

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 FEBRUARY 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(AE12/0299) Program 3.1: Border Management

Senator Cash asked:

What is the refusal rate of primary decisions of IMA protection applications? What is the refusal rate after review? How many have been challenged in the courts? How many negative primary and review decisions have been overturned in the courts? What is the final acceptance rate, after administrative and judicial review, of IMA's by country of origin? How does this compare internationally?

Answer:

Annual and quarterly figures for grant and refusal rates for IMAs and non-IMAs are published on the DIAC website at:

www.immi.gov.au/media/publications/statistics/asylum/

www.immi.gov.au/media/publications/statistics/asylum/_files/asylum-trends-aus-annual-2010-11.pdf

Updates will be released at the end of each quarter, once data is collated.

Refugee status determination rates vary internationally for a range of reasons such as different caseload characteristics and claims presented; other alternatives for asylum seekers including humanitarian and compassionate visas; and differences in explicit policy directions on how to assess claims in other countries. In terms of decision outcomes, Australia lies in the middle of a cluster of countries such as Canada, the United States and the United Kingdom.

We understand the second part of this question to be relating to applications for judicial review by Irregular Maritime Arrivals (IMAs) following the decision of the High Court in *Plaintiff M61/2010E v. Commonwealth of Australia* and *Plaintiff M69 of 2010 v. Commonwealth of Australia*, [2010] HCA 41. In this caseload, the courts do not 'overturn' decisions; instead they make declarations that recommendations made by Independent Merits Reviewers (IMRs) are affected by legal errors. As at 31 December 2011, the Court has handed down 19 judgments declaring that the IMR has made a legal error.