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the INFORMATION CENTRE
about asylum *and* refugees
IN THE UK

EU accession and asylum

Background

On Saturday 1st May 2004, ten new countries joined the European Union: Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia, increasing the total membership from 15 to 25.

Nationals of these countries can claim asylum in the UK and a number of them have sought protection in recent years. However, rates of success have generally been low and the UK government has implemented a number of measures aimed at reducing the number of applications, such as the introduction of 'pre-clearance' immigration controls at Prague airport in July 2001. Claims from many of these countries have also been subject to fast-track procedures at Oakington Reception Centre in Cambridgeshire since it opened in March 2000. Since the Nationality, Immigration and Asylum Act came into force on 7 November 2002, most claims from accession country nationals have been certified as 'clearly unfounded'. This means that any appeal lodged is 'non suspensive' (i.e. the appeal does not suspend the applicant's removal from the UK), and asylum seekers are only permitted to appeal against the refusal of their claim once they are outside the UK.

Since these countries have joined the European Union, the current system has changed in a number of ways. The main effects of these changes relate to current asylum seekers' entitlement to support and accommodation, and the way in which their claims will be assessed.

Assessment of claims

Current government guidance explains that EU nationals may apply for asylum in the UK. However, advice for caseworkers states that such claims should be considered against the presumption that they are

manifestly unfounded. The guidance note states that: '[g]iven the extent of free movement rights enjoyed by EU nationals, it would be wholly exceptional, and possibly misguided, for an EU national to claim asylum in the UK.' From 1 May, if nationals of the new EU member states pursue asylum claims in the UK, they have no right of appeal against refusal, if their claim is certified as being 'clearly unfounded'.

Asylum support

Under the provisions of the Nationality, Immigration and Asylum Act 2002, nationals of any European Economic Area country who claim asylum in the UK are not entitled to support either from the National Asylum Support Service (NASS) or from any local authority under what are known as the 'interim provisions'. Thus asylum seekers from EU accession countries have been notified that their support would cease on 1 May 2004 and accommodation providers contracted by NASS have been instructed to serve such asylum seekers with notices to quit. It is estimated that at least 2,600 households are affected by these changes. The Home Office has issued guidance to local authorities and accommodation providers on the effect of the changes and a number of advice organisations have also produced leaflets advising asylum seekers of the steps they might take if faced with eviction and the termination of their asylum support.

Employment rights and benefit entitlements

The EU Accession Treaty gives EU nationals the right to move freely to any other member state. Thus asylum seekers from the accession countries are entitled to remain in the UK after 1 May. However, existing EU member states have the right to impose restrictions on the employment rights of members of the eight eastern European accession countries referred to as the 'A8 states' (i.e. all accession states except Cyprus and Malta), for a transitional period of up to seven years. The UK has imposed restrictions on access to a range of social security benefits and social housing, and has introduced a workers' registration scheme for A8 nationals. The regulations will be in place for an initial period of five years (until the end of April 2009), but will be reviewed after two years.

Under the terms of the draft Accession (Immigration and Worker Registration) Regulations 2004, nationals of the A8 countries must register with the Home Office within one month of starting to work in the UK. Once registered, whilst they are working A8 nationals are entitled to access benefits and housing support on the same basis as other EEA workers. But A8 nationals who are not working are not generally entitled to such support. A8 nationals only acquire full Treaty rights, including access to benefits, once they have been working in the UK continuously for a period of at least 12 months. The government's stated aim is to 'allow workers from the A8 states access to the UK labour market...whilst ensuring that people who come here and do not work or support themselves will not be able to access benefits or social housing.'

This means that asylum seekers from A8 countries whose claims are still outstanding on or after 1 May have three options: to register as a worker under the workers' registration scheme; to remain in the UK as a job seeker but become self-supporting; or to leave the UK. However, a number of legal challenges to the withdrawal of asylum support have been mounted. NASS initially announced on 26 April that it would review cases where support was due to be withdrawn. Then, on 29 April the Director of NASS sent a letter to chief executives of all local authorities, advising that it would accept representations in respect of any potential human rights breaches caused by the termination of NASS or local authority support, and would provide interim support pending the assessment of these cases. And on the same day, NASS informed all their accommodation providers that they should not evict any asylum seekers from the EU accession states until an urgent NASS review had been completed.

