



Home Office

**Border &
Immigration Agency**

EUROPEAN MIGRATION NETWORK

ANNUAL REPORT ON MIGRATION,
ASYLUM AND ILLEGAL ENTRY

UNITED KINGDOM

2004

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Introduction

The National Contact Points of the European Migration Network have been asked to 'add value' to the immigration, asylum and illegal entry statistics for 2004 by relating trends and patterns identified in the statistics to the broader policy context and source country events. The analysis in this report relates to conditions *as they existed in 2004*.

The statistics are examined under the headings 'Migration Issues', 'Asylum Issues' and 'Illegal Entry'.

The views expressed in this report are those of the author, not necessarily those of the Home Office (nor do they represent Government policy).

Please note: when referred to in this report, the following names have been shortened as follows.

<u>Full Name</u>	<u>Shortened to</u>
Commonwealth of Australia	Australia
Democratic Republic of Congo	DR Congo
European Union	EU
Federal Republic of Germany	Germany
Federal Republic of Nigeria	Nigeria
Federative Republic of Brazil	Brazil
Grand Duchy of Luxembourg	Luxembourg
Hellenic Republic	Greece
Islamic Republic of Afghanistan	Afghanistan
Islamic Republic of Iran	Iran
Islamic Republic of Pakistan	Pakistan
Italian Republic	Italy
Kingdom of Belgium	Belgium
Kingdom of Denmark	Denmark
Kingdom of Spain	Spain
Kingdom of Sweden	Sweden
Kingdom of the Netherlands	Netherlands
People's Republic of Bangladesh	Bangladesh
People's Republic of China	China
Portuguese Republic	Portugal
Republic of Austria	Austria
Republic of Bolivia	Bolivia
Republic of Cyprus	Cyprus
Republic of Estonia	Estonia
Republic of Finland	Finland
Republic of Ghana	Ghana
Republic of Hungary	Hungary
Republic of India	India
Republic of Iraq	Iraq
Republic of Ireland	Ireland

Republic of Latvia	Latvia
Republic of Lithuania	Lithuania
Republic of Poland	Poland
Republic of Slovenia	Slovenia
Republic of South Africa	South Africa
Republic of Turkey	Turkey
Republic of Zimbabwe	Zimbabwe
Slovak Republic	Slovakia
Somali Republic	Somalia
United Kingdom	UK
United States of America	USA

1. Migration Issues

We can never be entirely sure that legislation or changes in policy have had the outcome that is expected or even, when the expected outcome does occur, that it can be explained solely by the legislation or change in policy. Reasons for migration are complex; migrants are not a homogenous group, and there are individual differences in decisions about whether, when, where and how to migrate. These issues have not been considered in this report. In addition, policies may be implemented as a package of measures, often simultaneously with changes in other countries, making it difficult to separate out the effects that policies are having on the statistics.¹

1.1 Analysis and interpretation of the migration statistics

1.1.1 Migration Flows

How did migration flows in your Member State change compared to the previous years, from 2002 onwards? Please explain the reasons for changes. Did the migration trends observed in this field reflect immigration policies at the time?

Explanation of the data source

ONS (2007) 'International Migration', series no. 32, HMSO.

The Office for National Statistics' Total International Migration (TIM) estimates were used to provide a fuller picture of international migration to and from the UK. The estimates of immigration and emigration in the TIM data source are based on *three* main sources.

- i) The International Passenger Survey (IPS), a sample of passengers travelling through the major air and sea ports of the UK. This is the prime source of migration data providing estimates of both inflows and outflows, but does not cover all migration types.
- ii) Home Office data on asylum seekers and their dependants.
- iii) Information from the Irish Central Statistics Office on migration between the UK and Ireland.

¹ Zetter, R., Griffiths, D., Ferretti, S and Pearl, M (2003) 'An assessment of the impact of asylum policies in Europe 1990-2000'. Home Office Research Study 259.

In addition to these three sources, because the IPS provides estimates based on respondents' *intended* length of stay in the UK or abroad, some statistical adjustments for people who change their intentions are made – so called 'switchers'. Combining data from the above sources with adjustments produces the most inclusive estimate.

Figures have been rounded to the nearest 1,000.

A migrant is defined here as someone who changes his/her country of usual residence for a period of *at least a year*, so that the country of destination effectively becomes the country of residence.

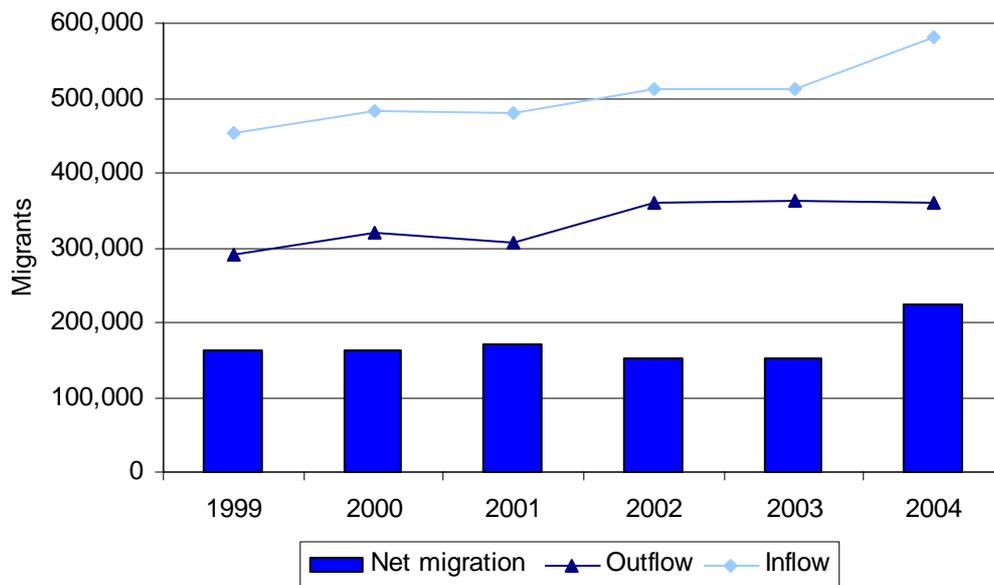
Third countries are those countries not in the EU. Prior to 2004, the EU is defined as the EU15² only. In 2004, the EU is defined as the EU25, i.e. it includes the EU15 plus the ten accession states³.

Recorded in-migration to the UK was 582,000 in 2004. This was an increase of 13 per cent over the previous two years (both 513,000). There was little change in estimated out-migration between 2002 and 2004 – in 2003, the figure increased from the 2002 figure of 359,000 by 1 per cent, but then in 2004 it decreased again by 1 per cent to return to 359,000. The resulting net migration increased from 2002 and 2003 figures (153,000 and 151,000 respectively) to 223,000 in 2004. This was the highest level since the present method of estimation began in 1991 (see Figure 1.1).

² Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain and Sweden.

³ Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

Figure 1.1 Total international migration to/from the UK, 1999-2004



In 2004, approximately 85 per cent (494,000) of in-migrants were non-British. Of these non-British in-migrants, 76 per cent were third country nationals, which was a decrease from 84 per cent in 2003. This is likely to have been due to ten countries acceding to the EU in May 2004. Nonetheless, there was a 10 per cent increase in the number of third country nationals entering the UK in 2004 compared to the previous year (from 343,000 in 2003 to 377,000 in 2004).

The main reason for in-migration in 2004 was for a definite job (144,000 – up 26 per cent on 2003). This was followed by formal study (up 1 per cent from 2003 to 137,000). The number of people ‘accompanying/joining’ relatives increased from 2003 by 41 per cent to 106,000.

1.1.2 Population by Citizenship

What were the largest groups (by citizenship) of third country nationals in 2004? If significant changes occurred in reference to the size of particular groups of third country nationals in 2004, what were the underlying causes of these changes (e.g. legal, political, administrative changes, etc.)?

Explanation of the data source

Estimates for 2004 are based on the Annual Population Survey (APS), which is based on the Labour Force Survey (LFS) with various sample boosts. These estimates may differ from those previously supplied that were based solely on the LFS. In this report, estimates for years prior to 2004 are based on annual LFS data only.

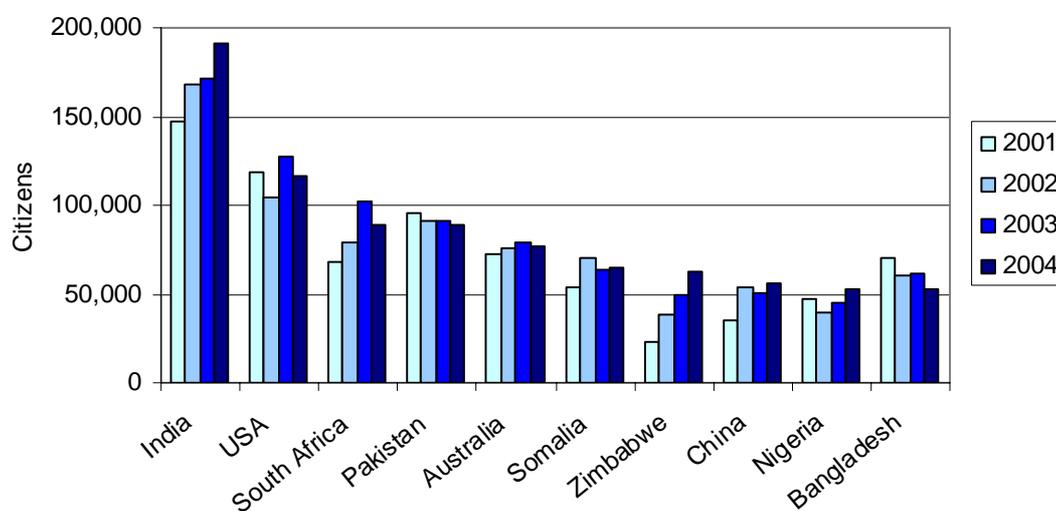
Figures have been rounded the nearest 1,000.

Further information on the data source, including limitations, is included in Annex A.

Estimates from the Annual Population Survey suggest that, in 2004, the UK population was an estimated 58,507,000, and approximately 5 per cent of this (2,877,000) were non-British nationals. Third country nationals made up 63 per cent of non-British nationals (1,808,000). When compared to the 2003 figures, the number of third country nationals in 2004 decreased by 5 per cent (1,902,000 in 2003) and the proportion of non-British nationals who were third country nationals decreased (68 per cent in 2003). This is likely to have been due to ten countries acceding to the EU in May 2004.

Figure 1.2 shows the ten countries with the largest populations of third country nationals in the UK in 2004 and how these figures compare with previous years for these countries.

Figure 1.2 Numbers of third country nationals in the UK, 2001-2004, for the ten largest groups (by country of citizenship) of third country nationals in the UK in 2004



The top six countries, along with Bangladesh (10th), remained in the top ten third countries with the largest population of nationals in the UK over the period 2001 to 2004. China joined the top ten countries in 2002 and remained there until 2004. In 2004, Zimbabwe and Nigeria replaced Jamaica and Turkey in the top ten countries.

As can be seen in Figure 1.2, India and the USA remained first and second respectively over the period 2001 to 2004. The number of Indian nationals in the UK increased by 12 per cent (from 171,000 in 2003 to 191,000) in 2004. This followed 2 per cent and 14 per cent increases in 2003 and 2002 respectively. The number of nationals from the USA decreased by 9 per cent (from 128,000 in 2003 to 116,000 in 2004), following a 23 per cent increase in 2003 and a 13 per cent decrease in 2002.

Four of the top five countries (India, South Africa, Pakistan and Australia) are members of the Commonwealth, while the fifth (USA) has strong historical links with the UK.

