

# Country Report: Ireland



2022  
Update

## Acknowledgements & Methodology

The first edition of this report was written by Sharon Waters, Communications and Public Affairs Officer with the Irish Refugee Council and was edited by ECRE. The first and second updates of this report were written by Nick Henderson, Legal Officer at the Irish Refugee Council Independent Law Centre. The third and fourth updates were written by Maria Hennessy, Legal Officer at the Irish Refugee Council Independent Law Centre. The 2017 update was written by Luke Hamilton, Legal Officer with the Irish Refugee Council Independent Law Centre. The 2018 and 2019 updates were written by Luke Hamilton, Legal Officer with the Irish Refugee Council Independent Law Centre and Rosemary Hennigan, Policy and Advocacy Officer with the Irish Refugee Council. The 2020 update was written by Nick Henderson and Brian Collins, with the assistance of Carmen del Prado. The 2021, 2022 and 2023 updates were written by Hayley Dowling, Caseworker at the Irish Refugee Council Information and Advocacy Service with support from Nick Henderson, Chief Executive of the Irish Refugee Council.

This report draws on information obtained through a mixture of desk-based research and direct correspondence with relevant agencies, and information obtained through the Irish Refugee Council's own casework and policy work. Of particular relevance throughout were the latest up-to-date statistics from the International Protection Office (IPO) and the International Protection Accommodation Service (IPAS), including their annual and monthly reports; data from the International Protection Appeals Tribunal (IPAT); as well as various reports and statements from stakeholders such as the Irish Human Rights and Equality Commission, UNHCR Ireland and NGOs working on the ground with refugees and asylum seekers. The Irish Refugee Council is grateful to all colleagues for their assistance in obtaining information used to compile this report.

The information in this report is up-to-date as of 31 December 2022 unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA), funded by the European Programme for Integration and Migration (EPIM), a collaborative initiative by the Network of European Foundations, and the European Union's Asylum, Migration and Integration Fund (AMIF). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of EPIM or the European Commission.



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## Glossary & List of Abbreviations

|                       |                                                                                                     |
|-----------------------|-----------------------------------------------------------------------------------------------------|
| <b>CERD</b>           | United Nations Committee for the Elimination of Racial Discrimination                               |
| <b>AfHAP</b>          | Afghan Humanitarian Admissions Programme                                                            |
| <b>Dáil Éireann</b>   | Dáil Éireann refers to the lower house and principal chamber of the national parliament of Ireland. |
| <b>CJEU</b>           | Court of Justice of the European Union                                                              |
| <b>Co.</b>            | County                                                                                              |
| <b>CPT</b>            | European Committee for the Prevention of Torture                                                    |
| <b>DP</b>             | Direct Provision – System for the material reception of asylum seekers                              |
| <b>ECHR</b>           | European Convention on Human Rights                                                                 |
| <b>ECtHR</b>          | European Court of Human Rights                                                                      |
| <b>ELA</b>            | Early Legal Advice                                                                                  |
| <b>EMN</b>            | European Migration Network                                                                          |
| <b>EROC</b>           | Emergency Reception and Orientation Centre                                                          |
| <b>ESRI</b>           | Economic and Social Research Institute                                                              |
| <b>FLAC</b>           | Free Legal Advice Centres                                                                           |
| <b>Garda Síochána</b> | Irish Police Force                                                                                  |
| <b>GNIB</b>           | Garda National Immigration Bureau                                                                   |
| <b>GRETA</b>          | Group of Experts on Action against Trafficking in Human Beings                                      |
| <b>HIQA</b>           | Health Information and Quality Authority                                                            |
| <b>HSE</b>            | Health Services Executive                                                                           |
| <b>IFPA</b>           | Irish Family Planning Association                                                                   |
| <b>IHAP</b>           | IRPP Humanitarian Admission Programme                                                               |
| <b>IHREC</b>          | Irish Human Rights and Equality Commission                                                          |
| <b>INIS</b>           | Irish Naturalisation and Immigration Service                                                        |
| <b>IPA</b>            | International Protection Act 2015                                                                   |
| <b>IPAS</b>           | International Protection Accommodation Services                                                     |

|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| <b>IPAT</b>    | International Protection Appeals Tribunal                                |
| <b>IPO</b>     | International Protection Office                                          |
| <b>IRC</b>     | Irish Refugee Council                                                    |
| <b>IRPP</b>    | Irish Refugee Protection Programme                                       |
| <b>ISD</b>     | Immigration Service Delivery                                             |
| <b>JRS</b>     | Jesuit Refugee Service                                                   |
| <b>MLR</b>     | Medico-Legal Report                                                      |
| <b>MASI</b>    | Movement of Asylum Seekers Ireland                                       |
| <b>OPMI</b>    | Office for the Promotion of Migrant Integration                          |
| <b>ORAC</b>    | Office of the Refugee Applications Commissioner                          |
| <b>PILA</b>    | Public Interest Law Alliance, a project of FLAC                          |
| <b>RAT</b>     | Refugee Appeals Tribunal                                                 |
| <b>RCNI</b>    | Rape Crisis Network Ireland                                              |
| <b>RIA</b>     | Reception and Integration Agency                                         |
| <b>RLS</b>     | Refugee Legal Service                                                    |
| <b>SHAP</b>    | Syrian Humanitarian Admission Programme                                  |
| <b>SI</b>      | Statutory Instrument                                                     |
| <b>SPIRASI</b> | NGO specialising in assessing and treating trauma and victims of torture |
| <b>TD</b>      | Teachta Dála (Irish equivalent term for Member of Parliament)            |
| <b>TUSLA</b>   | Irish Child and Family Agency                                            |
| <b>UNHCR</b>   | United Nations High Commissioner for Refugees                            |

## Statistics

### Overview of statistical practice

Since January 2017, the International Protection Office (IPO) has been responsible for receiving and examining applications. The IPO publishes brief monthly statistical reports on international protection applications.<sup>1</sup> The Immigration Service Delivery (ISD) (formerly Irish Naturalisation and Immigration Service (INIS)) is part of the Department of Justice and Equality and provides data about asylum and managed migration in Ireland to Eurostat, the statistical office of the European Union. This data is published on the EU open data portal along with data from other European countries.<sup>2</sup>

### Applications and granting of protection status at first instance: 2022

|              | Applicants in 2022 | Pending at end 2022 | Refugee status | Subsidiary protection | Humanitarian protection | Rejection on merits | Refugee rate | Sub. Prot. rate | Hum. Prot. rate | Rejection rate |
|--------------|--------------------|---------------------|----------------|-----------------------|-------------------------|---------------------|--------------|-----------------|-----------------|----------------|
| <b>Total</b> | 13,651             | 14,103              | 1,383          | 69                    | 2,081                   | 869                 | 31%          | 2%              | 46%             | 19%            |

Breakdown by countries of origin of the total numbers

|                 |       |        |   |   |   |   |   |   |   |   |
|-----------------|-------|--------|---|---|---|---|---|---|---|---|
| <b>Georgia</b>  | 2,706 | 2,911  | - | - | - | - | - | - | - | - |
| <b>Algeria</b>  | 1,766 | 1,870  | - | - | - | - | - | - | - | - |
| <b>Somalia</b>  | 1,567 | 1,632  | - | - | - | - | - | - | - | - |
| <b>Nigeria</b>  | 1,108 | 1,241  | - | - | - | - | - | - | - | - |
| <b>Zimbabwe</b> | 973   | 5, 483 | - | - | - | - | - | - | - | - |

Source: Statistics provided by International Protection Office, March 2023.

<sup>1</sup> IPO, *Statistics*, available at: <https://bit.ly/3JCrQzS>.

<sup>2</sup> ISD, *Open Data*, available at: <https://bit.ly/3X5r5T4>.



**Gender/age breakdown of the total number of applicants: 2022**

|                                   | Number | Percentage |
|-----------------------------------|--------|------------|
| <b>Total number of applicants</b> | 13,651 | -          |
| Men                               | 9,216  | 68%        |
| Women                             | 4,425  | 32%        |
| Gender not specified              | 10     | 0.001%     |
| Children                          | 2,418  | 18%        |
| Unaccompanied children            | 43     | 0.314%     |

**Comparison between first instance and appeal decision rates: 2022**

|                                  | First instance |            | Appeal           |            |
|----------------------------------|----------------|------------|------------------|------------|
|                                  | Number         | Percentage | Number           | Percentage |
| <b>Total number of decisions</b> | 4,402          | -          | 1,244            | -          |
| Positive decisions               | 3,533          | 80%        | 477              | 38%        |
| • <i>Refugee status</i>          | 1,383          | 31%        | 443              | 36%        |
| • <i>Subsidiary protection</i>   | 69             | 2%         | 34               | 3%         |
| • <i>Permission to remain</i>    | 2,081          | 46%        | -                | -          |
| Negative decisions               | 869            | 20%        | 767 <sup>3</sup> | 62%        |

Source: International Protection Office, March 2023; International Protection Appeals Tribunal, January 2023.

<sup>3</sup> Appeals rejected on merits (761) and appeals dismissed as inadmissible (6).

## Overview of the legal framework

The most recent version of relevant national legislation is available at: <http://bit.ly/2kneBnp>.

### Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

| Title (EN)                                   | Web Link                                                  |
|----------------------------------------------|-----------------------------------------------------------|
| International Protection Act 2015            | <a href="http://bit.ly/2inFha1">http://bit.ly/2inFha1</a> |
| Immigration Act 1999                         | <a href="http://bit.ly/1SFAWqw">http://bit.ly/1SFAWqw</a> |
| Immigration Act 2003                         | <a href="http://bit.ly/1CTTd1H">http://bit.ly/1CTTd1H</a> |
| Immigration Act 2004                         | <a href="http://bit.ly/1Kovj0V">http://bit.ly/1Kovj0V</a> |
| Illegal Immigrants (Trafficking Act) 2000    | <a href="http://bit.ly/1lifDWh">http://bit.ly/1lifDWh</a> |
| European Convention on Human Rights Act 2003 | <a href="http://bit.ly/1g8Sks4">http://bit.ly/1g8Sks4</a> |

### Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

| Title (EN)                                                                                                                                                        | Web Link                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| S.I. No. 541 of 2022 The European Communities (International Protection Procedures) Regulations 2022                                                              | <a href="https://bit.ly/3unpuvU">https://bit.ly/3unpuvU</a> |
| S.I. No. 542 of 2022 The International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022                                      | <a href="https://bit.ly/3un6w8Q">https://bit.ly/3un6w8Q</a> |
| S.I. No. 86 of 2022 Immigration Act (Visas) (Amendment) Order 2022                                                                                                | <a href="https://bit.ly/3H2VBZn">https://bit.ly/3H2VBZn</a> |
| S.I. No. 364 of 2022 Immigration Act 2004 (Visas) (Amendment) (No. 2) Order 2022                                                                                  | <a href="https://bit.ly/3uns98S">https://bit.ly/3uns98S</a> |
| S.I. No. 725 of 2020 International Protection Act 2015 (Safe Third Country) Order 2020                                                                            | <a href="https://bit.ly/3cgp1nc">https://bit.ly/3cgp1nc</a> |
| S.I. No. 436 of 2020 Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020 | <a href="https://bit.ly/2NAaNDF">https://bit.ly/2NAaNDF</a> |
| S.I. No 409 of 2017 European Union (Subsidiary Protection) Regulations 2017                                                                                       | <a href="http://bit.ly/2E7pPbd">http://bit.ly/2E7pPbd</a>   |
| S.I. No 116 of 2017 International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017                                                       | <a href="http://bit.ly/2xoWEz8">http://bit.ly/2xoWEz8</a>   |

|                                                                                                                                   |                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| S.I. No 230 of 2018 European Communities (Reception Conditions) Regulations 2018                                                  | <a href="https://bit.ly/2KW1T09">https://bit.ly/2KW1T09</a> |
| S.I. No 134 of 2016 Immigration Act 1999 (Deportation) (Amendment) Regulations 2016                                               | <a href="http://bit.ly/2DFrK9N">http://bit.ly/2DFrK9N</a>   |
| S.I. No. 62 of 2018 European Union (Dublin System) Regulations 2018                                                               | <a href="https://bit.ly/2H4mj2y">https://bit.ly/2H4mj2y</a> |
| S.I. No 121 of 2018 International Protection Act 2015 (Safe Countries of Origin) Order 2018                                       | <a href="https://bit.ly/2l9j2Cm">https://bit.ly/2l9j2Cm</a> |
| S.I. No 668 of 2016 International Protection Act 2015 (Deportation) Regulations 2016                                              | <a href="http://bit.ly/2E8uN7G">http://bit.ly/2E8uN7G</a>   |
| S.I. No 667 of 2016 International Protection Act 2015 (Travel Document) Regulations 2016                                          | <a href="http://bit.ly/2GfErpC">http://bit.ly/2GfErpC</a>   |
| S.I. No 666 of 2016 International Protection Act 2015 (Places of Detention) Regulations 2016                                      | <a href="http://bit.ly/2rDSkL0">http://bit.ly/2rDSkL0</a>   |
| S.I. No 665 of 2016 International Protection Act 2015 (Voluntary Return) Regulations 2016                                         | <a href="http://bit.ly/2GeKxGL">http://bit.ly/2GeKxGL</a>   |
| S.I. No 664 of 2016 International Protection Act 2015 (Permission to Remain) Regulations 2016                                     | <a href="http://bit.ly/2rFcFiP">http://bit.ly/2rFcFiP</a>   |
| S.I. No 662 of 2016 International Protection Act 2015 (Temporary Residence Certificate) (Prescribed Information) Regulations 2016 | <a href="http://bit.ly/2Gh8WLO">http://bit.ly/2Gh8WLO</a>   |
| S.I. No 661 of 2016 International Protection Act 2015 (Establishment Day) Order 2016                                              | <a href="http://bit.ly/2GhLyhl">http://bit.ly/2GhLyhl</a>   |
| S.I. No 660 of 2016 International Protection Act 2015 (Application for International Protection Form) Regulations 2016            | <a href="http://bit.ly/2FeRwy5">http://bit.ly/2FeRwy5</a>   |
| S.I. No 663 of 2016 International Protection Act 2015 (Commencement) (No.3) Order 2016                                            | <a href="http://bit.ly/2GhLBd1">http://bit.ly/2GhLBd1</a>   |
| S.I. No 133 of 2016 International Protection Act 2015 (Commencement) (No. 2) Order 2016                                           | <a href="http://bit.ly/2nbsOht">http://bit.ly/2nbsOht</a>   |
| S.I. No 26 of 2016 International Protection Act 2015 (Commencement) Order 2016                                                    | <a href="http://bit.ly/2FeTbnj">http://bit.ly/2FeTbnj</a>   |
| S.I. No 518 of 2006 European Communities (Eligibility for Protection) Regulations 2006                                            | <a href="http://bit.ly/1OpPpWj">http://bit.ly/1OpPpWj</a>   |
| S.I. No. 81 of 2017 Civil Legal Aid (International Protection Appeals Tribunal) Order 2017                                        | <a href="https://bit.ly/2BezlvK">https://bit.ly/2BezlvK</a> |
| S.I. No 55 of 2005 Immigration Act 1999 (Deportation) Regulations 2005                                                            | <a href="http://bit.ly/1frfsP">http://bit.ly/1frfsP</a>     |
| S.I. No 708 of 2003- Aliens (Visas) Order 2003                                                                                    | <a href="http://bit.ly/1lme8uH">http://bit.ly/1lme8uH</a>   |
| S.I. No 103 of 2002- Immigration Act 1999 (Deportation) Regulations 2002                                                          | <a href="http://bit.ly/1MM0BMq">http://bit.ly/1MM0BMq</a>   |

The International Protection Act 2015 has repealed many of the previous statutory instruments and regulations pertaining to the Irish asylum system. Now the Minister has the power to make new regulations under Section 3 for any matter referred to in the International Protection Act 2015

## Overview of main changes since the previous report update

This report was previously updated in **April 2022**.

### International protection

#### *Asylum procedure.*

- ❖ **Key asylum statistics:** In 2022, 13,651 asylum applications were lodged.<sup>4</sup> This figure represents the highest number of applications ever made in a year. The International Protection Office (IPO) issued a total of 4,402 decisions, 80% of which were positive.<sup>5</sup> Among these, 1,452 decisions granted international protection to applicants, while 2,081 granted humanitarian permission to remain.<sup>6</sup> The significant increase in grants of humanitarian permission to remain can likely be explained by the establishment of the Regularisation Scheme for Long-term Undocumented Migrants. At the time of updating, under the International Protection strand of the scheme, 1,434 grant decisions had been issued, while a further 1,020 applications were accepted but applicants were granted an alternative immigration permission such as refugee or subsidiary protection status or permission to remain.<sup>7</sup>

The median processing time for cases processed to completion in 2022 was 18 months.<sup>8</sup> The average processing time for appeals before the International Protection Appeals Tribunal in 2022 was 10.5 months.<sup>9</sup> A total of 3,913 personal interviews were conducted throughout the year.<sup>10</sup>

- ❖ **Processing of applications:** The International Protection Office processed 4,402 cases to completion in 2022.<sup>11</sup> According to latest available statistics, the number of international protection applications throughout 2022 has increased significantly when compared with the previous reporting period. There was a total of 13,651 applications for international protection made throughout 2022.<sup>12</sup> This increase can be explained by reference to a number of factors, including the ceasing of the international travel restrictions associated with the Covid-19 pandemic, conditions in countries of origin and first countries of asylum, as well as significant changes in migration policy in the United Kingdom.<sup>13</sup>
- ❖ **Length of procedure:** Throughout 2022, the median processing time for first instance decisions was approximately 18 months for all cases.<sup>14</sup> This marks a slight overall decrease on the previous reporting period (23 months for non-prioritised applications and 14 months for prioritised applications). However, processing times remained lengthy in view of the commitment by the Department of Justice to reduce the overall processing time to 6 months in line with the recommendations of the Expert Advisory Group.<sup>15</sup> The median waiting period for appeals before the IPAT was 10.5 months.<sup>16</sup>
- ❖ **Access to procedure:** In October 2022, it was reported that a unit was to be established at Dublin Airport in order to facilitate stricter immigration checks in respect of arriving passengers. The establishment of

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<sup>4</sup> International Protection Office, March 2023.

<sup>5</sup> *ibid.*

<sup>6</sup> *ibid.*

<sup>7</sup> Information provided by Department of Justice and Equality, January 2023.

<sup>8</sup> *ibid.*

<sup>9</sup> Information provided by the International Protection Appeals Tribunal, January 2023.

<sup>10</sup> International Protection Office, March 2023,

<sup>11</sup> *ibid.*

<sup>12</sup> *ibid.*

<sup>13</sup> Economic & Social Research Institute, 'Key drivers behind increase in international protection applications identified in new ESRI research', 24 November 2022, available at: <https://bit.ly/3zLMSpC>.

<sup>14</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 31 January 2023, available at: <https://bit.ly/3X56bmM>.

<sup>15</sup> Department of Justice, *Ministers announce new immigration reform measures*, 14 October 2021, available at: <https://bit.ly/3tm4HJS>.

<sup>16</sup> Information provided by IPAT, January 2023.

the unit was reported to be part of a range of measures introduced by Government with a view to reducing the number of individuals claiming international protection in Ireland.<sup>17</sup>

Further reports in September and October 2022 indicated that additional immigration control measures had increased at Dublin Airport, targeting in particular individuals seeking to disembark from arriving aircraft with false documentation.<sup>18</sup> One such report indicated that ‘before the flight landed, the crew asked passengers to get out their passports for immigration checks...Once it touched down, border control officers came on the plane.’<sup>19</sup> When passengers queried the practice, they were advised that Immigration Officers were ‘looking for people without visas.’<sup>20</sup> Despite indications from the Department of Justice in recent years that this practice had been largely scaled back, such reports suggest that the policy continues to operate in practice as of 2022.

- ❖ **International protection appeals:** All appeals deemed suitable proceeded before the IPAT on a remote basis via audio-video link throughout 2022. In circumstances where an appeal was deemed unsuitable to proceed remotely, the appeal proceeded by way of an on-site oral hearing. This usually occurred in situations whereby to proceed with the appeal remotely would be contrary to the interests of justice. As of January 2023, just of appeals continued by way of remote hearing, save at the request of the applicant or whereby to conduct the appeal remotely would be contrary to the interests of justice.

From 1 January 2022 to 31 December 2022, the IPAT scheduled a total of 1,881 hearings, approximately 766 of which proceeded on a remote basis.<sup>21</sup> Of the total number of hearings scheduled, 1,551 hearings proceeded.<sup>22</sup>

- ❖ **Revised international protection procedure:** On the 8<sup>th</sup> of November 2022, the International Protection Office introduced a revised international protection application procedure.<sup>23</sup> In accordance with the European Communities (International Protection Procedures) Regulations 2022, an applicant attending at the International Protection Office in order to make an application for international protection is now required to complete their International Protection Questionnaire onsite at the IPO, in addition to completing their preliminary interview.<sup>24</sup> The international protection questionnaire has been reduced significantly to 24 questions in order to enable applicants to complete the questionnaire at the time of making their application.<sup>25</sup>

Under the revised procedure applicants from so-called ‘safe countries of origin’ will now receive a date for their substantive interview within four to six weeks of making their initial application. It should also be noted that, pursuant to the relevant regulation, this accelerated procedure may also be applied to **any** application subject to the need for fairness and efficiency and whereby the International Protection Office considered same necessary and expedient.

According to the International Protection Office, all applications will continue to be examined individually and applicants whose applications are examined under the new procedure will retain the right to appeal

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<sup>17</sup> Irish Examiner, ‘Stricter asylum checks, more deportations, and more basic shelter in bid to control migration’, 24 October 2022, available at: <https://bit.ly/3GNNmjh>.

<sup>18</sup> Dublin Inquirer, ‘The Government says it’s bringing back stricter asylum checks, but what does that mean?’, 2 November 2022, available at: <https://bit.ly/3VQ1YTv>.

<sup>19</sup> *ibid.*

<sup>20</sup> *ibid.*

<sup>21</sup> Information provided by the International Protection Appeals Tribunal, January 2023.

<sup>22</sup> *ibid.*

<sup>23</sup> International Protection Office, ‘The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 – Information Note’, 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTI>.

<sup>24</sup> *ibid.*

<sup>25</sup> Information provided by Irish Refugee Council Information and Advocacy Service.

a negative recommendation by the IPO to the International Protection Appeals Tribunal.<sup>26</sup> However, pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, if the IPO recommends that an applicant's application for refugee or subsidiary protection should be refused on the basis of one of the reasons established pursuant to s.39(4) of the International Protection Act 2015, the timeframe in which to submit an appeal is shortened to 10 working days from the date of the decision.<sup>27</sup> Such reasons include whereby a finding is made by the International Protection Office that the issues raised in the application were not relevant to the applicant's eligibility for international protection, whereby the applicant's representations have been inconsistent or contradictory, whereby the applicant failed to make the application as soon as they could without good reason, whereby a finding is made that the applicant did not require international protection due to the possibility of safe internal relocation within their country of origin, or whereby the application is refused and the applicant comes from a safe country of origin.<sup>28</sup> An applicant's appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.<sup>29</sup>

According to the IPO, the rationale for the new procedure is to ensure that international protection applications, particularly those from safe countries of origin, are dealt with in a timelier manner so as to increase processing capacity and reduce delays.<sup>30</sup> However, the Irish Refugee Council has written to the Minister for Justice, addressing numerous significant concerns in relation to the appropriateness of the revised procedure.<sup>31</sup> Such concerns relate particularly to applicants who may have had traumatic experiences prior to their arrival in the state. These applicants are required to complete and submit their questionnaire in an open-plan waiting area at the IPO, an environment which is often extremely busy, noisy and tense. This raises significant concern in relation to the applicant's privacy and personal data protection. Moreover, it is an extremely inappropriate physical space for applicants to complete such a significant document and gives rise to a risk of re-traumatisation insofar as particularly vulnerable applicants are concerned. Additionally, the revised process completely removes the applicant's practical access to legal advice prior to the submission of their international protection questionnaire. Unless an applicant is accompanied to the IPO by a lawyer when making their application, they do not have the benefit of legal advice in advance of submitting their international protection questionnaire, a document upon which significant reliance is placed in the applicant's substantive interview.

Translation services, as well as 'inter-cultural support officers' are available to applicants in order to assist them in the completion of their questionnaire,<sup>32</sup> however, it is not clear what exactly the role of the 'inter cultural support officer' involves or the extent of the assistance they can provide to applicants in the completion of their questionnaire. Having accompanied clients to apply for international protection on several occasions following the establishment of the revised procedure, in the Irish Refugee Council's experience, Cultural Support Officers have not been present to assist applicants in the completion of their questionnaires, while the standard of translation services provided has been unsatisfactory given the importance of the questionnaire in the overall application process.

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<sup>26</sup> International Protection Office, 'The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 – Information Note', 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTI>.

<sup>27</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

<sup>28</sup> International Protection Act 2015, s.39(4).

<sup>29</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

<sup>30</sup> International Protection Office, The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 FAQ's, 8<sup>th</sup> November 2022, available at: <https://bit.ly/40qKe4G>.

<sup>31</sup> Irish Refugee Council, International Protection Procedure Changes: Letter to Department of Justice', 28 November 2022, available at: <https://bit.ly/41pecGq>.

<sup>32</sup> *ibid.*

From 8 November to the 31 December 2022, 448 cases have been processed under the accelerated procedure with applicants originating from Georgia, South Africa, Albania and Kosovo. The median processing time for cases under the accelerated procedure was 33.75 days.<sup>33</sup>

- ❖ **Revised age-assessment procedure:** In correspondence with the Irish Refugee Council in February 2022, it was confirmed that Tusla does not currently have a national policy or approved internal guidelines on age-assessments for use in determining the age of unaccompanied minors or separated children referred from IPO or Dublin Airport. The reason given for this was that there exists no provision in legislation for Tusla to conduct such assessments. The relevant legislation for undertaking such assessments is the International Protection Act 2015, which confers the responsibility for conducting age assessments on the Minister for Justice. Thus, according to Tusla, the conducting of such assessments is not part of its statutory function.<sup>34</sup>

In July 2022, the Irish Refugee Council, along with the Jesuit Refugee Service wrote to Tusla and the International Protection Office expressing concern regarding the State's existing practice for conducting age assessments, noting that the procedure did not comply with European Union law and fell short of international best practice.

Following this correspondence, Tusla are currently engaged in a further deliberative process in conjunction with its operational and legal services to determine an eligibility criterion for receipt of Tusla services. This draft procedure will be published once finalised and approved by Tusla's National Policy Oversight Committee.<sup>35</sup> As of January 2023, the policy had yet to be published, however, correspondence from Tusla to the Irish Refugee Council's Independent Law Centre indicated that publication of the policy was to be expected in early course.<sup>36</sup>

- ❖ **Resumption of deportations:** Deportations were suspended in early 2020 owing to the onset of the Covid-19 pandemic. However, in July 2022, the Department of Justice confirmed that deportations would resume following the lifting of public health restrictions associated with the pandemic and the resumption of international travel.<sup>37</sup> The total number of deportations effected throughout 2022 by the Department of Justice in respect of unsuccessful international protection applicants was 54,<sup>38</sup> while 174 deportation orders were issued by the Department in 2022 up to the 21 October 2022.<sup>39</sup>
- ❖ **Response to the situation in Afghanistan:** In August 2021, in response to the emerging humanitarian crisis in Afghanistan, the Department of Justice confirmed that it would begin prioritising international protection applications from Afghan nationals in line with updated advice provided by UNHCR. Afghan nationals facing transfers to other EU countries pursuant to the Dublin III procedure had their applications for international protection examined in Ireland on compassionate grounds.<sup>40</sup> The Department also confirmed that applications for family reunification made by Afghan nationals pursuant to the International Protection Act 2015 would now be prioritised and fast-tracked to completion, with full consideration given to the humanitarian context.<sup>41</sup>

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<sup>33</sup> International Protection Office, March 2023.

<sup>34</sup> Information provided by Tusla, August 2022.

<sup>35</sup> *Ibid.*

<sup>36</sup> Information provided by the Irish Refugee Council's Independent Law Centre, January 2023.

<sup>37</sup> Irish Times, 'Deportations of those denied asylum to continue this year, government confirms', 6<sup>th</sup> July 2022, available at: <https://bit.ly/3Z2lpKo>.

<sup>38</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 1103, 18 January 2023, available at: <https://bit.ly/3Hv7eXH>.

<sup>39</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question no 149, 26 October 2022, available at: <https://bit.ly/3YpOiQK>.

<sup>40</sup> RTE, Department of Justice to prioritise international protection applications from Afghan Nationals, 18 August 2021, available at: <https://bit.ly/3tbpAYi>.

<sup>41</sup> *ibid.*



Additionally, as of the 28<sup>th</sup> of November 2022, the Irish government had provided visa waivers to approximately 600 persons fleeing Afghanistan<sup>42</sup>, with the first group of evacuated refugees arriving in August 2021.<sup>43</sup> A total of 142 join family visas and 104 family reunification applications were also approved.<sup>44</sup>

In September 2021, the Irish Government also approved the introduction of the Afghan Admissions Programme, enabling current or former Afghan nationals legally resident in Ireland on or before 1 September 2021 to apply to nominate up to four close family members – either living in Afghanistan or who have recently fled to neighbouring territories - to apply for temporary residence in Ireland. The programme envisages the admission of up to 500 Afghan nationals to Ireland. While welcoming the introduction of the programme, the Irish Refugee Council, along with several other migrant rights organisations, highlighted various points of concern, including the limited number of places available and the restrictive eligibility criteria.

The programme opened for applications on 16 December 2021 and closed on 11 March 2022. There was a total of 528 applications and as of 28 November 2022, just 22 applications had been approved, despite the deteriorating security situation in Afghanistan.<sup>45</sup>

### *Reception conditions*

- ❖ **Revised vulnerability assessment procedure:** Regulation 8 of the European Union (Reception Conditions) Regulations 2018 provides for the establishment of a vulnerability assessment process. Until January 2021 however, no standardised assessment was carried out in respect of vulnerable international protection applicants, despite this being a clear requirement under EU law. At the end of January 2021, a pilot project to assess the vulnerability of applicants was established at Baleskin reception centre in Dublin.<sup>46</sup> The pilot scheme was subsequently extended to all newly arrived international protection applicants, as well as existing applicants, and aims to determine whether the applicant has special reception needs arising from any vulnerabilities identified. As of January 2023, the pilot programme continued. Up to October 2022, approximately 2,114 assessments had been undertaken with 1,024 individuals identified as vulnerable.<sup>47</sup>

In September 2022, IPAS published a Vulnerability Assessment Pilot Programme Policy, setting out the nature and purpose of the vulnerability assessment.<sup>48</sup> Pursuant to the newly established policy, the vulnerability assessment procedure was also altered substantially. Vulnerability Assessment Questionnaires are provided to all individuals making an application for international protection. Questionnaires are made available to applicants in a number of languages, both at their accommodation centres and online via IPAS' website. A referral form for service providers and third parties working with international protection applicants have also been made available and can be completed by the service provider with the applicant's consent. Both documents contain a series of questions relating to the vulnerability indicators contained within the Reception Conditions Directive.

The applicant, or service provider, is required to return the questionnaire to the IPAS Resident Welfare Service by email or post. Assessment Officers from the Resident Welfare Team review all returned

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<sup>42</sup> Minister of State Department of Justice, Response to Parliamentary Question No 5, 6 December 2022, available at: <https://bit.ly/3jqvbXB>.

<sup>43</sup> The Journal, First group of evacuated Afghan refugees to arrive in Ireland this evening, 23 August 2021, available at: <https://bit.ly/3F3dSkE>.

<sup>44</sup> Minister of State at the Department of Justice, Response to Parliamentary Question No 5, 6 December 2022, available at: <https://bit.ly/3jqvbXB>.

<sup>45</sup> *ibid.*

<sup>46</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question No 80, 31 July 2021, available at: <https://bit.ly/3Jnok9W>.

<sup>47</sup> Information provided by IPAS, December 2022.

<sup>48</sup> International Protection Accommodation Service, 'Vulnerability Assessment Pilot Programme Policy', September 2022, available at: <https://bit.ly/3ZiFbCS>.



questionnaires to determine the applicant's vulnerability status. Whereby an assessment indicates that an applicant has one or more vulnerability the Assessment Officer may contact them to discuss their vulnerability further. In some cases, whereby an assessment indicates a high level of vulnerability, the Assessment Officer may also refer the person for further assessment with an IPAS Social Worker.<sup>49</sup>

In the experience of the Irish Refugee Council, many applicants who have sought vulnerability assessments under the revised procedure have yet to be contacted by the Resident Welfare Team, despite many applicants presenting with evident and significant vulnerability. The Irish Refugee Council also remains concerned about the lack of information provided to applicants regarding the assessment. It has become apparent in our contact with clients that many individuals undergoing the vulnerability assessment are not aware of the purpose of the assessment, nor do they understand what the information acquired will be used for. In many cases, individuals undergoing vulnerability assessments have recently arrived in the State, often have limited English. The lack of available information is particularly troubling as applicants are not properly equipped to fully communicate their circumstances, meaning that they often do not receive the required supports.

- ❖ **Reception capacity and use of emergency centres:** Capacity within the Direct Provision accommodation system remained a significant issue throughout 2022. In addition to the large number of beneficiaries of Temporary Protection arriving in Ireland, many of whom sought accommodation from IPAS, 2022 saw a very significant rise in the number of individuals seeking international protection in Ireland. Accommodation capacity was therefore extremely constrained. On several occasions during the year, IPAS exhausted its accommodation stock, resulting in many international protection applicants being refused accommodation on arrival in the state. While all applicants were later provided with accommodation, and vulnerable applicants, such as families with children, were often prioritised, in many cases, single male applicants and couples had no option but to sleep on the street for several nights until such time as suitable accommodation became available.<sup>50</sup>

As of April 2023, 479 newly arrived asylum seekers, including single males and couples, were without any state-provided accommodation.<sup>51</sup> Homeless international protection applicants were initially not permitted to access any form of social welfare support while street homeless, however, at the time of updating, it had been confirmed by the Department of Social Protection that persons experiencing homelessness without the means to support themselves could apply for the Daily Expense Allowance.<sup>52</sup> The Irish Refugee Council's Independent Law Centre initiated judicial review proceedings on behalf of several clients in this cohort, including one age disputed minor, citing breaches of the Reception Conditions Regulations 2018. Proceedings were ongoing at the time of updating.<sup>53</sup>

Additionally, over the course of 2022, there was a consistent deterioration in the standard of accommodation provided to international protection applicants. 2022 saw a movement away from the traditional use of hotel and guest house accommodation and an increased reliance by the State on so-called 'emergency centres.' In March 2022, Citywest Hotel and Convention Centre was contracted by the International Protection Accommodation Service and repurposed as a transit hub for the processing of beneficiaries of Temporary Protection, as well as for the accommodation of newly arrived international protection applicants. Owing to limited bed capacity, many international protection applicants were forced to sleep on the floor of the Convention centre or on chairs for periods of up to 6 weeks while awaiting

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<sup>49</sup> *ibid.*

<sup>50</sup> RTE, 'Citywest Transit Hub Closes to New Arrivals', 20 October 2022, available at: <https://bit.ly/3CL5ojD>.

<sup>51</sup> RTE, '408 newly arrived asylum seekers now homeless', 27<sup>th</sup> March 2023, available at: <https://bit.ly/40Dspuf>.

<sup>52</sup> Information provided by Irish Refugee Council Information and Advocacy Service, March 2023.

<sup>53</sup> Irish Examiner, 'Homeless Afghan asylum seeker claims rights are being breached under Irish law', 15 February 2023, available at: <https://bit.ly/3mtzZNn>.

RTE, 'High Court asked to declare that asylum seekers had their rights breached', 3 March 2023, available at: <https://bit.ly/3F7jjlz>.

transfer to more permanent accommodation.<sup>54</sup> Many residents reported sub-standard, overcrowded living conditions, as well as significant safety and child protection concerns, posing a risk to the personal safety, health and wellbeing of both adults and children living at the facility.<sup>55</sup> In December 2022, the Irish Refugee Council wrote to the Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman, outlining its concern in relation to conditions at the facility and calling for a phased closure of the centre.<sup>56</sup>

In July 2022, the State also began to use tent style accommodation, in which applicants were accommodated in marquee-style structures at various locations around the country. While initially intended as a temporary measure, many applicants spent months residing in wholly unsuitable accommodation which did not meet their basic needs and exposed them to at times freezing and wet weather conditions. As of December 2022, it was understood all tent accommodation had been decommissioned and residents had been transferred to alternative accommodation, following a commitment by the Minister for Children, Roderic O’Gorman’s that such accommodation would not be used again.<sup>57</sup> However, on 5<sup>th</sup> of January 2023, it was reported that tented accommodation was once again being used to house international protection applicants at Knockalisheen in Co Clare.<sup>58</sup> Additionally, on the 1<sup>st</sup> of February, it was reported that Columb Army Barracks, Co. Westmeath was to be used as a site for the establishment of 15 further tents for the accommodation of approximately 120 male international protection applicants for a period of 12 months.<sup>59</sup> As of the beginning of April 2023, 86 people were accommodated in tented accommodation.<sup>60</sup>

Other emergency centres established in 2022 comprised of disused offices, large conference rooms, schools, and sports halls. Applicants were often accommodated in congregated and overcrowded settings without access to basic public services. The Irish Refugee Council has been alerted to numerous grievous risks to vulnerable residents accommodated in these centres, including to women and minor children. These reports included significant child protection issues and very serious privacy concerns.

- ❖ **Withdrawal of reception conditions:** Throughout 2022, the Irish Refugee Council assisted approximately 147 international protection applicants at risk of, or experiencing, homelessness. A number of these individuals had been staying in private rented accommodation since their arrival in the State and had never accessed state-provided accommodation, while others lost their accommodation within the Direct Provision system due to alleged breaches of the House Rules. In the experience of the Irish Refugee Council, in the vast majority of these cases, requests for re-accommodation went unanswered by IPAS for several weeks, sometimes months. During this period, many applicants were forced to sleep on the street, without access to food or shelter and often in very severe weather conditions.

With regard to the second cohort of applicants, those evicted from their accommodation for alleged breaches of the House Rules, it should be noted that pursuant to Regulation 6 of the Reception Conditions Regulations 2018, the State can only withdraw or reduce an applicant’s reception conditions in a very limited set of circumstances. Moreover, the Minister must inform the applicant in writing of the decision and the reasons for it. In the vast majority of the above cases, the applicant’s alleged breach could not be said to fall within the limited set of circumstances established pursuant to Article 6. Moreover, the vast majority of applicants receive nothing in writing notifying them of the withdrawal of their reception conditions or the reasons for same, thus making it practically impossible to appeal or review the withdrawal.

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<sup>54</sup> Information provided by Irish Refugee Council Information and Advocacy Service, January 2023.

<sup>55</sup> RTE, ‘Child Safety Concerns at Citywest Transit Hub’, 19 December 2022, available at: <https://bit.ly/3QAuqrq>.

<sup>56</sup> Information provided by Irish Refugee Council’s Policy and Advocacy Officer.

<sup>57</sup> RTE, ‘Government U-turn on Tented Accommodation for Asylum Seekers’, 5 January 2023, available at: <https://bit.ly/3H1i5JF>.

<sup>58</sup> *ibid.*

<sup>59</sup> RTE, ‘Columb Barracks to be used for temporary refugee accommodation’, 1 February 2023, available at: <https://bit.ly/3YmGteH>.

<sup>60</sup> International Protection Accommodation Service, Monthly Statistics, March 2023, available at: <https://bit.ly/40W887S>.

While clients were ultimately re-accommodated following sustained advocacy, as well as intervention by the organisation's CEO, the practices described above amount to a clear breach of the State's obligations pursuant to the Reception Conditions Regulations. Such breaches continued to occur at the time of updating.<sup>61</sup>

- ❖ **Ending Direct Provision:** In February 2021, the Government published the White Paper on Ending Direct Provision. The paper establishes a variety of measures aimed at replacing the system of Direct Provision with a not-for-profit accommodation model and sets out a roadmap towards establishing a new international protection support service, to be in place by 2024.<sup>62</sup> Following the publication of the White Paper, a staff team was established in the Department of Justice in order to lead the transition to a new accommodation model for international protection applicants, while the Minister for Children, Equality, Disability, Integration and Youth appointed a programme board, including officials from the relevant Departments and agencies, as well as independent members from various non-governmental organisations, tasked with overseeing the transition to the new model. It was initially envisaged that applicants would begin moving into new accommodation beginning in early 2022 and for this process to accelerate in the following years as more properties were acquired.<sup>63</sup> However, in light of the continuing accommodation crisis, it has become apparent that the Government's aim of ending Direct Provision by 2024 is no longer feasible.<sup>64</sup> At the time of writing, the Department of Children was carrying out an overall review of the projected timelines and deliverables contained within the White Paper, taking account of both the delays that have arisen as a consequence of the war in Ukraine and the impact of the substantial increase in numbers of individuals seeking international protection. This review will seek to reassess the projections underpinning the White Paper, as well as considering whether it is preferable to prioritise the implementation of certain aspects of the White Paper reforms over others.<sup>65</sup>
- ❖ **HIQA Inspections of IPAS Accommodation:** Throughout 2022, the Department of Children continued its engagement with HIQA and various other stakeholders regarding HIQA's proposed monitoring of IPAS centres against the National Standards, which became legally binding in January 2021. An Expert Advisory Group was established, comprising of a range of different stakeholder organisations, service providers and service users, in order to inform this process and several meetings of the group were held throughout the year.<sup>66</sup>

Concurrently, in consultation with the Office of the Attorney General, the Department of Children drafted a Regulation in which to provide the necessary legal basis for HIQA's monitoring role.<sup>67</sup> At the time of updating, the draft Regulation has yet to be published, however, the Minister for Children, Roderic O'Gorman, had confirmed that HIQA's monitoring role would only apply to so-called 'permanent Direct Provision Centres', and not to emergency or temporary centres, on the basis that such centres are subject to separate contractual arrangements.<sup>68</sup> While the enacting of legislation giving effect to HIQA's monitoring function is welcomed, the Irish Refugee Council is deeply concerned regarding the exclusion of emergency centres from HIQA's remit. In the experience of the IRC, the most difficult conditions persist within 'emergency' and 'pre-reception' facilities, and not in permanent centres. Moreover, the number of

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<sup>61</sup> Information provided by Irish Refugee Council's Information and Advocacy Service, January 2023.

<sup>62</sup> Advisory Group on Direct Provision, Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, 21 October 2020, available at: <https://bit.ly/3wwWPs>.

<sup>63</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 12, 14, 74, 77 and 82, 3 December 2021, available at: <https://bit.ly/33ZH4vX>.

<sup>64</sup> The Irish Times, 'Plan to end direct provision by 2023 set to be watered down amid pressure from Ukraine war', 20th October 2022, available at: <https://bit.ly/3k4juWS>.

<sup>65</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question No 436, 13th December 2022, available at: <https://bit.ly/3w5owFe>.

<sup>66</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question No 1361, 26th July 2022, available at: <https://bit.ly/3Xd3sc3>.

<sup>67</sup> *ibid.*

<sup>68</sup> *ibid.*

emergency centres established around the country increased substantially throughout 2022, with more than half the population of the Direct Provision system living in emergency or pre-reception centres.<sup>69</sup>

At the time of updating, IPAS accommodation centres continued to be subject to inspections both by officials within the International Protection Accommodation Service and by an independent inspectorate company.<sup>70</sup>

#### *Detention of asylum seekers*

- ❖ **Dedicated immigration detention facilities:** Following the Council of Europe Committee for the Prevention of Torture's 7<sup>th</sup> periodic visit report on Ireland, it was determined that steps ought to be taken to address the unsuitable detention of immigration detainees in prisons.<sup>71</sup> In December 2021, it was announced that work had been completed on a new Block F in Cloverhill Remand Prison, which is intended to accommodate persons detained for immigration purposes and ensure that they are housed separately from prisoners on remand. Throughout the pandemic, Block F was repurposed as an isolation unit for prisoners who contracted COVID-19, to manage and control infection risk. It is intended that when the pandemic ends, Block F will revert to its original intended use, however, in the interim, persons detained for immigration purposes continue to be housed with the general prison population.<sup>72</sup> It was not clear at the time of updating whether persons detained for immigration purposes continued to be imprisoned with the general prison population. Additionally, a purpose-built immigration facility was opened at Dublin Airport for use in circumstances where persons are refused leave to land. The facility houses the newly opened Dublin Airport Garda Station and the Garda National Immigration Bureau. The Garda station contains four single person cells and two additional detention rooms. As of May 2022, the facility was fully operational.<sup>73</sup>

Data provided by the International Protection Office indicated that 17 applications for international protection were made from detention in 2022, however, the reasons for the applicant's detention was not known.<sup>74</sup>

#### *Content of international protection*

- ❖ **Suspension of visa waiver programme:** In July 2022, the State suspended for a period of 12 months visa-free entry for individuals with refugee status traveling on Convention Travel Documents from 20 so-called 'safe' European countries. Previously, pursuant to the European Agreement on the Abolition of Visas for Refugees, those with refugee status could travel to and within Ireland for up to 90 days without requiring a visa or prior clearance. Following the suspension, those seeking to travel to Ireland are now required to apply for a visa in order to enter Ireland, facing processing times of approximately 8-14 weeks.<sup>75</sup> The measure has been implemented with a view to protecting the 'integrity' of the immigration system, according to the government, who cited an increase in those who had already received refugee status in another European country travelling to Ireland applying for asylum.<sup>76</sup> According to statistics

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<sup>69</sup> Data provided by the International Protection Accommodation Service.

<sup>70</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question No 1361, 26<sup>th</sup> July 2022, available at: <https://bit.ly/3Xd3sc3>.

<sup>71</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No 485, 16 December 2021, available at: <https://bit.ly/3slJQQM>.

<sup>72</sup> *ibid.*

<sup>73</sup> Department of Justice, 'Minister McEntee Attends Official Opening of Dublin Airport Garda Station', 6 May 2022, available at: <https://bit.ly/3HzrirV>.

<sup>74</sup> International Protection Office, March 2022.

<sup>75</sup> European Commission, Suspension of Visa-free Movement Programme for Refugees, 18 July 2022, available at: <https://bit.ly/3wjqJNu>.

<sup>76</sup> Government of Ireland, Government agrees to temporarily require refugees travelling to Ireland from safe European countries to hold visas, 18 July 2022, available at: <https://bit.ly/3XINtZc>.

released by the Department of Justice, 479 such applications were made, representing 7% of the overall applications for international protection during that period.<sup>77</sup>

- ❖ **Resumption of in-person citizenship ceremonies:** On 18 January 2021, it was announced that the obligation to attend citizenship ceremonies would be temporarily replaced during COVID-19 with an alternative requirement for citizenship applicants to sign an affidavit declaring loyalty to the State. Upon the return of a fully completed declaration, the Department of Justice issued a certificate of naturalisation. This system continued in operation until June 2022, when in-person ceremonies were re-introduced following the removal of public health restrictions associated with the Covid-19 pandemic.<sup>78</sup> A total of 13,613 applications for citizenship were granted in 2022.<sup>79</sup>
- ❖ **Regularisation Scheme for Long Term Undocumented Migrants:** On 3 December 2021, the Minister for Justice announced the establishment of a scheme to regularise long-term undocumented migrants which opened for applications on 31 January 2022. The scheme enables applicants and their eligible dependants to remain and reside in Ireland and to regularise their residence status whereby the applicant has a period of 4 years residence in the State without an immigration permission, or 3 years for applicants with minor children, immediately prior to the date on which the scheme opens for applications. Those with an existing Deportation Order were also permitted to apply whereby they met the minimum undocumented residence requirement. Additionally, international protection applicants who had an outstanding application for international protection and had been in the asylum process for a minimum of 2 years were also permitted to apply pursuant to a separate application process. Applications for those in the International Protection strand opened on 7 February 2022.<sup>80</sup> According to data released by the Department of Justice, 6,548 applications in respect of 8,311 people were submitted under the Long-Term Undocumented strand of the scheme, including 1,108 applications in respect of minors, submitted as a part of family applications. As of the 12 December 2022, 4,857 decisions had been issued to applicants and of these 4,796 (97 %) were positive decisions and 94 (2%) were negative decisions, while 47 (1%) applications had been withdrawn by applicants for various reasons.<sup>81</sup>

Under the International Protection strand of the scheme, 3,198 applications were received. 1,434 grant decisions had been issued, while a further 1,020 applications were accepted but applicants were granted an alternative immigration permission such as refugee or subsidiary protection status or permission to remain.<sup>82</sup>

## Temporary protection

The information given hereafter constitute a short summary of the Annex on Temporary Protection for this report, for further information, see [Annex on Temporary Protection](#).

### *Temporary protection procedure*

- ❖ **Response to the situation in Ukraine:** Following the Russian invasion of Ukraine in February 2022, the Irish government announced that a visa waiver would apply to all Ukrainian nationals entering Ireland. As of December 2022, the visa waiver applied only to Ukrainian nationals and persons with international

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<sup>77</sup> European Commission, Suspension of Visa-free Movement Programme for Refugees, 18 July 2022, available at: <https://bit.ly/3wjqJNu>.

<sup>78</sup> Irish Times, 'First in-person citizenship ceremonies since covid welcome 950 new Irish citizens', 20 June 2022, available at: <https://bit.ly/3JAHifV>.

<sup>79</sup> Acting Minister for Justice and Equality Simon Harris, Response to Parliamentary Question No. 195, 1 February 2023, available at: <https://bit.ly/3HUmKY0>.

<sup>80</sup> Department of Justice, *Regularisation of Long Term Undocumented Migrant Scheme*, 13 January 2022, available at: <https://bit.ly/3nsCtJL>.

<sup>81</sup> Acting Minister for Justice Heather Humphreys, Response to Parliamentary Question No 290, 15 December 2022, available at: <https://bit.ly/3sIJQQM>.

<sup>82</sup> Information provided by Department of Justice and Equality, January 2023.



protection status in Ukraine. Non-EEA nationals, if they were visa required nationals, would still need a visa to enter Ireland. Those who travelled to Ireland under the visa waiver will have a period of 90 days in which to regularise their status in the State.<sup>83</sup> The Irish Government has asked all airline carriers to accept Government-issued identity documents, not usually accepted for the purposes of international travel, in lieu of a national passport: including, National ID Cards, Birth Certificates, Internal Passports, and expired passports.<sup>84</sup>

- ❖ **Qualification for temporary protection:** Following the activation of the Temporary Protection Directive (TPD), the Irish Government established a special status, temporary protection, to be conferred on Ukrainian nationals, beneficiaries of international protection status, stateless persons, and the family members of the above. This status also applies to third country nationals in circumstances where it can be demonstrated that it is unsafe for the individual to return to their country of origin. This status permits eligible individuals who resided in the Ukraine prior to 24 February 2022 to access to the labour market, social welfare systems and medical care on the same basis as Irish citizens. This permission will initially be for one-year and may be renewable, depending on how matters progress. The activation of the TPD does not affect an individual's right to apply for international protection in Ireland.<sup>85</sup> As of 11 May 2023, 82,196 individuals had registered for temporary protection in Ireland.<sup>86</sup>

#### *Content of temporary protection*

- ❖ **Access to asylum:** There is no requirement for those fleeing the war in Ukraine to seek international protection in order to receive support and protection upon arrival in Ireland. While applicants can choose to seek international protection, one cannot benefit from temporary protection at the same time. However, once registered under the Temporary Protection Directive, it is possible for a beneficiary to instead apply for international protection, provided they first renounce their temporary protection status. Equally, it is possible for someone who has previously applied for international protection to subsequently register for temporary protection, provided they withdraw their asylum application and meet the qualifying criteria for temporary protection.<sup>87</sup>
- ❖ **Housing:** A reception centre opened at the Dublin Airport in order to process applications for persons arriving in Ireland from Ukraine. Individuals were provided with Temporary Protection letters, Personal Public Service numbers, medical cards and other relevant supports and advice. The Department of Justice and the Department of Children established offices in the centre and the International Organisation of Migration (IOM) supported the operation of the facility. Translation services were also provided where required. Further Ukraine Support Centres were subsequently established in Dublin city centre, Limerick, and Cork.<sup>88</sup> As of December 2022, operations at the Dublin Airport and Dublin city centre centres had ceased and instead moved to Citywest Convention Centre in west Dublin. Individuals arriving in Dublin Airport were brought directly to Citywest where they could apply for Temporary Protection and a PPS number. Individuals arriving at Rosslare Port could apply for Temporary Protection at the Port reception centre, while individuals arriving at Cork and Shannon airports could apply at the Cork and Limerick support centres respectively.<sup>89</sup> Individuals requiring immediate accommodation in the State have been

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<sup>83</sup> Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23<sup>rd</sup> December 2022, available at: <https://bit.ly/3hMbVzK>.

<sup>84</sup> *ibid.*

<sup>85</sup> Immigration Service Delivery, *FAQs – for Ukraine Nationals and Residents of Ukraine*, 21 March 2022, available at: <https://bit.ly/3LdFUgS>.

<sup>86</sup> Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

<sup>87</sup> Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

<sup>88</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 8, 13, 19, 30, 50, 65, 72, 73, 298 and 306, 24 March 2022, available at: <https://bit.ly/3jZ13D8>.

<sup>89</sup> Immigration Service Delivery, *FAQs – for Ukraine nationals and Residents of Ukraine*, 6 January 2023, available at: <https://bit.ly/3jP6F2y>.

accommodated in IPAS accommodation. From 3 January 2023, in an effort to ease pressure on the State's accommodation system, Ukrainian beneficiaries of temporary protection staying in IPAS-provided accommodation were required to pay for their meals at a cost of €10.00 per day for adults and €5.00 per day for children. This cost had previously been borne by the State.<sup>90</sup> In addition to State-provided accommodation, the Irish Red Cross, in conjunction with the government and Local Authorities, established an accommodation pledge programme in which Irish residents can pledge a spare room in their home or a vacant property in which to accommodate Ukrainian beneficiaries of temporary protection.<sup>91</sup> As of October 2022, the Irish Red Cross had received approximately 21,000 pledges of accommodation, 10,000 of which had been deemed suitable. As of October 2022, approximately 4,800 Ukrainian nationals had been placed in hosting arrangements around the country.<sup>92</sup>

Additionally, in March 2022, a voluntary organisation, Helping Irish Hosts, was established whereby prospective hosts can register accommodation and be matched with displaced beneficiaries of temporary protection requiring accommodation. Hosts can also register with Helping Irish Hosts in order to connect with other host families, share experiences and provide mutual support. As of January 2023, Helping Irish Hosts had matched almost 800 beneficiaries of temporary protection with over 260 Irish host households.<sup>93</sup> In July 2022, the Government introduced an Accommodation Recognition Payment for households hosting beneficiaries of Temporary Protection having fled the conflict in Ukraine. An initial payment of €400.00 per month was paid to hosts and backdated as far as the 4<sup>th</sup> of March 2022 whereby hosting arrangements were in place. The payment is administered by the Department of Social Protection on behalf of the Department of Children, Equality, Disability, Integration and Youth.<sup>94</sup> In December 2022, the payment was increased to €800.00 per month.<sup>95</sup>

- ❖ **Access to rights:** Having received their Temporary Protection Certificate, Beneficiaries of Temporary Protection are entitled to access the labour market on the same basis as Irish citizens. The Temporary Protection Certificate itself is adequate proof of entitlement to take up employment in the State. Beneficiaries of temporary protection are thus entitled to the full range of statutory employment rights and protections in the same manner as Irish employees.<sup>96</sup> As of 13 March 2023, 18,101 beneficiaries of temporary protection had accessed the labour market in Ireland.<sup>97</sup>

Child beneficiaries of temporary protection between the ages of 4 and 18 years are entitled to access public primary or post-primary education provided by the State on the same basis as Irish children.<sup>98</sup> The Department of Education confirmed that as of 31 March, 15,282 Ukrainian pupils have been enrolled in schools across Ireland. Of that figure, 9,877 of these pupils have been accommodated in primary schools while 5,405 pupils have enrolled in post-primary schools. Current data indicates an enrolment rate of 90% among Ukrainian children aged 5-18.<sup>99</sup>

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<sup>90</sup> The Irish Times, 'Ukrainian refugees must start paying for meals or face eviction', 31 December 2022, available at: <https://bit.ly/3CxPDfT>.