Context of changes

The UK government first announced its intention to introduce registration for employment and restrictions on access to benefits in February 2004. The matter attracted a significant amount of media attention and prompted intense political discussion, principally concerning the potential number of people who might exercise their right of free movement to move to the UK, and any adverse effects this might have on the UK labour market or the benefits system. Some of this debate was reminiscent of earlier discussion of supposed 'floods' of asylum seekers from eastern Europe who were presumed to be motivated to come to the UK to avail themselves of UK benefit provisions and were perceived to be a drain on public services.

Some of the asylum seekers affected by these changes are Roma from Central and Eastern Europe. For further information about this group, see [ICAR's signpost guide to Roma asylum seekers and refugees in the UK](#).

Further information

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Legislation, government policy and guidelines

Treaty of Accession to the European Union 2003

http://europa.eu.int/comm/enlargement/negotiations/treaty_of_accession_2003/table_of_content_en.htm

European Union (Accessions) Act 2003

<http://www.hmso.gov.uk/acts/acts2003/20030035.htm>

The Immigration (European Economic Area) (Amendment No. 2) Regulations 2003, Statutory Instrument 2003, No. 3188

<http://www.legislation.hmso.gov.uk/si/si2003/20033188.htm>

Home Office Immigration and Nationality Directorate: Asylum Policy Instructions – Claims made by EU nationals

<http://www.ind.homeoffice.gov.uk/default.asp?PagelId=2648>

Draft Statutory Instrument: Accession (Immigration and Worker Registration) Regulations 2004

<http://www.legislation.hmso.gov.uk/si/si2004/draft/20049010.htm>

The Social Security (Habitual Residence) Amendment Regulations 2004, Statutory Instrument 2004 No. 1232

<http://www.legislation.hmso.gov.uk/si/si2004/20041232.htm>

Home Office Press Release: No UK benefits for EU accession countries, 23 February 2004

http://www.homeoffice.gov.uk/n_story.asp?item_id=826

Home Office Press Release: Regulations laid for workers' registration scheme for new EU members, 25 March 2004

<http://www.ind.homeoffice.gov.uk/news.asp?NewsId=389&SectionId=1>

Home Office letter from the Director of the National Asylum Support Service (NASS) outlining the implications of the withdrawal of support to accession nationals, 1 April 2004

http://www.alg.gov.uk/upload/public/attachments/220/Circ_21.04_Attachment1.doc

Home Office letter from the Director of the National Asylum Support Service (NASS) providing an update on the withdrawal of support from accession nationals supported by NASS or by local authorities, 29 April 2004

<http://www.asylumsupport.org.uk/docs/accession.doc>

Home Office letter from Head of Procurement of the National Asylum Support Service (NASS) to private and public sector accommodation providers directing them not to recover possession of any premises occupied by EU nationals pending a NASS review, 29 April 2004

<http://www.asylumsupport.org.uk/docs/accommodationproviders.doc>

EU rights and Home Office workers' registration scheme leaflet, March 2004

http://www.alg.gov.uk/upload/public/attachments/220/Circ_21.04_Attachment2.doc

Responses to the policy changes

Joint Council for the Welfare of Immigrants (JCWI) calls for the government to stand firm on its commitments to nationals of the accession states, 23 February 2004

<http://www.jcwi.org.uk/lawpolicy/uklaw/accesscountryworkers.html>

Immigration Advisory Service (IAS) cautions Home Secretary not to over-react on accession states' nationals, 23 February 2004

<http://www.iasuk.org/C2B/PressOffice/display.asp?ID=17&Type=2>

Immigration Law Practitioners' Association (ILPA) – Response to the consultation on draft regulations relating to accession of 8 new members states to the European Union, 19 April 2004 [click on 'submissions' on the main page]

<http://www.ilpa.org.uk/>

Advice and information about the changes to asylum support

Advice leaflet for asylum seekers from accession countries from asylum support crisis response website [last updated 25 April 2004]

<http://www.asylumsupport.org.uk/leaflet.doc>

Advice leaflet for asylum seekers by a number of refugee agencies [updated on 29 April 2004]

http://www.refugeecouncil.org.uk/downloads/info_for_clients/eu_access/april04_eng.pdf

