

ECRE COUNTRY REPORT 2002: DENMARK

ARRIVALS

1. Total number of individual asylum seekers who arrived, with monthly breakdown and percentage variation between years:

Table 1:

Month	2001	2002	Variation +/- (%)
January	1,167	779	-33.2
February	897	652	-27.3
March	969	673	-30.5
April	1,031	574	-44.3
May	957	470	-50.9
June	843	408	-51.6
July	1,087	382	-64.9
August	1,399	378	-73.0
September	1,183	397	-66.4
October	1,149	506	-56.0
November	1,048	422	-59.7
December	782	427	-45.4
TOTAL	12,512	6,068	-51.5

Source: Danish Immigration Service.

Comments: The figures relate to all asylum seekers who applied for asylum within Denmark. They neither include asylum applications lodged abroad (a mechanism in place until 1 July 2002, when this procedure was abolished: see table 2 and paragraphs 17 and 18 below), nor quota refugees. Conversely, they include a number of applications which eventually were not accepted for examination in Denmark, either on the basis of the 'safe third country' principle or the provisions of the Dublin Convention. Detailed figures on these two specific categories are provided below. The strong decrease in the number of applicants in 2002 is partly due to positive political changes in some of the traditional refugee producing countries, such as Afghanistan. In addition, the new restrictive legislation passed in 2002 has discouraged many potential asylum seekers from applying in Denmark. The new measures had a visible impact on the number of arrivals from the beginning of 2002, even before the law was formally adopted. The decrease in the number of applicants accelerated following the entry into force of the law in July 2002. This trend continues in 2003: the number of asylum applications for the period between January and March 2003 amounted to 1,137, compared with 1,355 for the final three months of 2002.

Applications lodged from abroad

Table 2:

Country of origin	2001	2002
Afghanistan	1,669	231
Iraq	122	55
Somalia	49	34
Russian Federation	7	12
<i>Others</i>	68	22
TOTAL	1,933	354
Variation +/- (%)		-81.7%

Source: Danish Immigration Service.

Comments: Following amendments passed in 2002, asylum seekers no longer have the opportunity to submit their claim to a Danish diplomatic representation abroad (see paragraphs 17 and 18 below). Accordingly, since 1 July 2002, only applications submitted within the country are being processed. This explains the drastic decrease in the number of applications lodged from abroad in 2002.

2. Breakdown according to the country of origin/nationality, with percentage variation:

Table 3:

Country of origin	2001	2002	Variation +/- (%)
Afghanistan	2,713	1,186	-56.3
Iraq	2,724	1,045	-61.6
FRY	1,166	1,030	-11.7
<i>of which Kosovo</i>	590	415	-29.7
CIS	664	430	-35.2
<i>of which Armenia</i>	49	37	-24.5
<i>of which Azerbaijan</i>	47	29	-38.3
<i>of which Georgia</i>	47	44	-6.4
<i>of which Belarus</i>	42	30	-28.6
<i>of which Russia</i>	302	198	-34.4
<i>of which Ukraine</i>	81	42	-48.1
Somalia	701	391	-44.2
Bosnia-Herzegovina	1,450	186	-87.2
Iran	327	178	-45.6
<i>Stateless Palestinians</i>	285	167	-41.4
Turkey	130	111	-14.6
Algeria	108	97	-10.2
India	133	96	-27.8
FYROM	198	92	-53.5
Albania	81	75	-7.4
Pakistan	151	63	-58.3
China	65	50	-23.1
Lebanon	66	46	-30.3
Sudan	28	41	+46.4
Sri Lanka	99	38	-61.6
Burundi	56	37	-33.9
Slovak Republic	312	35	-88.8
<i>Stateless</i>	17	32	+88.2
Czech Republic	33	31	-6.1
Syria	97	31	-68.0
Mongolia	144	31	-78.5
Vietnam	56	28	-50.0
Romania	45	21	-53.3
Bulgaria	37	21	-43.2
Croatia	49	20	-59.2
Rwanda	66	16	-75.8
Poland	42	15	-64.3
<i>Others</i>	485	412	-15.1
TOTAL	12,512	6,068	-51.5

Source: Danish Immigration Service.

Comments: These figures relate to all asylum seekers who applied for asylum in Denmark, regardless of whether their application was registered (and accepted for examination) or otherwise. Neither applications lodged from abroad nor quota refugees are included, the latter since they do not formally

apply for asylum. The decrease in the number of applications in 2002 concerns almost all nationalities, including some of the major national groups represented in Denmark such as Afghans, Iraqis and Bosnians.

3. Persons arriving under family reunification procedure: 8,151 (2001: 10,950).

Table 4:

Category	2001	2002
Spouses and cohabitants	6,499	4,880
<i>of which to refugees in Denmark</i>	<i>1,694</i>	<i>1,213</i>
Minors	4,185	3,052
<i>of which to refugees in Denmark</i>	<i>2,510</i>	<i>1,759</i>
Parents over the age of 60	266	219
<i>of which to refugees in Denmark</i>	<i>71</i>	<i>50</i>
TOTAL	10,950	8,151
Variation +/- (%)		-25.5%

Source: Danish Immigration Service.