Of those countries that were in the top ten in both 2003 and 2004, the number of Indian nationals in the UK had the greatest percentage increase in 2004 (up 12 per cent from 2003). This was followed by Chinese nationals, where the increase was 10

per cent (from 51,000 in 2003 to 56,000 in 2004). Somalis were the only other nationality to increase in 2004 (up 2 per cent).

The number of Zimbabwean nationals in the UK had the largest increase of all top ten countries, continuing its increasing trend – up 29 per cent in 2004. This followed increases of 26 per cent and 70 per cent in 2003 and 2002 respectively. The number of Nigerian nationals increased by 18 per cent compared with the previous year.

The ‘push factors’ encouraging migration from Zimbabwe are immense – these include extreme poverty, very high levels of inflation and unemployment, food and goods shortages, violence, political intimidation, and one of the highest rates of HIV/AIDS infection in the world.

Nigeria obtained its independence from Britain in 1960, but the ties have remained strong and the UK has therefore been a destination of choice for migrants. ‘Push factors’ encouraging migration from Nigeria include a steady fall in living standards and poverty (which is considered a factor in the increased ethnic violence). Also, political reform is not progressing quickly.

The joint largest percentage decreases in the population of nationals of countries in the top ten in both 2003 and 2004 were from South African and Bangladeshi nationals (both down 13 per cent). The number of South African nationals in the UK decreased from 102,000 in 2003 to 89,000 in 2004. This followed increases in both 2003 and 2002 (29 per cent and 16 per cent respectively). The population of Bangladeshi nationals in the UK decreased from 61,000 in 2003 to 53,000 in 2004. This followed a 2 per cent increase in 2003 and a 14 per cent decrease in 2002.

It should be noted that the above information is for *foreign nationals* only and does not take in to consideration the ‘nth generation’ of migrants who are British nationals but may still be considered to be part of different ethnic (and perhaps cultural) groups.

1.1.3 Residence Permits: annual total positive decisions

How did the total number of positive decisions for residence permits (or other authorisations to reside) change in comparison to the previous year? Please explain the reasons for this (legal, political, administrative changes, etc.).

Explanation of the data source

Home Office ‘Control of Immigration: Statistics United Kingdom 2005’. HMSO.

The UK does not publish data on the number of positive decisions for residence permits. Therefore the information in this section has been estimated and is based on passengers given leave to enter, people granted an extension of their leave to stay and grants of indefinite leave to remain (settlement) in the UK in selected categories.

These estimates of authorisations to reside are from a combination of information published in the Home Office Command Paper ‘Control of Immigration: Statistics United Kingdom, 2005’ and management information.

The figures for passengers given leave to enter are based on number of journeys made. Therefore, a person who makes more than one journey is counted on each occasion, either in a new category if given fresh leave to enter, or as ‘passengers returning’. Figures for people granted an extension of their leave to stay are based on the number of decisions made, while figures for grants of indefinite leave to remain are based on number of people.

The figures exclude the following categories of arrival: visitors, business visitors, seasonal agricultural workers, passengers in transit and people returning after a temporary absence abroad.

Further information on the breakdown of each category can be seen in Annex B.

Figures exclude EEA and Swiss nationals. A10 Accession States are included up to 1 May 2004 and excluded after that.

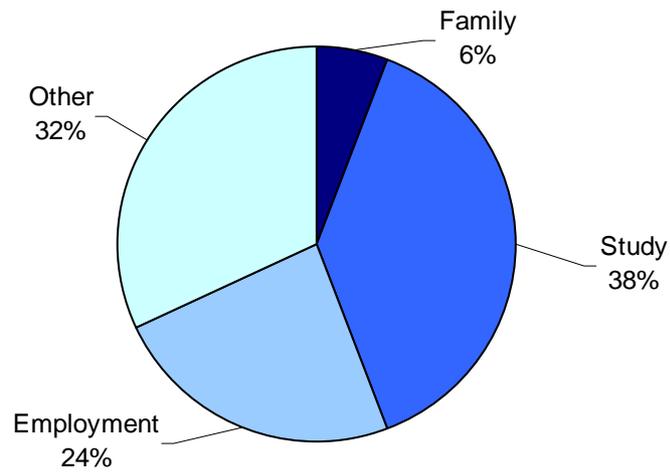
Figures have been rounded to the nearest 1,000.

For a more comprehensive explanation, see explanatory notes and definitions in *Control of Immigration: Statistics United Kingdom 2005*⁴.

⁴ Home Office ‘Control of Immigration: Statistics United Kingdom 2005’ (2006). HMSO.
<http://www.official-documents.gov.uk/document/cm69/6904/6904.pdf>

In 2004, an estimated 1,242,000 authorisations to reside in the UK were issued. Of these, 477,000 (38 per cent) were for study, 296,000 (24 per cent) were for employment, 73,000 (6 per cent) were for family formation/reunification and 396,000 (32 per cent) were for other categories⁵.

Figure 1.3 Authorisation to reside in the UK by main categories of acceptance, 2004



⁵ Further information on the breakdown of each category can be seen in Annex B.

1.2 Contextual interpretations (legal, political and international factors)

1.2.1 What have been the main trends and most important developments in the area of migration policy in your Member State since the previous year (political stance; new or amended laws; procedural changes; etc.)? Please give a short overview.

The aim of the UK immigration system is to regulate entry to, and settlement in, the UK effectively in the interests of sustainable growth and social inclusion. The UK is committed to a fair and balanced system for managing nationality, immigration and asylum. It has a policy of managed migration that means having responsive economic migration routes that are in the interests of the UK. Properly managed economic migration has been a key element of the Government's immigration policy for a number of years. Opening up ways for people to come and work in the UK legally helps meet skills and cover hard-to-fill job vacancies. The UK is equally committed to both honouring its humanitarian obligations and tackling abuse of the immigration and asylum system.

The main new policy development in 2004 was the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, which came into force in July 2004. It sets out the UK's third phase of reforms to the asylum and immigration system, building on the action that the UK took in the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002. The Act also responds to the continuing and increasingly sophisticated abuse of the system.

The 2004 Act is intended to provide a quicker and more robust system that protects those in genuine need, but deters and prevents behaviour designed to frustrate processes. The UK is getting tougher on traffickers and others seeking to play the asylum system, to ensure that the public has confidence in immigration controls. In turn, this will ensure that genuine refugees and other legal migrants continue to be welcomed and valued for the important contribution they make to life in the UK.

Along with this new Act, in 2004 immigration to the UK was, to a large extent, governed by the following earlier Acts:

- Immigration Act 1971;

- British Nationality Act 1981;
- Immigration Act 1988;
- Asylum and Immigration Appeals Act 1993;
- Asylum and Immigration Act 1996;
- Immigration and Asylum Act 1999;
- Nationality, Immigration and Asylum Act 2002.

The entry and stay of overseas nationals is regulated by the Immigration Rules made by the Home Secretary under the provisions of the above Acts.

Other legislation and rule changes that came into effect in 2004 are as follows.

The Immigration (Restrictions on Employment) Order 2004 came into force in May 2004. This strengthened Section 8 of the Asylum and Immigration Act 1996 by tightening the list of documents that employers are advised to check to avoid employing an illegal worker, eliminating documents that had proved vulnerable to forgery and requiring specific combinations of documents to be seen.

The Sexual Offences Act 2003 was implemented in April 2004. This legislation introduced a 14 year maximum penalty for trafficking for sexual exploitation.

Another key policy development in 2004 was the introduction of the requirement that a further two nationalities (Kenya and Tanzania) obtain Direct Airside Transit Visas (DATV)⁶ when travelling to the UK for the purpose of taking an onward flight leaving within 24 hours from the same airport. This brought to 43 the countries or territories whose nationals required a DATV to transit in the UK. The list is under regular review and new countries are added where appropriate.

⁶ The requirement for DATVs already existed for some nationalities. Nationals of countries on the DATV list may not benefit from the transit without visa concession and must obtain a visit visa if they wish to pass through UK immigration control as part of their transit.

With effect from 1 April 2003, the implementation of amendments to rule changes has resulted in a number of changes in the Immigration rules relating to spouses, fiancé(e)s and unmarried partners, including the following.

- A passenger seeking entry in these categories must be 16 years or over and the sponsor must be 18 years or over on the date leave to enter is granted.
- Passengers seeking entry as a spouse are to be given 2 years initial leave to enter (prior to being eligible for settlement) rather than 12 months.
- A passenger seeking entry as a spouse can now be granted indefinite leave to enter rather than completing the probationary period if the passenger (a) has been married to a person who has the right of abode in the UK or has settlement status and (b) is on the same occasion seeking admission to the UK for the purpose of settlement and (c) the parties were married at least 4 years ago since which time they have been living together outside the UK.
- A passenger seeking entry as an unmarried partner can now be granted indefinite leave to enter rather than completing the probationary period if (a) the sponsor has the right of abode in the UK or has settled status, (b) the passenger is on the same occasion seeking admission to the UK for the purpose of settlement and (c) the parties have been living together outside the UK in a relationship akin to marriage which has subsisted for 4 years or more.

Some key legislative and procedural changes in 2004 are noted in Table 1.1.

Table 1.1 Procedural changes, announcements and world events in 2004

January 2004	Seasonal Agricultural Workers Scheme (SAWS) quota increased and operating period extended, list of eligible jobs extended, upper age limit removed.
February 2004	A further step was taken towards the implementation of full juxtaposed controls at Calais and Dunkirk, with Immigration Officers being given the capacity to refuse entry to those without proper documentation.
	Progress towards full visa service in Pakistan. Visa applications in three new categories (family visitors aged over 30, children for settlement and retired people of independent means) were accepted in Pakistan from 16 February 2004.
March 2004	War Crimes Team created for enforcement where there may have been involvement in the commission of war crimes or crimes against humanity.

Table 1.1 Procedural changes, announcements and world events in 2004 (continued)

March 2004	Agreements with Sweden and Norway to access their fingerprints data and the Africa biometrics project got under way.
	All visa services in Bulgaria and Romania were temporarily suspended on 30 March 2004. This followed allegations of improper handling of applications made under the European Communities Association Agreements (ECAA). An enquiry into the matter was undertaken under a senior civil servant, Mr Ken Sutton. The suspension was lifted in respect of applications under most categories on 13 April 2004; however, applications for self employment visas remained suspended awaiting publication of Mr Sutton's report.
	Announcement of changes to Section 8 of the Asylum and Immigration Act 1996 and the laying before Parliament of The Immigration (Restrictions on Employment) Order 2004. Document checks made by employers on potential employees' eligibility to work were made more robust.
	Foreign and Commonwealth Office publicity leaflet to Brazilians to deter travel to the UK.
April 2004	1.4 million employers registered on the Inland Revenue PAYE mailing list received summary guidance on the prevention of illegal working in the UK.
	Bilateral agreement signed to allow the set-up of a UK control zone in Brussels Midi station.
	The Home Secretary announced a package of measures to tackle student migration abuse as part of the wider review of managed migration. Prior to this, the Immigration and Nationality Directorate (IND) had been working closely with the education institutions to create measures to tackle both bogus students and bogus institutions.
	Sexual Offences Act 2003 implemented.
	Charging for leave to remain applications introduced.
	The Immigration (Restrictions on Employment) Order 2004 came into force.
May 2004	The following countries acceded to the European Union: Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.
	The Worker Registration Scheme went live, monitoring access to the labour market for nationals of the A8 countries.
	Preventing Illegal Working pages of the IND website were substantially updated and reformatted.
	DATV regime extended to Kenyan and Tanzanian nationals.
	Sutton report published.