<sup>91</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 8, 13, 19, 30, 50, 65, 72, 73, 298 and 306, 24 March 2022, available at: <https://bit.ly/3jZ13D8>.

<sup>92</sup> RTE, 'Host Family Wait 6-months to welcome Ukrainian families', 26 October 2022, available at: <https://bit.ly/3WUR2Wa>.

<sup>93</sup> Open Community, Supports for Hosts and Host Communities, January 2023, available at: <https://bit.ly/3VVSDtr>.

<sup>94</sup> Government of Ireland, €400 'Accommodation Recognition Payment' for hosts accommodating people from Ukraine is open for applications, 26 July 2022, available at: <https://bit.ly/3ZuWj8C>.

<sup>95</sup> Government of Ireland, Accommodation Recognition Payment, 5th January 2023, available at: <https://bit.ly/3QIFnNw>.

<sup>96</sup> Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

<sup>97</sup> Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

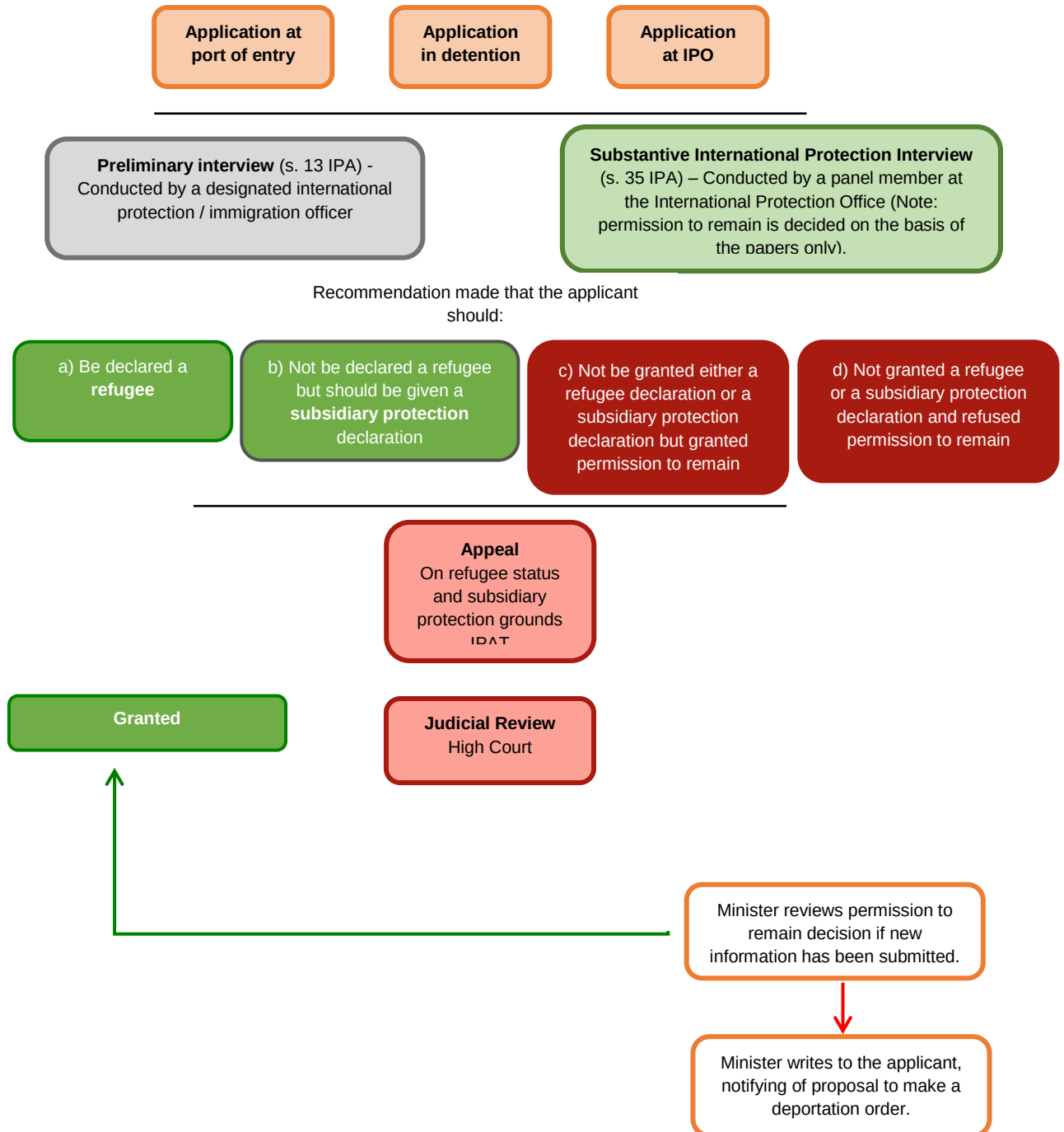
<sup>98</sup> Immigration Service Delivery, 'FAQ's – For Ukraine Nationals and Residents of Ukraine', 23 December 2022, available at: <https://bit.ly/3hMbVzK>.

<sup>99</sup> Central Statistics Office, 'Temporary Protection granted to arrivals from Ukraine', 11 May 2023, available at: <https://bit.ly/3pMju0B>.

# Asylum Procedure

## A. General

### 1. Flow chart





## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- ❖ Regular procedure: ☒ Yes ☐ No
  - Prioritised examination: ☒ Yes ☐ No
- ❖ Fast-track processing: ☐ Yes ☒ No
- ❖ Dublin procedure: ☒ Yes ☐ No
- ❖ Admissibility procedure: ☒ Yes ☐ No
- ❖ Border procedure: ☐ Yes ☒ No
- ❖ Accelerated procedure: ☒ Yes ☐ No
- ❖ Other:

Are any of the procedures that are foreseen in the law, not being applied in practice? ☐ Yes ☒ No

## 3. List of authorities that intervene in each stage of the procedure

| Stage of the procedure                 | Competent authority (EN)                                                        |
|----------------------------------------|---------------------------------------------------------------------------------|
| Application at the border              | Garda National Immigration Bureau                                               |
| National security clearance            | Garda National Immigration Bureau                                               |
| Dublin procedure                       | International Protection Office (IPO)                                           |
| Accelerated procedure                  | International Protection Office (IPO)                                           |
| Refugee status determination           | International Protection Office (IPO)                                           |
| Appeal                                 | International Protection Appeals Tribunal (IPAT)                                |
| Judicial review                        | High Court                                                                      |
| Subsequent application (admissibility) | The Minister for Justice and Equality in the Department of Justice and Equality |

## 4. Number of staff and nature of the determining authority

| Name in English                       | Number of staff      | Ministry responsible  | Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority? |
|---------------------------------------|----------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| International Protection Office (IPO) | 201.1 <sup>100</sup> | Department of Justice | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                                                                 |

The International Protection Office (IPO) is the body responsible for registering asylum applications and making the first instance decisions.

The IPO's role involves making recommendations to the Minister for Justice on an applicant's eligibility for refugee status, subsidiary protection and permission to remain under the single procedure. This system replaces the previous multi-layered process overseen by ORAC that was fraught with administrative delays and backlogs.

At the end of 2020, the IPO was composed of a total of 148.1 staff members. Of the 148.1 staff, there were 27.6 staff directly involved in making first instance determinations on applications for international

<sup>100</sup> International Protection Office, March 2023.

protection at year end.<sup>101</sup> Data for 2021 was not available at the time of updating. At the end of 2022, the IPO was composed of a total of 201.1 staff members (full-time equivalents). Out of the 201.1 staff members, a total of 40 individuals were involved in the decision-making process.<sup>102</sup>

## Quality assurance and control

While the authors are not aware of any specific quality assurance or control mechanisms in place within the IPO, the UNHCR, in line with its advisory role, states that it regularly works in conjunction with the IPO with a view to improving the quality of decision making. This work includes the development and delivery of training, and the review of decisions and other support initiatives and draws on the best practice developed by the UNHCR through activities implemented in other EU Member States and internationally.<sup>103</sup>

## 5. Short overview of the asylum procedure

The International Protection Act 2015 (IPA) is Ireland's key legislative instrument enshrining the State's obligations under international refugee law. The final version of the IPA was signed into law by the President of Ireland in December 2016 and officially commenced on 6 January 2017.<sup>104</sup> Five years on from the commencement of the act, the IPO has now dealt with the "backlog" of transitional cases. Prior to the outbreak of COVID-19, persons whose circumstances fell outside the prioritisation criteria were likely to be waiting between 8 and 10 months for their substantive interview, whilst applicants who successfully requested prioritisation were interviewed within 4 to 5 months of their initial application.<sup>105</sup> Generally, a person whose case was not prioritised could expect to receive a recommendation on their application within 15 months of claiming protection, while an individual whose case fell within the prioritisation criteria could expect to be waiting 9-10 months.<sup>106</sup>

Throughout 2022, the median processing time for first instance decisions was approximately 18 months for all cases.<sup>107</sup> This marks a slight overall decrease on the previous reporting period. (23 months for non-prioritised applications and 14 months for prioritised applications). However, processing times remained lengthy in view of the commitment by the Department of Justice to reduce the overall processing time to 6 months in line with the recommendations of the Expert Advisory Group.<sup>108</sup> The median waiting period for appeals before the IPAT was 10.5 months.<sup>109</sup>

The IPA introduced a single procedure where refugee status, subsidiary protection, and permission to remain are all examined together in one procedure compared to the previous bifurcated system under the Refugee Act, 1996. Under the IPA, an application for international protection may be lodged either at the port of entry, or directly at the International Protection Office (IPO). The application should be lodged at the earliest possible opportunity as any undue delay may prejudice the application.<sup>110</sup> If the applicant made a claim for international protection status at the port of entry, they must proceed to the IPO to complete the initial asylum process and attend a preliminary interview under Section 13 IPA.

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<sup>101</sup> Information provided by the International Protection Office, April 2021.

<sup>102</sup> International Protection Office, March 2023.

<sup>103</sup> UNHCR, Ireland Fact Sheet – January – December 2019, available at: <https://bit.ly/3naOy4N>.

<sup>104</sup> International Protection Act 2015 (Commencement) (No. 3) Order 2016.

<sup>105</sup> IPO Customer Service Liaison Panel (CSLP) Meeting, December 2019

<sup>106</sup> Minister for Justice Charles Flanagan, Response to Parliamentary question No 384, 16 June 2020, available at: <https://bit.ly/3bDNZNb>.

<sup>107</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 31 January 2023, available at: <https://bit.ly/3X56bmM>.

<sup>108</sup> Department of Justice, *Ministers announce new immigration reform measures*, 14 October 2021, available at: <https://bit.ly/3tm4HJS>.

<sup>109</sup> Information provided by IPAT, January 2023.

<sup>110</sup> Section 28(7)(d) IPA.

## Application

Upon lodging an application for international protection, the applicant first fills out an application form and is given a short preliminary interview conducted either by an international protection officer, or by an immigration official – depending on where the application is lodged.

Under Section 21 IPA an application for international protection may be found inadmissible and a recommendation shall be made to the Minister by an international protection officer to this effect. Inadmissibility decisions are made on the grounds that another Member State has granted refugee status or subsidiary protection status to that person, or a country other than a Member State is considered to be a “first country of asylum” for that person.<sup>111</sup> A person has the right to an appeal to the International Protection Appeals Tribunal (IPAT) regarding an inadmissibility decision.

Under the revised international protection procedure, as of the 8<sup>th</sup> of November 2022, an applicant attending at the IPO in order to make an application for international protection is now required to complete their International Protection Questionnaire (IPO2) onsite, in addition to completing their preliminary interview.<sup>112</sup>

The application questionnaire shall include, as held in Section 15(5) IPA, all relevant information pertaining to the grounds for the application, as well as relevant information pertaining to permission to remain for the applicant, family reunification and right to reside for family members already present in the State, in case such considerations arise at later stages in the process. The information provided in the detailed application form will be duly considered throughout the assessment of the application, including in the applicant’s substantive interview. Given the weight afforded to information provided in this questionnaire in determining the outcome of a person’s application, the IPO recommends that applicants seek legal advice before completing the questionnaire.<sup>113</sup> In this respect, applicants are encouraged to avail themselves of the services of the State-funded Legal Aid Board, which can provide legal advice on the international protection process. However, the extent to which the Legal Aid Board is able to assist prior to the submission of the questionnaire is unclear, particularly having regard to the introduction of the revised procedure.

Throughout 2022, the Irish Refugee Council’s Independent Law Centre provided ongoing legal representation for 280 international protection applicants. 48 clients received refugee status in 2022, while 24 received permission to remain. 67 clients were represented in family reunification applications, while a further 22 clients were reunited with their families following positive family reunification decisions.<sup>114</sup>

## Dublin Regulation

An application for international protection status may be subject to the Dublin Regulation by the IPO if it appears that another Member State may be responsible for the examination of the protection application.<sup>115</sup> During the initial appointment at the IPO, an applicant’s fingerprints are taken and are entered in to the Eurodac database. The applicant is also advised that they may obtain legal assistance from the Legal Aid Board. As per the regular procedure, the applicant is issued a Temporary Residence Certificate and referred to the International Protection Accommodation Service (IPAS) for accommodation if they have no other means of accommodating themselves. At this point, the applicant will be taken to an IPAS reception centre in Dublin and later dispersed elsewhere to another Direct Provision centre. If the

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<sup>111</sup> A first country of asylum is defined under Section 21(15) IPA.

<sup>112</sup> International Protection Office, ‘The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 – Information Note’, 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTI>.

<sup>113</sup> *ibid*, para. 3.7.2.

<sup>114</sup> Information provided by the Irish Refugee Council Independent Law Centre, December 2022.

<sup>115</sup> S.I. No. 62 of 2018 European Union (Dublin System) Regulations 2018.

applicant's details are flagged on the Eurodac database, they may be called for a personal interview to assess the applicability of a transfer to another responsible Member State.<sup>116</sup>

Throughout 2022, there were 24 outgoing transfer decisions made pursuant to the Dublin Regulation, while a total of 3 people were returned pursuant to a transfer order.<sup>117</sup>

## Regular procedure

After registering at the IPO and submitting the questionnaire, applicants are notified by post of the date and time of their substantive interview before the IPO. The purpose of the interview is to establish the full details of their claim for international protection. Under the revised procedure, applicants from 'safe countries of origin' will now undergo their substantive interview within four to six weeks of making their initial international protection application. It should also be noted that, pursuant to the relevant regulation, this accelerated procedure may also be applied to **any** application subject to the need for fairness and efficiency and whereby the International Protection Office considered to be necessary and expedient.<sup>118</sup> The applicant may have a legal representative and an interpreter present at the interview, if necessary.

After the substantive asylum interview, a so-called draft "s.39" report is compiled by the authorised officer based on the information raised at the interview and that provided in the application questionnaire, as well as relevant country of origin information and/or submissions by UNHCR and/or legal representatives. The draft report must then be considered and finalised by a civil servant within the IPO and once this has been done a recommendation is issued from the IPO. The finalised recommendation (s.39 report) contains a recommendation as to whether or not status should be granted:

- ❖ If a positive recommendation is made with regard to refugee status, the applicant is notified and the recommendation is submitted to the Minister for Justice, who makes a declaration of refugee status.
- ❖ If a positive recommendation is made with regard to subsidiary protection, the applicant is notified and the recommendation is submitted to the Minister for Justice, who makes a declaration of subsidiary protection. The applicant can also seek an upgrade appeal to the International Protection Appeals Tribunal (IPAT) for refugee status.
- ❖ If the recommendation is negative, the applicant is provided with the reasons for such a decision. The implications of a negative recommendation depend on the nature of the recommendation. The applicant will be advised of their right to appeal any negative decision before IPAT and their right to seek legal advice if they have not done so already. Under the single procedure, where a person is found ineligible for refugee status or subsidiary protection, the decision-maker also considers whether or not there are humanitarian grounds to recommend a grant of permission to remain. This decision is made on the basis of information provided in the applicant's questionnaire, as well as in any submissions made by or on behalf of the applicant throughout the procedure. There is no right of appeal on permission to remain decisions.

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<sup>116</sup> Regulation 4 European Union (Dublin System) Regulations 2018.

<sup>117</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No. 565, 31 January 2023, available at: <https://bit.ly/3lkY5cw>.

<sup>118</sup> International Protection Office, 'The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, available at: <https://bit.ly/3mnDwg4>.

## Appeal

Under the IPA an applicant may make an appeal to the IPAT against: (i) a recommendation that the applicant should not be given a refugee declaration; or (ii) a recommendation that the applicant should be given neither a refugee declaration nor a subsidiary protection declaration. An appeal under those two categories may be lodged before the IPAT in writing, laying out the grounds of appeal within a time limit prescribed by the Minister under Section 41(2)(a) IPA. They may request an oral hearing before the IPAT; if an oral hearing is not requested the appeal will be dealt with on this basis of the papers unless a member of the Tribunal finds it in the interests of justice to hold such an oral hearing. Free legal representation can be obtained through the Legal Aid Board. The deadline for submitting an appeal will be prescribed by the Minister in consultation with the Chairperson of the IPAT.<sup>119</sup>

If the IPAT decides to set aside the IPO decision, the file will also be transferred to the Department of Justice so the Minister can declare the applicant a refugee or a beneficiary of subsidiary protection. If the IPAT decides to affirm the IPO decision, the individual will be sent a notice in writing stating that the application for a declaration as a refugee and/or subsidiary protection beneficiary has been refused. If an application for international protection is ultimately unsuccessful the applicant will be sent a notice in writing stating that the application for international protection has been refused and that the Minister proposes to make a deportation order under Section 3 of the Immigration Act 1999 requiring that the person leave the State within a given timeframe.

Throughout all stages of the asylum process, prior to receiving a final decision on their claim, the applicant is encouraged to inform the IPO of any circumstances arising that may give rise to the Minister granting the applicant permission to remain in the event that the applicant has been denied both refugee status and subsidiary protection. This status is commonly referred to as 'leave to remain' and takes account of criteria such as humanitarian considerations and/or the person's connections to the State in order to determine whether or not there are compelling reasons to allow the person permission to remain in Ireland. This assessment is conducted in the event that both a claim for refugee status and subsidiary protection are ultimately refused. However, permission to remain can also be issued at first instance at the IPO examination stage and there is an opportunity to put forward any preliminary grounds for permission to remain in a dedicated section of the application questionnaire. The applicant has the right to submit any information relating to their permission to remain (or consideration for international protection more generally) at any point after the submission of their questionnaire. There is no oral hearing with regard to permission to remain at the interview stage at first instance, but it is important that the applicant includes all relevant information in writing concerning their grounds for being granted permission to remain. It is important to note that if an applicant is refused permission to remain, they do not have a right to appeal this decision.

An applicant may seek to have a refugee or subsidiary protection recommendation of the IPO or a decision of the IPAT judicially reviewed by the High Court under Irish administrative law, for example where there has been an error of law in the determination process. It is expected that an applicant will exhaust all available remedies before applying for judicial review and, therefore, most judicial reviews are of appeal recommendations, rather than first instance decisions. Applicants must be granted permission (known as leave) to apply for judicial review before proceeding to a full judicial review hearing.

The High Court can affirm or set aside the decision of the first instance or appellate body. If the applicant is successful, their case is returned to the original decision-making body for a further determination. Because of the volume of judicial review cases that have been brought to challenge decisions over the last number of years, and the procedure of having both pre-leave and full hearings, there is a large backlog of cases awaiting determination.

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<sup>119</sup> Section 77 IPA.

The latest available statistics demonstrate a further decrease in new asylum cases lodged before the High Court, down from 355 in 2020 to 300 in 2021. A total of 377 cases were decided by the High Court, with a total of 251 cases settling outside of Court, marking a 110% increase in the number of asylum matters resolved by the Court compared with the previous year.<sup>120</sup> Statistics in relation to asylum cases lodged in 2022 are expected to be published in the Courts Service Annual Report in July 2023.

## B. Access to the procedure and registration

### 1. Access to the territory and push backs

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring system in place? ☒ Yes ☐ No

A person who arrives in Ireland seeking entry may be refused leave to land and due to the lack of independent oversight and transparency at airports or ports of entry, it is unclear whether or not a person refused leave to land had protection grounds or had intended to apply for asylum. There is currently no access for independent authorities or NGOs at air or land borders in order to monitor the situation, nor do there appear to be any plans to allow such access in the future.

Anecdotal evidence received by the Irish Refugee Council Independent Law Centre in 2019 suggested that some people may be refused leave to land and to enter Ireland even when they have grounds for protection. The Irish Refugee Council's services have witnessed a number of cases of applicants describing that they had only been permitted entry for the purposes of seeking asylum subject to rigorous examination by border authorities. The Irish Times reported in December 2019 that "Airlines have been told to take such individuals back on a return flight before any opportunity to claim international protection arises." The Irish Refugee Council wrote to the Minister for Justice and Equality, Charlie Flanagan TD, in January 2020 requesting clarification about these instructions, criteria used and how they adhere to Ireland's legal obligations. A written response from the Department of Justice stated that the purpose of checks on arrival was to determine if a person is allowed leave to land rather than any assessment of asylum. The response added that checks conducted at the point of exit from the plane have "always been a part of immigration control and as a standard procedure it complies with all legal obligations not impeding persons from claiming asylum." A freedom of information request made by the Irish Refugee Council for information on the policies and procedures on this issue was declined.

In October 2022, it was reported that a unit was to be established at Dublin Airport in order to facilitate stricter immigration checks in respect of arriving passengers. The establishment of the unit was reported to be part of a range of measures introduced by Government with a view to reducing the number of individuals claiming international protection in Ireland.<sup>121</sup>

Further reports in September and October 2022 indicated that additional immigration control measures had increased at Dublin Airport, targeting in particular individuals seeking to disembark from arriving aircraft with false documentation.<sup>122</sup> One such report indicated that 'before the flight landed, the crew asked passengers to get out their

<sup>120</sup> Courts Service, *Annual Report 2021*, 28 July 2022, available at: <https://bit.ly/3iUYf9T>.

<sup>121</sup> Irish Examiner, 'Stricter asylum checks, more deportations, and more basic shelter in bid to control migration', 24 October 2022, available at: <https://bit.ly/3GNNmjh>.

<sup>122</sup> Dublin Inquirer, 'The Government says it's bringing back stricter asylum checks, but what does that mean?', 2 November 2022, available at: <https://bit.ly/3VQ1YTv>.

passports for immigration checks...Once it touched down, border control officers came on the plane.’<sup>123</sup> When passengers queried the practice, they were advised that Immigration Officers were ‘looking for people without visas.’<sup>124</sup> Despite indications from the Department of Justice in recent years that this practice had been largely scaled back, such reports suggest that the policy continues to operate in practice as of 2022.

According to statistics published by Eurostat, in 2020, 2,221 individuals were refused leave to land at Dublin Airport.<sup>125</sup> 2,333 people were refused leave to land at Dublin Airport between 1 January and 14 November 2021. The reduction in refusals of leave to land for 2020 and 2021 was a consequence of travel restrictions implemented following the onset of the COVID-19 pandemic. In the first nine months of 2022 out of a total of 5,662 persons refused leave to land, 4,969 persons indicated an intention to claim asylum to the Border Management Unit in Dublin airport.<sup>126</sup> The top 5 nationalities refused leave to land in 2022 were Georgian, Somali, Zimbabwean, Syrian and Kuwaiti.<sup>127</sup>

The Irish Refugee Council has previously raised concerns in relation to the increasing number of individuals being refused leave to land from active zones of conflict that are demonstrably unsafe and has urged the government to show proactivity in ensuring effective access to the asylum procedure.<sup>128</sup>

Section 78 IPA amends Section 5 of the Immigration Act 2004 in a way which allows for people to be detained for short periods of time in facilities at ports of entry and/or airports instead of being placed in custody in police stations (see [Detention of Asylum Seekers](#)).

In December 2021, according to a statement made by the Minister for Justice, Helen McEntee, the dedicated immigration facility at Dublin Airport was opened for use in circumstances where an individual is refused leave to land at the air border. The facility houses the newly opened Dublin Airport Garda Station and the Garda National Immigration Bureau. The Garda Station contains four single person cells and two additional detention rooms. The facility was reported to be fully operational as of March 2022.<sup>129</sup> However, it is not known whether immigration detainees are advised and facilitated in seeking legal advice from detention.

### **Legal access to the territory**

See section on [Family reunification](#).

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<sup>123</sup> *ibid.*

<sup>124</sup> *ibid.*

<sup>125</sup> European Migration Network, Detention and Alternatives to Detention in International Protection and Return Procedures in Ireland, November 2021, available at: <https://bit.ly/3HtGu8h>.

<sup>126</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No 272, 27 October 2022, available at: <https://bit.ly/3GZ7ZYx>.

<sup>127</sup> Dublin Inquirer, ‘The Government Says It’s Bringing in Stricter Asylum Checks, but What Does This Mean?’, 2 November 2022, available at: <https://bit.ly/3ZPRC9n>.

<sup>128</sup> Irish Times, Rise in people from war torn countries refused entry to the State, 2 August 2021, available at: <https://bit.ly/3Fq2a3x>.

<sup>129</sup> Department of Justice, Minister McEntee attends Official Opening of Dublin Airport Garda Station, 6 May 2022, available at: <https://bit.ly/3J1InwY>.



## 2. Registration of the asylum application

### Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
2. If so, what is the time limit for lodging an application? N/A
3. Are registration and lodging distinct stages in the law or in practice? N/A
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations?  
☐ Yes ☒ No

The right to apply for asylum is contained in Section 15 IPA. When a person presents themselves either at the IPO or at the frontiers of the State seeking international protection, he or she shall go through a preliminary interview at a time specified by an immigration officer or an international protection officer. That time limit is not, however, specified in the IPA.

In the case of families applying for international protection, all adult family members must make their own applications. An adult who applies for protection is deemed to be applying on behalf of his or her dependent children where the child is not an Irish citizen and is under the age of 18 years and present in the State or is born in the State while the person is in the protection procedure or not having attained the age of 18 years, enters the State while the parent is still in the protection procedure. There is no separate right for accompanied children to apply for asylum independently even if they have different protection grounds to their parents.

### Preliminary Interview

Once an applicant presents to the IPO, the applicant makes a formal declaration that they wish to apply for international protection, outlined under Section 13 IPA. The applicant is interviewed by an authorised officer of the IPO to establish basic information. The preliminary interview takes place in a room where other applicants are waiting and being interviewed and is conducted by an official who sits behind a screen. If necessary and possible, an interpreter may be made available. Interpreters are provided by the IPO and typically must be requested in advance. Whereby an applicant presents without having requested an interpreter and an interpreter is not available, it is usually the case that the applicant's basic details are taken by the IPO and they are then called back at a later stage, once an interpreter can be arranged.

The information provided by the applicant at interview is inserted into a standard form by the IPO officer entitled 'IPF1'. The IPF1 contains the applicant's biographical data, including their name, address and nationality, as well as the route travelled to Ireland and a brief summary of their asylum claim. The contents of the form are read back to the applicant, who is then required to sign it, and a copy is provided to them.

The purpose of this initial interview is to establish the applicant's identity; country of origin; nationality, details of the journey taken to Ireland, including countries passed through in which there was an opportunity to claim asylum and any assistance obtained over the journey and the details of any person who assisted the person in travelling to the State; the method and route of entry into the state (legally or otherwise); brief details of why the applicant wishes to claim asylum, their preferred language and whether the application could be deemed inadmissible under Section 21 IPA. This interview usually takes place on the day that the person attends the IPO, though due to restrictions associated with the COVID-19 outbreak and resultant delays, applicants were sometimes called back for their initial interview on a separate day following registration of their claim. In such circumstances, the time period between a claim being registered and the initial interview taking place varied on a case-to-case basis. Typical waiting periods were approximately 2-4 weeks. However, the Irish Refugee Council Information and Referral Service became aware of cases whereby it took clients up to 2 months to complete their preliminary interview and receive their Temporary Residence Certificate. In a press release published on 8 April 2022,

the Irish Refugee Council noted that in many cases, these applicants were staying in emergency accommodation where they had limited access to support and information. Moreover, without a Temporary Residence Certificate, applicants were unable to obtain PPS numbers and consequently, were not receiving their Daily Expense Allowance, thereby forcing individuals to live in abject poverty for long periods of time. In some instances, children were unable to access education, despite having arrived in the State several months previously.<sup>130</sup> A parliamentary question answered by Minister Roderic O’Gorman in April 2022 revealed that as many as 1,200 applicants are awaiting an appointment to complete their preliminary interview.<sup>131</sup> In the latter half of 2022, the IPO worked through the backlog of applicants awaiting registration. As of January 2023, applicants were facilitated in registering their application and undergoing their preliminary interview on the same day.<sup>132</sup>

The applicant is required to be photographed and fingerprinted. If the applicant refuses to be fingerprinted, he or she may be deemed not to have made a reasonable effort to establish his or her true identity and to have failed to cooperate.<sup>133</sup>

The information taken at the screening interview enables the IPO to ascertain if the person applying for asylum has submitted an application for asylum in, or travelled through, another EU country by making enquiries through Eurodac which will assist in determining if the Dublin III Regulation is applicable or not.

### **Application for International Protection Questionnaire**

In accordance with the revised international protection procedure, pursuant to the European Communities (International Protection Procedures) Regulations 2022, an applicant attending at the International Protection Office in order to make an application for international protection is now required to complete their International Protection Questionnaire onsite at the IPO following the conclusion of their preliminary interview.<sup>134</sup> The international protection questionnaire has been reduced significantly to just 24 questions in order to enable applicants to complete the questionnaire at the time of making their application.<sup>135</sup>

The revised questionnaire is considerably shorter than its predecessors at just 19 pages long and comprised of 11 sections.

**Section 1** gathers the principal applicant’s basic biographical details (full name, identification numbers, address, former addresses).

**Section 2** requests information pertaining to the applicant’s family, specifically their spouse/civil partner.

**Section 3** collects information on the applicant’s education and employment history, including formal education/training and employment/self-employment.

**Section 4** focuses on the basis of the claim for protection, allowing space for the applicant’s personal testimony; questions on any grounds for both refugee status and subsidiary protection, the applicant’s fears if returned, as well as reasons why their dependants fear persecution.

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<sup>130</sup> Irish Refugee Council, ‘Press Release: Irish Refugee Council calls for clarity and action on the registration of asylum applications’, 8 April 2022, available at: <https://bit.ly/3LLFy1c>.

<sup>131</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question Nos 612 and 613, 5 April 2022, available at: <https://bit.ly/3uCtvO9>.

<sup>132</sup> Information provided by Irish Refugee Council Information and Advocacy Service, January 2023.

<sup>133</sup> The consequences of such refusal are laid out in Section 38 IPA.

<sup>134</sup> *ibid.*

**Section 5** focuses on state protection and asks whether the applicant reported what happened to them in their country of origin, seeks details on the applicant's criminal record as well as information regarding whether the applicant or their dependants have ever been issued with a passport.

**Section 6** deals with permission to remain. In the event that the applicant should be refused both refugee status and subsidiary protection, the minister will consider the person's personal circumstances in order to determine whether he or she may be permitted leave to remain on the basis of humanitarian considerations. The applicant is encouraged to notify the IPO of any new information or circumstances pertaining to permission to remain at any stage they might arise in the process, including following an appeal at the IPAT, which adds an extra degree of responsibility upon the applicant. It is important to note that under S.I. 664/2016 International Protection Act (Permission to remain) Regulations 2016 an applicant only has a five-day period to provide a further submission on permission to remain after the IPAT decision.

**Section 7** requires information as to any serious medical conditions the applicant or his/her dependants or both, have, as well as any documentary evidence of same.

**Section 8** of the questionnaire contains information relating to the s.35 interview and asks the applicant about any special requirements they might have for the duration of the interview. It also requests that the applicant provide all available supporting documentation that may be relevant to their claim for both international protection and permission to remain in the State.

**Sections 9-11** of the questionnaire ask for information about the completion of the questionnaire, including details of the applicant's legal representative, if applicable.

Previously, the applicant received a more in-depth questionnaire, comprised of 34 questions, in their preferred language, which was required to be completed by the applicant and returned within 20 working days.

According to the IPO, the rationale for the new procedure is to ensure that international protection applications, particularly those from safe countries of origin, are dealt with in a timelier manner so as to increase processing capacity and reduce delays.<sup>136</sup> However, the Irish Refugee Council has written to the Minister for Justice, addressing numerous significant concerns in relation to the appropriateness of the revised procedure. Such concerns relate particularly to applicants who may have had traumatic experiences prior to their arrival in the state. These applicants are required to complete and submit their questionnaire in an open-plan waiting area at the IPO, an environment which is often extremely busy, noisy and tense. This raises significant concern in relation to the applicant's privacy and personal data protection. Moreover, it is an extremely inappropriate physical space for applicants to complete such a significant document and gives rise to a risk of re-traumatisation insofar as particularly vulnerable applicants are concerned. Additionally, the revised process completely removes the applicant's practical access to legal advice prior to the submission of their international protection questionnaire. Unless an applicant is accompanied to the IPO by a lawyer when making their application, they do not have the benefit of legal advice in advance of submitting their international protection questionnaire, a document upon which significant reliance is placed in the applicant's substantive interview.

Translation services, as well as Cultural Support Officers are available to applicants in order to assist them in the completion of their questionnaire,<sup>137</sup> however, it is not clear what exactly the role of the Cultural Support Officer involves or the extent of the assistance they can provide to applicants in the completion

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<sup>136</sup> International Protection Office, The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 FAQ's, 8<sup>th</sup> November 2022, available at: <https://bit.ly/40qKe4G>.

<sup>137</sup> *ibid.*

of their questionnaire. Having accompanied clients to apply for international protection on several occasions following the establishment of the revised procedure, in the Irish Refugee Council's experience, Cultural Support Officers have not been present to assist applicants in the completion of their questionnaires, while the standard of translation services provided has been unsatisfactory given the importance of the questionnaire in the overall application process.

Following submission of their international protection application, applicants are directed to the international protection unit within the Legal Aid Board for free legal assistance and support completing the questionnaire once they have entered the international protection process. However, the Irish Refugee Council assisted a number of people who had registered with the Legal Aid Board and had been told to complete the questionnaire by themselves due to a general lack of capacity within the Legal Aid Board or a lack of capacity within the solicitors on the Legal Aid Board panel. Anecdotal reports show that the level of funding provided to the panel is insufficient to cover the number of hours required to give comprehensive representation. This issue persisted as of January 2023, with many applicants waiting in excess of 6 weeks to be assigned legal representation by the Legal Aid Board.<sup>138</sup>

In 2022, the Irish Refugee Council Independent Law Centre provided ongoing representation to 280 applicants at various stages in the international protection process. 48 clients received refugee status, while 24 clients received permission to remain. A further 67 clients received representation in respect of their family reunification application, and 22 clients were reunited with their family members following a positive family reunification decision.<sup>139</sup>

Upon registering their claim, the applicant is issued a Temporary Residence Certificate, which comes in the form of a plastic card and is referred to the International Protection Accommodation Services (IPAS).

Previously, if the applicant required accommodation, he or she would usually be taken to **Balseskin** Reception Centre in Dublin (near Dublin airport), where the applicant could then avail themselves of voluntary medical screening and counselling. However, due to a very significant lack of capacity in the Direct Provision system, all applicants are instead brought Citywest Transit Hub, located on the outskirts of Dublin. Owing to limited bed capacity, many international protection applicants were forced to sleep on the floor of the Convention centre or on chairs for periods of up to 6 weeks while awaiting transfer to more permanent accommodation.<sup>140</sup> Many applicants residing at Citywest have reported sub-standard, overcrowded living conditions, as well as significant child protection concerns, posing a risk to the personal safety, health and wellbeing of adults and children living at the facility.<sup>141</sup>

Applicants may also make their own arrangements for accommodation if they have the financial resources to do so, however it is crucial that they keep the IPO apprised of their address as any correspondence in relation to their claim will be sent to that location.

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<sup>138</sup> Information provided by Irish Refugee Council Information and Advocacy Service, January 2023.

<sup>139</sup> Information provided by Irish Refugee Council Independent Law Centre, December 2022.

<sup>140</sup> Information provided by Irish Refugee Council Information and Advocacy Service, January 2023.

<sup>141</sup> RTE, 'Child Safety Concerns at Citywest Transit Hub', 19th December 2022, available at: <https://bit.ly/3QAuqrq>.

## C. Procedures

### 1. Regular procedure

#### 1.1. General (scope, time limits)

##### Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: None
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☒ Yes ☐ No
3. Backlog of pending cases at first instance as of 31 December 2022: 14, 687<sup>142</sup>
4. Average length of the first instance procedure in 2022: 18 months.<sup>143</sup>

There is no time limit in Irish law for the IPO to make a decision on an asylum application at first instance.<sup>144</sup> Under Section 39(5) IPA, if a recommendation cannot be made within six months of the date of the application for a declaration, the IPO may, upon request from the applicant, provide information on the estimated time within which a recommendation may be made. However, there are no express consequences for failing to decide the application within a given time period. Applicants can be called back for a subsequent interview in relation to their claim, occasionally a number of months after their initial s.35 interview was conducted.

The Irish Refugee Council has repeatedly raised concerns regarding increasing delays in the Irish protection process. Throughout 2022, the median processing time for first instance decisions was approximately 18 months for all cases.<sup>145</sup> This marks a slight overall decrease on the previous reporting period (23 months for non-prioritised applications and 14 months for prioritised applications). However, processing times remained lengthy in view of the commitment by the Department of Justice to reduce the overall processing time to 6 months in line with the recommendations of the Expert Advisory Group.<sup>146</sup>

#### 1.2. Prioritised examination and fast-track processing

Prioritisation is dealt with under Section 73 IPA, giving the Minister power to “accord priority to any application”, or “to any appeal” in consultation with the chairperson of the Tribunal. Under Section 72(2) the Minister may have regard to certain matters such as whether the applicant is a person (unaccompanied child) in respect of whom the Child and Family Agency is providing care and protection. The grounds for prioritised applications are not explicitly set out in the IPA but Section 73(2) states that in according priority the Minister may have regard to the following:

- (a) whether the applicant possesses identity documents, and if not, whether he or she has provided a reasonable explanation for the absence of such documents;

<sup>142</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 560, 31 January 2023, available at: <https://bit.ly/3DHnhk2>.

<sup>143</sup> International Protection Office, March 2023.

<sup>144</sup> There is no time limit in law. Alan Shatter, then Minister for Justice, stated in July 2013 that a reason Ireland was not opting into the recast Asylum Procedures Directive was because the recast proposed that Member States would ensure that the examination procedure was concluded within 6 months after the date the application is lodged, with a possible extension of a further 6 months in certain circumstances. Alan Shatter stated that these time limits could impose additional burdens on the national asylum system if there was a large increase in the number of applications to be examined in the State, especially considering previous increases in the period 2001 to 2003, available at: <http://bit.ly/1Lwomep>.

<sup>145</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 31 January 2023, available at: <https://bit.ly/3X56bmM>.

<sup>146</sup> Department of Justice, *Ministers announce new immigration reform measures*, 14 October 2021, available at: <https://bit.ly/3tm4HJS>.

- (b) whether the applicant has provided a reasonable explanation to substantiate his or her claim that the State is the first safe country in which he or she has arrived since departing from his or her country of origin;
- (c) whether the applicant has provided a full and true explanation of how he or she travelled to and arrived in the State;
- (d) where the application was made other than at the frontier of the State, whether the applicant has provided a reasonable explanation to show why he or she did not make an application for international protection, or as the case may be, an application under section 8 of the Refugee Act 1996 (as amended) immediately on arriving at the frontier of the State unless the application is grounded on events which have taken place since his or her arrival in the State;
- (e) where the applicant has forged, destroyed or disposed of any identity or other documents relating to his or her application, whether he or she has a reasonable explanation for so doing;
- (f) whether the applicant has adduced manifestly false evidence in support of his or her application, or has otherwise made false representations, either orally or in writing;
- (g) whether the applicant has adduced manifestly false evidence in support of his or her application, or has otherwise made false representations, either orally or in writing;
- (h) whether the applicant, without reasonable cause, has made an application following the notification of a proposal under Section 3(3)(a) of the Immigration Act 1999;
- (i) whether the applicant has complied with the requirements of Section 27(1) IPA;
- (j) whether the applicant is a person in respect of whom the Child and Family Agency is providing care and protection;
- (k) whether the applicant has, without reasonable cause, failed to comply with the requirements of paragraphs (a), (c) or (d) of Section 16(3) IPA which refers to reporting obligations.

Applications from certain nationalities can be prioritised, which leads to a quicker determination of the application and the curtailment of appeal rights.

Following the introduction of the revised procedure, other nationalities (currently applicants from Bosnia and Herzegovina, Republic of North Macedonia, Georgia, Kosovo, Montenegro, Republic of Albania, Republic of Serbia and Republic of South Africa) may also find themselves subjected to a truncated procedure on the grounds that those countries have been designated by the Minister for Justice and Equality as [Safe Countries of Origin](#). Under the revised procedure, applicants from safe countries of origin will now receive a date for their substantive interview within four to six weeks of making their initial international protection application. It should also be noted that, pursuant to the relevant regulation, this accelerated procedure may also be applied to **any** application subject to the need for fairness and efficiency and whereby the international protection office considered same necessary and expedient.

All applications will continue to be examined individually and all applicants will retain the right to appeal a negative recommendation by the IPO to the International Protection Appeals Tribunal.<sup>147</sup> However, pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, whereby the IPO recommends that an applicant's application for refugee or subsidiary protection should be refused, and the applicant originates from one of the designated safe countries of origin, the timeframe in which to submit an appeal is shortened to 10 working days from the date of the decision. An applicant's appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.<sup>148</sup> Moreover, if an applicant is from a country designated a safe country of origin, a burden is placed on the applicant to rebut the presumption that they are not in need of international protection (see section on [Accelerated Procedure](#)).

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<sup>147</sup> International Protection Office, 'The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 – Information Note', 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTI>.

<sup>148</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022



From 8<sup>th</sup> of November to the 31<sup>st</sup> of December 2022, 448 cases have been processed under the accelerated procedure with applicants originating from Georgia, South Africa, Albania and Kosovo. The median processing time for cases under the accelerated procedure was 33.75 days.<sup>149</sup>

On 27 January 2017 UNHCR issued a statement in conjunction with the International Protection Office on the prioritisation of applications, which remains in effect as of January 2023.<sup>150</sup> Under the IPA, the scheduling of interviews occurs under two processing streams, which run concurrently on the basis of ‘oldest case first’ and according to specific criteria warranting prioritisation.

According to the UNHCR and the IPO statement setting out the prioritisation procedure:<sup>151</sup>

1. Stream one will comprise the majority of applications, which will be scheduled mainly on the basis of **oldest cases first**. This includes new applications made after the commencement of the IPA as well as those cases that were under processing prior to the new procedures coming into force. Within this stream, cases will be scheduled according to the following stages and order of priority:
  - (i) pending subsidiary protection recommendations;
  - (ii) pending appeal at the former Refugee Appeals Tribunal;
  - (iii) pending refugee status recommendations.
2. Stream two will also be processed on the basis of **oldest case first**. Stream two pertains to both cases that were open before the commencement of the IPA and those lodged after that meet specific prioritisation criteria:
  - (i) The age of applicants – under this provision the following cases will be prioritised: unaccompanied minors in the care of Tusla; applicants who applied as unaccompanied minors, but who have now aged out; applicants over 70 years of age, who are not part of a family group;
  - (ii) the likelihood that applications are well-founded;
  - (iii) the likelihood that applications are well-founded due to the country of origin or habitual residence (specifically, Syria, Eritrea, Iraq, Afghanistan, Iran, Libya and Somalia);
  - (iv) health grounds - applicants who notify the IPO after the commencement date that evidence has been submitted, certified by a medical consultant, of an ongoing severe/life threatening medical condition will be prioritised.

In August 2021, in response to the emerging humanitarian crisis in Afghanistan, the Department of Justice confirmed that it would begin prioritising international protection applications from Afghan nationals in line with updated advice provided by UNHCR.<sup>152</sup> Anecdotal evidence indicates that prioritisation for cases of Afghan nationals took place in practice throughout 2022 for some, but not all, applicants.<sup>153</sup>

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<sup>149</sup> International Protection Office, March 2023.

<sup>150</sup> IPO and UNHCR, *Prioritisation of applications for international protection under the International Protection Act 2015*, available at: <https://bit.ly/3n4bUv>.

<sup>151</sup> *ibid.*

<sup>152</sup> RTÉ, Department of Justice to prioritise international protection applications from Afghan Nationals, 18 August 2021, available at: <https://bit.ly/3tbpAYi>.

<sup>153</sup> Information provided by the Irish Refugee Council’s Independent Law Centre and Information and Advocacy Service, January 2023.



### 1.3. Personal interview

#### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
2. If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
3. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
4. Are interviews conducted through video conferencing? Never
5. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?  
☒ Yes ☐ No
6. If so, is this applied in practice, for interviews? ☒ Yes ☐ No

The IPA allows for a preliminary (non-mandatory) interview of the applicant upon arrival on the territory of the State in order to, among other things, capture basic information about the applicant before they formally register an application for international protection. Section 13 IPA enables an immigration officer or an IPO officer to conduct the preliminary interview. It is not clear from the legislation when it would be an immigration officer or an IPO officer conducting the interview, but the immigration officer must furnish a record of the interview to the Minister. Under Section 13 IPA, the preliminary interview seeks to establish, among other details: whether the person wishes to make an application for international protection, as well as the grounds for that application; the identity, nationality and country of origin of the person; the route travelled by the person and other travel details, and whether any initial inadmissibility grounds arise in the case. If differences occur in the statements furnished by the applicant in the preliminary and substantive personal interviews, a negative credibility finding may be made in respect of the applicant's claim.

The substantive interview is conducted by an International Protection Officer who will have extensively reviewed the applicant's questionnaire and relevant country of origin information in advance. The purpose of this interview is to establish the full details of the claim for international protection and address any issues or inconsistencies arising from the questionnaire and other material supplied to the IPO for the purposes of the case. The interview can last a number of hours, depending on the circumstances of the particular case. A legal representative can attend the interview and is asked to sign a code of conduct to be observed when attending the interview. Private practitioners who are funded by the Legal Aid Board to provide legal representation to applicants are not funded to attend the interview. The Irish Refugee Council's Independent Law Centre attends interviews with their clients. The vast majority of substantive personal interviews are conducted face to face at the IPO in Dublin, however a small number of face-to-face interviews were also held outside of Dublin in 2019, in **Tipperary Town**, under a pilot process, however this was discontinued due to difficulties in accessing public transport.

Following the implementation of measures to restrict the spread of COVID-19, the IPO began to pilot remote video conferencing interviews. 90 interviews were carried out remotely.<sup>154</sup> Applicants were required to attend a designated centre in Co. Cork in order to conduct their interview via secure web conferencing software, while interviewers attended at the IPO offices in Dublin. In the experience of the Irish Refugee Council, this process led to some difficulties with regard to legal representatives' attendance

<sup>154</sup> Information provided by IPO, April 2021.

at client interviews. Following the easing of Covid-19 restrictions, in February 2022, the IPO recommenced in-person interviews.

Since the commencement of the IPA on 31 December 2016, consideration of eligibility for refugee status, subsidiary protection and permission to remain is given under a single interview, as held in Section 35 IPA.

A personal interview may be dispensed with where the IPO officer is of the opinion that:<sup>155</sup>

- ❖ based on the available evidence, the applicant is a person in respect of whom a refugee declaration should be given;
- ❖ where the applicant has not attained the age of 18 years, he or she is of such an age and degree of maturity that an interview would not usefully advance the examination; or
- ❖ the applicant is unfit or unable to be interviewed owing to circumstances that are enduring and beyond his or her control.

In the experience of the Irish Refugee Council, interviews were rarely dispensed with in practice, save for in exceptional circumstances. The Irish Refugee Council advocated for greater use of this power during the pandemic. Subsequently, the IPO dispensed with interviews in numerous cases of applicants from prioritised countries in 2021. Many of these applicants were issued with a declaration of refugee status on a papers-only basis in circumstances where they had established their identity and nationality. This was something the Irish Refugee Council recommended in the report “[Hanging on a Thread](#)” (published in July 2021), and has been hugely welcomed.

Where an applicant does not attend his or her scheduled interview, the application may be deemed to be withdrawn. However, the IPO will first contact the applicant to find out if there is a reasonable cause for his or her failure to attend the interview. An applicant may make representations in writing to the IPO in relation to any matter relevant to the investigation following the interview and the International Protection Officer shall take account of any representations that are made before or during an interview under Section 35 IPA. Representations may also be made by UNHCR and by any other person concerned.

International Protection Officers are required to “be sufficiently competent to take account of the personal or general circumstance surrounding the application, including the applicant’s cultural origin or vulnerability” and must provide the services of “interpreters who are able to ensure appropriate communication between the applicant and the person who conducts the interview.”<sup>156</sup> Whilst this is not laid down in legislation, in practice the applicant may request the IPO officer and/or interpreter be of a particular gender.

Unaccompanied children are usually accompanied by their social worker or another responsible adult. Where this is the case, the officer conducting the interview will require the accompanying adult to prove that he or she is responsible for the care and protection of the applicant. Section 35(5)(a) IPA states that interviews are conducted without the presence of family members save in certain circumstances where the International Protection Officer considers it necessary for an appropriate investigation. Anecdotal evidence suggests that such circumstances rarely occur. The interview is the primary opportunity for the applicant to give their personal account of why they are seeking international protection and cannot return home.

A total of 1,116 personal interviews were conducted throughout 2020.<sup>157</sup> A total of 1,214 personal interviews were conducted in 2021.<sup>158</sup> Throughout 2022, the IPO conducted a total of 3,913 personal

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<sup>155</sup> Section 35(8) IPA.

<sup>156</sup> Section 35(3) IPA.

<sup>157</sup> Information provided by IPO, April 2021.

<sup>158</sup> Information provided by IPO, April 2022.

interviews, while 606 applications were decided without the applicant having to undergo a personal interview.<sup>159</sup>

### 1.3.1. Interpretation

Section 35(2) IPA states that an applicant who is having a substantive interview shall, whenever necessary for the purpose of ensuring appropriate communication during the interview, be provided by the Minister or International Protection Officer with the services of an interpreter. As mentioned above the IPA requires that interpreters are fully competent and able to ensure appropriate communication between the applicant and the interviewer. If an interpreter is deemed necessary for ensuring communication with an applicant, and one cannot be found, the interview is usually postponed until one can be found. There are no known languages of countries from which protection applicants in Ireland typically originate for which interpreters are not available. If issues arise between the applicant and the interpreter during the interview (for example, in circumstances where the interpreter speaks a different dialect of the language requested by the applicant, or where the applicant is uncomfortable with the interpreter provided for any reason), the applicant is encouraged to indicate this to the International Protection Officer and/or their legal representative. This may involve postponing the interview until the issue can be resolved and/or another interpreter can be found. Under ordinary circumstances, where requested, interpreters are obliged to attend international protection interviews in person at the International Protection Office. However, throughout 2021, owing to the COVID-19 pandemic and associated restrictions, interpretation services have typically been provided to applicants on a remote basis whereby interpreters have been required to dial in to client interviews via telephone. As previously mentioned, this significantly affected the sound quality of interviews. It was also not possible for the applicant to see the interpreter. The software being used meant that calls often dropped numerous times throughout the interview and had to be reconnected. Efforts were made to address these concerns through the introduction of new software, in December 2021.

As of February 2022, in-person international protection interviews recommenced following the easing of Covid-19 restrictions.<sup>160</sup>

As it stands, there is no recognised qualifications framework or established standards, set out in legislation or elsewhere, on the recruitment of interpreters by public bodies, including the IPO. Most interpreters are sourced from a private company that has a contract to provide access to interpreters, with such contracts typically valid for between 2 and 4 years. The result is that quality of interpreting, in the experience of Irish Refugee Council, varies significantly, with anecdotal reports of interpreters interpreting in the 3rd person, having a standard of English which is lower than that of the applicant, or having insufficient or inappropriate vocabulary to deal with particular claims – e.g., claims related to sexual orientation or gender identity or religious conversion claims.

Since 2016, the Irish Refugee Council has rolled out an interpreter training programme for French and Arabic interpreters that focuses on promoting best practice interpreting techniques, interpreting practice, terminology used in the asylum process, and ethics and a code of conduct.<sup>161</sup> The training also provides interpreters with practical exposure through role-playing, involvement in Irish Refugee Council casework and an overview of the asylum process. In 2021, 18 interpreters attended training on how to work remotely and on a revision of the code of conduct. The Irish Refugee Council interpreters' professional code of conduct was also updated to include remote Interpreting.<sup>162</sup>

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<sup>159</sup> International Protection Office, March 2023.

<sup>160</sup> Information provided by IRC Independent Law Centre, February 2022.

<sup>161</sup> Irish Refugee Council, *Interpreter Training Programme*, available at: <https://bit.ly/2XLb9ZB>.

<sup>162</sup> Information provided by Resettlement Officer, February 2022.

### 1.3.2. Recording and report

Typically, the officer conducting the interview makes a record of the information given and that information is read back to the applicant periodically during the interview or at the end of the interview. The applicant is requested to sign each page to confirm that it is accurate or to flag any inaccuracies. In the event that typographical errors are present in the record, the applicant may amend the record and initial the change in the margin; for more substantial changes the page may be re-printed or a supplementary page may be printed. The interview is usually recorded via hand-typed transcription on a desktop. There is no system for independent recording of the interviews (interviews are not audio or video recorded), even where a legal representative is not present. A copy of the interview record is not given to the applicant or their legal representative until and unless the applicant receives a negative decision. If a negative decision is issued, then the applicant and the legal representative automatically receive a copy of the interview record. In some cases, a subsequent interview is required, for example if there are further questions that need to be asked or if the authorised officer has done further research. Interviews may on occasion be adjourned in the event that there is a problem with interpretation or illness.