Comments: These figures are not included under paragraphs 1 and 2 above. The decrease by 25.5% in the number of persons allowed to enter Denmark on a family reunion basis is a direct consequence of the stringent restrictions on family reunion introduced by Law No. 367 of 6 June 2002 (see below under paragraph 25).

4. Refugees arriving as part of a resettlement programme:

Table 5:

Country of origin	2001	2002
Iran	7	208
Iraq	65	130
Afghanistan	282	43
DR Congo	-	33
Republic of Congo	-	16
Sudan	121	10
Rwanda	7	7
<i>Stateless</i>	2	7
Liberia	-	7
China	-	7
Sri Lanka	-	6
Ethiopia	-	5
Somalia	13	4
Angola	-	3
Burundi	-	2
Myanmar	18	1
Syria	1	1
Sierra Leone	-	1
Djibouti	-	1
Kenya	-	1
<i>Stateless Palestinians</i>	-	1
Uganda	15	-
TOTAL	531	494

Sources: Danish Immigration Service and Danish Refugee Council.

Comments: Table 4 gives the numerical breakdown of the main national groups arriving under the quota arrangement in 2002. Quota refugees are not included in the figures given in paragraphs 1 and 2 above. Quota refugees are invited to Denmark under the terms of an agreement with UNHCR. The number of refugees accepted in Denmark under the framework of this agreement is determined each year by the Danish Parliament. The annual quota is 500, although in certain years prior to 2000 this was revised to 450 places, and funds corresponding to fifty places allocated to the UNHCR Trust Fund for Resettlement. Quota places may be transferred from one year to the next. In 2002, 494 persons arrived in Denmark as quota refugees (531 in 2001). In 2002, based on proposals from UNHCR, the Danish Immigration Service and representatives of the Danish Refugee Council undertook a joint mission to Turkey in order to interview Iraqi and Iranian refugees for resettlement.

5. Unaccompanied minors: 137 (2001: 239).

Table 6:

Country of origin	2002
Iraq	21
Afghanistan	16
Somalia	14
FRY	9
Algeria	8
Sri Lanka	8
Iran	6
<i>Stateless Palestinians</i>	6
China	5
Guinea-Conakry	5
Belarus	4
Burundi	3
Russian Federation	3
Turkey	3
<i>Others</i>	26
TOTAL	137
	<i>Male: 84% Female: 16%</i>

Source: Danish Immigration Service.

RECOGNITION RATES

6. The statuses accorded at first instance and appeal stages as an absolute number and as a percentage of total decisions:

Table 7:

Status	2001				2002			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	4,142	47.3	2,062	79.3	6,428	71.8	2,678	86.1
Convention status	1,857	21.2	163	6.3	1,134	12.7	133	4.3
B-status	-	-	-	-	3	0.03	0	0
<i>De facto</i> status	2,740	31.3	376	14.4	1,386	15.5	300	9.6
TOTAL	8,739	100	2,601	100	8,951	100	3,111	100

Source: Danish Immigration Service and Danish Refugee Council.

Comments: B-status (or 'protection status') was introduced by Law No. 367 of 6 June 2002 to replace the previous '*de facto* status'. This new status applies exclusively to applications lodged after 1 July 2002. *De facto* status may still be granted to applications lodged prior to 1 July 2002, irrespective of when they are examined by the Refugee Appeals Board. According to these statistics, the recognition rate (Convention status, B-status and *de facto* status figures combined) in 2002 was 28.1% at first instance and 13.9% at appeal instance, against 52.5% and 20.7% respectively in 2001. This decrease is not only due to the new legislation, but also to significant changes in the practice of the Refugee Appeals Board regarding specific nationalities, including Iraqis (see paragraph 16 below).

The table does not include the following decisions in 2002:

- Status granted upon applications lodged from abroad (until 1 July 2002): 43;
- Quota refugees: 490;
- Residence permit for humanitarian reason: 45;
- Residence permit for exceptional reasons: 78;
- Temporary residence permit for Bosnians and Kosovars: 457.

Manifestly unfounded procedure

Cases considered by the Immigration Service to be manifestly unfounded are referred to the Danish Refugee Council (DRC) for an independent review, which includes an individual interview with the applicant. If the DRC disagrees with the conclusion that the case is manifestly unfounded, it may veto the Immigration Service's decision to reject the application, and the claim is automatically referred to the Refugee Appeals Board. Since 1 July 2002, however, manifestly unfounded cases vetoed by the DRC are no longer referred to a full Refugee Appeals Board, but to the Chairman of the Board. The latter has the remit to decide alone on such cases, without a formal hearing (see paragraph 18 below). Conversely, if the DRC agrees with the Immigration Service that the case is manifestly unfounded, the claim is rejected without right of review or appeal. In 2002, according to the Danish Refugee Council, a total of 1,081 asylum seekers were processed under the manifestly unfounded procedure and referred to the Danish Refugee Council for a second interview (2001: 1,087). The DRC's veto rate was 17% in 2002 (20% in both 2001 and 2000), but the rate varies considerably with the countries concerned.