Table 1.1 Procedural changes, announcements and world events in 2004 (continued)

July 2004	The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 achieved Royal Assent on 22 July 2004.
	Summary of illegal working policy available electronically in Mandarin.
August 2004	Consideration of applications under the ECAA resumed.
September 2004	Entering the UK without a passport became an offence (Section 2 of the 2004 Act) to discourage destroying of documents.
	Section 35 of the 2004 Act: to encourage compliance with re-documentation, a new offence of failing to comply was created.
October 2004	Section 6 of the 2004 Act made the summary offence of employing an illegal worker in Section 8 of the Asylum and Immigration Act 1996 Act triable either way, which means that there is now no upper limit to the level of fine that can be imposed on employers if convicted on indictment.
	New rules were introduced on student switching. Non-visa nationals admitted in a category other than 'prospective student' were no longer permitted to switch into the student category to study on courses below degree level.
	The maximum overall permitted period of stay for a student on successive short courses below degree level was reduced from four years to two years.
	End to a temporary blanket suspension of enforced returns of failed asylum seekers to Zimbabwe.
November 2004	Section 9 of the 2004 Act came into force. Those who traffic people can get up to 14 years in jail; increased powers to immigration officers for entry, search and seizure.
December 2004	Designated register offices to tackle sham marriages (nationwide) and strict new eligibility criteria for those under immigration controls before notice to marry is accepted from 1 February 2005.
	Asian Tsunami.

Other changes are detailed in the asylum and illegal entry sections of this report and should be read in conjunction with this section, as flows of asylum seekers and illegal entrants and procedural changes in these areas may also affect migration.

1.2.2 What were the existing categories of admission or non-admission in 2004?

The UK has categories of admission which are recorded for statistical purposes. In 2004 these were as follows (in alphabetical order).⁷

- Asylum Discretionary Leave.
- Asylum Discretionary Leave – Dependants.
- Au Pairs.
- Business visitors.
- Children given leave to enter for probationary period as dependants of a parent settled in the UK.
- Common-Law spouses admitted for a probationary period.
- Common-Law spouses of Diplomats.
- Dependants of people granted asylum, excluding those granted Indefinite Leave to Enter (ILE).
- Dependants of people granted exceptional leave following an asylum application.
- Dependants of people with UK grandparents.
- Dependants of students, student nurses and postgraduate doctors and dentists.
- Dependants of work permit holders.
- Diplomats, consular officers and people on foreign and Commonwealth government missions.
- Domestic workers, i.e. workers accompanying employers granted leave to enter under the domestic workers' concession.
- Fiancé(e)s – people, male or female, given limited leave to enter for the purpose of marriage to a person settled in the UK.
- Holders of work permits issued by the Department for Education and Employment given leave to enter for less than 12 months, excluding trainees.
- Holders of work permits issued by the Department for Education and Employment given leave to enter for 12 months or more, excluding trainees.

⁷ Further information on these admissions categories can be found in the Home Office publication 'Control of Immigration: Statistics United Kingdom 2004' (<http://www.homeoffice.gov.uk/rds/pdfs05/hosb1405.pdf>).

- Holders of work permits issued by the Department for Education and Employment to trainees.
- Humanitarian Protection.
- Humanitarian Protection – Dependants.
- Husbands given leave to enter for probationary period.
- Investors.
- Leave outside the rules (concession).
- Leave outside the rules (concession) – Dependants.
- Leave outside the rules (no concession).
- Leave outside the rules (no concession) – Dependants.
- Ministers of religion, missionaries or members of religious orders.
- Non-Asylum Discretionary Leave.
- Non-Asylum Discretionary Leave – Dependants.
- People in transit through the UK to the Channel Islands, the Isle of Man and the Republic of Ireland who have no other reason for entering.
- People granted asylum, excluding people granted ILE.
- People granted exceptional leave to enter following an asylum application.
- People with UK grandparents.
- People, other than seamen and aircrew, in transit through the UK who have no other reason for entering.
- Postgraduate Doctors or Dentists.
- Retired people of independent means.
- Returning residents and passengers returning from temporary visits abroad to continue their stay in the UK within their existing leave.
- Same sex partner admitted for probationary period.
- Same sex partner of diplomats.
- Seamen and aircrew arriving as passengers under contract to join ships or aircraft at UK ports.
- Seasonal agricultural workers.
- Students and student nurses given leave to enter for 12 months or more.
- Students, student nurses and prospective students given leave to enter for less than 12 months.

- Visitors.
- Visitors (Approved Destination Status) (only applicable to Chinese nationals).
- Wife given leave to enter for probationary period.
- Working Holidaymakers.
- All other passengers given limited leave to enter, who are not included in any other category.

On-entry Settlement Codes

- UK passport holders issued with entry certificates, endorsed “Special Voucher” or “In lieu of voucher (UK)” who are given ILE. (Their dependants, unless holding entry certificates similarly endorsed, would be coded to one of the categories below as appropriate).
- Men given ILE as the husband of a Special Voucher holder who is on the same occasion being admitted for settlement.
- Women given ILE as the wife of a Special Voucher holder who is on the same occasion being admitted for settlement.
- Children under 18 who are given ILE and children aged 18-24 of a Special Voucher holder.
- Elderly dependants, joining children or grandchildren settled here, given ILE.
- Port asylum seekers given ILE immediately following a grant of asylum. Also includes port asylum seekers who had applied prior to July 1993 and were given ILE, under the backlog criteria in the 1998 White Paper, without the asylum application being considered substantively.
- Dependants of port asylum seekers granted ILE in line with the principal applicant.
- All other people given ILE for settlement (other than those included in sub-categories above) or on a subsequent occasion if this is after a period of absence of more than two years and the people are not treated as returning residents.

No changes to these admission category codes were introduced in 2004, that is to say, they were the same in 2003. No formal categories of non-admission are used in the UK.

1.2.3 Could you identify European/international factors explaining certain changes/continuity regarding migration in your Member State in comparison to the previous year?

Accession Countries

On 1 May 2004, ten accession countries joined the EU. The UK did not impose any transitional measures and the ‘A8’ countries from Central and Eastern Europe⁸ were given unrestricted access to the UK labour market, although they did have to register on the Worker Registration Scheme (WRS) on taking up employment. There was no requirement for nationals from Cyprus and Malta to register on the WRS.

Free Movement of Persons (FMOP) Directive

The FMOP EU Directive⁹ came into force in April 2004. It recognises the free movement of people between Member States and applies to EEA nationals and their non-EEA national family members. The aim of the Directive was to make it easier for these groups of people to move or reside within the territory of Member States. This was not a new concept; FMOP simplified a number of older directives which had become very complicated. Each Member State had to comply with these new standards by 20 April 2006.

Other changes are detailed in the asylum and illegal entry sections of this report and should be read in conjunction with this section, as changes in these areas may also affect migration.

⁸ Estonia, Latvia, Lithuania, Poland, Hungary, the Czech Republic, Slovakia and Slovenia.

⁹ (2004/38/EC) <http://eur-lex.europa.eu/LexUriServ/site/en/consleg/2004/L/02004L0038-20040430-en.pdf>

2. Asylum Issues

There are many factors that may be important to consider when explaining the trends in asylum figures. In this summary, the effect of policy initiatives, legislation and source country events have been touched upon. A number of potentially important factors have not been included in this discussion because they were not in the remit for the report. These include the role of facilitators, demographics, the influence of family and friends in the destination country, cultural affinity to destination countries, ease of travel, and extent of organised crime. However, it is important to mention these factors and to emphasise the fact that they do not work in isolation but are interconnected and complex in terms of the effect each factor has on the other. For example, political upheaval, economic difficulties, and conflicts tend to occur simultaneously and asylum seekers and other migrants may have many motivations for moving. Equally some factors, such as the availability of travel routes, might neither ‘push’ individuals from their country of origin nor ‘pull’ them to a particular destination country. Whether someone migrates is an extremely complex process. There is little hard evidence on the future impact of measures and there is the inevitable uncertainty about external drivers.

2.1 Analysis and interpretation of the asylum statistics

Explanation of the data source

The majority of figures used in this section were provided by Eurostat. Both these and any additional figures were obtained from a combination of the **Home Office Statistical Bulletin: Asylum Statistics United Kingdom, 2004**¹⁰ and management information.

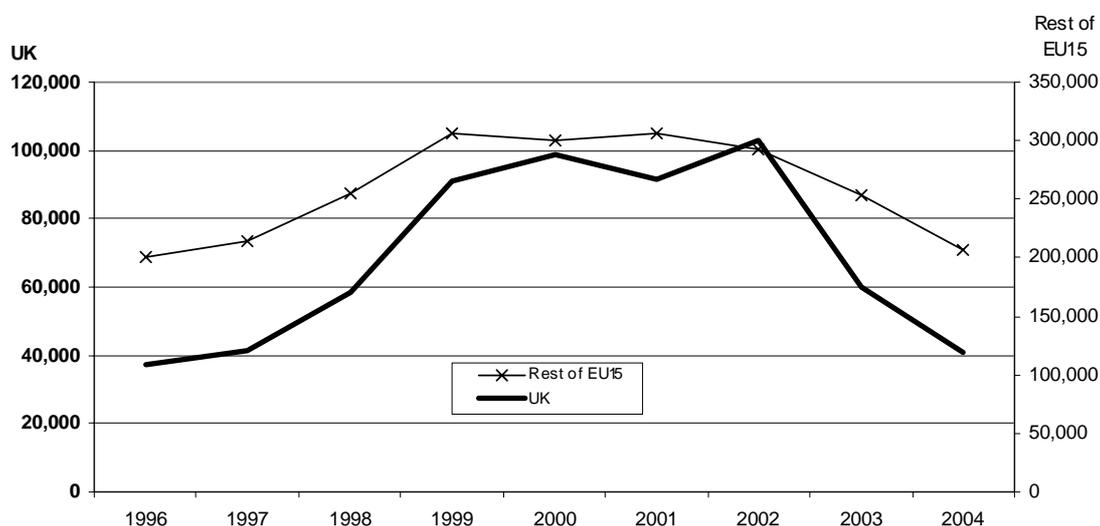
Figures are rounded to the nearest 5. Unless stated, figures include dependants.

¹⁰ <http://www.homeoffice.gov.uk/rds/immigration1.html>

2.1.1 Please describe trends in first-time asylum applications in 2004 compared to the previous year. Are these trends related to legislative or administrative developments/changes?

In 2004, first-time applications for asylum in the UK fell by 32 per cent to 40,625, from 60,045 in 2003. There was a fall of 18 per cent in applications to the rest of the EU15.¹¹ As can be seen in Figure 2.1, the decrease in applications to the UK between 2003 and 2004 continued the downward trend seen between 2002 and 2003.

