

## Country factsheet Ireland

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

## 1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	2,690	Total	3,865
Nigeria	570	Nigeria	1,010
Pakistan	260	Pakistan	235
China (including Hong Kong)	195	Iraq	205
Congo, the Democratic Republic of the	100	China (including Hong Kong)	180
Zimbabwe	90	Georgia	180
Georgia	90	Congo, the Democratic Republic of the	170
Moldova, Republic of	85	Moldova, Republic of	140
Somalia	85	Somalia	140
Ghana	80	Sudan	125
Iraq	75	Zimbabwe	115

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	105	25	n.a.	3,010	n.a.	n.a.	
Iraq	20	0	n.a.	110	n.a.	n.a.	
Somalia	20	5	n.a.	135	n.a.	n.a.	
Sudan	15	0	n.a.	90	n.a.	n.a.	
Eritrea	10	0	n.a.	55	n.a.	n.a.	
China	5	0	n.a.	85	n.a.	n.a.	

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	270	n.a.	n.a.	3,160	3,425	270	7.9
Iraq	50	n.a.	n.a.	65	115	50	43.5
Nigeria	25	n.a.	n.a.	825	855	25	2.9
Afghanistan	25	n.a.	n.a.	75	100	25	25.0
Iran (Islamic Republic of)	20	n.a.	n.a.	40	60	20	33.3
Pakistan	10	n.a.	n.a.	260	265	10	3.8

Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'subsidiary protection' as well as 'humanitarian status'. For a more detailed understanding of the data, the reader is invited to consult national statistics at: <http://www.orac.ie/pages/Stats/2010.htm>.

Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available. China (including Hong Kong).

<sup>1</sup> Covering persons granted authorisation to stay for **humanitarian reasons** under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.

<sup>2</sup> The **recognition rate** corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection (where data is available).

Source: [Eurostat](#), Data extracted on 01 September 2010.

## 2. Background Information

### Asylum legislation<sup>1</sup>

[Refugee Act \(1996\)](#) – as amended

[Refugee Act \(Section 22\) Order 2003](#)

Statutory Instrument 518 of 2006, European Communities (Eligibility for Protection) Regulations.

### Asylum authorities

#### First instance authority

[Office of the Refugee Applications Commissioner](#) (ORAC)

#### Second instance authority

[Refugee Appeals Tribunal](#) (RAT)

## 3. Duty to inform asylum seekers

Section 8(1) (b) of the Refugee Act provides that at entry points, immigration officers are obliged to inform individuals seeking asylum, where possible in a language that the person understands, that he or she may apply for a declaration of refugee status and that he or she is entitled to consult a solicitor and UNHCR.

On receipt by the ORAC of an asylum application, the Commissioner shall, without delay, provide the applicant with a statement in writing specifying, where possible in a language that s/he understands, the procedures to be observed, the entitlement of the applicant to consult a solicitor, the obligations as well as the possible consequences of non-compliance with those obligations (Section 11(8)).

According to information provided by ORAC, applicants are given a number of documents (listed below), and advised, during the initial application process:

- An information leaflet on the asylum procedure and refugee status in Ireland (available in 25 languages).
- A questionnaire in connection with their application for a declaration.
- A Refugee Legal Service information leaflet.
- A Change of Address form.
- Advice on their right to consult legal counsel and UNHCR.

In August 2010, the Office of the Refugee Applications Commissioner (ORAC) provided the following information to the FRA as regards written information materials.

<b>Written information materials</b>	The Asylum Information Leaflet is translated into 24 languages.
<b>Provided when?</b>	At the time of making the asylum application each applicant is provided with a copy of the Asylum Information Leaflet (also available on the ORAC's website) and other information material.

<sup>1</sup> The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

<b>Provided by whom?</b>	At the time of lodging the application – by the ORAC at its asylum application centre and by Immigration officers at ports of entry.
<b>Has an evaluation of information tools been carried out?</b>	Yes. The ORAC Customer Service Centre under the terms of its Customer Service Charter, conducts surveys each year to determine the views of their customers (including asylum seekers) in relation to various services provided by ORAC. The results of these surveys are available on the ORAC website at: <a href="http://www.orac.ie/pages/Cust_serv/Information.htm">http://www.orac.ie/pages/Cust_serv/Information.htm</a> .

## 4. Effective Remedy (Art. 39 APD)

### Type of procedures

When an asylum claim is made, a preliminary interview with the applicant is conducted. The purpose of this interview is to establish whether the person wishes to apply for refugee status and if so, the general grounds upon which the claim is based, the person's identity and nationality and the travel route. The interview is conducted in the presence of an interpreter when necessary and possible. If the asylum seeker made the application at a port of entry, he or she will be required to proceed to the ORAC office to complete the initial asylum process.