### 1.4. Appeal

#### Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

☒ Yes ☐ No

If yes, is it

☐ Judicial ☒ Administrative

If yes, is it suspensive

☒ Yes ☐ No

Average processing time for the appeal body to make a decision: 10.5 months.<sup>163</sup>

#### 1.4.1. Appeal before the International Protection Appeals Tribunal (IPAT)

Decisions of the IPO may be challenged before the International Protection Appeals Tribunal (IPAT) within 15 working days of receiving a negative decision.<sup>164</sup> However, pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, whereby the IPO recommends that an applicant's application for refugee or subsidiary protection should be refused on the basis of one of the reasons established pursuant to s.39(4) of the International Protection Act 2015, the timeframe in which to submit an appeal is shortened to 10 working days from the date of the decision.<sup>165</sup> Such reasons include whereby a finding is made by the International Protection Office that the issues raised in the application were not relevant to the applicant's eligibility for international protection, whereby the applicant's representations have been inconsistent or contradictory, whereby the applicant failed to make the application as soon as they could without good reason, whereby a finding is made that the applicant did not require international protection due to the possibility of safe internal relocation within their country of origin, or whereby the application is refused and the applicant comes from a safe country of origin.<sup>166</sup> An applicant's appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.<sup>167</sup>

The IPAT is the second-instance decision making body for the Irish asylum process. The IPAT is a quasi-judicial body and, according to the IPA, it shall be independent in the performance of its functions. Under Section 41 IPA, the IPAT may hear appeals against recommendations that an applicant not be given a

<sup>163</sup> International Protection Appeals Tribunal, February 2023.

<sup>164</sup> Section 41(2)(a) IPA; Section 3(c) International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017.

<sup>165</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

<sup>166</sup> International Protection Act 2015, s.39(4).

<sup>167</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

refugee declaration, or recommendations that an applicant should be given neither a refugee declaration nor a subsidiary protection declaration. The IPA also hears appeals regarding Dublin III Regulation transfers and on paper, inadmissibility appeals. Applications to the IPAT must be made in writing, within a given time frame, including the grounds of appeal and whether or not the applicant wishes to have an oral hearing.

Section 61(4) IPA states that the Minister shall appoint members of the IPAT. They work and are paid on a per case basis. The IPAT consists of a Chairperson, two deputy chairpersons, and such number of ordinary members appointed on a whole time or part-time capacity as the Minister for Justice and Equality, with the consent of the Minister for Public Expenditure & Reform, considers necessary for carrying out the extent of the casework before the Tribunal.

Following the onset of the COVID-19 pandemic in March 2020, all appeals before the IPAT were suspended. Appeals recommenced for a short period in July 2020, however, in October 2020, following the reimplementation of restrictions, all scheduled appeals were postponed from 22 October until 10 December, in line with government guidelines. Restrictions were re-introduced in late December 2020 and with effect from 30 December 2020, all appeals were once again cancelled until further notice.<sup>168</sup>

The IPAT subsequently announced that it was in a position to conduct some appeal hearings remotely by way of audio-video link. Throughout 2021, all appeals before the IPAT which were deemed suitable proceeded on a remote basis via audio-video link. In circumstances where an appeal was deemed unsuitable to proceed remotely, the appeal was postponed and subsequently rescheduled. From the 4<sup>th</sup> October 2021, the Tribunal began facilitating a limited number of oral hearings on-site in situations whereby to proceed with the oral appeal hearing via audio-video link would be unfair to the appellant or would be contrary to the interests of justice. Otherwise, the Tribunal continued to conduct appeal hearings remotely via audio-video link.<sup>169</sup>

As of January 2023, the vast majority of appeals continued by way of remote hearing, save at the request of the applicant or whereby to conduct the appeal remotely would be contrary to the interests of justice.

The IPAT, as an essential service, continued to accept new appeals, correspondence and submissions throughout the Covid-19 pandemic. However, in line with COVID-19 public health advice, all correspondence and communication with the Tribunal was required to be made by email, where possible.<sup>170</sup>

In 2021, the IPAT received a total of 756 appeals against negative first-instance decisions. Additionally, 12 appeals were lodged against decisions made under the European Communities (Reception Conditions) Regulations 2018. There were 2,172 appeals scheduled for hearing, while 1,052 decisions were issued. Of these decisions, 351 granted the applicant refugee or subsidiary protection status, 2 were dismissed as inadmissible and 667 decisions denied the applicant protection. 155 decisions were issued without an oral hearing.<sup>171</sup>

In 2022, the IPAT received a total of 1,175 appeals against negative first instance decisions. Additionally, 5 appeals were lodged against decisions made pursuant to the European Communities (Reception Conditions Regulations 2018. There were 1,881 appeals scheduled for hearing, 766 of which proceeded remotely. There were 1,300 decisions issued, as well as 5 decisions issued in respect of the European Communities (Reception Conditions) Regulations 2018. Of these decisions, 443 applicants were granted

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<sup>168</sup> IPAT, *Covid-19 – Latest update*, 29 January 2020, available at: <https://bit.ly/3di1Ucy>.

<sup>169</sup> International Protection Appeals Tribunal, *COVID-19 - Latest update*, 11 October 2021, available at: <https://bit.ly/3H4r3Dj>.

<sup>170</sup> *ibid.*

<sup>171</sup> International Protection Appeals Tribunal, February 2022.

refugee status, 34 were granted subsidiary protection, 6 were dismissed as inadmissible and 761 appeals were rejected on their merits. 118 decisions were decided without an oral hearing.<sup>172</sup>

Where an oral hearing is held, these are conducted in a relatively informal manner and in private. The applicant's legal representative may be present as well as any witnesses directed to attend by the Tribunal. Witnesses may attend to give evidence in support of the appeal, e.g., a country of origin expert or a family member. The Presenting Officer for the IPO also attends. UNHCR may attend as an observer, however, this rarely occurs in practice. Pursuant to section 42(8)(d) of the Act of 2015, and in line with the Chairperson's Guideline 2019/1 on Taking Evidence from Appellants and other Witnesses, the Tribunal may require all persons (over the age of 14) giving evidence before it to give that evidence on oath. Appellants and other witnesses whom the Tribunal requires to give evidence in this manner will be given the opportunity to affirm if they are a non-believer or if the taking of an oath is incompatible with the person's belief.<sup>173</sup>

Section 42(6)(c) IPA provides for the services of an interpreter to be made available whenever necessary for the purpose of ensuring appropriate communication during the interview.

Before reaching a decision, the Tribunal considers, among other things:

- ❖ Notice of Appeal submitted by the applicant or their legal representative;
- ❖ All material furnished to the Tribunal by the Minister that is relevant to the case;
- ❖ Any further supporting documents submitted by the applicant or their legal representative, as well as any observations made to the Tribunal by the Minister or the UNHCR;
- ❖ Where an oral hearing is being held, the representations made at that hearing.

The length of time for the Tribunal to issue a decision is not set out in law. In 2018, the average length of time taken by the IPAT for processing and issuing a decision on an international protection appeal was approximately 154 days.<sup>174</sup> The average processing time for appeals to the IPAT in 2019 is 23 weeks.<sup>175</sup> The IPAT has a target median processing time of 12 weeks for appeals at the beginning of 2020, however, this has been impacted as a result of the pandemic and resulting suspension of oral hearings before the Tribunal.<sup>176</sup> The median processing time for appeals in 2020 was, on average, 9 months.<sup>177</sup> The median processing time for appeals in 2021 was, on average, 13.5 months.<sup>178</sup> The median processing time for appeals in 2022 was, on average, 10.5 months.<sup>179</sup>

Under Section 49(7) IPA, where the Tribunal affirms a recommendation from the IPO that an applicant is not declared a refugee nor in need of subsidiary protection, the Minister may reassess the eligibility of the applicant to be granted permission to remain. For the purposes of such a review, the applicant may submit documentation or information to the IPO about a change of circumstances relevant to a review of permission to remain (such as evidence of an established connection to the State, information indicating humanitarian reasons to grant permission to remain, etc.). Such information must be submitted within a period of time prescribed by the Minister under Section 49(10) IPA.

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<sup>172</sup> International Protection Appeals Tribunal, January 2023.

<sup>173</sup> IPAT Administrative Practice note, available at: <https://bit.ly/2XTnFc3>.

<sup>174</sup> *Ibid*, 44.

<sup>175</sup> Minister for Justice and Equality, Response to Parliamentary Question No 84, 27 June 2019, available at: <https://bit.ly/3atrRkf>.

<sup>176</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No. 33, 10 December 2020, available at: <https://bit.ly/3bDspZ4>.

<sup>177</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No 632, 27 January 2020, available at: <https://bit.ly/2NqoHlv>.

<sup>178</sup> Information provided by IPAT, February 2022.

<sup>179</sup> Information provided by IPAT, January 2023.



On 11 March 2014, the Chairperson of the RAT issued Guidance Note (No: 2014/1) which stated that from that date any person may access the archive of Tribunal decisions for any lawful purpose.<sup>180</sup> The Note also stated that all matters that might identify a person as an applicant for refugee status have been removed/omitted so that the identity of applicants is kept confidential; if removal could not sufficiently protect the identity of an applicant, the decision would not be published. This is a significant change in practice; a major criticism of the RAT in the past has been that decisions were not publicly available. Access to the online Tribunal decisions archive requires completion of a simple registration process upon which the user is furnished with a password valid for one year for use with the database.<sup>181</sup>

### 1.4.2. Judicial Review

A decision of the IPAT (as with the IPO) may be challenged by way of judicial review in the High Court. This is a review on a point of law only under Irish administrative law and cannot investigate the facts. In addition, the applicant must obtain permission (also called 'leave') to apply for judicial review. This is a lengthy and costly process.

Cases are listed before the High Court "Asylum List." Cases on the "Asylum List" also include judicial review of decisions in relation to other immigration matters such as EU treaty rights, naturalisation and family reunification.

The latest available statistics demonstrate a further decrease in new asylum cases lodged before the High Court, down from 355 in 2020 to 300 in 2021. A total of 377 cases were decided by the High Court, with a total of 251 cases settling outside of Court, marking a 110% increase in the number of asylum matters resolved by the Court compared with the previous year.<sup>182</sup> Statistics in relation to asylum cases lodged in 2022 were not available at the time of writing, however, will be released in July 2023 following the publication of the Courts Service Annual Report.

### 1.5. Legal assistance

#### Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 

|                                         |                                          |                             |
|-----------------------------------------|------------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|-----------------------------------------|------------------------------------------|-----------------------------|

  - ❖ Does free legal assistance cover:
 

|                                                      |
|------------------------------------------------------|
| <input type="checkbox"/> Representation in interview |
| <input checked="" type="checkbox"/> Legal advice     |
  
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 

|                                         |                                          |                             |
|-----------------------------------------|------------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|-----------------------------------------|------------------------------------------|-----------------------------|

  - ❖ Does free legal assistance cover
 

|                                                              |
|--------------------------------------------------------------|
| <input checked="" type="checkbox"/> Representation in courts |
| <input checked="" type="checkbox"/> Legal advice             |

The Legal Aid Board, an independent statutory body funded by the State, provides a dedicated service for international protection applicants. To qualify for legal services in respect of their asylum application, the applicant's income (less certain allowances) must be less than €18,000 per annum. Applicants in Direct Provision (the state system of reception, accommodation and support for protection applicants) are generally eligible for legal services at the minimum income contribution but may apply to have some of the contribution waived, at the discretion of the Legal Aid Board. Strictly speaking, there is a small fee to be paid of €10 for legal advice and €40 for representation, but this is invariably waived by the Legal Aid Board whereby an applicant does not have the means to cover the fee.

<sup>180</sup> Guidance Note No: 2014/1, Access to Previous Decisions of the Tribunal, 11 March 2014.

<sup>181</sup> International Protection Appeals Tribunal Decision Archive, available at: <http://bit.ly/2B4bsRz>.

<sup>182</sup> Courts Service, *Annual Report 2022*, 28 July 2022, available at: <https://bit.ly/3iUYf9T>.



According to available information contained within the Legal Aid Board's Annual Report for 2019, the number of individuals seeking legal services from the Board for international protection applications in 2019 was 2,539, compared with 2,079 in 2018. This was an increase of 22% on the previous year.<sup>183</sup> In 2020, 1,174 persons sought legal services in relation to international protection.<sup>184</sup> This marked a reduction of approximately 53% on the previous year, likely accounted for by the significant reduction in applications for international protection as a result of the COVID-19 pandemic. The total number of applications for Legal Aid from International Protection clients in 2021 was 1,222.<sup>185</sup> This figure refers to the Dublin Law Centre only. Figures relating to the Cork and Galway Law Centres were not available at the time of updating. The total number of applications for Legal Aid from International Protection clients across all three law centres for 2022 was 858.<sup>186</sup>

Asylum applicants can register with the Legal Aid Board as soon as they have made their application to the IPO. All applicants are assigned a solicitor and a caseworker. There are three branches of the Legal Aid Board that have dedicated international protection units, with law centres located in **Cork**, **Galway** and **Dublin** cities, including a specific unit in the Dublin law centre that deals with international protection applications made by children. The Legal Aid Board has normally provided services only at the appeal stage but now they are also including services in-house for early legal advice (ELA) and via a Private Practitioners' Panel whereby private solicitors provide ELA for the Legal Aid Board for a set fee. The ELA service normally does not cover attendance at the actual personal interview with the applicant and only covers guidance on completing the Questionnaire rather than actual assisting with the completion of the Questionnaire form itself. The Legal Aid Board has established some best practice guidelines under the new procedure.<sup>187</sup> The Irish Refugee Council, nevertheless, continues to experience individuals presenting at its drop-in services who are represented by the Legal Aid Board but do not receive substantive support in actually completing the Questionnaire. A Legal Aid Board caseworker will, however, review the Questionnaire once the applicant has attempted to complete it themselves.

Since 2011, the Irish Refugee Council Independent Law Centre has run a free ELA service which involves providing intensive legal assistance to the applicant at the very early stages of the asylum process.<sup>188</sup> The ELA package offered by the Irish Refugee Council Law Centre provides an initial advice appointment with a solicitor (preferably prior to the application for asylum being made), accompaniment to lodge an application, assistance with the completion of the in-depth application questionnaire and drafting of a personal statement based on the applicant's instruction, attendance at the substantive interview and submission of representations. In November 2015, following the success of the Irish Refugee Council's ELA programme, the Law Centre published a manual on the provision of ELA to persons seeking protection.<sup>189</sup> The manual is geared towards promoting best practice towards practitioners working in the EU asylum context. The Law Centre (with a staff team of one managing solicitor, two solicitors and a legal officer) provided ongoing representation to 280 clients at various stages of the international protection process. Additionally, 48 clients received a declaration of refugee status, while 24 clients received permission to remain. 67 clients were provided with ongoing representation in respect of family reunification, while 22 clients were reunited with their families following positive family reunification decisions.<sup>190</sup>

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<sup>183</sup> Legal Aid Board, *Annual Report 2019*, 8 October 2020, available at: <https://bit.ly/39cRIE6>.

<sup>184</sup> Legal Aid Board, *Annual Report 2020*, 21 October 2020, available at: <https://bit.ly/3tslP0n>.

<sup>185</sup> Information provided by Legal Aid Board, February 2022.

<sup>186</sup> Information provided by Legal Aid Board, January 2023.

<sup>187</sup> The best practice guidelines are available at: <https://bit.ly/2Xjl4Gz>.

<sup>188</sup> For further information, see The Researcher, 'Early Recognition of People in Need of International Protection: The Irish Refugee Council Independent Law Centre's Early Legal Advice and Representation Project', October 2013.

<sup>189</sup> Irish Refugee Council Independent Law Centre, *A Manual on Providing Early Legal Advice for Persons Seeking Protection*, available at: <https://bit.ly/3gEzYie>.

<sup>190</sup> Information provided by Irish Refugee Council Independent Law Centre, December 2022.

Free legal aid for appeals to the IPAT is available through the Legal Aid Board. In the event that an appeal to the IPAT is unsuccessful, the applicant must first of all seek the assistance of a private practitioner to get advice about challenging the decision by way of judicial review in the High Court. If they cannot get such private legal assistance, the Legal Aid Board will consider the merits of the application for judicial review and may apply for legal aid to cover the proceedings but it is important to note that judicial review will only be an appropriate avenue in some circumstances and should not be viewed as an appeal procedure.

Since the enactment of the Reception Conditions Regulations, transposing the Reception Conditions Directive, the Legal Aid Board has responsibility for providing legal assistance to international protection applicants in matters pertaining to reception conditions (such as appeals on decisions made in relation to withdrawal or restriction of reception conditions, or refusal of a work permit, etc.)<sup>191</sup> The Legal Aid Board guidance states that it is generally open to solicitors to “provide legal advice in relation to a matter covered by the Regulations, and in line with the further guidance provided below in relation to specific matters. Unless an application is received from an applicant who is not an existing client of the Board, it is not to be regarded as a separate matter and should be dealt with as part of the international protection file.”<sup>192</sup> No information is available about how this has worked in practice.

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<sup>191</sup> Regulation 6(8) Reception Conditions Regulations 2018.

<sup>192</sup> Legal Aid Board Circular on Legal Services European Communities (Reception Conditions) Regulations 2018, available at: <https://bit.ly/2NBxu7w>.

## 2. Dublin

### 2.1. General

Dublin statistics: 1 January – 31 December 2022

| Outgoing procedure |            |           | Incoming procedure |           |           |
|--------------------|------------|-----------|--------------------|-----------|-----------|
|                    | Requests   | Transfers |                    | Requests  | Transfers |
| <b>Total</b>       | <b>699</b> | <b>2</b>  | <b>Total</b>       | <b>75</b> | <b>15</b> |
| <b>Take charge</b> | <b>53</b>  | -         | <b>Take charge</b> | <b>40</b> | -         |
| Austria            | 3          | -         | Austria            | 4         | -         |
| Belgium            | -          | -         | Belgium            | -         | -         |
| Cyprus             | -          | -         | Cyprus             | 13        | -         |
| Denmark            | 4          | -         | France             | 3         | -         |
| France             | 2          | -         | Germany            | 3         | -         |
| Germany            | 1          | -         | Italy              | -         | -         |
| Greece             | 2          | -         | Malta              | 1         | -         |
| Hungary            | -          | -         | Norway             | -         | -         |
| Italy              | 23         | -         | Greece             | 8         | -         |
| Malta              | -          | -         | Spain              | -         | -         |
| Poland             | 5          | -         | Netherlands        | 1         | -         |
| Romania            | -          | -         | Sweden             | 2         | -         |
| Spain              | 13         | -         | Switzerland        | 1         | -         |
| Sweden             | -          | -         | Portugal           | 4         | -         |
| <b>Take back</b>   | <b>646</b> | -         | <b>Take back</b>   | <b>35</b> | -         |
| Austria            | 38         | -         | Austria            | 2         | -         |
| Belgium            | 17         | -         | Belgium            | 2         | -         |
| Bulgaria           | 18         | -         | Denmark            | 1         | -         |
| Czech Republic     | 3          | -         | France             | 9         | -         |
| Denmark            | 24         | -         | Germany            | 11        | -         |
| Germany            | 88         | -         | Iceland            | 2         | -         |
| Greece             | 137        | -         | Netherlands        | 4         | -         |
| Spain              | 9          | -         | Sweden             | 2         | -         |
| France             | 42         | -         | Poland             | 1         | -         |
| Croatia            | -          | -         | Portugal           | 1         | -         |
| Italy              | 58         | -         |                    |           |           |
| Cyprus             | 7          | -         |                    |           |           |
| Hungary            | -          | -         |                    |           |           |
| Latvia             | 1          | -         |                    |           |           |
| Lithuania          | 2          | -         |                    |           |           |
| Luxembourg         | 1          | -         |                    |           |           |
| Malta              | 5          | -         |                    |           |           |
| Netherlands        | 21         | -         |                    |           |           |
| Portugal           | 2          | -         |                    |           |           |

|             |    |   |  |  |  |
|-------------|----|---|--|--|--|
| Romania     | 30 | - |  |  |  |
| Slovenia    | 4  | - |  |  |  |
| Finland     | 12 | - |  |  |  |
| Sweden      | 95 | - |  |  |  |
| Iceland     | 1  | - |  |  |  |
| Norway      | 6  | - |  |  |  |
| Poland      | 4  | - |  |  |  |
| Switzerland | 21 | - |  |  |  |

Source: International Protection Office, March 2023.

| Outgoing Dublin requests by criterion: 2022       |               |                   |
|---------------------------------------------------|---------------|-------------------|
| Dublin III Regulation criterion                   | Requests sent | Requests accepted |
| <b>"Take charge": Articles 8-15:</b>              | <b>53</b>     | -                 |
| Article 8 (minors)                                | -             | -                 |
| Article 9 (family members granted protection)     | -             | -                 |
| Article 10 (family members pending determination) | -             | -                 |
| Article 11 (family procedure)                     | 8             | -                 |
| Article 12 (visas and residence permits)          | 4             | -                 |
| Article 13 (entry and/or remain)                  | 35            | -                 |
| Article 14 (visa free entry)                      | 2             | -                 |
| "Take charge": Article 16                         | -             | -                 |
| "Take charge" humanitarian clause: Article 17(2)  | 1             | -                 |
| <b>"Take back": Article 18</b>                    | <b>646</b>    | -                 |
| Article 18 (1) (b)                                | 645           | -                 |
| Article 18 (1) (c)                                | -             | -                 |
| Article 18 (1) (d)                                | 1             | -                 |
| Article 20(5)                                     | -             | -                 |

| Incoming Dublin requests by criterion: 2022       |                   |                   |
|---------------------------------------------------|-------------------|-------------------|
| Dublin III Regulation criterion                   | Requests received | Requests accepted |
| <b>"Take charge": Articles 8-15</b>               | <b>40</b>         | -                 |
| Article 8 (minors)                                | 10                | -                 |
| Article 9 (family members granted protection)     | 1                 | -                 |
| Article 10 (family members pending determination) | 3                 | -                 |
| Article 11 (family procedure)                     | 1                 | -                 |
| Article 12 (visas and residence permits)          | 8                 | -                 |
| Article 13 (entry and/or remain)                  | -                 | -                 |
| Article 14 (visa free entry)                      | -                 | -                 |
| "Take charge": Article 16                         | -                 | -                 |
| "Take charge" humanitarian clause: Article 17(2)  | 17                | -                 |
| <b>"Take back": Articles 18 and 20(5)</b>         | <b>35</b>         | -                 |
| Article 18 (1) (b)                                | 30                | -                 |
| Article 18 (1) (c)                                | 2                 | -                 |
| Article 18 (1) (d)                                | 2                 | -                 |
| Article 20(5)                                     | 1                 | -                 |

Source: International Protection Office, March 2023.

The Dublin Regulation is implemented by the Dublin Unit of the IPO. The unit is responsible for determining whether applicants should be transferred to another State or have their application assessed in Ireland. The unit also responds to requests from other Member States to transfer applicants to Ireland. The Arrangements Unit of the Immigration Service Delivery is responsible for handling outgoing transfers under the Dublin Regulation.

The European Union (Dublin System) Regulations 2018 (S.I. No. 62 of 2018) were adopted in 2018.

## 2.2. Procedure

### Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?  
☒ Yes ☐ No
1. On average, how long does a transfer take after the responsible Member State has accepted responsibility?  
898 days<sup>193</sup>

As part of the general application procedure, all applicants are photographed and fingerprinted, (with the exception of applicants believed by the relevant officer to be under the age of 14 years old and not accompanied by a parent or guardian) during their initial interview with the IPO (see section on [Registration](#)). As part of the process applicants and dependent children are required to have photographs taken. They are also required to have their and their dependent children's fingerprints taken. Fingerprints may be disclosed in confidence to the relevant Irish authorities and to asylum authorities of other countries which may have responsibility for considering the application under the Dublin Regulation.

Section 19 IPA sets out the procedure for members of the Garda Síochána or immigration officers to take fingerprints for the purposes of (a) establishing the identity of a person for any purpose concerned with the implementation of the IPA, and (b) checking whether the person has previously lodged an application for international protection in another Member State.<sup>194</sup> Where a person refuses to provide their fingerprints, they shall be deemed not to have made reasonable efforts to establish their identity and shall be deemed to have failed to fulfil their obligation to cooperate with the application process.<sup>195</sup> The IPA does not legislatively provide for the use of force to take fingerprints, however, as not volunteering to provide fingerprints is viewed as a failure to make reasonable efforts to establish one's identity (in line with Section 20(1) IPA setting out grounds for detention), applicants who refuse to be fingerprinted may be detained.

In relation to specific guarantees for children in the Dublin procedure, the IPO is required under Regulation 3(b) of the European Union (Dublin System) Regulations 2018 to consult with Tusla, the Irish Child and Family Agency, on the best interests of the child particularly with respect to the child's well-being and social development and the views of the child. No information is available on the practice under the new single procedure.

Following the implementation of measures to restrict the spread of COVID-19, transfers under the regulation continued, albeit at lower numbers. These transfers occurred notwithstanding a stay being placed on the vast majority of deportations for the duration of the COVID-19 pandemic. The Government justified the continuation of transfers on the basis that no deportation order is made in respect of Dublin III cases and the individual concerned is not returned to their country of origin.<sup>196</sup>

<sup>193</sup> International Protection Office, March 2023.

<sup>194</sup> Section 19(1) IPA.

<sup>195</sup> Section 19(4) IPA.

<sup>196</sup> RTE News, 'Concerns over rise in deportations to UK ahead of Brexit', 18 December 2020, available at: <https://bit.ly/3nNoQlu>.

## 2.3. Personal interview

### Indicators: Dublin: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure?  
☒ Yes ☐ No
2. If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

At any time during the initial asylum process, the IPO may determine that a person is subject to the Dublin III Regulation and hold a personal interview where necessary to conduct the Dublin procedure.<sup>197</sup>

Limited information is available on how Dublin procedure interviews are conducted in practice, but applicants are provided with the common information leaflet stating that they are in the Dublin procedure. However, it is not always clear that the asylum seeker understands that they are having a specific Dublin procedure interview. Anecdotal evidence continues to suggest that Dublin procedure interviews are presented merely as an interview just asking questions about the person's journey to Ireland without fully explaining the implications in terms of which country is responsible for the person's asylum application and that it means that the person may be transferred there. The onus is placed on the asylum seeker to be able to read the Dublin information leaflet rather than ensuring that it is properly explained by the caseworker and not the interpreter at the Dublin personal interview.

## 2.4. Appeal

### Indicators: Dublin: Appeal

1. Does the law provide for an appeal against the decision in the Dublin procedure?  
☒ Yes ☐ No
- ❖ If yes, is it ☐ Judicial ☒ Administrative
- ❖ If yes, is it suspensive ☒ Yes ☐ No

The appeal against a transfer decision must be lodged within 10 working days and has suspensive effect.<sup>198</sup>

The IPAT shall have regard to both the facts and law when considering appeals under the Dublin III Regulation. This is in accordance with Article 27 of the Dublin III Regulation which requires that a person shall have the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision, before a Court or Tribunal.

If the IPAT overturns the decision of the IPO, the applicant and their legal representative and the Commissioner and Minister are notified in writing. The IPAT may either affirm or set aside the transfer decision. When submitting a Dublin appeal to the IPAT, the person concerned can request that an oral hearing is conducted and the Tribunal may additionally hold an oral hearing even if the person concerned has not requested it if the IPAT is of the opinion that it is in the interests of justice to do so. No information is available on the current practice as the Irish system recently changed under the IPA.

There is no onward appeal of an IPAT decision on the Dublin Regulation. However, judicial review of the decision could be sought. There has been a long running issue over the remit of the IPAT's appeal and whether they can apply the sovereignty clause under Article 17 themselves. In November 2017, the High

<sup>197</sup> Regulation 4 European Union (Dublin System) Regulations 2018.

<sup>198</sup> Regulations 6 and 8 European Union (Dublin System) Regulations 2018.

Court referred a number of questions to the Court of Justice of the European Union (CJEU) on the application of the Dublin Regulation including on the issue of application of Article 17.

Some of the questions referred included: whether the words “determining Member State” in the Dublin III Regulation includes a state exercising an Article 17 function and whether the functions of a Member State under Article 6 (best interests of the child) include the discretion under Article 17 not to transfer. The CJEU delivered its ruling in January 2019 and stated that Member States are free to entrust to different authorities the task of applying the criteria defined by that Regulation relating to the determination of the Member State responsible and the task of applying the discretionary clause set out in that Regulation.<sup>199</sup> The Court of Appeal considered this issue in the case *N.V.U & Ors -v- The Refugee Appeals Tribunal & Ors*.<sup>200</sup> Justice Baker stated - in a judgment delivered in June 2019 - that she was not persuaded by the arguments made by the Irish Government, namely that a departure from the plain meaning of the Irish Regulations of 2014 was justified or that the jurisdiction to exercise the discretion to assume jurisdiction for which provision is made in article 17(1) is in a suitable case one that may be exercised by the determining body, now the IPO and IPAT.

This decision was subsequently appealed by the State to the Irish Supreme Court. In a judgment delivered on 24 July 2020, Justice Charleton held that the discretionary power established pursuant to Article 17 had not been vested in the International Protection Office and in turn, the International Protection Appeals Tribunal, by virtue of Regulation 3(1) (a) of the EU (Dublin System) Regulations 2014. Consequently, it is now evident that the Minister for Justice retains sole discretion in considering the transfer of applications pursuant to Article 17 of the Dublin III Regulation.<sup>201</sup>

Following the ruling, the precise position regarding the procedure for making an appeal pursuant to Article 17 remains ambiguous. In this regard, the practice of the Irish Refugee Council Independent Law Centre has been to make ad-hoc submissions on behalf of clients directly to the Minister for Justice.

In January 2021, following engagement with the Department of Justice, the Dublin Transfer Unit has indicated in correspondence with the Irish Refugee Council that the Minister for Justice is currently in the process of establishing a procedure to deal with applications pursuant to Article 17. It is understood that, as of March 2022, a specific division within the Dublin III unit was established in order to examine applications pursuant to Article 17, however, information on the exact process and procedures followed by the division in determining such applications are not clear.

## 2.5. Legal assistance

### Indicators: Dublin: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?  
☒ Yes      ☐ With difficulty      ☐ No
2. Does free legal assistance cover:  
☒ Representation in interview  
☒ Legal advice
3. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?  
☒ Yes      ☐ With difficulty      ☐ No
4. Does free legal assistance cover  
☒ Representation in interview  
☒ Legal advice

<sup>199</sup> C-661/17, *M.A., S.A., and Z.A. v Ireland*, Judgment of 23 January 2019, available at: <https://bit.ly/2Rrhard>.

<sup>200</sup> *N.V.U & Ors -v- The Refugee Appeals Tribunal & Ors*, Judgment of 26 June 2019, available at: <https://bit.ly/3JdQDC>.

<sup>201</sup> *N.V.U & Ors -v- The Refugee Appeals Tribunal & Ors* [2020] IESC 46, available at: <https://bit.ly/3nJhCyZ>.



An applicant who is subject to the Dublin Regulation may access legal information through the Legal Aid Board. Technically this is not completely free legal representation as there is a small amount (€10) to be paid (see section on [Regular Procedure: Legal Assistance](#)). The Legal Aid Board has also issued guidance on the role of Private Practitioners on their panel as regards legal advice, which shows that it also applies in the context of the Dublin procedure.<sup>202</sup> This assistance also applies to the appeal where legal representation is available.

## 2.6. Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No
2. If yes, to which country or countries? N/A

There is no blanket suspension of transfers to any Member State in either law or policy.

Transfers to **Greece** were suspended following the European Court of Human Rights' decision in *M.S.S. v. Belgium and Greece* in 2011.<sup>203</sup> The Minister was asked to formally indicate that removals were suspended and that Ireland would take responsibility but he did not respond. The decision to consider such applications has not been set out in any publicly accessible record and it is not therefore known if it is policy not to transfer or decide on a case-by-case basis. In such cases where the IPO considers the substantive application, the applicant is able to remain in reception facilities until the application is fully determined.

In response to a Parliamentary Question from February 2017 enquiring whether the Department of Justice was intending to implement the 2016 European Commission proposal that States gradually resume transfers to Greece, previous Minister for Justice Frances Fitzgerald stated that "No transfers of unaccompanied minors are foreseen for the time being. The resumption of transfers is not to be applied retroactively and will only apply to applicants who have entered Greece irregularly from 15 March 2017 onwards or for whom Greece is responsible from this date under the Dublin Regulation criteria."<sup>204</sup>

In response to a request by the Irish Refugee Council, the IPO indicated that there were 2 "take charge" requests and 137 "take back" requests to Greece. However, of the two outgoing transfers effectively implemented, neither were to Greece.<sup>205</sup>

## 2.7. The situation of Dublin returnees

In response to a request by the Irish Refugee Council, the IPO indicated that they comply with the provisions of Article 31 (Exchange of relevant information before a transfer is carried out) and Article 32 (Exchange of health data before a transfer is carried out) of the Dublin Regulation in relation to incoming transfers.<sup>206</sup>

Under the previous system in cases where Ireland had agreed to take back an asylum seeker under the Regulation, the person could be detained on arrival and have difficulty in accessing the asylum procedure (possibly for a second time). If the person has already had a finally determined asylum application and seeks to make another asylum application, they would have to make an application to the Minister under Section 22 IPA (see section on [Subsequent Applications](#)). It is possible that the authorities could invoke

<sup>202</sup> See further Legal Aid Board, *Best practice guidelines*, February 2017.

<sup>203</sup> *M.S.S. v. Belgium and Greece*, Application no. 30696/09, 21 January 2011, available at: <https://bit.ly/2OIGRG5>.

<sup>204</sup> Response to Parliamentary Question 155, 28 February 2017, available at: <http://bit.ly/2DiG5YV>.

<sup>205</sup> International Protection Office, March 2023: Of the 2 transfers that took place, 1 was to Belgium and 1 was to Sweden.

<sup>206</sup> Information provided by IPO, August 2017.

Section 5 of the Immigration Act 2003 which states that a person whom an immigration officer or a member of the Garda Síochána, with reasonable cause, suspects has been unlawfully in the State for a continuous period of less than three months, be removed from Ireland.

### 3. Admissibility procedure

#### 3.1. General (scope, criteria, time limits)

Section 21 IPA contains provisions outlining the circumstances under which an application may be deemed inadmissible by the presiding International Protection Officer. According to Section 21(2) IPA, an application for international protection may be deemed inadmissible where:

- a. Another Member State has granted refugee status or subsidiary protection to the applicant; or
- b. A country other than a Member State is a [First Country of Asylum](#) for the applicant.

Section 21 IPA is amended by the enactment of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020. Section 119 of the Act of 2020 amends s. 21(2) IPA by the insertion of subsection (c) which states that an application for international protection may be determined inadmissible whereby the applicant arrives in the State from a safe third country that is regarded as a safe country for that person.<sup>207</sup> A “safe country” will be regarded as such whereby:

- a. The individual has a sufficient connection with the country concerned on the basis of which it is reasonable for them to return there;
- b. They will not be subjected to the death penalty, torture or inhuman or degrading treatment or punishment if returned to the country concerned;
- c. The applicant will be readmitted to the country concerned pursuant to the Dublin Regulation.<sup>208</sup>

According to s.119(d), in determining whether an individual has “sufficient connection with the country concerned, regard will be had for the period the individual has spent in the country, whether lawfully or unlawfully, any relationship between the individual and persons in the country concerned, including nationals and residents of that country and family members seeking to be recognised in that country as refugees, the presence in the country concerned of any family members, relatives or other family relations of the individual concerned and the nature and extent of any cultural connections between the individual and the country concerned.”<sup>209</sup>

Section 122 of the Act makes provision for s.72A IPA, permitting the Minister for Justice to designate a particular state as a safe third country whereby the state concerned meets certain conditions relating to safety and asylum practices.<sup>210</sup> The United Kingdom was recently designated a safe third country for the purposes of s.119.<sup>211</sup>

In February 2022, it was confirmed that no return orders were issued to the United Kingdom in 2021, or to-date in 2022, pursuant to s.51A of the International Protection Act 2015, in circumstances whereby an applicant's application was deemed inadmissible under s.21.<sup>212</sup> As of March 2023, 29 inadmissibility decisions were made pursuant to s.51A. It is not clear whether return orders were effected in respect of such decisions.<sup>213</sup>

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<sup>207</sup> Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020, s.119, available at: <https://bit.ly/3o4SP8X>.

<sup>208</sup> *ibid.*, s. 119(d).

<sup>209</sup> *ibid.*

<sup>210</sup> *ibid.*, s.122.

<sup>211</sup> S.I. No. 725/2020 - International Protection Act 2015 (Safe Third Country) Order 2020, available at: <https://bit.ly/3nYIJpW>.

<sup>212</sup> Minister for Justice and Equality Helen McEntee, Response to Parliamentary Questions No 564, 15 February 2022, available at: <https://bit.ly/3D9gVbu>.

<sup>213</sup> International Protection Office, March 2023.

Where the international protection officer is of the opinion that the above inadmissibility criteria are met, he or she shall make a recommendation to the Minister that the application be deemed inadmissible. In such circumstances, the Minister shall notify the applicant and his or her legal representative of the recommendation, including a statement of the reasons for the recommendations, a copy of the international protection officer's report and a statement informing the person of their entitlements, including the right to an appeal (without an oral hearing) to the IPAT within ten days of receiving the decision. 18 applications were rendered inadmissible under the admissibility procedure in 2020.<sup>214</sup> In 2021, 2 cases were deemed inadmissible under the admissibility procedure.<sup>215</sup>

The Irish Refugee Council wrote to the IPO, IPAS and HSE in March 2021 stating that a person who has received a recommendation that their application for international protection be inadmissible continue to receive reception conditions as no final determination had been made. Following engagement by IRC with the relevant stakeholders, it was determined that an individual remains an 'applicant' within the meaning of the 2015 Act unless and until the Minister declares their application to be inadmissible pursuant to s.21(11), therefore entitling them to material reception conditions. From September 2021, the IPO began applying this interpretation to all individuals subject to the inadmissibility procedure.<sup>216</sup>

### 3.2. Personal interview

#### Indicators: Admissibility Procedure: Personal Interview

- ❖ Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure? ☒ Yes ☐ No
- If so, are questions limited to identity, nationality, travel route? ☒ Yes ☐ No
- ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
- ❖ Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

All applicants upon lodging an application for international protection at the IPO are granted a preliminary interview to obtain basic information about the applicant and their claim. This preliminary interview may also be carried out by an immigration officer and it is unclear from the wording of the legislation if this could occur at the frontiers of the State at ports of entry. Section 13(2) IPA states that a preliminary interview with the applicant shall be conducted to ascertain, among other things, whether any circumstances giving rise to inadmissibility considerations may arise. If any of the inadmissibility criteria arising under Section 21(2) IPA are identified, then a recommendation is made by the IPO to the Minister that the application be deemed inadmissible and an application for international protection may not proceed.

### 3.3. Appeal

#### Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the admissibility procedure? ☒ Yes ☐ No
- If yes, is it ☐ Judicial ☒ Administrative
- If yes, is it suspensive ☒ Yes ☐ Some grounds
- ☐ No

<sup>214</sup> Information provided by IPO, April 2021.

<sup>215</sup> Information provided by IPO, April 2022.

<sup>216</sup> Information received from IPO, 3 September 2021.

Where an inadmissibility recommendation is made, the applicant may make an appeal against that decision within a timeframe designated by the Minister. The time limit for appealing inadmissibility decisions has been set at ten working days according to International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017 (S.I. No. 116/2017), prescribing specific time periods for different classes of appeal.<sup>217</sup> In 2019, the IPAT received 26 appeals against inadmissibility decisions. As of September 2020 the IPAT had received 6 appeals<sup>218</sup>. Data in respect of appeals for 2021 and 2022 was not available at the time of updating.

Under Section 21(6) IPA, a person who receives notification from the Minister detailing the inadmissibility of their case, at the same time receives a written statement setting out the reasons for the inadmissibility finding and informing the person of his or her entitlement to appeal to the IPAT against such a recommendation.

The appeal procedure against inadmissibility decisions differs from the [Regular Procedure: Appeal](#) insofar as there is no option for an oral hearing.<sup>219</sup>

### 3.4. Legal assistance

#### Indicators: Admissibility Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?
 

|                                         |                                          |                             |
|-----------------------------------------|------------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|-----------------------------------------|------------------------------------------|-----------------------------|

  - ❖ Does free legal assistance cover:
 

|                                                                 |
|-----------------------------------------------------------------|
| <input checked="" type="checkbox"/> Representation in interview |
| <input checked="" type="checkbox"/> Legal advice                |
  
2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?
 

|                                         |                                          |                             |
|-----------------------------------------|------------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|-----------------------------------------|------------------------------------------|-----------------------------|

  - ❖ Does free legal assistance cover
 

|                                                              |
|--------------------------------------------------------------|
| <input checked="" type="checkbox"/> Representation in courts |
| <input checked="" type="checkbox"/> Legal advice             |

All asylum applicants can register with the Legal Aid Board as soon as they have made their application to the IPO. Information and guidance on legal advice is contained in Section 3.14 of the Information Booklet provided to applicants with the questionnaire that they are required to fill out as part of their application. Applicants who access the Legal Aid Board are assigned a solicitor and a caseworker.

However, if the inadmissibility procedure happens prior to being provided with a Questionnaire or at the frontiers of the State, it is likely that the applicant will not know how to avail themselves of legal advice so in practice may not receive assistance in an admissibility procedure. Furthermore, the guidance issued by the Legal Aid Board to solicitors on its private practitioner's panel appears to indicate that legal advice is only available once the applicant has been admitted into the single procedure.<sup>220</sup>

The Concluding Observations of the UN Committee against Torture 2017 specifically called on the Irish State to ensure that all persons refused 'leave to land' are provided with legal advice informing them of their right to seek international protection, in a language they can understand.<sup>221</sup> However, the lack of transparency with respect to the information and legal assistance provided to persons refused access to

<sup>217</sup> Section 21(6) IPA; Section 3(a) International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017.

<sup>218</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No 720, 29 September 2020, available at: <https://bit.ly/3sVirZu>.

<sup>219</sup> Section 21(7) IPA.

<sup>220</sup> Legal Aid Board, *Best Practice Guidelines, Information Note for Private Practitioners*, February 2017, available at: <https://bit.ly/2ZVaxTW>.

<sup>221</sup> UN Committee against Torture, *Concluding Observations on the Second Periodic Report of Ireland*, August 2017, available at: <http://bit.ly/2hPIVem>, para 12(e).

the international protection procedure, particularly those at the frontiers of the State who are refused 'leave to land', remains an ongoing concern in 2022.

In August 2021, the Irish Refugee Council raised concern in relation to the number of individuals from war-torn countries, including, among others, Eritrea, Syria, Yemen, Afghanistan and Somalia being refused entry to Ireland during the COVID-19 pandemic. In response, the Department of Justice stated that each case regarding persons refused leave to land is assessed on its own merits, taking all relevant information into consideration. More specifically, the Department indicated: "The purpose of the checks is to prevent illegal entry to the State and to disrupt activities that are often highly organised involving exploitation of the persons concerned. Those who are returned to their country of departure, which in the 'vast majority' of cases is to another EU state, are done so in accordance with the law."<sup>222</sup>

In October 2022, it was reported that a unit was to be established at Dublin Airport in order to facilitate stricter immigration checks in respect of arriving passengers. The establishment of the unit was reported to be part of a range of measures introduced by Government with a view to reducing the number of individuals claiming international protection in Ireland.<sup>223</sup>

Further reports in September and October 2022 indicated that additional immigration control measures had increased at Dublin Airport, targeting in particular individuals seeking to disembark from arriving aircraft with false documentation.<sup>224</sup> One such report indicated that 'before the flight landed, the crew asked passengers to get out their passports for immigration checks...Once it touched down, border control officers came on the plane.'<sup>225</sup> When passengers queried the practice, they were advised that Immigration Officers were 'looking for people without visas.'<sup>226</sup> Despite indications from the Department of Justice in recent years that this practice had been largely scaled back, such reports suggest that the policy continues to operate in practice as of 2022.

#### **4. Border procedure (border and transit zones)**

The IPA does not provide for a border procedure. A person who is at the frontiers of the State and indicates that he or she needs asylum shall undergo a preliminary interview by an International Protection Officer or immigration officer under Section 13 IPA. They should then be given permission to enter and remain in the State as an applicant of international protection under Section 16 IPA and upon arrival at the IPO premises are granted a temporary residence certificate.

#### **5. Accelerated procedure**

##### **5.1. General (scope, grounds for accelerated procedures, time limits)**

Certain cases may be prioritised under Section 73 IPA under 10 grounds, as mentioned in the section on [Prioritised Examination](#).

Whereas that prioritisation of cases does not generally entail different guarantees, Section 43 IPA foresees different rules for appeals in cases where the applicant:<sup>227</sup>

- ❖ In submitting his or her application and in presenting the grounds for his or her application in his or her preliminary interview or personal interview or any time before the conclusion of the

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<sup>222</sup> Irish Times, 'Rise in persons from war-torn countries refused entry into the State', 2 August 2021, available at: <https://bit.ly/33hZbgM>.

<sup>223</sup> Irish Examiner, 'Stricter asylum checks, more deportations, and more basic shelter in bid to control migration', 24 October 2022, available at: <https://bit.ly/3GNNmjh>.

<sup>224</sup> Dublin Inquirer, 'The Government says it's bringing back stricter asylum checks, but what does that mean?', 2 November 2022, available at: <https://bit.ly/3VQ1YTv>.

<sup>225</sup> *ibid.*

<sup>226</sup> *ibid.*

<sup>227</sup> Section 43 IPA, citing Section 39(4) IPA.

examination, has raised only issues that are not relevant or are of minimal relevance to his or her eligibility for international protection;

- ❖ Has made inconsistent, contradictory, improbable or insufficient representations which make his or her claim to be eligible for international protection clearly unconvincing;
- ❖ For a reason related to the availability of internal protection,<sup>228</sup> is not in need of international protection;
- ❖ Failed to make an application as soon as reasonably practicable, without reasonable cause;
- ❖ Comes from a [Safe Country of Origin](#).

The existence of an internal protection alternative as a potential ground for accelerating appeals under Section 43 IPA raises serious concerns as if such a finding is made, it may significantly increase the number of persons who are subject to accelerated appeals.

There were 237 applications for international protection prioritised during 2020.<sup>229</sup> Data for 2021 and 2022 was not available at the time of updating.

On the 8<sup>th</sup> of November 2022, the International Protection Office introduced a revised international protection application procedure.<sup>230</sup> In accordance with the European Communities (International Protection Procedures) Regulations 2022, an applicant attending at the International Protection Office in order to make an application for international protection is now required to complete their International Protection Questionnaire onsite at the IPO, in addition to completing their preliminary interview.<sup>231</sup> The international protection questionnaire has been reduced significantly to 24 questions in order to enable applicants to complete the questionnaire at the time of making their application.<sup>232</sup>

Under the revised procedure applicants from so-called ‘safe countries of origin’ will now receive a date for their substantive interview within four to six weeks of making their initial application. It should also be noted that, pursuant to the relevant regulation, this accelerated procedure may also be applied to **any** application subject to the need for fairness and efficiency and whereby the International Protection Office considered same necessary and expedient.

According to the International Protection Office, all applications will continue to be examined individually and applicants whose applications are examined under the new procedure will retain the right to appeal a negative recommendation by the IPO to the International Protection Appeals Tribunal.<sup>233</sup> However, pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, whereby the IPO recommends that an applicant’s application for refugee or subsidiary protection should be refused on the basis of one of the reasons established pursuant to s.39(4) of the International Protection Act 2015, the timeframe in which to submit an appeal is shortened to 10 working days from the date of the decision.<sup>234</sup> Such reasons include whereby a finding is made by the International Protection Office that the issues raised in the application were not relevant to the applicant’s eligibility for international protection, whereby the applicant’s representations have been inconsistent or contradictory, whereby the applicant failed to make the application as soon as they could without good reason, whereby a finding is made that the applicant did not require international protection due to the possibility of safe internal relocation within their country of origin, or whereby the application is refused and the applicant

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<sup>228</sup> Section 32 IPA.

<sup>229</sup> Information provided by IPO, April 2021.

<sup>230</sup> International Protection Office, ‘The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 – Information Note’, 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTI>.

<sup>231</sup> *ibid.*

<sup>232</sup> Information provided by Irish Refugee Council Information and Advocacy Service.

<sup>233</sup> International Protection Office, ‘The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals)(Amendment) Regulations 2022 – Information Note’, 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTI>.

<sup>234</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.



comes from a safe country of origin.<sup>235</sup> An applicant's appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.<sup>236</sup>

According to the IPO, the rationale for the new procedure is to ensure that international protection applications, particularly those from safe countries of origin, are dealt with in a timelier manner so as to increase processing capacity and reduce delays.<sup>237</sup> However, the Irish Refugee Council has written to the Minister for Justice, addressing numerous significant concerns in relation to the appropriateness of the revised procedure. Such concerns relate particularly to applicants who may have had traumatic experiences prior to their arrival in the state. These applicants are required to complete and submit their questionnaire in an open-plan waiting area at the IPO, an environment which is often extremely busy, noisy and tense. This raises significant concern in relation to the applicant's privacy and personal data protection. Moreover, it is an extremely inappropriate physical space for applicants to complete such a significant document and gives rise to a risk of re-traumatisation insofar as particularly vulnerable applicants are concerned. Additionally, the revised process completely removes the applicant's practical access to legal advice prior to the submission of their international protection questionnaire. Unless an applicant is accompanied to the IPO by a lawyer when making their application, they do not have the benefit of legal advice in advance of submitting their international protection questionnaire, a document upon which significant reliance is placed in the applicant's substantive interview.

Translation services, as well as Cultural Support Officers are available to applicants in order to assist them in the completion of their questionnaire,<sup>238</sup> however, it is not clear what exactly the role of the Cultural Support Officer involves or the extent of the assistance they can provide to applicants in the completion of their questionnaire. Having accompanied clients to apply for international protection on several occasions following the establishment of the revised procedure, in the Irish Refugee Council's experience, Cultural Support Officers have not been present to assist applicants in the completion of their questionnaires, while the standard of translation services provided has been unsatisfactory given the importance of the questionnaire in the overall application process.

From 8<sup>th</sup> of November to the 31<sup>st</sup> of December 2022, 448 cases have been processed under the accelerated procedure with applicants originating from Georgia, South Africa, Albania and Kosovo. The median processing time for cases under the accelerated procedure was 33.75 days.<sup>239</sup>

## 5.2. Personal interview

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? ☒ Yes ☐ No
  - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
  - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

<sup>235</sup> International Protection Act 2015, s.39(4).

<sup>236</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

<sup>237</sup> International Protection Office, The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 FAQ's, 8<sup>th</sup> November 2022, available at: <https://bit.ly/40qKe4G>.

<sup>238</sup> *ibid.*

<sup>239</sup> International Protection Office, March 2023.



Personal interviews are conducted for all applicants at first instance. In practice there is no difference between the scope and format of a personal interview in the accelerated procedure and the normal procedure. This remained the case following the onset of COVID-19 and associated restrictions.

### 5.3. Appeal

#### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure? ☒ Yes ☐ No
2. If yes, is it ☐ Judicial ☒ Administrative
3. If yes, is it suspensive ☒ Yes ☐ Some grounds ☐ No No

Where an applicant is subject to the accelerated procedure it should continue like the regular procedure. However, where the recommendation of the IPO includes one of the findings mentioned in the section on [Accelerated Procedure: General](#) there may be accelerated appeals under the IPA.

Under Section 43 IPA, applicants then have ten working days instead of 15 working days to make an appeal,<sup>240</sup> which shall be determined without an oral hearing, unless the Tribunal considers it necessary in the interests of justice to have such a hearing. The appeal is suspensive.

### 5.4. Legal assistance

#### Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No
  - ❖ Does free legal assistance cover: ☐ Representation in interview ☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice? ☒ Yes ☐ With difficulty ☐ No
  - ❖ Does free legal assistance cover ☒ Representation in courts ☒ Legal advice

Applicants under the accelerated procedure fall under the same rules for legal assistance as those who are not under the accelerated procedure. Practical obstacles in giving legal assistance in the accelerated procedure could include that the applicant has difficulty accessing legal representation or the legal representative has difficulty in assisting the applicant in the shorter time period.

<sup>240</sup> Section 43(a) IPA; Section 3(d) International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017.

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☒ Yes ☐ For certain categories ☐ No

❖ If for certain categories, specify which:

Section 58(1) IPA defines as vulnerable persons individuals ‘such as persons under the age of 18 years (whether or not accompanied), disabled persons, elderly persons, pregnant women, single parents with children under the age of 18 years, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence.’ The provision, however, applies solely to the application of Sections 53 to 57, which refer to content of international protection.

#### 1.1. Screening of vulnerability

Regulation 8 of the European Union (Reception Conditions) Regulations 2018 provides for the establishment of a vulnerability assessment process. Until January 2021 however, no standardised assessment was carried out in respect of vulnerable international protection applicants, despite this being a clear requirement under EU law. At the end of January 2021, a pilot project to assess the vulnerability of applicants was established at Baleskin reception centre in Dublin.<sup>241</sup> The pilot scheme was subsequently extended to all new international protection applicants and aims to determine whether the applicant has special reception needs arising from any vulnerabilities identified. As of January 2023, the pilot programme continued. As of October 2022, approximately 2,114 assessments were undertaken with 1,024 individuals identified as vulnerable.<sup>242</sup>

In September 2022, IPAS published a Vulnerability Assessment Pilot Programme Policy, setting out the nature and purpose of the vulnerability assessment.<sup>243</sup> Pursuant to the newly established Policy, and, in response to significant pressure on IPAS resources, the vulnerability assessment procedure was also altered substantially. Vulnerability Assessment questionnaires were provided to all individuals making an application for international protection. Questionnaires were made available to applicants in a number of languages, both at their accommodation centres and online via IPAS’ website. A referral form for service providers and third parties working with international protection applicants was also made available and could be completed by the service provider with the applicant’s consent. Both documents contain a series of questions relating to the vulnerability indicators contained within the Reception Conditions Directive.

The applicant, or service provider, is required to return the questionnaire to the IPAS Resident Welfare Team by email or post. Assessment Officers from the Resident Welfare Team review all returned questionnaires to determine the applicant’s vulnerability status. Whereby an assessment indicates that an applicant has one or more vulnerability the Assessment Officer may contact them to discuss their vulnerability further. In some cases, whereby an assessment indicates a high level of vulnerability, the Assessment Officer may also refer the person for further assessment with an IPAS Social Worker.<sup>244</sup>

In the experience of the Irish Refugee Council, many applicants who have sought vulnerability assessments under the revised procedure have yet to be contacted by IPAS’ Resident Welfare Team,

<sup>241</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 80, 31 July 2021, available at: <https://bit.ly/3Jnok9W>.

<sup>242</sup> Information provided by IPAS, December 2022.

<sup>243</sup> International Protection Accommodation Service, ‘Vulnerability Assessment Pilot Programme Policy’, September 2022, available at: <https://bit.ly/3ZiFbCS>.