Figure 2.1 Applications for asylum in the UK and the rest of the EU15 (including dependants), 1996-2004

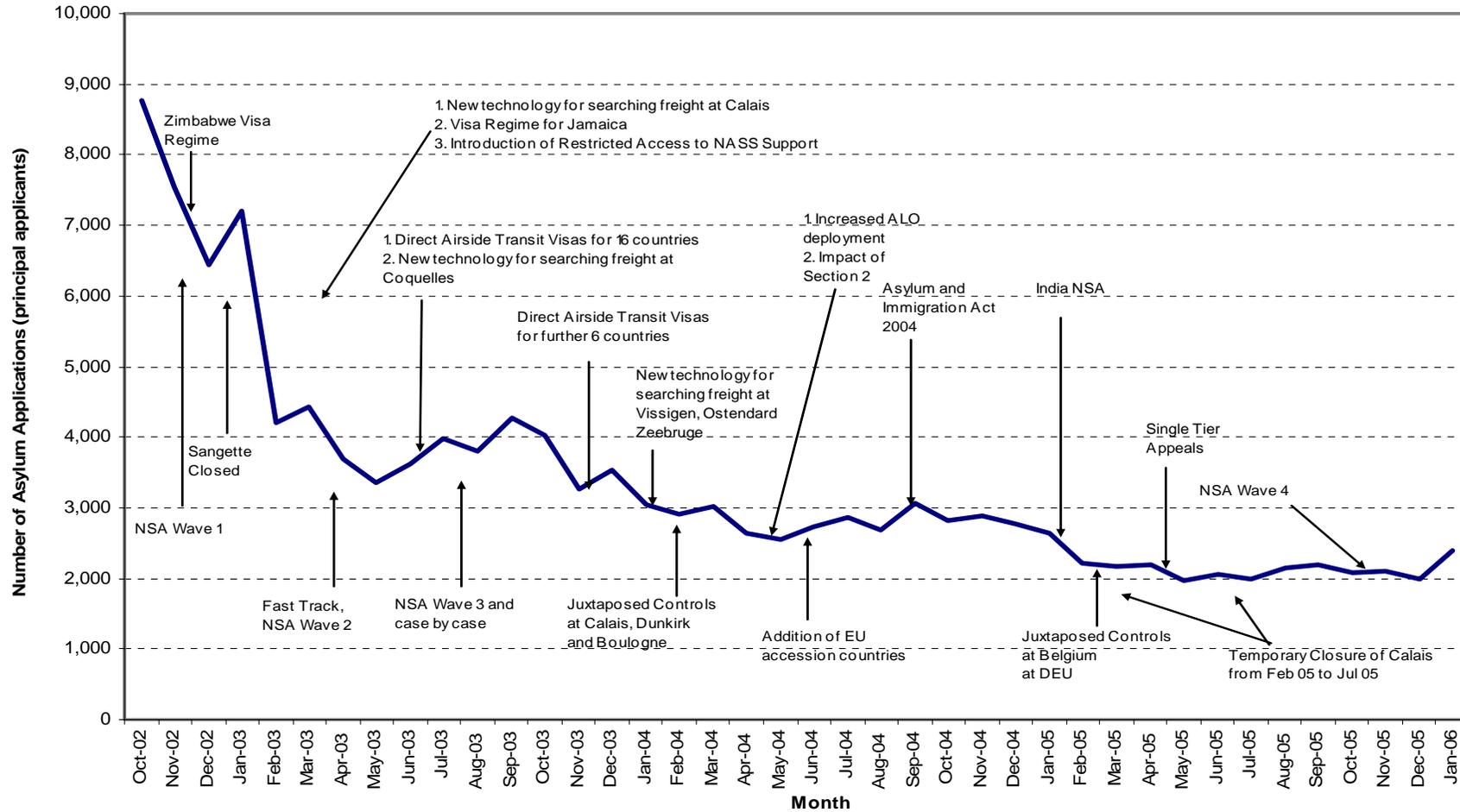


Source: Asylum Statistics United Kingdom 2004, Home Office.

Figure 2.2 shows the trend in asylum applications between October 2002 and January 2006 labelled with key asylum intake reduction measures introduced in that period. It should be noted that the numbers are for **principal applicants only**.

¹¹ Source: Asylum Statistics United Kingdom 2004, Home Office.

Figure 2.2 Effects of asylum intake reduction measures on numbers of principal applicants, October 2002 – January 2006



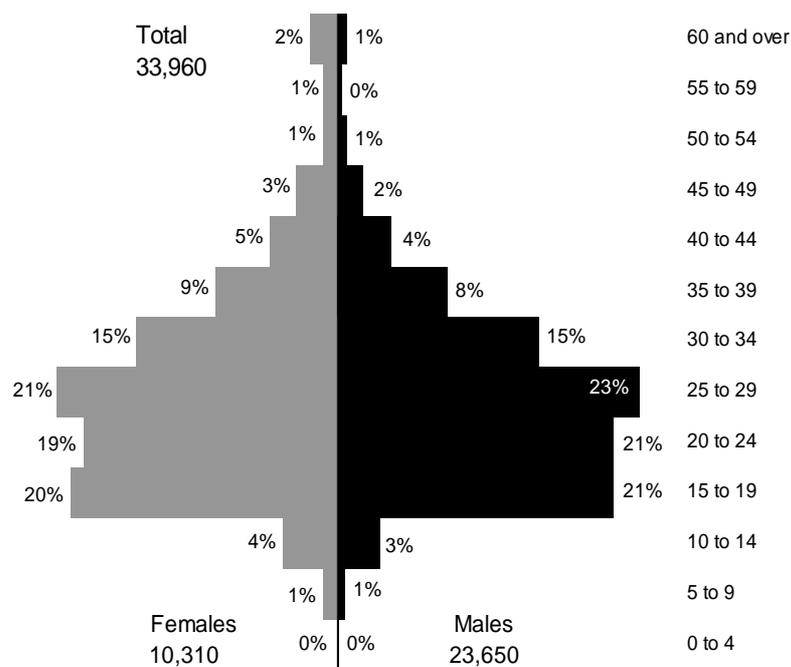
Source: Operational Modelling Services, Home Office.

Approximately two-thirds of all new asylum applications in 2004 were from males - 26,785 (66 per cent) compared to 13,840 (34 per cent) females.

In 2004, of the 2,990 asylum applications made by unaccompanied children, 67 per cent (2,010) were from males and 33 per cent (980) were from females.

Figure 2.3 shows the breakdown of applications for asylum in the UK by age and gender. However, it should be noted that this is for **principal applicants** only (i.e. excluding dependants).

Figure 2.3 Applications for asylum in the UK, by age and gender (principal applicants), 2004

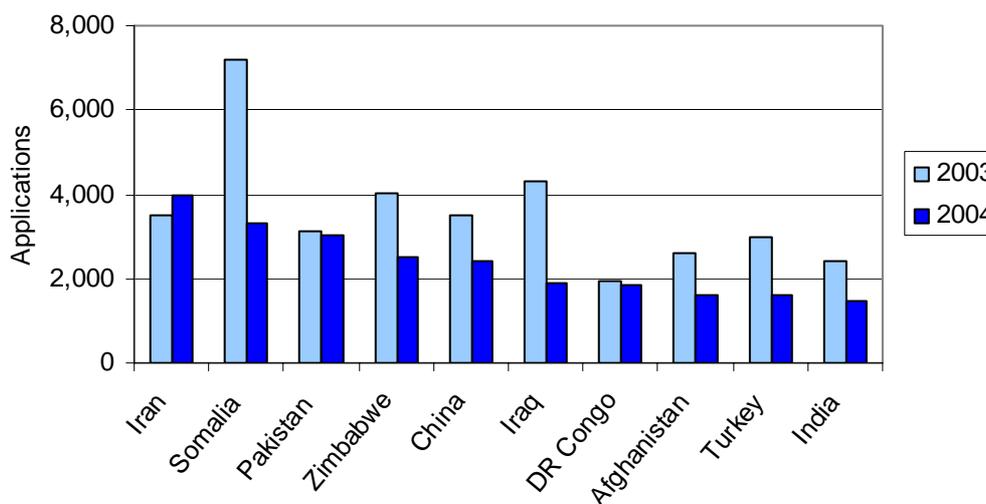


Source: Asylum Statistics United Kingdom 2004, Home Office.

It can be seen that the majority of principal applicants in 2004 were aged between 15 and 34 (80 per cent of males and 75 per cent of females). Eighty-two per cent of all principal applicants were under 35 years old.

Figure 2.4 shows the ten nationalities with the highest numbers of first asylum applications in 2004 and compares their figures with those in 2003. The same countries remained in the top ten in both years, with the order changing between 2003 and 2004. Six of the ten nationalities with the highest numbers of applications were Asian, three were African and one was European. The top ten nationalities made up 58 per cent of all first asylum applications, compared to 59 per cent in 2003.

Figure 2.4 First asylum applications for the ten main countries of citizenship in 2004, 2003-2004



The greatest number of asylum applications in 2004 were from Iranian nationals (3,990), which made up 10 per cent of all first asylum applications. This was followed by citizens of Somalia (3,295, 8 per cent) and Pakistan (3,030, 7 per cent). Applications in 2004 decreased from all top ten nationalities except Iranian nationals when compared with 2003. The number of applications from Iranian nationals increased by 14 per cent. Among the top ten countries, the largest percentage decrease in applicants between 2003 and 2004 was from nationals of Iraq (down 56 per cent), followed by Somalia (down 54 per cent) and Turkey (down 47 per cent).

‘Pull’ factors of the UK for asylum seekers include increasing numbers of family members and resident ethnic communities and a perception (whether correct or not) that the UK asylum system is more favourable than those of many of its European neighbours. In addition to these ‘pull’ factors, there are likely to be ‘push’ factors from the country of origin. *Some* suggested ‘push’ factors which *may* contribute to high numbers of asylum applications in some of the main ten countries of citizenship for asylum applications include:

- the political situation in the country, including political upheaval and unrest;
- the economic situation, including extreme poverty, corruption and high levels of inflation and unemployment;
- wars and conflict; and
- deterioration in personal and social freedoms, including marked discrimination against various groups, for example, ethnic, gender, sexual, religious, etc.¹²

¹² Further country-specific information may be obtained from the UK Border and Immigration Agency's 'Country of Origin Information Service' at http://www.homeoffice.gov.uk/rds/country_reports.html.

2.1.2 What is the total number of first and final positive decisions in 2004 disaggregated by the citizenship of the person concerned? Please explain changes in the total number of positive decisions in comparison to the previous year.

In the following section, figures for initial positive decisions include dependants, whereas first appeal figures exclude dependants. These figures cannot be summed to obtain an overall total number of final decisions.

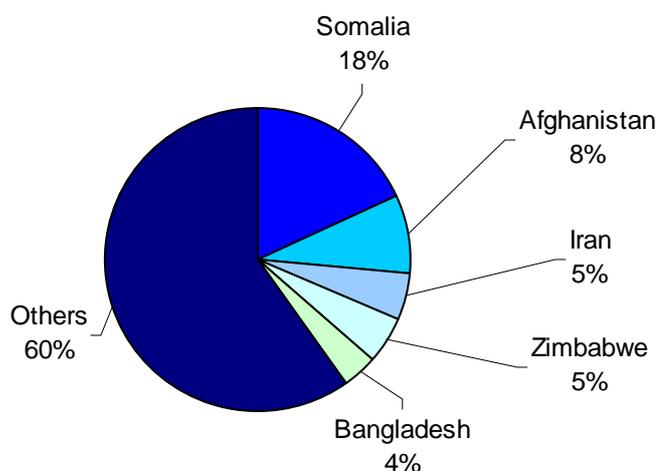
Appeal figures do not necessarily relate to initial decisions made in the same period.

A total of 55,390 initial decisions were made on asylum applications in 2004, a 31 per cent decrease from the previous year (80,370). Of the 55,390 decisions in 2004, 11 per cent were positive (6,355 – down 52 per cent from 13,185 in 2003) and 89 per cent were negative (49,040 – down 27 per cent from 67,185 in 2003). In 2003, a greater proportion (16 per cent) had been positive initial decisions. Of the 6,355 positive decisions in 2004, 2,160 were granted asylum. The remainder (4,195) were granted Exceptional Leave to Remain (ELR), Humanitarian Protection (HP) or Discretionary Leave (DL). This was down 46 per cent from the previous year (7,805). In addition, 3,520 applications were withdrawn.

A reduction in the number of decisions and, consequently, a reduction in the number of positive decisions, is to be expected, given the decrease in applications.

