

IRELAND

Ireland is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First and Second Optional Protocols. At year's end 2000, Ireland received 10,938 asylum applications.¹ In 2001, Ireland received 10,325 asylum applications. More than 600 unaccompanied child asylum seekers arrived in Ireland in 2001.² In the first quarter of 2002, 2,533 applications were filed.³

The Refugee Act 1996 (as amended)⁴ was fully implemented in November 2000. The Act provides for substantial changes to the asylum procedure, in particular detention practices. Prior to the Act, the UNHCR knew of no detained asylum seekers.⁵ Under the amended Refugee Act, an asylum seeker may be detained by an immigration officer or a member of the Garda Síochána (police) if there is "reasonable suspicion" that she: (a) poses a threat to national security or public order; (b) has committed a serious non-political crime abroad; (c) has not made reasonable efforts to establish her true identity; (d) wants to leave and enter another state illegally; (e) is attempting to avoid a Dublin Convention transfer; or (f) has destroyed travel documents or is in possession of forged documents without reasonable cause.⁶ As such, the provisions confer upon the Garda and

¹ U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 235, *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

² U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 190, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

³ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

⁴ As amended by section 11(1) of the Immigration Act (1999) and section 9 of the Illegal Immigrants (Trafficking) Act (2000). E-mail from Dug Cubie, Irish Refugee Council, to Min Jung Lee, Debevoise & Plimpton (Nov. 29, 2001) (on file with Debevoise & Plimpton) [hereinafter Irish Refugee Council Correspondence].

⁵ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 110 (July 2000) [hereinafter UNHCR EU REPORT 2000].

⁶ Irish Refugee Council Correspondence, *supra* note 4; Mission Permanente de l'Irlande à Genève, Response to LCHR Questionnaire on Detention of Asylum Seekers (Mar.

immigration officers unlimited powers to detain, though they must have reasonable cause to do so.⁷ However, in actual practice, the use of these detention provisions is exceedingly rare.⁸ Amnesty International (Irish Section) reports that as of April 2001, there have been very few reports of detained asylum seekers.⁹

In addition, Section 5(1) of the Immigration Act, 1999 provides that an immigration officer or member of the Garda may arrest and detain an asylum seeker whom she suspects is in violation of any provision of a deportation order.¹⁰ All other asylum seekers are referred by the immigration officers or police to the Refugee Application Center, issued a card upon completion of a lengthy questionnaire and directed to long-term accommodation centers.¹¹

Asylum seekers are housed in reception centers for two weeks, then dispersed throughout the country to former hotels, hostels and custom-built accommodation centers. They receive an allowance of €19.10 a week in addition to full board from the State.¹² The Reception and Integration Agency (“RIA”), established under the aegis of the Department of Justice, Equality and Law Reform is responsible for organizing the dispersal and direct provision program and may require asylum seekers to reside in particular districts.¹³ In practice, since financial assistance must be collected weekly in

22, 2002) at Annex I (on file with Debevoise & Plimpton) [hereinafter Irish Response to LCHR Questionnaire].

⁷ Irish Refugee Council Correspondence, *supra* note 4.

⁸ E-mail from Noel Waters, Reception & Integration Agency, to Min Jung Lee, Debevoise & Plimpton (May 21, 2002) (on file with Debevoise & Plimpton) [hereinafter Reception & Integration Agency Correspondence].

⁹ Amnesty International (Irish Section), DETENTION OF ASYLUM SEEKERS (APRIL 2001), available at <http://www.amnesty.ie.act.refug.det.shtml> (last accessed Sept. 8, 2002) [hereinafter DETENTION OF ASYLUM SEEKERS].

¹⁰ Irish Response to LCHR Questionnaire, *supra* note 6.

¹¹ DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN WESTERN EUROPEAN COUNTRIES at 146, available at <http://www.english.drc.dk/publications/> (May 2000) [hereinafter DRC W. EUR. REPORT 2000].

¹² USCR WORLD REFUGEE SURVEY 2001, *supra* note 1, at 235; UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 100, 108 (July 2000) [hereinafter UNHCR EU REPORT 2000].

¹³ Irish Response to LCHR Questionnaire, *supra* note 6; Reception & Integration Agency Correspondence, *supra* note 8.

the district of an asylum seeker's residence, movement around the country is to some degree restricted.¹⁴

Each of the 86 accommodation centers housing asylum seekers is obliged under contract to offer menus which reflect the reasonable ethnic and religious needs of asylum seekers. Menus are cycled on a seven day basis to ensure variety; in state-owned properties and larger accommodation centers, 28 menu cycles are in place. The RIA also requires the chef of each accommodation center to meet on a regular basis with a representative group of asylum seekers to discuss their food requirements.¹⁵

In addition, the RIA conducts regular clinics throughout the country where asylum seekers are given the opportunity to discuss any issues of concern on a confidential basis. The RIA also provides anti-racism and inter-culturalism training for its proprietors, operators and staff.¹⁶

Is there independent review of the detention decision? Yes.

An asylum seeker detained by an immigration or police officer must be brought before a District Court judge "as soon as practicable," which would ordinarily be at the District Court's next sitting.¹⁷ If the judge finds detention is appropriate due to the existence of one or more of the conditions above, then the asylum seeker may be ordered detained for up to ten more days, after which the Court must re-order detention at subsequent ten-day intervals.¹⁸ If none of the conditions warranting detention exist, the Court may permit the release of the detainee subject to conditions such as specifying a particular place of residence or imposing reporting requirements. Breach of any such condition gives rise to further detention subject to the same procedure.¹⁹ Aliens who are suspected to have stayed beyond the expiration of a removal order also may be detained. In this instance,

¹⁴ DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 157.