<sup>244</sup> *ibid.*

despite numerous applicants presenting with evident and significant vulnerability. The Irish Refugee Council also remains concerned about the lack of information provided to applicants regarding the assessment. It has become apparent in our contact with clients that many individuals undergoing the vulnerability assessment are not aware of the purpose of the assessment, nor do they understand what the information acquired will be used for. In many cases, individuals undergoing vulnerability assessments have recently arrived in the State, often have limited English. The lack of available information is particularly troubling as applicants are not properly equipped to fully communicate their circumstances.

## 1.2. Age assessment of unaccompanied children

Section 14 IPA states that where it appears to an immigration officer or an officer of the IPO that a child under the age of 18 years, who has arrived at the frontiers of the State or has entered the State and is not accompanied by an adult who is taking responsibility for the care and protection of the child, the officer shall inform, as soon as practicable, the Child and Family Agency (Tusla) and thereafter the provisions of the Child Care Act 1991 apply.

Under the system governed by the Refugee Act 1996, interviews and age assessment tools were used to assess age and no statutory or standardised age assessment procedures appeared to be in existence.<sup>245</sup> In the asylum procedure, ORAC would firstly form an opinion of the age of the person presenting to claim asylum prior to any referral to Tusla. Medical assessments were not carried out to determine age. Tusla would then conduct a general child protection risk assessment, which would explore age as part of that assessment.<sup>246</sup> They used a social age assessment methodology which included questions about family, education, how the young person travelled to Ireland, etc. The social worker assessed the young person's age based on how articulate they are, their emotional and physical developmental, etc. However, ORAC made the final decision as to the person's age.

Previously, where the assessment could not establish an exact age, young people were not generally given the benefit of the doubt. If someone seemed over 18, even by a day, there was typically a decision to move the young person into adult accommodation.

The IPA contains a number of provisions relating to age assessment and identification of unaccompanied children. Section 24 IPA allows the Minister, or an international protection officer to arrange an examination to determine the age of an applicant to see if he/she is under the age of 18 years. An examination is required to be:

- ❖ performed with full respect for the applicant's dignity,
- ❖ consistent with the need to achieve a reliable result, the least invasive examination possible, and
- ❖ where the examination is a medical examination, carried out by a registered medical practitioner or such other suitably qualified medical professional as may be prescribed.

The consent of the applicant and/or the adult responsible for him or her including an employee or other person appointed by Tusla is required for the age examination. Section 24(6) IPA requires that the best interests of the child is a primary consideration when applying Section 24. Section 25 also provides for an age examination to take place under the direction of a member of the Garda Síochána (national police) or immigration officer if they request the Minister to carry out such an examination when an applicant in detention appears to be under the age of 18 years. Detention for unaccompanied children is prohibited but detention may occur under Section 20(7)(a) IPA if two officials – two members of the Garda Síochána or immigration officers, or one member of the Garda Síochána and one immigration officer – believe the applicant is over 18 years pending an age examination.

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<sup>245</sup> Emma Quinn, Corona Joyce, Egle Gusciute, European Migration Network, *Policies and Practices on Unaccompanied Minors in Ireland*, November 2014.

<sup>246</sup> *ibid*, 35.

The immigrant support organisation, Nasc, previously highlighted the ‘considerable concerns about Tusla’s age assessment procedures’, more specifically connected to the fact that no sufficient guarantees are in place with respect to age assessment procedures. The organisation was made aware of cases in which age disputed minors were accommodated in Direct Provision centres, with no access to appeal the initial age assessment, which is usually conducted at the frontiers of the State, and therefore unable to access the support and aftercare provided to separated children.<sup>247</sup> Neither the IPO nor Tusla collect statistics on age assessments conducted in Ireland.<sup>248</sup>

In correspondence with the Irish Refugee Council in February 2022, it was confirmed that Tusla does not currently have a national policy or approved internal guidelines on age-assessments for use in determining the age of unaccompanied minors or separated children referred from IPO or Dublin Airport. The reason given for this was that there exists no provision in legislation for Tusla to conduct such assessments. The relevant legislation for undertaking such assessments is the International Protection Act 2015, which confers the responsibility for conducting age assessments on the Minister for Justice. Thus, according to Tusla, the conducting of such assessments is not part of its statutory function.<sup>249</sup>

Whereby cases are referred to Tusla, an assessment is undertaken in order to determine the eligibility of the young person for the provision of services under The Child Care Act, i.e., whether the individual is in need of the care and protection of Tusla. Determination of age is made giving benefit of the doubt where there may be insufficient supporting documentary evidence. If the individual is deemed not to be a child, they are then referred to the IPO in order to claim international protection.<sup>250</sup>

It was noted that Consideration was given to developing guidance to support staff in the area of age assessments, however, following a deliberative process and legal advice this was not progressed into approved national policy or guidance for the agency.

Tusla are currently engaged in a further deliberative process in conjunction with its operational and legal services to determine an eligibility criterion for receipt of Tusla services. This draft procedure will be published once finalised and approved by Tusla’s National Policy Oversight Committee.<sup>251</sup> As of January 2023, the policy had yet to be published, however, correspondence from Tusla to the Irish Refugee Council’s Independent Law Centre indicated that publication of the policy was to be expected in early course.<sup>252</sup>

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes     ☒ For certain categories     ☐ No

❖ If for certain categories, specify which:<sup>253</sup> Unaccompanied children, elderly, severely ill

Section 58 IPA states that the specific situation of vulnerable persons shall be taken into account when applying Sections 53 to 57 of the International Protection Act. Sections 53 to 57 relate to the rights granted to beneficiaries of international protection including a travel document, family reunification, the issuing of permission to reside in the State and other rights. In effect, therefore, the requirements of Section 57 only relate to persons who are granted refugee status or subsidiary protection, not persons applying for international protection. It remains to be seen how this will be implemented in practice, including whether

<sup>247</sup> *ibid*, 13.

<sup>248</sup> Information provided by Tusla, August 2017.

<sup>249</sup> Information provided by Tusla, August 2022.

<sup>250</sup> *Ibid*.

<sup>251</sup> *Ibid*.

<sup>252</sup> Information provided by the Irish Refugee Council’s Independent Law Centre, January 2023.

<sup>253</sup> The IPO has produced a prioritisation note, which sets out prioritisation criteria such as age, health and country of origin, available at: <https://bit.ly/2m1Plbi>.

these provisions may be applied to persons in the status determination process. Anecdotal information indicates that Section 58 has been applied successfully in the case of a minor who aged-out while awaiting a decision on his asylum case, thereby rendering him an adult for the purposes of the new [Family Reunification](#) provisions contained in Section 56 IPA. By reference to Section 58, the applicant could be considered vulnerable for the purposes of benefitting from the more favourable family reunification provisions for minors.

## 2.1. Adequate support during the interview

Section 28(4)(c) IPA states that the protection decision-maker shall take into account, *inter alia*, the individual position and personal circumstances of the protection applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts, to which the applicant has been or could be exposed, would amount to persecution or serious harm. The High Court has indicated that a decision maker's failure to have regard to such individual circumstances may amount to an error of law. In a case in 2013 the High Court quashed a decision of the Department of Justice which refused to grant a national of the Democratic Republic of Congo subsidiary protection on the grounds that, *inter alia*, the decision maker had failed to adequately consider the individual position and circumstances of the applicant.<sup>254</sup> Similar findings were made in a case involving a Bangladeshi national.<sup>255</sup>

Further, Section 35 IPA requires that persons conducting the personal interviews "are sufficiently competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin or vulnerability." There is no publicly available policy reflecting this position and in the experience of the Irish Refugee Council, provisions are made for applicants with special needs on an *ad hoc* basis and usually subject to intervention from legal representatives or other support workers.

The IPO does not have specialised units or officers dealing with claims by vulnerable groups. Moreover, a group of Panel Members / Caseworkers have received specialised training, based on a module developed by UNHCR, on cases involving unaccompanied children. Only officials who have conducted this training can interview unaccompanied children. The IPO has also issued guidelines on best practices for reporting cases of potential or actual child abuse or neglect ('Children First Guidelines') to its staff.<sup>256</sup>

UNHCR conducts several general training sessions for new staff per year and as requested by the relevant authority. UNHCR also holds information sessions and lectures on topics such as the submission of international protection applications, information sessions for newly arrived asylum seekers and the role of the UNHCR in the international protection process.

Other NGOs, such as Spiritan Asylum Services Initiative (Spirasi) also provide training on working with victims of torture. Such training is however conducted on an *ad-hoc* basis upon request. In 2020, Spirasi conducted two training sessions, one session related to the new model for asylum accommodation, while the other related to resettlement support. Spirasi is also involved in training for the refugee resettlement programme, through which the majority of their training requests come through. Throughout 2021, Spirasi conducted nine training sessions on varying topics related to working with victims of torture.<sup>257</sup> Data in respect of trainings conducted by Spirasi in 2022 was not available at the time of updating.

The Irish Refugee Council provides dedicated early legal advice to applicants who are deemed vulnerable or in particular need on a case-by-case basis and subject to organisational capacity at the time.

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<sup>254</sup> High Court, *E. D-N, L. D. S v Minister for Justice and Equality* [2013] IEHC 447, Judgment of 20 September 2013.

<sup>255</sup> High Court, *Barua v Minister for Justice and Equality* [2012] IEHC 456, Judgment of 9 November 2012.

<sup>256</sup> Information provided by IPO, August 2017.

<sup>257</sup> Information provided by Spirasi, February 2022.

It should be noted that Ireland has opted in to the first iteration of the Asylum Procedures Directive, which requires that officials carrying out the personal interview of the applicant be suitably ‘competent to take account of the personal or general circumstances surrounding the application, including the applicant’s cultural origin or vulnerability.’<sup>258</sup> Besides general training received by all IPO staff, there is no specific reference to vulnerability identification in the IPA and, in practice, there does not seem to be a systematic approach to identification or addressing the needs of vulnerable persons in advance of the substantive interview. As mentioned above, despite being Irish law since July 2018, there had been no vulnerability assessments as required by the reception conditions directive as of December 2020. However, at the end of January 2021, a pilot project to assess the vulnerability of asylum seekers was established at Baleskin reception centre in Dublin. Officials from the International Protection Accommodation Service (IPAS) are carrying out assessments with the assistance of a social worker from the IPO. As of October 2022, approximately 2,114 assessments were undertaken with 1,024 individuals identified as vulnerable.<sup>259</sup>

## 2.2. Prioritisation and exemption from special procedures

Accelerated procedures do not apply to unaccompanied children but their applications may be prioritised by the IPO. Section 73 IPA grants the Minister power to ‘accord priority to any application’ or request the International Protection Appeals Tribunal Chairperson to prioritise any appeal, having regard to *inter alia* ‘whether the applicant is a person in respect of whom the Child and Family Agency is providing care and protection.’<sup>260</sup>

In accordance with Section 73 IPA, the IPO (in consultation with UNHCR Ireland), issued a statement setting out prioritisation procedures for scheduling the substantive interviews of certain categories of applicant in February 2017, which remains in effect as of January 2023.<sup>261</sup> Under this note, when considering whether to prioritise an application, the IPO may have regard to certain categories of vulnerable applicants with respect to: the age of the applicant (specifically unaccompanied children in the care of Tusla; applicants who applied as unaccompanied children, but who have now aged out; applicants over 70 years of age, who are not part of a family group) and applicants with serious health grounds requiring prioritisation (specifically, applicants who notify the IPO after the commencement date that evidence has been submitted, certified by a medical consultant, of an ongoing severe/life threatening medical condition will be prioritised). Given that there is no formal vulnerability identification mechanism at any stage in the applicant process, the onus will be on the applicant and/or their representative to request prioritisation.

## 3. Use of medical reports

### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant’s statements regarding past persecution or serious harm? ☒ Yes ☐ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant’s statements? ☐ Yes ☒ In some cases ☐ No

Under Section 23 IPA, a report in relation to the health of the applicant may be furnished if required by the officer of the IPO. This may occur if an officer of the IPO or a member of the IPAT has a question regarding the physical or psychological health of the applicant. The applicant can choose a nominated medical practitioner from a panel established by the Minister for such health reports. The IPA is silent on how the results of the health report will be used and no reference is made to the consent of the applicant being required for such health examinations to be carried out.

<sup>258</sup> Article 13(3)(a) recast Asylum Procedures Directive.

<sup>259</sup> Information provided by IPAS, December 2022.

<sup>260</sup> Section 73(2)(i) IPA.

<sup>261</sup> IPO and UNHCR, *Prioritisation of Applications for International Protection under the International Protection Act 2015*, 27 February 2017, available at: <http://bit.ly/2m1Plbi>.



It is the duty of the applicant to cooperate in the investigation of their application and to furnish to the IPO any relevant information. Applicants may approach an NGO called Spirasi, which specialises in assessing and treating trauma and survivors of torture, to obtain a medical report. The approach is made through their solicitor. If an asylum seeker is represented by the Legal Aid Board, then the medico-legal report will be paid for through legal aid. If the request is made by a private practitioner, the report must be paid for privately. Spirasi reports receive a fee of €492 per report from the State through the Legal Aid Board's Refugee Legal Service while the cost to produce each report is €1,190. For clients who have private legal representation the cost of a medico-legal report (MLR) can be a barrier to access.<sup>262</sup>

Spirasi's services include the provision of MLR to the protection process, multidisciplinary assessments of survivors of torture, therapeutic interventions, psychosocial support, outreach and early identification, language and vocational training and training to third parties on survivors of torture. SPIRASI puts the waiting time for appointments for reports at eight-ten months from the date of referral, however it is understood that applicants waiting for a report for an IPAT appeal hearing will be prioritised.<sup>263</sup> Following the onset of COVID-19, Spirasi's service experienced a 35% decrease in medico-legal report production owing to public health restrictions.<sup>264</sup>

In their 2017 submission to the UN Committee against Torture, Spirasi expressed concern at victims of torture not being able to access reports to support their asylum application in advance of a first-instance decision in the envisaged shorter process under the single application procedure. Additionally, Spirasi indicated at that time that due to the drain on resources in a climate of reduced funding, they were restricted in their capacity to provide the additional rehabilitative supports required by victims of torture.<sup>265</sup>

Picking up on these concerns, the UN Committee against Torture in its Concluding Observations on Ireland in August 2017 recommended that the State: 'Provide adequate funding to ensure that all persons undergoing the single procedure under the International Protection Act have timely access to medico-legal documentation of torture, ensure that all refugees who have been tortured have access to specialised rehabilitation services that are accessible country-wide and to support and train personnel working with asylum-seekers with special needs.'<sup>266</sup>

#### 4. Legal representation of unaccompanied children

##### Indicators: Unaccompanied Children

1. Does the law provide for an identification mechanism for unaccompanied children?  
☐ Yes ☒ No
2. Does the law provide for the appointment of a representative to all unaccompanied children?  
☒ Yes ☐ No

Section 14 IPA states that where it appears to an immigration officer or an IPO officer that a child under the age of 18 years, who has arrived at the frontiers of the State or has entered the State and is not accompanied by an adult who is taking responsibility for the care and protection of the child, the officer shall inform, as soon as practicable, the Child and Family Agency (Tusla) and thereafter the provisions of the Child Care Act 1991 apply.

<sup>262</sup> SPIRASI, *Submission to the UN Committee against Torture in advance of their review of Ireland*, June 2017, available here: <http://bit.ly/2eNn1Y6>, 14.

<sup>263</sup> *ibid.*

<sup>264</sup> Information provided by Spirasi, March 2021.

<sup>265</sup> *ibid.*, 15.

<sup>266</sup> UN Committee against Torture, *Concluding Observations on the Second Periodic Report of Ireland*, August 2017, available at: <http://bit.ly/2hPIVem>, para 12(c).



The law provides for the appointment of a legal representative, but the sections of the Child Care Act that would need to be invoked, are not in practice. Unaccompanied children are taken into care under Section 4 and 5 of the Child Care Act 1991 as amended. Neither section provides for a legal guardian. There are no provisions stating that a child must be appointed a solicitor, nor is there any legislative provision that a legal representative must be assigned within a certain period. Upon referral to Tusla, each unaccompanied child is appointed a social worker.<sup>267</sup> Tusla then becomes responsible for making an application for the child, where it appears to Tusla that an application should be made by or on behalf of the child on the basis of information including legal advice in accordance with Section 15(4) IPA. In that case, Tusla arranges for the appointment of an appropriate person to make an application on behalf of the child. There is no legislative or policy guidance setting out how Tusla should make a decision on whether or not an unaccompanied minor should make an international protection application and such decisions appear to be made on a case-by-case basis. The sole decision on whether or not an unaccompanied child may make an application for international protection is entirely at the discretion of the Child and Family Agency, which raises concerns in relation to the child individual right to seek asylum under Article 18 of the Charter of Fundamental Rights.<sup>268</sup>

The provisions on the appointment of a legal representative do not differ depending on the procedure (e.g. Dublin). The Dublin III Regulation is engaged once an application is made. However, the assignment of the Member State responsible for the examination of a child's claim differs for those of adults under Article 8 of the Dublin III Regulation. At that point, the child will typically have a solicitor, whose duty it is to provide advice and legal representation to the child. If the child is in care, they will also have a social worker whose duty it is to provide for the immediate and ongoing needs and welfare of the child through appropriate placement and links with health, psychological, social and educational services.

## E. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
  - ❖ At first instance ☒ Yes ☐ No
  - ❖ At the appeal stage ☒ Yes ☐ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
  - ❖ At first instance ☒ Yes ☐ No
  - ❖ At the appeal stage ☒ Yes ☐ No

Section 22 IPA sets out that a person who wishes to make a subsequent asylum application must apply to the Minister for permission to apply again. In 2020, 53 applications were made pursuant to s.22 IPA. The top five countries of origin from which subsequent applications were made were Pakistan, Georgia, Bangladesh, Brazil and Nigeria.<sup>269</sup> In 2021, 38 subsequent applications were made.<sup>270</sup> The top five countries of origin from which subsequent applications were made included Pakistan, Georgia, Bangladesh, Nigeria and the Democratic Republic of Congo.<sup>271</sup> The application must set out the grounds of the application and why the person is seeking to re-enter the asylum process including a written statement of the reasons why the person concerned considers that the consent of the Minister should be given. The application is made in writing and there is no oral interview. The Minister shall consent to a

<sup>267</sup> International Protection Office, *Information Booklet for Applicants of International Protection*, January 2017, available at: <https://bit.ly/3jRnZ2P>, 29.

<sup>268</sup> Irish Refugee Council, *Submission to the UN Committee against Torture on its Review of Ireland's National Report*, June 2017, available at: <http://bit.ly/2w2dzU6>, 11.

<sup>269</sup> Information provided by IPO, April 2021.

<sup>270</sup> Information provided by IPO, April 2022.

<sup>271</sup> *ibid.*

subsequent application being made when new elements or findings have arisen or have been presented by the person concerned, which makes it significantly more likely that the person will qualify for international protection, and the person was incapable of presenting those elements or findings for the purposes of their previous application for a declaration and if the person was an applicant whose previous application was withdrawn or deemed withdrawn through no fault of their own and therefore they are incapable of pursuing their previous application. If the Minister refuses to consent to a subsequent application in a written decision, the applicant can submit an appeal to the IPAT within ten working days.<sup>272</sup> The Tribunal shall make its decision without an oral hearing.

Section 22 IPA states that the Minister shall, as soon as practicable after receipt of an application, give to the person concerned a statement in writing specifying, in a language that the person may reasonably be supposed to understand (a) the procedures that are to be followed (b) the entitlement of the person to communicate with UNHCR (c) the entitlement of the person to make submissions in writing to the Minister, (d) the duty of the person to co-operate with the Minister and to furnish information relevant to their application, and (e) such other information as the Minister considers necessary to inform the person of and of any other relevant provision of the International Protection Act and regulations made under it.

If the Minister consents to the person making a subsequent asylum application, they are subject to the single procedure in the normal way.

On 13 October 2020, the Supreme Court of Ireland handed down a judgment in the case of *Seredych v. The Minister for Justice* [2020] IESC 62. This case concerned the question of whether the Minister for Justice and Equality is obliged to revoke a deportation order or otherwise facilitate a person to enter the State, in circumstances where that person has been granted consent to make a subsequent application for international protection under section 22 of the International Protection Act 2015. Justice Baker, giving judgment for the Court, adopted the analysis of the Court of Appeal of England and Wales in *R (on Application of AB) v. The Secretary of State for the Home Department* [2018] EWCA Civ 383,<sup>273</sup> which indicated that there is nothing within the Procedures Directive (Directive 2013/32/EU) that obliges a Member State to readmit to its territory an applicant who had previously chosen to leave the State while their application remained pending.<sup>274</sup>

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<sup>272</sup> Section 22(8) IPA; Section 3(b) International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017.

<sup>273</sup> *R (on Application of AB) v. The Secretary of State for the Home Department* [2018] EWCA Civ 383, 6 March 2018, available at: <https://bit.ly/3u8W1Vc>.

<sup>274</sup> *Seredych v. The Minister for Justice* [2020] IESC 62, available at: <https://bit.ly/3ssE96R>.

Throughout 2022, there were a total of 15 subsequent applications for international protection pursuant to s.22 of the IPA 2015.<sup>275</sup>

**Breakdown of the total number of subsequent applicants in 2022 by nationality:**<sup>276</sup>

| Total                            |     |
|----------------------------------|-----|
| Georgia                          | ≤ 5 |
| South Africa                     | ≤ 5 |
| The Democratic Republic of Congo | ≤ 5 |
| Botswana                         | ≤ 5 |
| Bangladesh                       | ≤ 5 |
| China                            | ≤ 5 |
| India                            | ≤ 5 |
| Somalia                          | ≤ 5 |
| Ukraine                          | ≤ 5 |

## F. The safe country concepts

### Indicators: Safe Country Concepts

- Does national legislation allow for the use of “safe country of origin” concept? ☒ Yes ☐ No
  - ❖ Is there a national list of safe countries of origin? ☒ Yes ☐ No
  - ❖ Is the safe country of origin concept used in practice? ☒ Yes ☐ No
- Does national legislation allow for the use of “safe third country” concept? ☐ Yes ☒ No
  - ❖ Is the safe third country concept used in practice? ☐ Yes ☒ No
- Does national legislation allow for the use of “first country of asylum” concept? ☒ Yes ☐ No

### 1. Safe country of origin

Under Section 72 IPA the Minister may make an order designating a country as safe and it should be deemed a safe country of origin for the purposes of the single procedure. In deciding to make such an order the Minister must be satisfied that, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict. In making the assessment, the Minister shall have regard to the extent to which protection is provided against persecution or mistreatment by (a) the relevant laws and regulations of the country and the manner in which they are applied, (b) observance of the rights and freedoms laid down in the European Convention on Human Rights (ECHR), International Covenant on Civil and Political Rights (ICCPR) and UN Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) ECHR; (c) respect for the *non-refoulement* principle in accordance with the Geneva Convention, and (d) provision for a system of effective remedies against violations of those rights and freedoms. The Minister's decision shall be based on a number of sources of information including, in particular, information from other Member States, the European Union Agency for Asylum (EUAA, former European Asylum Support Office), the High Commissioner, the Council of Europe and such other international organisations as the Minister considers appropriate.

<sup>275</sup> International Protection Office, MARCH 2023.

<sup>276</sup> International Protection Office, April 2022.

The Minister may amend or revoke any such order and shall review on a regular basis the situation of any country designated under Section 72.

In April 2018, the Minister for Justice commenced S.I. No. 121 of 2018, which updated the safe country of origin list to include **Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Montenegro, Serbia, Georgia and South Africa**.<sup>277</sup> This list remains the same as of January 2023. The United Kingdom was also recently designated a 'safe third country' pursuant to the International Protection Act 2015.<sup>278</sup>

The safe country of origin list continues to be applied in practice, namely in response to a significant increase in the numbers of applicants to Ireland from those countries since 2017. According to application figures for 2020, South Africa was amongst the top 5 countries of origin for international protection in Ireland, with 77 applications, accounting for 5.5% of the total applications, as of November 2020.<sup>279</sup> As of December 2022, Georgia and South Africa were once again amongst the top 10 countries of origin, with 2,710 and 450 applications respectively.<sup>280</sup>

Where it appears to the IPO that an applicant is a national or has a right of residence in a designated safe country then the country will be deemed to be a safe country of origin for the purposes of an assessment of an applicant's international protection application only where: (a) the country is the country of origin of the applicant; and (b) the applicant has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her eligibility for international protection.<sup>281</sup> There is no appeal against a designation that a person comes from a designated safe country of origin.

Under the revised procedure applicants from so-called 'safe countries of origin' will now receive a date for their substantive interview within four to six weeks of making their initial application. It should also be noted that, pursuant to the relevant regulation, this accelerated procedure may also be applied to **any** application subject to the need for fairness and efficiency and whereby the international protection office considered same necessary and expedient.

According to the International Protection Office, all applications will continue to be examined individually and applicants whose applications are examined under the new procedure will retain the right to appeal a negative recommendation by the IPO to the International Protection Appeals Tribunal.<sup>282</sup> However, pursuant to the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022, whereby the IPO recommends that an applicant's application for refugee or subsidiary protection should be refused on the basis of one of the reasons established pursuant to s.39(4) of the International Protection Act 2015, the timeframe in which to submit an appeal is shortened to 10 working days from the date of the decision.<sup>283</sup> Such reasons include whereby a finding is made by the International Protection Office that the issues raised in the application were not relevant to the applicant's eligibility for international protection, whereby the applicant's representations have been inconsistent or contradictory, whereby the applicant failed to make the application as soon as they could without good reason, whereby a finding is made that the applicant did not require international protection due to the possibility of safe internal relocation within their country of origin, or whereby the application is refused and the applicant

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<sup>277</sup> S.I. No. 121 of 2018, International Protection Act 2015 (Safe Countries of Origin) Order 2018.

<sup>278</sup> S.I. No. 725/2020 - International Protection Act 2015 (Safe Third Country) Order 2020, available at: <https://bit.ly/3nYIJpW>.

<sup>279</sup> IPO, *November Statistics*, November 2020, available at: <https://bit.ly/3sLrCM2>.

<sup>280</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 31 January 2023, available at: <https://bit.ly/3X56bmM>.

<sup>281</sup> Section 33 IPA.

<sup>282</sup> International Protection Office, 'The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals)(Amendment) Regulations 2022 – Information Note', 8<sup>th</sup> November 2022, available at: <https://bit.ly/3jyYBTl>.

<sup>283</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

comes from a safe country of origin.<sup>284</sup> An applicant's appeal will be decided without an oral hearing, unless IPAT believes that it is in the interests of justice to hold an oral hearing.<sup>285</sup>

## 2. First country of asylum

Under Section 21(15) IPA a country is a first country of asylum for a person if he or she: (a) has been recognised in that country as a refugee and can still avail himself or herself of that protection, or otherwise enjoys sufficient protection in that country including benefiting from the principle of non-*refoulement*; and (b) will be re-admitted to that country.

An application for international protection is inadmissible if a country is deemed to be a first country of asylum for an applicant. There have been anecdotal reports that persons who have been deemed inadmissible by the IPO may have difficulty accessing legal representation from the Legal Aid Board, however the full impact of the inadmissibility provisions in practice in Ireland remains to be seen.

In July 2019, the Irish High Court referred three questions to the CJEU regarding the application of this concept in *M.S. (Afghanistan) v. The Minister for Justice and Equality*; *M.W. (Afghanistan) v. The Minister for Justice and Equality*; *G.S. (Georgia) v. The Minister for Justice and Equality*, following the Minister's refusal of the appellants' applications for international protection on the grounds that they had benefitted from subsidiary protection from another state.<sup>286</sup> Delivering judgment on 10 December 2020, the CJEU determined that Article 25(2) of the Procedures Directive 2005 must be interpreted as not precluding the enactment of legislation in a Member State, which render inadmissible an application for international protection in circumstances whereby the applicant benefits from subsidiary protection in another Member State.<sup>287</sup>

## G. Information for asylum seekers and access to NGOs and UNHCR

### Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No
  - ❖ Is tailored information provided to unaccompanied children? Some information.
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☐ With difficulty ☒ No
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

A person who states an intention to seek asylum or an unwillingness to leave the state for fear of persecution is interviewed by an immigration or international protection officer as soon as practicable after arriving, depending on the location where such an intention is expressed. The relevant officer informs the person that they may apply to the Minister for Justice and Equality for protection and that they are entitled to consult a solicitor and UNHCR. Where possible this is communicated in a language that the person

<sup>284</sup> International Protection Act 2015, s.39(4).

<sup>285</sup> International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022.

<sup>286</sup> *M.S. (Afghanistan) v The Minister for Justice and Equality*; *M.W. (Afghanistan) v The Minister for Justice and Equality*; *G.S. (Georgia) v The Minister for Justice and Equality*; (Approved) [2019] IEHC 477, 2 July 2019, available at: <https://bit.ly/2N7aY9z>.

<sup>287</sup> Case C-616/19, *M.S., M.W. and G.S. v. Minister for Justice and Equality*, ECLI:EU:C: 2020:1010, available at: <https://bit.ly/3iBvHhc>.

understands. With respect to persons seeking protection at the border, as noted in section [Access to the territory and push backs](#), it appears that people may sometimes be refused leave to land even when there are clear indicators of the fact they might have protection needs.

Where a person is detained, the immigration officer or member of the Garda Síochána shall inform the person of the power under which they are being detained; that they shall be brought before a court to determine whether they should be detained or released; that they are entitled to consult a solicitor; that they are entitled to notify the UNHCR of the detention; that they are entitled to leave the state at any time; and that they are entitled to the assistance of an interpreter.

The IPO, as soon as possible after receipt of an application shall give the applicant a statement in writing, specifying in a language that the applicant may reasonably be supposed to understand:

- a) the procedures to be observed in the investigation of the application;
- b) the entitlement to consult a solicitor;
- c) the entitlement of the applicant under the International Protection Act to be provided with the services of an interpreter
- d) the entitlement to make written submissions to the Commissioner in relation to his/her application;
- e) the duty of the applicant to cooperate and to furnish relevant information;
- f) the obligation to comply with the rules relating to the right to enter or remain in the state and the possible consequences of non-compliance;
- g) the possible consequences of a failure to attend the personal interview.

The IPO provides written information to every asylum seeker and there is a copy of the information booklet available on the recently established IPO website and is available in 18 languages.<sup>288</sup>

All applicants are given recently issued information leaflets from IPO and the European Commission entitled 'Information about the Dublin Regulation for applicants for international protection pursuant to Article 4 of Regulation (EU) No 604/2013', a guide to the Dublin process in general. A separate information leaflet is also provided to persons who are subject to the Dublin procedure, entitled 'I'm in the Dublin procedure – what does this mean? Information for applicants for international protection found in a Dublin procedure, pursuant to Article 4 of Regulation (EU) No. 604/2013'. A separate information leaflet aimed specifically at unaccompanied children is also available, entitled 'Children asking for international protection, information for unaccompanied children who are applying for international protection pursuant to Article 4 of Regulation (EU) No 604/2013'.<sup>289</sup> However, anecdotal evidence suggests that it is not always clear that the asylum seeker understands that they are being subject to the Dublin procedure. The onus is at all times placed on the asylum seeker to read and understand the content of the Dublin information leaflet, rather than ensuring that it is properly explained to the applicant by a caseworker or Authorised Officer.

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<sup>288</sup> IPO, *Publications*, available at: <http://bit.ly/2mWLkmK>.

<sup>289</sup> All information leaflets are available online at: <http://bit.ly/2IGDCL9>.



## H. Differential treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No  
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?<sup>290</sup> ☒ Yes ☐ No  
❖ If yes, specify which: Albania, Bosnia and Herzegovina, FYROM, Kosovo, Montenegro, Serbia, Georgia, South Africa

Legislation in Ireland does not single out any application from a specific nationality as manifestly well-founded in the context of the regular procedure. However, with respect to the scheduling of substantive interviews of applicants, the IPO may prioritise cases of certain nationalities on the basis of 'the likelihood that applications are well-founded due to the country of origin or habitual residence of applicants.'<sup>291</sup> The Department of Justice has specified that applications from persons from Syria, Iraq, Afghanistan, Iran, Libya, Eritrea and Somalia may be prioritised on the basis 'of country of origin information, protection determination rates in EU member states and UNHCR position papers indicating the likely well-foundedness of applications from such countries.'<sup>292</sup> Prioritisation of protection applicants from these states continued throughout 2022, however, it remains to be seen how this process will operate in light of the accelerated procedure in respect of safe countries of origin.

Protection applicants who arrived through the EU relocation scheme in 2016 and 2017, predominantly Syrian nationals, had to complete the application questionnaire but were subject to an expedited procedure and usually received a decision within three months of arrival in the State. At the beginning of the relocation process, some were subject to a personal interview but latterly they were not. By March 2018, the majority of Ireland's commitments under the EU relocation scheme had been fulfilled. Overall, 1,022 asylum seekers were successfully relocated in the state.<sup>293</sup>

In August 2021, in response to the emerging humanitarian crisis in Afghanistan, the Department of Justice confirmed that it would begin prioritising international protection applications from Afghan nationals in line with updated advice provided by UNHCR. In the experience of the Irish Refugee Council, the IPO dispensed with interviews for many Afghan nationals, who were subsequently issued with Declarations of Refugee status on a papers-only basis. This practice continued throughout 2023 in some, but not all cases. Afghan nationals facing transfers to other EU countries pursuant to the Dublin III procedure had their applications for international protection examined in Ireland on compassionate grounds.<sup>294</sup>

The Department also confirmed that applications for family reunification made by Afghan nationals pursuant to the International Protection Act 2015 would now be prioritised and fast-tracked to completion, with full consideration given to the humanitarian context.<sup>295</sup> However, in the experience of the Irish Refugee Council, this has not been the case in practice. In one case, an application for family was substantially delayed owing to difficulties in acquiring the requisite identification documents for proposed beneficiaries, as well as a refusal on the part of the Family Reunification Unit to accept copy documentation, despite the obvious issues associated with obtaining original documentation from Afghanistan at present.

<sup>290</sup> Whether under the "safe country of origin" concept or otherwise.

<sup>291</sup> IPO and UNHCR, 'Prioritisation of Applications for International Protection under the International Protection Act 2015', 27 February 2017, available at: <http://bit.ly/2m1Plbi>.

<sup>292</sup> *ibid.*

<sup>293</sup> Department of Justice, *Ministers Flanagan and Stanton welcome final arrivals from Greece under EU relocation programme*, 23 March 2018, available at: <https://bit.ly/3u3RQK7>.

<sup>294</sup> RTÉ, Department of Justice to prioritise international protection applications from Afghan Nationals, 18 August 2021, available at: <https://bit.ly/3tbpAYi>.

<sup>295</sup> *ibid.*



Additionally, as of February 2022, the Irish government had provided visa waivers to approximately 532 persons fleeing Afghanistan, with the first group of evacuated refugees arriving in August 2021.<sup>296</sup> Approximately 425 Afghans have arrived in Ireland as of February 2022.<sup>297</sup> The first group of evacuated refugees arrived in August 2021.<sup>298</sup> Newly arrived Afghan refugees have so far been accommodated at one of three Emergency and Orientation Reception Centres in Mosney, Co. Meath, Clonea, Co. Waterford and Balaghaderren, Co. Roscommon.

In September 2021, the Irish Government also approved the introduction of the Afghan Admissions Programme with a view of admitting up to 500 Afghan nationals to Ireland. The programme opened for applications on 16 December 2021 for an eight-week period. The programme enables current or former Afghan nationals legally resident in Ireland on or before 1 September 2021 to apply to nominate up to four close family members, who are living in Afghanistan or who have recently fled to neighbouring territories, including Iran, Pakistan, Turkmenistan, Uzbekistan or Tajikistan, to apply for temporary residence in Ireland.

Sponsors are required to list their four nominated family members in order of priority, in terms of their vulnerability and risk to their freedom and safety. The Department of Justice have indicated that information provided in respect of each family member will be important in assisting the determination of who is deemed most vulnerable in view of prioritising their application. The programme outlines which family members who are to be covered by the scheme. The list includes spouses, civil partners, *de facto* partners, minor and adult children whereby they are unmarried and without dependants, grandparents, related minor children without parents for whom the applicant has parental responsibility and vulnerable close family members who do not have a spouse, partner or another close relative to support them. The eligibility criteria requires that the sponsor be able to maintain their nominated family members upon their arrival in Ireland, including providing them with suitable accommodation. It should also be noted that the four-beneficiary limit applies per household, instead of per sponsor. Thus, where two or more sponsors live together as part of the same household, they will be entitled to nominate up to four beneficiaries in total, as opposed to four per person.<sup>299</sup>

While the introduction of the programme is certainly a welcome development in the Government's overall response to the evolving humanitarian situation in Afghanistan, the Irish Refugee Council raised numerous concerns regarding some aspects that may undermine the overall efficacy of the programme.<sup>300</sup> Firstly, based on initial interest in the programme from potential sponsors, the 500 places on the programme falls short of demand; a second concern is that the four-beneficiary limit per household may impact family unity. For this reason, the Irish Refugee Council called upon the government to apply this limit in a flexible manner, to ensure that families with more than four members are permitted to stay together.<sup>301</sup> Additionally, the requirement that sponsors be able to maintain their family members upon arrival in Ireland risks excluding persons who were recently recognised as refugees and have not yet had adequate time to establish themselves, as well as those with disabilities or caring responsibilities. Finally, it will be necessary for the Government to operate the programme in such a way that successful beneficiaries who do not have a valid passport are issued with an Irish travel document so as to enable safe passage to Ireland.

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<sup>296</sup> The Journal, 'First group of evacuated Afghan refugees to arrive in Ireland this evening', 23 August 2021, available at: <https://bit.ly/3F3dSkE>.

<sup>297</sup> Minister for Children, Equality, Disability, Integration and Youth Response to Parliamentary Question Nos 135, 146 and 173, 3 February 2022, available at: <https://bit.ly/36O6WMU>.

<sup>298</sup> The Journal, 'First group of evacuated Afghan refugees to arrive in Ireland this evening', 23 August 2021, available at: <https://bit.ly/3F3dSkE>.

<sup>299</sup> Department of Justice, *Afghan Admissions Programme Open for Applications*, 16 December 2021, available at: <https://bit.ly/3n9EB91>.

<sup>300</sup> Irish Refugee Council, Press Release: Irish Refugee Council Welcome Afghanistan Admission Programme but Flag Key Requirements, 14 December 2021, available at: <https://bit.ly/3sualYm>.

<sup>301</sup> *ibid.*

The programme opened for applications on the 16<sup>th</sup> of December 2021 and closed on the 11<sup>th</sup> of March 2022. There was a total of 528 applications and as of 28<sup>th</sup> of November 2022, just 22 applications had been approved, despite the deteriorating security situation in Afghanistan.<sup>302</sup>

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<sup>302</sup> *ibid.*

## Reception Conditions

### Short overview of the reception system

International protection applicants are offered accommodation by the Irish State in reception centres under a system known as 'Direct Provision.' The State directly provides accommodation and board, along with a weekly allowance for personal requisites (currently €38.80 for adults and €29.80 for children), a medical card and ancillary supports for individuals awaiting a decision on their application for international protection. The Direct Provision system is overseen by the International Protection Accommodation Service (IPAS), a subdivision of the Department of Justice and Equality.

Upon lodging an application for international protection, applicants are referred to IPAS. Previously, applicants were initially accommodated at Baleskin Reception Centre near Dublin Airport for a number of weeks so as to facilitate a preliminary interview at the IPO, as well as health screening and registration for Community Welfare Service assistance. However, owing to capacity constraints within the international protection accommodation system, from March 2022, Citywest Hotel and Convention Centre was contracted by the International Protection Accommodation Service and repurposed as a transit hub for the processing of beneficiaries of Temporary Protection, as well as for the accommodation of newly arrived international protection applicants.

Following a processing period of approximately 6 weeks, applicants are then dispersed to one of the 46 Direct Provision accommodation centres or 79 emergency or pre-reception centres around the country. The majority of centres are privately owned and operated and the standards of accommodation and living conditions vary widely from centre to centre. Accommodation can broadly be categorised into three types; dormitory style accommodation, bedrooms with en-suites or access to a communal bathroom and self-contained units, generally allocated to families or those with particular reception needs. The majority of centres are mixed centres, accommodating both single people and families. According to latest available statistics, there are seven single male-only accommodation centres and one female-only reception centre.<sup>303</sup>

Over the course of 2022, there was also a consistent deterioration in the standard of accommodation provided to international protection applicants. 2022 saw a movement away from the traditional use of hotel and guest house accommodation and an increased reliance by the State on so-called 'emergency centres.' Additionally, in July 2022, the State began to use tent style accommodation, in which applicants were accommodated in marquee-style structures at various locations around the country. While initially intended as a temporary, many applicants spent months residing in wholly unsuitable accommodation which did not meet their basic needs and exposed them to at times freezing and wet weather conditions. Other emergency centres established in 2022 comprised of disused offices, large conference rooms, schools, and sports halls. Applicants were often accommodated in congregated and overcrowded settings without access to basic public services. The Irish Refugee Council has been alerted to numerous grievous risks to vulnerable residents accommodated in these centres, including to women and minor children. These reports included significant child protection issues and very serious privacy concerns.

In September 2018, the Direct Provision estate reached capacity and consequently, no accommodation was available for newly arrived international protection applicants. Due to shortage of bed space, a number of individuals were accommodated in temporary, emergency accommodation, including hotels, bed and breakfasts and holiday homes. This remained an ongoing issue throughout 2019, 2020 and 2021, with accommodation centres still at capacity.

2022 saw a very significant rise in the number of individuals seeking international protection in Ireland, as well as the arrival of large numbers of beneficiaries of Temporary Protection, many of whom sought

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<sup>303</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 151, 17 October 2019, available at: <https://bit.ly/34Y0yO7>.

accommodation from IPAS. Accommodation capacity was therefore extremely constrained. At numerous times throughout the year, IPAS exhausted its accommodation stock, resulting in many international protection applicants being refused accommodation on arrival in the state.<sup>304</sup> As of March 2023, 408 newly arrived asylum seekers, including single males and couples, were without any state-provided accommodation.<sup>305</sup> Homeless international protection applicants were initially not permitted to access any form of social welfare support while street homeless, however, at the time of updating, it had been confirmed by the Department of Social Protection that persons experiencing homelessness without the means to support themselves could apply for the Daily Expense Allowance.<sup>306</sup> The Irish Refugee Council's Independent Law Centre initiated judicial review proceedings on behalf of several clients in this co-hort, including one age disputed minor, citing breaches of the Reception Conditions Regulations 2018. Proceedings were ongoing at the time of updating.<sup>307</sup>

As of January 2023, there were 19,635 people accommodated within the IPAS system, 11,414 of which were accommodated in emergency accommodation.<sup>308</sup>

While there is no obligation on an asylum seeker to remain in Direct Provision during the status determination process, if they do opt to leave or stay elsewhere Direct Provision allowance payments are withdrawn. Applicants who opt to reside in Direct Provision centres are accommodated until they are granted some form of status and are subsequently integrated into the community. However, in practice, a significant number of individuals who have been granted status have been unable to move out of Direct Provision owing to a lack of available and affordable housing. The housing crisis in Ireland continues to exacerbate the situation. According to latest available figures, as of October 2022, approximately 4,625 people, with status remain in Direct Provision accommodation.<sup>309</sup>

### The transposition of the Reception Conditions Directive

Until 2018, Ireland had not been party to the Reception Conditions Directive. The Minister for Justice and Equality stated in March 2013 that the reason for the opt out was Article 11 of the Directive – Article 15 of its 2013 recast – which states that if a decision at first instance has not been taken within one year (now nine months) of the presentation of an application for asylum, and this delay cannot be attributed to the applicant, Member States shall decide the conditions for granting access to the labour market for the applicant. The Minister stated that 'this is contrary to the existing statutory position in Ireland which provides that an asylum seeker shall not seek or enter employment. Extending the right to work to protection applicants would almost certainly have a profoundly negative impact on application numbers, as was experienced in the aftermath of the July 1999 decision to do so.'<sup>310</sup>

However, the Supreme Court in its judgment in *N.V.H. v. Minister for Justice and Equality*, which dealt with the situation of an asylum seeker who had been living in Direct Provision for eight years with no access to employment, declared that the indefinite prohibition on employment for people in the asylum process was unconstitutional. The Court provided the State with a six-month period within which to review the ban on employment (see [Access to the Labour Market](#)) and to make proposals for providing effective

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<sup>304</sup> RTE, 'Citywest Transit Hub Closes to New Arrivals', 20<sup>th</sup> October 2022, available at: <https://bit.ly/3CL5ojD>.

<sup>305</sup> RTE, '408 newly arrived asylum seekers now homeless', 27<sup>th</sup> March 2023, available at: <https://bit.ly/40Dspuf>.  
<sup>306</sup> Information provided by Irish Refugee Council Information and Advocacy Service, March 2023.

<sup>307</sup> Irish Examiner, 'Homeless Afghan asylum seeker claims rights are being breached under Irish law', 15 February 2023, available at: <https://bit.ly/3mtzZNn>.  
RTE, 'High Court asked to declare that asylum seekers had their rights breached', 3 March 2023, available at: <https://bit.ly/3F7jjlz>.

<sup>308</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3y42E372>.

<sup>309</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O' Gorman, Response to Parliamentary Question No 406, 407 and 408, 6 December 2022, available at: <https://bit.ly/3Dp67r4>.

<sup>310</sup> Alan Shatter, Department of Justice and Equality, written answer to Parliamentary Question of Mary Lou McDonald TD, 27 March 2013.

access to the labour market for people in the asylum process. In its response, the Government announced on 22 November 2017 that it would opt into the recast Reception Conditions Directive.<sup>311</sup>

While the prohibition on seeking employment was struck down on 9 February 2018, opt into the Directive was only crystallised by the adoption of the European Communities (Reception Conditions) Regulations 2018 on 6 July 2018. Transposition was done by way of secondary legislation, a statutory instrument, enacted by the Minister for Justice and Equality

Although this has placed the reception system on a legislative footing for the first time, the practice which preceded the Regulations continues to govern the approach to reception for people seeking international protection. In July 2019, the Irish Refugee Council published a report analysing the transposition of the Directive one year later. Particular concerns were the absence of a vulnerability assessment and the rapid increase in the number of people dispersed to *ad hoc* emergency accommodation premises due to the lack of available bed spaces in Direct Provision accommodation. As of 2022, the extent to which the provisions of the Regulations have been implemented in practice continues to vary significantly.

At the end of January 2021, a pilot programme for the conducting of vulnerability assessments was established at Baleskin reception centre in Dublin. Officials from the International Protection Accommodation Service (IPAS) are carrying out assessments with the assistance of a social worker from the IPO. The pilot scheme initially assessed applicants seeking accommodation from the State and was subsequently extended to all new applicants seeking international protection.<sup>312</sup> The pilot programme continued as of January 2023.

### **The “McMahon Report” and Direct Provision reform**

In relation to the establishment of a Working Group on the Protection Process and Direct Provision that the Report on the Working Group to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers was published in June 2015 and included over 170 recommendations. It represented the first review of the protection process since the establishment of the Direct Provision system 15 years ago. The Chair of the Working Group, Bryan McMahon, on publication of the report stated that the “single most important issue to be resolved was the length of time that many of those in the system have to wait before their cases are finally determined.”<sup>313</sup> Former Minister Fitzgerald in launching the report acknowledged that successful implementation of key recommendations is dependent on the early enactment of the IPA.<sup>314</sup>

To date, the Government has published three progress reports on the implementation of these recommendations, with the final report having been published in July 2017.<sup>315</sup> On releasing the report, Minister for Justice Charlie Flanagan stated that “133 recommendations have been reported as fully implemented and a further 36 are in progress or partially implemented. This represents 98% full or partial implementation.” However, the organisation Nasc conducted an independent review of the implementation progress and published their findings in a working paper on the 18 December 2017.<sup>316</sup> Their findings suggest that in reality only 20 of the 170 Working Group Report recommendations could be verified as implemented, with 51% of the recommendations fully or partially implemented, noting poor implementation particularly among recommendations for which responsibility lies with agencies other than

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<sup>311</sup> Department of Justice and Equality, ‘Government agrees framework for access to work for International Protection Applicants’, 21 November 2017, available at: <http://bit.ly/2BgSGXj>.

<sup>312</sup> *ibid.*

<sup>313</sup> Department of Justice and Equality, *Chair’s remarks on the publication of the report to Government*, 30 June 2015, available at: <http://bit.ly/1MxniZe>.

<sup>314</sup> Department of Justice and Equality, Speech by Minister Fitzgerald: Publication of the Report of the Working Group on the Protection Process, 30 June 2015 available at: <http://bit.ly/1XDJEKi>.

<sup>315</sup> Department of Justice, ‘Third and Final Progress Report on the implementation of the Justice McMahon Report recommendations’, 17 July 2017, available at: <http://bit.ly/2DsuuXW>.

<sup>316</sup> Nasc, *Working Paper on the Progress of Implementation of the McMahon Report*, December 2017.

the Department of Justice (such as the Health Service Executive, for example). Key concerns emerging from the Nasc review of the implementation progress, which contradict the official progress reports include: lack of regard for children's rights, including the principle of the best interests of the child; slow and *ad hoc* implementation of recommendations relating to cooking and living spaces; persistent delays in the international protection process, and the lack of a multidisciplinary approach to identification of vulnerabilities.<sup>317</sup>

In an article published in June 2020, former members of the Working Group noted that many of the key recommendations of the report "have only been partially implemented: communal catering is still only available to half of residents and additional living space has not been widely provided for families and individuals." It was further stated that "while the Government accepted the report, it never appointed an implementation body or adopted a clear implementation plan." Overall, the implementation process was "uneven, delayed and at times only reluctantly undertaken."<sup>318</sup>

In 2018, building on the Report on the Working Group to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, the Working Group on National Standards produced a draft document consisting of a set of proposed national standards for accommodation centres in Ireland. The National Standards aim to introduce further reforms of the Direct Provision system. The National Standards were subject to a public consultation process which closed on 25 September 2018.<sup>319</sup> The final draft of the Standards were published in August 2019.<sup>320</sup>

The National Standards are designed to constitute a set of standardised rules for every Direct Provision accommodation in Ireland. The draft National Standards cover ten themes including:

1. Governance, Accountability and Leadership
2. Responsive Workforce
3. Contingency Planning and Emergency Preparedness
4. Accommodation
5. Food, Catering and Cooking Facilities
6. Person Centred Care and Support
7. Individual, Family and Community Life
8. Safeguarding and Protection
9. Health, Wellbeing and Development
10. Identification, Assessment and Response to Special Needs

The National Standards are aimed at the private operators of Direct Provision centres. They are, however, distinct from the tendering process and contractual relationship between private actors and IPAS. Furthermore, the mechanism for assessing adherence to the National Standards is a self-auditing process. There is no provision for oversight of adherence by IPAS or any independent monitoring body. While an important next step to the reforms proposed by the McMahon report, compliance with the National Standards, as currently proposed, lacks any oversight or enforcement mechanism, which may undermine their usefulness. While welcoming the introduction of a set of coherent accommodation standards, the Irish Refugee Council expressed concern at the lack of accountability mechanisms in its submission to the Standards Advisory Committee during the public consultation.<sup>321</sup>

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<sup>317</sup> *Ibid*, 4.

<sup>318</sup> Irish Times, 'Five years since McMahon report and 7,700 still in Direct Provision', 30 June 2020, available at: <https://bit.ly/3dgtCGA>.

<sup>319</sup> Department of Equality and Justice, *Consultation on National Standards for accommodation offered to people in the protection process*, available at: <https://bit.ly/2DtyHcv>.

<sup>320</sup> National Standards for accommodation offered to people in the protection process, available at: <https://bit.ly/2u5cOy0>.

<sup>321</sup> Irish Refugee Council, *Submission on the Draft National Standards for Direct Provision Centres*, 3 October 2018, available at: <https://bit.ly/2MIXX7T>.



The National Standards became legally binding and enforceable on 1 January 2021. It was hoped that a mechanism for independent monitoring the implementation of the standards would be established soon thereafter. Instead, inspections continued to be carried out by IPAS and a private contractor engaged by IPAS. In October 2021, Minister O’Gorman confirmed that that Direct Provision Accommodation Centres are to be monitored by the Health Information and Quality Authority (HIQA) for compliance with the National Standards. The Department of Children, Equality, Disability, Integration and Youth is currently engaging with HIQA and the Department of Health with a view to undertaking the preparatory work with regard to HIQA’s monitoring role.<sup>322</sup> In parallel with this process, the Health (Inspection of Emergency Homeless Accommodation and Asylum Seekers Accommodation) Bill is currently before the Dáil with a view to placing HIQA’s monitoring role on statutory footing.<sup>323</sup>

Throughout 2022, the Department of Children continued its engagement with HIQA and various other stakeholders regarding HIQA’s proposed monitoring of IPAS centres against the National Standards, which became legally binding in January 2021. An Expert Advisory Group was established, comprising of a range of different stakeholder organisations, service providers and service users, in order to inform this process and several meetings of the group were held throughout the year.<sup>324</sup>

Concurrently, in consultation with the Office of the Attorney General, the Department of Children draft a Regulation in which to provide the necessary legal basis for HIQA’s monitoring role.<sup>325</sup> At the time of updating, the draft Regulation has yet to be published, however, the Minister for Children, Roderic O’Gorman, had confirmed that HIQA’s monitoring role would only apply to so-called ‘permanent Direct Provision Centres’, and not to emergency or temporary centres, on the basis that such centres are subject to separate contractual arrangements.<sup>326</sup> While the enacting of legislation giving effect to HIQA’s monitoring function is welcomed, the Irish Refugee Council is deeply concerned regarding the exclusion of emergency centres from HIQA’s remit. In the experience of the IRC, the most difficult conditions persist within ‘emergency’ and ‘pre-reception’ facilities, and not in permanent centres. Moreover, the number of emergency centres established around the country increased substantially throughout 2022, with more than half the population of the Direct Provision system living in emergency or pre-reception centres.<sup>327</sup>

At the time of updating, IPAS accommodation centres continued to be subject to inspections both by officials within the International Protection Accommodation Service and by an independent inspectorate company.<sup>328</sup>

### **Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process**

In November 2019, the Government announced a new expert advisory group to look at a ‘long term approach to how people seeking asylum are accommodated and supported’. The group, chaired by former European Commission secretary general Dr. Catherine Day, was tasked with making a series of recommendations to end the Direct Provision system and transform the international protection process.

Following an extensive review process, the group’s report was published on 21 October 2020. Launching the report, the group’s chair Dr. Catherine Day stated that a “whole-of-government approach” is required

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<sup>322</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 107, 7 October 2021, available at: <https://bit.ly/3EDRL46>.

<sup>323</sup> Health (Inspection of Emergency Homeless Accommodation and Asylum Seekers Accommodation) Bill 2021.

<sup>324</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 1361, 26<sup>th</sup> July 2022, available at: <https://bit.ly/3Xd3sc3>.

<sup>325</sup> *ibid.*

<sup>326</sup> *ibid.*

<sup>327</sup> Data provided by the International Protection Accommodation Service.