7. Refugee recognition rates (1951 Convention, B-status and *de facto* status combined: as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages:

Table 8:

Country of origin	2001				2002			
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Burundi	12	92.3	0	0	55	98.2	0	0
Somalia	569	98.1	5	45.4	618	91.7	10	38.4
Sudan	3	75.0	1	50.0	35	83.3	0	0
<i>Stateless</i>	-	-	-	-	19	52.7	2	33.3
Rwanda	13	100.0	-	-	34	52.3	0	0
Sri Lanka	20	35.0	6	22.2	29	48.3	2	8.7
Afghanistan	1,680	97.0	24	51.0	768	44.7	34	25.7
Syria	5	20.8	8	30.7	26	30.6	20	57.1
Vietnam	15	38.4	0	0	12	28.5	0	0
CIS					86	27.5	40	14.7
<i>of which Armenia</i>	5	3.4	19	9.6	2	7.1	1	1.8
<i>of which Azerbaijan</i>	12	21.8	19	21.8	0	0	16	16.1
<i>of which Belarus</i>	-	-	-	-	0	0	1	20.0
<i>of which Georgia</i>	1	1.2	5	7.3	3	12.0	2	9.5
<i>of which Moldova</i>	2	8.0	4	10.5	-	-	-	-
<i>of which Russia</i>	19	15.2	52	42.9	76	55.4	15	37.5
<i>of which Ukraine</i>	1	1.8	6	16.2	1	3.4	0	0
Iraq	1,912	88.3	34	21.7	592	25.7	137	20.4
China	0	0	6	23.0	10	17.2	5	12.8
<i>Stateless Palestinians</i>	52	27.5	18	18.1	35	15.4	8	7.4
India	6	10.3	2	9.5	8	11.6	2	5.2
Iran	25	9.1	55	30.4	32	8.9	54	24.6
Lebanon	7	13.7	5	20.0	5	8.3	2	6.4
Poland	0	0	0	0	1	6.6	0	0
FRY	169	14.3	188	24.7	64	5.5	31	6.9
<i>of which Kosovo</i>	148	20.1	162	38.1	50	7.8	14	5.5
Algeria	0	0	0	0	1	5.0	0	0
Turkey	8	15.7	3	15.0	3	3.2	2	5.1
Pakistan	9	13.4	2	4.6	1	1.3	1	2.5
Bosnia-Herzegovina	11	1.1	56	15.2	7	1.0	77	10.5
Albania	0	0	3	13.0	0	0	2	6.0
DR Congo	8	50.0	1	33.3	-	-	-	-
Slovak Republic	1	0.4	0	0	0	0	0	0
Czech Republic	0	0	0	0	0	0	0	0
FYROM	0	0	0	0	0	0	0	0
Mongolia	0	0	0	0	0	0	0	0
Romania	0	0	0	0	0	0	0	0
Bulgaria	-	-	-	-	0	0	0	0
Croatia	-	-	-	-	0	0	0	0
Bangladesh	0	0	0	0	-	-	-	-
<i>Others</i>	21	8.8	11	12.6	82	22.5	4	2.5
TOTAL	4,597	52.6	539	20.7	2,523	28.1	433	13.9

Source: Danish Immigration Service.

Comments: These figures show the total number of statuses granted (Convention status, B-status and *de facto* status combined) for each country group, and the percentage recognition rate. The total number of decisions made is not indicated.

The table does not include the following decisions in 2002:

- Status granted upon applications lodged from abroad (until 1 July 2002): 43;
- Quota refugees: 490;
- Residence permit for humanitarian reason: 45;
- Residence permit for exceptional reasons: 78;
- Temporary residence permit for Bosnians and Kosovars: 457.

RETURNS, REMOVALS, DETENTION AND DISMISSED CLAIMS

8. Persons returned on safe third country grounds: 8 (2001: 7).

Source: Danish Immigration Service.

Refusals of entry on safe third country grounds are very rare, and generally happen at Copenhagen airport. According to administrative practice, safe third countries (outside Dublin States) include the USA, Canada, Australia, Japan, Switzerland, Hungary and Poland. When the authorities consider returning applicants to a safe third country, the police must inform them of their right to seek advice from the Danish Refugee Council, representatives of which are on call at all times.

9. Persons returned on safe country of origin grounds:

Applicants originating from safe countries of origin have the right to have their asylum application examined in Denmark, but their claim is automatically processed under the accelerated, manifestly unfounded procedure. Accordingly, they are not requested to fill in a written application form, and a decision on the claim is made within a few days only.

10. Number of applications determined inadmissible:

Under Danish law, an application for asylum may be deemed inadmissible either on 'safe third country' grounds, or on the basis of the Dublin Convention. See paragraphs 8 and 15 respectively.

