice, about 65% of applicants require the use of translators/interpreters.

Interviewers are fully trained to conduct focused interviews (conducted under Section 11 of the Act) which afford applicants an

opportunity to fully explain why they fear returning to their country of origin. As part of the investigation process, the interviewer searches for objective country of origin information (COI) that will inform the analysis of the application. COI research is essential for researching the political and human rights situations in an applicant's country of origin. Throughout the interview - which can take several hours - every effort is made to obtain as much information as possible in relation to the claim and the applicant is given every opportunity to present their case. In essence, the interview is an interactive process where the applicant is helped to explain their fear of persecution.

The majority of applicants lack documentary evidence to support their claim, but this does not, of course, mean that their claims are not valid. In accordance with guidelines from the United Nations High Commissioner for Refugees (UNHCR) the applicant is given the benefit of the doubt, where the applicant has made a genuine effort to substantiate their claim and all possible evidence has been obtained and checked or the applicant has fully explained the lack of evidence. Applicants are also given the opportunity, if the need arises, to clarify any apparent inconsistencies in their statements.

Detailed written records of the main issues stated at interview are kept and the applicant is given a copy of these at the conclusion of the interview. During the interview, applicants are afforded an opportunity to review what has been recorded and are requested to sign each page of interview notes as confirmation that they agree with the accuracy of the recorded account. The Act provides that applicants, or their solicitors, can make further written representations to the Commissioner in the seven working days following interview. These representations are taken into consideration as part of the determination process.

Reports

Following interview, there is a statutory requirement for two reports to be completed in every case and the content required has been set out in the Act and this has been interpreted in the High Court through a series of Judicial Review proceedings. These reports, whilst concise and relevant are, by their nature, also very comprehensive.

- The first report, known as the Section 11 report, essentially details the basis of the claim and gives a summary of the applicant's account as provided during the investigation
- The second report, known as the Section 13 report, essentially analyses the core elements relating to the case and is carried out in conjunction with relevant country of origin research and the criteria for recognition as a refugee. It also contains a recommendation as to whether refugee status should be granted or refused.

The Section 13 report compares the applicant's account with objective, up to date information on the applicant's country or place of origin, examines the critical elements of the applicant's claim and assesses the credibility of their account. Information sources used include, inter alia, reports from the UNHCR, Amnesty International, UK Home Office, US State Department etc., Internet News and Archive News Reports, International Asylum Authorities websites as well as geographical information and general reference books.

The criteria by which the substance of the claim is to be determined are set out in the Act and are in turn taken from the 1951 Convention. Essentially this involves determining if the applicant has a well founded fear of persecution, that there is a Convention reason, that the applicant is unable or unwilling to return to their own country, what internal protection alternative (if any) might be available within his/her own

country, as well as credibility issues. Under the requirements of the Act and Convention, the well founded fear must be connected to the Convention grounds (race, religion, nationality, political opinion or membership of a particular social group) and consideration has also to be given to whether any exclusion clause may apply. In formulating reports, reference where appropriate, is also made to domestic and international refugee caselaw. Overall, this leads authorised officers to make fair, reasonable and well researched recommendations on all applications, some of which can be very complex and time consuming.

The Outcome

Following the making of a recommendation, applicants are notified in writing under Section 13(3)(d) of the Refugee Act 1996 when they have established a case such as to qualify them for refugee status as defined in Section 2 of the Act. The Commissioner then furnishes the report to the Minister.

Where it is found that an applicant has not established a case such as to qualify for refugee status they are notified in writing under Section 13(3)(b) of the Act. They are also notified of a right of appeal to the Refugee Appeals Tribunal within 15 working days of the date of the letter and provided with details of how to make an appeal and again advised of the desirability of availing of legal advice. If the recommendation is not appealed within the required timeframe, the Commissioner then furnishes the report to the Minister.

Manifestly Unfounded

In cases where it appears that the claim is fraudulent, fundamentally improbable or on its face not falling within the terms of the Convention, a report is completed which recommends that the application be deemed "manifestly unfounded". The reasons for this recommendation are set out within the report. Applicants are notified in writing under Section

12(1)(b) of the Act. They are also notified of a right of appeal to the Refugee Appeals Tribunal within 10 working days of the date of the letter and provided with details of the process and the desirability of obtaining legal advice. If the recommendation is not appealed within the required timeframe, a report is then furnished to the Minister.

In all cases the applicant, their solicitor (if any) and the UNHCR (if requested) are sent a copy of the report and a full copy of the file, including all material relied upon in reaching the recommendation.

Developments of Processes and Procedures

The commencement of the Refugee Act 1996 required the amendment of arrangements which operated prior to the Act and the introduction of new processes and procedures required by the Act. These have now operated since 20th November 2000 and have been subject to challenge and test in the High Court and Supreme Court through the Judicial Review process. The experience gained through the operation of these processes and through the Judicial Review process has helped us to evolve and develop greater legal rigour and quality in decision making while continuing to maximise output in terms of cases dealt with. We will continue to implement and develop these processes and procedures so that applicants will have their cases processed in a fair and efficient manner. Ongoing review and development will enhance policies and procedures to ensure they are in line with the best international practices and standards.

In September 2001, a Policies and Procedures Unit was established to provide a structure and focus to the management of change and development. The role of the Unit is to act as a central resource to assist and lead the development of clear policy and procedure guidelines in the investigation of claims and in providing appropriate training of Case Processing staff.



The initial focus has been on the structure of reports and letters required under the Act to ensure consistency. During October/November this review was conducted and reports and recommendation letters were revised. Appropriate training was also provided to staff on completion of these. The Unit, working with the IT Division, has also commenced the process of putting in place a central database to facilitate easy access to all case processing policies and procedures. The database is available to staff in Case Processing and the Customer Support area.

The questionnaire is a key element in the investigation of applications and its review and development has been overseen by the Unit. This review has had regard to UNHCR Guidelines on the gathering of information and examined a number of existing models of questionnaires (English, Canadian, Australian) and the report of the Irish Refugee Council (IRC) on Asylum in Ireland, dated July 2000. At year end, work on this project was well advanced and a proposed model circulated to relevant Non Governmental Organisations for comment. Complementing the review of the questionnaire, a project was commenced to

review the interview process. The purpose of this project was to develop the interview model to ensure

- the timely and efficient management of the individual components
- that interviews focus on the basis of the claim
- that the method of interviewing was developed leading to more timely, well focused interviews which provide interviewers with the information required to make a recommendation in relation to an application for a declaration as a refugee
- that applicants are provided with an environment which enables them to provide all the relevant detail in relation to their claim.

At year end this project was well advanced and the results are expected early in 2002.

Legal Support and Expertise

In the light of experience since the commencement of the Act and the outcome of a series of Judicial Reviews which had

clarified a number of provisions of the Act it was decided to undertake a legal consultancy to strengthen the model of reports required under section 11 and 13 of the Refugee Act 1996. Drawing on statutory and case law, this project is intended to provide greater legal rigour in reports supported by clear policy positions.

A Request for Proposals issued in November 2001 seeking legal expertise in the area and a number of proposals were received from interested lawyers. At the time of writing this Report, a proposal had been accepted and it is anticipated that work will commence in April 2002.

Training of staff will be an important factor in achieving change and the legal expert will be providing appropriate training towards the development of skills required to complete the new type reports. These projects are indicative of the commitment to ensure the processes, procedures and policies operated are compliant with the Act and in accordance with international best practice, and will be a continuing feature of the work of the Office.

This Office has received sanction to appoint two Legal Researchers to the Country of Origin (COI) Information Research Team. It is essential that there is a consistent, sustainable and authoritative approach to the application of COI and the legal researchers will have a lead role in this area. It is intended that they will also have a role in training caseworkers in the use of Country of Origin Information.

Country of Origin Information/Research

Country of Origin Information (COI) is any information pertaining to the country of origin of an asylum applicant. It includes personal, political, social, geographical, legal and cultural information and can range from country reports by international human rights agencies to newspaper reports and street maps. The sources of COI are innumerable, and

include journals, websites, maps and, of course, asylum applicants. Caseworkers are required to furnish a report on every application which refers to the matters raised by the applicant and to such other matters as the caseworker considers appropriate.

Appropriate information on all countries of origin of asylum seekers, is essential for the evaluation of applications for refugee status. The UNHCR guidelines make it clear that, "...while the burden of proof in principle rests upon the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner".

The objective of developing Country of Origin Information support is to allow for the informed determination of applicants' claims.

Throughout 2001, resources allocated to the COI Research Section have been increased and this allowed for a range of new services to be provided to caseworkers and presenting officers (who represent the Commissioner at Appeal Hearings) in meeting the organisation's objectives.

The system of storing COI reports on paper has, as far as possible, been replaced by the development of a categorised database which allows the section's customers to access COI reports directly from their network PC. There are now over 1,500 documents stored on the database, with more being added daily. A list of over 800 useful internet sources has been catalogued to assist caseworkers and presenting officers to use the internet themselves. The collection of reference books, videos and maps has been catalogued and expanded.

A system has been developed to provide a case related query service with over 100 formal queries answered each month. In addition to individual queries, in-depth reports have been researched and written on selected issues for case processing units. A training course to introduce new caseworkers to the theory and practice of COI was developed and provided to all new caseworkers. A manual, setting out the policy of the Office on gathering and applying

COI was drafted in consultation with Case Processing and Presenting Unit and published internally.

Staff have participated in various international meetings and fora and we are also in contact with other EU member states through CIREA (Centre for Information, Reflection and Exchange on Asylum). We have benefitted from the assistance of other countries in the development of our COI systems through ongoing international liaison and discussion. Working with the UNHCR local office in Dublin, the Office has assisted in the organisation of two COI seminars on Romania and Nigeria respectively, which were held in Dublin in October. Researchers also attended and reported on various conferences, seminars and public meetings related to COI.