<sup>328</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 1361, 26<sup>th</sup> July 2022, available at: <https://bit.ly/3Xd3sc3>.



in order to successfully replace the system. She further added that “continued political oversight” was crucial in implementing the new system.<sup>329</sup>

The Advisory Group was concerned with two primary issues - the length of time that asylum seekers spend in the system and the type of accommodation and the support they receive while awaiting a final determination on their application for international protection.<sup>330</sup>

Amongst the most significant of the Advisory Group’s recommendations is the abolition of the “congregated and segregated accommodation” of applicants for international protection by mid-2023.<sup>331</sup> Instead, applicants ought to be initially housed in a designated State-owned reception centre for a three-month period. An onsite multi-service centre should assist applicants in accessing the necessary services and entitlements, including legal aid and post-reception centre housing placement.<sup>332</sup> During this period, applicants should also be provided with a weekly cash allowance, a Temporary Residence Card, PPS number and access to ancillary supports such as a medical card, education and training. Applicants should also receive medical and vulnerability assessments within 30 days of making their application for international protection. Following the implementation of the revised vulnerability assessment policy discussed above, newly arrived applicants are required to self-refer, or be referred by a support service, so as to undergo a vulnerability assessment. The Irish Refugee Council also remains concerned about the lack of information provided to applicants regarding the assessment. It evident in our contact with clients that many individuals undergoing the vulnerability assessment are not aware of the purpose of the assessment, nor do they understand what the information acquired will be used for. It is thus apparent that many newly-arrived applicants have not yet undergone an assessment upon arrival in the State.

Following the initial 3-month reception period, applicants ought to be provided with own-door accommodation in a local community and be permitted to access a Housing Assistance Payment (HAP) equivalent. The Department of Housing, Local Government and Heritage would be responsible for securing housing placements. Social welfare allowance would be aligned with mainstream income supports and multi-service support would be provided with work placement, access to education and training, medical card and integration support for a period of up to 18 months following a positive decision.

In the event that a negative determination is made and in circumstances whereby all avenues of appeal are exhausted, an applicant ought to be provided with own-door accommodation and housing allowance for a period of 3-6 months pending removal from the State. Social welfare allowance would be aligned with mainstream income supports for up to 6 months, while multi-service support would also continue during this period.<sup>333</sup>

The report also makes a number of recommendations that ought to be implemented in the short-term, until the new, permanent system enters into force. These include appointing the Health Information and Quality Authority (HIQA) as an independent inspectorate to examine conditions in Direct Provision centres and ensure that the National Standards are being adequately implemented.<sup>334</sup> Further immediate recommendations include facilitating access to driving licences and bank accounts, as well as removing restrictions on the right to work.<sup>335</sup>

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<sup>329</sup> The Journal, ‘Catherine Day: ‘Continued political oversight’ needed to end Direct Provision’, 21 October 2020, available at: <https://bit.ly/3o2e76M>.

<sup>330</sup> Advisory Group on Direct Provision, Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, 21 October 2020, available at: <https://bit.ly/3qgSmC3>, 5.

<sup>331</sup> *ibid*, 8.

<sup>332</sup> *ibid*, 12.

<sup>333</sup> *ibid*.

<sup>334</sup> *ibid*, 12.

<sup>335</sup> *ibid*, 80.

The report also makes significant recommendations regarding shorter processing times for applications for international protection. According to the Report, binding deadlines must apply for each stage of the international protection process. It is recommended that the IPO and IPAT should issue decisions within 6 months.<sup>336</sup> In order to clear the backlog of existing cases, the report recommends that a simplified approach ought to be taken whereby an individual has been in the protection process for over 2 years by the end of 2020. In such circumstances, the individual ought to be offered permission to remain for a five-year period without prejudice to their pending application for international protection.<sup>337</sup>

The recommendations of the Advisory Group were assessed by relevant Government Ministers and their departments and informed the development of the Government's White Paper on replacing the Direct Provision system. The White Paper was published on 26 February 2021.<sup>338</sup>

### **Government White Paper on Ending Direct Provision**

The Government's long-awaited White Paper on Ending Direct Provision was published on 26 February 2021. The paper establishes a variety of measures aimed at ending the system of Direct Provision and replacing it with a not-for-profit model. The paper broadly reflects the recommendations of the Advisory Group's report and sets out a roadmap towards establishing a new international protection accommodation policy, to be in place by 2024.<sup>339</sup>

The new model proposes a two-phased approach to accommodating applicants for international protection. In Phase One, it is proposed that the applicant will be accommodated in a designated Reception and Integration Centre for a period of four months. The focus during this phase will be on identifying the applicants' particular needs and linking them with appropriate support services. Accommodation in Reception and Integration Centres will be own-door for families and own-room for single people, with specific accommodation tailored to individuals with identified vulnerabilities. Applicants are to be provided with comprehensive information about the International Protection process, including information regarding Legal Aid Board services, Health services, Education supports, Childcare and Employment activation. An intensive orientation and English language programme will also be provided. Vulnerability Assessments will be carried out in order to determine particular accommodation and support needs and applicants will be linked with appropriate services accordingly. Applicants will continue to receive a bespoke allowance while in the Reception and Integration Centre, similar to that currently provided. In total, six Reception and Integration Centres will be established and operated by the newly established International Protection Support Service.<sup>340</sup>

Under Phase Two, it is proposed that all accommodation provided will be own-door, self-contained houses or apartments for families, with single people housed in either own-door or own-room accommodation. Accommodation will be located in all counties and the location and number of applicants to be accommodated in each county will be determined according to a national settlement pattern. Different supports will apply to the applicant depending on the accommodation strand provided. For vulnerable persons, supports will be provided by not-for-profit organisations contracted and funded by the Department of Children, Equality and Disability, Integration and Youth to provide the service in a particular location. Whereby the applicant is not deemed vulnerable, resettlement workers, overseen by the Department of Children, Equality, Disability, Integration and Youth, will act at county level to link applicants with supports and services. Applicants and their families will have the right to access mainstream services,

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<sup>336</sup> *ibid*, 56.

<sup>337</sup> *ibid*, 56.

<sup>338</sup> Department of Children, Equality, Disability, Integration and Youth, *White Paper on Ending Direct Provision*, 26 February 2021, available at: <https://bit.ly/3t2Xqv6>.

<sup>339</sup> Department of Children, Equality, Disability, Integration and Youth, *White Paper on Ending Direct Provision*, 26 February 2021, available at: <https://bit.ly/3t2Xqv6>.

<sup>340</sup> *Ibid*, 42.

including education and health services. Access to further intensive English language supports will also be provided.<sup>341</sup>

The report has been widely welcomed by migrant rights groups in that it goes some way towards developing an all-government approach to ending the system of Direct Provision. However, a major weakness identified in the paper is that it fails to incorporate the Day Advisory Group recommendation in relation to offering permission to remain to people who are two or more years in the system. One of the issues associated with the current process is that the processing of applications takes too long, the result being that asylum seekers spend years waiting for a decision on their application, effectively putting their lives on hold. This ultimately causes considerable capacity issues within the system and, unless the current sizable backlog of cases is resolved, implementation of the Paper's key recommendations will be significantly hampered. The 2024 end-date for implementing the new system has also been widely criticised, with significant work towards establishing the new system not due to begin until 2022.

Following the publication of the White Paper, a team was established in the Department of Justice in order to lead the transition to a new accommodation model for international protection applicants. Additionally, the Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman has appointed a programme board, including officials from the relevant Departments and agencies and independent members from various non-governmental organisations tasked with overseeing the transition to the new model. The programme board has met four times since it was established, with a fifth meeting scheduled for mid-December 2021. Minister O'Gorman also appointed a three-person external advisory group to act as an independent observer and oversee the implementation of the new model. Additionally, it was announced that the Department of Children, Equality, Disability, Integration and Youth, working with the Housing Agency, had begun the acquisition of properties for use during phase 2, that is, after people have completed an initial four months in a reception and integration centre and are moved into the community. It was envisaged that applicants would move into this accommodation beginning in 2022 and for this process to accelerate in the following years as more properties are acquired.<sup>342</sup> However, in light of the continuing accommodation crisis, it has become apparent that the Government's aim of ending Direct Provision by 2024 is no longer feasible.<sup>343</sup> At the time of writing, the Department of Children was carrying out an overall review of the projected timelines and deliverables contained within the White Paper, taking account of both the delays that have arisen as a consequence of the war in Ukraine and the impact of the substantial increase in numbers of individuals seeking international protection. This review will seek to reassess the projections underpinning the White Paper, as well as considering whether it is preferable to prioritise the implementation of certain aspects of the White Paper reforms over others.<sup>344</sup>

### Joint Committee on Justice and Equality

In December 2019, the Joint Committee on Justice and Equality of the Oireachtas published the 'Report on Direct Provision and the International Protection Application Process December 2019'.<sup>345</sup> This report called for a fundamental reform of the Direct Provision system and describes it as 'not fit for purpose'.

The members of the Committee found that 'shared, institutionalised living fails to fully respect the rights to privacy and human dignity of those placed in these centres. The issues pointed out in the report of the all-party group include:

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<sup>341</sup> *Ibid*, 43.

<sup>342</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question Nos 12, 14, 74, 77 and 82, 3 December 2021, available at: <https://bit.ly/33ZH4vX>.

<sup>343</sup> The Irish Times, 'Plan to end direct provision by 2023 set to be watered down amid pressure from Ukraine war', 20th October 2022, available at: <https://bit.ly/3k4juWS>.

<sup>344</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question No 436, 13th December 2022, available at: <https://bit.ly/3w5owFe>.

<sup>345</sup> Houses of the Oireachtas, Joint Committee on Justice and Equality report finds Direct Provision 'not fit for purpose' and calls for fundamental reform of 'flawed' international protection application process, 12 December 2019, available at: <https://bit.ly/2GdKzzW>.

- ❖ Inadequate support and services that do not cater to the needs of vulnerable individuals arriving in Ireland;
- ❖ Long delays in the single application process;
- ❖ Issues with accessing the labour market; and
- ❖ Issues relating to children in the Direct Provision system.<sup>346</sup>

The report made 43 conclusions and recommendations and followed a series of public hearings with stakeholder groups and the receipt of more than 140 written submissions and visits by the Committee to Direct Provision centres in Mosney and Monaghan. Amongst its recommendations there was the change to 'own door' accommodation units for individuals and families; leaving behind the current 'for profit' running of direct provision, and the involvement of approved housing bodies in the provision of accommodation and services.<sup>347</sup> The work of the Joint Committee ceased with the dissolution of the 32<sup>nd</sup> Dáil in January 2020. However, many of the findings made by the Committee subsequently informed the work of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process.

### **Committee for the Elimination of Racial Discrimination**

In 2019, the UN Committee for the Elimination of Racial Discrimination (CERD) in its Concluding observations on the combined fifth to ninth reports of Ireland expressed its concerns about Ireland's Direct Provision system, referring to its continuous failure to provide adequate accommodation for protection applicants and in particular regarding:

- (a) The lengthy stay in inadequate living conditions in Direct Provision centres and its significant impact on mental health and family life of protection applicants;
- (b) The operation of Direct Provision centres by private actors on a for-profit basis without proper regulation or accountability mechanisms;
- (c) The extensive use of emergency accommodation for lengthy periods due to the capacity limit of Direct Provision centres and the housing crisis, the substandard living conditions of emergency accommodation and the lack of necessary services and support provided therein;
- (d) The reported lack of transparency regarding the deaths of persons residing in these centres (art.5).<sup>348</sup>

After expressing such concerns the CERD made the recommendation to Ireland to phase out the Direct Provision system and develop an alternative reception model, with a series of interim measures:

- (a) Improve living conditions in Direct Provision centres and reduce the length of stay in the centres;
- (b) Set up clear standards of reception conditions for Direct Provision centres; regulate and inspect the operation of Direct Provision centres; and hold those responsible accountable in case of breach of standards;
- (c) Halt the emergency accommodation as soon as possible and develop a contingency planning framework with a view to effectively responding to capacity pressures;
- (d) Ensure transparency regarding the deaths in Direct Provision centres and collect and publish data on the deaths in the centres.<sup>349</sup>

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<sup>346</sup> *ibid.*

<sup>347</sup> *ibid.*

<sup>348</sup> UN CERD, Concluding observations on the combined fifth to ninth reports of Ireland, 12 December 2019, CERD/C/IRL/CO/5-9, available at: <https://bit.ly/3dZHrpU>.

<sup>349</sup> *Ibid.*

## STAD (Standing Against Direct Provision) Coalition

The STAD coalition was founded by eight NGOs in January 2022 with a view to lobbying the Government to deliver on the commitment to bring an end to direct provision in the next two years. Membership is comprised of Nasc, Amnesty International Ireland, Crosscare, Cultúr, Doras, the Immigrant Council of Ireland, the Irish Refugee Council, and the Movement of Asylum Seekers in Ireland. The coalition's primary aim is to replace Direct Provision with an alternative system by 2024, ensure that all emergency reception centres are closed as an immediate priority and reduce processing times for international protection applications and appeals. STAD has also called for HIQA to be provided with a mandate to independently inspect Direct Provision centres while they remain operation and for urgent measures identified in the Catherine Day report to be implemented immediately, such as an increase in the daily expenses allowance, making the right to work available after three months, and the provision a comprehensive vulnerability assessment to all applicants for international protection.<sup>350</sup>

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions available to asylum seekers in the following stages of the asylum procedure?<sup>351</sup>

|                          |                                         |                                                      |                             |
|--------------------------|-----------------------------------------|------------------------------------------------------|-----------------------------|
| ❖ Regular procedure      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Dublin procedure       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Accelerated procedure  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ First appeal           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Onward appeal          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Subsequent application | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

|                                         |                             |
|-----------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
|-----------------------------------------|-----------------------------|

Under the Reception Conditions Regulations, access to reception conditions is provided to a person who has given an indication of intention to seek asylum where he or she does not have sufficient means to have an adequate standard of living.<sup>352</sup> An asylum applicant is defined by the International Protection Act 2015 as a person who has made an application for international protection in accordance with section 15, or on whose behalf such an application has been made or is deemed to have been made. A recipient is a person who has indicated a wish to apply for international protection or someone who has lodged their claim, and who has not ceased to be a recipient. The Regulations do not apply to persons who fall outside of the scope of the EU Recast Reception Conditions Directive (e.g. people living in Direct Provision accommodation with status or people who have been issued deportation orders).

Throughout much of 2021, newly arrived asylum seekers were subject to medical checks at Dublin airport. Applicants were screened on the basis of health questionnaires, subject to temperature checks and were required to self-report symptoms of COVID-19. Applicants were then transferred to designated facilities, usually hotels, for the purposes of self-isolation. According to government policy, newly arrived applicants were required to self-isolate for a two-week period, however, in the experience of the Irish Refugee Council, individuals and families were often kept in quarantine for extended periods, sometimes up to 28 days. This delayed the commencement of the protection process for many applicants and consequently, access to PPS numbers, medical cards, Daily expenses allowance (DEA) etc. Following the easing of

<sup>350</sup> STAD, Coalition to end Direct Provision launched by leading not-for-profit groups, 26 January 2022, available at: <https://bit.ly/3uFkzrp>.

<sup>351</sup> Note that there is no statutory basis for the Direct Provision system.

<sup>352</sup> Regulations 2 and 4(1) Reception Conditions Regulations 2018.

public health restrictions associated with Covid-19, mandatory quarantine ceased for all newly arrived applicants in September 2021.

Additionally, in the experience of the Irish Refugee Council, at the outset of the COVID-19 a number of clients experienced difficulty in accessing accommodation at the very early stages of the pandemic. The Irish Refugee Council Independent Law Centre assisted several individuals who had their material reception conditions withdrawn after being refused re-entry to Direct Provision accommodation centres. In many cases, there was no written reason provided by IPAS for the withdrawal of accommodation. Residents were told that in order to re-access accommodation, they would be required to make a formal request to IPAS.

Individuals were prevented from accessing emergency accommodation and owing to delays in re-accommodation, a number of clients became street homeless or were forced to stay in cars or with friends. Some clients had to wait up to 10 days prior to accommodation being restored and this only occurred after IRC entered direct written correspondence with IPAS, with intervention by IRC's CEO to senior IPAS staff. With advocacy and assistance from IRC, reception conditions were restored in the vast majority of cases.

### **Provision of reception conditions at a designated place**

The entitlement to Reception Conditions is expressly subject to two requirements:<sup>353</sup>

- ❖ Material reception conditions are made available only at a designated accommodation centre or a reception centre (which is an initial accommodation centre where protection applicants are first accommodated before another accommodation centre is designated). In effect, this guarantees that reception conditions are provided through the existing system of Direct Provision.
- ❖ The recipient complies with the house rules of the accommodation centre. The house rules are defined in the Regulations as rules made by the Minister for Justice under the Regulations. To date, house rules have not been made under the Regulations, although house rules made prior to the Regulations continue to be applied in Direct Provision centres. Since house rules made prior to the introduction of the Regulations are not house rules made under the Regulations, this raises a question about the legal relationship between the current house rules and the Regulations; in particular, enforceability of the current house rules for the purposes of, for example, withdrawing material reception conditions.

The Regulations provide that reception conditions are only available within the structure of the existing system known as Direct Provision.<sup>354</sup> This means that in order to receive material reception conditions, an asylum seeker must live in Direct Provision accommodation and must live in the particular accommodation centre designated by the authorities.<sup>355</sup> In designating an accommodation centre for recipients of reception conditions, the Regulations provide that the Minister will take a number of factors into account (see [Freedom of Movement](#)). While the Regulations provide a new statutory basis for Direct

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<sup>353</sup> Regulation 4(2) Reception Conditions Regulations 2018.

<sup>354</sup> The system of Direct Provision has been in place since 2000. The increase in the numbers applying for asylum in the 1990s prompted a decision by the then government to withdraw social welfare from protection applicants and to provide for their basic needs directly through a largely cash-less system. This became known as Direct Provision, which is the system of accommodation for persons in the international protection application process in Ireland today. It continues to be the system pursuant to which material reception conditions are provided under the Regulations. Prior to the introduction of the Regulations, Direct Provision had no statutory basis. The Reception and Integration Agency (RIA) (now IPAS) was set up as a division within the Department of Justice to manage Direct Provision. While the drafting of the Regulations refers to the "Minister", defined as the Minister for Justice and Equality, powers are exercised by RIA in practice. RIA has no statutory basis and the decision to establish it is not a matter of public record. Originally, it was intended that protection applicants would spend no more than six months living in Direct Provision.

<sup>355</sup> Regulation 7(1) Reception Conditions Regulations 2018.



Provision, in many respects, the transposition of the Reception Conditions Directive has not changed the existing structure of reception in Ireland.

Protection applicants are not obliged to use IPAS accommodation and may source their own accommodation or stay with relatives or friends. However, to do so means that the individual is not entitled to material reception conditions or State social welfare supports, e.g. rent allowance, etc. Persons living outside Direct Provision may still be able to access a medical card in line with Regulation 18 of the Reception Conditions Regulations 2018 pertaining to the Right to Health. However, in practice, access to medical cards for those living outside of Direct Provision had not been facilitated. Following numerous complaints by IRC to the Department of Health and the Ombudsman, the HSE's Medical Card Unit recently amended their policy to enable international protection applicants who are not living in Direct Provision to obtain medical cards. Consequently, international protection applicants living outside of Direct Provision are now permitted to access medical care and prescription medication on the same basis as those living in the Direct Provision system.

Provision is made to exceptionally allow for a deviation from the prescribed form of reception under the Regulations in exceptional circumstances where: (a) a vulnerability assessment needs to be carried out to assess special reception needs; or (b) where the accommodation capacity is temporarily exhausted.<sup>356</sup> The Regulations require that an alternative method of accommodation must be for as short a period as possible and must meet the recipient's basic needs.<sup>357</sup>

On lodging an application for asylum with the IPO, the applicant is referred to IPAS. Previously, applicants were brought to a reception centre near Dublin Airport named **Balseskin**. However, as noted above, in March 2022, Citywest Hotel and Convention Centre was contracted by the International Protection Accommodation Service and repurposed as a transit hub for the processing of beneficiaries of Temporary Protection, as well as for the accommodation of newly arrived international protection applicants. Owing to limited bed capacity, many international protection applicants were forced to sleep on the floor of the Convention centre or on chairs for periods of up to 6 weeks while awaiting transfer to more permanent accommodation.<sup>358</sup> Many residents reported sub-standard, overcrowded living conditions, as well as significant child protection concerns, posing a risk to the personal safety, health and wellbeing of adults and children living at the facility.<sup>359</sup>

After a person has applied for asylum, they will be issued with a Temporary Residence Certificate, in the form of a plastic card, which sets out the person's personal details and contains their photograph. When the Temporary Residence Certificate has been received, they will be referred to the IPAS office within the IPO building. Applicants are usually accommodated at Citywest Convention Centre for a period of approximately six weeks prior to being transferred to more permanent accommodation.

In 2019, significant numbers of people were accommodated in emergency accommodation immediately after lodging an application for international protection. Capacity in Direct Provision continued to be a significant issue throughout the last two years, with 1360 protection applicants, 174 of whom were children, housed in emergency accommodation as of June 2021.<sup>360</sup> Despite a commitment by the Minister for Children, Equality, Disability, Integration and Youth to decommission the use of emergency accommodation prior to year-end,<sup>361</sup> as of January 2023, the number of emergency accommodation centres has increased to 79 centres located throughout the country.<sup>362</sup>

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<sup>356</sup> Regulation 4(5) Reception Conditions Regulations 2018.

<sup>357</sup> Regulation 4(6) Reception Conditions Regulations 2018.

<sup>358</sup> Information provided by Irish Refugee Council Information and Advocacy Service, December 2022.

<sup>359</sup> RTE, 'Child Safety Concerns at Citywest Transit Hub', 19th December 2022, available at: <https://bit.ly/3QAuqrq>.

<sup>360</sup> Irish Times, 'Department to close 24 accommodation centres for asylum seekers', 8 June 2021, available at: <https://bit.ly/3sFwSmA>.

<sup>361</sup> *ibid.*

<sup>362</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2023, available at: <https://bit.ly/3HG7ByM>.



## The assessment of resources

In practice, prior to receiving material reception conditions, protection applicants are asked to sign a declaration stating that they do not have sufficient independent means to maintain an adequate standard of living.

With the introduction of [Access to the Labour Market](#) for the first time under the Reception Conditions Regulations 2018, provision has been made for a reduction in the daily expenses allowance commensurate with income derived from employment. After an initial twelve-week period in employment, the relevant portion of a person's income will be assessed.<sup>363</sup> To calculate the relevant portion, the first €60 is disregarded. Schedule 2 of the Regulations set out in a table the contribution to the weekly accommodation cost that the recipient pays. Once the amount of the relevant portion is reached, it is deducted from the daily expenses allowance paid. If the amount of the relevant portion exceeds the amount of the daily expenses allowance, the daily expenses allowance is no longer paid.<sup>364</sup> It is unclear in practice whether this power has been implemented.

If an asylum seeker is in employment and their income exceeds a particular threshold, they are required to pay a contribution towards the material reception conditions received. The cost of accommodation services is stated in the Regulations as constituting €238 per week. Income up to €97 does not meet the threshold for the payment of a financial contribution. Income in excess of €97 attracts a liability, which is scaled upwards as a percentage of the weekly cost of accommodation. For income of €600.01 or over, the contribution rises to 100% of the cost, meaning that €238 per week is payable. At the upper limit, this liability comprises €952 per month for bed and board in a shared room.<sup>365</sup>

The Regulations empower the Minister to serve notice in writing of a requirement to refund all or part of the cost of material reception conditions, with the possibility of recovering the amount as a simple contract debt in any court of competent jurisdiction.<sup>366</sup> This will arise in circumstances where the Minister becomes aware that a person had the means to provide an adequate standard of living or concealed financial resources.<sup>367</sup>

## Reception for other categories of persons

IPAS also provides overnight accommodation to citizens of certain EU States who are destitute and who have expressed a wish to return to their own country. Victims of trafficking who are not protection applicants are also accommodated during a 60-day reflection period.<sup>368</sup> During this period, individuals are entitled to access health and psychological services through the Health Service Executive and legal advice through the Legal Aid Board. A range of community and voluntary organisations also provide support, information and advice to victims of human trafficking.

IPAS provides accommodation for applicants up to their return to their country of origin following a negative decision. However, the increasing numbers of people remaining in Direct Provision after being granted status is causing significant strain on IPAS in the context of stretched capacity. IPAS continues to provide temporary accommodation for persons granted international protection or permission to remain in Ireland under Section 3 of the Immigration Act 1999. In the experience of the Irish Refugee Council

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<sup>363</sup> Regulation 5(1) and Schedule 1 Reception Conditions Regulations 2018.

<sup>364</sup> Regulation 5(2) Reception Conditions Regulations 2018.

<sup>365</sup> Schedule 2 Reception Conditions Regulations 2018.

<sup>366</sup> Regulation 5(4) Reception Conditions Regulations 2018.

<sup>367</sup> Regulation 5(3) and (6) Reception Conditions Regulations 2018.

<sup>368</sup> The purpose of the reflection period is to allow a victim of trafficking to recover from the alleged trafficking, and to escape the influence of the alleged perpetrators of the alleged trafficking so that he or she can take an informed decision as to whether to assist Gardaí or other relevant authorities in relation to any investigation or prosecution arising in relation to the alleged trafficking. See 'Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking', available at: <http://bit.ly/1HTRdmE>.

beneficiaries of international protection are finding it increasingly difficult to access the private rental market in the context of an ongoing housing and homelessness crisis (see [Content of Protection: Housing](#)).

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2021 (in original currency and in €): €155.20 for adults and €119.20 for children

The Reception Conditions Regulations 2018 define “material reception conditions” as: (a) housing, food and associated in-kind benefits; (b) the daily expenses allowance; and (c) financial allowance for clothing.<sup>369</sup>

#### 2.1. Daily expenses allowance

The Direct Provision allowance, referred to as the daily expenses allowance under the Reception Conditions Regulations, is a payment made to protection applicants for personal and incidental expenses. The rate of the payment remained static for a number of years and was consistently the subject of criticism, including by the McMahon Working Group. The criticism stated that the weekly allowance was wholly inadequate to meet essential needs such as clothing including for school going children and it did not enable participation in social and community activities. The weekly allowance was also often used to supplement the food provided at Direct Provision centres. The Working Group recommended that the weekly allowance be increased for adults from €19.10 to €38.74 and increased from €9.60 to €29.80 for children.<sup>370</sup> In 2021, protection applicants receive a weekly allowance of €38.80 per adult and €29.80 per child. A group of migrant advocacy organisations called for the daily expenses allowance to be increased during the pandemic. This request was refused.

#### 2.2. Other financial support

Following the transposition of the recast Reception Conditions Directive and the decision of the Supreme Court in the *N.V.H.* case (see [Access to the Labour Market](#)), access to the labour market is granted for a six-month period (renewable) once an asylum seeker has been waiting over nine months for a first instance decision. The impact of this change is felt by newly arrived protection applicants rather than those who have already received a first instance decision and are currently in the appeal process. For this category, who remain unable to access the labour market, their time living in Direct Provision is not considered residency for the purposes of accruing entitlements to social welfare assistance.

Section 15 of the Social Welfare and Pensions (No. 2) Act 2009 states that an individual who does not have a “right to reside” in the State shall not be regarded as being habitually resident in the State. As protection applicants do not have a right to reside in Ireland, they are excluded from social welfare. Under the IPA this prohibition remains unless a person has a pre-existing right to work on their previous status in Ireland.

The Working Group report noted that “apart from the weekly allowance, residents are not eligible to apply for other social protection supports with the exception of Exceptional Needs Payments (ENPs) and the Back to School Clothing and Footwear Allowance.”<sup>371</sup>

<sup>369</sup> Regulation 2 Reception Conditions Regulations 2018.

<sup>370</sup> Working Group to report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report June 2015*, para 5.30, 208.

<sup>371</sup> Working Group to report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report June 2015*, para 5.5, 203.

The Exceptional Needs Payment is a discretionary payment made by a Welfare Officer on receipt of an application for a one-off payment, rather than an ongoing liability. It is relied upon by protection applicants because it is an exception to the general rule regarding habitual residence. For example, it is often the only way to pay for transport costs. However, it is a highly discretionary payment with a limited appeals mechanism. In the experience of the Irish Refugee Council, there is anecdotal evidence that there can be wide differences in how the Exceptional Needs Payment is administered, depending on which centre the asylum seeker is living in.

At the onset of the COVID-19 pandemic, the Pandemic Unemployment Payment (PUP) was not made available to individuals who were employed and living in Direct Provision on the basis that the payment was tied to jobseekers' allowance and constituted a form of social welfare payment for the purposes of s.15 of the Social Welfare and Pensions (No. 2) Act 2009. More than 40 organisations jointly wrote to the Minister for Social Protection requesting a €20.00 increase of the Daily Expense Allowance provided to international protection applicants living in Direct Provision. This request was refused on budgetary grounds.<sup>372</sup> However, in August 2020, following sustained advocacy from various migrant rights groups, PUP was extended to people living in Direct Provision as well as applicants for international protection who live outside the Direct Provision system.<sup>373</sup> The payment is payable whereby an individual meets the conditions of the scheme: they must have been in employment prior to the 13 March, lost their employment owing to the pandemic and must not be in receipt of any income from their employer. The rate payable under PUP depends on the wage the individual was paid prior to losing their employment. Where an individual earned less than €200 per week, the rate payable is €203 per week. Where an individual earned between €200-€300 per week, the rate payable is €203 and where an individual earned over €300, the rate payable is €250.<sup>374</sup>

Following the easing of COVID-19 related restrictions, the Pandemic Unemployment Payment closed to new applicants in July 2021. However, following the reintroduction of COVID-19 related public health restrictions, the payment reopened for a limited time in respect of persons who lost their job after 7 December 2021. Whereby an individual earned more than €400 per week, the rate payable under PUP is €350. Where an individual earned between €300 and €399.99, the rate payable is €300.00, where an individual earned between €200 and €299.99, the rate payable is €250, where an individual earned between €151.51 and €199.99, the rate payable is €208 per week and finally, where an individual earned less than €151.50 per week, the rate payable is €150.<sup>375</sup> From 22 January 2022, the Pandemic Unemployment Payment closed to new applicants.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? ☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions? ☒ Yes ☐ No

The Reception Conditions Regulations provide that reception conditions can be reduced or withdrawn by the Minister of Justice in one of the following four situations, where the applicant:<sup>376</sup>

<sup>372</sup> The Irish Times, 'No temporary increase in weekly asylum payment during pandemic', 29 May 2020, available at: <https://bit.ly/3beob8J>.

<sup>373</sup> The Journal, 'Direct provision residents will now be eligible for pandemic unemployment payment', 6 August 2020, available at: <https://bit.ly/3u2kpaX>.

<sup>374</sup> Department of Social Protection, *Covid-19 Pandemic Unemployment Payment*, 16 June 2020, available at: <https://bit.ly/2Nv1CUS>.

<sup>375</sup> *Ibid.*

<sup>376</sup> Regulation 6(1) Reception Conditions Regulations 2018.

1. Has not cooperated with the protection application such that the failure to take a first instance decision can be attributable in whole or in part to the applicant. The Regulations detail that delay can be attributed to the applicant when he or she: fails to make reasonable efforts to establish identity; acts in some way which causes delay to processing of applications without reasonable excuse; or otherwise fails to comply with an obligation relating to the asylum application.<sup>377</sup>
2. Has not complied with some aspect of the asylum procedure. This ground is particularly vague as it refers to “an obligation under an enactment relating to the application” rather than any specific aspect of the IPA.<sup>378</sup> Hypothetically, this means that a failure to comply with any aspect of the application process – no matter how insignificant – could be a ground for reducing or withdrawing reception conditions, so long as the Minister is satisfied that the applicant has failed to provide a “reasonable excuse”.
3. Has seriously breached the house rules of the place of accommodation.
4. Has engaged in seriously violent behaviour. “Seriously violent behaviour” is not defined in the Regulations, which raises a question of when violent behaviour will reach the level of being sufficiently serious to warrant the reduction or withdrawal of reception conditions. It is therefore left to the Minister to determine when behaviour will meet the threshold of being “seriously violent”.

In addition to the Minister for Justice having power to reduce or withdraw reception conditions under the circumstances specified in the Regulations, the Minister for Employment Affairs and Social Protection is also empowered to reduce or withdraw the daily expenses allowance provided to a recipient on the same grounds.<sup>379</sup>

Both Ministers, when making a decision to withdraw or reduce reception conditions, must have regard to the individual circumstances of the recipient and, in particular, whether they are a vulnerable person.<sup>380</sup>

The Ministers must also have regard to any explanation provided by the recipient for the conduct which has been deemed to ground the reduction or withdrawal of reception conditions.<sup>381</sup>

The Regulations also provide that a decision to reduce or withdraw material reception conditions shall only be taken in exceptional circumstances where no other action can be taken to address the conduct of the recipient.<sup>382</sup>

Where a decision is taken to reduce or withdraw reception conditions, the Minister nonetheless must ensure the person in question has access to health care and a dignified standard of living, where the person does not have means to provide for themselves.<sup>383</sup> Since it is a requirement of the Regulations that a person will only receive material reception conditions where they do not have sufficient means to otherwise provide an adequate standard of living, it is unclear what safeguarding a dignified standard of living would entail in practice, outside of the Direct Provision system. Arguably, every person receiving material reception conditions would, by definition, require further assistance from the Minister to ensure they are not left destitute. Furthermore, the use of “dignified” rather than “adequate” standard of living in the drafting of this provision raises a question of whether a different standard would be applied to

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<sup>377</sup> Regulation 27 Reception Conditions Regulations 2018.

<sup>378</sup> The corresponding EU law provision, Article 20(1)(b) recast Reception Conditions Directive, refers to non-compliance with reporting duties or information requests, or failure to appear for personal interviews.

<sup>379</sup> Regulation 6(2) Reception Conditions Regulations 2018.

<sup>380</sup> Regulation 6(3)(a) Reception Conditions Regulations 2018.

<sup>381</sup> Regulation 6(3)(b) Reception Conditions Regulations 2018.

<sup>382</sup> Regulation 6(5) Reception Conditions Regulations 2018.

<sup>383</sup> Regulation 6(6) Reception Conditions Regulations 2018.

assistance provided to a person for whom reception conditions have been reduced or withdrawn. Neither term is defined which leaves no guidance on what this would entail in practice.

Decisions reducing or withdrawing reception conditions can be challenged by means of review before the Minister for Justice within ten working days,<sup>384</sup> or the Minister for Employment Affairs in case of reduction or withdrawal of the Direct Provision allowance.<sup>385</sup> The decision of the review officer can then be challenged before the IPAT within ten working days.<sup>386</sup> The IPAT has 15 working days to decide on the appeal.<sup>387</sup>

In 2019, the Ombudsman received five complaints about warning letters sent by IPAS for continued breach of House Rules prior to involuntary removals from accommodation centres.<sup>388</sup> In 2020, the Ombudsman received one such complaint.<sup>389</sup> Although it was pointed out that these letters only referred to allegations of a breach and the residents concerned had the option to engage with IPAS before things progressed,<sup>390</sup> in the Irish Refugee Council's casework there have been instances of people being notified of their removal from accommodation centres due to unjustified absences, without being given any chance to provide an explanation. In 2021, the IPAT received 12 appeals in relation to decisions made under the European Communities (Reception Conditions) Regulations 2018.<sup>391</sup> In 2022, the IPAT received 5 appeals pursuant to the European Communities (Reception Conditions Regulations 2018).<sup>392</sup>

The Irish Refugee Council assisted several individuals who had their material reception conditions withdrawn after being refused re-entry to Direct Provision accommodation centres at the onset of the pandemic. This occurred in circumstances where clients had been absent from their centre for more than one night, in order to visit family or friends, or for the purposes of employment. In many cases, there was no written reasoning provided for the withdrawal and the possibility of withdrawal of accommodation on the basis of absences was not communicated widely prior to the policy being implemented by IPAS. Residents were told that in order to re-access accommodation, they would be required to make a formal request to IPAS.

Individuals were prevented from accessing emergency accommodation and owing to delays in re-accommodation, a number of clients became street homeless or were forced to stay in cars or with friends. Some clients had to wait up to 10 days prior to accommodation being restored and this only occurred after IRC entered direct correspondence with IPAS, with intervention by the CEO to senior IPAS staff. With advocacy and assistance from IRC, reception conditions were restored in the vast majority of cases.

Throughout 2022, the Irish Refugee Council also assisted approximately 147 international protection applicants at risk of, or experiencing, homelessness. A number of these individuals had been staying in private rented accommodation since their arrival in the State and had never accessed state-provided accommodation, while others lost their accommodation within the Direct Provision system due to alleged breaches of the House Rules. In the experience of the Irish Refugee Council, in the vast majority of these cases, requests for re-accommodation went unanswered by IPAS for several weeks, sometimes months. During this period, many applicants were forced to sleep on the street, without access to food or shelter and often in very severe weather conditions.

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<sup>384</sup> Regulation 20(1)(d) Reception Conditions Regulations 2018.

<sup>385</sup> Regulation 20(2)(d) Reception Conditions Regulations 2018.

<sup>386</sup> Regulation 21(1) Reception Conditions Regulations 2018.

<sup>387</sup> Regulation 21(4)(a) Reception Conditions Regulations 2018.

<sup>388</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2019', April 2019, available at: <https://bit.ly/2Xku2Dr>.

<sup>389</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2020', March 2021, available at: <https://bit.ly/2PbgkSe>.

<sup>390</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2019', April 2019, available at: <https://bit.ly/2Xku2Dr>.

<sup>391</sup> Information provided by IPAT, February 2022.

<sup>392</sup> Information provided by IPAT, January 2023.

With regard to the second cohort of applicants, those evicted from their accommodation for alleged breaches of the House Rules, it should be noted that pursuant to Regulation 6 of the Reception Conditions Regulations 2018, the State can only withdraw or reduce an applicant's reception conditions in a very limited set of circumstances. Moreover, the Minister must inform the applicant in writing of the decision and the reasons for it. In the vast majority of the above cases, the applicant's alleged breach could not be said to fall within the limited set of circumstances established pursuant to Article 6. Moreover, the vast majority of applicants receive anything in writing notifying them of the withdrawal of their reception conditions or the reasons for same, thus making it practically impossible to appeal or review the withdrawal.

While many clients were ultimately re-accommodated following sustained advocacy and intervention by the organisation's CEO, the above practices amount to a clear breach of the State's obligations pursuant to the Reception Conditions Regulations. Such breaches continued to occur at the time of updating.<sup>393</sup>

#### 4. Freedom of movement

##### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☒ Yes ☐ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

##### 4.1. Dispersal across Direct Provision centres

The policy of dispersal of protection applicants to Direct Provision centres around the country has persisted with the transposition of the recast Reception Conditions Directive. Following the initial transposition of the Reception Conditions Regulations 2018, the previous practice continued, whereby protection applicants were first accommodated in **Balseskin** Reception Centre, where they usually spent several weeks, before being dispersed to one of the other accommodation centres, usually outside of Dublin.

However, an acute shortfall in available accommodation throughout 2022 resulted in the use of Citywest Convention Centre as the central processing and transit hub for both international protection applicants and beneficiaries of Temporary Protection. In July 2022, the State also began to use tent style accommodation, in which applicants were accommodated in marquee-style structures at various locations around the country. While initially intended as a temporary, many applicants spent months residing in wholly unsuitable accommodation which did not meet their basic needs and exposed them to at times to inclement weather conditions.<sup>394</sup>

The State also increasingly relied on the use of emergency centres, often comprised of disused offices, large conference rooms, schools, and sports halls in order to accommodate international protection applicants. The Irish Refugee Council has been alerted to numerous grievous risks to vulnerable residents accommodated in these centres, including to women and minor children. These reports included significant child protection issues and serious privacy concerns.

The Minister for Justice and Equality may, exceptionally provide the material reception conditions in a manner that is different to that provided for in these Regulations where (a) an assessment of a recipient's specific needs is required to be carried out, or (b) the accommodation capacity normally available is temporarily exhausted. However, it remains to be seen whether the use of such accommodation meets

<sup>393</sup> Information provided by Irish Refugee Council's Information and Advocacy Service, January 2023.

<sup>394</sup> *ibid.*



an applicant's 'basic needs' as is required by Regulation 4(6) (b) the Reception Conditions Regulations 2018.<sup>395</sup>

As of June 2021, 1,360 protection applicants, 174 of whom were children, were housed in emergency accommodation.<sup>396</sup> As of January 2023, this figure had increased exponentially to 11,414 protection applicants. As of January 2023, a total of 19,635 people were accommodated within the IPAS system.<sup>397</sup>

The amount spent on hotel and guest house beds in emergency locations up to the end of November 2019 was €27.14m.<sup>398</sup> The amount spent on emergency accommodation up to the end of December 2020 was €59.7m paid to 32 providers.<sup>399</sup>

The total expenditure on emergency accommodation for the years 2021 and 2022 was not available at the time of updating, however, according to figures released by the Department of Children, Equality, Disability, Integration and Youth, the total expenditure in respect of the Direct Provision system was €190, 856,000 for 2021 and €356, 554, 000 for 2022.<sup>400</sup>

The exact location of emergency accommodation is not publicly available in order to protect the identity of international protection applicants.<sup>401</sup> Many emergency accommodation centres have been in place for longer than three years.

In designating an accommodation centre for recipients of reception conditions, the Reception Conditions Regulations provide that a number of factors will be taken into account: (a) maintaining family unity; (b) gender and age-specific concerns; (c) the public interest; (d) public order; (e) the efficient processing and effective monitoring of the recipient's application for international protection.<sup>402</sup>

The special reception needs of an asylum seeker, identified following a vulnerability assessment, shall also be taken into account in designating an accommodation centre. However, in the experience of the Irish Refugee Council, such vulnerabilities are, in practice, rarely considered in the allocation of accommodation.<sup>403</sup>

The Regulations provide that where a recipient is a minor, the need to accommodate the minor together with parents, unmarried siblings, or an adult acting *in loco parentis* will be considered, subject to consideration of the best interests of the minor in question. A further factor to be considered for minor recipients is whether the proposed accommodation centre is suitable to meet their needs.<sup>404</sup>

No definition of "the public interest" or "public order" is provided in the Regulations, making it difficult to determine how those factors may be adjudged in designating an accommodation centre.

An applicant does not have a choice regarding where they are sent. In practice, due to the ongoing shortage of spaces in the Direct Provision estate, requests for transfers to other accommodation centres

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<sup>395</sup> SI No 230/2018 European Communities (Reception Conditions) Regulations 2018, Regulation 4(6)(b).

<sup>396</sup> Irish Times, Department to close 24 accommodation centres for asylum seekers, 8 June 2021, available at: <https://bit.ly/3sFwSmA>.

<sup>397</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3y42E372>.

<sup>398</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 271, 10 December 2019, available at: <https://bit.ly/2RG2xAi>.

<sup>399</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary question nos 469, 470, 2 February 2021, available at: <https://bit.ly/37rcwID>.

<sup>400</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary question no 977, 18 January 2023, available at: <https://bit.ly/3jpKMal>.

<sup>401</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 290, 5 November 2019, available at: <https://bit.ly/38yWswf>.

<sup>402</sup> Regulation 7(2) Reception Conditions Regulations 2018.

<sup>403</sup> Information provided by Irish Refugee Council's Information and Advocacy Service, January 2023.

<sup>404</sup> Regulation 7(3) Reception Conditions Regulations 2018.

are not being granted, except in exceptional circumstances; typically, where a significant medical vulnerability is identified. However, an applicant may be moved to a different accommodation centre where the Minister considers it necessary. The Ombudsman, in his report on Direct Provision for 2019 stated: “I have not accepted refusal of transfer requests from people who wish to avail of educational opportunities that are not available from their assigned centre. In my view denying someone the opportunity to better themselves by availing of a place on a further education course is unreasonable.”<sup>405</sup>

IPAS may reallocate a room if it is left unused for any period of time without letting the centre manager know in advance, or if a resident is consistently absent from the centre. In practice, an absence occurring over three consecutive nights leads to a warning letter from centre management that the applicant may lose their accommodation. In the current housing crisis and with the continuing lack of capacity in Direct Provision (see [Types of Accommodation](#)), this would place applicants at immediate risk of homelessness.

Paragraph 2.15 of the House Rules and Procedures state that the accommodation centre manager is obliged to notify the Community Welfare Office, now known as a Department of Social Protection representative, the official who grants the asylum seeker their weekly allowance, that they have been away without telling management and that this may affect access to the Direct Provision Allowance.<sup>406</sup>

In August 2021, the House Rules were revised in light of the introduction of the Reception Conditions Regulations.<sup>407</sup> The Regulations specifically define House Rules as “rules made by the Minister under Regulation 25”. Regulation 25 empowers the Minister to make rules to be complied with by persons who are being accommodated in an accommodation centre or reception centre. Such rules may relate to the operation of the centre and the conduct of residents. Regulation 25(4) further states that the Minister shall make the house rules accessible in a variety of languages on the website of IPAS.

## 4.2. Restrictions on freedom of movement

Freedom of movement is not expressly restricted in law, but the IPAS house rules require residents to seek permission if they are going to be away from their accommodation overnight.<sup>408</sup>

In practice, freedom of movement is restricted due to the very low level of financial support given to protection applicants, which means that, unless transport to and from a centre is free and at a suitable time, it is often too costly to travel. The Irish Human Rights and Equality Commission has described the conditions in some Direct Provision as amounting to deprivation of liberty due to the extent of those restrictions.<sup>409</sup> The Irish Council for Civil Liberties has also argued that the conditions attached to Direct Provision accommodation amounts to *de facto* detention under the Optional Protocol to the UN Convention against Torture.<sup>410</sup> The same argument was made by The Global Detention Project in its submission to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in preparation for its visit to Ireland.<sup>411</sup>

Asylum seekers were subject to the same public health restrictions as Irish nationals throughout the COVID-19 pandemic, for example the right to exercise within a 5km radius of their accommodation and travel for essential purposes, for instance medical appointments, food and other necessities as

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<sup>405</sup> Ombudsman, *The Ombudsman & Direct Provision: Update for 2019*, April 2019, available at: <https://bit.ly/2Xku2Dr>.

<sup>406</sup> RIA, *House Rules and Procedures*, available at: <http://bit.ly/1eiZdFd>.

<sup>407</sup> International Protection Accommodation Service, *House Rules and Procedures*, August 2021, available at: <https://bit.ly/3X1hT29>.

<sup>408</sup> *ibid.*

<sup>409</sup> Human Rights and Equality Commission, *Ireland and the OPCAT*, September 2017, available at: <http://bit.ly/2fEh5h6>, 32.

<sup>410</sup> Irish Council for Civil Liberties, ‘Ratify OPCAT and allow inspection of direct provision centres: ICCL’, 26 June 2018, available at: <https://bit.ly/2RLtN3k>.

<sup>411</sup> Global Detention Project, *Submission to the European Committee for the Prevention of Torture (CPT): Ireland*, 25 September 2019, available at: <https://bit.ly/368sFum>.

established in Government Guidelines. However, particular issues of concern emerged at accommodation centres where outbreaks of coronavirus occurred. Residents reported that they were not permitted to leave their accommodation or were given a strong impression that they could not leave and were required to spend all day in their rooms, even in circumstances where they had tested negative for COVID-19. Moreover, all non-essential visits and activities, including transfers between centres, were cancelled to curb the spread of the virus. Additionally, a two-week quarantine period was imposed for individuals who had left and subsequently returned to their accommodation.

On 17 May 2021, IPAS implemented revised guidelines for accommodation centres in line with public health guidelines. Visits from IPAS staff, other state services and general service providers were re-implemented in line with government restrictions and were subject to contact tracing recording, observance of social distancing and proper hygienic measures. General visits and visits from organisations providing services to centre residents were also permitted in line with government guidelines. Centre residents were permitted two consecutive overnight absences from their designated accommodation without the requirement to quarantine on return. This was subject to specific conditions such as downloading the HSE COVID-19 contact-tracing app and agreeing to comply with any guidance and instructions from public health whereby a resident was found to be a close contact of a positive case. Any resident absent from their designated centre for longer than the period permitted without the express permission of IPAS was required to reapply for new accommodation and quarantine in designated quarantine facilities - usually a hotel- for a period of 14 days prior to re-entering IPAS accommodation. Overnight absences for medical care in a recognised medical facility were permitted with no limit on the number of nights, nor quarantine required on return.<sup>412</sup> Following the ceasing of public health measures established in response to the Covid-19 pandemic, these measures were largely discontinued in practice.

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<sup>412</sup> IPAS, *Covid related guidelines for IPAS Centres*, 17 May 2021, available at: <https://bit.ly/3HOZz4R>.

## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres: 46<sup>413</sup>
2. Total number of places in the reception centres: 19, 700 (approximately)<sup>414</sup>
3. Number of emergency accommodation locations: 79<sup>415</sup>
4. Total number of places in emergency accommodation: 12,264<sup>416</sup>
5. Type of accommodation most frequently used in a regular procedure:  
☒ Reception centre ☒ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
6. Type of accommodation most frequently used in an accelerated procedure:  
☒ Reception centre ☒ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

#### 1.1. Direct Provision centres

Available accommodation within the Direct Provision estate has been decreasing since 2016, due to a number of factors, including the expiry of contracts between IPAS and accommodation providers and the ongoing housing crisis, which is reducing available accommodation sites. During 2019, IPAS added 735 bed spaces to their portfolio, through an increase in the capacity of existing centres and with the opening of three new accommodation centres. IPAS also managed the closing of the Hatch Hall accommodation centre in Dublin, therefore the net increase in 2019 of bed spaces was 515 in total.<sup>417</sup> Despite this, the rise in the number of applicants led to 1,559 protection applicants being placed in temporary accommodation by the end of 2019. As of September 2020, approximately 1,382 individuals were resident in emergency accommodation.<sup>418</sup> As of December 2021, approximately 1,046 individuals were resident in emergency accommodation.<sup>419</sup> As of January 2023, the number of individuals resident in emergency accommodation had risen to 11,414.<sup>420</sup>

The Minister of State at the Department of Justice and Equality with special responsibility for Equality, Immigration and Integration confirmed that accommodation in Direct Provision is prioritised for new arrivals, particularly families and other vulnerable people.<sup>421</sup>

In the experience of the Irish Refugee Council in 2020 and 2021, requests for re-entry into Direct Provision under the Regulations – by people who had not taken up an initial offer of accommodation or have since experienced a change in their circumstance – have been refused on the ground of a lack of accommodation or have been subject to considerable delays. These delays have been further exacerbated by the COVID-19 pandemic. In some cases, individuals were waiting up to ten days to re-access accommodation in circumstances where they were rendered homeless.

These difficulties persisted throughout 2022. Over the course of the year, the Irish Refugee Council assisted approximately 147 international protection applicants experiencing, or at risk of homelessness.

<sup>413</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3Y42e37>.

<sup>414</sup> *ibid.*

<sup>415</sup> *ibid.*

<sup>416</sup> Minister for Children, Equality, Disability, Integration and Youth, Roderic O' Gorman, Reply to Parliamentary Question No 141, 25 January 2023, available at: <https://bit.ly/3JsiLtg>.

<sup>417</sup> Ombudsman, *The Ombudsman & Direct Provision: Update for 2019*, April 2019, available at: <https://bit.ly/2Xku2Dr>.

<sup>418</sup> Minister for Justice Helen McEntee, Response to Parliamentary question No 582, 15th September 2020, available at: <https://bit.ly/3ih594H>.

<sup>419</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Response to Parliamentary Question No 1125, 19 January 2022, available at: <https://bit.ly/3LBICOe>.

<sup>420</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3y42E372>.

<sup>421</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 413, 6 November 2018, available at: <https://bit.ly/2TdyIH2>.

A number of these individuals had not accessed the Direct Provision system upon their arrival in the State and had subsequently been evicted from private accommodation arrangements, while others had lost their accommodation within the Direct Provision system due to alleged breaches of the House Rules. In the experience of the Irish Refugee Council, whereby re-accommodation was requested within the Direct Provision system, such requests went unanswered by IPAS for several weeks, sometimes up to two months. During this period, applicants were left without access to shelter and were forced to sleep on the street, often in inclement weather. This cohort of applicants included individuals with medical vulnerabilities. While many clients were ultimately re-accommodated following sustained advocacy by the Irish Refugee Council's Information and Referral Service and Independent Law Centre, as well as, intervention by the organisation's CEO, these practices amount to a clear breach of the State's obligations pursuant to the Reception Conditions Regulations and continues to occur as of March 2023.<sup>422</sup>

The personal circumstances of persons living outside Direct Provision are generally unknown. According to figures supplied by IPAS, as of January 2022, 902 international protection applicants were living outside Direct Provision in private rented accommodation. In terms of people who lived in Direct Provision and then subsequently left it for whatever reasons whilst their asylum application was pending, for example to live with family members, a partner or friends, it is very difficult to access the Direct Provision system again, should their situation change.

As of December 2021, there were 45 Direct Provision accommodation centres located nationwide.<sup>423</sup> There were a further 24 emergency accommodation locations such as in hotels and guesthouses.<sup>424</sup> Owing to the significant increase in the number of protection applicants arriving in the State in 2022, as of November 2022, there were 47 Direct Provision accommodation centres and a further 79 emergency accommodation centres located nationwide.<sup>425</sup>

IPAS ceased to publish data in 2018. The last statistics were contained in the RIA Monthly Report November 2018. IPAS has yet to issue any official data in relation to the accommodation of international protection applicants since it was created in 2019 as a result of the division of RIA in two sections. Nevertheless, some statistics for 2020 were made available by the Minister for Justice in response to parliamentary questions.

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<sup>422</sup> Information provided by the Irish Refugee Council's Information and Advocacy Service, January 2023.

<sup>423</sup> Information provided by IPAS, January 2022

<sup>424</sup> *ibid.*

<sup>425</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3Y42e37>.