The five nationalities with the highest number of positive (first instance) asylum decisions made up 40 per cent of all positive (first instance) decisions. As shown in Figure 2.5, these were Somali (1,135, 18 per cent), Afghan (500, 8 per cent), Iranian (335, 5 per cent), Zimbabwean (335, 5 per cent) and Bangladeshi (275, 4 per cent).

Figure 2.5 Positive decisions (first instance) by country of citizenship, 2004



As a comparison, in 2003, the five nationalities with the highest number of positive decisions were Somali, Iraqi, Zimbabwean, Afghan and Angolan. In 2004, Iraq (which decreased by 92 per cent between 2003 and 2004) and Angola (a 77 per cent decrease) were replaced by Iran (which was the only country in the top five to have an increase – up 23 per cent) and Bangladesh (18 per cent decrease – a smaller decrease than all other countries in the top five).

Compared with 2003, the number of positive (first instance) decisions to nationals of four of the five countries with the highest numbers of positive decisions decreased. As already stated, the exception was Iran. Of those nationalities in the top five in both 2003 and 2004, the greatest decrease was seen for Zimbabwean nationals – down 70 per cent from 1,105 in 2003. This was followed by Somali nationals (down 63 per cent from 3,100 in 2003).

Asylum claims are decided on their individual merits, and a large number of applications does not necessarily result in a large number of positive decisions. However, in 2004, four of the five nationalities receiving the highest numbers of positive decisions were in the top ten nationalities with the highest numbers of applications. The exception was Bangladeshi nationals.

Whilst every application is considered on its individual merits, the high number of positive decisions from the main countries of citizenship could be related to ‘push’ factors in the countries of citizenship, such as:

- poor economic conditions;
- human rights violations;
- political corruption; and
- wars and conflict.

In 2004, there were 55,975 first appeals (excluding dependants). Of these, 19% (10,845) returned a positive decision, 78% (43,760) returned a negative decision and 2% (1,370) were withdrawn.

2.1.3 When compared with the previous year, can you observe changes in the statuses regularly granted to particular citizenship groups? How do you explain these changes or continuity?

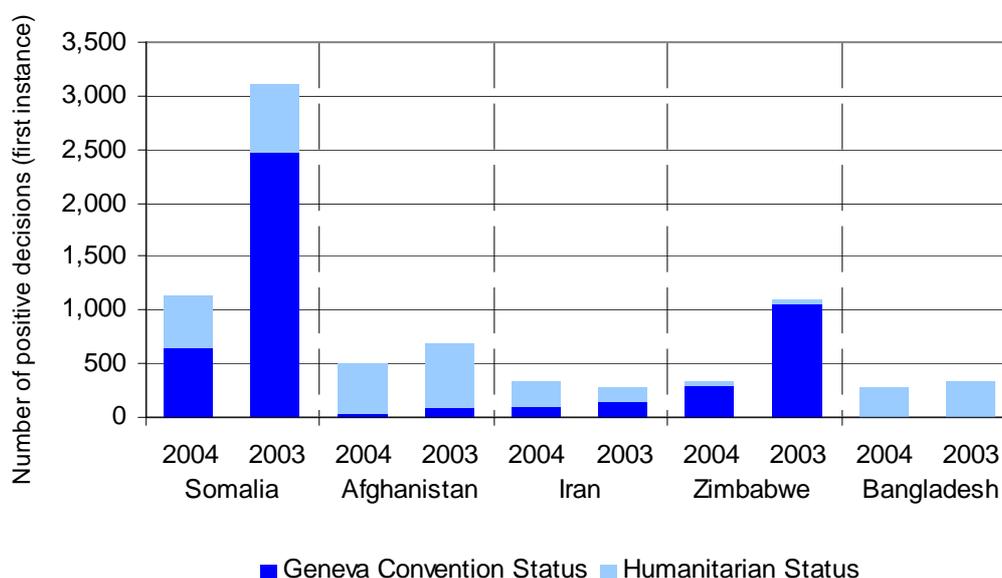
‘Geneva Convention status’ refers to people who have been granted asylum. In the following section, a grant as a refugee under the Geneva Convention will be referred to as ‘Geneva Convention status’.

People who are found not to be refugees within the terms of the Convention will be refused asylum. In certain circumstances they may be granted Humanitarian Protection (HP) or Discretionary Leave (DL) for a limited period (HP and DL replaced Exceptional Leave to Remain (ELR) on 1 April 2003). In the following section, people granted these statuses will be referred to as ‘humanitarian status’.

In 2004, of the 6,355 positive (first instance) asylum decisions made, 34 per cent (2,160) were Geneva Convention status, while 66 per cent (4,195) were humanitarian status. This is compared to 41 per cent of positive (first instance) decisions as Geneva Convention Status (5,380) and 59 per cent as humanitarian status (7,805) in 2003.

A breakdown of the proportions of the two statuses for the five nationalities with the highest number of overall positive (first instance) decisions in 2004 can be seen in Figure 2.6.

Figure 2.6 Total number of positive decisions (first instance) by type and country of citizenship, 2003 and 2004



In 2004, nationals of the African countries – Somalia and Zimbabwe – were granted a higher proportion of Geneva Convention status (57 per cent and 91 per cent respectively), while nationals of the Asian countries – Afghanistan, Iran and Bangladesh – were granted a higher proportion of humanitarian status (91 per cent, 71 per cent and 100 per cent respectively).

Compared to 2003, the proportion of positive decisions of Geneva Convention status in each of the top five countries with the greatest number of positive decisions decreased while the proportion of humanitarian status increased. The greatest changes were for Somali nationals, for whom the proportion of decisions of Geneva Convention status decreased from 80 per cent in 2003 to 57 per cent in 2004 and Iranian nationals for whom the proportion of Geneva Convention status decreased from 53 per cent in 2003 to 29 per cent in 2004.

The number of positive initial decisions of Geneva Convention status decreased for nationals of all countries from the previous year. Grants of Geneva Convention status to Somali nationals decreased by 1,815 (74 per cent), and to Zimbabwean nationals they decreased by 765 (72 per cent). In terms of humanitarian status, the only increase in grants in the top five nationalities was to Iranian nationals, increasing from 130 in 2003 to 240 in 2004 (up 85 per cent). The number of grants to the other top five

countries of origin with the highest number of grants of humanitarian status decreased, with grants to Somali and Afghan nationals decreasing by 24 per cent (down by 150 and 145 respectively).

2.2 Contextual interpretations (legal, political and international factors)

2.2.1 *New or amended laws effective in 2004*

Please describe briefly any new or amended laws on asylum and relevant case law effective in 2004. Have there been important changes in comparison with the previous year?

Other changes are detailed in the migration and illegal entry sections of this report and should be read in conjunction with this section, as flows of migrants and illegal entrants and changes in law in these areas may also affect asylum cases.

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 is a key piece of legislation which came into force in July 2004. Its aim is to provide a quicker, more robust system that protects those in genuine need, but deters and prevents behaviour designed to frustrate processes. The key measures in the Act were as follows.

- To improve the speed and finality of the appeals and removals system. The Act aimed to streamline the appeals process further by creating a single tier of appeal. It was hoped that this would reduce the scope for claimants to extend the appeals process solely to delay removal, at the expense of the taxpayer. The Act also aimed to encourage more families to return voluntarily by ending their unlimited right to support when the legal process has been exhausted and when they are able to take up a voluntary return home, funded by the Home Office.
- To combat the rise of organised crime activity involved in illegal immigration, through the introduction of a new offence of trafficking for purposes other than sexual exploitation including domestic slavery (following the introduction of the Sexual Offences Act 2003). The Act also introduced new powers for Immigration Officers to arrest people for immigration-related crimes such as bigamy and forgery.
- To tackle the rise of deception in asylum claims: the Act created a new offence of being without a valid immigration document at a leave or asylum interview

unless the person can show s/he has a reasonable excuse or other defence. As specified in the Act, this provision came into force automatically on 22 September 2004. It aimed to deter asylum seekers from destroying or disposing of their travel documents in order to make consideration of their claims more difficult and/or to frustrate removals.

The provisions of the 2004 Act support the Government's balanced immigration and asylum policy – tackling abuse of the asylum system and illegal immigration; encouraging properly managed legal migration that benefits the UK economically and socially; and helping to integrate legal migrants, genuine refugees and new citizens.

In April 2003, Exceptional Leave to Remain (ELR) had been replaced by Humanitarian Protection (HP) and Discretionary Leave (DL). It was considered that the widespread use of ELR was acting as a pull factor and increasing the number of unfounded asylum applications in the UK. These new policies were introduced to ensure that only those who are in genuine need of protection, or where there are other compelling reasons why they should be allowed to stay in this country, are granted leave to remain here outside the Immigration Rules. The criteria to be met for a grant of HP or DL are much narrower and more strictly defined than those used when granting ELR.

Nationality, Immigration and Asylum (NIA) Act 2002

Key changes to reduce the number of asylum applications as a result of the Nationality, Immigration and Asylum (NIA) Act 2002 included the following.

Non-suspensive appeal

- Since November 2002, under the Nationality, Immigration and Asylum Act 2002, the Secretary of State has designated 24 countries as 'generally safe'. Asylum applications from nationals of these countries must be certified as "clearly unfounded" unless the Secretary of State is satisfied that they are not clearly unfounded. Such applicants have no right of appeal before being removed from the UK although they may appeal from outside the UK. This was introduced in

three waves¹³, for different countries, in November 2002, April 2003 and July 2003. The Wave one countries were removed from the list on 1 October 2004, as they acceded to the EU in May 2004; asylum seekers from these countries are now subject to separate procedures. There is also the power to certify clearly unfounded claims made by nationals of non-designated countries. This power has been used since June 2003.

Restricted access to support

- In January 2003, a requirement was introduced, under Section 55 of the Nationality, Immigration and Asylum Act 2002, that asylum seekers apply “as soon as reasonably practicable”, which from 17 December 2003 the Home Office interprets as being within three days of entering the country, otherwise they are ineligible for support. Following Court of Appeal Judgement in May 2004, support will not be refused under Section 55 to an individual unless it is positively satisfied that the individual does have some alternative source(s) of support available to him/her.

The provisions in Part 5 of the 2002 Act, which came into effect in April 2003, re-structured the appeals system and made the following changes.

- Defined the specific immigration decisions that attract a right of appeal, in order to produce a clearer package of appeal rights and build on the “one stop” appeal process. The scheme is based on the principle that there is one right of appeal against any of the listed “immigration decisions”. Where multiple decisions would result in multiple rights of appeal, these are subsumed into one appeal. All appealable decisions can be raised in that one appeal. The requirement for a person to state all grounds for his/her claim helps to ensure that all relevant issues are dealt with in one appeal. There is also a right of appeal to an adjudicator on asylum grounds only when an asylum claimant is refused asylum but granted leave to enter or remain for more than a year.
- Restricted rights of appeal in certain circumstances and defined which appeals can be exercised in the UK.

¹³ Wave one covered: Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and the Czech Republic; wave 2 covered Albania, Bulgaria, Jamaica, Macedonia, Moldova, Serbia and Montenegro, and Romania; and wave 3 covered: Bangladesh, Bolivia, Brazil, Ecuador, South Africa, Sri Lanka and Ukraine.

- Provided for asylum or human rights claims to be certified where the claim is clearly unfounded or where the person is to be removed to a country of which they are not a national and the Secretary of State has no reason to believe that their rights under the ECHR will be breached in that country. The effect of such certification is that the person cannot, other than in limited cases, appeal against the immigration decision while in the UK.
- Introduced a statutory review process as an alternative remedy to judicial review for challenges to the Immigration Appeal Tribunal decision to refuse permission to appeal.
- Enabled rules to provide a statutory closure date to prevent multiple adjournments of cases at the adjudicator stage.
- Enabled rules for the courts to refuse legal aid costs when an application for reconsideration of an appeal is without merit.