Judicial Reviews

Judicial Review is a process, available in its current form since 1979, whereby a remedy is sought from the High Court against the decisions of lower courts, tribunals and administrative authorities. Recommendations on applications for a declaration as a refugee are liable to be judicially reviewed in accordance with Section 5 of the Illegal Immigrants (Trafficking) Act 2000. Most frequently, the remedy which is sought are writs of 'CERTIORARI' (the quashing of the decision) or 'MANDAMUS' (instructing the body against which it is brought to do something specific, e.g. to grant a licence). Essentially the process involves the court considering the technicalities in which a decision was reached. Most judicial reviews are concerned with how the decision was made, not what was decided; the focus is very much on whether the stated procedures are carried out, in accordance with law, and constitutional and natural justice.

On the commencement of the Refugee Act, a Judicial Review Section was established in this Office. When leave to bring judicial review proceedings is sought by an applicant, the

notice, the grounding statement and any supporting affidavits as well as the Commissioner's Case file are all thoroughly examined. If it emerges that a procedural error was made at first instance, the case may be conceded; this has the effect of re-admitting the applicant to our process. If satisfied that the Office has discharged its functions correctly and fairly, the application will be vigorously contested. If it is decided to contest the application, detailed briefing material is prepared and where our legal advisors consider it appropriate, replying affidavits will be sworn.

When new legislation is commenced, especially legislation which affects individuals, experience shows that it will be frequently tested in the courts, until a sufficient body of precedent is built up. Some Departments and Offices have legislative codes stretching back a hundred years or more, have been subject to repeated tests in the courts, and have had the benefit of regular amending and consolidating legislation. This Office, on the other hand, has very new legislation, and is often dealing with issues not previously considered in an Irish administrative system. Most applications allege that first instance procedures are unjust, unfair, unconstitutional and unreasonable; allegations of this nature are always strongly contested. Some, it could be argued, are brought to delay action on a particular issue. The Illegal Immigrants (Trafficking) Act sought to remedy this by providing that Judicial Review proceedings must be initiated within 14 days of the decision which is being challenged, and the person bringing the proceedings must have 'substantial grounds'.

In 2001, a large majority of judicial review applications in respect of the first instance procedure were several months outside the statutory time-limits; in fact, many of the applications were made only after the Applicant was notified of his/her unsuccessful appeal to the Refugee Appeals Tribunal. The High Court, following consideration of the main issues grounding the application, has tended to refuse an extension of the time-limit,

in accordance with the afore-mentioned Section 5 of the Illegal Immigrants (Trafficking) Act.

A number of applications challenged the validity of the Section 13 Report and the subsequent recommendation. They alleged that Section 13 of the Refugee Act is not properly discharged, that the report contains two recommendations, that it contains no recommendation, that the same caseworker who wrote the Section 11 Report should have no role in the Section 13 Report etc. The respective roles of those authorised officers and the procedures in place to complete a Section 13 Report and recommendation were upheld by the High Court and were found to be fair and reasonable. This particular judgement resulted in a number of similar outstanding cases being struck out.

Another significant case related to the transitional arrangements between the pre-Act "Hope Hanlan" procedures and the Statutory scheme. Section 28 of the Refugee Act stated that any steps taken by the Minister before the commencement of the Act "shall be deemed to have been taken under the Act". The Court found in favour of the Commissioner's interpretation of Section 28. However, the applicant succeeded in relation to a change of procedure, that was introduced in preparation for the transitional arrangements, which was found to be flawed. On appeal, the Supreme Court overturned this decision and found that

the steps taken before the commencement of the Act would be properly described as steps which were required to be taken under the 1996 Act.

In 2001, 58 judicial reviews were lodged against the recommendations of this office (excluding Dublin Convention). 37 of these have been resolved and 21 await finalisation. The majority of applications did not comply with the statutory time limit provision and most of these were struck out in the High Court. Nevertheless, observations have been provided to Counsel in all cases and affidavits have been sworn whenever Counsel has deemed it necessary to do so.

Unaccompanied Minors



7

Unaccompanied Minors

Applications from Unaccompanied Minors

Section 8(5)(a) of the Refugee Act provides that where it appears that an applicant is under the age of 18 years, s/he should be referred to the health board which must then decide whether to make an application on behalf of the unaccompanied minor. During 2001, over 600 applications for refugee status were received from unaccompanied minors. This marked a very considerable increase in the number of applications from this group. Interviewing of these applicants was suspended in the initial months of the year, pending an assessment of the specific training requirements of the organisation in relation to the determination of applications from unaccompanied minors and pending clarity of procedures between this office, the Department of Justice, Equality and Law Reform and the Department of Health and Children for effective co-ordination in relation to the processing and reception of unaccompanied minors in compliance with our national and international obligations.

In the Autumn, we adopted interim guidelines in relation to how applications from unaccompanied minors would be determined. In developing these guidelines, account was taken of past experience, UNHCR guidelines and the EU Children First Programme. The operation of these guidelines will be kept under review with a view to adopting a more long term position during 2002.

Special training was subsequently organised for authorised officers dealing with unaccompanied minors in conjunction with the UNHCR involving a number of child care experts, with a focus on issues such as psychological needs, child specific aspects of the refugee process, role of social workers and Non-Governmental Organisations and all other issues relating to refugee determination for unaccompanied minors/separated children.



Developments

Interviews for unaccompanied minors recommenced on September 24th 2001 and up to the end of the year 127 interviews were scheduled and reports and Recommendations issued under Section 13 of the Refugee Act 1996 in respect of 119 applications.

The position regarding a person who presents themselves at the office and claims to be under 18 but appears older was a cause for concern, not least in relation to child protection issues. In November 2001 we commenced, on a pilot basis, referring some asylum applicants for age determination tests. Where it appears that the applicant is an adult and there is no supporting documentation to verify age, applicants are offered a test in order to establish age. The applicant is referred to a General Practitioner who in turn will refer them to a specialist in a hospital, where a radiology examination (an X-ray of the hand and forearm) is carried out. These tests are available to applicants on a voluntary basis. So far, indications are that our concerns are justified in that the majority of applicants who have been tested were found to be over the age of 18.

Presenting at Appeal Hearings



8

Presenting at Appeal Hearings

Interaction with the Refugee Appeals Tribunal

Presenting is the term applied to the participation by the Refugee Applications Commissioner (normally her representative) in the appeal process. Section 16(11)(c) of the Refugee Act 1996 states "The Tribunal shall enable the ... Commissioner or an authorised officer to be present at the hearing and present their case...". Responsibility for the recommendation to emerge from the appeals process rests with the Member of the Refugee Appeals Tribunal (MOT) who conducts the case and the role of the Presenting Officer is;

- to assist the MOT reach a fair and just decision
- to respond at the appeal hearing to the issues raised in the appellant's appeal
- to represent the Commissioner at the hearing.

The Presenting Officer starts by gathering a thorough knowledge of the file, why the appellant claims a fear of persecution, the detail of the investigation at first instance, the recommendation of the Commissioner, etc. To this knowledge is added any information the appellant provides in the grounds of appeal (there is a legal requirement for all appellants to provide such grounds including identifying any claimed errors on the part of the Commissioner), the available up to date country of origin information and any relevant caselaw. At the hearing the Presenting Officer



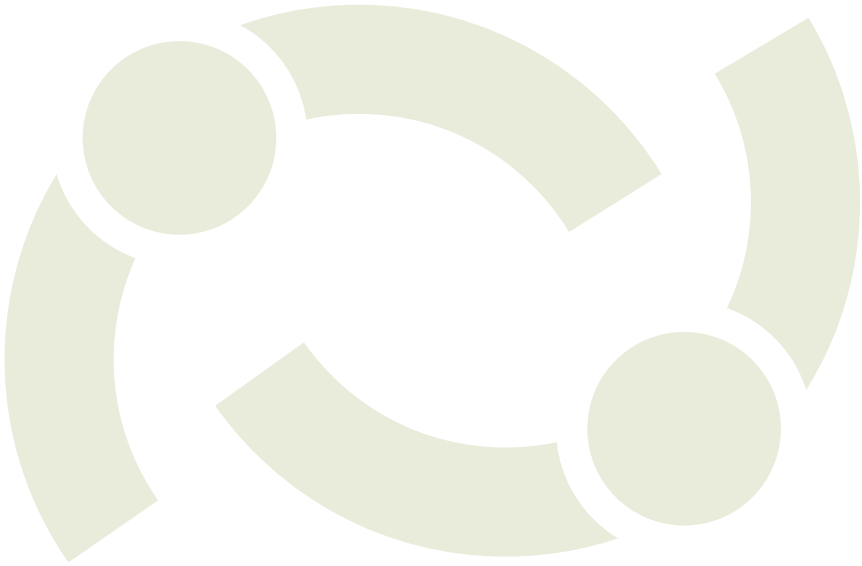
may ask questions of the applicant and witnesses, if any, to clarify the issues central to the applicant's appeal. These may include issues relating to any new information disclosed at the appeal hearing and issues relating to the credibility of the applicant's claim. The Presenting Officer also summarises the Commissioner's case at the end of the hearing.

The role of the Presenting Officer is to participate in the appeal process and advance issues or information relevant to the appeal hearing. While responsibility for reaching a fair and just decision rests with the Member of the Tribunal, the thorough knowledge of the Presenting Officer of the claim of the appellant, the investigation at first instance, knowledge of Country of Origin Information and training are all designed to strengthen the appeals process.

In February 2001, the Refugee Appeals Tribunal commenced the process of conducting appeals where the appellant sought to appeal the recommendation of the Commissioner. Presenting Officers participated at 1,887 hearings of the RAT over the course of the year. From an initial complement of six Presenting Officers, the number had increased to 21.5 (incl. job sharing staff) at year end.

There is a separate provision at 16(6) and 16(7) of the Act, for the Tribunal to request further inquiries/observations in relation to particular issues concerning cases and these are also dealt with by the Presenting Unit.