11. Number of asylum seekers denied entry to the territory:

Refusal of entry to the territory can only be achieved if it is possible to return an asylum seeker to a 'safe third country'. See paragraph 8 above.

12. Number of asylum seekers detained, the maximum length of and grounds for detention:

During the last few years successive amendments to the Aliens Law, including recent changes introduced in 2002 (see paragraphs 17 and 18 below), have empowered authorities wishing to detain applicants at all stages of the asylum procedure. Under current legislation, detention is admissible under the following circumstances:

- Upon arrival, if the police consider detention to be necessary in order to enforce a potential refusal of entry (pending return to a safe third country or transfer under the Dublin Convention). In practice, detention is widely used when the applicant's identity and/or travel route has not been established.
- In cases where an asylum seeker's claim is being processed under the procedure for manifestly unfounded claims.

- Where asylum seekers have committed criminal offences, which have subsequently resulted in an expulsion order. These individuals may be kept in detention until the end of the asylum determination procedure, in order to ensure that expulsion is carried out.
- Where asylum seekers obstruct the processing of their case, for instance by failing to appear for interrogation at the police or the Immigration Service, or by refusing to provide information on identity, nationality or travel route.
- In cases of applicants who have a violent or threatening attitude towards staff members of the accommodation centre, or who refuse to stay in the accommodation centre where they have been allocated.
- Following the rejection of asylum seekers' applications, in order to ensure deportation.
- Where rejected applicants refuse to cooperate with preparations for their departure from the country.

Except for those detained for criminal reasons, asylum seekers may only be detained if the police consider that alternative measures (for instance deposit of a passport or other travel document with the police, provision of bail, enforced stay at an address determined by the police, or reporting to the police at specified times) are insufficient to ensure their presence. In practice, however, the authorities make very limited use of these alternative measures.

The initial decision to detain an asylum seeker is taken by the police, and is valid for three days. After this period, the case is reviewed by a court, which will either prolong the detention for four weeks or order the release of the applicant. If prolonged, the detention measure has to be reviewed by the judge every four weeks. There is, however, no maximum limit to the length of detention, except for asylum seekers processed under the manifestly unfounded procedure, who cannot be detained for more than seven days.

There are no official statistics as to the number of asylum seekers detained. In practice, detention is widely used at all stages of the procedure, and appears to apply routinely to certain categories or nationalities of asylum seekers, including those processed under the manifestly unfounded procedure and citizens from Russia and the Baltic countries. In addition, the courts prolong almost systematically the detention measures initially taken by the authorities and these decisions, when appealed, are usually upheld by the court. As a result, a large proportion of applicants are being detained at some point during the processing of their asylum claim.

13. Deportations of rejected asylum seekers: Figures unavailable.

14. Details of assisted return programmes, and numbers of those returned:

In 2002, 170 persons (2001: 224) returned from Denmark under an assisted return program, including 55 Bosnians, 43 Somalis and 24 Kosovars.

Source: Danish Refugee Council.

The Voluntary Repatriation Programme for refugees (and immigrants), run by the Danish Refugee Council, continued in 2002. The level of activity was lower than previous years due to a 40% decrease in funding provided by the authorities. The programme included the following main activities: advice and guidance to refugees and practical arrangements for the return journey, counselling of municipalities and resource groups, go-and-see visits to Bosnia-Herzegovina for elderly refugees, a small scale business management course for Bosnian refugees (in Bosnia-Herzegovina) and organisation of a course in democracy for employees from seventeen Bosnian municipalities. In addition, a project concerning the reconstruction of houses and business premises in Bosnia-Herzegovina, financed by the Danish authorities, continued in 2002.

15. Dublin Convention practice comments:

15.1 Dublin Convention practice:

Table 9:

Requests presented by Denmark to other Dublin States (cumulative)							
Period: 1 September - 31 December of:	1997	1998	1999	2000	2001	2002	2002 (%)
TOTAL	195	2,152	3,790	5,230	7,257	8,555	100.0
of which accepted	155	1,630	3,214	4,539	6,412	7,672	89.7
of which refused	10	296	435	547	624	707	8.3
of which pending as at 31 December	30	226	141	144	221	176	2.0

Requests from other Dublin States presented to Denmark (cumulative)							
Period: 1 September - 31 December of:	1997	1998	1999	2000	2001	2002	2002 (%)
TOTAL	47	329	846	1,416	1,817	2,497	100.0
of which accepted	32	172	543	944	1,238	1,773	71.0
of which refused	5	147	270	415	519	647	25.9
of which pending as at 31 December	10	10	33	57	60	77	3.1

Source: Danish Immigration Service.

Comments: These figures do not include asylum seekers processed under the bilateral agreements concluded with Sweden and Germany, nor those processed under Article 12 of the Dublin Convention (applications submitted at border posts).