According to the standard procedure, after examining the claim ORAC prepares a report with a recommendation whether the applicant should be declared to be a refugee by the Minister for Justice and Law Reform or not. The Minister does not make a final decision until the time period for making an appeal has lapsed or until such time as the Refugee Appeals Tribunal makes a recommendation. The Minister shall issue a declaration granting the applicant a refugee status or refuse to give the applicant a declaration, based on the report and the recommendation of the Commissioner or, as the case may be, on the decision of the Tribunal, which sets aside a recommendation of the Commissioner (Section 17(1)).

All asylum applications are given a substantive first-instance investigation, but shorter timelines to appeal apply in cases falling under Sections 13(5-6) and 13(8) of the Refugee Act, as described below.

At any time during the asylum procedure a determination may be made that the applicant should be transferred to another country in accordance with the Dublin II Regulation.

A person to whom the Minister has refused to give a declaration may not make a subsequent application without the consent of the Minister (Section 17(7)).

### Duty to state reasons for rejection and procedure to appeal

The asylum seeker shall be provided with a copy of the ORAC's report setting out the results of the investigation together with the recommendation. In case of a negative recommendation, the asylum seeker shall receive a notice in writing stating his/her right to appeal to the Refugee Appeals Tribunal, the possibility to request an oral hearing, if applicable, and the time limit for lodging an appeal (Section 13(4)).

In Dublin II cases, the determination on transferring the asylum seeker to other country contains information, *inter alia*, on the reasons for such determination as well as the

information on how to appeal and within which time limit (Schedule 1, (Section 22) Order 2003).

## Time limits for appeal

As a general rule, applicants who receive a negative recommendation following their interview with the ORAC may lodge an appeal with the Refugee Appeals Tribunal within 15 days. (Section 13(4) of the Refugee Act). The same time limit applies for Dublin II cases (Section 6(2)(a), (Section 22) Order).

There are exceptions to the general rule. The first concerns recommendations by the Commissioner, which include any of the findings listed in Section 13(6) of the Refugee Act, as amended. These are manifestly unfounded applications, fraudulent or abuse applications, applications not made as soon as reasonably possible, prior application lodged in a country signatory to the Geneva Convention and applications submitted by a person coming from a safe country of origin. In such cases, the time limit for appeal is 10 working days (Section 13(6) of the Refugee Act). The second exception concerns the power by the Minister to channel certain applications through a faster procedure (Section 13(8)). In this case, the time limit of four working days applies. In practice this procedure has not yet been invoked.

Type of procedure	Time limits	Right to remain
General rule	15 days	Automatic suspensive effect.
Dublin procedure	15 days	No automatic suspensive effect.
Procedure according to Section 13(6-5)	10 days	Automatic suspensive effect.
Procedure according to Section 13(8)	4 days	Automatic suspensive effect.

## Right to remain in the country during appeal

The asylum seeker shall be entitled to remain in the territory until the date on which notice is sent to the applicant that the Minister has refused to give him/her a declaration (Section 9(2)(c)), i.e. until the time limit for submitting an appeal has elapsed or the Refugee Appeals Tribunal has made its recommendation. In Dublin II cases an appeal will not suspend the transfer to the responsible country (Section 6(2)(b), (Section 22) Order).

In the current system a decision to grant subsidiary protection under S.I. No. 518 of 2006 European Communities (Eligibility for Protection) Regulations is made after the refugee claim and the person seeking protection is entitled to remain in the territory until such decision is made.

## Legal Aid

In accordance with the [Civil Legal Aid \(Refugee Legal Service\) Order 1999](#), provisions on legal aid as regulated by Section 27(2)(b) of the [Civil Legal Aid Act \(1995\)](#) shall apply to appeals submitted to the Refugee Appeals Tribunal.

The Refugee Legal Service (RLS) is an office established by the Legal Aid Board to provide low-cost, independent and confidential legal services to asylum-seekers and refugees. The RLS can provide assistance to applicants before submission of the questionnaire or prior to

appearing at the interview, and can make written submissions to the ORAC in support of an application. The RLS can also provide legal representation before the RAT. The RLS staff comprises of legal counsels and caseworkers who have been trained in refugee status determination. Asylum seekers are also free to arrange for legal advice at their own expense.

## Language assistance

Section 11(2) provides that the interview conducted by ORAC shall, where necessary and possible, be conducted with the assistance of an interpreter. Section 16 (11)(d) of the act provides that the Tribunal shall, where necessary, use its utmost endeavours to procure the attendance of an interpreter to assist at the hearing.

## Hearing

Applicants have the option of an oral hearing, which they must request on the notice of appeal form. The Tribunal shall enable the applicant to be present at the hearing and present his/her case in person or through a legal representative (Section 16). No oral hearing is held for appeals against recommendations issued in procedures regulated by Section 13 (5-6) and (8) of the Refugee Act, where shorter time limits for lodging an appeal apply. Similarly, the Tribunal does not hold an oral hearing for appeals against so called Dublin decisions.