2nd Round Table with National Human Rights Institutions / 4th European Meeting of National Institutions

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Theme 2: Rights of asylum seekers

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Ireland ratified the *Convention Relating to the Status of Refugees 1951* in 1956 and the 1967 Protocol in 1969. However, there was no comprehensive legislation in Ireland making the rights of refugees in the Convention part of domestic law until the *Refugee Act* was passed into law in 1996. That Act was not implemented in full, however, until November 2000. In the meantime, the statutory framework relating to refugees and asylum seekers in Ireland has been further supplemented by two further Acts: the *Immigration Act 1999* and the *Illegal (Immigrants) Trafficking Act 2000*. Together, these three enactments constitute the nucleus of domestic law in Ireland relating to asylum seekers and refugees.

The Refugee Act 1996 sets forth a definition of refugee status which is in fact broader than the definition provided for in Article 1(A)(2) of the 1951 Refugee Convention by explicitly including within its parameters persons who are persecuted for their membership in a trade union, their gender or sexual orientation. The Act also establishes a detailed procedure for the determination of refugee claims in Ireland from the moment of arrival in the State until the final decision on refugee status is made. The procedure includes a "fast track" process for dealing with applications that are deemed to be "manifestly unfounded". Refugee Status decisions are made at first instance by a *Refugee Applications Commissioner* and may be reviewed by a *Refugee Appeal Tribunal*. There is no automatic right of appeal to the Irish courts against a decision of the Commissioner or the Tribunal, although an application to the High Court for judicial review may be made in limited circumstances as set forth in the *Illegal Immigrants (Trafficking) Act 2000*.

Entry to the Irish determination procedure is not always granted. In the first place, the 1996 Act implements in full the provisions of the Dublin Convention 1990 whereby an asylum seeker is entitled to make an application for asylum in only one European Union country. In addition, the Irish courts have also recognised the "safe third country" principle. It is also likely that the State will soon enact legislation aimed at fulfilling Ireland's obligations under Article 26 of the Schengen Convention in relation to carrier sanctions.

As regards the position of asylum seekers while their applications are being processed, the State is currently operating a system of "direct provision" and "dispersal" of asylum seekers. This policy involves the accommodation of asylum seekers in full-board communal centres where they receive 19.10 euro per adult per week, child benefit and access to other payments to cover exceptional needs. Asylum seekers are not entitled to work in the State while their claims to refugee status are being processed.

Ireland does not operate a policy of routine "detention" of asylum seekers as is practised in certain European States. However, provision is made in the *Refugee Act 1996* for detention of asylum seekers during the determination procedure in certain limited circumstances, while the *Immigration Act 1999* provides for the possibility of detention of rejected asylum seekers pending their removal from the State. Where a person is detained pursuant to the relevant provisions of these acts, she or he will be detained in police stations or prisons.

If the person is found not to be a refugee and is refused a declaration of refugee status by the Minister for Justice, Equality and Law Reform, she or he will be liable to deportation from the State. In deciding whether or not to deport a person from the State, the Minister may decide not to deport the person on, *inter alia*, "humanitarian grounds" under section 3(6) of the *Immigration Act 1999*. Where the Minister decides not to deport on such grounds, he may decide further to allow the person "leave to remain" in the State under section 17(6) of the *Refugee Act 1996* for a specific period. Aside from these two provisions, there is no other positive recognition of complementary protection in Irish law.
The full report on Ireland which will be presented at the Conference will elaborate in more detail on aspects of the asylum determination procedure, issues regarding access to the national territory, as well as reception of asylum seekers in the State pending determination of their claims to asylum.