The capacity and occupancy of Direct Provisions centres in 2020, 2022 and 2022 were as follows:

| Capacity and occupancy of Direct Provision centres |                         |                          |                         |                          |                         |                          |
|----------------------------------------------------|-------------------------|--------------------------|-------------------------|--------------------------|-------------------------|--------------------------|
|                                                    | 2020                    |                          | 2021                    |                          | 2022                    |                          |
| Centre                                             | Capacity <sup>426</sup> | Occupancy <sup>427</sup> | Capacity <sup>428</sup> | Occupancy <sup>429</sup> | Capacity <sup>430</sup> | Occupancy <sup>431</sup> |
| Cavan                                              | -                       | -                        | -                       | -                        | 131                     | 118                      |
| Clare                                              | 449                     | 377                      | 467                     | 353                      | 474                     | 540                      |
| Cork                                               | 1, 036                  | 890                      | 1, 041                  | 800                      | 1, 455                  | 1,313                    |
| Donegal                                            | -                       | -                        | 306                     | 252                      | 769                     | 678                      |
| Dublin                                             | 962                     | 497                      | 922                     | 723                      | -                       | 7, 794                   |
| Galway                                             | 393                     | 265                      | 532                     | 393                      | 829                     | 684                      |
| Kerry                                              | 521                     | 424                      | 500                     | 375                      | -                       | 863                      |
| Kildare                                            | 295                     | 197                      | 295                     | 213                      | 596                     | 540                      |
| Laois                                              | 265                     | 237                      | 265                     | 229                      | -                       | 491                      |
| Limerick                                           | 181                     | 154                      | 181                     | 164                      | -                       | 283                      |
| Leitrim                                            | -                       | -                        | 130                     | 105                      | 130                     | 105                      |
| Longford                                           | 80                      | 65                       | 82                      | 63                       | 82                      | 69                       |
| Louth                                              | 81                      | 78                       | 89                      | 85                       | 464                     | 498                      |
| Mayo                                               | 245                     | 222                      | 266                     | 211                      | 461                     | 453                      |
| Meath                                              | 600                     | 594                      | 600                     | 666                      | 778                     | 944                      |
| Monaghan                                           | 280                     | 237                      | 280                     | 238                      | 427                     | 485                      |
| Offaly                                             | -                       | -                        | 168                     | 98                       | 232                     | 162                      |
| Roscommon                                          | -                       | -                        | -                       | -                        | 83                      | 113                      |
| Sligo                                              | 218                     | 177                      | 218                     | 168                      | 218                     | 268                      |
| Tipperary                                          | 273                     | 207                      | 296                     | 210                      | 423                     | 518                      |
| Waterford                                          | 408                     | 371                      | 412                     | 335                      | 487                     | 498                      |
| Wexford                                            | -                       | -                        | 114                     | 81                       | 102                     | 103                      |
| Westmeath                                          | 425                     | 365                      | 425                     | 345                      | 657                     | 716                      |
| Wicklow                                            | -                       | -                        | 111                     | 81                       | 890                     | 1004                     |
| <b>Total</b>                                       | <b>6, 937</b>           | <b>5, 529</b>            | <b>7, 184</b>           | <b>5, 691</b>            | <b>-</b>                | <b>19,240</b>            |

The 2020 figures provided above on capacity and occupancy were valid as of September 2021. The 2021 figures were valid as of December 2021. The 2022 figures were valid as of January 2023.

<sup>426</sup> Advisory Group on Direct Provision, Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, 21 October 2020, available at: <https://bit.ly/3qgSmC3>, 119-121.

<sup>427</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No 582, 15th September 2020, available at: <https://bit.ly/3ih594H>.

<sup>428</sup> Data provided by IPAS, January 2022.

<sup>429</sup> *ibid.*

<sup>430</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3Y42e37>

<sup>431</sup> *ibid.*



As of November 2021, approximately 7,089 people resided in Direct Provision and emergency accommodation.<sup>432</sup> As of January 2023, 19,635 people were accommodated within IPAS system as a whole, 4,082 of which were children.<sup>433</sup>

Of those centres in the IPAS portfolio, only three were built (“system built”) for the express purpose of accommodating protection applicants. The majority of the portfolio comprises buildings, which had a different initial purpose i.e., former hotels, guesthouses (B&B), hostels, former convents / nursing Homes, a holiday camp and a mobile home site. IPAS is considering the option of moving towards a capital investment-based approach in the provision of accommodation that would involve building customised facilities.<sup>434</sup>

As of March 2023, there are forty single male only accommodation centres located throughout the country. There are six female-only reception centres located in Kerry, Galway and Dublin.<sup>435</sup>

The **Balseskin** reception centre, with a capacity of 537, was previously designated as a reception centre where all newly arrived protection applicants are accommodated. The centre as of 15 September 2020 had an occupancy rate of 264 out of 537 places.<sup>436</sup> However, In March 2022, Citywest Hotel and Convention Centre was contracted by the International Protection Accommodation Service and repurposed as a transit hub for the processing of beneficiaries of Temporary Protection, as well as for the accommodation of newly arrived international protection applicants. The vast majority of newly arrived protection applicants are now accommodated at Citywest. As of the 12<sup>th</sup> December 2022, there were 764 international protection applicants residing at the facility.<sup>437</sup>

Seven centres are state-owned: Knockalisheen, **Clare**; Kinsale Road, **Cork**; Atlas House Killarney, Atlas House Tralee, Johnston Marina and Park Lodge, **Kerry**; and Athlone, **Westmeath**. All reception centres are operated by private external service providers who have a contract with IPAS. Seven centres are owned by the Irish State with the remainder privately owned. Executive responsibility for the day-to-day management of reception centres lies with the private agencies, which provide services such as accommodation, catering, housekeeping etc. As of October 2020, there were 26 private companies that have a contract for services with the Department of Justice for the provision of premises that meet required standards and support services for protection applicants. Of these companies, two have a contract to provide management, catering, housekeeping and general maintenance services in state owned accommodation centres.<sup>438</sup> It is the role of the Department of Justice to oversee the provision of these services, which has established a High Level Interdepartmental Group tasked with ensuring better coordination of provision of services and meeting needs in the short to medium term.<sup>439</sup> Moreover, the National Standards developed establish a minimum set of standards for reception centres to meet by January 2021 if they are to continue providing services.<sup>440</sup> The Department of Justice stated that to ensure compliance, an independent inspection mechanism would be established to monitor premises and services.<sup>441</sup> The National Standards became legally binding on 1 January 2021.<sup>442</sup> It was hoped that a

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<sup>432</sup> Minister for Children, Equality, Disability, Integration and Youth, Response to Parliamentary Question No.405, 7 December 2021, available at: <https://bit.ly/3fdYYgJ>.

<sup>433</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, January 29 2023, available at: <https://bit.ly/3y42E37>.

<sup>434</sup> Ombudsman, *The Ombudsman & Direct Provision: Update for 2019, April 2020*, available at: <https://bit.ly/3FzGySz>.

<sup>435</sup> IPAS, March 2023.

<sup>436</sup> *Ibid.*

<sup>437</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary question no 191, 14 December 2022, available at: <https://bit.ly/3HPfqU2>.

<sup>438</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary question nos 469, 470, 2 February 2021, available at: <https://bit.ly/37rcwID>.

<sup>439</sup> *Ibid.*

<sup>440</sup> Houses of the Oireachtas and Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process*, December 2019, available at: <https://bit.ly/3cRtb29>.

<sup>441</sup> *Ibid.*

<sup>442</sup> Department of Justice and Equality, *Spending Review on Direct Provision*, 15 August 2019, available at: <https://bit.ly/3eVBtrx>.

mechanism for independent monitoring the implementation of the standards would be established soon thereafter, however inspections continued to be carried out by IPAS and a private contractor engaged by IPAS. In October 2021, Minister O’Gorman confirmed that that Direct Provision Accommodation Centres are to be monitored by the Health Information and Quality Authority (HIQA) for compliance with the National Standards. The Department of Children, Equality, Disability, Integration and Youth is currently engaging with HIQA and the Department of Health with a view to undertaking the preparatory work with regard to HIQA’s monitoring role.<sup>443</sup>

Throughout 2022, the Department of Children continued its engagement with HIQA and various other stakeholders regarding HIQA’s proposed monitoring of IPAS centres against the National Standards, which became legally binding in January 2021. An Expert Advisory Group was established, comprising of a range of different stakeholder organisations, service providers and service users, in order to inform this process and several meetings of the group were held throughout the year.<sup>444</sup>

Concurrently, in consultation with the Office of the Attorney General, the Department of Children draft a Regulation in which to provide the necessary legal basis for HIQA’s monitoring role.<sup>445</sup> At the time of updating, the draft Regulation has yet to be published, however, the Minister for Children, Roderic O’Gorman, had confirmed that HIQA’s monitoring role would only apply to so-called ‘permanent Direct Provision Centres’, and not to emergency or temporary centres, on the basis that such centres are subject to separate contractual arrangements.<sup>446</sup> While legislation giving effect to HIQA’s monitoring function is extremely welcome, the Irish Refugee Council is deeply concerned regarding the exclusion of emergency centres from HIQA’s remit. In the experience of the IRC, the most difficult conditions persist within ‘emergency’ and ‘pre-reception’ facilities, and not in permanent centres. Moreover, the number of emergency centres established around the country increased substantially throughout 2022, with more than half the population of the Direct Provision system living in emergency or pre-reception centres.<sup>447</sup>

At the time of updating, IPAS accommodation centres continued to be subject to inspections both by officials within the International Protection Accommodation Service and by an independent inspectorate company.<sup>448</sup>

IPAS retains overall responsibility for the accommodation of applicants for international protection in the direct provision system. The Minister for Justice and Equality has stated that residents are not ‘in the care’ of the State but rather the State has a ‘duty of care’, which it discharges via external contractors.<sup>449</sup>

## 1.2. Emergency Accommodation Beds

In September 2018, the Direct Provision estate reached capacity and no accommodation was available for newly arriving protection applicants, as the **Balseskin** centre had no available places. A precise figure is not available, but over the course of a single weekend, a minimum of 20 newly arrived protection applicants were not provided with any material receptions and were informed that no accommodation was available, rendering them homeless on arrival in Ireland.<sup>450</sup> After intensive representations and media attention on the issue, alternative accommodation was provided by IPAS on an emergency basis. This involved the contracting of accommodation in hotels and holiday homes to house protection applicants

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<sup>443</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 107, 7 October 2021, available at: <https://bit.ly/3EDRL46>.

<sup>444</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 1361, 26<sup>th</sup> July 2022, available at: <https://bit.ly/3Xd3sc3>.

<sup>445</sup> *ibid.*

<sup>446</sup> *ibid.*

<sup>447</sup> Data provided by the International Protection Accommodation Service.

<sup>448</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 1361, 26<sup>th</sup> July 2022, available at: <https://bit.ly/3Xd3sc3>.

<sup>449</sup> Minister for Justice and Equality, Reply to Parliamentary Question No 77, 11 December 2012, available at: <https://bit.ly/3bHpFai>.

<sup>450</sup> Irish Refugee Council, ‘Irish Refugee Council calls for Government to urgently address issue of people seeking asylum being made homeless’, 20 September 2018, available at: <https://bit.ly/2O37Dac>.

on a temporary basis pending IPAS contracting for more permanent accommodation centres.<sup>451</sup> These centres are known as “satellite centres”.

In 2022, capacity within the Direct Provision accommodation system remained a significant and ongoing issue. 2022 saw an increasing reliance on the use of emergency centres. Such centres often comprised of disused offices, large conference rooms, schools, and sports halls in order to accommodate international protection applicants. The Irish Refugee Council has been alerted to numerous grievous risks to vulnerable residents accommodated in these centres, including to women and minor children. These reports included significant child protection issues and serious privacy concerns.

As of June 2021, 1,360 protection applicants, 174 of whom were children, were housed in emergency accommodation.<sup>452</sup> As of January 2023, this figure had increased significantly to 11,414 residents across 79 centres.<sup>453</sup> This marks an increase of almost 56 times the number of people in emergency accommodation in 2018, when 202 persons were residing in five hotels.

Following the onset of the COVID-19 pandemic, a number of new emergency accommodation centres were opened at extremely short notice in order to enable social distancing and avoid overcrowding. These included the contracting of an additional 650 beds at newly set up centres in Dublin, Galway and Cork, Galway.<sup>454</sup> From 18 March 2020, approximately 100 asylum seekers were gradually moved from emergency centres in Dublin to the Skellig Star Hotel in Cahersiveen, Co. Kerry in order to reduce capacity in Direct Provision centres.<sup>455</sup> This centre subsequently closed, and residents were moved out on a phased basis. It is understood that the last remaining residents were transferred from the centre in September 2020.<sup>456</sup> However, given the sustained risk of COVID-19, emergency centres continued to operate so as to enable Direct Provisions residents to socially distance, and reduce over-crowding. These centres were also used to facilitate self-isolation for those who contracted COVID-19.

Additionally, throughout 2021, many newly arrived applicants were transferred to temporary accommodation centres following their isolation period due to lack of capacity in the Direct Provision System. Many newly arrived people - who were quarantined for extended periods and subsequently accommodated in temporary accommodation - found themselves unable to access support and information. New arrivals also experienced delays in completing their s.13 interview at the IPO. Until the completion of this interview, applicants were unable to access PPS numbers, Daily Expense Allowance or medical cards. This had serious implications for applicant’s mental health. Applicants also reported restricted access to food, hygiene products, laundry services and appropriate winter clothing while resident in post-quarantine temporary accommodation.

Despite a commitment by the Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman, to decommission the use of emergency accommodation prior to year-end,<sup>457</sup> 24 emergency accommodation centres remained in operation as of December 2021.<sup>458</sup> This figure had increased to 79 as of January 2023.<sup>459</sup>

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<sup>451</sup> Irish Times, ‘Hotels in the east being used as temporary direct provision centres’, 19 November 2018, available at: <https://bit.ly/2S4Pvyv>.

<sup>452</sup> Irish Times, Department to close 24 accommodation centres for asylum seekers, 8 June 2021, available at: <https://bit.ly/3sFwSmA>.

<sup>453</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3y42E372>.

<sup>454</sup> The Journal, ‘We’ve been firefighting’: Inside the State’s response to Covid-19 in Direct Provision’, 10 May 2020, available at: <https://bit.ly/3b9Okvt>.

<sup>455</sup> *ibid.*

<sup>456</sup> RTÉ News, ‘Dept of Justice denies plans to reuse Skellig Star Hotel’, 27 September 2020, available at: <https://bit.ly/2K8BZrL>.

<sup>457</sup> *ibid.*

<sup>458</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’ Gorman, Response to Parliamentary Question No 94, 8 December 2021, available at: <https://bit.ly/3FQw8z3>.

<sup>459</sup> IPAS, *DCEDIY IPAS – Weekly Stats*, 29 January 2022, available at: <https://bit.ly/3Y42e37>.

The living conditions in these emergency accommodation locations are clearly unsuitable for the needs of protection applicants and fail to fulfil IPAS's obligations under the EU recast Reception Conditions Directive.

### 1.3. Emergency Reception and Orientation Centres (EROC)

Emergency Reception and Orientation Centres (EROC) were specifically designed for the accommodation of persons arriving in Ireland through relocation and resettlement.<sup>460</sup> There are three EROC with a total capacity of 375 places. As of 31 December 2021, there was a total contracted capacity of 545 places across three EROC centres and 430 individuals resided in the three centres.<sup>461</sup> As of 31 December 2022, there was a contracted capacity of 545 places across three EROC centres and 430 individuals resided in the three centres.<sup>462</sup>

| Capacity and occupancy of EROC |            |            |                     |            |                     |            |                     |            |
|--------------------------------|------------|------------|---------------------|------------|---------------------|------------|---------------------|------------|
|                                | 2019       |            | 2020 <sup>463</sup> |            | 2021 <sup>464</sup> |            | 2022 <sup>465</sup> |            |
| Centre                         | Capacity   | Occupancy  | Capacity            | Occupancy  | Capacity            | Occupancy  | Capacity            | Occupancy  |
| Waterford (Clonea)             | 125        | 95         | -                   | 17         | 125                 | 99         | 125                 | 109        |
| Roscommon (Ballaghaderreen)    | 200        | 185        | -                   | 115        | 220                 | 163        | 220                 | 198        |
| Meath (Mosney)                 | 50         | 50         | -                   | 117        | 500                 | 168        | 200                 | 182        |
| <b>Total</b>                   | <b>375</b> | <b>330</b> | <b>-</b>            | <b>249</b> | <b>545</b>          | <b>430</b> | <b>545</b>          | <b>489</b> |

Source: Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 31, 20 November 2019, available at: <https://bit.ly/2Kun0Vz>, Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 438, 20 October 2020, available at: <https://bit.ly/3ol0wrn>, Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 152, 26 April 2023, available at: <https://bit.ly/3AAEzNB>.

<sup>460</sup> INIS, 'Ministers Flanagan and Stanton welcome Syrian refugee families to Ireland', 27 December 2018, available at: <https://bit.ly/2RLydaq>.

<sup>461</sup> Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 516, 15 February 2022, available at: <https://bit.ly/3p96RcO>.

<sup>462</sup> Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 152, 26 April 2023, available at: <https://bit.ly/3AAEzNB>.

<sup>463</sup> Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 438, 20 October 2020, available at: <https://bit.ly/3ol0wrn>.

<sup>464</sup> Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 516, 15 February 2022, available at: <https://bit.ly/3p96RcO>.

<sup>465</sup> Minister for Children and Youth Affairs Roderic O'Gorman, Reply to Parliamentary Question No 152, 26 April 2023, available at: <https://bit.ly/3AAEzNB>.

## 2. Conditions in reception facilities

### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No
2. What is the average length of stay of asylum seekers in the reception centres? Not available
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

Direct Provision has been under intense scrutiny since its inception in 2000 for the conditions imposed on residents, exacerbated by the fact that systemic delays in the asylum procedure result in people spending far longer in Direct Provision than was originally intended by the State. The system of Direct Provision has been criticised by numerous prominent organisations including the Irish President, Michael D. Higgins, the Ombudsman for Children, the Irish Human Rights and Equality Commission, and the Special Rapporteur for Children, and UN Treaty Bodies such as the United Nations Committee on Economic, Social and Cultural Rights and the Committee for the Elimination of Racial Discrimination. Most importantly, people in the protection process themselves have also criticised conditions in Direct Provision. For example, Movement of Asylum Seekers Ireland (MASI) gave detailed criticism of conditions via social media and in their submission to the Joint Oireachtas Committee on Direct Provision.<sup>466</sup>

Since 2017, the Ombudsman has jurisdiction to hear complaints from residents of accommodation centres regarding the conditions of facilities amongst other matters.<sup>467</sup> The Ombudsman received a total of 65 complaints from residents in Direct Provision in 2021.<sup>468</sup> This compares with a total of 99 complaints in 2021.<sup>469</sup> 52 complaints were made against IPAS in 2022. 23 such complaints related to accommodation, 20 to transfers, 7 against centre staff, 1 regarding facilities, 1 in relation to complaint handling and 1 about mail not being correctly redirected.<sup>470</sup> Six further complaints were made against Direct Provision centres, of which 2 were regarding accommodation, 2 were in relation to transfers and 2 against centre staff.<sup>471</sup> Three complaints were made against the HSE by Direct Provision residents, while 3 complaints were issued against the Department of Social Protection and 1 complaint against Dublin City Council.<sup>472</sup>

In appropriate cases, the Ombudsman's office engages with the relevant Government Department or agency to resolve the situation for the individual complainant concerned and in order to avoid any future similar issues arising.

The onset of the COVID-19 pandemic further highlighted the unsuitability of Direct Provision as a means of accommodating asylum seekers. As a congregated setting, individuals in Direct Provision share intimate spaces, including bathrooms, dining areas, communal living spaces and laundries. This means that social distancing has been near impossible at the majority of centres.

On 31 March 2020, the Department of Justice announced that an additional 650 beds had been procured in order to support the measures required for vulnerable residents in Direct Provision in the context of the COVID-19 crisis. These included the provision of off-site accommodation for self-isolation, as well as increasing capacity as to accommodate social distancing. However, according to the Irish Refugee Council's 'Powerless' report, which examines the experiences of Direct Provision residents during the pandemic, as of August 2020, 50% of survey respondents were unable to socially distance themselves from other residents. 42% stated that they were still sharing a room with a non-family member, while 46%

<sup>466</sup> Movement of Asylum Seekers in Ireland (MASI), Submission to Justice & Equality Joint Committee, 27 May 2019, available at: <https://bit.ly/2VHPUI2>

<sup>467</sup> Ombudsman, 'The Ombudsman and direct provision', available at: <https://bit.ly/2LdNf14>.

<sup>468</sup> Ombudsman, The Ombudsman & Direct Provision: Update for 2021, March 2022, available at: <https://bit.ly/3qCBwjr>.

<sup>469</sup> Office of the Ombudsman, March 2023.

<sup>470</sup> *ibid.*

<sup>471</sup> *ibid.*

<sup>472</sup> *ibid.*



shared a bathroom with a non-family member.<sup>473</sup> As of March 2021, the number of unrelated single residents assigned a shared room in IPAS accommodation was 1,892. This comprised of 1,171 residents in a room assigned to two people and 721 residents in a room assigned to 3 people.<sup>474</sup> This constitutes an increase of approximately 192 more people than the previous year, despite the onset of the pandemic. Whereby steps were taken to move residents out of Direct Provision so as to permit additional space to social distance, this was largely achieved without consulting residents, while notice provided was extremely short and residents were not informed as to whether the move would be temporary or permanent in nature. Data in respect of the number of unrelated single residents assigned a shared room in IPAS accommodation in 2022 was not available at the time of updating.

Significant outbreaks of COVID-19 occurred at accommodation centres across the country throughout the pandemic. Particular issues of concern emerged in relation to the Skellig Star Hotel in Co. Kerry, where one of the first major outbreaks occurred in May 2020. Various issues had been reported prior to the hotels opening, including the rushed opening of the centre, repair issues, lack of running water and heating, and staff not being Garda vetted. Individuals were also moved at very short notice from Dublin and residents were initially sharing rooms with one another. During the outbreak, residents reported that they were unable to leave the hotel or were given a strong impression that they could not leave their accommodation. Individuals, including children, were forced to spend all day in hotel rooms and reports suggested a lack of sanitation and deep cleaning of the property, even after 22 residents had tested positive.<sup>475</sup> Conditions at the centre prompted residents to go on hunger strike in July 2020, while the local community and various migrant rights organisations called for the hotel to be closed.<sup>476</sup> It was subsequently announced that the centre was to close and residents were to be moved out on a phased basis. It is understood that the last remaining residents were transferred from the centre in September 2020.<sup>477</sup>

In August 2020, several Direct Provision centres also reported outbreaks of COVID-19 linked to clusters at meat factories where a number of residents worked. The vast majority of residents were moved to designated facilities to self-isolate.<sup>478</sup> In late December 2020, a further significant outbreak was reported at Kinsale Road accommodation centre in Co. Cork. It is understood approximately 40 residents were removed from the centre in order to facilitate social distancing, while the remaining residents were told to remain in their rooms and isolate.<sup>479</sup>

The Irish Refugee Council also became aware of a number of reports of individuals being transferred from temporary accommodation to communal facilities. In one such instance, a resident and her two children were moved from their temporary accommodation in Dublin, to Cahersiveen, where communal facilities with other residents were shared. One child tested positive for COVID-19 and the family were moved to a self-isolation facility for 3 weeks. Fearing reinfection if they were returned to live in communal facilities, the family requested a transfer to a self-contained family unit. This request was initially refused and only with sustained advocacy from IRC and other agencies was the decision reviewed and self-contained accommodation eventually offered.

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<sup>473</sup> Irish Refugee Council, 'Powerless: Experiences of Direct Provision During the Covid-19 Pandemic', available at: <https://bit.ly/3pXOaGZ>.

<sup>474</sup> Information provided in correspondence from Minister Roderic O'Gorman to Catherine Connolly TD, further to Parliamentary Questions 602, 603, 612 and 613 of the 3rd of March 2021, available at: <https://bit.ly/3tEMioT>.

<sup>475</sup> Irish Examiner, 'Calls for direct provision centre in Cahersiveen to be closed', 11 May 2020, available at: <https://bit.ly/3i8Xbum>.

<sup>476</sup> Irish Times, 'Controversial Skellig Star direct provision centre in Kerry to close', 30 July 2020, available at: <https://bit.ly/38zS4QG>.

<sup>477</sup> RTÉ News, 'Dept of Justice denies plans to reuse Skellig Star Hotel', 27 September 2020, available at: <https://bit.ly/2K8BZrL>.

<sup>478</sup> RTÉ News, 'Concern over virus clusters at direct provision centres', 2 August 2020, available at: <https://bit.ly/39kJPag>.

<sup>479</sup> Irish Examiner, 'Residents moved from Cork direct provision centre following 'serious' Covid-19 outbreak', 25 December 2020, available at: <https://bit.ly/2MZNxP5>.



As regards, hygiene and sanitary measures, all accommodation centres, including emergency accommodation centres were required to complete contingency planning for COVID-19 with a view to limiting the possible spread of disease throughout centres. Contingency plans were subject to review by IPAS and HSE Community Healthcare Organisations (CHOs). Public health information was distributed to residents through the circulation of notices in multiple languages. Each centre was also asked to generate a self-isolation capability for use by persons with a positive COVID-19 test result.<sup>480</sup> Moreover, in September 2020, it was announced that a comprehensive programme of COVID-19 testing was to be established across all Direct Provision and emergency accommodation centres. The testing programme followed numerous outbreaks of COVID-19 within Direct Provision centres throughout the country over the course of the pandemic.<sup>481</sup>

Additionally, the HSE established a temporary accommodation scheme for healthcare workers at the outset of the pandemic. Under the scheme, healthcare workers or individuals providing home support who are resident in Direct Provision were entitled to apply for temporary accommodation in certain defined circumstances.<sup>482</sup> As of May 2020, 40 residents had been granted alternative accommodation under the HSE-provided scheme, while approximately 15 were forced to stop working owing to childcare issues. In the experience of the Irish Refugee Council, while there have been some problems with the scheme, particularly around availability of facilities, the vast majority of residents seeking access to the scheme have been accommodated. In May of 2021, a number of IRC clients were advised by the HSE that the accommodation scheme was shortly to be concluded. However, in January 2022, following an information request from IRC, the HSE confirmed that the programme remained operational and was to be reviewed by the end of Q1 2022.<sup>483</sup> It was not clear at the time of updating whether the programme remained operational as of March 2023.

## 2.1. Overcrowding and Overall conditions

Direct Provision has been under intense scrutiny since its inception in 2000 for the conditions imposed on residents, exacerbated by the fact that systemic delays in the asylum procedure result in people spending far longer in Direct Provision than was originally intended by the State. The system of Direct Provision has been criticised by numerous prominent organisations including the Irish President, Michael D. Higgins, the Ombudsman for Children, the Irish Human Rights and Equality Commission, and the Special Rapporteur for Children, and UN Treaty Bodies such as the United Nations Committee on Economic, Social and Cultural Rights and the Committee for the Elimination of Racial Discrimination. Most importantly, people in the protection process themselves have also criticised conditions in Direct Provision. For example, Movement of Asylum Seekers Ireland (MASI) gave detailed criticism of conditions via social media and in their submission to the Joint Oireachtas Committee on Direct Provision.<sup>484</sup>

Since 2017, the Ombudsman has jurisdiction to hear complaints from residents of accommodation centres regarding the conditions of facilities amongst other matters.<sup>485</sup> The Ombudsman received a total of 65 complaints from residents in Direct Provision in 2021.<sup>486</sup> This compares with a total of 99 complaints in 2021.<sup>487</sup> 52 complaints were made against IPAS in 2022. 23 such complaints related to accommodation, 20 to transfers, 7 against centre staff, 1 regarding facilities, 1 in relation to complaint handling and 1 about

<sup>480</sup> Health Service Executive, *New Measures to Protect Direct Provision Residents during Covid-19*, 23 April 2020, available at: <https://bit.ly/3sifNwm>.

<sup>481</sup> Department of Justice, Joint Statement from the Department of Justice and Equality and the HSE on Covid testing in Direct Provision Centres, 11 September 2020, available at: <https://bit.ly/2Ke74KI>.

<sup>482</sup> UNHCR, *Information on Covid-19 for Refugees and Asylum-Seekers in Ireland – updated February 5 2021*, available at: <https://bit.ly/35hNTa8>.

<sup>483</sup> Information provided by HSE, January 2022.

<sup>484</sup> Movement of Asylum Seekers in Ireland (MASI), Submission to Justice & Equality Joint Committee, 27 May 2019, available at: <https://bit.ly/2VHPUI2>

<sup>485</sup> Ombudsman, 'The Ombudsman and direct provision', available at: <https://bit.ly/2LdNfI4>.

<sup>486</sup> Ombudsman, The Ombudsman & Direct Provision: Update for 2021, March 2022, available at: <https://bit.ly/3qCBwjr>.

<sup>487</sup> Office of the Ombudsman, March 2023.

mail not being correctly redirected.<sup>488</sup> Six further complaints were made against Direct Provision centres, of which 2 were regarding accommodation, 2 were in relation to transfers and 2 against centre staff.<sup>489</sup> Three complaints were made against the HSE by Direct Provision residents, while 3 complaints were issued against the Department of Social Protection and 1 complaint against Dublin City Council.<sup>490</sup>

In appropriate cases, the Ombudsman's office engages with the relevant Government Department or agency to resolve the situation for the individual complainant concerned and in order to avoid any future similar issues arising.

The onset of the COVID-19 pandemic further highlighted the unsuitability of Direct Provision as a means of accommodating asylum seekers. As a congregated setting, individuals in Direct Provision share intimate spaces, including bathrooms, dining areas, communal living spaces and laundries. This means that social distancing has been near impossible at the majority of centres.

On 31 March 2020, the Department of Justice announced that an additional 650 beds had been procured in order to support the measures required for vulnerable residents in Direct Provision in the context of the COVID-19 crisis. These included the provision of off-site accommodation for self-isolation, as well as increasing capacity as to accommodate social distancing. However, according to the Irish Refugee Council's 'Powerless' report, which examines the experiences of Direct Provision residents during the pandemic, as of August 2020, 50% of survey respondents were unable to socially distance themselves from other residents. 42% stated that they were still sharing a room with a non-family member, while 46% shared a bathroom with a non-family member.<sup>491</sup> As of March 2021, the number of unrelated single residents assigned a shared room in IPAS accommodation was 1,892. This comprised of 1,171 residents in a room assigned to two people and 721 residents in a room assigned to 3 people.<sup>492</sup> This constitutes an increase of approximately 192 more people than the previous year, despite the onset of the pandemic. Whereby steps were taken to move residents out of Direct Provision so as to permit additional space to social distance, this was largely achieved without consulting residents, while notice provided was extremely short and residents were not informed as to whether the move would be temporary or permanent in nature. Data in respect of the number of unrelated single residents assigned a shared room in IPAS accommodation in 2022 was not available at the time of updating.

Significant outbreaks of COVID-19 occurred at accommodation centres across the country throughout the pandemic. Particular issues of concern emerged in relation to the Skellig Star Hotel in Co. Kerry, where one of the first major outbreaks occurred in May 2020. Various issues had been reported prior to the hotels opening, including the rushed opening of the centre, repair issues, lack of running water and heating, and staff not being Garda vetted. Individuals were also moved at very short notice from Dublin and residents were initially sharing rooms with one another. During the outbreak, residents reported that they were unable to leave the hotel or were given a strong impression that they could not leave their accommodation. Individuals, including children, were forced to spend all day in hotel rooms and reports suggested a lack of sanitation and deep cleaning of the property, even after 22 residents had tested positive.<sup>493</sup> Conditions at the centre prompted residents to go on hunger strike in July 2020, while the local community and various migrant rights organisations called for the hotel to be closed.<sup>494</sup> It was subsequently announced that the centre was to close and residents were to be moved out on a phased

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<sup>488</sup> *ibid.*

<sup>489</sup> *ibid.*

<sup>490</sup> *ibid.*

<sup>491</sup> Irish Refugee Council, 'Powerless: Experiences of Direct Provision During the Covid-19 Pandemic', available at: <https://bit.ly/3pXOaGZ>.

<sup>492</sup> Information provided in correspondence from Minister Roderic O'Gorman to Catherine Connolly TD, further to Parliamentary Questions 602, 603, 612 and 613 of the 3rd of March 2021, available at: <https://bit.ly/3tEMioT>.

<sup>493</sup> Irish Examiner, 'Calls for direct provision centre in Cahersiveen to be closed', 11 May 2020, available at: <https://bit.ly/3i8Xbum>.

<sup>494</sup> Irish Times, 'Controversial Skellig Star direct provision centre in Kerry to close', 30 July 2020, available at: <https://bit.ly/38zS4QG>.

basis. It is understood that the last remaining residents were transferred from the centre in September 2020.<sup>495</sup>

In August 2020, several Direct Provision centres also reported outbreaks of COVID-19 linked to clusters at meat factories where a number of residents worked. The vast majority of residents were moved to designated facilities to self-isolate.<sup>496</sup> In late December 2020, a further significant outbreak was reported at Kinsale Road accommodation centre in Co. Cork. It is understood approximately 40 residents were removed from the centre in order to facilitate social distancing, while the remaining residents were told to remain in their rooms and isolate.<sup>497</sup>

The Irish Refugee Council also became aware of a number of reports of individuals being transferred from temporary accommodation to communal facilities. In one such instance, a resident and her two children were moved from their temporary accommodation in Dublin, to Cahersiveen, where communal facilities with other residents were shared. One child tested positive for COVID-19 and the family were moved to a self-isolation facility for 3 weeks. Fearing reinfection if they were returned to live in communal facilities, the family requested a transfer to a self-contained family unit. This request was initially refused and only with sustained advocacy from IRC and other agencies was the decision reviewed and self-contained accommodation eventually offered.

As regards, hygiene and sanitary measures, all accommodation centres, including emergency accommodation centres were required to complete contingency planning for COVID-19 with a view to limiting the possible spread of disease throughout centres. Contingency plans were subject to review by IPAS and HSE Community Healthcare Organisations (CHOs). Public health information was distributed to residents through the circulation of notices in multiple languages. Each centre was also asked to generate a self-isolation capability for use by persons with a positive COVID-19 test result.<sup>498</sup> Moreover, in September 2020, it was announced that a comprehensive programme of COVID-19 testing was to be established across all Direct Provision and emergency accommodation centres. The testing programme followed numerous outbreaks of COVID-19 within Direct Provision centres throughout the country over the course of the pandemic.<sup>499</sup>

Additionally, the HSE established a temporary accommodation scheme for healthcare workers at the outset of the pandemic. Under the scheme, healthcare workers or individuals providing home support who are resident in Direct Provision were entitled to apply for temporary accommodation in certain defined circumstances.<sup>500</sup> As of May 2020, 40 residents had been granted alternative accommodation under the HSE-provided scheme, while approximately 15 were forced to stop working owing to childcare issues. In the experience of the Irish Refugee Council, while there have been some problems with the scheme, particularly around availability of facilities, the vast majority of residents seeking access to the scheme have been accommodated. In May of 2021, a number of IRC clients were advised by the HSE that the accommodation scheme was shortly to be concluded. However, in January 2022, following an information request from IRC, the HSE confirmed that the programme remained operational and was to be reviewed by the end of Q1 2022.<sup>501</sup> It was not clear at the time of updating whether the programme remained operational as of March 2023.

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<sup>495</sup> RTÉ News, 'Dept of Justice denies plans to reuse Skellig Star Hotel', 27 September 2020, available at: <https://bit.ly/2K8BZrL>.

<sup>496</sup> RTÉ News, 'Concern over virus clusters at direct provision centres', 2 August 2020, available at: <https://bit.ly/39kJPag>.

<sup>497</sup> Irish Examiner, 'Residents moved from Cork direct provision centre following 'serious' Covid-19 outbreak', 25 December 2020, available at: <https://bit.ly/2MZNxP5>.

<sup>498</sup> Health Service Executive, *New Measures to Protect Direct Provision Residents during Covid-19*, 23 April 2020, available at: <https://bit.ly/3sifNwm>.

<sup>499</sup> Department of Justice, Joint Statement from the Department of Justice and Equality and the HSE on Covid testing in Direct Provision Centres, 11 September 2020, available at: <https://bit.ly/2Ke74KI>.

<sup>500</sup> UNHCR, *Information on Covid-19 for Refugees and Asylum-Seekers in Ireland – updated February 5 2021*, available at: <https://bit.ly/35hNTa8>.

<sup>501</sup> Information provided by HSE, January 2022.

## Quality of food and lack of self-catering provisions

In approximately half of Direct Provision Centres, residents receive all meals and are not permitted to cook for themselves.<sup>502</sup> In relation to food, the McMahon Working Group recommended that IPAS should: (a) engage a suitably qualified person to conduct a nutrition audit to ensure that the food served meets the required standards including for children, pregnant and breastfeeding women, and the needs of those with medical conditions affected by food, such as diabetes; and (b) include an obligation in new contracts to consult with residents when planning the 28 day menu cycle.<sup>503</sup>

The final National Standards presented in August 2019 include a theme on food in order to improve the quality, diversity and cultural appropriateness of food provided in accommodation centres including the following:

- ❖ Food preparation and dining facilities meet the needs of residents, support family life and are appropriately equipped and maintained;<sup>504</sup>
- ❖ The service provider commits to meeting the catering needs and autonomy of residents, which includes access to a varied diet that respects their cultural, religious, dietary, nutritional and medical requirements.<sup>505</sup>

According to the Government's progress report on the recommendations of the Working Group Report, 15 of 33 accommodation centres under contract in 2017 had "some form of personal catering", ranging from 'fully fitted kitchens ... for reheating food and preparing breakfast to communal cooking stations.'<sup>506</sup> The report also indicated that work was ongoing to commence pilots for fully independent living that would "include home cooking within the family accommodation units in some instances and access to communal cooking stations for residents in others." By the end of 2019, over half of all residents in direct provision centres have access to cooking facilities, self-cooking and residents' shops have been established at 18 centres, compared to eight at the end of 2018.<sup>507</sup> This increase is due to IPAS implementation of changes in its approach to contracting. Unless centres comply fully with the McMahon recommendations to provide self-cooking facilities and residents' shops, no contracts for permanent centres will be awarded, or existing contracts renewed.<sup>508</sup>

As the rolling out of IPAS' contract programme is on a regional basis, centres in some regions are getting cooking facilities before those in other places.<sup>509</sup> The Department of Justice stated in August 2019 that "[t]he aim is to have all residents in commercial centres benefitting from independent living (cooking facilities and onsite food hall) by the middle of next year through the ongoing regional procurement process for accommodation centres."<sup>510</sup> In respect of the seven state-owned accommodation centres, as of July 2019, independent living had already been introduced in Athlone and the Department of Justice had initiated discussions with the Office of Public Works regarding the implementation of independent

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<sup>502</sup> Advisory Group on Direct Provision, *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*, 21 October 2020, available at: <https://bit.ly/3qgSmC3>, 118.

<sup>503</sup> Working Group to report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report June 2015*, para 4.102, 174.

<sup>504</sup> Department of Justice and Equality, *Final National Standards*, 15 August 2019, available at: <https://bit.ly/3cLWi6M>, Standard 5.1.

<sup>505</sup> *ibid*, Standard 5.2.

<sup>506</sup> Department of Justice, *Third and Final Progress Report on the Implementation of the Report's Recommendations*, June 2017, available at: <http://bit.ly/2w12bLC>, 9.

<sup>507</sup> Department of Justice and Equality, *Spending Review on Direct Provision*, 15 August 2019, available at: <https://bit.ly/3eVBtrx>.

<sup>508</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2019', April 2019.

<sup>509</sup> *ibid*.

<sup>510</sup> Department of Justice and Equality, *Spending Review on Direct Provision*, 15 August 2019, available at: <https://bit.ly/3eVBtrx>.

living in the six remaining state-owned accommodation centres.<sup>511</sup> As of October 2020, approximately 52.1% (4,901 of 9,404) of contracted beds in Direct Provision accommodation centres have access to independent living facilities. In respect of the seven state-owned accommodation centres, Athlone remains the only centre in which independent living facilities have been implemented.<sup>512</sup>

During 2019, the Ombudsman received six complaints concerning food, down from nine in 2018.<sup>513</sup> This reduction was attributed to the establishment of self-cooking and residents' shops at ten centres in 2019. The lack of communication and engagement of centre's management with residents was identified as the cause of most complaints presented regarding food in Direct Provision centres.<sup>514</sup> The Ombudsman received two complaints relating to food in 2020.<sup>515</sup> No complaints on the matter were received in 2021 or 2022.<sup>516</sup>

All contractors of accommodation centres have the contractual obligation to provide residents with culturally appropriate food options.<sup>517</sup> The menus prepared have to meet the reasonable dietary needs of the different ethnic groups of residents and the reasonable prescribed dietary needs of any person accommodated at the centre.<sup>518</sup> It is also a contractual obligation to provide a 28-day menu and to consult residents on it.<sup>519</sup> In addition to this, a vegetarian option must be included in menus and all food products provided must have a traceability system that complies with food safety requirements.<sup>520</sup> IPAS's House Rules and Procedures document states that, where possible and practical, an accommodation centre will cater for 'ethnic food preferences' and the centre will provide tea and coffee making facilities, and drinking water, outside normal meal times.<sup>521</sup> However, complaints about the quality and presentation of food persist across centres.<sup>522</sup>

In February 2021, approximately 100 residents at Ashbourne House accommodation centre in Co. Cork went on hunger strike in a protest action over the provision of food materials at the centre. It is understood that the centre has a small kitchen area where residents are permitted to cook for themselves, however, management have repeatedly turned down requests by residents for food items they could prepare themselves. The protest began following an unsuccessful meeting with centre management, with residents having subsequently written to the Minister for Children, Equality, Disability, Integration and Youth.<sup>523</sup> In October 2021, an international protection applicant went on hunger strike for a nine-day period, having been refused international protection status and permission to remain in Ireland. Following the applicant's hospitalisation, his legal team entered into discussions with the Department of Justice on his behalf and received assurances that the individual would not be deported from the State.<sup>524</sup>

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<sup>511</sup> Minister for Justice and Equality, Reply to Parliamentary Question No 921, 23 July 2019, available at: <https://bit.ly/2Vlpq9C>.

<sup>512</sup> Advisory Group on Direct Provision, *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*, 21 October 2020, available at: <https://bit.ly/3qgSmC3>, 118.

<sup>513</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2019', April 2020, available at: <https://bit.ly/3FzGySz>.

<sup>514</sup> *Ibid.*

<sup>515</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2020', March 2021, available at: <https://bit.ly/2PbgkSe>.

<sup>516</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2021', March 2022, available at: <https://bit.ly/3qCBwjr>.

<sup>517</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 970, 23 July 2019, available at: <https://bit.ly/35fUMaO>.

<sup>518</sup> *Ibid.*

<sup>519</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 970, 23 July 2019.

<sup>520</sup> *Ibid.*

<sup>521</sup> RIA, *House Rules and Procedures*, available at: <http://bit.ly/1eiZdFd>.

<sup>522</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2019', April 2019, available at: <https://bit.ly/3stSjEp>.

<sup>523</sup> Irish Examiner, 'Residents at Cork Direct Provision centre refuse meals in protest at standards', 17 February 2021, available at: <https://bit.ly/2ZqHICx>.

<sup>524</sup> Irish Examiner, 'Cork Asylum Seeker Ends Hunger Strike After Assurances He Will Not Be Deported', 22 October 2021, available at: <https://bit.ly/3JeThw0>.



## 2.2. Length of stay

One of the primary issues with Direct Provision is the length of time people spend living in a system that was initially conceived to accommodate people for a maximum of six months while their application was processed. This accommodation, effectively unfit for its intended purpose, combined with an asylum procedure riddled with systemic delays (see [Regular Procedure: General](#)), led to a reception environment that has forced people into circumstances of idleness, and exacerbated trauma and mental health issues. As a result, the system has been subject to national and international scrutiny.<sup>525</sup>

A shortage of staff at both the IPO and the IPAT appears to be undermining the reduction in delays which the single procedure under the IPA should have introduced. Resourcing issues and the decision to refer each application under the Refugee Act 1996 back for reconsideration under the single procedure has meant that delays have not been reduced and are, in fact, increasing.

Research has demonstrated that even where applicants are eventually granted status, they face a number of difficulties transitioning out of Direct Provision and into independent living due to the length of time they have spent out of the workforce, with limited opportunity for personal or professional development. This, combined with limited economic resources and Ireland's ongoing employment and housing shortages, has led to a significant challenge for people attempting to leave Direct Provision (see [Content of Protection: Housing](#)).<sup>526</sup>

Data regarding the average length of stay in Direct Provision for 2022 was not available at the time of updating.

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

- |                                                                                                                                              |                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| 1. Does the law allow for access to the labour market for asylum seekers?<br>❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No<br>6 months                                               |
| 2. Does the law allow access to employment only following a labour market test?                                                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                                           |
| 3. Does the law only allow asylum seekers to work in specific sectors?<br>❖ If yes, specify which sectors:                                   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No<br>All except Civil Service, Defence, Garda Siochana etc. |
| 4. Does the law limit asylum seekers' employment to a maximum working time?<br>❖ If yes, specify the number of days per year                 | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                                           |
| 5. Are there restrictions to accessing employment in practice?                                                                               | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                                                           |

In July 2018, Ireland transposed the recast Reception Conditions Directive following a decision of the Supreme Court in *N.V.H. v Minister for Justice and Equality* in which the Court held that an absolute ban on employment was a breach of the right to dignity under the Irish Constitution. With the legislative ban

<sup>525</sup> See e.g. Ombudsman, *The Ombudsman & Direct Provision – the story so far*, January 2018, available at: <http://bit.ly/2FXmJWX>; United Nations Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Ireland*, CRC/C/IRL/CO/3-4, 1 March 2016, available at: <http://bit.ly/1Qetbq6>.

<sup>526</sup> Dr. Muireann Ní Raghallaigh, Maeve Foreman and Maggie Feeley, *Transition: From Direct Provision to life in the Community*, June 2016, available at: <https://bit.ly/3KiqMPx>.



on employment struck down as unconstitutional, the main impediment to transposition of the Directive was removed.

The Reception Conditions Regulations permits a person who has been waiting more than six months for a first instance decision to apply for labour market access.<sup>527</sup> Labour market access consists of permission to be self-employed or to be employed in most sectors of the economy, with an absolute ban on employment in public bodies, such as the Civil Service, Local Authorities, or companies/entities majority owned by the Government or established by way of legislation.<sup>528</sup>

As a result of the COVID-19 pandemic, in December 2021, the Minister for Justice, Helen McEntee announced a further and final temporary extension of immigration and international protection permissions, until 31 May 2022. This extension applied to permissions that were due to expire between 15 January 2022 and 31 May 2022 and included permissions that had already been extended by the previous eight temporary extensions since March 2020.<sup>529</sup> The extension also applied to labour market access permission whereby an applicant had not yet received a final decision on their international protection claim and the applicant held a current, valid permission or a permission that had already been extended under the previous notices issued.<sup>530</sup>

In practice, labour market access applications are accepted once a person has been waiting for five months for a first instance decision in order to prevent delays once the six-month period has elapsed.

Once a person has been granted permission prior to receiving a first instance decision, that permission lasts throughout any subsequent appeal process. However, if a person has already received a first instance decision, they will not be able to access the labour market no matter how long they may be waiting for a resolution to an appeal. This means that, despite the right to work constituting a significant positive development for newly arrived protection applicants, those who had been in Ireland the longest and who had already received a first instance decision did not benefit from this change.<sup>531</sup>

On 21 October 2020, the government announced revised arrangements for access to the labour market, including a reduction in the waiting period from nine months to six months from the date of first application for international protection.<sup>532</sup> Further changes include an increase in the validity period of permission to access the labour market from 6 months to 12 months and expanding access to include applicants who received a first instance recommendation prior to the European Communities (Reception Conditions) Regulations 2018 coming into force, provided they meet the criteria established in the Regulations.<sup>533</sup> These changes came into effect from 26 January 2021.<sup>534</sup>

In 2019, the Irish High Court referred to the CJEU a preliminary ruling on a number of questions, with the aim of clarifying the right to access the labour market for international protection applicants in the Dublin procedure. On 14 January 2021, in a judgment delivered in the case of *K.S. & Ors v. The International Protection Appeals Tribunal & Ors*, the Court of Justice of the European Union determined that Article 15 of Directive 2013/33 (Reception Conditions Directive) must be interpreted as precluding national

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<sup>527</sup> Regulation 11(3) Reception Conditions Regulations 2018.

<sup>528</sup> Regulation 11(9)(a) and Schedule 6 Reception Conditions Regulations 2018.

<sup>529</sup> Department of Justice, *Minister McEntee announces further temporary extension of immigration permissions*, 21st December 2021, available at: <https://bit.ly/3HSx3iL>.

<sup>530</sup> Immigration Service Delivery, *Impact of Covid-19 on Immigration and international Protection: Frequently Asked Questions*, last updated 21st December 2021, available at: <https://bit.ly/3nevVxY>.

<sup>531</sup> Movement of Asylum Seekers in Ireland (MASI), Submission to Justice & Equality Joint Committee, 27 May 2019, available at: <https://bit.ly/2VHPUI2>.

<sup>532</sup> Department of Justice, *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*, 21 October 2020, available at: <https://bit.ly/3qh0v9C>.

<sup>533</sup> Irish Legal News, 'Restrictions on asylum seekers access to work to be eased', 22 October 2020, available at: <https://bit.ly/39u6t00>.

<sup>534</sup> Department of Justice, 'Minister McEntee announces reduced 6 month waiting period for international protection applicants to access work' 28 January 2021, available at: <https://bit.ly/3pGZ6lz>.

legislation whereby such legislation excludes an applicant for international protection from accessing the labour market on the basis that the applicant has been subject to a transfer decision under the Dublin III Regulation.<sup>535</sup> Following the ruling, persons subject to a Dublin transfer have the right to enter the labour market in Ireland whereby no decision on their substantive protection claim has issued within six months and the individual is not responsible for the delay in progressing their transfer. Taking legal action to challenge the transfer will not be regarded as a delay attributable to the applicant in the circumstances.<sup>536</sup> Approximately 223 judicial review cases, involving 281 persons, were stayed pending the decision.<sup>537</sup>

There are a number of conditions applying to permission to access the labour market with a criminal sanction applying in the event of a breach. An applicant may not employ any person or enter a partnership with another person. An applicant may not be employed or seek to be employed or enter a contract for services with any of the prohibited bodies.<sup>538</sup> An applicant must also inform the Minister of their income and must inform the Minister if they become self-employed or if there is any change to their self-employment.<sup>539</sup>

In addition, employers must inform the Minister within 21 days of employing an asylum seeker in possession of labour market permission and must inform the Minister within 21 days of that employment ceasing.<sup>540</sup> The employer must also maintain records of the particulars of employment including copies of the person's permission to work, the duration of employment, and remuneration paid. Employers must keep these records for three years from the date on which the applicant ceases to be an employee and must provide a copy of these records within ten working days. These additional obligations on employers, which do not apply to other employees, are administratively onerous and may make it less attractive to employ a person seeking asylum. Indeed, the Irish Refugee Council has received reports of employers not recognising the official documents granting permission to work and not employing protection applicants on this basis. This has been echoed by media reporting on the topic in July 2019.<sup>541</sup> It is an offence under the Regulations to fail to comply with these requirements, with an employer potentially subject to a fine of €5,000 and/or a prison term of 12 months.<sup>542</sup>

An applicant who breaches the Regulations on access to the labour market is guilty of a criminal offence, which carries a fine of €1,000 and/or a prison term of one month.<sup>543</sup> This would also affect their asylum application.

From 30 June 2018 – 1 January 2023, a total of 15,136 applications for labour market access have been granted by the Department of Justice. Of these applications, approximately 80% (12,181) have been granted and 2,731 have been refused. Last year, 4,773 first permits were issued and 1,603 renewals were granted.<sup>544</sup>

In practice, protection applicants face significant practical difficulties in accessing the labour market. For instance, many applicants previously experienced barriers in accessing bank accounts due to difficulties in producing satisfactory identity documents for the purposes of anti-money laundering requirements. In

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<sup>535</sup> Case C-322/19 and C-385/19, *K.S. and Ors v. The International Protection Appeals Tribunal and Ors*, ECLI:EU:C: 2021:11, available at: <https://bit.ly/2NndwQL>.

<sup>536</sup> *ibid.*

<sup>537</sup> Minister for Justice and Equality Charles Flanagan, Response to Parliamentary Question No 382, 3 June 2020, available at: <https://bit.ly/36eiqgr>.

<sup>538</sup> Regulation 11(9)(a) and (10) Reception Conditions Regulations 2018.

<sup>539</sup> Regulation 11(9)(b) and (c) Reception Conditions Regulations 2018.

<sup>540</sup> Regulation 14 Reception Conditions Regulations 2018.

<sup>541</sup> Dublin Inquirer, 'People Seeking Asylum Say They're Funnelled Into Low-Paid Temp Work, Unable to Use Their Skills', 3 July 2019, available at: <https://bit.ly/2WaV1Qm>.

<sup>542</sup> Regulation 15(2) Reception Conditions Regulations 2018.

<sup>543</sup> Regulation 15(1) Reception Conditions Regulations 2018.

<sup>544</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No. 473,

<sup>544</sup> Acting Minister for Justice Simon Harris, Response to Parliamentary Question No 558, 28 February 2023, available at: <http://bitly.ws/CL24>.

April 2021, the Irish Human Rights and Equality Commission announced that following formal engagement with Bank of Ireland, the Bank had agreed to accept State-issued identity documentation, therefore enabling asylum seekers to open a bank account. The Commission used its statutory powers through a formal process known as an Equality Review.<sup>545</sup> The five major banks in the State - Allied Irish Bank, Bank of Ireland, Permanent TSB, KBC and Ulster Bank -, subsequently confirmed that from 13 May 2021, international protection applicants will be able to provide alternative documentation to prove their identity when seeking to open a bank account.<sup>546</sup>

People in the asylum process also face difficulties in obtaining a driver licence. The Temporary Residence Certificate provided to people seeking asylum is the only official document given to people before they receive their status and this is specifically stated as *not* constituting an identity document and, therefore, cannot be relied upon for the purposes of obtaining a driving licence which inhibits the access to employment, particularly where people live in remote rural areas.

In January 2020, the Workplace Relations Commission found that denying the applicant the means to learn how to drive and therefore earn a living was "indirect discrimination".<sup>547</sup> In this case, the individual's application for a learner driver licence was refused after he provided his asylum seeker's Temporary Residence Certificate, his public services card, a copy of his passport and his permission from the Minister for Justice to access the labour market. The State appealed the decision of the Workplace Relations Commission and on appeal, the applicant, whose circumstances had changed, sought only to uphold the award of compensation. The appeal was resolved on the basis that the appeal would be allowed but the RSA would make a payment of €4,000 to the applicant.<sup>548</sup>

Subsequently in July 2020, the Dublin Circuit Court overturned a separate Workplace Relations Commission declaration that the refusal to issue driving licences to asylum seekers was discriminatory. This case concerned an applicant who held a full driving licence in her country of origin. She requested a learner's permit so that she could learn to drive in Ireland with a view to accessing better employment and childcare facilities. Justice O' Connor concluded that, on the basis that the respondent was in the State for the purposes of making an application for asylum, the status of her residence meant that she did not enjoy the same rights as an Irish citizen. Moreover, he did not accept that the state had discriminated against the respondent on account of her race in refusing to provide her with a licence.<sup>549</sup>

On 21 October 2020, the Department of Justice announced that legislation would be brought forward by the Minister for Transport prior to year- end in order to ensure access for asylum seekers to driving licences.<sup>550</sup> In February 2021, the Minister of State at the Department of Transport confirmed that officials in the Department of Transport and the Road Safety Authority are working in close collaboration with various stakeholders to ensure the provision of drivers' licences to asylum seekers.<sup>551</sup> However, prior to legislation being implemented, two international protection applicants successfully challenged by way of judicial review a decision by the Road Safety Authority (the 'RSA') to refuse them permission to exchange their full driver licences, issued by their country of origin, for Irish licences. The RSA claimed that the applicants were required to produce evidence that they were lawfully resident in Ireland, but had not done so, nor could not do so on the basis that their residence in the State as international protection seekers

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<sup>545</sup> Irish Human Rights and Equality Commission, 'Access to Bank Accounts Confirmed for Asylum Seekers', 11 April 2021, available at: <https://bit.ly/3so8Xo5>.