¹⁵ Irish Response to LCHR Questionnaire, *supra* note 6.

¹⁶ *Id.*

¹⁷ DRC W. EUR. REPORT 2000, *supra* note 11, at 151; *also* IRISH REFUGEE COUNCIL, GUIDE TO THE REFUGEE ACT 1996 (AS AMENDED) 10 (2000) (citing Refugee Act 1996, §9(10)(a)).

¹⁸ DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 151; *also* IRISH REFUGEE COUNCIL, GUIDE TO THE REFUGEE ACT 1996 (AS AMENDED) (citing Refugee Act 1996, §9(10)(b)(i)); Brian Ingoldsby, *The Refugee Act and Its Amendments* 6 (Jan. 2001) (briefing paper, presented by the Department of Justice, Equality and Law Reform at the Bar Council Seminar).

¹⁹ Irish Response to LCHR Questionnaire, *supra* note 6.

detention is not reviewed until the alien institutes proceedings to challenge the removal order.²⁰

Are there limits on the period of detention? No, except in the case of asylum seekers who have been ordered deported (8 weeks).

The Refugee Act 1996 (as amended) provides for no time limit for detention of asylum seekers awaiting a decision on admissibility who fall under any of the “reasonable suspicion” categories described above.²¹ Asylum seekers may be detained for no longer than the first 48 hours in any one of a number of police stations, or indefinitely in prisons and designated places of detention.²²

Aliens in violation of their removal order may be detained for a maximum of 8 weeks.²³ Time spent in custody while appealing a deportation order does not count towards this maximum.²⁴

Is there periodic review of detention? Yes; 10 days.

According to the Department of Justice, Equality and Law Reform and the Refugee Act 1996 (as amended), the detention of asylum seekers detained is reviewed every ten days before the District Court.²⁵

Is there access to government-funded legal aid? Yes.

Indigent asylum seekers are provided with legal aid throughout the asylum process from the Refugee Legal Service of the Legal Aid Board and the Department of Justice, Equality and Law Reform.²⁶ However, it is up to the asylum seekers themselves to access these legal services. There is a nominal fee of €20 for these legal advice and representation services.²⁷

²⁰ DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 151.

²¹ Ingoldsby, *The Refugee Act and Its Amendments*, *supra* note 18, at 6.

²² Irish Response to LCHR Questionnaire, *supra* note 6.

²³ DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 152.

²⁴ Immigration Act 1999, as amended in Illegal Immigrants (Trafficking) Act (2000), §5(6)(b)(iii).

²⁵ Ingoldsby, *The Refugee Act and Its Amendments*, *supra* note 18, at 6; Irish Response to LCHR Questionnaire, *supra* note 6; DETENTION OF ASYLUM SEEKERS, *supra* note 9.

²⁶ DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 150.

²⁷ Irish Refugee Council Correspondence, *supra* note 4.

Vulnerable groups: Section 9(12)(a) of the Refugee Act 1996 (as amended) states that persons under 18 cannot be detained.²⁸ Separated children and unaccompanied minors are dealt with in accordance with the provisions of the Childcare Act 1999 and fall under the responsibility of the Health Board.²⁹ Where it appears to an immigration officer that a child entering Ireland is unaccompanied by an adult, she is required to inform the local Health Board.³⁰ An application for appointment of a legal guardian (guardian *ad litem*) may be made to the High Court on behalf of such minors,³¹ but it is the local Health Board where the separated child arrives that has the legal obligation to ensure that the best interests of the child are taken into account.³² Social workers are assigned to separated children, who are typically housed at hotels or hostels.³³

According to ECRE, the number of separated children arriving in Ireland continued to rise in 2001. As a result, Health Board authorities have taken steps towards establishing separate centers for the minors, rather than housing them with adults.³⁴ Prior to June 2001, unaccompanied minors who turned 18 years were provided with financial assistance to rent private accommodation and entitled to full welfare allowance. After June 2001, however, minors who turned 18 and had completed full-time education, subject to an eligibility assessment, are offered accommodation only in accommodation centers.³⁵

Women and separated children were provided assistance from 1999 until June 2000 through a UNHCR-funded project at the Irish Refugee Council's Legal Unit.³⁶ The Irish Refugee Council does not legally represent any asylum seekers during the asylum process, but offers legal advice and advocates for best practice.

²⁸ Irish Response to LCHR Questionnaire, *supra* note 6.

²⁹ DRC W. EUR. REPORT 2000, *supra* note 11, at 156; Reception & Integration Agency Correspondence, *supra* note 8.

³⁰ Irish Response to LCHR Questionnaire, *supra* note 6.

³¹ UNHCR EU 2000 REPORT, *supra* note **Error! Bookmark not defined.**2, at 109.

³² Section 8(5) of the Refugee Act (1996) (as amended), and the provisions of the Child Care Act (1991).

³³ DRC W. EUR. REPORT 2000, *supra* note **Error! Bookmark not defined.**1, at 156.

³⁴ EUROPEAN COUNCIL ON REFUGEES AND EXILES, COUNTRY REPORTS 2001 at 119, available at <http://www.ecre.org/publications/countryrpt01.shtml> [hereinafter ECRE REPORT 2001].

³⁵ *Id.*

³⁶ *Id.* The Irish Refugee Council does not legally represent any asylum seekers during the asylum process, but offers legal advice and advocates for best practices. Irish Refugee Council Correspondence, *supra* note 4.