Leaflet for advisers of asylum seekers from accession countries [last updated 25 April 2004]

<http://www.asylumsupport.org.uk/advisersleaflet.doc>

Translations of the leaflet for asylum seekers and further updates will be posted on the following website:

<http://www.asylumsupport.org.uk/>

Asylum seekers and the new EU accession countries, Refugee Council briefing, 30 April 2004

http://www.refugeecouncil.org.uk/downloads/briefings/eu_accession.pdf

Advice and information about voluntary return

Choices Project, Refugee Action

Confidential and impartial advice to refugees and asylum seekers who are considering return to their country of origin – a service designed to help refugees make an informed choice about return.

<http://www.refugee-action.org/choices.asp>

International Organisation for Migration, Voluntary Assisted Return and Reintegration Programme

Assistance to asylum seekers of any nationality who want to return permanently to their country of origin.

<http://www.iomlondon.org/en/main.html#varrp>

Options, YMCA Glasgow [click on 'refugees' and 'options']

A confidential service offering information, advice and support to refugees who are considering voluntary return to their country of origin.

<http://www.ymcaglasgow.org/>

News reports about EU accession and asylum in the UK

Councils offered say in judicial review on asylum seekers from for new EU states, Housing Today, 7 May 2004

<http://www.housing-today.co.uk/story.asp?sectioncode=306&storyCode=3035236>

UK enlargement rules may have been unlawful, says top judge, EU Observer, 5 May 2004

<http://www.euobserver.com/index.phtml?aid=15480>

Rushed EU asylum rules face court challenge, 5 May 2004

<http://politics.guardian.co.uk/homeaffairs/story/0,11026,1209510,00.html>

Asylum benefit battle to go ahead, BBC, 4 May 2004

http://news.bbc.co.uk/1/hi/uk_politics/3682547.stm

Families told: 'Find work or go home', Peterborough Now, 3 May 2004

<http://www.peterboroughnow.co.uk/ViewArticlemore2.aspx?SectionID=845&ArticleID=784379>

Race backlash fear over homeless, Times, 1 May 2004

<http://www.timesonline.co.uk/printFriendly/0,,1-13090-1094602,00.html>

EU asylum seekers to lose support, BBC, 30 April 2004

http://news.bbc.co.uk/2/hi/uk_news/3671693.stm

European Asylum Seekers lose homes on accession day, Inside Housing, 22 April 2004

<http://www.insidehousing.co.uk/level1.phtml?sessid=6a32e0896ee9ba5806576894efc1b55e1f1209561ce0e4578af40b1544276c4f&siteid=264&where=Level1&ident=893&searchres=1&newsid=445272#445272>

The media war against migrants: a new front, Independent race and refugee news network (IRR News), 21 January 2004

<http://www.irr.org.uk/2004/january/ha000008.html>

More news reports – site updated daily

<http://www.asylumsupport.org.uk/mediareports.htm>

Information about EU enlargement

BBC Inside Europe: A guide to the changing face of the European Union

http://news.bbc.co.uk/2/hi/in_depth/europe/2003/inside_europe/default.stm

Guardian interactive guide to EU enlargement

<http://www.guardian.co.uk/flash/0,5860,408196,00.html>

European Commission – EU enlargement

http://europa.eu.int/comm/enlargement/index_en.html

European Commission – EU citizens' right to travel and reside freely throughout the European Union

http://europa.eu.int/comm/justice_home/fsj/citizenship/movement/fsj_citizenship_movement_en.htm

EU enlargement and the limits of freedom

Article discussing the changes by Joanne van Selm and Eleni Tsolakis of the Washington-based think tank, the Migration Policy Institute

<http://www.migrationinformation.org/Feature/display.cfm?ID=224>

Related news reports

Britain faces influx of Europe's gypsies, Times, 18 January 2004

<http://www.timesonline.co.uk/newspaper/0,,176-967456,00.html>

'Hordes of spongers' are scare story, Mirror, 24 February 2004

<http://www.mirror.co.uk/news/allnews/page.cfm?objectid=13981801&method=full&siteid=50143>

'Express' owner in new race enquiry, Independent, 25 April 2004

<http://news.independent.co.uk/uk/media/story.jsp?story=515001>