Immigration and Asylum Appeal (Fast Track Procedure) Rules

The Immigration and Asylum Appeals (Fast Track Procedure) Rules set out the procedure for appealing if asylum and leave to enter is refused. The Fast Track Procedure Rules have shorter time limits for the appellant and the respondent throughout the appeals process. They also set out the times within which the Immigration Appellate Authority will deal with the appeals. This information has been included in order to provide more information for the parties on how they can expect their appeal to proceed. The rules include safeguards, which enable appellants who may not be suitable for the fast track process to be transferred from the pilot scheme to the main appellate system. As with the Principal Rules, the Fast Track Rules do not provide for time limits for statutory review applications to the Administrative Court or appeals to the Higher Courts as these are outside the remit of the Procedure Rules.

2.2.2 *Procedural changes effective in 2004*

Please explain briefly administrative or legal changes in the application, decision, or appeals process contributing to any numerical changes. Have there been important changes in comparison with the previous year?

Other changes are detailed in the migration and illegal entry sections of this report and should be read in conjunction with this section, as flows of migrants and illegal entrants and procedural changes in these areas may also affect asylum cases.

The Immigration and Nationality Directorate (IND) continued to improve and update its procedures in relation to asylum casework. Some key legislative and procedural changes in 2004 are noted in Table 2.1.

Table 2.1 Procedural changes, announcements and world events in 2004

January 2004	IND increased the use of biometrics to tackle asylum abuse. Visitors to the UK from five east African countries and those travelling on refugee documents issued by other countries from them have to provide fingerprint data before they enter the UK. This move was part of a Government action plan to tackle unfounded asylum claims from Somali nationals and fraudulent claims by individuals claiming to be Somalis. Those applying for visas to come to the UK from Djibouti, Eritrea, Ethiopia, Tanzania and Uganda are required to provide a record of their fingerprints when applying for a visa. Evidence showed that a significant proportion of asylum seekers who claim to be from Somalia are in fact from other east African countries.
February 2004	A further step was taken towards the implementation of full juxtaposed controls at Calais and Dunkirk, with Immigration Officers being given the capacity to refuse entry to those without proper documentation.
March 2004	Agreements with Sweden and Norway to access their fingerprints data and Africa biometrics project under way.
	War Crimes Team created for enforcement where there may have been involvement in the commission of war crimes or crimes against humanity.
	First resettled refugees arrive under the Gateway Protection Programme.

Table 2.1 Procedural changes, announcements and world events in 2004 (continued)

April 2004	Bilateral agreement signed to allow the set-up of a UK control zone in Brussels Midi station.
	The Home Secretary announced a package of measures to tackle student migration abuse as part of the wider review of managed migration. Prior to this, IND had been working closely with the education institutions to create measures to tackle both bogus students and bogus institutions.
	Sexual Offences Act 2003 implemented. This legislation introduced a 14 year maximum penalty for trafficking for sexual exploitation.
	Charging for Leave to Remain applications introduced.
May 2004	From 1st May 2004, EU claims were considered by Non-Suspensive Appeal (NSA) accredited officers, meaning that applicants could now only appeal against a refusal of their asylum claim from outside the UK. Applicants from the new accession states who had already claimed asylum before 1 May 2004 were asked to withdraw their asylum claims.
	DATV regime extended to Kenyan and Tanzanian nationals.
June 2004	Harmondsworth Fast Track pilot introduced. New asylum claimants whose claims are considered straightforward are detained in Harmondsworth pending a quick decision. If unfounded, they will be detained until removed.
July 2004	The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 received Royal Assent on 22 July 2004.
September 2004	Entering the UK without a passport became an offence (Section 2 of the 2004 Act) to discourage destroying of documents.
	Section 35 of the 2004 Act: to encourage compliance with re-documentation, a new offence of failing to comply was created.
November 2004	End to the temporary blanket suspension of enforced returns of failed asylum seekers to Zimbabwe.
December 2004	National Asylum Support Service reviews Dispersal of Asylum Seekers with Healthcare Needs and recommends to improve training for staff, publish healthcare guidance and establish regional contacts.
	UK plans in place to protect victims of humanitarian disasters – UK to adopt European temporary protection directive in early 2005.
	Asian Tsunami.
	Home Office pledges £1 million to the United Nations High Commissioner for Refugees (UNHCR) to continue work resettling recognised refugees and aiding the return of those not in need of protection.

Extension of requirement for Direct Airside Transit Visas (DATV)

As previously mentioned in the Migration section of this report, in May 2004 a further two nationalities (Kenya and Tanzania) were added to the list of countries whose nationals required a DATV to transit in the UK. It is thought that this may have helped reduce the total number of asylum claims from Somali nationals, a proportion of whom use Kenyan and Tanzanian documents to reach the UK under the transit without visa (TWOV) concession.

Extension of juxtaposed border controls

In February 2004, a second phase of juxtaposed border controls was introduced to enable immigration officers to decide the admissibility of passengers prior to embarkation for the UK from the key ports of Calais, Dunkirk and Boulogne. The first phase had been introduced in August 2002.

Resettlement Schemes

In addition to individual applications for asylum, there are three resettlement schemes: the Mandate Refugee Programme; the Ten or More Plan and the Gateway Protection Programme. A mandate refugee is a person who has been recognised as a refugee by, and given protection of, the UNHCR. The Mandate Refugee Programme provides resettlement to those mandate refugees who are in their own country, or in a third country, who are faced with some threat to their safety or wellbeing and also meet set UK criteria. The Ten or More Plan provides resettlement to disabled mandate refugees who have medical needs that cannot be treated in their current place of refuge.

The Gateway Protection Programme was set up under the Nationality, Immigration and Asylum Act 2002. The first refugees arrived in the UK under the programme in March 2004. The programme offers a legal route for genuinely deserving cases and will help to ensure that we are offering protection to those who need it. The vast majority of refugees are unable to pay traffickers and therefore remain in their area of origin, often in very difficult circumstances. The refugees taking part in the programme have been identified and referred to the Home Office by UNHCR. They are assessed individually by Home Office staff to determine whether they are refugees and have no possibility of returning safely to their home country. The Home Office also assesses whether the people's human rights are at risk, whether they are unable to

sustain long-term security and have a lack of local integration in the country where they have sought refuge. Careful screening and consideration of applicants takes place. The programme includes a resettlement plan that begins before the refugees arrive in the UK. In partnership with local authorities and Jobcentre Plus the Home Office aims to help refugees integrate into British society by providing support to enable sustainable employment. The Home Office has agreed to fund all associated resettlement costs, such as health and education, for up to 12 months.

2.2.3 Can you identify European/international factors explaining certain changes regarding asylum trends in 2004 in your Member State? Has this situation changed in comparison with the previous year?

Accession Countries

On 1 May 2004, ten accession countries joined the EU. For further information, see the migration section of this report (1.1.3).

The Dublin II Regulation

Subject to certain transitional arrangements, the provisions of the Dublin II Regulation (EC) No. 343/2003 entered into force on 1 September 2003 for all European Union EU Member States except Denmark¹⁴. The provisions of the Dublin II Regulation replaced those provided by the Dublin Convention since 1997 to determine the Member State responsible for the consideration of an asylum application lodged within the territory of the EU, on the principle that only one Member State can be so responsible. It also provides a mechanism for the transfer of an asylum seeker from one Member State to another in accordance with its provisions.

Since 1 April 2001 Iceland and Norway have also operated under the terms of the Dublin arrangements by virtue of a separate Agreement between those countries and the Member States of the EU. The need to conclude this “Parallel Agreement” was linked to the removal of internal frontier controls between Norway, Iceland and the Schengen States. The Dublin Regulation applied to all new Member States when they acceded to the EU on 1 May 2004.

¹⁴ The Dublin II and Eurodac Regulations could not immediately apply to Denmark because of the terms of a Protocol on the position of Denmark annexed to the Treaty establishing the European Community (TEC) and the Treaty on European Union (TEU) by the Treaty of Amsterdam. Denmark’s Protocol meant that separate legal steps were needed to secure Denmark’s participation in the Regulations. As a result Denmark’s participation is with effect from 1 April 2006. Between 1 September 2003 and 31 March 2006 the transfer of asylum seekers to and from Denmark continued to be subject to the Dublin Convention.

The 'Eurodac' fingerprint database

To support the operation of the Dublin arrangements the EU-wide fingerprint database of asylum applicants and certain other third country nationals, established by the Eurodac Regulation (EC) No. 2725/2000, went live on 15 January 2003. Eurodac allows for the computerised transmission, storage and exchange of fingerprints in order to identify those applicants already known to other participating states. It represents a key part in the strategy to make the Dublin arrangements more effective, as well as tackling multiple asylum applications made by those seeking to abuse our asylum systems.

Other changes are detailed in the migration and illegal entry sections of this report and should be read in conjunction with this section, as changes in these areas may also affect asylum cases.

3. Illegal Entry

As mentioned in the sections on migration and asylum, it is difficult to say with any certainty how policies or initiatives have impacted on the numbers of illegal entrants and returnees. In examining illegal entrants there is the further limitation on the availability of statistics because illegal migrants, by definition, fall outside official statistics. Only those people who come to the attention of the authorities are counted in the official data. It is therefore even more difficult to ascertain the exact effects of policy to prevent illegal entry and residence, as it is impossible to tell how many potential migrants have been prevented from attempting to enter, remain illegally, or have entered illegally without detection. The following analysis can only provide an *indication* of the possible effects that policies have had.

3.1 Analysis and interpretation of statistics

3.1.1 Please describe developments/trends pertaining to the number of refused aliens in 2004 in comparison to the previous year. Have there been changes in the main countries of citizenship of refused aliens since the previous year? If possible, give reasons for these changes/continuity.

Explanation of the data source

The UK began publishing information on people refused entry at port in 2004. Therefore, comparative figures are not available for previous years.

Prior to 2004, the figures published were of people refused entry at port and then subsequently removed. They did not include people who have been refused but not removed (i.e. those who abscond or who are non-removable because of a lack of documentation).

Figures for people refused entry at port and then subsequently removed have been shown. However, it should be noted that figures prior to 2004 exclude dependants of asylum seekers, whereas 2004 figures include dependants of asylum seekers. Figures include people who are known to have departed voluntarily after enforcement action had been initiated against them.

Overall figures were obtained from the **Home Office ‘Control of Immigration: Statistics United Kingdom 2004’** and nationality figures are management information.

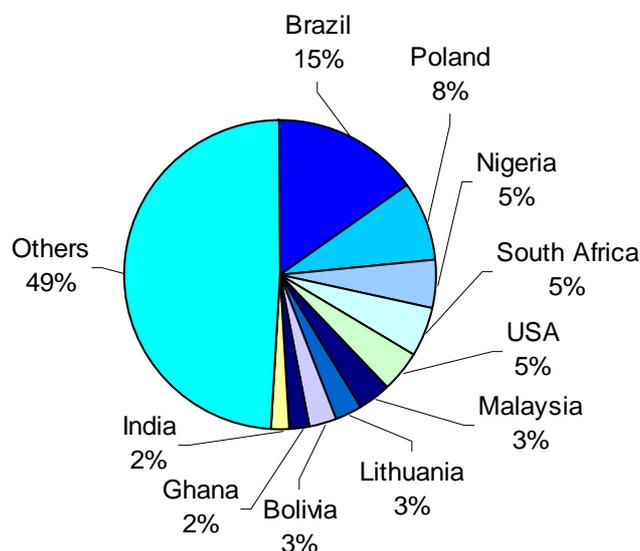
In all cases, figures include cases dealt with at juxtaposed controls outside the UK.