In 2001, the Presenting Unit dealt with 67 requests for further information under Section 16 (6) and with 18 requests for observations on grounds of appeal under Section 16 (7).



Family Reunification



9

Family Reunification

Focus on the Family

This Office is also responsible for the investigation and preparation of reports to the Minister for Justice, Equality and Law Reform on applications from those granted refugee status who subsequently seek permission for a family member to enter and reside in the State (Section 18 of the Refugee Act 1996).

The Act defines 'family members' for this purpose as:

- If the refugee is married, the spouse of the refugee (providing that the marriage is subsisting on the date of the application)
- If the refugee is, on the date of the application for family reunification, under 18 years of age and is not married, his or her parents
- The child of a refugee, who on the date of the application is under 18 years of age and is not married.

The Act also specifies that the Minister may also at his or her discretion, grant permission to a dependent member of the family of a refugee to enter and reside in the State. A 'dependent member of the family' is defined as: any grandparent, parent, brother, sister, child, grandchild, ward or guardian of the refugee, who is dependent on the refugee or who is suffering from a mental or physical disability to such an extent that it is not reasonable to maintain himself or herself fully.

Any refugee may apply to the Minister for permission for a family member to enter and reside in the State. The application is generally made to the Immigration Division of the Department of Justice, Equality and Law Reform, although some applicants contact this office directly. All applications are subsequently referred to us for investigation. To gather information on the application, a questionnaire is issued to the applicant and this is sometimes supplemented by requests for specific information. Within the framework provided by the Act, in certain circumstances, it may be necessary to interview the applicant, although this has not been deemed necessary to date.



A report is compiled based on the available information, including information provided in the questionnaire. The report essentially seeks to set out the relationship between the refugee and the family member, and if applicable, the domestic circumstances of the family member. This report is then sent to the Minister to consider and to make a decision on the application. The decision is subsequently notified to the applicant. To date, there has been no incidence where decisions of the Minister have been appealed or referred back.

By 31 December 2001, 118 applications had been referred to this Office and the number of family members/dependants referred to in these applications is 284. The main countries of origin in regard to applications for Family Reunification were the Democratic Republic of the Congo, Iraq, Afghanistan, Somalia and Algeria. By the end of 2001, 77 applications had been finalised and were returned to the Minister for Justice, Equality and Law Reform for decision. The number of family members/dependants referred to in these applications is 197.

As in the case of the investigation of applications for refugee status, experience has grown considerably and at year end a review had commenced of the procedures for the investigation of family reunification requests. Processes in operation in other countries are also being investigated and it is hoped to complete this project in the second quarter of 2002.

Corporate Administration



10

Corporate Administration

Secretariat

Following the appointment of the Refugee Applications Commissioner and the Implementation of the Refugee Act 1996, a Secretariat/Commissioner's Office was set up to provide secretarial support to top management and to ensure that sufficient administrative support exists to allow other units within the organisation, the Department of Justice, Equality and Law Reform and other Government Departments and agencies and national and international fora to function effectively by the co-ordination and maintenance of accurate, accessible and timely briefing material.

The unit is also responsible for the co-ordination and preparation of the Business Plan, the Framework Document and the Annual Report for the Office. Material was also prepared for response to Parliamentary Questions and other briefing as required by the Minister for Justice, Equality and Law Reform.

The first issue of the official staff newsletter of the office "The ORACle" was published in December 2001. The newsletter was distributed to all staff and contained information on staffing and training, a report on progress and details of policy changes and developments in the organisation. It is intended to continue to publish this newsletter on a quarterly basis.

Personnel and Training

On Implementation Day on the 20th November 2000, there were 153 staff assigned to this Office. When all posts sanctioned have been filled there will be 313 personnel in the Office. As at 31 December 2001, the number serving was 282 and there were 31 vacancies.

In 2001 approximately 145 staff of various grades were assigned to this Office, 16 of whom subsequently resigned. Of the 145 staff

assigned, 88 members of staff were recruited atypically (48 Clerical Officers and 40 Executive Officers) over a period of 12 weeks. The Personnel Unit had considerable input into the recruitment of atypical staff by participating in the working group to oversee the entire process; assisting in the shortlisting and screening of 1,034 applications; the establishment of a recruitment unit; the scheduling of interviews and the conducting of interviews over a 3 week period and the final selection procedure. Induction training giving a brief overview of the asylum process and the organisational structure, was also provided to new atypical staff on arrival. Short presentations were given by managers on their respective areas.

In keeping with our commitment to staff and delivery of a quality service, we place a strong emphasis on training and there is a continuous training programme for all staff working in this Office with all frontline staff having completed appropriate training courses at this stage. Case processing staff have received and continue to receive on an ongoing basis "on the job" experience and training in respect of interviews, assessment, decision making, asylum procedures and appeals. In addition to formal training, all staff are encouraged to broaden their knowledge through career and personal development training.

Training programmes specific to the refugee status determination function were devised in consultation with the UNHCR. We also had regard to and were guided by the experience and advice of asylum experts from other countries and other agencies with specialist skills in this area.

During 2001 some training courses attended by staff are listed as follows:

- UNHCR Refugee Law Training
- UNHCR Unaccompanied Minor Training
- Customer Care Courses
- Occupational Health Talk



- Personal Safety when dealing with the Public
- Induction Training
- Performance Management Development System
- Fire Wardens Training
- Effective Communication Skills
- Time Management
- Supervisory Skills Course
- Stress Management
- Bullying and Harassment
- French and Romanian Language Training
- Writing Skills (EO and CO).

In addition the two Principal Officers in the organisation attended the International Institute of Humanitarian Law Diploma Course in Refugee Law in San Remo, Italy.

The Programme for Prosperity and Fairness (PPF) identified as one of its objectives the implementation of the Performance Management and Development System (PMDS) in each Government Department and Office.

Performance Management is a broad term to describe the way a jobholder's work performance, career and development needs are managed. The goal is to contribute to continuous improvement in performance across the Civil Service by aligning individual and team performance with the goals of the organisation. Training in PMDS is being conducted in three modules and Modules 1 and 2 were implemented during 2001.

- Module 1 focuses on the planning stage of PMDS. It assists staff set out the objectives of their job and identify key deliverables for the year and the competencies required to be effective and achieve results. By the end of 2001 a total of 172 staff had completed Module 1.
- Module 2 focuses on the ongoing review stage of PMDS. It assists staff to prepare for their interim review meeting with their manager. Roll out of Module 2 for the staff commenced in November, 2001 and 115 staff received training by the end of 2001.

A PMDS Implementation Group, with responsibility for the introduction of PMDS in the office, was established. This group will

have an important role to play in developing a training programme for staff arising from PMDS.

Finance

The Refugee Act 1996 provides that the Refugee Applications Commissioner (ORAC) has primary responsibility for all monies received or expended by him or her and is obliged to keep proper and usual accounts. The Department's Finance Branch in Killarney provides a payroll service with all other monies provided as part of Subhead G of the Vote of the Department of Justice, Equality and Law Reform and apportioned to us, the Refugee Appeals Tribunal and other areas of the asylum process in the Department of Justice, Equality and Law Reform. There is ongoing consultation between this Office, the Accountant and the Internal Audit section of the Department of Justice, Equality and Law Reform with a view to further developing the finance systems of the Office to provide more detailed financial information (see Appendix 5 for details of expenditure).

Information Technology

Given the rapid expansion of the Office in 2001 detailed above, it was a considerable challenge in maintaining and growing the existing IT network to meet the needs of the organisation. The nature of Refugee Status determination is that it is a knowledge intensive business which places a requirement on the organisation to have good document management systems. As the year progressed we continually reviewed and restructured the system to ensure optimal network speed and also to monitor the logic and discipline in document management which is an important issue in a new and rapidly growing organisation. This rate of expansion placed considerable demands on the IT staff of the organisation in terms of training, support and advice.

In the longer term, the IT needs of the organisation will be addressed having regard to the overall direction of IT developments in the Asylum and Immigration area and following a review of what technical solutions there may be to some of the more labour intensive processes which the organisation is engaged in. Of particular interest to our medium term needs is the capabilities of document imaging and document management systems.

In the year 2002, in the context of the direction set by the Asylum and Immigration IT Scoping Study we intend to develop an overall IT strategy.

Organisation

This Unit is responsible for the upkeep, maintenance and security of the Office together with all aspects of health and safety relative to the Office.

Following the implementation of the Refugee Act 1996 there was considerable pressure on this Unit to provide accommodation and equipment for the increasing numbers of staff assigned. Significant refurbishment was carried out in the areas previously occupied by the Refugee Appeals Tribunal so as to provide additional office accommodation and interview rooms on the 3rd floor of the building. Office equipment was also provided for the two floors occupied by our staff in Hanover Street.

A draft Safety Statement, covering all aspects of health, safety and security, in the widest sense, for the building was compiled. As required under Health and Safety regulations an Area Safety Committee was established to interact with senior management in the Office on health and safety issues.

Security requirements were reviewed following discussion with the Gardai and in November tenders were sought for the provision of a private security service in Timberlay House. It is expected to appoint a security company in early 2002.

Appendices



1-5



Appendix 1

Framework Document for the Office of the
Refugee Applications Commissioner

Framework Document

Introduction

This document sets out an initial strategic framework for the development of the Office of the Refugee Applications Commissioner together with identifying the goals, stakeholders, environment, principles, success factors and outcomes applicable to the Office.

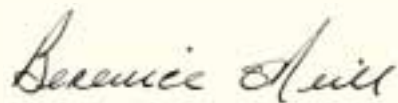
The role of the Office is twofold

- To investigate applications from those who seek a declaration of refugee status and to issue appropriate recommendations to the Minister for Justice, Equality and Law Reform on such applications
- To investigate applications by refugees to allow family members to enter and reside in the State and report to the Minister for Justice, Equality and Law Reform on such applications

in accordance with the Refugee Act 1996 (as amended).