The Danish Immigration Service is the body responsible for the implementation of the Dublin Convention in Denmark. It makes the decisions on whether another Member State should be held responsible for the processing of an application for asylum submitted in Denmark. The Immigration Service therefore submits to other Member States (and receives from them) the requests for transferring asylum application cases between Dublin States.

Asylum seekers processed under the Dublin procedure are kept in the reception and residence centres for asylum seekers, pending a decision on whether or not their case will be processed in Denmark or in another Member State. In 2002, Denmark submitted approximately 1,300 requests for transfers to other Dublin States, and in turn received about 680 requests for readmission from other Dublin States (see table 9 above).

Applicants processed under the provisions of the Dublin Convention are not officially registered as asylum seekers. The registration takes place only when it is eventually decided that the application is to be processed by the Danish authorities.

The EURODAC finger print exchange and verification system, which became effective on 15 January 2002 across much of the EU, does not apply in Denmark due to the Danish reservation regarding Justice and Home Affairs. The same will apply to the new EU Regulation replacing the Dublin Convention, when this instrument comes into force in 2003. Nevertheless, the Danish government has asked for the opportunity to enter into parallel agreements with other Member States in order to be part of the new Dublin/EURODAC system. It is not known yet, however, when these parallel agreements will be finalised and ratified. In the meantime, the existing Dublin Convention (without EURODAC) will continue to apply between Denmark and the other Dublin States.

15.2 Requests by country:

Table 10:

Country	Applicants transferred from Denmark to other countries (1/9/1997 – 31/12/2002)	Applicants transferred from other countries to Denmark (1/9/1997 – 31/12/2002)
TOTAL	7,672	1,773
Germany	74%	31%
Sweden	4%	47%
<i>Other countries</i>	<i>22%</i>	<i>22%</i>

Source: Danish Immigration Service.

Comments: These figures do not include asylum seekers processed under the bilateral agreements concluded with Sweden and Germany, nor those processed under Article 12 of the Dublin Convention (applications submitted at border posts).

SPECIFIC REFUGEE GROUPS

16. Developments regarding refugee groups of particular concern:

Afghanistan

Prior to the collapse of the Taliban regime, almost all Afghan asylum seekers claiming to be at risk of persecution by the Taliban were granted refugee status in Denmark. Following the removal of the Taliban regime, this picture has changed dramatically. In 2002, the Danish Immigration Service and Danish Refugee Council carried out two fact-finding missions to Afghanistan, one in June 2002 (pre-Loya Jirga), and one in September to October 2002, (post-Loya Jirga). Pursuant to the findings of these missions, asylum seekers whose problems were related to the Taliban are now all rejected. During the period from late 2001 until early 2002, the Danish authorities twice suspended the consideration of Afghan cases with a view to collecting renewed, reliable information on the situation in Afghanistan. As a result of these suspensions, a large number of Afghan asylum seekers who applied for asylum with reference to the Taliban had not had their cases decided upon by late 2002 and early 2003. For many of them their main motive for asylum has ceased to exist.

Asylum seekers who apply for asylum with reference to the Northern Alliance, but who nevertheless managed to live in Afghanistan between 1992 and 1996, are generally rejected. This also applies to communists who managed to stay (and to live and work) in Afghanistan between 1992 and 2001.

According to current practice, only asylum seekers who can establish that they have conflicted with the local warlords presently in charge are granted asylum in Denmark. In practice this means former high-profile communists, or communists who were considered as having a high profile locally. The Danish authorities do not (generally) apply an internal flight alternative.

No single group of Afghan asylum seekers, be it women (despite considerable oppression and discrimination against women), Pashtuns, Hazaras or others, are granted asylum with reference to the general conditions for these groups.

Iraq

Until 2002, Iraqis originating from the government-controlled areas were almost systematically granted asylum, as the mere fact of having sought asylum abroad was considered to be a sufficient reason for protection in Denmark. This practice was altered in the spring of 2002, and according to the Refugee Appeals Board's new approach, which is based on a January 2002 report by UNHCR, claims lodged by applicants from Iraq's government-controlled areas are to be examined on an individual

basis, and only those applicants who have a persecution-based motivation for seeking asylum may be granted protection. Following this change of practice, the recognition rate for Iraqi applicants dropped to 25.7% in the first instance and 20.4% on appeal in 2002, against 88.3% and 21.7% respectively in 2001.

The practice regarding applicants from the Kurd-controlled areas of northern Iraq remained unchanged in 2002. Most of them continued to have their claim rejected based on the existence of an internal flight alternative. As far as deportation is concerned, the Appeals Board indicated that forced return to the government-controlled areas could take place provided that such returns take place unaccompanied and with no prior contact with the Iraqi authorities. In practice however, no forced return to Iraq, be it to the government- or Kurd-controlled areas, took place in 2002.

On 25 March 2003, the authorities suspended the processing of all Iraqi asylum applications, both at first instance and appeal levels, until the situation in Iraq is 'clarified'. At the time of writing in May 2003, the processing of Iraqi cases has not yet resumed.