Figures have been rounded to the nearest 5.

There are many reasons why a passenger might be refused entry at port. For instance, he/she might be unable to satisfy an immigration officer that he/she qualifies for leave to enter because of failure to produce the correct documentation.

In 2004, 39,020 people were initially refused leave to enter the UK. Figure 3.1 shows a breakdown of the ten nationalities with the highest number of initial refusals of leave to enter.

Figure 3.1 People initially refused leave to enter the UK, by country of citizenship, 2004



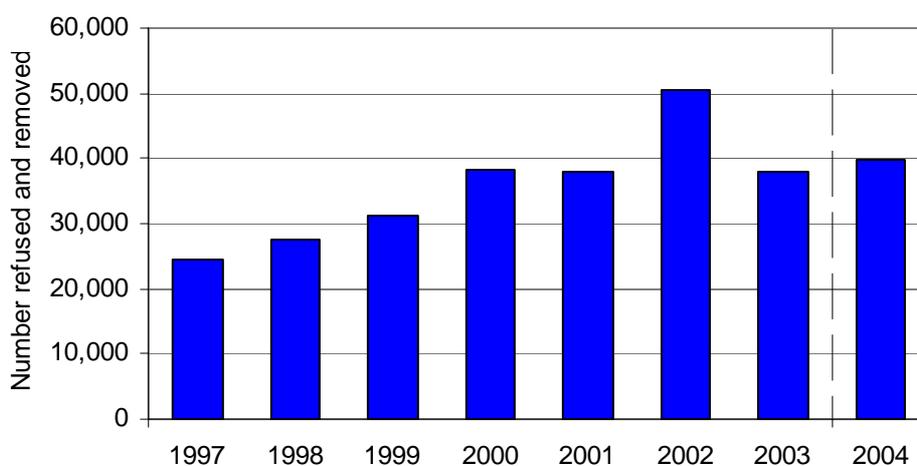
The top ten nationalities made up 51 per cent of all people initially refused leave to enter the UK. With 15 per cent of all initial refusals, Brazilians were the nationality with the highest number of initial refusals (5,935 people). These were followed by Polish nationals (8 per cent, 3,280 people).

Of the top ten countries, Brazil, South Africa and Bolivia were all designated as non-suspensive appeal (NSA) countries¹⁵ in July 2003, while Poland and Lithuania were designated as NSA countries in November 2002. Poland and Lithuania acceded to the EU in May 2004 and so were removed from the list in October 2004 as asylum seekers from these countries are now subject to separate procedures.

People refused at port and subsequently removed

In 2004, 39,730 people were refused at port and subsequently removed. Figure 3.2 shows the trend in people refused entry at port and subsequently removed during the period 1997 to 2004. However, it should be noted that figures prior to 2004 exclude dependants of asylum seekers, whereas 2004 figures include dependants of asylum seekers.

Figure 3.2 Total number of people refused entry at port and subsequently removed, 1997-2004¹⁶



As can be seen in Figure 3.2, the number of people refused entry at port and subsequently removed has generally increased year on year, with the exceptions of a decrease in 2001 and 2003. The greatest increase was in 2002 (up 33 per cent on the previous year) and although there was a 24 per cent decrease in 2003, the figure was still greater than in 2001.

¹⁵ For further information on NSA countries, please see 2.1 of the Asylum section of this report.

¹⁶ Prior to 2004, figures exclude dependants of asylum seekers. From 2004 onwards, figures have included dependants of asylum seekers.

3.1.2 Please describe developments/trends pertaining to the number of apprehended aliens in 2004 in comparison to the previous year. Have there been changes in the main countries of citizenship of apprehended aliens in 2004? If possible, give reasons for these changes/continuity.

Data are not collected in the UK on the number of apprehended aliens. Data are collected on the initiation of enforcement action (illegal entrants detected and people issued with a notice of intention to deport, recommended for deportation by a court or proceeded against under Section 10 of the Immigration and Asylum Act 1999). However, from 2003 onwards, these figures were unavailable owing to data quality issues. Therefore, no information is available for 2004.

The Case Information Database (CID) has been the main source of Border and Immigration Agency (BIA) (formerly Immigration and Nationality Directorate) enforcement data since April 2003; however the service of papers is not fully recorded on CID. BIA is currently putting in place new processes to improve its data collection systems for the future in this area.

3.1.3 Please describe developments/trends pertaining to the number of aliens removed in 2004 in comparison to the previous year. Have there been changes in the main countries of citizenship of removed aliens? If possible, explain the underlying factors for these changes/continuity.

Explanation of the data source

Overall figures were obtained from the **Home Office ‘Control of Immigration: Statistics United Kingdom 2004’** and nationality figures are management information.

No information is available for nationality prior to 2004, so comparisons with previous years can only be made for overall figures.

Data on dependants of asylum seekers have only been collected since April 2001. Therefore, figures prior to 2001 exclude dependants of asylum seekers and from 2001 onwards, figures include dependants of asylum seekers.

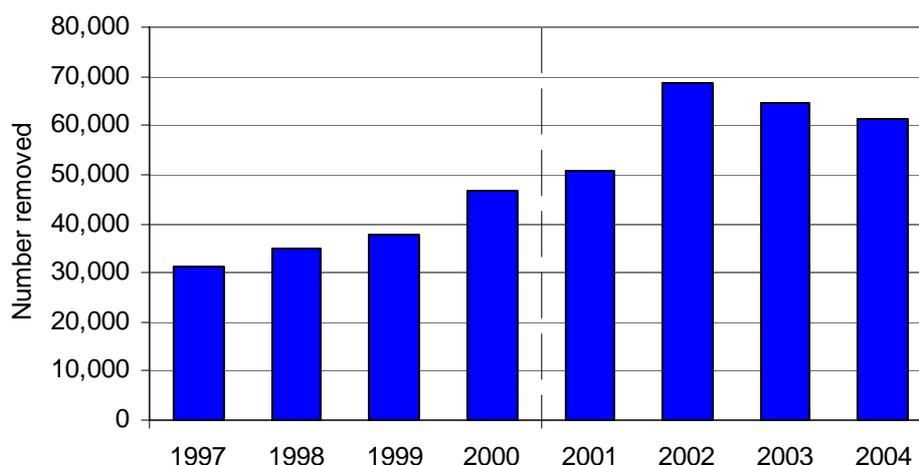
Figures include people who are known to have departed voluntarily after enforcement action had been initiated against them, and also those people who left under Assisted Voluntary Return Programmes run by the IOM.

Figures include cases dealt with at juxtaposed controls outside the UK.

Figures have been rounded to the nearest 5.

In 2004, 61,160 people were removed. This was a 5 per cent decrease compared to the previous year (64,390). Figure 3.3 shows the trend in people removed during the period 1997 to 2004.

Figure 3.3 Total number of people removed, 1997-2004¹⁷



As can be seen in Figure 3.3, the number of people removed followed a general pattern of increase between 1997 and 2002. This was followed by decreases in both 2003 (down 6 per cent) and 2004 (down 5 per cent). However, it should be noted that prior to 2001 figures exclude dependants of asylum seekers and figures, whereas from 2001 onwards, figures include dependants of asylum seekers.

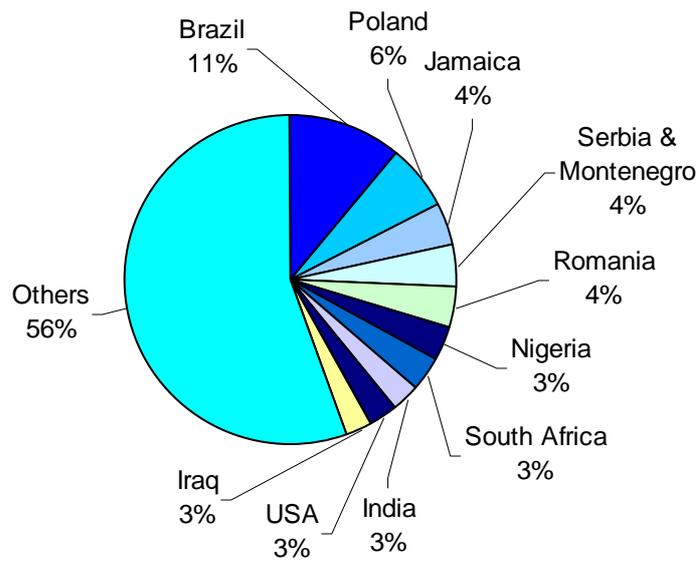
The ten nationalities with the highest number of nationals removed from the UK made up 44 per cent of the total (see Figure 3.4). With 11 per cent of all removals, Brazilians were the nationality with the highest number of people removed (6,725 people). This was followed by Polish nationals (6 per cent, 3,955 people).

Of the top ten countries, Brazil and South Africa were both designated as non-suspensive appeal (NSA) countries¹⁸ in July 2003, Jamaica, Serbia & Montenegro and Romania were designated as NSA countries in April 2003 and Poland was designated as an NSA country in November 2002. Poland acceded to the EU in May 2004 and so was removed from the list in October 2004 as asylum seekers from the Accession countries are now subject to separate procedures. These factors may have impacted on the number of removals of unsuccessful applicants in 2004.

¹⁷ Prior to 2001, figures exclude dependants of asylum seekers and figures, whereas from 2001 onwards, figures include dependants of asylum seekers.

¹⁸ For further information on NSA countries, please see 2.1 of the Asylum section of this report.

Figure 3.4 People removed, by country of citizenship, 2004



3.1.4 In cases of refused, apprehended, and removed aliens in 2004, are these from the same countries in all categories, or are particular citizenship groups more common in a particular category? If possible, explain the underlying causes.

The ten nationalities with the highest number of refusals and removals in 2004 can be seen in Tables 3.1 and 3.2. In 2004, six countries were in the top ten for both numbers of refusals at port and numbers of removals.

Table 3.1 Ten nationalities with the highest number of nationals initially refused leave to enter the UK, 2004

Refused at port		
Nationality	Number	Percentage
Brazilian	5,935	15
Polish	3,280	8
Nigerian	1,950	5
South African	1,925	5
USA national	1,790	5
Malaysian	1,250	3
Lithuanian	1,135	3
Bolivian	1,035	3
Ghanaian	785	2
Indian	750	2

Table 3.2 Ten nationalities with the highest number of nationals removed from the UK, 2004

Removed		
Nationality	Number	Percentage
Brazilian	6,725	11
Polish	3,955	6
Jamaican	2,635	4
Serbian & Montenegrin	2,410	4
Romanian	2,380	4
Nigerian	2,110	3
South African	2,040	3
Indian	1,720	3
USA national	1,675	3
Iraqi	1,610	3

For both refusals and removals, Brazilian nationals constituted the largest proportion – 15 per cent of all refusals at port and 11 per cent of all removals. Polish nationals were second, with 8 per cent and 6 per cent respectively. Other countries of origin that were in the top ten for both refusals and removals were Nigeria (third and sixth), South Africa (fourth and seventh), USA (fifth and ninth) and India (tenth and eighth). It should be noted that these figures do not in themselves indicate risk of refusal/removal by nationality, since they do not take into account either the population of the country concerned or the total number of passenger movements of its nationals.

As already mentioned in parts 2.1.1 and 2.1.3 of this report, of the top ten countries in either refusals or removals, Bolivia, Brazil, Jamaica, Lithuania, Poland, Romania, Serbia & Montenegro and South Africa were all designated as non-suspensive appeal (NSA) countries in either 2002 or 2003. This may have impacted on the number of refusals of asylum applications and/or removals unsuccessful applicants in 2004.