<sup>546</sup> RTÉ, 'Banks to allow asylum seekers use alternative documents to open accounts', 13 May 2021, available at: <https://bit.ly/3tfvwiF>.

<sup>547</sup> ADJ-00017832 Correction Order issued pursuant to Section 29 of the Equal Status Act 2000 (as amended), available at: <https://bit.ly/3dwAVXS>.

<sup>548</sup> Irish Human Rights and Equality Commission, 'Court Rules that RSA Regulations Block All Asylum Seekers from Getting Driving Licence', 30 July 2020, available at: <https://bit.ly/3nESyJx>.

<sup>549</sup> *Road Safety Authority v. A.B* [2020] IECC 3, available at: <https://bit.ly/3nGr9XJ>.

<sup>550</sup> Irish Human Rights and Equality Commission, 'Legislation Promised on Driving Licences Fundamental to Access to Employment for Asylum Seekers', 21 October 2020, available at: <https://bit.ly/39v3zrB>.

<sup>551</sup> Minister of State at the Department of Transport Hildegard Naughton, Response to Parliamentary Question No 103, 10 February 2021, available at: <https://bit.ly/3u6PpXa>.

could not be regarded as ‘lawful’ within the meaning of the Road Traffic Regulations (Licensing of Drivers) Regulations 2006. Mr. Justice Heslin, giving judgment, stated that “the applicants’ presence in this State has, at all material times, been, as a matter of fact, lawful. Their permission to remain may well be on very strict terms and for a specific purpose but it is nonetheless lawful.” He concluded that he was “entirely satisfied that the applicants are entitled to declaratory relief that the 2006 Regulations do not require them to establish any further right of residence than they currently have”.<sup>552</sup> The Government has indicated that legislation will be required to give effect to the judgment; however, at time of updating, this was yet to be implemented.

## 2. Access to education

### Indicators: Access to Education

- |                                                                              |                                                                     |
|------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice?                        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Asylum-seeking children can attend local national primary and secondary schools on the same basis as Irish children. This has been made an express right under the Reception Conditions Regulations.<sup>553</sup>

The Irish Refugee Council and other organisations raised concern about access to education for children living in emergency accommodation. In November 2019, the Newstalk radio station reported that up to 30 children living in emergency Direct Provision accommodation were not attending school.<sup>554</sup> The Irish Refugee Council, in the report ‘Reception Conditions Directive: One Year On report’, called on the Minister for Education to ensure children in emergency centres are enrolled in school, and it said the use of Bed and Breakfasts and hotels to accommodate protection applicants should be phased out as soon as possible.

When asked, in December 2019, about the issue of children in emergency accommodation not receiving education, the Minister for Education stated that children of international protection applicants are required to receive an education within a three month period following their arrival in this State, allowing for school holiday period, and that the Department of Education has seconded an official to the Department of Justice and Equality to deal with any queries that schools who are enrolling children from accommodation centres may have.<sup>555</sup>

The City of Dublin Education and Training Board Separated Children’s Service has offered educational services and support to separated children since 2001. The most prominent feature of the service is their Refugee Access Programme, which is a transition service for newly arrived separated children and other young people ‘from refugee backgrounds’. The programme provides intensive English instruction, integration programmes and assists young people in preparing to navigate the Irish education system. Additionally, the service provides support after transition, including study support, outreach, a drop-in and a youth group.<sup>556</sup>

Following the onset of COVID-19, particular issues of concern were raised with regard to access to education for children living in Direct Provision. Following the closure of primary and secondary schools in line with public health advice, the vast majority of schools in the state moved to remote learning through a variety of online resources. Residents reported that a lack of access to laptops and internet connectivity

<sup>552</sup> Landsberg & Anor v. National Driving Licence Service & Ors [2021] IEHC 748, available at: <https://bit.ly/3evRaGY>.

<sup>553</sup> Regulation 17 Reception Conditions Regulations 2018.

<sup>554</sup> Newstalk, Up to 30 asylum-seeking children receiving no education at centre in Carrickmacross, 25 November 2019, available at: <https://bit.ly/2TR1qk4>.

<sup>555</sup> Kildare Street, 3 December 2019, available at: <https://bit.ly/3cokVGa>.

<sup>556</sup> Separated Children’s Services, *Youth and Education Services*.

presented a significant difficulty for their children in accessing remote education.<sup>557</sup> In addition, it should be noted that school is often regarded by many children resident in Direct Provision as a welcome reprieve from the confines of living within the system. During the closure of schools as a result of the COVID-19 pandemic, many children reported feeling a loss of their sense of normality and interaction that comes with the ability to attend school.<sup>558</sup>

Vocational training is now available to protection applicants who have successfully received permission to access the labour market. Such an applicant may access vocational training on the same basis as an Irish citizen.

There is no automatic access to third level education in Universities and Colleges, or to non-vocational further education courses such as post-leaving certificate courses. Protection applicants can access third level education and non-vocational further education if they can cover the costs of the fees, get the fees waived or access private grants or scholarships.

In order to ameliorate the hardship associated with the high fees, which place third level education beyond the reach of many young people in the Direct Provision system, a pilot support scheme was introduced in September 2015, following the publication of the Working Group Report on the Protection Process. The scheme provided support in line with the Student Grant Scheme to eligible school leavers who were in the international protection system (other than those at the deportation order stage) and who were either: asylum applicants; subsidiary protection applicants; or leave to remain applicants. The eligibility requirements were stringent and meant that the vast majority of students did not satisfy the conditions set by the Department of Education. As a result, uptake had been very low, despite clear interest in further and higher education.<sup>559</sup> Concerns were raised that the pilot scheme was so restrictive in nature that it may be very difficult to access.<sup>560</sup> Most notably, in this respect, was the requirement that the applicant must have spent five years in the Irish education system. The Irish Refugee Council recommended that the criteria be amended to reduce the five-year requirement.<sup>561</sup> The Irish Human Rights and Equality Commission (IHREC) also recommended that the pilot support scheme for free fees be altered to remove the criterion of five years as this presents for many an insurmountable barrier to accessing affordable third-level education.<sup>562</sup>

On 10 August 2020, the Department of Further and Higher Education announced significant changes to the student support scheme for asylum seekers. Prospective applicants are no longer required to have completed the Leaving Certificate examination or have attended an Irish school for three years. Applicants are required to have been accepted on an approved third level course, to have been in the protection process for a combined period of three years and to have been resident in the State for a combined period of three years as of 31 August 2020.<sup>563</sup>

In August 2021, it was announced that the Student Support Scheme would be expanded to include allow postgraduate applications for the 2021 to 2022 academic year.<sup>564</sup>

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<sup>557</sup> Irish Refugee Council, *Powerless: Experiences of Direct Provision During the Covid-19 Pandemic*, available at: <https://bit.ly/3pXOaGZ>, 47-48.

<sup>558</sup> *ibid.*

<sup>559</sup> Irish Times, 'Asylum seekers to receive student grants for first time', 28 August 2015, available at: <http://bit.ly/1P1vfpC>.

<sup>560</sup> See e.g. Subpri.me, *Access to Education and the McMahon report*, available at: <http://bit.ly/1ipZjNo>.

<sup>561</sup> RTE, 'Third level access scheme for asylum seekers extended', 7 September 2018, available at: <https://bit.ly/2CJpRpc>.

<sup>562</sup> IHREC, *Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women, Submission to the UN Committee on the Elimination of Discrimination against Women on Ireland's combined sixth and seventh periodic reports*, January 2017, available at: <http://bit.ly/2lAMB4T>.

<sup>563</sup> Department of Further and Higher Education, *Student Grant Scheme for Asylum Seekers*, 10 August 2020, available at: <https://bit.ly/3slFY5u>.

<sup>564</sup> Department of Further and Higher Education, Research and Skills, *Continuation and expansion of Student Support Scheme for asylum seekers in the international protection system announced by Minister Harris*, 27 August 2021, available at: <https://bit.ly/3qxHL8y>.



As of August 2021, there had been a total of 187 applications to the Student Support Scheme since its inception in 2015, with 51 applicants qualifying for support.<sup>565</sup>

A total of 108 applications were received under the Student Support Scheme in 2020, with 40 applicants qualifying for support. This was a fivefold increase in the number of applications, when compared to 2019. The successful applicants in 2020 were engaged in a range of studies, including nursing and healthcare, science, IT, engineering and business.<sup>566</sup>

In 2022, the Student Support Scheme was re-named 'the International Protection Student Scheme' Funding pursuant to the scheme is now administered by SUSI (Student Universal Support Ireland), as opposed to the Department of Further and Higher Education, Research, Innovation and Science. Additionally, the three-year residency requirement is no longer considered as commencing on the 31<sup>st</sup> of August 2019, but rather the day prior to the course start date.<sup>567</sup> Data in respect of the number of applications to the scheme for 2022 was not available at the time of updating.

Basic instruction on English and computer skills are offered to residents of some Direct Provision centres. Universities have some flexibility on whether to charge refugees third level non-EU fees or EU fees. Both are expensive but non-EU fees are much more expensive. This makes accessing third level education prohibitive for the majority of protection applicants.

A number of Irish Universities have taken steps to improve access for protection applicants. A total of seven out of the eight Irish universities offered full-time scholarships. 9 of the 11 institutes of technology also offer scholarships or access support.<sup>568</sup> The Irish Refugee Council's Education Fund, using donations from members of the public, makes grants to support access to higher education. In the academic year 2022-2023, the Education Fund supported 67 students to gain access to third level education with an average award of €650 per student.<sup>569</sup>

As regards access to education and vocational training for adults, for protection applicants English language programmes are available but access often depends on the location of the Direct Provision centre. There are local based initiatives such as the SOLAS Orientation and Learning for Asylum Seekers programme in Galway and Mayo, the CREW project in **Carlow** and the Refugee Access Programme in **Dublin**.<sup>570</sup>

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<sup>565</sup> *ibid.*

<sup>566</sup> *ibid.*

<sup>567</sup> Department of Further and Higher Education, Research, Innovation and Science, *International Protection Student Support Scheme 2022-2023*, 26 September 2022, available at: <https://bit.ly/3RylJNP>.

<sup>568</sup> Irish Refugee Council, *The Education System in Ireland: A guide for people seeking asylum, those with refugee status, subsidiary protection or permission to remain*, 15 July 2021, available at: <https://bit.ly/3tH2wk2>.

<sup>569</sup> Information provided by Irish Refugee Council's Education Officer, January 2023.

<sup>570</sup> For further information see European Commission, ICF study, *Labour market integration of asylum seekers and refugees*, Ireland, April 2016; See also Irish Refugee Council, *Education in Ireland: A guide for protection applicants those with refugee status, subsidiary protection or permission to remain*, 15 July 2021, available at: <https://bit.ly/3tH2wk2>.



## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?  
☒ Yes ☐ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
☒ Yes ☐ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
☒ Yes ☐ No

Access to health care is free for protection applicants living in Direct Provision and is expressly provided for in the Reception Conditions Regulations.<sup>571</sup> The Minister for Health is required to ensure that a recipient has access to emergency health care, treatment for serious illnesses and mental disorders, other health care for maintaining their health, and mental health care assessed as necessary for vulnerable persons.

In practice, a recipient of material reception conditions must apply for a medical card, which allows them to attend a local doctor or general practitioner who are located in or attend the Direct Provision accommodation centres. A person with a medical card is entitled to prescribed drugs and medicines and protection applicants living in Direct Provision are exempt from paying the prescription charges levied on medical-card holders.<sup>572</sup>

Following numerous complaints to the Department of Health and the Ombudsman, the HSE's Medical Card Unit have amended their policy so as to enable eligible international protection applicants who are not living in Direct Provision to obtain medical cards and access to free medical services, prescription medicines and hospital care. Under previous policy, international protection applicants residing outside of Direct Provision were deemed ineligible for medical cards, with many struggling to access healthcare as a result.

In 2019, the Ombudsman received 12 complaints against the HSE regarding medical cards. Only one medical sector-related complaint was recorded for 2020. This related to a resident's difficulty in accessing mental health services and getting information on a stay in hospital.<sup>573</sup> In 2021, the Ombudsman received 16 complaints regarding healthcare. The vast majority of these complaints related to the provision of medical cards.<sup>574</sup> In 2022, residents of Direct Provision made three complaints against the HSE regarding medical care.<sup>575</sup>

IPAS's website states that "Health screening is made available in our reception centres to all protection applicants on a voluntary and strictly confidential basis. Screening covers Hepatitis, TB, HIV, immunisation status and any other ailments or conditions that the medical officers feel require further investigation and/or treatment. Screening staff also check the vaccination needs of the resident and their family. Arrangements are in place in various parts of the country to offer this service to those who did not avail of it in Dublin. The outcome of any medical tests undergone by an asylum seeker will not affect their application for a declaration as a refugee in any way."<sup>576</sup>

<sup>571</sup> Regulation 18 Reception Conditions Regulations 2018.

<sup>572</sup> Citizens Information, 'Prescription Charges for Medical Card Holders', 10 October 2018, available at: <https://bit.ly/2DHShIW>.

<sup>573</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2020', March 2021, available at: <https://bit.ly/2PbgkSe>.

<sup>574</sup> Ombudsman, 'The Ombudsman & Direct Provision: Update for 2021', March 2022, available at: <https://bit.ly/3qCBwjr>.

<sup>575</sup> Office of the Ombudsman, March 2023.

<sup>576</sup> RIA, *Medical*, available at: <http://bit.ly/2matETK>.

Throughout much of 2021, newly arrived asylum seekers were subject to medical checks at Dublin airport. Applicants were screened on the basis of health questionnaires, subject to temperature checks and were required to self-report symptoms of COVID-19. Applicants were then transferred to designated facilities, usually hotels, for the purposes of self-isolation.

Following the roll-out of the vaccination programme, newly arrived applicants who were fully vaccinated were not required to undergo mandatory hotel quarantine. However, in the experience of the Irish Refugee Council this policy was applied arbitrarily, with a number of fully vaccinated applicants still required to undergo quarantine.

Owing to the increase in COVID-19 cases in the latter part of 2021, applicants were once again required to self-isolate on arrival in Ireland. For further information, please see above [Criteria and Restrictions to Access Reception Conditions](#).

The Health Service Executive (HSE) also identified priority groups for testing, among whom were staff and residents of Direct Provision centres.<sup>577</sup> Healthcare workers, or persons providing home support who live in Direct Provision, were also eligible to apply for alternative temporary accommodation during the pandemic under a scheme established by the HSE.<sup>578</sup> Additionally, two new centres were opened to facilitate off-site self-isolation of residents in Direct Provision.<sup>579</sup> One centre was used to facilitate self-isolation where a resident tested positive for COVID-19, while the other was used to facilitate a mandatory 14-day quarantine period in circumstances where a resident had left their IPAS accommodation temporarily and subsequently sought to return.<sup>580</sup>

Specialised treatment for trauma and victims of torture is available through an NGO called [SPIRASI](#) which is a humanitarian, intercultural, non-governmental organisation that works with protection applicants, refugees and other disadvantaged migrant groups, with special concern for survivors of torture. Spirasi staff have access to certain accommodation centres e.g. **Balseskin** reception centre in Dublin and can help to identify victims of torture. However, no formal arrangements or agreements exist to deal with torture survivors in a way that is different to someone who has not experienced torture.

In 2018, the constitutional provision which constituted a prohibition on abortion in Ireland was removed by way of referendum. This meant that access to abortion was made available in Ireland up to twelve weeks' gestation from January 2019. The previous ban on access to abortion was a particular difficulty for protection applicants who had to apply for travel documents in order to travel to another jurisdiction such as the United Kingdom. This led to enormous emotional distress, delay, and uncertainty for the women affected. Access to abortion is provided by General Practitioners in the first place, with hospital referrals after nine weeks gestation. If the woman's pregnancy has reached the twelve-week point, abortion will only be available in exceptional circumstances, including where there is a risk to the life or a risk of serious harm to the health of the woman, or a fatal foetal abnormality. A protection applicant who has reached twelve weeks of pregnancy and does not meet one of the exceptional circumstances noted above, may still have to travel outside of Ireland for a termination.

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<sup>577</sup> Irish Examiner, 'HSE: Direct provision centres receiving priority testing', 12 May 2020, available at: <https://bit.ly/2BrIRwE>.

<sup>578</sup> Health Service Executive, 'Temporary accommodation for healthcare workers during COVID-19', available at: <https://bit.ly/2Y36MsX>.

<sup>579</sup> Minister for Children, Disability, Equality, Integration and Youth Roderic O'Gorman, Response to Parliamentary question No 596, 17 November 2020, available at: <https://bit.ly/2NbAf2n>.

<sup>580</sup> Minister for Children, Disability, Equality, Integration and Youth Roderic O'Gorman, Response to Parliamentary question No 182, 11 February 2021, available at: <https://bit.ly/3rQqF3l>.

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
☒ Yes ☐ No

Regulation 2(5) of the Reception Conditions Regulations defines a vulnerable person as “a person who is a minor, an unaccompanied minor, a person with a disability, an elderly person, a pregnant woman, a single parent of a minor, a victim of human trafficking, a person with a serious illness, a person with a mental disorder, and a person who has been subjected to torture, rape or other form of serious psychological, physical or sexual violence.”

Under the Reception Conditions Regulations, a vulnerability assessment must take place within 30 working days of a person communicating their intention to seek asylum.<sup>581</sup> However, the form of the assessment is not prescribed in the Regulations and a vulnerability assessment had still not been introduced as of the end of 2020, despite a commitment made by the Government in October 2020 that a formal system of vulnerability assessment would be implemented by year-end.

At the end of January 2021, a pilot programme for the conducting of vulnerability assessments was established at Baleskin reception centre in Dublin. As of January 2023, the pilot programme continued., having been extended to all newly arrived, as well as existing international protection applicants. As of October 2022, approximately 2,114 assessments had been undertaken since the establishment of the pilot with 1,024 individuals identified as vulnerable.<sup>582</sup>

In September 2022, IPAS published a Vulnerability Assessment Pilot Programme Policy, setting out the nature and purpose of the vulnerability assessment.<sup>583</sup> Pursuant to the newly established Policy, and, in response to significant pressure on IPAS resources, the vulnerability assessment procedure was also altered substantially. Vulnerability Assessment questionnaires were provided to all individuals making an application for international protection. Questionnaires were made available to applicants in a number of languages, both at their accommodation centres and online via IPAS’ website. A referral form for service providers and third parties working with international protection applicants was also made available and could be completed by the service provider with the applicant’s consent. Both documents contain a series of questions relating to the vulnerability indicators contained within the Reception Conditions Directive.

While the Irish Refugee Council welcomed the introduction of the programme, a number of concerns were raised in respect of both the process and procedure by which vulnerability assessments are currently being conducted. Through its casework, the Irish Refugee Council noted inconsistencies in the manner in which assessments are carried out, as well as a lack of follow-up supports in line with applicant’s identified needs.

For more information on the vulnerability assessment process, please see the section [Guarantees for Vulnerable Applicants](#).

While an optional health screening is provided at **Baleskin**, this is only a preliminary health screening and does not constitute a vulnerability assessment. The Regulations also provide for a further assessment to take place at any stage during the asylum process where the Minister considers it necessary to do so in order to ascertain whether the recipient has special reception needs.<sup>584</sup> A formal process for ongoing assessment of vulnerabilities and special reception needs has not been introduced by year-end, although practitioners in the area have begun to make representations in reliance on this aspect of the Regulations.

<sup>581</sup> Regulation 8(1)(a) Reception Conditions Regulations.

<sup>582</sup> Information provided by IPAS, December 2022.

<sup>584</sup> Regulation 8(1)(b) Reception Conditions Regulations.

The onset of COVID-19 highlighted the lack of information held by the Government in relation to applicant's vulnerabilities and health issues. When the need to move people out of Direct Provision became apparent at the height of the pandemic, the Department of Justice and Equality lacked adequate data in which it could rely upon to identify residents with particular health conditions or vulnerabilities. In the experience of the Irish Refugee Council, in some cases, centre managers were asked to identify residents with specific health vulnerabilities and many residents reported discomfort at the prospect of having to share their sensitive medical history with a third party.

## 1. Reception of unaccompanied children

Regulation 9 of the Reception Conditions Regulations provides that in all matters pertaining to the reception of children, "the best interests of the child shall be a primary consideration." For the purposes of assessing a minor's best interests with respect to reception conditions, the Minister shall have regard to:

- Family unity;
- The minor's well-being and social development, taking into account the minor's background;
- Safety and security considerations, in particular where there is a possibility of the minor being a victim of human trafficking;
- The views of the minor in accordance with his or her age and maturity.

With respect to unaccompanied children, specifically, Regulation 10 states that the provisions of the Regulations shall apply to unaccompanied children who have made an application for international protection and designates Tusla as the minor's representative in all matters pertaining to his or her reception entitlements. Unaccompanied minors are not accommodated in Direct Provision and are either reunited with family or taken into care.<sup>585</sup>

## 2. Reception of families with children

In addition to regard for the best interests of the child under Regulation 9, Regulation 10 of the Reception Conditions Regulations sets out the standards pertaining to the designation of accommodation, which includes provisions relevant to children and families with children. The Minister shall take account of *inter alia* family unity (where family members of the recipient are recipients and are present in the territory of the State) and gender and age specific concerns.

In particular, when designating accommodation to children, the Minister shall have regard to (a) the need to lodge a child with his or her parents, unmarried minor siblings or an adult responsible for him or her (provided it is in their best interests), and (b) the need for the accommodation centre to be suitable to meet all of the child's needs.

There are five centres which accommodate families with children; two which accommodate families and single females. Families are otherwise accommodated with the general population. Children are accommodated together with their families in Direct Provision accommodation centres. In his 2019 report to Parliament, the Special Rapporteur on Child Protection, Professor Geoffrey Shannon, criticised the Direct Provision, stating "As noted in numerous other Rapporteur reports, the system of Direct Provision for asylum seekers in Ireland should be abolished."<sup>586</sup>

In April 2021, the Ombudsman for Children (OCO) published the report of its investigation *Safety and Welfare of Children in Direct Provision*. The investigation was launched following a visit to a Direct Provision Centre by the Ombudsman's Office during which a parent raised concerns regarding

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<sup>585</sup> Samantha Arnold and Muireann Ní Raghallaigh, 'Unaccompanied minors in Ireland: Current Law, Policy and Practice' (2017) 15:1, Social Work and Society, available at: <https://bit.ly/2Ex2fWX>.

<sup>586</sup> Professor Geoffrey Shannon, *Eleventh Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, September 2019, available at: <https://bit.ly/2AyNV0H>, 81.

overcrowding, nutrition, lack of safe play areas for children and poor communication from centre management about facilities at the designated centre and how to go about making a complaint. While the investigation initially focused on one centre, the OCO subsequently decided to expand its investigation to include all accommodation centres where children were residing. This was largely owing to concerns that IPAS did not have a sufficiently robust oversight mechanism in place to ensure quality of services being provided to children.

Residents of direct provision centres raised concerns about overcrowding and safety issues. Other concerns raised during OCO's investigation included inconsistent heating supply to bedrooms, the nutritional content of food, the poor conditions of facilities - including the lack of safe play areas for children – and lack of information on how to submit complaints. The report also underlined a broader 'culture of fear' in direct provision centres, with residents being reluctant to bring complaints to the authorities' attention due to the fear that this may impact on their status or treatment while seeking asylum in Ireland. Interpretation services were also not available in some centres, thus preventing residents from making complaints.

The Report called for IPAS to immediately end the use of commercial emergency hotels and put in place a well-resourced quality assurance mechanism to monitor complaints, child protection and welfare concerns and any other incidents in order to be assured about the quality of services provided to families in all centres. The OCO further called for extensive cultural sensitivity training, as well as training in gender, equality, human and children's rights training for staff working in Direct Provision centres. Finally, it also called on Tusla, the Child and Family agency, to recognise the vulnerability of children within the international protection process and to develop an intercultural strategy.<sup>587</sup>

In its White Paper on Direct Provision, the Government noted that, as part of the revised reception system for international protection applicants, there will be an emphasis on child welfare and child protection. Children and Young People's Services Committees (CYPSCs), which comprise all key statutory and voluntary agencies working with children, will ensure that, among their sub-groups, there is a specific focus on the needs of children, young people and their families in International Protection Accommodation settings. The CYPSCs will receive Tusla's input in the key areas such as Prevention, Partnership and Family Support and Educational Support Services. Parenting supports and child development services will also be made available to applicant families to support child development during the application process.<sup>588</sup>

### **3. Reception of victims of torture, violence or trafficking**

Victims of torture have access to NGO support services, such as SPIRASI, who provide ongoing therapeutic interventions and psychosocial supports for victims of torture. However, this is curtailed by the practice of accommodating such applicants in isolated accommodation centres and limited funding for such organisations.

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<sup>587</sup> Ombudsman for Children's Office, Safety & Welfare of Children in Direct Provision, 27 April 2021, available at: <https://bit.ly/3FhTHiZ>.

<sup>588</sup> Department of Children, Equality, Disability, Integration and Youth, White Paper on Ending Direct Provision, 26 February 2021, available at: <https://bit.ly/35Vwebg>.

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

The Reception Conditions Regulations provide that the Minister must, within 15 working days from the date on which a person indicates their intention to seek asylum, in writing (in a language they understand) inform them of the material reception conditions to which they are entitled under the Regulations and the contact details of relevant organisations who may offer support.<sup>589</sup>

In the experience of the Irish Refugee Council, newly arriving protection applicants are not being provided with information regarding material reception conditions or the contact details of organisations which can offer support for accessing those entitlements.

With the current crisis in accommodation for protection applicants, new short-term arrangements have been established as the usual initial reception centre at **Balseskin** has been full (see [Types of Accommodation](#)). One of the many problems which this has created is the absence of information and a clear line of communication regarding the international protection process and entitlements around reception conditions. The Irish Refugee Council and other organisations like Movement of Asylum Seekers Ireland and Jesuit Refugee Service Ireland conducted outreach to emergency centres in 2019 in an effort to provide applicants with key information. In the experience of the Irish Refugee Council, many applicants are unaware of the process for seeking international protection, their entitlements, their obligations, their rights etc. which is creating additional stresses for people in this situation.

Information is provided by the IPAS on rights and obligations in reception and accommodation through the House Rules and Procedures, which are available in each centre (but which are not “House Rules” as defined in the Regulations). These rules are available in 10 different languages, aside from English, on the RIA’s website (now IPAS which is pending a website update).<sup>590</sup> The House Rules and Procedures document was updated in January 2019, in accordance with Regulation 25 of the European Communities (Reception Conditions) Regulations 2018.

According to the IPAS annual report 2017, RIA has established information clinics on a bi-annual basis (at least) to provide information on a one-to-one basis and to review the operation of the Direct Provision centre.<sup>591</sup>

It is regrettable that no annual report for 2019, 2020, 2021 or 2022 has been published. However, as of January 2023, IPAS has begun publishing weekly reports containing statistics regarding accommodation occupancy, including occupancy by accommodation type, occupancy breakdown by county and nationality.<sup>592</sup>

At the outset of the COVID-19 pandemic, public health information was distributed to residents through the circulation of notices in multiple languages. However, as previously noted, when steps were taken to move people out of Direct Provision at the height of the pandemic so as to permit residents additional space to social distance, this was largely achieved without consulting residents, while notice provided was extremely short and residents were not informed as to whether the move would be temporary or permanent in nature.

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<sup>589</sup> Regulation 3 Reception Conditions Regulations 2018.

<sup>590</sup> RIA, *Reception and Accommodation Centres House Rules and Procedures revised January 2019*, available at: <https://bit.ly/2AgDIFT>.

<sup>591</sup> Department of Justice and Equality, *RIA Annual Report 2016*, available at: <http://bit.ly/2E8mkRy>, 42.

<sup>592</sup> International Protection Accommodation Service, *DCEDIY IPAS – Weekly Stats*, 29 January 2023, available at: <https://bit.ly/3JEim7o>.



## 2. Access to reception centres by third parties

### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
- ☐ Yes ☒ With limitations ☐ No

With the introduction of the Reception Conditions Regulations, there is now an express right of access to accommodation centres, subject to limitations. The Regulations provide access to a list of people and organisations including family members, legal advisers, UNHCR and other relevant NGOs. This access is specifically granted “in order to assist the recipient”.<sup>593</sup> This list does not include, for example, friends of applicants or journalists.

The right of access for the people and organisations listed is stated to be limited only to the extent necessary to ensure the security of the accommodation centre and its residents.<sup>594</sup>

The right of access to accommodation centres for guests was the subject of litigation in the case of *C.A. and T.A.*<sup>595</sup> In that case, the Court held that the complete prohibition on guests in bedrooms was unlawful finding that resident’s rooms could be protected as their ‘home’ under Article 40(5) of the Constitution.<sup>596</sup>

It remains the case in practice that access is granted on a discretionary basis with permission being subject to approval from IPAS or the centre management. Residents may invite guests into the centres, but they are confined to the communal areas. According to the House Rules and Procedures for Reception and Accommodation Centres, visiting is generally allowed between 10am and 10pm (8pm for children unless they are with a parent / guardian). The centre manager may restrict the number of visitors at any one time if s/he believes there might be a health and safety risk. The centre manager may also refuse entry or ask visitors to leave if s/he has reason to believe they may cause a threat to residents or centre property. In this case, the centre manager will notify IPAS the reasons for such a refusal.<sup>597</sup>

In general, access depends on the relationship between the person seeking access and IPAS or the management of the hostel in question. The Irish Refugee Council for example has been refused access to some centres but given access to others. In other anecdotal examples, some election candidates for local elections were also refused entry to accommodation centres as well as a parish priest in another incident. In November 2019, a candidate in a by-election for the Irish parliament visited a Direct Provision centre to directly meet with protection applicants after claiming children as young as three could have been influenced or manipulated by ISIS before arriving in Ireland. The comments, and the subsequent visit, were widely criticised.<sup>598</sup> The Working Group report recommended that IPAS ensure in Direct Provision centres that rooms without CCTV are available for receiving visitors, social workers, legal representatives and other advocates.<sup>599</sup> According to Nasc’s review of the Government’s progress reports on implementation of the Working Group recommendations, implementation of this recommendation could not be verified. No detailed information in relation to this information had been provided in any of the Government’s three progress reports and IPAS failed to respond to Nasc’s request for information.<sup>600</sup>

<sup>593</sup> Regulation 7(6)(b) Reception Conditions Regulations 2018.

<sup>594</sup> Regulation 7(7) Reception Conditions Regulations 2018.

<sup>595</sup> *C.A. & Anor v. Minister for Justice and Equality and Ors* [2014] IEHC 532, 14 November 2014, available at: <https://bit.ly/3u69tsM>.

<sup>596</sup> See e.g. PILA, Guest article by Colin Lenihan – ‘High Court finds some Direct Provision house rules unlawful and in breach of ECHR’, November 2014, available at: <https://bit.ly/3dINrcl>.

<sup>597</sup> House Rules and Procedures for Reception and Accommodation Centres, January 2019.

<sup>598</sup> Irish Examiner, ‘Verona Murphy won’t be axed from FG ticket as party disassociate themselves from comments’, 20 November 2019, available at: <https://bit.ly/2RIG6KR>.

<sup>599</sup> Working Group to report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report*, June 2015, para.4.122, 176.

<sup>600</sup> Nasc, *Working Paper on the Implementation of the Working Group Recommendations*, December 2017. 48.

At the outset of the COVID-19 pandemic, all visits to Direct Provision centres and temporary accommodation centres were suspended, except in circumstances whereby the visit was deemed to be for an essential purpose.

## G. Differential treatment of specific nationalities in reception

In the Direct Provision system, no differential treatment of different nationalities has been noted to date. There have been comparisons drawn between Direct Provision and EROC, the latter of which tends to have a wider array of orientation and integration supports to assist relocated and resettled refugees – who are predominantly **Syrian**. Most recently, in December 2020, plans announced for the transfer of 86 Syrian refugees to the Ballaghaderreen Emergency Reception and Orientation centre (EROC) in Co. Roscommon under the Irish Refugee Protection Programme.<sup>601</sup>

Following the onset of the humanitarian crisis in Afghanistan, approximately 510 Afghan nationals obtained visas and visa waivers to travel to Ireland pursuant to the Irish Refugee Protection Programme (IRPP). According to most recently available statistics, 394 individuals have travelled to Ireland to-date with this figure expected to increase.<sup>602</sup> The first group of evacuated refugees arriving in August 2021.<sup>603</sup> In the experience of the Irish Refugee Council, as of January 2023, newly arrived Afghan refugees are being accommodated at one of three Emergency and Orientation Reception Centres in Mosney, Co. Meath, Clonea, Co. Waterford and Balaghaderreen, Co. Roscommon.<sup>604</sup>

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<sup>601</sup> RTÉ, Call for liaison with HSE ahead of refugees' arrival, 2 December 2020, available at: <https://bit.ly/37fxuE7>.

<sup>602</sup> RTÉ, 394 Afghan refugees have arrived in Ireland since Taliban took control, 8 December 2021, available at: <https://bit.ly/3JU9CYj>.

<sup>603</sup> The Journal, First group of evacuated Afghan refugees to arrive in Ireland this evening, 23 August 2021, available at: <https://bit.ly/3F3dSkE>.

<sup>604</sup> Information provided by Irish Refugee Council Resettlement Caseworker, January 2023.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

|                                                              |               |
|--------------------------------------------------------------|---------------|
| 1. Total number of asylum seekers detained in 2022:          | Not available |
| 2. Number of asylum seekers in detention at the end of 2022: | Not available |
| 3. Number of detention centres:                              | Not available |
| 4. Total capacity of detention centres:                      | Not available |

It should be noted that, in general, Ireland places very few protection applicants or migrants in immigration detention and data for the numbers of people detained who subsequently apply for international protection are not collated.

Protection applicants and immigrants who may be detained generally fall in to six categories:

- ❖ Non-nationals who arrive in Ireland and are refused “leave to land” (see [Access to the Territory](#));
- ❖ Protection applicants who are deemed to engage one of the categories of Section 20(1) IPA (see [Grounds for Detention](#));
- ❖ Protection applicants subject to the Dublin Regulation;
- ❖ Non-nationals who cannot establish their identity;
- ❖ Non-nationals with outstanding deportation orders;
- ❖ Non-nationals awaiting trial for a criminal immigration-related offence(s).

According to the latest data from the Irish Prison Service, in 2018 there were 414 committals in respect of immigration issues involving 406 detainees compared to 418 committals involving 396 detainees in 2017.<sup>605</sup> There is no available data for 2020. However, according to the International Protection Office, 37 applications for international protection were made from persons in detention in 2020. The reason for the applicant’s detention is not known.<sup>606</sup> There was no available data once again for 2021, however, according to the IPO, 20 applications for international protection were made from persons in detention in 2021. The reason for applicants’ detention was not known.<sup>607</sup> According to data provided by the IPO for 2022, 17 applicants for international protection were made from persons in detention, however, once again, the reason for the applicant’s detention was not known.<sup>608</sup>

Furthermore, there are no specially designated detention centres for protection applicants and irregular migrants. Protection applicants are detained within the general prison population, at a Garda Síochána (police) station or another designated place of detention. Places of detention are set out in S.I. 666/2016 – International Protection Act 2015 (Places of Detention) Regulations 2016, which was amended by the Reception Conditions Regulations 2018 to designate places of detention as “Every Garda Síochána Station [and] Cloverhill Prison.”

Following the Council of Europe Committee for the Prevention of Torture’s 7<sup>th</sup> periodic visit report on Ireland, it was determined that steps ought to be taken to address the unsuitable practice of detaining in prison non-national for immigration-related offences.<sup>609</sup> In December 2021, it was announced that work had been completed on a new Block F in Cloverhill Remand Prison, which is intended to accommodate persons detained for immigration purposes and ensure that they are housed separately from prisoners on remand. Throughout the pandemic, Block F was repurposed as an isolation unit for prisoners who contracted COVID-19, to manage and control infection risk. It is intended that when the pandemic ends,

<sup>605</sup> Irish Prison Service, *Annual Report 2018*, available at: <https://bit.ly/36jyeVu>, 25.

<sup>606</sup> Information provided by the International Protection Office, April 2021.

<sup>607</sup> Information provided by the International Protection Office, April 2022.

<sup>608</sup> Information provided by the International Protection Office, March 2023.

<sup>609</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No 485, 16 December 2021, available at: <https://bit.ly/3slJQQM>.

Block F will revert to its original intended use. However, at time of writing, persons detained for immigration purposes continued to be housed with the general prison population.<sup>610</sup> At the time of updating, it remained unclear whether persons detained for immigration purposes were continuing to be accommodated with the general prison population.

Additionally, a purpose-built immigration facility was opened at Dublin Airport for use in circumstances where persons are refused leave to land. The facility houses the newly opened Dublin Airport Garda Station and the Garda National Immigration Bureau. The Garda station contains four single person cells and two additional detention rooms. As of May 2022, the facility was fully operational.<sup>611</sup>

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory: ☐ Yes ☒ No
  - ❖ at the border: ☐ Yes ☒ No
2. Are asylum seekers detained in practice during the Dublin procedure?
  - ☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a regular procedure in practice?
  - ☐ Frequently ☐ Rarely ☒ Never

Detention is not used on a regular basis in Ireland, except in the following circumstances:

#### 1.1. Detention under the International Protection Act 2015

Section 20 IPA provides that protection applicants may be detained by an immigration officer or a member of Garda Síochána and be arrested without warrant if it is suspected that they:

1. Pose a threat to public security or public order in the State;
2. Have committed a serious non-political crime outside the State;
3. Have not made reasonable efforts to establish their identity (including non-compliance with the requirement to provide fingerprints);
4. Intend to leave the State and without lawful authority enter another State;
5. Have acted or intends to act in a manner that would undermine (i) the system for granting persons international protection in the State, or (ii) any arrangement relating to the Common Travel Area;
6. Without reasonable excuse, have destroyed identity or travel documents or is or has been in possession of forged identity documents.

These grounds have remained intact despite the adoption of the Reception Conditions Regulations 2018. Some of the provisions of Section 20 IPA – namely detention based on the commission of a serious non-political crime, the intention to leave the State and unlawfully enter another, acting in a manner undermining the asylum system, or destroying identity or travel documents – are not in conformity with the exhaustive grounds set out in Article 8(3) of the recast Reception Conditions Directive.

Where an asylum seeker is detained, they must be informed, where possible in a language that they understand, that they:

<sup>610</sup> *ibid.*

<sup>611</sup> Department of Justice, 'Minister McEntee Attends Official Opening of Dublin Airport Garda Station', 6 May 2022, available at: <https://bit.ly/3HzrIrV>.

- ❖ Are being detained;
- ❖ Shall be brought before a judge of the District Court as soon as practicable to determine whether or not they should be committed to a place of detention or released pending consideration of the asylum application in accordance with Section 20(2) and (3) IPA;
- ❖ Are entitled to consult a solicitor;
- ❖ Are entitled to seek legal assistance and legal representation;
- ❖ Are entitled to be informed of his or her entitlement to said legal assistance and representation, and his or her right to make a complaint under Article 40.4.2 of the Constitution and the procedures for doing so;
- ❖ Are entitled to be given a copy of the warrant under which he or she is being detained;
- ❖ Are entitled to have notification of his or her detention, the place of detention and every change of such place sent to the High Commissioner;
- ❖ Are entitled to leave the State at any time during the period of their detention and if they indicate a desire to do so, they shall be brought before a court as soon as practicable. The court may make such orders as may be necessary for their removal;
- ❖ Are entitled to the assistance of an interpreter for the purposes of consulting with a solicitor.

The detaining officer must inform the IPO or IPAT, as relevant, about the detention. The appropriate body then ensures that the application of the detained person is dealt with as soon as possible and, if necessary, before any other application for persons who are not in detention.

It should be noted that the planned establishment of a dedicated detention facility at Dublin Airport could lead to increased detention in practice. While the facility is now operational<sup>612</sup>, owing to a lack of available statistics regarding immigration detention, it is not clear whether the establishment of the facility has led to an increase in the use of such detention.

## 1.2. Detention for the purpose of removal

Section 5 Immigration Act 1999 provides that in the case of an unsuccessful applicant for whom a deportation order is in force, a person may be detained by an immigration officer or a member of the Garda Síochána, if it is suspected that he or she:

- ❖ Has failed to comply with any provision of the deportation order;
- ❖ Intends to leave the State and enter another State without lawful authority;
- ❖ Has destroyed identity documents or is in possession of forged identity documents; or
- ❖ Intends to avoid removal from the State.

Section 5(6) of the 1999 Act prohibits detention for any single period of more than eight weeks and multiple detentions for periods of less than eight weeks where the total period exceeds eight weeks. Section 5 Immigration Act 1999 has been amended under Section 78 IPA so that such persons in the category above may be arrested without warrant. Another new ground under Section 5 is that a person may now be arrested without warrant if they have failed to leave the State within the time specified in a deportation order. Section 78(3) also enables persons to be detained at airport and ports of entry for periods not exceeding 12 hours.

A non-national detained under Section 5 of the Immigration Act 1999 can challenge the validity of his or her deportation in court. If a challenge is filed, he or she can also challenge his/her continued detention. Challenge to the legality of his/her detention can be made in *habeas corpus* proceedings before the High Court pursuant to Article 40(4) of the Constitution.

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<sup>612</sup> Department of Justice, 'Minister McEntee Attends Official Opening of Dublin Airport Garda Station', 6 May 2022, available at: <https://bit.ly/3HzrirV>.

It should be noted that under the amendments to Section 5 under Section 78 IPA an immigration officer or member of Garda Síochána may enter (if necessary, by use of reasonable force) and search any premises (including a dwelling) where a person is or where the immigration officer or the member, with reasonable cause, suspects that person to be, and where the premises is a dwelling, the immigration officer or the member shall not, unless acting with the consent of an occupier of the dwelling or other person who appears to the immigration officer or the member to be in charge of the dwelling, enter that dwelling unless (a) the person ordinarily resides at that dwelling or (b) he or she believes on reasonable grounds that the person is within the dwelling.<sup>613</sup>

### 1.3. Detention under the Dublin Regulation

The European Union (Dublin System) Regulations 2018 provide the possibility to detain an asylum seeker for the purpose of carrying out a Dublin transfer where an immigration officer or member of Garda Síochána determines that there is a “significant risk of absconding”.<sup>614</sup> The criteria for determining such a risk have not been spelt out in legislation.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

- |                                                              |                                                                                                                                                                                                                       |
|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Which alternatives to detention are laid down in the law? | <input checked="" type="checkbox"/> Reporting duties<br><input type="checkbox"/> Surrendering documents<br><input type="checkbox"/> Financial guarantee<br><input checked="" type="checkbox"/> Residence restrictions |
| 2. Are alternatives to detention used in practice?           | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                                                                                                                                   |

There are no formal alternatives to detention. Section 20(3)(b) IPA could be considered a possible alternative in that it allows an immigration officer or other authorised person to require an applicant for asylum to reside or remain in particular districts or places in the country, or, to report at specified times to an immigration officer or other designated person. However, as of February 2022, there are no known cases of this being applied in practice.

However, the District Court judge when reviewing the applicability of detention may commit the person concerned to a place of detention for a period not exceeding 21 days from the time of his or her detention or release the person and make such a release subject to conditions, including conditions requiring him or her to (i) reside or remain in a specified district or place in the State; (ii) report at specified intervals to a specified Garda Síochána station or surrender any passport or other travel document that he or she holds. The District Court judge may vary, revoke or add a condition to the release on the application of the person, an immigration officer or a member of the Garda Síochána.<sup>615</sup>

A member of the Garda Síochána may arrest without warrant and detain, in a place of detention, a person who in their opinion has failed to comply with the Court’s reporting conditions under Section 20(9) IPA. In such a case the applicant shall be brought before the District Court again and if the judge feels grounds for detention apply under subsection (9) or (3) above then they may commit the applicant for further periods (each period being a period not exceeding 21 days) pending the determination of the person’s application for international protection under Section 20(12) IPA. In effect, this means that an applicant can be detained for consecutive 21-day periods of detention, which means the detention may be continuous and indefinite. There is no limit to the number of 21-day periods of detention, which can run consecutively.

<sup>613</sup> Section 78(11) IPA.

<sup>614</sup> Regulation 10(4) European Union (Dublin System) Regulations 2018.

<sup>615</sup> Section 20(5) IPA.



### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?  
☐ Frequently ☐ Rarely ☒ Never
- ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☐ No
2. Are asylum seeking children in families detained in practice?  
☐ Frequently ☐ Rarely ☒ Never

The IPA specifically prohibits detention of unaccompanied children. There is no available information on whether other vulnerable applicants have been detained, however detention is rarely used in practice in Ireland. If a dependent child is with his or her parent and that parent is detained under Section 20 IPA, the immigration officer or member of the Garda Síochána concerned shall, without delay, notify Tusla of the detention and of the circumstances thereof.

Regulation 19(9) of the Reception Conditions Regulations sets out standards for the detention of vulnerable persons: "Where a detained applicant is a vulnerable person, the Minister shall ensure, taking into account the person's particular situation, including his or her health, that:

- (a) the person is monitored regularly, and
- (b) he or she is provided with adequate support."

There is no known case of this provision having been applied as of December 2022.

### 4. Duration of detention

#### Indicators: Duration of Detention

1. What is the maximum detention period set in the law:
  - ❖ Dublin detention 7 days
  - ❖ Other grounds None
2. In practice, how long in average are asylum seekers detained? Not available

There is no maximum duration for detention set out in the IPA and the Reception Conditions Regulations 2018 fail to include the provision that an applicant "shall be detained for as short a period as possible" in line with Article 9 of the recast Reception Conditions Directive. However, detention under the Dublin Regulation shall not exceed seven days.<sup>616</sup>

Data is not available on how long protection applicants are detained but it is generally considered to be a short period of time pre-removal. The Irish Prison Service data does not break down between detention on other immigration grounds and detention as an asylum seeker.

As noted in [Alternatives to Detention](#), Section 20 IPA shows that District Court judges can apply detention for consecutive 21-day time periods with no upper limit so detention could be indefinite under this provision.

<sup>616</sup> Regulation 10(4) European Union (Dublin System) Regulations 2018.

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☒ Yes ☐ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☒ Yes ☐ No

Places of detention are set out in S.I. 666/2016 – International Protection Act 2015 (Places of Detention) Regulations 2016, which was amended by the Reception Conditions Regulations 2018 to designate places of detention as “Every Garda Síochána Station [and] Cloverhill Prison.”

Prior to the Regulations, women were generally detained at the **Dóchas Centre** in Dublin, which has a capacity of 105 places. Men were generally detained at **Cloverhill Prison** in west Dublin that has a capacity of 431. Following the introduction of the Regulations, the Dóchas Centre was not listed as a place of detention and it is therefore unclear where female detainees are to be held in practice. However, according to reports from various observers, the Dóchas Centre remains the primary detention facility for holding female detainees.<sup>617</sup>

Section 78(4) IPA states that a person detained under that section (Section 78(1) and (2) i.e. with deportation order in force) may be placed on a ship, railway train, road vehicle or aircraft about to leave the State by an immigration officer or a member of the Garda Síochána and shall be deemed to be in lawful custody whilst so detained and until the ship, railway train, road vehicle or aircraft leaves the State.

This practice of detaining asylum seekers in prisons has been criticised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and on two occasions by the UN Committee against Torture which found that a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence.<sup>618</sup> In response, the Irish government stated that they planned to establish a specific immigration detention centre at **Dublin Airport** in 2016. In response to an Irish Times report on the detention of a Brazilian woman at Dochas Women’s Prison in July 2017, a Department of Justice Spokesperson stated that work on the dedicated facility was expected to begin on site at Dublin Airport in September 2017 with an estimated timeframe of ten months before becoming operational.<sup>619</sup> As previously mentioned, the Minister for Justice Helen McEntee announced in a statement in December 2021 that the purpose-built immigration facility has now opened at Dublin Airport for use in circumstances where persons are refused leave to land.<sup>620</sup> The facility houses the newly opened Dublin Airport Garda Station and the Garda National Immigration Bureau. The Garda station contains four single person cells and two additional detention rooms. As of May 2022, the facility was fully operational.<sup>621</sup>

<sup>617</sup> Global Detention Project, *Ireland Immigration Detention Profile*, August 2019, available at: <https://bit.ly/3nQ55tP>.

<sup>618</sup> CPT, *Report to the Government of Ireland on the visit to Ireland from 16 to 26 September 2014*, Council of Europe, 17 November 2015; United Nations Committee against Torture, *Concluding observations on the second periodic report of Ireland*, August 2017, para 12(d).

<sup>619</sup> Irish Times, *Work on Dublin Airport immigration detention centre to begin*, 28 July 2017, available at: <http://bit.ly/2r8zKKE>.

<sup>620</sup> Minister for Justice Helen McEntee, *Response to Parliamentary Question No 485*, 16 December 2021, available at: <https://bit.ly/3slJQQM>.

<sup>621</sup> Department of Justice, *‘Minister McEntee Attends Official Opening of Dublin Airport Garda Station’*, 6 May 2022, available at: <https://bit.ly/3HzrIrV>.

In December 2021, it was announced that work had been completed on a new Block F in Cloverhill Remand Prison intended to accommodate persons detained for immigration purposes; the block was previously used as an isolation unit for prisoners who contracted COVID-19.<sup>622</sup> At the time of updating, it remained unclear whether persons detained for immigration purposes were continuing to be accommodated with the general prison population.

Beyond those facilities, the Irish Human Rights and Equality Commission in a recent commissioned report on Ireland and the Optional Protocol to the Convention against Torture indicated that Direct Provision could be considered *de facto* detention.<sup>623</sup> This is due to the fact that, while people are free to leave Direct Provision centres at any time, this may be difficult or impossible in practice due to people's limited financial allowance and often isolated location.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |                                                         |                                         |                                        |
|---------------------------------------------------------|-----------------------------------------|----------------------------------------|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ If yes, is it limited to emergency health care?       | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |

As mentioned in [Place of Detention](#), the Reception Conditions Regulations amend the places an asylum seeker can be detained to include any police station and **Cloverhill Prison**. Whether this means that female detainees will no longer be detained in a female-only prison is unknown.

Regulation 19 of the Reception Conditions Regulations sets out detention conditions in that detained applicants shall: (a) be kept separately from any prisoner detained in the place of detention; (b) be kept separately from other third country nationals who are not applicants and who are detained in the place of detention; and (c) have access to open air spaces.

With respect to vulnerable applicants who are detained, Regulation 19(9), provides that the Minister shall ensure that the person is monitored regularly and that he or she is provided with adequate support, taking into account the person's individual situation, including their health.

Under Regulation 19(6), all applicants are entitled to information on (a) the rules applicable to the place of detention and (b) that person's rights and obligations while detained, in a language they can understand, which should include their entitlement to legal representation.

In late November 2020, the European Committee for the Prevention of Torture released its 7<sup>th</sup> periodic visit report on Ireland. In the report, the Committee reiterated its long-standing call for Irish authorities to suspend the use of prisons for immigration detention, noting that "a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence."<sup>624</sup> The Committee reported that it had met with several immigration detainees who detailed the harassment and abuse they had received from other prisoners. It noted, for example, a case whereby a "middle-aged diminutive foreign national was placed in a cell with two young remand prisoners who allegedly attempted to rape him as well as physically aggressed and verbally intimidated him."<sup>625</sup>

Particular issues of concern also emerged regarding the spread of COVID-19 in prisons that are used to hold immigration detainees. In this regard, a number of measures were implemented in prisons in an

<sup>622</sup> *ibid.*

<sup>623</sup> Irish Human Rights and Equality Commission, *Ireland and the Optional Protocol to the Convention against Torture*, September 2017, Available at: <http://bit.ly/2fEh5h6>, 32.

<sup>624</sup> European Committee for the Prevention of Torture, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 23 September to 4 October 2019, 24 November 2020*, available at: <https://bit.ly/3p2o2La>, 17.

<sup>625</sup> *ibid.*, 17.

attempt to combat the spread of COVID-19. At the onset of the pandemic, the Minister for Justice granted temporary release to a number of low-risk prisoners in order to reduce occupancy and enable greater social distancing throughout the prison system. Information leaflets and newsletters are regularly handed out to prisoners and staff in order to raise awareness of the particular risks posed by COVID-19 in a custodial environment and to provide updates on the measures being taken by the service to keep prisoners and staff safe.<sup>626</sup> The Irish Prison Service has also implemented COVID-19 screening measures at all prisons and any prisoner who experiences symptoms is immediately assessed by prison healthcare staff, isolated and tested where necessary. The Irish Prison Service has opened a specific unit at Cloverhill Prison to allow for the isolation of confirmed positive cases among the prison population. This unit is used to accommodate symptomatic prisoners until such a time as they are cleared from isolation through the COVID-19 testing process.<sup>627</sup>

As of January 2022, the total number of prisoners tested positive for COVID-19 since March 2020 was 413.<sup>628</sup> As of February 2022, statistics regarding outbreaks of Covid-19 in Irish prisons were no longer made publicly available.

### 3. Access to detention facilities

#### Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- |                   |                                         |                                  |                             |
|-------------------|-----------------------------------------|----------------------------------|-----------------------------|
| ❖ Lawyers:        | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs:           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR:          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

Regulation 19(4) of the Reception Conditions Regulations states that a detained applicant “shall be entitled to communicate with and receive visits from, in conditions that respect privacy – (a) representatives of the UNHCR, (b) [...] family members, legal representatives and representative of relevant, non-governmental organisations.”

Limitation on the above is permitted in circumstances where such restriction is deemed “necessary to ensure the good governance of, or safe or secure custody in, the place of detention.”

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

- |                                                                 |                                         |                             |
|-----------------------------------------------------------------|-----------------------------------------|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed?    | 21 days renewable                       |                             |

Where an asylum seeker is detained, they must be informed, where possible in a language that they understand, that they shall be brought before a District Court judge as soon as practicable to determine whether or not they should be committed to a place of detention or released pending consideration of the asylum application under Section 20 IPA.

If the District Court judge commits the person to a place of detention, that person may be detained for further periods of time (each period not exceeding 21 days) by order of a District Court. However, if during

<sup>626</sup> Department of Justice, *Information regarding the Justice Sector COVID-19 plans*, 13 November 2020, available at: <https://bit.ly/3aoow9r>.

<sup>627</sup> *ibid.*

<sup>628</sup> Irish Prison Service, *Confirmed Cases of Covid 19 in Irish Prisons*, 21 January 2021, last updated 11 January 2022, available at: <https://bit.ly/3arJKDg>.

the period of detention the applicant indicates a desire to voluntarily leave, they will be brought before the District Court in order that arrangements may be made.

The lawfulness of detention can be challenged in the High Court by way of an application for *habeas corpus*.