Kosovo

From March 2002 until April 2003, the Refugee Appeals Board processed sixty-seven cases relating to the cessation of refugee status granted to persons from Kosovo. In over fifty cases, the cessation clause was applied with reference to changes in the security situation in Kosovo, and the residence permit withdrawn or not extended. In fifteen cases, the asylum status was upheld due to the strong connection of the applicant to Denmark.

LEGAL AND PROCEDURAL DEVELOPMENTS

17. New legislation passed:

Law No. 367, amending the existing Aliens Law as well as others, was passed on 6 June 2002. It provides for a range of far-reaching and mostly restrictive changes to the asylum and immigration policy. The main objectives of the law are to reduce the number of foreigners allowed to stay in Denmark, either as refugees or through family reunion, and to improve integration for those already in the country.

The main provisions of the law are the following, most of which entered into force on 1 July 2002:

- Abolition of *de facto* status and introduction of a new 'protection status'.
- New composition of the Refugee Appeals Board.
- Changes in and increased use of the manifestly unfounded procedure.
- Abolishment of the embassy procedure.
- Restrictions on the right to marry in Denmark (for asylum seekers).
- Restrictions on family reunion rules.
- Extension of the qualifying period for permanent residence permit.
- Introduction of lower social allowances for refugees and foreigners.
- Tougher requirements to obtain Danish citizenship.

Law No. 60 of 29 January 2003, amending the Aliens Law, provides for various improvements regarding the processing of asylum claims submitted by unaccompanied minors, and their legal situation. The law entered into force on 2 April 2003.

Law No. 291 of 30 April 2003 introduces new restrictive amendments to the existing alien's legislation, including changes to the procedure for granting humanitarian residence permits, new measures to facilitate foreigners' return and deportation from Denmark, and increased use of detention.

Law No. 292 of 30 April 2003, amending the Aliens Law, provides for several changes regarding the current system of work activation and teaching for asylum seekers, as well as regarding the payment of benefits. These amendments entered into force on 1 July 2003.

18. Changes in refugee determination procedure, appeal or deportation procedures:

Law No. 367 of 6 June 2002 (in effect since 1 July 2002)

The *de facto* status, previously granted to a person ‘*who does not fall within the provisions of the Convention relating to the Status of Refugees, 28 July 1951, but who, for reasons similar to those listed in the Convention or for other weighty reasons resulting in a well-founded fear of persecution or similar outrages, ought not to be required to return to his country of origin*’ has been abolished. It is replaced by a new ‘protection status’, the scope of which appears to be somewhat narrower. Accordingly, a residence permit must be granted to an alien who ‘*risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his country of origin*’. The rules on ‘protection status’ apply to applications for asylum lodged after 1 July 2002. As was previously the case with beneficiaries of the *de facto* status, persons with ‘protection status’ are entitled to the same rights as Convention refugees.

The number of members on the Refugee Appeals Board has been reduced to three: one judge and representatives of both the Ministry of Refugee, Immigration and Integration Affairs and the Bar Association. Previously, the Appeals Board had five members: the same three, plus a representative of both the Ministry for Foreign Affairs and the Danish Refugee Council. Accordingly, the DRC is no longer part of the decision-making process at the appeal stage.

It is no longer possible to lodge an asylum application with a Danish diplomatic representation abroad. As of 1 July 2002, only applications submitted within the country are being processed. In 2002, 354 applications had been lodged abroad against 6,068 applications inside the country.

The procedure for manifestly unfounded applications has been amended. So-called ‘credibility cases’ may now be channelled through the manifestly unfounded procedure, unlike previously. In addition, under the accelerated manifestly unfounded procedure, which applies to certain specific nationalities, it is now possible to process a case within one day, for example in the event of a large number of arrivals from a country whose nationals are normally not granted asylum. Finally, manifestly unfounded cases vetoed by the DRC (see paragraph 6 above) are no longer referred automatically to a full Refugee Appeals Board, but to the Chairman of the Board. The latter has the remit to decide alone on such cases, without having to hold a formal hearing.

Asylum claims submitted by individuals who abscond are no longer processed. In practice, this measure affects primarily applicants who go underground following rejection of their initial claim and who later, while still being underground, apply to have their case re-opened. Rejected asylum seekers no longer benefit from a fifteen-day period during which to leave the country voluntarily, but must now depart as soon as the final negative decision on their application is rendered.

If a refugee whose status was granted on the basis of family links in Denmark gets married to a third country national, it is possible to deport him or her to the spouse’s country if it appears that the connection to Denmark is no longer strong enough (see paragraph 25 below).

Law No. 60 of 29 January 2003 (in effect since 2 April 2003)

This new legislation, the result of many years of advocacy, provides unaccompanied minors with increased legal rights and assistance. Accordingly, all unaccompanied minors will be appointed a representative or guardian, who will support them until they reach the age of eighteen. Those representatives will be recruited among volunteers affiliated to humanitarian organisations, and the

system of guardianship will be organised and supervised by the Danish Red Cross. The guardian's prime task will be to prepare the child and accompany him or her to interviews with the authorities.