The post of Refugee Applications Commissioner is provided for under the Refugee Act 1996 (as amended), which was implemented in full on 20 November, 2000. In accordance with Section 6 (2) of the Act I am independent in the exercise of my functions under the Act.

This document is intended as a framework guide in respect of the operations of the Office. It is subject to review and amendment in the light of the development of the Office since its establishment. The intention is to develop a Strategy and Business Plan in the light of our experience of the initial set up policies, systems, procedures and work practices.



Berenice O'Neill
Refugee Applications Commissioner
April, 2001.

Mission Statement

- (i) To investigate applications from persons seeking a declaration of refugee status and to issue appropriate recommendations to the Minister for Justice, Equality and Law Reform,
- (ii) To investigate applications by refugees to allow family members to enter and reside in the State and report to the Minister for Justice, Equality and Law Reform on such applications,

in accordance with the Refugee Act 1996 (as amended).

Overall Goals

The goals of the Office of the Refugee Applications Commissioner are to process applications for refugee status and for family reunification within minimum timeframes.

- In doing so persons in need of the protection of the State in accordance with Irish Law (International Convention) as set out in the Refugee Act 1996 (as amended) will be identified.
- Those persons not entitled to declarations as refugees will also be identified.

In this context, the Refugee Applications Commissioner will strive:

- to preserve the integrity of the asylum process,
- to gain the confidence of asylum seekers, the UNHCR, Non Governmental Organisations, the Government and the general public in the integrity and efficiency of the Office of the Refugee Applications Commissioner,
- to ensure that policies and procedures are equitable, qualitative and in line with best international standards and practices,
- to optimise staff performance, training and development and
- to develop an organisation which has a high capacity for involvement and participation by staff at all levels and where their capabilities are fostered and encouraged.

Stakeholders of the Office of the Refugee Applications Commissioner

The main stakeholders of the Office of the Refugee Applications Commissioner are:

- Asylum Seekers and their legal representatives
- The Government Department of Justice, Equality and Law Reform Refugee Appeals Tribunal
- UNHCR
- General Public and their elected representatives
- Refugee Applications Commissioner and staff

Environmental Analysis

In the Programme for Prosperity and Fairness, the Government committed itself to the full implementation of the Refugee Act, 1996 (as amended). The Refugee Act, 1996 (as amended) commenced on 20 November, 2000. It created a statutory framework for processing asylum claims and made provision for the appointment of the Refugee Applications Commissioner.

There are many factors which motivate individuals or groups to leave their country of origin to seek asylum or refuge in another country. These range from war, rebellion, denial of human rights to economic disadvantage and ambition to improve the prospects of the individual or group or a better standard of living.

Ireland has experienced a phenomenal increase in asylum applicants in the past decade from 39 in 1992 to 1,179 in 1996 to 10,938 in 2000. In planning the level of processing of asylum applications it is impossible to predict the rate of arrival of new applicants in the periods in question. Past trends are the only means by which an estimate can be made in order to set processing targets and timescales.

Since 20 November 2000, the Office of the Refugee Applications Commissioner is putting in place the necessary practices and procedures to meet the statutory and non-statutory functions of the Office. The key issues for the Refugee Applications Commissioner include:

- The establishment and development of an organisation of sufficient scale to deliver quality, timely and well researched decisions/recommendations.
- The recruitment, retention, training & development of staff to deliver on the organisation's mission.
- Responding to the challenge of the diversity, scale, complexity and variation in the number of applications.
- Responding to Government expectations on the processing of current and backlog applications.
- Dealing with issues arising as a result of the strong public, political and media awareness and interest in all matters relating to asylum.
- Preserving the independence of the Office of the Refugee Applications Commissioner.
- Protecting the confidentiality guaranteed to applicants in the context of essential liaison with other organisations for efficient operational purposes.
- The intense legalistic nature of the asylum process.
- Participation in development of policies and practices and sharing of information at EU and international level concerning asylum related matters.

Guiding Principles

- **Independence**
Independence of process and decision making
- **Fairness**
Fair procedures which are notified to asylum seekers where possible in a language they understand and which are available to all interested parties.
- **Firmness**
Firmness in implementing statutory obligations.
- **Commitment to excellence**
Performing work to a standard that will ensure the production of high quality and timely outputs.
- **Openness**
Communicating with asylum seekers, the Minister for Justice, Equality and Law Reform, UNHCR , Non Governmental Organisations and the general public in a way which will instil confidence in the operation of the Office.
- **Serving the key stakeholders**
Commitment to service of asylum seekers and other stakeholders.
- **Commitment to Staff**
Recognising that staff are the most valuable resource of the Office and fostering an environment in which they can work effectively and develop their potential for the benefit of the Office, specifically and their career, generally.
- **Efficiency in use of resources**
Ensuring efficiency in the use of available resources without compromising quality.

Critical Success Factors

- **Sufficient resources and appropriately trained staff**
The availability of suitably trained and committed staff to complete the work is fundamental to the achievement of targets without compromising quality.
- **Strong Independent Status**
True independence guaranteed by statutory provisions is important for the effective working of the Office.
- **Access to Information**
Appropriate information on all countries of origin of asylum seekers, international reports and relevant jurisprudence is essential for the evaluation of applications for refugee status.
- **Standards, Systems & Procedures and Work Practices**
The work of the Office must be organised and based on the application of the highest professional standards and practices for the performance and management of the work with clear direction and good corporate lines of communication.
- **Information and Communications Technology**
It is essential that the office maximises the use of Information and Communications Technology in the discharge of its service provision and in the provision of management information.
- **Co-operation of applicants and Legal Representatives**
Timely and complete responses from asylum applicants and their legal representatives and the presentation of properly researched and accurate submissions are vital to the delivery of timely and quality recommendations.
- **Effective and co-ordinated liaison with other Government agencies and offices**
Liaison with other agencies involved in the asylum process is central to the development of an integrated approach to processing asylum applications in a fair and efficient manner.

Outcomes

- Open, transparent and fair procedures
- Quality service
- Quality decisions
- Minimum processing times
- Well trained and committed staff
- General confidence in the Office of the Refugee Applications Commissioner.

Strategy and Business Plan

Strategy Statement

This Framework Document is the first step in the strategy and business planning process. As such, and given that the Office of the Refugee Applications Commissioner is in 'start up mode', the Framework Document is necessarily tentative. It is based on the provisions of the Refugee Act 1996 (as amended), but experience of the operation of these provisions is limited at this stage and the additional staff and other resources approved for this Office are not yet in place. The strategic management process, of which this is the first stage, is an iterative process which will see the issues dealt with in this document revisited and developed over time. The next stages will involve the preparation of a Strategy Statement and Business Plan, and in doing so we will

- Review/refine the mission statement and mandate
- Create structures for wider participation in the process
- Undertake an environmental analysis and assess customer/client interests and needs
- Review/refine goals and principles
- Review/refine critical success factors
- Devise a strategy to achieve the objectives
- Identify key performance indicators
- Identify resource allocation issues underlining any additional resources which may be necessary for optimum processing.
- Identify critical inter-organisational and cross functional linkages.
- Identify methods of monitoring/reviewing and reporting of progress on implementation of the statement. The review and reporting arrangements will also include providing reports as required and reporting on an annual basis to the Minister for Justice, Equality and Law Reform in accordance with the statutory requirements set out in Section 7 of the Refugee Act (as amended).

Business Plan

Prepare a business plan to clearly set out how the strategy is to be implemented having regard to the issues identified in the Strategy Statement.

Evaluation Process

The role and scale of the Office of the Refugee Applications Commissioner involves very considerable processing operations, e.g. Reception, Research, Scheduling, Interviewing etc. Ensuring these operations are fair and efficient requires ongoing evaluation and adaptation of all stages. This process requires evaluation of:

- Overall Strategy
- Organisation Structure
- Systems and Procedures
- Work Practices and Standards
- Quality Assurance
- Inputs/outputs
- Resources
- Monitoring and feedback arrangements

The process of evaluation will be undertaken;

- in co-operation with management and key staff,
- in consultation with all staff
- in consultation with legal service/representatives, UNHCR and relevant Non-Governmental Organisations and
- in consultation with the Department of Justice, Equality and Law Reform, Refugee Appeals Tribunal, other relevant Government Departments and relevant public bodies.

Report to Minister

Strategic Management Report

Having devised a strategy and business plan for the performance of the functions of the Refugee Applications Commissioner in accordance with the provisions of the Refugee Act, prepare a report and business plan for submission to the Minister for Justice, Equality and Law Reform setting out:

1. Activities of the Office of the Refugee Applications Commissioner during the period covered by the report
2. An assessment of the current situation in relation to the processing, at first stage, of applications for declarations as refugees
3. The Commissioner's proposals, including procedural, resource and policy proposals, to progress the assessment of applications at first stage.

