



The Organisation of Asylum and Migration Policies

Factsheet: Ireland

1. Introduction

This factsheet provides an overview of how asylum and migration policies are organised in *Ireland*, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on information provided in the Ireland National Report of the EMN Study *The Organisation of Asylum and Migration Policies in EU Member States*, as at **May 2012**. The Report was based on desk research and interviews with Government officials: Key sources were the Department of Justice, and Equality, Department of Jobs, Enterprise and Innovation and the Department of Foreign Affairs and Trade. Parliamentary questions, annual reports of relevant organisations, strategy statements, and information leaflets were also consulted.

2. Overview of organisation of political, legislative and institutional framework

2.1 The political system and institutional context

Ireland is a parliamentary democracy, with two houses of Parliament: the House of Representatives and the Senate. Out of 16 government departments, three departments are involved in migration management in Ireland: The Department of Justice and Equality has a range of responsibilities including asylum and immigration policy and services, EU/international matters, migrant integration, crime and security, law reform, equality and human rights. The Irish Naturalisation and Immigration Service (INIS), within the Department of Justice and Equality, is responsible for administering the statutory and administrative functions of the Minister for Justice and Equality in relation to asylum, immigration (including Visas) and citizenship matters. The Department of Jobs, Enterprise and Innovation administers the employment permit schemes and develops labour market policy. The Department of Foreign Affairs and Trade has responsibility for the issuing of visas to immigrants via consular services in countries where the Department of Justice and Equality does not operate a dedicated visa office.

2.2 The legal framework

The principal piece of domestic legislation for asylum is the Refugee Act 1996, amended by several subsequent pieces of legislation. In addition S.I. No. 518 of 2006 seeks to ensure compliance with EU Directives, and S.I. No's 51 & 52 of 2011 give further effect in Irish law to EU Directive. Domestic immigration law is currently based on various pieces of immigration legislation, including the Aliens Act of 1935 and Orders made under it, the Illegal Immigrants (Trafficking) Act 2000, and the Immigration Acts 1999, 2003 and 2004. The Immigration Act 1999 sets out the principles, procedures and criteria which govern the detention and removal of non-Irish nationals from the State, and makes provision for the issuing of deportation and exclusion orders. This Act also amended the Refugee Act 1996 substantially, inter alia, amending the jurisdiction of the Refugee Applications Commissioner and establishing the Refugee Appeals Tribunal. The Immigration Act 2003 introduced substantial amendments to the Refugee Act 1996 and introduced carrier sanctions and liability. The Immigration Act 2004 was introduced in response to a court challenge to the Minister's right to operate immigration controls.

The Immigration, Residence and Protection Bill 2010 constitutes proposed legislation for the management of both immigration and protection issues and was withdrawn in 2012. The Bill laid down a number of important principles governing the presence in the State of foreign nationals, and pulled together all of the State's immigration and refugee legislation with some important changes. The Government has committed to reintroduce an amended version of this Bill in Autumn 2012.

3. Development of migration and international protection systems

Both the number of new asylum applications and the numbers of immigrants from third-countries peaked around 2002; new asylum applications made in 2011 were just 11 per cent of the number made in 2002. The number of asylum applications grew particularly suddenly from a very low base and resulted in widespread problems as the

necessary structures for processing asylum applications were hastily put in place. The government placed an emphasis on establishing a system to process asylum applications, ahead of modernising the immigration system. In early 2011 a review of immigration and asylum services took place. INIS, ORAC, RAT and RIA were all assessed, and functional responsibilities within a number of INIS Divisions were subsequently re-aligned to further consolidate activities and to achieve greater coherence on service delivery. Staff members were deployed to priority areas. All relevant departments are focusing on providing more streamlined and effective services.

4. Organisation of policy

4.1 Overview of migration and international protection policy

Third-country nationals need a valid entry visa before arrival. On application for a visa, individuals must indicate: whether travel will be for a short stay (90 days or less) or a long stay (over 90 days); whether their application is for a single journey or multiple journeys; and the purpose of their travel. All third-country nationals are required to seek leave to land in the State by reporting to an immigration officer at an Irish port of entry. The immigration officer may grant leave to enter for a period of three months or if the person wishes to remain longer they must register with the Garda National Immigration Bureau (GNIB).

Visas types include: visit, study, tourism, employment/business, joining family, conference/performance, medical treatment or research. Admission will be refused if the third-country national: has insufficient funds to support themselves; intends to take up employment without a permit; suffers from certain specified conditions; has been convicted of an offence which carries a penalty of one year imprisonment or more; does not have a requisite visa; is the subject of a deportation order or similar; does not have a valid passport; intends to abuse the Common Travel Area; poses a threat to national security.

Section 9 (1) of the Refugee Act 1996 provides that a person who arrives at the frontiers of the State seeking asylum or otherwise indicating an unwillingness to leave the State for fear of persecution, shall be given leave to enter the State. Asylum applicants have permission to remain in the State in accordance with section 9 of the Refugee Act until their asylum application is withdrawn, transferred under the Dublin II regulation, or refused. If a person receives a declaration of refugee status their rights are similar to those of an Irish citizen. Refugees are entitled to work without any further documentation and may access social welfare, medical and housing support.

Permission to remain: various forms of residence rights allow third-country immigrants to live in Ireland. If permission to remain is granted, a Certificate of Registration is endorsed on the immigrants' passport by the Garda National Immigration Bureau. Naturalisation is addressed under the provisions of the Irish Nationality and Citizenship Act, 1956, as amended, and applications are considered by the Citizenship Division of INIS. Several types of permit allow access to the Irish labour market: Green Cards; Work Permits; Spousal/Dependant permits; Intra-Company Transfer Permits; Graduate Scheme - issued by the Department of Jobs, Enterprise and Innovation. The Immigrant Investor Programme and Start-Up Entrepreneur Programme also provide for leave to remain. Asylum applicants may not legally access the labour market while a decision on their status is pending. The primary Government agency involved in processing leave to remain and, more generally, the organisation of return is the Repatriation Unit within INIS. The GNIB is involved with the operational implementation of return.