3.2 Contextual interpretations (legal, political and international factors)

3.2.1 *New or amended laws influencing irregular immigration in 2004*

Please explain the most important changes in policies regarding refusal of entry or return from the previous year.

Other changes are detailed in the migration and asylum sections of this report and should be read in conjunction with this section, as the number of people granted entry to the UK or claiming asylum and the changes in law in these areas may also affect refusals and removals.

Procedures in case of identified illegal entry and illegal residence in the UK

It is a criminal offence to knowingly enter the UK in breach of a deportation order or without leave. Similarly it is an offence, if limited leave has been granted, to remain beyond the period of leave or fail to observe a condition of that leave.

It is also an offence to obtain or seek to obtain leave to enter or remain in the UK or to secure or seek to secure the avoidance, postponement or revocation of enforcement action by any means that include deception.

In practice few illegal entrants are prosecuted through the courts; the majority of identified offenders are removed from the UK as soon as is lawfully and practically possible following their detection.

The Home Office continues to work with other Government departments and non-governmental agencies to overcome barriers to the return of immigration offenders to some countries.

- The UK Immigration Service (UKIS) supports/runs a variety of Assisted Voluntary Return (AVR) programmes which are operated on its behalf by The International Organization for Migration (IOM).
- Enforced Return – most enforced removals are successfully undertaken using scheduled flights without the need for in-flight escorts, although the proportion

requiring in-flight escorts is increasing. The decision regarding these escorts is taken on a case-by-case basis, depending upon the risk assessment of the particular circumstances of the person concerned.

Asylum and Immigration (Treatment of Claimants, etc) Act 2004

This Act sets out the UK's third phase of reforms to the asylum and immigration system, building on the action that the UK took in the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002 and the ongoing operational improvements the UK is achieving. The Act also responds to the continuing and increasingly sophisticated abuse of the system.

The 2004 Act is intended to provide a quicker and more robust system that protects those in genuine need but deters and prevents behaviour designed to frustrate processes. The UK is getting tougher on traffickers and others seeking to play the asylum system to ensure that the public has confidence in immigration controls. In turn this will ensure that genuine refugees and legal migrants continue to be welcomed and valued for the important contribution they make to life in the UK.

The main part of the Act relating to illegal entry is to “improve the speed and finality of the appeals and removals system” by:

- creating a single tier Asylum and Immigration appeals system;
- ensuring failed asylum-seeking families are not eligible for indefinite support where they are not co-operating with the removals process;
- removing appeal rights in non-asylum cases where the person has failed to meet mandatory pre-determined requirements;
- enabling appeals against deprivation of British citizenship and appeals against removal or deportation to be heard together to speed up the process.

Immigration (Restrictions on Employment) Order 2004

Further information on this Order can be seen in the migration section of this report (1.2.1).

3.2.2 *Procedural changes influencing immigration in 2004*

Please describe modifications to the procedure in case of identified illegal entry, illegal residence and return since the previous year. Include changes that are the result of both administrative and legal developments.

Other major changes are detailed in the asylum and migration sections of this report and should be read in conjunction with this section, as the number of people granted entry to the UK or claiming asylum and procedural changes, may affect the number who are refused and returned. Some key legislative and procedural changes in 2004 are noted in Table 3.3.

Table 3.3 Procedural changes, announcements and world events in 2004

January 2004	Indian nationals without permission to remain in the UK will be returned to India more quickly under a new agreement reached by the Home Secretary.
February 2004	A further step was taken towards the implementation of full juxtaposed controls at Calais and Dunkirk, with Immigration Officers being given the capacity to refuse entry to those without proper documentation.
March 2004	Agreements with Sweden and Norway to access their fingerprints data and the Africa biometrics project got under way.
April 2004	Charging for leave to remain applications introduced.
	Bi-lateral agreement signed to allow the setup of a UK control zone in Brussels Midi station.
	Foreign and Commonwealth Office publicity leaflet to Brazilians to deter travel to the UK.
	Sexual Offences Act 2003 implemented. This legislation introduced a 14 year maximum penalty for trafficking for sexual exploitation.
May 2004	The following countries acceded to the European Union; Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.
	From 1st May 2004 EU claims were considered by NSA accredited officers, meaning that applicants could now appeal against a refusal of their asylum claim only from outside the UK. Applicants from the new accession states who had already claimed asylum before 1 May 2004 were asked to withdraw their asylum claims.
	DATV regime extended to Kenyan and Tanzanian nationals.

Table 3.3 Procedural changes, announcements and world events in 2004 (continued)

June 2004	Harmondsworth Fast Track pilot introduced. New asylum claimants whose claims are considered straight forward are detained in Harmondsworth pending a quick decision. If unfounded, they will be detained until removed.
July 2004	The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 received Royal Assent on 22 July 2004.
September 2004	Entering the UK without a passport became an offence (Section 2 of the 2004 Act) to discourage destroying of documents but not to penalise those with no or false documents.
	Section 35 of the 2004 Act, to encourage compliance with re-documentation, a new offence of failing to comply to enable issuing of travel documents.
October 2004	Initial phase of impact 2 completed, to provide expert border guard assistance to Serbia and Montenegro.
November 2004	End to the temporary blanket suspension of enforced returns of failed asylum seekers to Zimbabwe.
December 2004	Section 9 of the 2004 Act came into force. Those who traffic people can get up to 14 years in jail, increased powers to immigration officers for entry, search and seizure, all came into effect.
	Designated Register Offices to Tackle Sham Marriages (Nationwide) and strict new eligibility criteria for those under immigration controls before notice to marry is accepted, from 1 February 2005.
	National Asylum Support Service reviews Dispersal of Asylum Seekers with Healthcare Needs and recommends to improve training for staff, publish healthcare guidance and establish regional contacts.

3.2.3 Can you identify European/international factors explaining certain changes/continuity regarding illegal entry in 2004 in your Member State?

Accession Countries

On 1 May 2004, ten accession countries joined the EU. For further information, see the Migration section of this report (1.13).

The Dublin II Regulation

Subject to certain transitional arrangements, the provisions of the Dublin II Regulation (EC) No. 343/2003 entered into force on 1 September 2003 for all European Union EU Member States except Denmark¹⁹. The provisions of the Dublin II Regulation replaced those provided by the Dublin Convention since 1997 to determine the Member State responsible for the consideration of an asylum application lodged within the territory of the EU, on the principle that only one Member State can be so responsible. It also provides a mechanism for the transfer of an asylum seeker from one Member State to another in accordance with its provisions. Factors that may determine responsibility include previous illegal entry or presence in a Member State.

Since 1 April 2001 Iceland and Norway have also operated under the terms of the Dublin arrangements by virtue of a separate Agreement between those countries and the Member States of the EU. The need to conclude this “Parallel Agreement” was linked to the removal of internal frontier controls between Norway, Iceland and the Schengen States. The Dublin Regulation applied to all new Member States when they acceded to the EU on 1 May 2004.

¹⁹ The Dublin II and Eurodac Regulations could not immediately apply to Denmark owing to the terms of a Protocol on the position of Denmark annexed to the Treaty establishing the European Community (TEC) and the Treaty on European Union (TEU) by the Treaty of Amsterdam. Denmark’s Protocol meant that separate legal steps were needed to secure Denmark’s participation in the Regulations. As a result Denmark’s participation is with effect from 1 April 2006. Between 1 September 2003 and 31 March 2006 the transfer of asylum seekers to and from Denmark continued to be subject to the Dublin Convention.

The 'Eurodac' fingerprint database

To support the operation of the Dublin arrangements the EU-wide fingerprint database of asylum applicants and certain other third country nationals apprehended in connection with the irregular crossing of an external border²⁰, established by the Eurodac Regulation (EC) No. 2725/2000, went live on 15 January 2003. Eurodac allows for the computerised transmission, storage and exchange of fingerprints in order to identify those applicants already known to other participating states. It represents a key part in the strategy to make the Dublin arrangements more effective, as well as tackling multiple asylum applications made by those seeking to abuse our asylum systems.

Other changes are detailed in the migration and asylum sections of this report and should be read in conjunction with this section, as changes in these areas may also affect refusals and removals.

²⁰ Illegal entry by land, sea or air into the territory of a Member State having come from a third (non-EU) country

Further explanations of data sources

Labour Force Survey (LFS)

The LFS estimates by nationality are produced from data that are currently weighted (grossed) to population estimates published by ONS in February and March 2003. They do not incorporate the most recent and higher population estimates (published in August and September 2007). The LFS estimates will be subject to revision when they are re-weighted to the latest population estimates. This is not expected to be before spring 2008.

The LFS sample covers people living in private households, those in National Health Service accommodation, and students living in halls of residence who have a UK-resident parent. Students living in halls of residence who do not have a UK-resident parent are not covered by the sample. Those who have been living at the address for less than six months are not eligible to take part in the survey.

The LFS does not cover people living in other types of communal establishment (such as hostels, hotels, boarding houses, or mobile home sites).

The population estimates used to weight the LFS are of the 'usually resident' UK population. The population figures cover long-term international migrants (people who change their country of residence for 12 months or more). They do not include short-term migrants, such as people moving to the UK for less than 12 months, nor do they exclude from the usually resident population people moving out of the UK for less than 12 months.

The datasets are weighted to local authorities, sex and age, but not nationality, so the weighting does not adjust for non-response bias in nationality.

As with any sample survey, the LFS results are subject to a margin of uncertainty.

Annual Population Survey

The Annual Population Survey (APS) combines results from the Labour Force Survey (LFS) and the English, Welsh and Scottish Labour Force Survey boosts (during 2004 and 2005 the APS also comprised an additional boost for England – APS(B) – which is funded by the Department for Work and Pensions, Department for Education and Skills, the National Assembly for Wales and the Scottish Executive).

APS datasets are produced quarterly with each dataset containing 12 months of data. There are approximately 170,000 households and 360,000 people per dataset. More robust local area labour market estimates are available from the APS than from the main LFS.

Datasets are deposited at the UK Data Archive. Estimates of employment, unemployment and inactivity rates and educational qualifications down to Unitary Authority and Parliamentary Constituency Area are available on Nomis – a web-based database of labour market statistics run on behalf of ONS by the University of Durham.

Residence Permit Categories

The sub-categories of each of the main categories of acceptance are shown below.

Family Formation/Reunification

‘On entry’

- Spouse/fiancé(e)
- Children granted leave to enter for a probationary year as dependants of people settled

‘After entry’

- Fiancé(e) and dependants
- Spouse and dependants
- Issues of residence documentation to third country nationals who are family members of EEA nationals²¹

Study

‘On entry’

- Students and dependants

‘After entry’

- Students and dependants

Employment

‘On entry’

- Work permit holders and dependants
- UK ancestry
- Domestic workers
- Ministers of Religion
- Postgraduate doctors or dentists
- Au pairs

‘After entry’

- Trainees
- Au pairs
- Work permit holders
- Permit free
- Independent means
- Business
- Dependants of the above

²¹ A residence card is issued to a non-EEA national family member of an EEA national when sought. It confirms their status as a family member of an EEA national and is normally issued for a period of five years. It is not compulsory, but can be used to confirm that they are exercising a treaty right.

Other

'On entry'

- Working holidaymakers
- Diplomats, consular officers or people on Foreign and Commonwealth government mission
- Others given leave to enter
- Accepted for settlement on arrival

'After entry'

- Visitors
- Working holidaymakers
- Other
- Unknown
- People granted settlement in-country
- In-country grants of asylum
- Dependants of each of the above categories.

Further information on these sub-categories can be found in the Home Office publication 'Control of Immigration: Statistics United Kingdom 2004'

(<http://www.homeoffice.gov.uk/rds/pdfs05/hosb1405.pdf>).