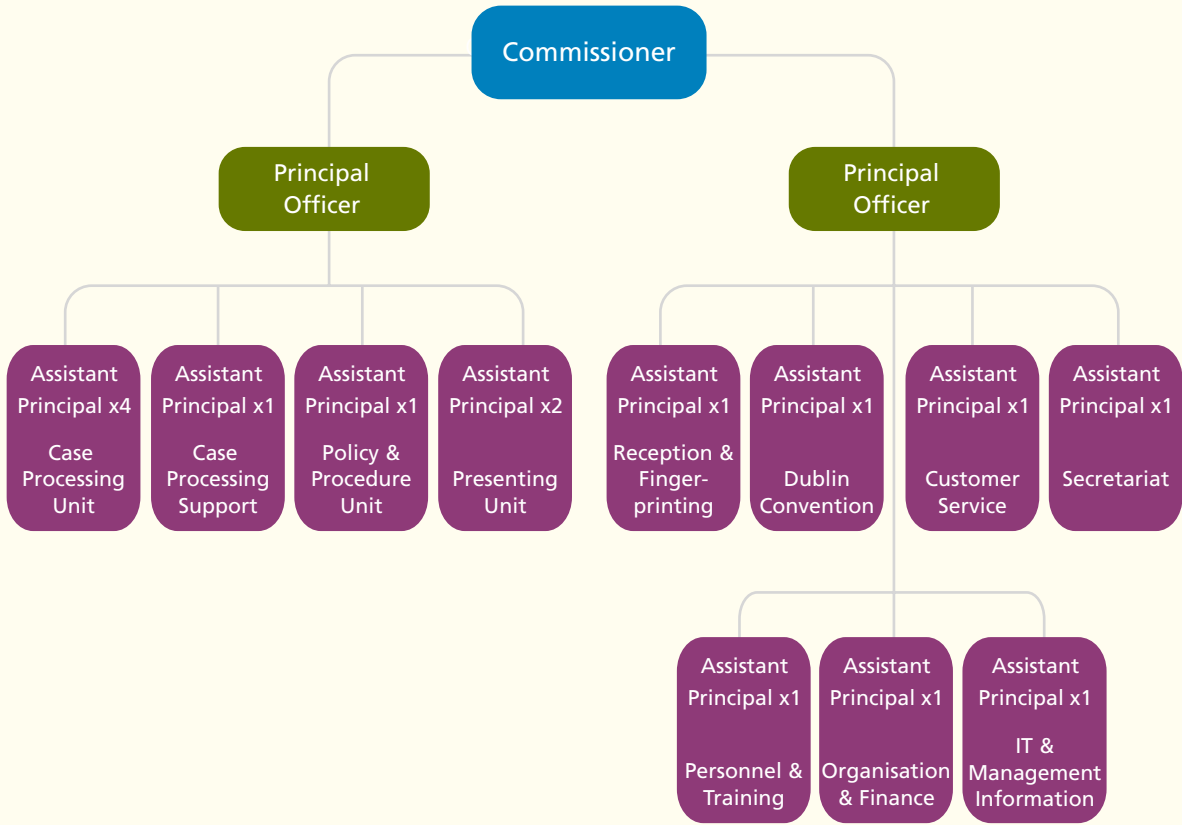
Annual Report

In accordance with Section 7(1) of the Refugee Act the Commissioner is also required to submit an annual report to the Minister for Justice, Equality and Law Reform of activities during the year which will be laid before each House of the Oireachtas.