In addition, unaccompanied minors will be automatically granted free legal assistance when their case is processed via the manifestly unfounded procedure. As legal assistance is already automatically granted to all asylum seekers processed under the normal determination procedure, all unaccompanied minors will be represented by a lawyer during the processing of their case, irrespective of which type of procedure their claim is considered under.

The new legislation provides increased opportunities for tracing unaccompanied minors' parents or relatives, which may be used without the consent of the child.

Law No. 291 of 30 April 2003 (in effect since 1 May 2003)

An application for a residence permit for humanitarian reasons has suspensive effect only if is lodged within fifteen days following the notification of the first instance negative decision on the asylum claim. Any such application submitted at a later stage has no suspensive effect 'unless particular reasons make it appropriate'. Under the previous rules, the application was granted suspensive effect provided it was lodged immediately after the negative appeal decision.

The police now have the right to detain foreigners and rejected asylum seekers who fail to cooperate in their departure from Denmark, for example by refusing to apply for a travel document with their home country's authorities. The measure is subject to judicial control, but no maximum time limit for the detention period is provided.

In order to arrange an alien's departure from Denmark, the police have been given the right to submit his or her fingerprints or photographs to the authorities of the country of origin, or any other country, without having to request the authorisation of a court, as was the case under the previous rules.

Rejected asylum seekers who cooperate with the police towards their departure may be granted limited financial assistance (up to 3,000 DKK – approximately €400).

19. Important case-law relating to the qualification for refugee status and other forms of protection:

No information was provided.

20. Developments in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate:

There were no significant developments in the use of the exclusion clauses in 2002.

21. Developments regarding readmission and cooperation agreements:

In May 2002, a readmission agreement was signed with Serbia and Montenegro. Following ratification procedures in both countries, the agreement entered into force on 8 March 2003.

A readmission agreement was signed with Armenia on 30 April 2003. Based on this agreement, which is Armenia's first, the Danish authorities expect to be able to return over a hundred rejected Armenian asylum seekers who have been accommodated in refugee camps for long periods.

THE SOCIAL DIMENSION

22. Changes in the reception system:

No major changes to the reception system were made in 2002. Due to the significant decrease in the number of asylum seekers arriving in Denmark however, the Immigration Service, in cooperation with the Danish Red Cross, who together are responsible for running most refugee camps, closed a large number of camps throughout the country.

23. Changes in the social welfare policy relevant to refugees:

Law No. 367 of 6 June 2002 (in effect since 1 July 2002)

The enactment of Law No. 367 has introduced significant changes to the social and economic conditions for refugees. According to these, only foreigners who have resided in Denmark for at least seven of the last eight years are entitled to full social benefits. During the first seven years of their stay in Denmark, refugees will receive allowances amounting to only 50-70% of the full rates. According to the Ministry for Integration, these lower social benefits will give a signal to refugees and migrants, discouraging them from choosing Denmark as their destination and, at the same time, encouraging recognised refugees to find jobs and thereby promote their integration. In an attempt to counter any accusation of discriminating against foreigners, this measure also applies to Danish citizens (those returning to Denmark after a long stay abroad).

UNHCR, the Danish Refugee Council and other Danish organisations have criticised the new rules. A similar system, applied in 1999-2000, proved unsuccessful. Indeed, it was demonstrated that refugees' access to the labour market is hampered by other elements, essentially their poor language and educational skills, the difficulties relating to having national qualifications not recognised in Denmark and discrimination in the labour market. In practice, reduced social benefits lead to refugees' increased marginalisation. In addition, the measure may be seen as indirectly discriminatory, and thus as violating Articles 2, 9 and 11 of the UN International Covenant on Economic, Social and Cultural Rights as well as the UN Convention on the Elimination of All Forms of Racial Discrimination. The Danish Refugee Council and a network of organisations are now attempting to gather documentation on the effects of the new system of lower social benefits.

Other changes

In the autumn of 2002, the government, several other parties in Parliament, the trade unions and employers' organisations, as well as the association of Danish municipalities, entered into agreements on a new employment policy, including a job creation programme for refugees and other aliens in Denmark. Based on these agreements, new measures on social legislation were adopted through successive amendments to the Act on Integration of Aliens and the Act on Danish Tuition for Aliens, passed from December 2002 to May 2003.

24. Changes in policy relating to refugee integration:

Law No. 367 of 6 June 2002 (in effect since 1 July 2002)

According to the 1999 Integration Act, all recognised refugees must undergo a three-year integration programme. The granting of a permanent residence permit is partially conditioned on the results of an individual's integration programme (for instance, participation in at least 85% of the activities, including language courses). Several measures included in Law No. 367 have changed the legal status for recognised refugees and hence their integration opportunities.