The question of whether grounds for detention continue to exist must be re-examined by the District Court judge every 21 days. In addition to this form of review, a detained asylum-seeker can challenge the legality of the detention in *habeas* proceedings under Article 40(4) of the Constitution in the High Court. The Legal Aid Board provides representation for those detained in the District Court under Section 20 IPA.

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?  
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?  
☒ Yes ☐ No

Regulation 19 of the Reception Conditions Regulations 2018 provides that a detained applicant has access to representatives of the UNHCR, as well as “family members, legal representatives and representatives of relevant, non-governmental organisations.” A consultation with a representative may take place in the sight but out of the hearing of a member of the Garda Síochána.

Section 20 IPA states that when a person makes an application for asylum, regardless of whether that application is made from detention or elsewhere, they should be informed of their rights to consult a lawyer and UNHCR.

Where an asylum seeker is detained under Section 20 IPA, Section 20(15) states that an immigration officer or a member of the Garda Síochána (police) must give an asylum seeker certain information without delay. Such information includes that the person is being detained, that he or she shall, as soon as practicable, be brought before a court which shall determine whether or not he or she should be committed to a place of detention or released pending consideration of that person's application for international protection, that he or she is entitled to consult a solicitor (and entitled to the assistance of an interpreter for such a consultation), that he or she is entitled to have notification of his or her detention sent to UNHCR, that he or she is entitled to leave the State. The information should be given, where possible, in a language that the person understands.

The Legal Aid Board can provide legal assistance to protection applicants who are detained. No NGO provides routine legal assistance to detained protection applicants, however the Irish Refugee Council Law Centre, as well as private practitioners working in asylum law, may provide such support.

## E. Differential treatment of specific nationalities in detention

No distinctions are made between different nationalities in detention. There is no indication that some nationalities are treated less favourably compared to others in the context of detention.

## Content of International Protection

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence Permit

- |                                                                                      |                                   |
|--------------------------------------------------------------------------------------|-----------------------------------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? |                                   |
| ❖ Refugee status                                                                     | 1 year                            |
| ❖ Subsidiary protection                                                              | Specified period, usually 3 years |

Refugees and subsidiary protection beneficiaries in Ireland receive a 'Stamp 4' residence permit.<sup>629</sup> For **refugees** this grants permanent residency and an Irish Residence Permit (formerly the Garda National Immigration Bureau (GNIB) card) is issued firstly for one year and then renewed for three years renewable. Refugees are able to apply for naturalisation after three years from the date of their asylum application (see [Naturalisation](#)).

**Subsidiary protection** beneficiaries also receive a 'Stamp 4' residence permit. This allows them to stay in Ireland for a specified period of time, which is normally of three years' renewable duration. They have a right to apply for naturalisation after five years from the date they were granted subsidiary protection.

For renewal of their residence card, refugees do not require a letter from the ISD. However, subsidiary protection beneficiaries do require a letter from ISD to receive a further three years of stay in Ireland. No further information was available on any difficulties related to this process. In 2016, the Department of Justice introduced a new online booking system to address the long queues that migrants living in Dublin faced outside the ISD office at Burgh Quay to register for or renew their residence card. However, issues are still being reported using the online booking system, although a set of software fixes were introduced in September 2018 to prevent the booking of block appointments with internet bots. The Department of Justice announced in 2018 that there would be a tender to replace this system but by the end of 2019, it stated that the tender would not be advertised until the New Year.

In June 2020, an online immigration permission renewal system was launched. The system was initially made available to students living and studying in Dublin and has subsequently been extended to all applicants living in the Dublin area. Under the new online system, applicants must complete their renewal form online, upload copies of supporting documents and pay the applicable fee.<sup>630</sup> It should be noted that applicants living outside of Dublin must still appear in person at their local Garda station in order to renew their immigration status, while first-time registrations must also be done in person, regardless of where the applicant lives.

A revised online appointment booking system was established in December 2020 for applicants living outside of Dublin.<sup>631</sup>

In January 2022, a new Immigration Service appointment scheduling system, which will streamline and further improve the registration process, was announced. The interim ISD Registration office Burgh Quay created a free phone number to call, so applicants resident in Dublin could book a first-time registration appointment.<sup>632</sup> As of January 2023, the revised appointment and scheduling system was fully operational, however, applicants continued to experience significant delays in obtaining appointments in order to register their permission.<sup>633</sup>

<sup>629</sup> INIS, *Permission, stamps & conditions*, available at: <http://bit.ly/2lcU71L>.

<sup>630</sup> Irish Times, *Wait for immigration renewals drops to 2-3 weeks – Minister for Justice*, 2 December 2020, available at: <https://bit.ly/2NdAgmu>.

<sup>631</sup> *ibid.*

<sup>632</sup> Information provided by ISD, January 2022.

<sup>633</sup> Information provided by Irish Refugee Council Information and Advocacy Service, January 2023.



Additionally, a further temporary extension of immigration and international protection permissions was announced in December 2021 on account of the COVID-19 pandemic. Those whose permission to reside in the State was due to expire between 15 January 2022 and 31 May 2022 received automatic renewal of their permission to reside in the State on the same basis as the existing permission and with the same conditions attached.<sup>634</sup> This was the ninth and final extension of immigration permissions implemented since the outset of the pandemic in March 2020. Persons who were entitled to receive a new Irish Residence Permit (IRP) card were allowed to continue using their current expired card to enable them to depart from and return to Ireland until 15 January 2022. Persons who planned to travel abroad beyond 15 January 2022 were advised to apply to renew their immigration permission and receive a new IRP card. Otherwise, they would be required to obtain a re-entry visa in Ireland or in an overseas visa office before travelling.<sup>635</sup>

## 2. Civil registration

The Civil Registration Service, operating under the Health Service Executive, maintains all records of births, deaths and marriages in the State.<sup>636</sup> With respect to registration of births it is legally required in Ireland that all births that take place on the territory of the State are registered with the local Registrar's Office within three months of the birth taking place.<sup>637</sup> The mother of the child will be provided with a "Birth Notification Form" at the hospital where the birth took place before being discharged and the parents must then proceed to the Registrar's Office to complete the registration. A valid photo ID (such as a passport or temporary residence card, in the case of international protection applicants) must be provided. Information on the birth registration process is available in a number of languages, including Arabic, Chinese and French.<sup>638</sup>

For a marriage to be considered legal in Ireland, the relevant Registrar's Office must be notified, in person, at least three months in advance of a marriage taking place, irrespective of whether or not that marriage is a religious or civil ceremony. The same procedural requirements apply to beneficiaries of international protection as to Irish citizens.

## 3. Long-term residence

Ireland has not opted into the Long-Term Residents Directive. Under the Irish national system, long-term residency can be granted with a Stamp 4 permission to remain which is valid for five years. This applies to persons who have been legally resident in the State for a minimum of five years on a work permit, work authorisation or working visa conditions. Applications for long-term residency do not apply for persons granted refugee status or granted permission to remain on humanitarian grounds. It also does not apply for people who entered the State under a family reunification scheme.<sup>639</sup>

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<sup>634</sup> ISD, *Minister McEntee announces further temporary extension of immigration permission*, 17 December 2021, available at: <https://bit.ly/3Fk90I1>.

<sup>635</sup> *ibid.*

<sup>636</sup> Civil Registration Service, information available at: <https://bit.ly/2usn7M7>.

<sup>637</sup> *ibid.*

<sup>638</sup> Civil Registration Service, *Translated Information*: <https://bit.ly/2pLwGkr>.

<sup>639</sup> INIS, *Permission, stamps & conditions*, available at: <http://bit.ly/2lcU71L>.

## 4. Naturalisation

### Indicators: Naturalisation

- |                                                          |                        |
|----------------------------------------------------------|------------------------|
| 1. What is the waiting period for obtaining citizenship? |                        |
| ❖ Refugee status                                         | 3 years                |
| ❖ Subsidiary protection                                  | 5 years                |
| 2. Number of citizenship grants in 2022:                 | 13, 613 <sup>640</sup> |

Section 16(1)(g) of the Irish Nationality and Citizenship Act 1956 gives the Minister the power to dispense with certain conditions of naturalisation in certain cases, including if an applicant has refugee status or is stateless. It should be noted that the issuing of a certification of naturalisation is at the discretion of the Minister for Justice and Equality in Ireland. There are different criteria in place for non-EEA nationals and refugees.

People with **refugee status** can apply for naturalisation after three years' residence in the State from the date they arrived in the country not from the date when they were granted refugee status. For other non-EEA nationals, the residence required is five years. To apply for citizenship a form entitled 'Form 8' must be completed by the person concerned and submitted to ISD. This amended form was introduced in September 2016 and now applicants must submit their original passports with their application for naturalisation.<sup>641</sup> It must include accompanying evidence of the applicant's residence in Ireland and a copy of the declaration of refugee status.

There are no fees for **refugees**, stateless persons or programme refugees to apply for naturalisation except for the 175 € application fee. Once the application is granted the certification of naturalisation is free for refugees. For other adults the cost for issuing a certificate of naturalisation is €950.

As of November 2021, there were 22,721 applications for citizenship on hand and the average processing time for applications was 23 months.<sup>642</sup> There were approximately 11,000 grants of citizenship throughout 2021.<sup>643</sup> As of February 2023, there were approximately 26,000 applications on hand at the Citizenship Unit at various stages of processing. The median processing time for applications was 19 months.<sup>644</sup> An exact breakdown of the number of individuals with refugee and subsidiary protection status who became naturalised was not available at the time of writing.

According to research published by the European Migration Network in August 2020, Ireland has more favourable conditions for acquiring citizenship by naturalisation than many other EU Member States. However, long processing delays and lack of clarity regarding eligibility conditions have been raised as issues of significant concern by NGOs and in parliamentary debate.<sup>645</sup> Moreover, the onset of the COVID-19 pandemic and associated restrictions has resulted in significant disruption to the delivery of services by the Citizenship Division of the Immigration Service Delivery.

On 18 January 2021, it was announced that the obligation to attend citizenship ceremonies would be temporarily replaced during COVID-19 with an alternative requirement for citizenship applicants to sign an affidavit declaring loyalty to the State. Upon the return of a fully completed declaration, the Department of Justice will issue a certificate of naturalisation. This system continued in operation until June 2022,

<sup>640</sup> Acting Minister for Justice and Equality Simon Harris, Response to Parliamentary Question No. 195, 1 February 2023, available at: <https://bit.ly/3HUmkY0>.

<sup>641</sup> The application form is available at: <https://bit.ly/2Blhnrx>.

<sup>642</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question no 494, 14 December 2021, available at: <https://bit.ly/3zWAgUu>.

<sup>643</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question no 485, 30 November 2021.

<sup>644</sup> Minister for Justice and Equality Simon Harris, Response to Parliamentary Question No. 195, 1 February 2023, available at: <https://bit.ly/3HUmkY0>.

<sup>645</sup> European Migration Network, *Pathways to citizenship through naturalisation in Ireland*, 7 December 2020, available at: <https://bit.ly/3oJ7Puc>.

when in-person ceremonies were re-introduced following the removal of public health restrictions associated with the Covid-19 pandemic.<sup>646</sup>

Significant changes were introduced for applicants regarding the number of proofs required to establish identity and residency for the purposes of making a naturalisation application. From January 2022, the Department employed a scorecard approach in the assessment of identification and residence history. Applicants are now required to reach a score of 150 points in each of the years of proof of residency required according to their particular circumstances. This can be done by submitting proofs with a predetermined point value until the applicant reaches the required score of 150 for each year of residency claimed. Applicants must also accumulate a total of 150 points for establishing identity in order to meet the appropriate standard.<sup>647</sup> The introduction of the scorecard approach was broadly welcomed in providing further clarification for applicants on the required documentation when submitting their applications for citizenship.

Additionally, from January 2022, new applicants for citizenship are not required to submit their original passport with their initial application. Instead, applicants can now provide a full colour copy of each page of their passport and all previous passports containing stamps which contribute towards the period of reckonable residency claimed. The colour copy must be certified by a solicitor, commissioner for oaths or notary public and submitted along with the application form.<sup>648</sup>

On 3 December 2021, the Minister for Justice announced the establishment of a scheme to regularise long-term undocumented migrants which opened for applications on 31 January 2022. The scheme enables applicants and their eligible dependants to remain and reside in Ireland and to regularise their residence status whereby the applicant has a period of 4 years residence in the State without an immigration permission, or 3 years for applicants with minor children, immediately prior to the date on which the scheme opens for applications. Those with an existing Deportation Order were also permitted to apply whereby they met the minimum undocumented residence requirement. Additionally, international protection applicants who had an outstanding application for international protection and had been in the asylum process for a minimum of 2 years were also permitted to apply pursuant to a separate application process. Applications for those in the International Protection strand opened on 7 February 2022.<sup>649</sup> According to data released by the Department of Justice, 6,548 applications in respect of 8,311 people were submitted under the Long-Term Undocumented strand of the scheme, including 1,108 applications in respect of minors, submitted as a part of family applications. As of the 12 December 2022, 4,857 decisions had been issued to applicants and of these 4,796 (97%) were positive decisions and 94 (2%) were negative decisions, while 47 (1%) applications had been withdrawn by applicants for various reasons.<sup>650</sup>

Under the International Protection strand of the scheme, 3,198 applications were received. 1,434 grant decisions had been issued, while a further 1,020 applications were accepted but applicants were granted an alternative immigration permission such as refugee or subsidiary protection status or permission to remain.<sup>651</sup>

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<sup>646</sup> Irish Times, 'First in-person citizenship ceremonies since covid welcome 950 new Irish citizens', 20 June 2022, available at: <https://bit.ly/3JAHifV>.

<sup>647</sup> Department of Justice, *Scorecard approach being introduced for Citizenship Applications from January 2022*, 31 December 2021, available at: <https://bit.ly/3l0UqXD>.

<sup>648</sup> Department of Justice, *Further Guidance on new Passport Process for Citizenship from 1st January 2022*, 31 January 2022, available at: <https://bit.ly/3qnYcEt>.

<sup>649</sup> Department of Justice, *Regularisation of Long Term Undocumented Migrant Scheme*, 13 January 2022, available at: <https://bit.ly/3nsCtJL>.

<sup>650</sup> Acting Minister for Justice Heather Humphreys, Response to Parliamentary Question No 290, 15 December 2022, available at: <https://bit.ly/3slJQQM>.

<sup>651</sup> Information provided by Department of Justice and Equality, January 2023.

The establishment of the regularisation scheme has been hugely welcomed by NGOs, stakeholders, and perhaps most significantly, the undocumented community in Ireland, many of whom have resolutely campaigned for over a decade to achieve the realisation of such a scheme.<sup>652</sup> However, NGOs have noted a number of gaps in the scheme. For instance, in circumstances where a person has spent time in the protection process and subsequently received a negative decision, the time spent in the protection process does not count towards time spent 'undocumented' for the purposes of the mainstream regularisation scheme. Similarly, persons who were previously undocumented and are now in the protection process cumulatively may have been in Ireland for more than two years but do not qualify for either the undocumented strand or the international protection strand of the scheme.

## 5. Cessation and review of protection status

### Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

Cessation is permitted under Irish law but it is not often applied in practice so limited information is available on it in Ireland.

The IPA provides for cessation of **refugee status** and subsidiary protection under Section 9 and 11 of the Act respectively. A person ceases to be a refugee if he or she:

- ❖ has voluntarily re-availed himself or herself of the protection of the country of nationality;
- ❖ having lost his or her nationality, has voluntarily re-acquired it;
- ❖ has acquired a new nationality (other than as an Irish citizen), and enjoys the protection of the country of his or her new nationality;
- ❖ has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution;
- ❖ can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of his or her country of nationality / country of former habitual residence if stateless. There is an exception to (e) in that it shall not apply if the person is able to invoke compelling reasons arising out of past persecution for refusing to avail of protection in his or her country of nationality.

Cessation of **subsidiary protection** occurs when the circumstances which led to a person's eligibility for subsidiary protection have ceased to exist or have changed to such a degree that international protection is no longer required. An exception to this is if there are compelling reasons arising out of past persecution for refusing to avail of protection in the applicant's country of nationality. No information is available on the amount of decisions relating to cessation in 2018 or 2019. According to data released by the Department of Justice, there have been no decisions relating to cessation of refugee or subsidiary protection status in 2020.<sup>653</sup> There were no cessations of refugee status and subsidiary protection status under sections 9 and 11 of the International Protection Act 2015 in 2021. There was one person excluded from refugee protection and subsidiary protection pursuant to sections 10 and 12 of the International

<sup>652</sup> Migrant Rights Centre of Ireland, Justice for Undocumented wins major victory after 11 year campaign, 3 December 2021, available at: <https://bit.ly/3oIsEI5>.

<sup>653</sup> Minister for Justice Helen McEntee, Reply to Parliamentary Question No. 693, 3 March 2021, available at: <https://bit.ly/3t25jB1>.

Protection Act 2015 in 2021.<sup>654</sup> Statistics provided by the International Protection Office indicate that less than 5 decisions were made in relation to cessation of and exclusion from refugee or subsidiary protection status throughout 2022, however, an exact figure was not provided.<sup>655</sup>

The IPA indicates the procedure for cessation under the procedure of revocation under Section 52. According to Section 52(4), the Minister shall send a notice in writing of the proposal to revoke and of the reasons for it to the applicant, including information regarding the person's entitlement to make written representations to the Minister in relation to the notice within 15 working days. Where a declaration that the person's status be revoked is made, the individual may appeal to the Circuit Court, which may then either affirm the revocation or direct the Minister to withdraw it. There is no legislative provision for an oral hearing as part of this procedure.

## 6. Withdrawal of protection status

### Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

Revocation of status is also provided in the IPA under Section 52 on grounds such as where the person has misrepresented or omitted facts, whether or not including the use of false documents, and that was decisive in the decision granting the person a refugee declaration. Revocation has an established procedure in place under Section 52 and the applicant can appeal to the Circuit Court if necessary. Even though no personal interview of the beneficiary is conducted, they can submit information in writing. There is no information on withdrawal or revocation of protection status to date and it would appear to be a rare occurrence in the Irish context. Data provided by the International Protection Office in March 2023 indicated that less than 5 decisions were made in respect of withdrawal of international protection status throughout 2022.<sup>656</sup>

<sup>654</sup> Minister for Justice, Helen McEntee, Reply to Parliamentary Question No. 565, 15 February 2022, available at: <https://bit.ly/3BYsCkM>.

<sup>655</sup> International Protection Office, March 2023.

<sup>656</sup> International Protection Office, March 2023.

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?  
☐ Yes ☒ No  
❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?  
☒ Yes ☐ No  
❖ If yes, what is the time limit?  
12 months
3. Does the law set a minimum income requirement?  
☐ Yes ☒ No

#### 1.1. Family reunification under the International Protection Act 2015

The most significant change in the International Protection Act 2015 relates to the family reunification provisions under Sections 56 and 57 IPA. A beneficiary of international protection must apply for family reunification within 12 months of being issued with a refugee declaration or subsidiary protection declaration. No reference is made in the legislation to any income or health insurance requirement. It is the duty of the sponsor (refugee or subsidiary protection beneficiary) and the person who is the subject of the application (family member) to co-operate fully in the investigation including by providing all relevant information in his or her possession, control or procurement which is relevant to the family reunification application.

The 12-month time limit for family reunification was the subject of a challenge of constitutionality before the Supreme Court in the case of *A v. Minister for Justice & Equality & Ors, S v. Minister for Justice & Equality & Ors and I v. Minister for Justice & Equality & Ors*. [2020] IESC 20. The case concerned an applicant who became estranged from her family in 2011 and travelled to Ireland as an unaccompanied minor. She subsequently applied for, and was granted, international protection in 2014. After resuming phone contact with her family in 2018, she applied for family reunification with her parents and sister but the applicant was refused on the basis that it was not brought within the 12-month time frame specified by s.56(8). In a judgment delivered on 8 December 2020, Justice Dunne determined that the 12-month time limit established pursuant to s.56(8) of the 2015 Act was not unconstitutional nor was it incompatible with the ECHR. The Court noted in its decision that it remained open to the applicant to apply under the 2016 Family Reunification Policy Document, whereby the Minister for Justice can exercise her discretion to grant family reunification on humanitarian grounds.<sup>657</sup>

No differences exist between the right to apply for family reunification for refugees and subsidiary protection beneficiaries. Once a family reunification application has been granted that permission will cease to be in force if the family member does not enter and reside in the State by a date specified by the Minister when giving the permission in accordance with Section 56(5) IPA. It remains to be seen how this will be applied in practice. The Irish Refugee Council has yet to see a grant of Family Reunification under the IPA, however, if there is any indication that there will be any sort of delay in the family member being able to come to Ireland – this should be relayed to the Family Reunification Unit as soon as possible.

One significant change from the previous legal regime is that there is now no possibility for beneficiaries of international protection to apply for dependent family members i.e. adult children, parents of adult applicants, nieces, nephews who are dependent on the refugee or are suffering from a mental or physical

<sup>657</sup> *A v. Minister for Justice & Equality & Ors, S v. Minister for Justice & Equality & Ors and I v. Minister for Justice & Equality & Ors*. [2020] IESC 20, available at: <https://bit.ly/3oHD5JW>.



disability to such extent that it is not reasonable for them to maintain themselves. Under the previous Refugee Act 1996 as amended it was possible for the Minister to use her discretion to grant family reunification in such circumstances. There is no reference to dependent family members in the IPA.

In July 2017, a group of Senators presented the International Protection Act (Family Reunification Amendment) Bill 2017 to the Government. The content of the bill seeks to reinstate the dependency provision contained in the Refugee Act 1996.<sup>658</sup> The bill would amend the IPA with a view to enabling a wider range of family members to apply for family reunification, including grandparents, siblings, children (over the age of 18), grandchildren, where dependency can be demonstrated. The bill went before the Seanad in November 2018 where it was passed by 29 votes to 17.<sup>659</sup> The bill proceeded to the Dáil and was considered by the Oireachtas Justice and Equality Committee. The Committee called on the Government to support legislation which would give refugee families the chance to apply for their loved ones to join them in Ireland and that a 'money message' be granted and that the bill proceed to Dáil committee stage. This 'money message' was denied. The bill subsequently lapsed with the dissolution of the Dáil.

The Irish Refugee Council and other organisations advocated for it to be placed back on the Dáil order paper. On 9 December 2020, it was announced that the Bill would be restored for further debate before the Dáil. As of December 2022, the Bill remained at the third stage before the Dáil, during which time the Bill is examined in detail by section and further amendments are proposed.<sup>660</sup>

Following the onset of COVID-19 and associated restrictions, applicants experienced significant delays in the processing of applications for family reunification. DNA testing was suspended, which has further delayed a number of cases. DNA testing subsequently resumed following the easing of restrictions associated with COVID-19 in late March 2021.

According to statistics released by the Department of Justice, there were 1,199 applications for family reunification received throughout 2021. 484 applications for family reunification were granted throughout 2021 and 46 applications were refused.<sup>661</sup> From January 2022 to October 2022, the Family Reunification Unit received a total of 1,954 family reunification applications, while 1,414 applications were decided during the same period.<sup>662</sup>

## 1.2. The Irish Humanitarian Admission Programme (IHAP)

On 14 November 2017, the government announced the introduction of a Family Reunification Humanitarian Admission Programme (FRHAP), which was later renamed the Irish Humanitarian Admission Programme (IHAP).<sup>663</sup> As the programme has been developed within the ambit of the Minister's discretion, it will allow for reunification for immediate family members who would normally fall outside of family reunification provisions held in the IPA.

UNHCR's Information Note on the IHAP sets out more information on the rationale behind the scheme:

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<sup>658</sup> Irish Times, 'Senators seek expanded family reunification rights for refugees', 19 July 2017, available at: <http://bit.ly/2tM049C>.

<sup>659</sup> Oxfam Ireland et al., 'Refugee family reunification bill progresses to the Dáil', 5 December 2018, available at: <https://bit.ly/2ZTj89B>; See also Oireachtas, *International Protection (Family Reunification) (Amendment) Bill 2017*, available at: <https://bit.ly/2TeGzUN>.

<sup>660</sup> International Protection (Family Reunification) (Amendment) Bill 2017, available at: <https://bit.ly/34DI2iU>.

<sup>661</sup> Minister for Justice Helen McEntee, Response to Parliamentary Question No. 612, 15 February 2022, available at: <https://bit.ly/3t8KzsM>.

<sup>662</sup> Minister for Justice and Equality Helen McEntee, Parliamentary Question No 870, 8 November 2022, available at: <https://bit.ly/3Y7uF0b>.

<sup>663</sup> INIS, 'Minister Flanagan and Minister of State Stanton announce new Family Reunification Scheme in support of refugees and their families under the Irish Refugee Protection Programme', 14 November 2017, available at: <http://bit.ly/2A4u6Nh>.

“The IHAP is additional and complimentary to existing rights and entitlements to family reunification under Irish law. The programme will provide an opportunity to Irish citizens and persons with Convention refugee status, subsidiary protection status, and programme refugee status, who have immediate eligible family members from the top 10 major source countries of refugees, to propose to the Minister for these family members to join them in Ireland.

Up to 530 persons will be given the opportunity to join immediate family members in Ireland under the programme.”<sup>664</sup>

The ISD website sets out the eligibility criteria.<sup>665</sup> On the one hand, proposed beneficiaries of the programme must be nationals of one of ten countries: **Syria, Afghanistan, South Sudan, Somalia, Sudan, DRC, Central African Republic, Myanmar, Eritrea or Burundi.**

In addition, proposed beneficiaries must be eligible family members i.e. one of the following:

- ❖ Unmarried adult child without dependants;
- ❖ Unmarried minor child who is not eligible for family reunification under IPA;
- ❖ Parent who is not eligible for family reunification under IPA;
- ❖ Grandparent;
- ❖ Related unmarried minor child without parents for whom the sponsor has parental responsibility e.g. orphaned niece, nephew, sibling;
- ❖ Vulnerable close family member who has no spouse / partner or other close relative to support them;
- ❖ Spouse or civil partner as recognised under Irish law who is not eligible for family reunification under IPA, or *de facto* spouse.

The programme also takes into account a sponsor's existing living arrangements and their capacity to accommodate family members under the scheme.

The first open calls for proposals ran from 14 May to 30 June 2018. A larger number of applications than were anticipated were received, however, just 80 applications were granted.<sup>666</sup> A second call for proposals was opened on 20 December 2018 and ran until 8 February 2019. The Department of Justice was aiming to finalise all IHAP 2 decisions by the end of 2020. It is understood that as of December 2021, all IHAP decisions have been finalised. There is no appeal mechanism against a negative IHAP decision though there is anecdotal evidence that some negative decisions were overturned following an administrative review.

### 1.3. Community Sponsorship Ireland (CSI)

In 2018, Community Sponsorship Ireland (CSI) was established as a complementary refugee resettlement stream to the traditional state-centred model. CSI has been developed in cooperation with the Government of Ireland, Refugees and Citizenship Canada (IRCC), and civil society organisations such as: UNHCR, the Irish Red Cross, NASC, Irish Refugee Council and Amnesty International Ireland. This programme gives private citizens and community-based organisations an opportunity to directly support a refugee family newly arrived to Ireland.

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<sup>664</sup> UNHCR, *FAQ: What is the Humanitarian Admissions Programme 2 (IHAP)*, 2018, available at: <https://bit.ly/2TeH4OF>.

<sup>665</sup> INIS, *Irish Refugee Protection Programme Humanitarian Admission Programme 2 (IHAP)*, available at: <https://bit.ly/2wEuoJJ>.

<sup>666</sup> Irish Times, 'Refugee reunification scheme re-opens with second call for applicants', 21 December 2018, available at: <https://bit.ly/2RJY3vp>.

Through CSI, sponsoring communities support integration into Irish society of refugee families by providing a home and offering opportunities to connect with the local services they need, such as English language tuition, employment, and education pathways.

A pilot CSI programme commenced in December 2018 has now concluded. During this pilot phase, 5 refugee families (17 persons) were warmly welcomed by host community groups in counties Cork, Waterford and Meath. A further family is to be received by a host community in Dublin in December. After this successful pilot scheme an evaluation review was undertaken to inform the development of a scaled-up national programme. On 15 November 2019, Minister of State, David Stanton, officially launched the Community Sponsorship Ireland Scheme.<sup>667</sup>

Throughout 2022, the Irish Refugee Council engaged with 14 community sponsorship groups, providing training on best practices for community sponsorship. A further 7 workshops were organised for refugee-hosting communities in order to share information and resources. A total of 38 refugees were welcomed by 8 community sponsorship groups across the country.<sup>668</sup>

## 2. Status and rights of family members

Family members must enter and reside within the State within a specified period of time issued by the Minister for Justice and Equality. They are entitled to the same rights and privileges as their sponsors as specified under Section 53 IPA. The permission to reside in the State is linked to the sponsor so if the family member is a spouse or civil partner that permission shall cease to be in force where the marriage or civil partnership concerned ceases to exist.

## C. Movement and mobility

### 1. Freedom of movement

Beneficiaries of international protection can reside anywhere in the State and are not restricted to particular areas, although social housing shortages can mean that it can be difficult for them to locate in heavily populated areas such as **Dublin**.

Beneficiaries of international protection are entitled to the same medical care and social welfare benefits as Irish citizens so the provision of material conditions is not subject to actual residence in a specific place but there is a shortage of available and suitable accommodation which impacts both Irish citizens and refugees alike at the moment in Ireland.

Beneficiaries of international protection were subject to the same public health measures as Irish nationals throughout the COVID-19 pandemic. For example, as of March 2021, this included a limit on exercise within a 5km radius of one's home and travel for essential purposes only, such as medical appointments, food and other necessities as established in Government Guidelines.

### 2. Travel documents

According to Section 55 IPA, the Minister for Justice and Equality, on application by the person concerned, shall issue a travel document to a qualified person and his or her family member. The Minister for Justice may not, however, issue a travel document if the person has not furnished the required information as

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<sup>667</sup> Department of Justice and Equality, 'Minister Stanton Officially Launches Refugee Community Sponsorship Ireland', 15 November 2019, available at: <https://bit.ly/3f4FgCR>.

<sup>668</sup> Information provided by Irish Refugee Council Community Sponsorship Officer, December 2022.

requested by the Minister, or the Minister considers that to issue it would not be in the best interests of national security, public health or public order or would be contrary to public policy.

Both refugees and beneficiaries of subsidiary protection in Ireland are entitled to apply for travel documents, which is done by application form to the ISD Travel Document Section. The application requirements differ slightly between the two categories of applicant, in that the applications of subsidiary protection beneficiaries are subject to the Minister's satisfaction that the applicant is "unable to obtain a travel document from the relevant authority of the country of his or her nationality or, as the case may be, former habitual residence."<sup>669</sup> While this does not reflect an overt distinction in theory, in practice, it means that beneficiaries of subsidiary protection can be required to demonstrate that they have made every effort to prove that they are unable to obtain a travel document from another relevant authority before they are issued with an Irish travel document.

Beyond that, the travel document application process for both refugees and beneficiaries of subsidiary protection is uniform. Applicants are required to fill out an application form, submit four passport-sized photographs, a copy of documentation from the Department of Justice issuing permission to remain in the state, a copy of the applicant's Garda Naturalisation and Immigration Bureau registration card, and an €80 application fee.<sup>670</sup>

According to the ISD, the validity of travel documents for a holder of a "1951 Convention Travel Document" (person with **refugee status**) is ten years, in line with the validity of Irish passports.<sup>671</sup>

Travel Documents granted on foot of **subsidiary protection** are issued for the duration of their permission to remain. This is generally for a period of three years from when status is granted under Section 23 of the European Union (Subsidiary Protection) Regulations 2013.<sup>672</sup> The travel document is renewed in line with the period of permission granted after that by the person's local Registration / Immigration Office.<sup>673</sup> Furthermore, Schedule 3 of the Subsidiary Protection Regulations states that the "maximum validity of a travel document is 10 years."

The primary limitation on use of travel documents is that the country of origin/persecution of the holder is not permitted for the purposes of travel.<sup>674</sup> Other than that, beneficiaries of refugee or subsidiary protection status in Ireland are both equally entitled to travel in or out of the State with their respective travel documents. While this enables travel to most EU Member States without a visa, it is impressed upon document holders to enquire with the embassy of their intended travel destination in advance, in order to ascertain the necessity to obtain a visa as each State may have individual requirements based on nationality, etc..<sup>675</sup> Holders of Irish refugee and subsidiary protection documents do not require a re-entry permit upon return to Ireland.<sup>676</sup>

Following the onset of the COVID-19 pandemic, the government advised against all travel outside of Ireland for non-essential purposes. In February 2021, following a significant increase in the infection rate in Ireland, new restrictions targeting non-essential travel overseas were announced by Government. These included fines for those leaving the country for non-essential purposes, as well as mandatory hotel

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<sup>669</sup> Regulation 24(2) European Union (Subsidiary Protection) Regulations 2013.

<sup>670</sup> Department of Justice and Equality, *Travel Document Application Form*, available at: <https://bit.ly/2MgK7DY>; INIS, *Travel Document Photo Requirements*, available at: <https://bit.ly/2pNZUhK>; INIS, *Travel Document Information Note*, available at: <https://bit.ly/2lb8miT>.

<sup>671</sup> *Ibid.*

<sup>672</sup> Regulation 23 European Union (Subsidiary Protection) Regulations 2013.

<sup>673</sup> Information provided by INIS, March 2018.

<sup>674</sup> Information provided by INIS, March 2018.

<sup>675</sup> Citizens Information, *Travel documents for people with refugee or subsidiary protection status*, available at: <https://bit.ly/2GjMhIN>.

<sup>676</sup> INIS, *Travel Document Information Note*, available at: <https://bit.ly/2lb8miT>.

quarantine on arrival from certain destinations.<sup>677</sup> Following a reduction in the number of COVID-19 cases in summer 2021, restrictions on travel abroad were eased. Persons travelling abroad were advised to check the public health advice, document requirements and COVID-19 restrictions that are in place in the country to which they were travelling. Additionally, on return to Ireland, individuals were required to complete a passenger locator form and show proof of being fully vaccinated or having recently recovered from COVID-19. Where a passenger could not demonstrate vaccination status or proof of having recovered from COVID-19, they were required to have a PCR test taken within 72 hours of arrival.

Following the announcement of further restrictions on travel, the Irish Refugee Council wrote to the Minister for Justice, Helen McEntee and the Minister for Health, Stephen Donnelly, outlining the importance of ensuring continued access to the protection process and raising issues with regard to mandatory hotel quarantine. It was emphasised that access to the protection process at Irish airports should not be affected or curtailed by any of the changes made as a result of banning non-essential travel. Moreover, particular concern was raised in relation to the cost of mandatory quarantine for individuals arriving under family reunification procedures of the International Protection Act 2015 or to seek international protection under the Act. It was requested that both categories of individuals be considered in the bracket of travellers who cannot afford hotel quarantine costs. In addition, it was noted that individuals seeking protection may require particular services, including medical assistance and legal advice and that special supports were likely to be needed for asylum seekers in circumstances where they were required to isolate for 14-days alone in a hotel room.<sup>678</sup>

In July 2022, the State suspended for a period of 12 months visa-free entry for individuals with refugee status traveling on Convention Travel from 20 so-called 'safe' European countries. Previously, pursuant to the European Agreement on the Abolition of Visas for Refugees, those with refugee status could travel to and within Ireland for up to 90 days without requiring a visa or prior clearance. Following the suspension, those seeking to travel to Ireland are now required to apply for a visa in order to enter Ireland, facing processing times of approximately 8-14 weeks.<sup>679</sup> The measure has been implemented with a view to protecting the 'integrity' of the immigration system, according to the government, who cited an increase in those who had already received refugee status in another European country travelling to Ireland applying for asylum.<sup>680</sup> According to statistics released by the Department of Justice, 479 such applications were made, representing 7% of the overall applications for international protection during that period.<sup>681</sup>

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<sup>677</sup> Irish Times, 'Covid-19: New restrictions to target foreign travel', 10 February 2021, available at: <https://bit.ly/3qsoJ16>.

<sup>678</sup> Irish Refugee Council, Letter to Government on access to protection process and hotel quarantining recommendations, 12 February 2021, available at: <https://bit.ly/2OCOAoO>.

<sup>679</sup> European Commission, Suspension of Visa-free Movement Programme for Refugees, 18 July 2022, available at: <https://bit.ly/3wjqJNu>.

<sup>680</sup> Government of Ireland, Government agrees to temporarily require refugees travelling to Ireland from safe European countries to hold visas, 18 July 2022, available at: <https://bit.ly/3XIntZc>.

<sup>681</sup> European Commission, Suspension of Visa-free Movement Programme for Refugees, 18 July 2022, available at: <https://bit.ly/3wjqJNu>.

## D. Housing

### Indicators: Housing

- |                                                                              |                       |
|------------------------------------------------------------------------------|-----------------------|
| 1. For how long are beneficiaries entitled to stay in reception centres?     | Not defined           |
| 2. Number of beneficiaries staying in reception centres as of December 2022: | 4, 625 <sup>682</sup> |

As mentioned above, it should be noted that the definition of “recipient” for the purposes of benefiting from entitlements under the Reception Conditions Regulations 2018 does not cover beneficiaries of international protection, or those on deportation orders.

The main source of accommodation is social (public) housing or private rental accommodation. Local authorities are the main providers of social housing but people need to be on housing lists, which can take a considerable amount of time.

According to the Minister of State, David Stanton ‘Once some form of status is granted, residents cease to be ordinarily entitled to the accommodation supports provided through RIA. Notwithstanding this fact, RIA have always continued to provide such persons with continued accommodation until they secure their own private accommodation. IPAS are particularly mindful of the reality of the housing situation in the State and the pressures on the Community Welfare Service in respect of Rent Supplement or the City and County Councils in respect of Housing Assistance Payments and Housing Lists. The Government is committed to ensuring that persons who are availing of State provided accommodation, including those who have come to Ireland under the Irish Refugee Protection Programme, are supported in sourcing and securing private accommodation.’<sup>683</sup>

Difficulties exist for beneficiaries on accessing housing once status is granted as there is currently a housing crisis in Ireland, which affects Irish citizens and international protection applicants alike. This means that beneficiaries have difficulty leaving Direct Provision and finding suitable housing. This is exacerbated by the accommodation crisis in Ireland, where waiting lists for social housing are long and rental costs exceed the amounts paid in rent supplements.<sup>684</sup> Discrimination and racism is also reported in the rental market.<sup>685</sup>

The situation for beneficiaries of international protection who are finding difficulty obtaining independent accommodation exacerbates the concurrent lack of capacity in Direct Provision centres. As of November 2021, there were 1,640 persons with some form of protection status residing in Direct Provision.<sup>686</sup> As of October 2022, there were 4, 625 persons with some form of status residing in Direct Provision.<sup>687</sup>

In September 2017, RIA (now IPAS) began issuing letters to cohorts of (predominantly single male) refugees living in Direct Provision who had received final decisions on their case (both those with positive decision on refugee status and subsidiary protection and those with a deportation order) but had not been able to source alternative accommodation. The letter stated that RIA had ‘no role in the provision of

<sup>682</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Parliamentary Question No 408, 6 December 2022, available at: <https://bit.ly/41RoiJU>.

<sup>683</sup> Response to Parliamentary Question by Minister for State David Stanton, 26 January 2017, available at: <http://bit.ly/2lBeDgu>.

<sup>684</sup> For further information, see Irish Research Council in partnership with the Irish Refugee Council, *Transition from Direct Provision to life in the community*, June 2016, available at: <https://bit.ly/2AlwPTX>.

<sup>685</sup> The Journal, Ignored at viewings because they’re black or Asian: Dozens of asylum seekers facing homelessness, 24 February 2019, available at: <https://bit.ly/2H4SBwo>; See also: Dublin Inquirer, Some ex-asylum seekers say they’re stuck in Direct Provision because Dublin landlords won’t accept them, 30 September 2020, available at: <https://bit.ly/3jW2JZX>.

<sup>686</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Response to Parliamentary Question No 466, 14 December 2021, available at: <https://bit.ly/3G553ll>.

<sup>687</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O’Gorman, Parliamentary Question No 408, 6 December 2022, available at: <https://bit.ly/41RoiJU>.



accommodation to persons once a decision has been made on their application' and asking them to vacate the centres within a month.<sup>688</sup> This prompted backlash from a number of NGOs such as Nasc, who stated the letters represent "a catastrophic shift in policy, which will actively make those on deportation orders that have not been effected by the State at severe risk of homelessness and destitution."<sup>689</sup> In response, the Department of Justice cited reduced capacity of Direct Provision centres as an explanation for the letters and drew a distinction from those who were awaiting a decision on their international protection application and those who were on deportation orders stating that "[c]ontinuing to allocate limited accommodation to people who are legally obliged to remove themselves from the State would undermine our laws and adversely impact our capacity to assist those who are seeking refugee status. At current rate of demand, accommodation capacity in the Centres will run out for all applicants within a number of weeks unless remedial action is taken."<sup>690</sup>

In January 2023, persons living at particular Direct Provision Centres, whereby points or vouchers are issued to residents to cover the cost associated with purchasing groceries, were advised by IPAS that any resident who had obtained international protection status or permission to remain in Ireland and remained living in IPAS accommodation for a period of 8 weeks or more, would have their points or vouchers revoked. Residents were advised that this new policy would be rolled out on a phased basis and persons affected would be provided with 8 weeks' notice prior to their points being removed.<sup>691</sup>

Due to the ongoing housing crisis in Ireland, as well as already over-subscribed homelessness centres, emergency accommodation and support, there is a real risk that without transitional support, forcing people to leave Direct Provision could result in long-term homelessness and/or destitution.

The Department of Justice has a specific team who work in collaboration with DePaul Ireland, the Jesuit Refugee Service, the Peter McVerry Trust, officials in the Department of Housing, Planning and Local Government, and the City and County Managers Association to collectively support residents with status or permission to remain to access housing options. By the end of 2019, a total of 732 people transitioned out of accommodation centres, of which 500 did with the assistance of the services and support mentioned above.<sup>692</sup> Figures for 2020, 2021 and 2022 were not available at the time of updating.

In April 2019 the Department of Housing, Planning and Local Government released a document titled: Social Housing and HAP Supports Available to Assist Households In Direct Provision Who Have Been Granted "Leave To Remain" And Are Eligible For Social Housing. The paper confirms that people leaving Direct Provision are entitled to 'Homeless Housing Assistance Payment' which gives additional supports such as access to a deposit, advance rent and a discretionary 20% addition to the existing HAP rent. The Department also released, in partnership with the City and County Managers Association and IPAS, a document titled 'Information paper on supporting people with status/leave to remain' which contained information on how people will receive assistance to leave Direct Provision.<sup>693</sup>

In the experience of the Irish Refugee Council, the COVID-19 pandemic and associated restrictions resulted in significant obstacles to securing housing for beneficiaries of international protection. Restrictions on the operation of local authorities and administrative bodies have resulted in delays in the processing of social housing applicants and entry on to housing lists. This in turn impedes individuals' ability to access Housing Assistant Payment (HAP) and ultimately, secure housing. Caseworkers have

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<sup>688</sup> Irish Times, 'Asylum seekers facing deportation given a month to leave hostels', 20 September 2017, available at: <http://bit.ly/2CpLN6Q>.

<sup>689</sup> Nasc, 'Nasc Condemns Proposed Eviction of Asylum Seekers from Direct Provision', 20 September 2017, available at: <https://bit.ly/2TQJtRR>.

<sup>690</sup> Minister of State at the Department of Justice and Equality David Stanton, Response to Parliamentary Question No 182, 25 October 2017, available at: <http://bit.ly/2Bk1M5B>.

<sup>691</sup> Information provided by IPAS, January 2023.

<sup>692</sup> Minister of State at the Department of Justice and Equality, David Stanton, Reply to Parliamentary Question No 278, 3 December 2019, available at: <https://bit.ly/3bTO7pi>.

<sup>693</sup> These documents are not currently available online.

noted, however, that the pandemic has positively impacted the availability of housing for beneficiaries of international protection in that a decrease in demand for rental property has opened up the market significantly for HAP tenants.

## E. Employment and education

### 1. Access to the labour market

According to Section 53(a) IPA, beneficiaries of international protection are entitled to seek and enter employment, to engage in any business, trade or profession and to have access to education and training in the State in the like manner and to the like extent in all respects as an Irish citizen. There are few schemes specifically devised and tailored for beneficiaries of international protection to access employment within the Department of Social Protection but they can avail of the support provided to Irish citizens. The ESRI have reported that refugees in Ireland can face many challenges in navigating the system of mainstream service provision.<sup>694</sup> Information barriers can make it difficult for beneficiaries to navigate the system to access employment support and the support available varies from region to region.

An example of the tailored schemes available is Employment for People from Immigrant Communities (EPIC), a project run by the Business Community of Ireland and is a labour market programme aimed at assisting migrants including beneficiaries of international protection to enter the labour market. EPIC was launched in 2014, since then this initiative has helped over 3,000 people from 101 nationalities. Over 68% of the people involved in the programme have found jobs, entered training or are volunteering. The programme is part supported by the Department of Justice and Equality and the European Social Fund (ESF) as part of the Programme for Employability, Inclusion and Learning (PEIL) 2014-2020. As regards recognition of qualifications, the Irish National Academic Recognition Information Centre (NARIC Ireland) facilitates the recognition of foreign qualifications in Ireland by advising clients on how these qualifications compare to the Irish qualifications on the National Framework of Qualifications.<sup>695</sup> The Irish Refugee Council also has employment programmes for women in the protection process and refugees.

The onset of the COVID-19 pandemic resulted in significant loss of employment across a wide variety of sectors. According to research published by the Economic and Social Research Institute, migrant workers are over-represented in sectors severely affected by COVID-19 closures, including accommodation and food provision.<sup>696</sup> For those who lost their job as a result of COVID-19, a social welfare payment known as Pandemic Unemployment Payment, was made available. Under s. 53(b) IPA, beneficiaries of international protection are entitled to access this payment on the same basis as Irish citizens.

### 2. Access to education

People who have been granted refugee or subsidiary protection status have the right to access education and training in a similar manner to Irish citizens.<sup>697</sup> However, reports show that people transition from Direct Provision having been granted an international protection status often face practical barriers to further education such as their English competency not being at the required level, previous qualifications

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<sup>694</sup> ESRI, EMN, *Integration of Beneficiaries of International Protection into the Labour Market, Policies and Practices in Ireland*, available at: <http://bit.ly/2lbCXof>.

<sup>695</sup> Available at: <http://bit.ly/2lbKT90>.

<sup>696</sup> ESRI, *Covid-19 and non-Irish nationals in Ireland*, 15 December 2020, available at: <https://bit.ly/37IFnlf>.

<sup>697</sup> Department of Justice and Equality, *Your Guide to Living Independently*, An information booklet for people who have been granted refugee or subsidiary protection status or permission to remain, 2016.

not being recognised, not being eligible for grants, not understanding admission procedures and having missed deadlines for college applications.<sup>698</sup>

Some organisations have stepped in to support student access to third-level education. For example, in the Irish Refugee Council a volunteer administers donations made by the public to help with education access. The funds are then spent on course fees, books, transport and other related expenses.<sup>699</sup> Some Universities have also assisted protection applicants such as the National University of Ireland, Galway (NUIG) which announced in June 2016 that it will provide four scholarships for protection applicants or refugees, subsidiary protection beneficiaries or those persons with permission to remain in Ireland.<sup>700</sup> In 2019, NUIG became a University of Sanctuary due to its further commitment.<sup>701</sup> In December 2016, Dublin City University (DCU) was also designated as a University of Sanctuary due to its commitment to welcome protection applicants and refugees into the university community. DCU has offered fifteen academic scholarships available at either undergraduate or postgraduate level. It also has established a number of other welcoming initiatives such as a Langua-Culture Space initiative where DCU students teach beginners level English to protection applicants and refugees. In 2017, the University of Limerick and in 2018, University College Cork, became designated Universities of Sanctuary, respectively – granting scholarship access to a limited number of protection applicants and refugees. DCU, University Limerick, UCC, UCD, NUI Galway and Maynooth University have received the University of Sanctuary Award, and Athlone IT is the first College of Sanctuary in Ireland.<sup>702</sup>

As regards preparatory courses to access school, the Refugee Access Programme is part of the City of Dublin ETB's Separated Children Service, which prepares newly arrived separated children seeking asylum and other young people from refugee backgrounds for mainstream school and life in Ireland. The programme lasts from 12 to 20 weeks.

## F. Social welfare

Section 53(b) IPA states that a beneficiary of international protection “shall be entitled... to receive, upon and subject to the same conditions applicable to Irish citizens, the same medical care and the same social welfare benefits as those to which Irish citizens are entitled.”

As such, there are a broad range of social welfare entitlements to which a beneficiary of international protection may avail him or herself, including: access to jobseeker's allowance, for those who are unemployed but actively seeking work; access to disability allowance for those unable to provide for themselves due to disability or illness; access to the one-parent family payment for single parents, and access to child benefit for parents/guardians. Application for various grants is carried out at the individual's local office of the [Department of Employment Affairs and Social Protection](#).

International protection applicants living in Direct Provision who are recognised as refugees or granted alternative status, are not entitled to full social welfare payments while they remain in Direct Provision. Taking into consideration the difficulties they encounter accessing the housing market, being entitled to

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<sup>698</sup> Irish Research Council in partnership with the Irish Refugee Council, Transition from Direct Provision to life in the Community, the experiences of those who have been granted refugee status, subsidiary protection or leave to remain in Ireland, June 2016.

<sup>699</sup> Irish Times, 'No asylum in Ireland's education system', 25 October 2016. Doras Lumni and NASC along with the Irish Refugee Council support third-level education access for asylum seekers.

<sup>700</sup> NUIG, Inclusive Centenaries Scholarship Scheme, Announcement, 17 June 2016.

<sup>701</sup> University Times, 'NUI Galway becomes a University of Sanctuary', 19 September 2019, available at: <https://bit.ly/3aMdR5v>.

<sup>702</sup> Places of Sanctuary Ireland, Universities and Colleges of Sanctuary, available at: <https://bit.ly/3aMiexi>.

full payment would enable them to better plan for transition to other accommodation.<sup>703</sup> As of November 2021, there were 1,640 persons with some form of protection status residing in Direct Provision.<sup>704</sup> As of November 2022, there were 4, 625 persons with some form of status residing in Direct Provision.<sup>705</sup>

For those who lost their job as a result of COVID-19, a social welfare payment known as Pandemic Unemployment Payment, was made available. Under s. 53(b) IPA, beneficiaries of international protection are entitled to access this payment on the same basis as Irish citizens. In order to access the payment, an individual must have been in employment prior to the 13 March, lost their employment owing to the pandemic and are not in receipt of any income from their employer. The rate payable under PUP depends on the wage the individual was paid prior to losing their employment. Whereby an individual earned less than €200 per week, the rate payable is €203 per week. Whereby an individual earned between €200-€300 per week, the rate payable is €203 and whereby an individual earned over €300, the rate payable is €250.<sup>706</sup>

The Pandemic Unemployment Payment initially closed to new applicants in July 2021. However, following the reintroduction of COVID-19 related public health restrictions, the payment reopened for a limited time in respect of persons who lost their job after 7 December 2021. Whereby an individual earned more than €400 per week, the rate payable under PUP is €350. Where an individual earned between €300 and €399.99, the rate payable is €300.00, where an individual earned between €200 and €299.99, the rate payable is €250, where an individual earned between €151.51 and €199.99, the rate payable is €208 per week and finally, where an individual earned less than €151.50 per week, the rate payable is €150.<sup>707</sup> From January 2022, the welfare measure closed for the second time to new applicants.

## G. Health care

Beneficiaries of international protection are entitled to the same medical care as Irish citizens in accordance with Section 53(b) IPA. Access to health care for protection applicants is also on the same basis as Irish citizens and they are eligible for medical cards subject to a means test and can register with local GPs. They have access to the Public Health Nursing System as well as dedicated asylum seeker psychological services operating out of St. Brendan's Hospital in Dublin. However, a report by the Royal College of Physicians of Ireland in December 2019 noted problems as regards access to health by way of a number of cultural and financial barriers such as language, transport and medication costs.<sup>708</sup> Furthermore, the report highlighted that primary care providers have raised concerns over services receiving little attention and no additional resources and being expected to absorb large numbers of migrants.

Specialised treatment for torture survivors is mainly provided by SPIRASI, which receives some funding from the Health Service Executive. However, its resources are limited and therefore the need for such specialised services outweighs the resources and capacity available though it is difficult to find quantifiable data on this. The Royal College of Physicians of Ireland reported that 94% of international protection applicants have experienced traumatic events prior to arriving in Ireland, with 32-53% reporting torture.

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<sup>703</sup> Citizens Information Board, Submissions to the Joint Oireachtas Committee on Justice and Equality for the Review of Direct Provision and the International Protection Application Process, May 2019, available at: <https://bit.ly/2VP3rhe>.

<sup>704</sup> Minister for Justice Helen McEntee, Reply to parliamentary question no. 582, 15 September 2020, available at: <https://bit.ly/39EA5Yo>.

<sup>705</sup> Minister for Children, Equality, Disability, Integration and Youth Roderic O'Gorman, Parliamentary Question No 408, 6 December 2022, available at: <https://bit.ly/41RoiJU>.

<sup>706</sup> Department of Social Protection, *Covid-19 Pandemic Unemployment Payment*, 16 June 2020, available at: <https://bit.ly/2Nv1CUS>.

<sup>707</sup> *ibid.*

<sup>708</sup> Royal College of Physicians, Faculty of Paediatrics, *Children in direct provision, A position paper*, December 2019, available at: <https://bit.ly/3d42HL0>.

This is on par with international studies, which estimate a torture prevalence of 30-84% among protection applicants. Despite this, SPIRASI, Ireland's national treatment centre for survivors of torture, reports that only 6% of all protection applicants are referred for treatment.

Beneficiaries of International protection are included within national measures to stop the spread of COVID-19 and are therefore entitled to access to COVID-19 tests and vaccinations on the same basis as Irish nationals. The rollout of COVID-19 vaccines in Ireland is currently underway.<sup>709</sup> There were no registered differences amongst the vaccination rates for beneficiaries of international protection and Irish citizens.

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<sup>709</sup> HSE, 'Rollout of Covid-19 vaccinations in Ireland', 16 February 2021, available at: <https://bit.ly/37mk7ll>.

## ANNEX I – Transposition of the CEAS in national legislation

### Directives and other CEAS measures transposed into national legislation

Ireland has not opted into the recast Qualification Directive or the recast Asylum Procedures Directive.

| Directive                                                            | Deadline for transposition | Domestic law provision | Official title of corresponding act                                               | Web Link                                                    |
|----------------------------------------------------------------------|----------------------------|------------------------|-----------------------------------------------------------------------------------|-------------------------------------------------------------|
| <b>Directive 2013/33/EU</b><br>Recast Reception Conditions Directive | 20 July 2015               | 6 July 2018            | European Communities (Reception Conditions) Regulations 2018, S.I. No 230 of 2018 | <a href="https://bit.ly/2KW1T09">https://bit.ly/2KW1T09</a> |