Appendix 2

Organisation Chart for the Office of the Refugee Applications Commissioner

Organisational Chart 2001



Appendix 3

Application/Processing Statistics

Applications by year from 1992 to 2001

Applications received by month

Places of applications

Age stated by applicant and gender breakdown

Top 6 stated countries of origin

Comparison of applications received and cases finalised

Cases finalised

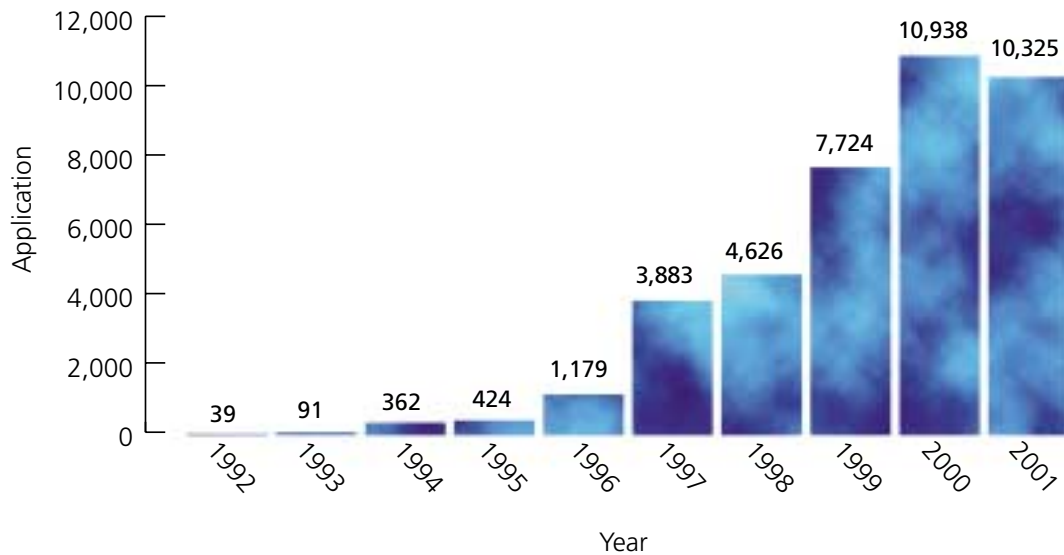
Recommendations issued

Interviews scheduled and attended

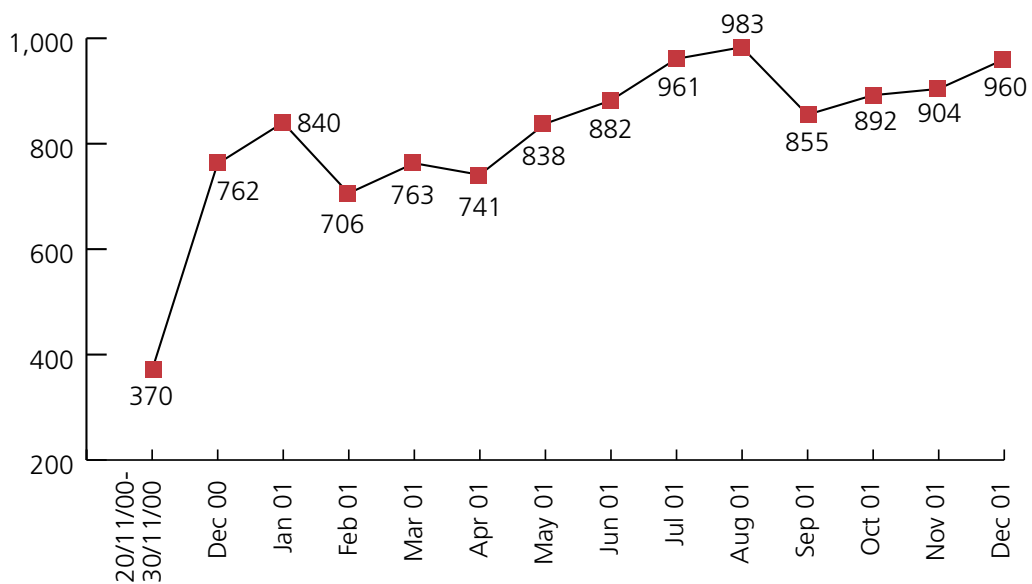
Applications outstanding

Application/Processing Statistics

Number of applications per year from 1992 to 2001

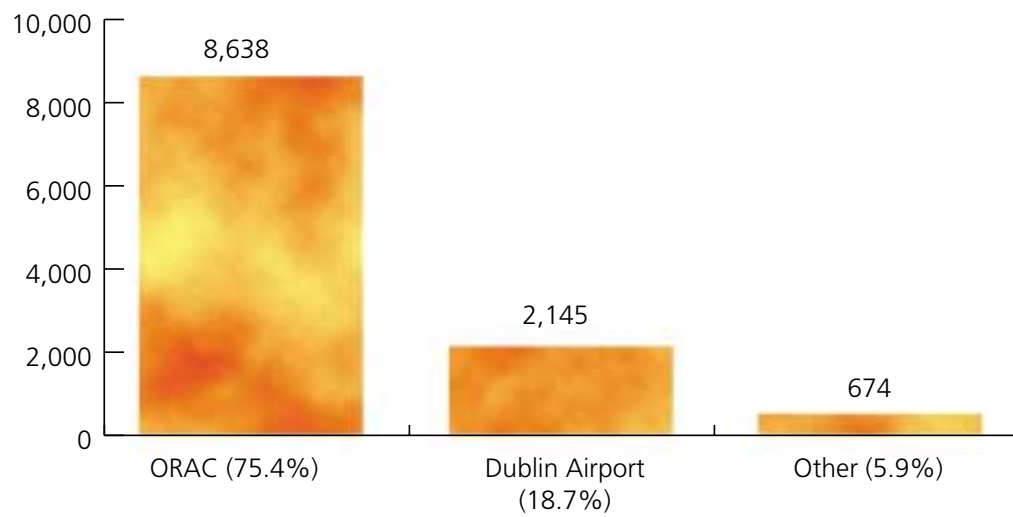


Applications received by month from 20/11/2000 - 31/12/2001

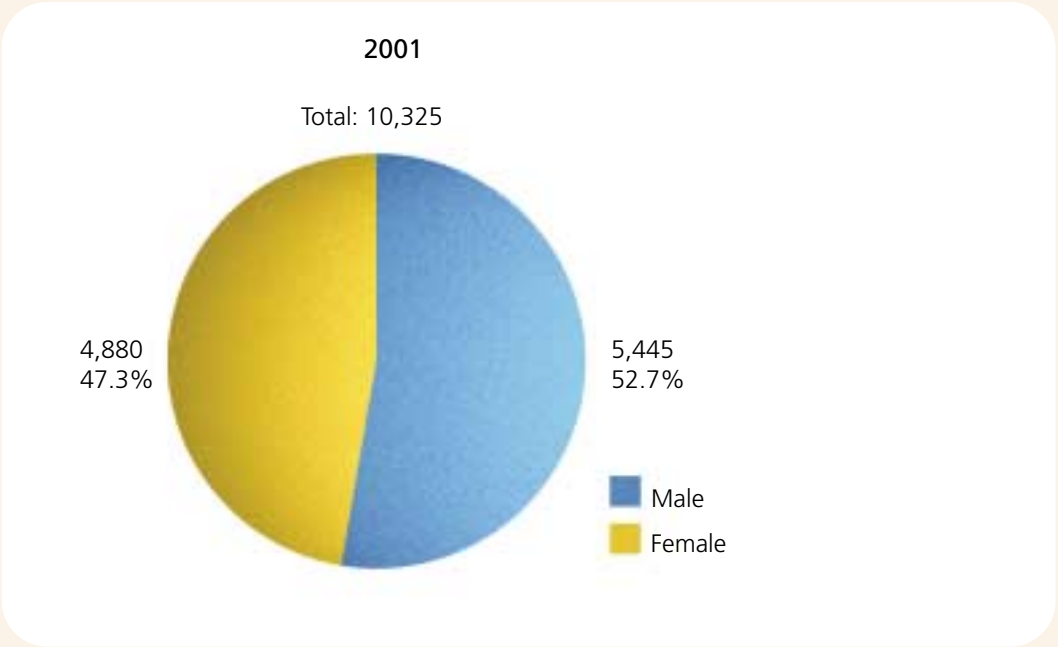
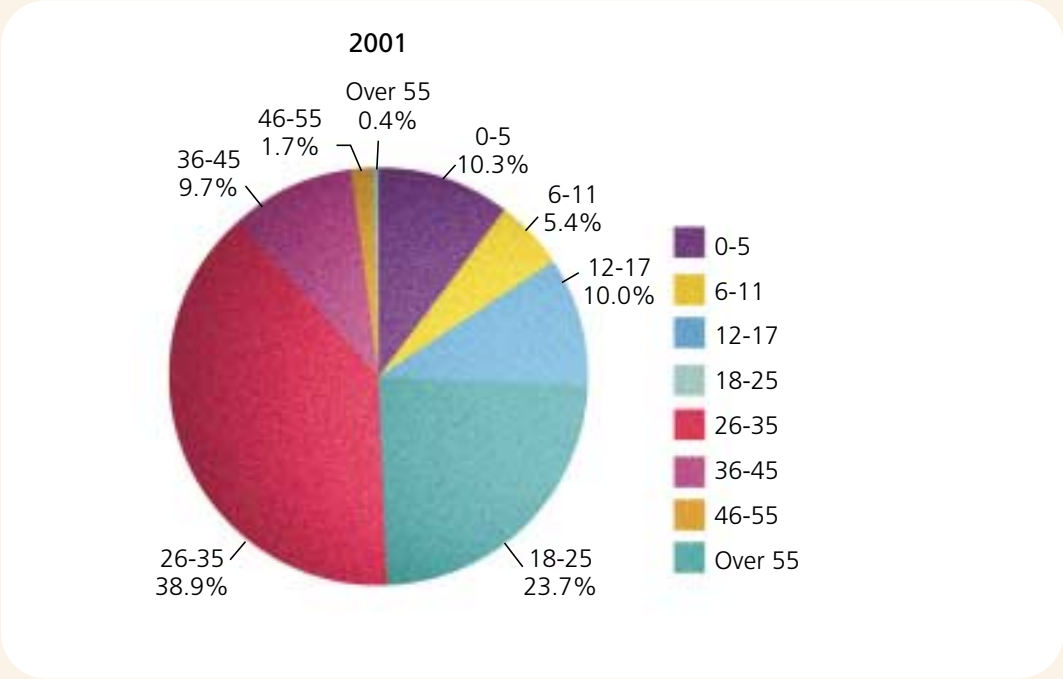


Applications by month 20/11/00 - 31/12/01

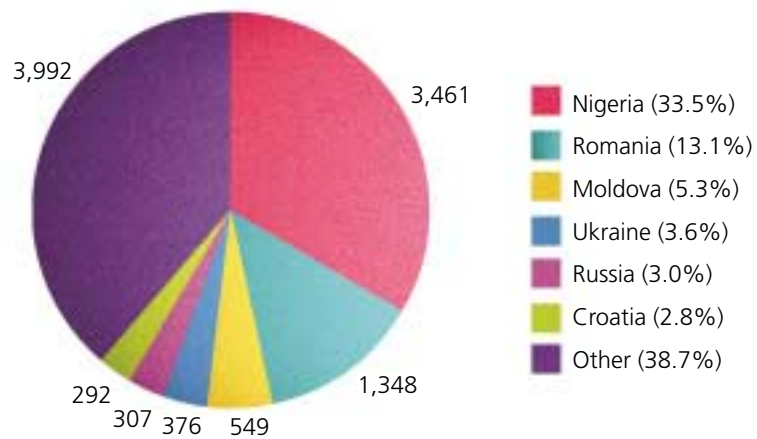
Places of applications 20/11/00 - 31/12/01



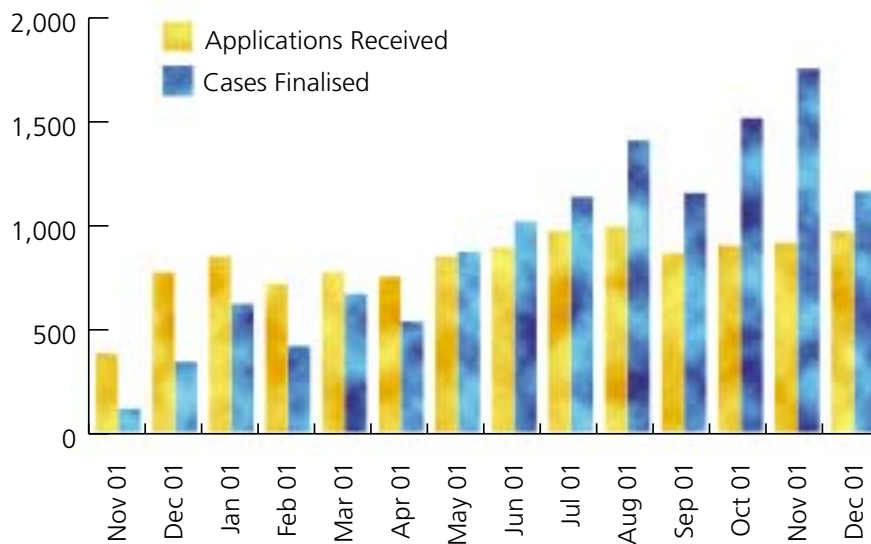
Age stated by applicant and gender breakdown 2001



Top 6 stated countries of origin 2001

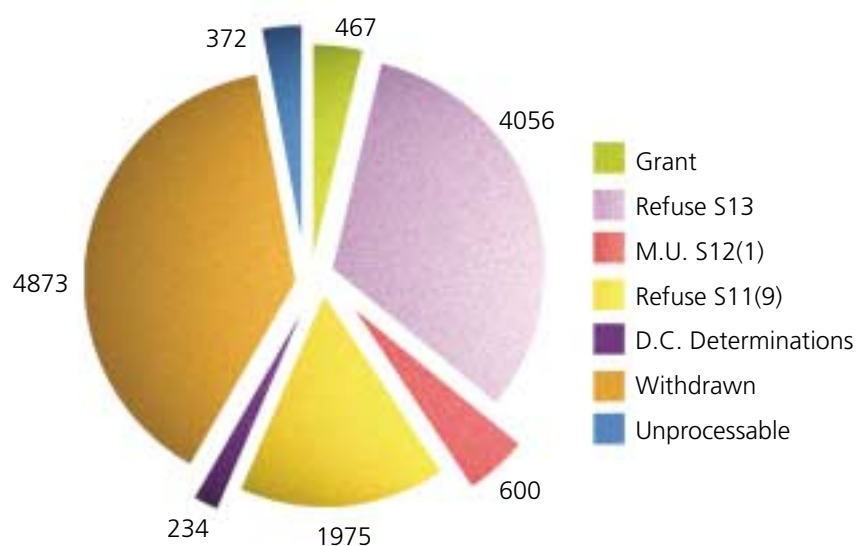


Comparison of applications received and cases finalised 20/11/2000 - 31/12/2001



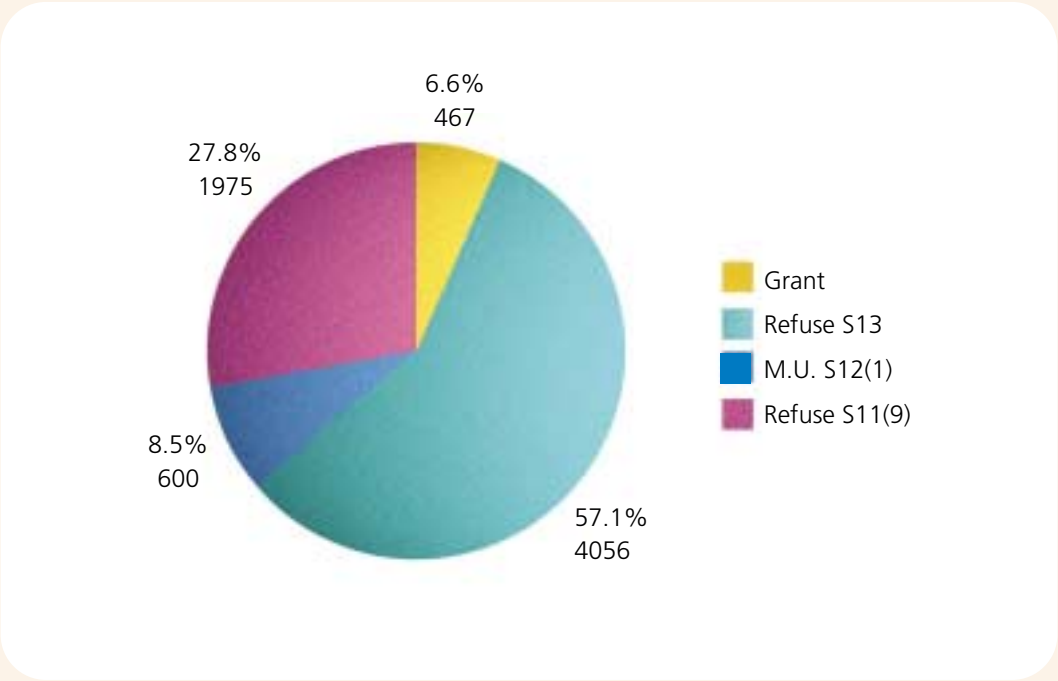
	2000		2001											
Month	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Applications Received	370	762	840	706	763	741	838	882	961	983	855	892	904	960
Cases Finalised	105	330	611	407	659	524	861	1008	1127	1398	1145	1506	1744	1152