Recognised refugees are now entitled to apply for a permanent residence permit only after seven years in Denmark, as opposed to three years previously. This measure applies to applicants who lodge their

asylum claim after 28 February 2002, when the draft law was submitted to Parliament. During the period in which they have no permanent residence permit, recognised refugees can be returned to their country of origin if it appears that they are no longer at risk of persecution, perhaps due to changed circumstances in that country.

Refugees without a permanent residence permit in Denmark, and who visit their country of origin, will have their asylum case re-examined automatically. If it appears that they are no longer subject to persecution in their home country, their residence permit will be withdrawn.

Requirements for the granting of Danish citizenship have been made more stringent:

- The qualifying period for citizenship has been extended from six to nine years (seven years with temporary and two years with permanent residence rights). However, refugees and foreigners married to Danish nationals can apply after eight years.
- The compulsory knowledge of Danish language and 'society, legal principles and values' has been reinforced, and is now assessed by examination. Persons over sixty-five years are no longer exempt from the language requirement.
- Applicants for citizenship must sign a statement confirming their commitment to obey Danish laws and respect Denmark's basic legal principles, including human rights.

Foreigners having been sentenced to over two year's imprisonment are no longer entitled to Danish citizenship. Those with a lesser sentence must undergo a waiting period of a minimum of two years.

25. Changes in family reunion policy:

Law No. 367 of 6 June 2002 introduced severe restrictions on the right to family reunion, with the aim of limiting those coming to Denmark on such grounds. The following restrictions have been in force since 1 July 2002, and apply to any applications for family reunion lodged after this date:

- Foreigners residing in Denmark who wish to be reunited with their spouse must provide a financial support guarantee of 50,000 DKK (approximately €6,667). This is additional to the previously existing requirement of being able to support the reunited person financially. Reunion is further conditioned on the foreigner residing in Denmark not having received any social allowance for a year prior to lodging the application.
- Family reunion with a spouse now requires that both spouses be over twenty-four years of age. This measure applies to all foreigners, including refugees and persons under protection status, as well as to Danish citizens wishing to marry a foreigner. However, the age requirement does not apply if the marriage took place before the foreigner residing in Denmark came to the country.
- Family reunion with a person residing in Denmark is only authorised if the couple's 'joint ties' to Denmark are stronger than to another country. This applies to foreigners and to Danish citizens alike. For example, a Danish citizen of Pakistani origin and his or her spouse, a Pakistani citizen, will not be granted family reunion in Denmark on the grounds that the couple's joint ties to Pakistan are stronger than those to Denmark. The rule also applies to refugees and persons under protection status when the marriage has been contracted after the refugee's flight to Denmark.
- Family reunion with parents over 60 years of age, which was open to refugees under certain conditions, is no longer authorised.

The new restrictive rules have had an immediate effect, as the number of applications for family reunion decreased from 10,950 in 2001 to 8,151 in 2002 (see detailed figures at paragraph 3 above). However, the full impact of these restrictive measures is yet to be seen, since a large proportion of the applications for family reunion processed in 2002 were still decided on the basis of the earlier provisions.

OTHER POLICY DEVELOPMENTS

26. Developments in resettlement policy:

There were no significant developments in resettlement policy in 2002. See paragraph 4 above.

27. Developments in return policy:

There were no significant developments in return policy in 2002.

28. Developments in border control measures:

There were no significant developments regarding border control measures in 2002.

29. Other developments in refugee policy:

No further developments were reported.

POLITICAL CONTEXT

30. Government in power during 2002:

The government that came to power following the general elections of November 2001 remained unchanged in 2002. The government is composed of the Danish Liberal Party and the Danish Conservative Party, but its parliamentary majority is dependent on the votes of the far-right Danish People's Party.

31. Governmental policy vis-à-vis EU developments:

Holding the EU Presidency during the second half of 2002, Denmark was responsible for leading the negotiations on some of the instruments regarding asylum and immigration. The Danish Presidency succeeded in reaching an agreement regarding a directive on the conditions of reception for asylum seekers, as well as a regulation replacing the existing Dublin Convention. Considerable progress was also achieved towards the adoption of a directive on the qualification of refugee status and subsidiary protection.

Internally, the Danish reservation on Justice and Home Affairs still applies. Accordingly, the instruments adopted at EU level in the field of asylum and immigration do not apply in Denmark, with some limited exceptions such as visa policy. The Danish government has requested that Denmark, despite its reservation, be allowed to participate in the forthcoming Dublin/EURODAC system. Such participation will require the negotiation and ratification of parallel (intergovernmental) agreements between Denmark and other Member States. It is not known when these agreements will be in place, and in the meantime the existing Dublin Convention (without EURODAC) will continue to apply between Denmark and the other Dublin States. The Danish government is actually in favour of lifting the reservation on Justice and Home Affairs but this would require a referendum, and no information has yet been given as to when such a referendum could be held.

32. Asylum in the national political agenda:

Being one of the priorities of the new government, asylum policy was very high on the political agenda during the first half of 2002, when amendments to the Aliens Law were debated in Parliament. This discussion was very much reflected in public debate and national media.