4.2 Links with other policies

The asylum-related structures are all located under the Department of Justice and Equality although there are important operational links with other departments such as the Department of Social Protection, and the Health Service Executive. Immigration Policy and Operations areas within INIS cooperate closely with the Department of Jobs, Enterprise and Innovation. The Immigration Unit within INIS work with the Department of Environment, Community and Local Government on housing; the Department of Education and Skills on primary and post primary education; the Department of Foreign Affairs and Trade on visas; and the Department of Social Protection on implementation of the Habitual Residency Condition.

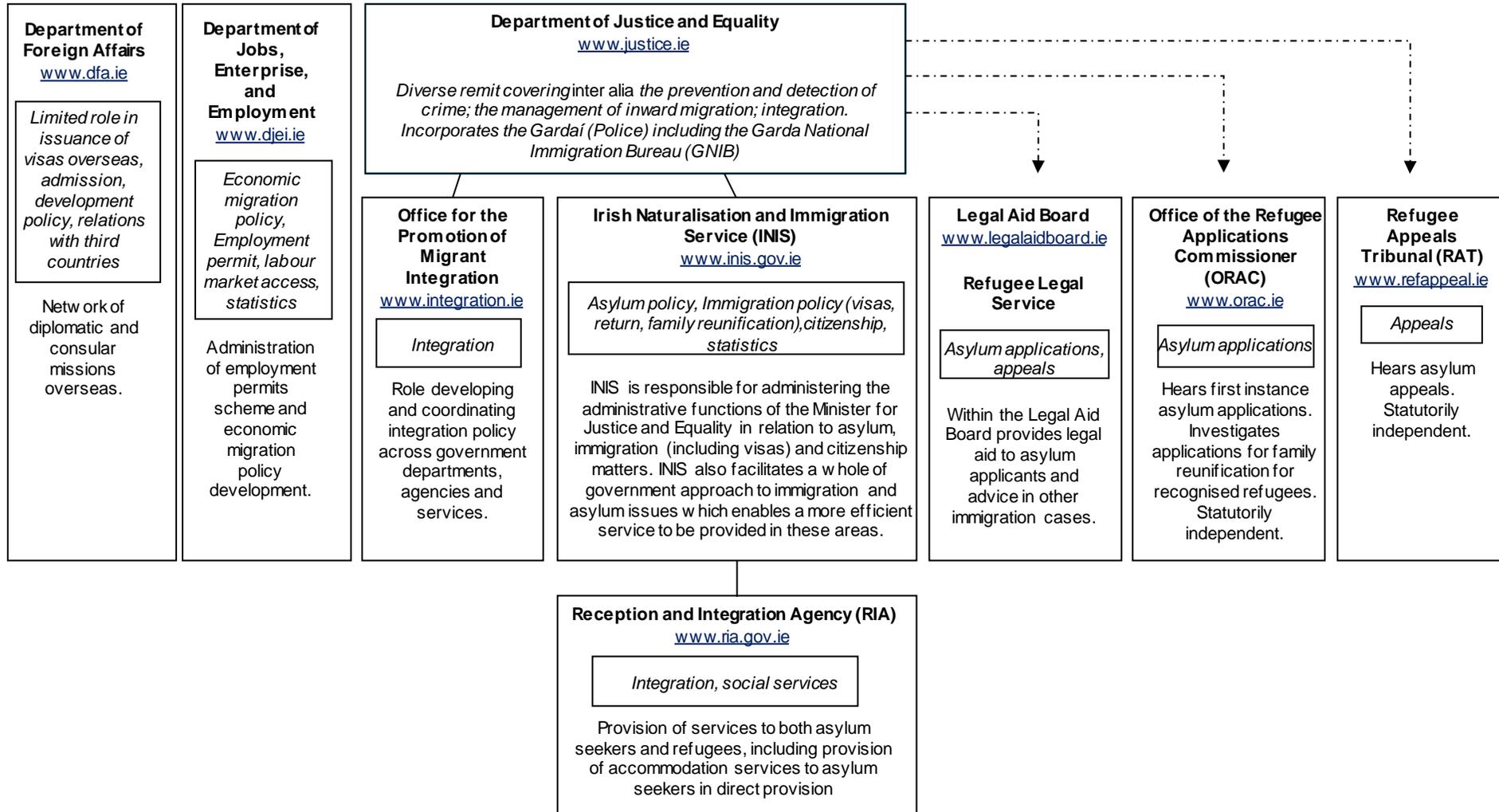
5. Analysis of asylum and migration systems

Government officials have noted the proposed revision of the current system of asylum application, primarily contained within the Immigration, Residence and Protection Bill 2010. Ireland is the only EU state without a single protection procedure application system and proposals are contained in the Immigration, Residence and Protection Bill 2010 to introduce this. The immigration system remains on an administrative footing, and is marked by a lack of clarity around procedures and entitlements for immigrants of varying status. Implementation of the single procedure, which has also been called for by the UNHCR and NGOs, would mean that asylum and other protection claims would be considered simultaneously, rather than the current multi-layered situation where an applicant must be refused asylum before they can seek subsidiary protection.

ANNEX: Institutional Chart for Ireland

Ireland

Institutional Framework for Asylum and Immigration Policies*



* Please note that this institutional chart provides an indicative overview of the asylum and migration system in the Member State concerned. As such, it does not represent its complete structure.