Cases finalised from 20/11/2000 - 31/12/2001

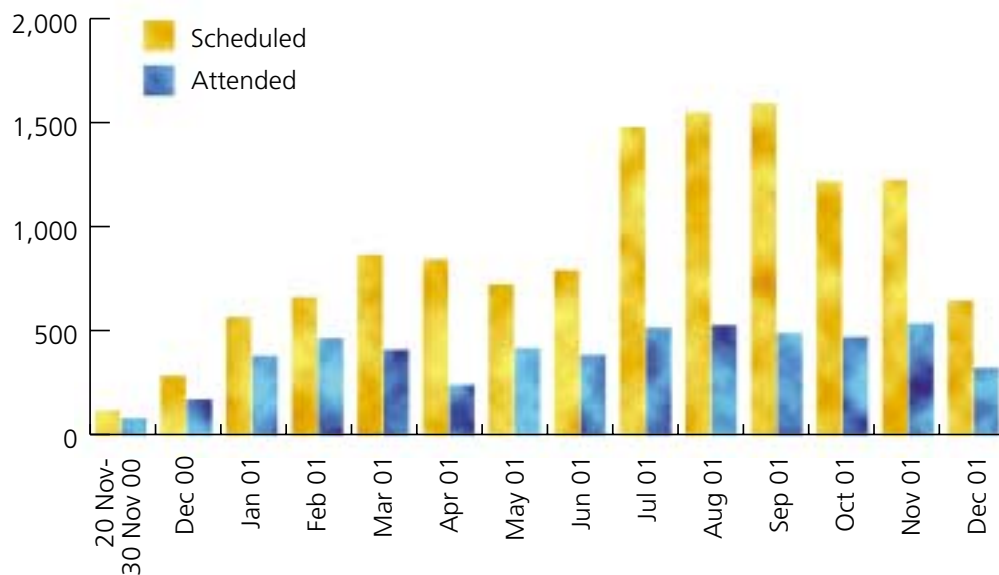


Grant:	The Commissioner has made a recommendation that the applicant be granted refugee status.
Refuse S13:	The Commissioner has made a recommendation that the applicant should not be granted refugee status.
M.U. S12(1):	The Commissioner has made a recommendation that the applicant does not meet the criteria set down in Section 12(4) of the Refugee Act 1996 and is deemed to be 'manifestly unfounded'.
Refuse S11(9):	Where the applicant fails to attend a second scheduled interview the Commissioner makes a recommendation that the applicant should not be declared a refugee.
D.C. Determination:	Where it is established that the applicant's claim for refugee status should be determined in another Dublin Convention country.
Withdrawn:	Where the applicant has withdrawn from the asylum process.
Unprocessable:	Where it has become apparent to the Commissioner that the application is unprocessable.

Recommendations issued 20/11/2000 - 31/12/2001



Interviews scheduled and attended 20/11/2000 - 31/12/2001*

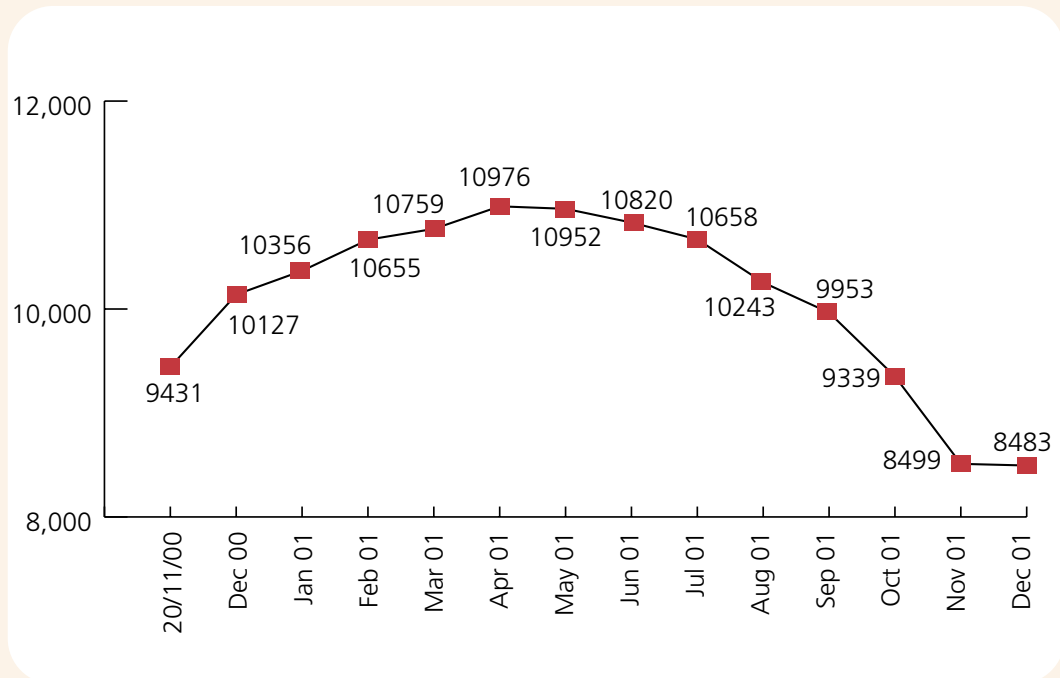


* It should be noted that in certain cases an applicant may have more than one interview scheduled.

Interview scheduled and attended from 20/11/00 to 31/12/2001

	2000		2001											
Month	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Scheduled	108	276	559	655	859	837	716	784	1473	1543	1587	1213	1220	639
Attended	72	164	373	458	402	233	410	377	508	520	482	463	528	314
% Attended	67%	59%	67%	70%	47%	28%	57%	48%	34%	34%	30%	38%	43%	49%

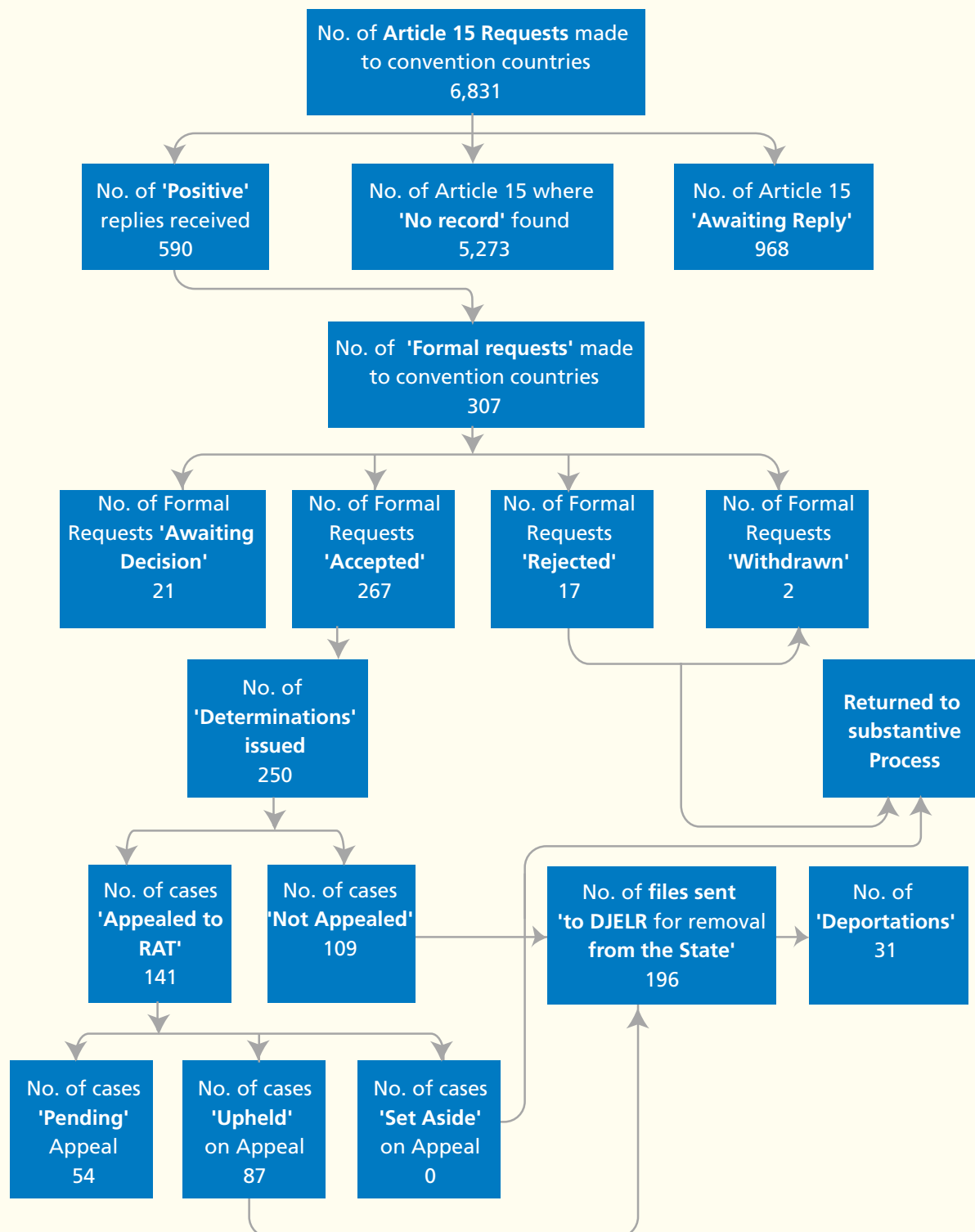
Applications outstanding as at 20/11/2000 to 31/12/2001



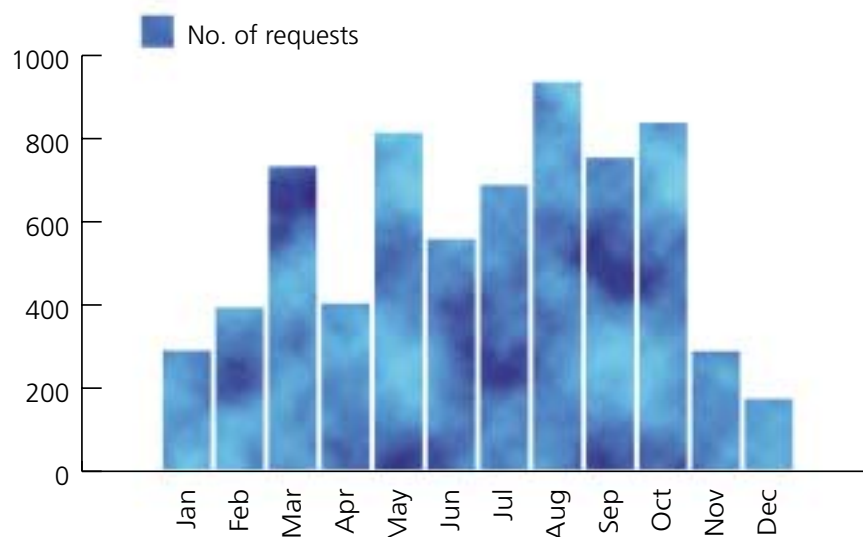
Appendix 4

Dublin Convention Statistics for 2001

Statistics for the Dublin Convention for the period 01/01/2001 to 31/12/2001



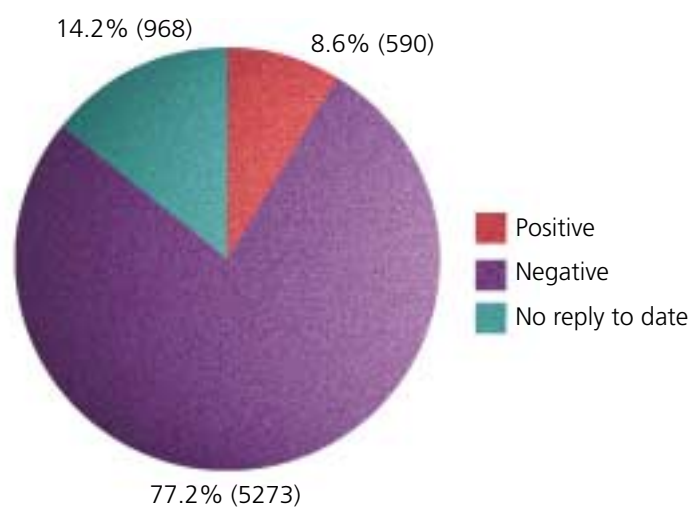
Art. 15 Requests to Convention Countries - 2001



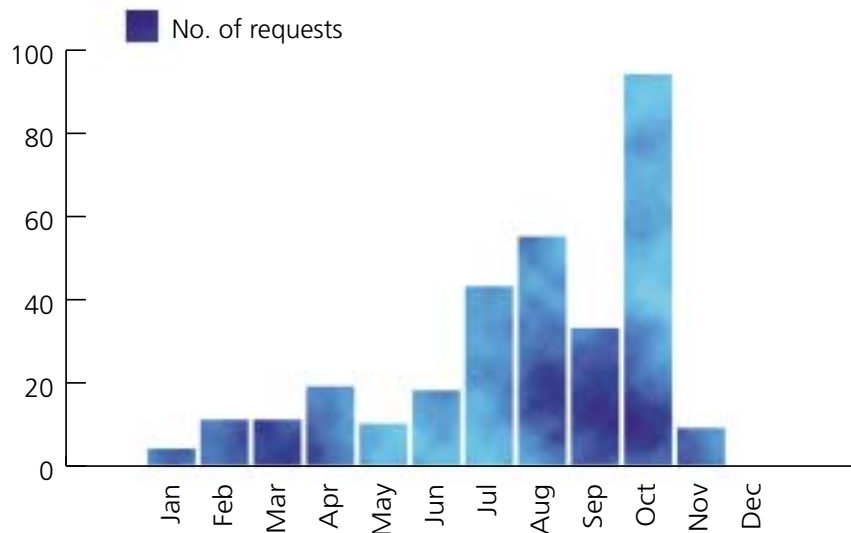
Art. 15 Requests to Convention Countries 2001

Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Requests	286	390	730	400	811	555	685	933	751	835	285	170

Replies to Art. 15's issued - 2001



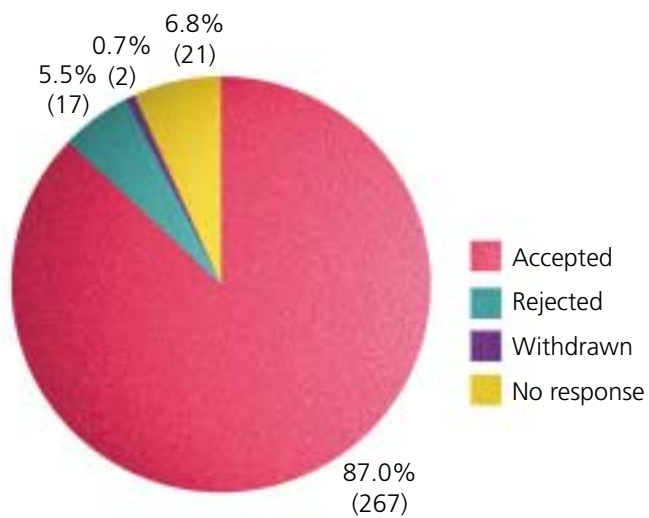
Formal Requests to Convention Countries - 2001



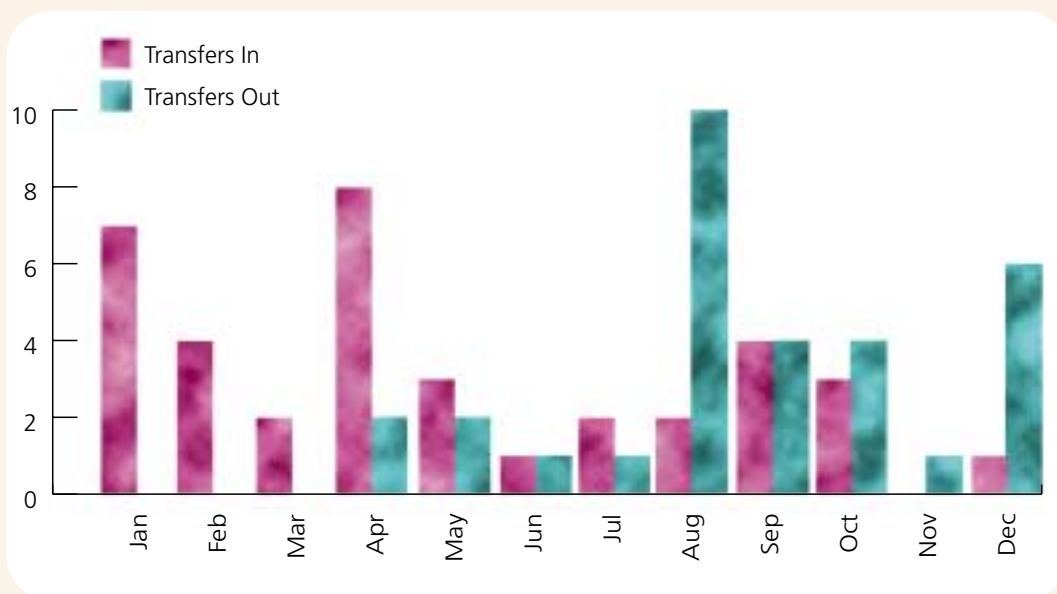
Formal Requests to Convention Countries - 2001

Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Requests	4	11	11	19	10	18	43	55	33	94	09	0

Replies to Formal Requests issued - 2001



Transfers under the Dublin Convention 2001



Transfers under the Dublin Convention 2001

Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Transfers In	7	4	2	8	3	1	2	2	4	3	0	1
Transfers Out	0	0	0	2	2	1	1	10	4	4	1	6



Appendix 5

Finance

Profile of Non-Pay Expenditure for 1 January 2001 - 31 December 2001

Profile of Pay Expenditure for the Office of the Refugee Applications Commissioner 1st January - 31st December 2001

The pay figure for the Office of the Refugee Applications Commissioner is contained under Subhead G of Justice Vote 19. It is amalgamated with the pay costs for the Reception and Integration Agency, the Refugee Appeals Tribunal, Ministerial Decisions, Immigration and Asylum Policy Units of the Department of Justice, Equality and Law Reform.

The outturn for pay costs for the above Agencies and Units of Subhead G of the Department of Justice, Equality and Law Reform was £11,011,624 in 2001*

*as provided by Finance Branch, Department of Justice, Equality and Law Reform

Profile of Non-Pay Expenditure for The Office of the Refugee Applications Commissioner 1st January - 31st December 2001*

Breakdown of Non-Pay Expenditure; 1st January 2001 - 31st December 2001

Description	Amount
Travel & Subsistence	£69,083
Translation/Interpretation	£1,046,003
Legal Costs	£5,707
Training	£105,011
Office & Computer Equipment (Assets)	£342,968
Office Premises Expenses	£493,243
Furniture, Fixtures & Fittings (Assets)	£216,339
Equipment, Supplies & Maintenance	£279,040
Miscellaneous	£58,785
Total	£2,616,179

*as provided by Finance Branch, Department of Justice, Equality and Law Reform

