

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 39th Session

IRELAND

I. BACKGROUND INFORMATION

Ireland acceded to the *1951 Convention relating to the Status of Refugees* in 1956 and its *1967 Protocol* in 1968. Ireland also acceded to the *1954 Convention relating to the Status of Stateless persons* and the *1961 Convention on the Reduction of Statelessness* in 1962 and 1973 respectively. International protection determination procedures are set out in domestic law in Ireland and, since 31 December 2016, have been contained primarily in the *International Protection Act 2015*.¹

Ireland has been a member of the European Union (EU) since 1973. Pursuant to a number of protocols to the Maastricht, Amsterdam and Lisbon treaties, Ireland is not bound by EU instruments adopted in the area of asylum that it has not specifically “opted into.”² In relation to the Common European Asylum System recast package, Ireland did not opt into the recast *Asylum Qualification Directive (2011/95/EU)* or the recast *Asylum Procedures Directive (2013/32/EU)*. Ireland has opted into the *Dublin III Regulation (604/2013/EU)* and the recast *Eurodac Regulation (603/2013/EU)*. It continues to participate in the *Qualification Directive (2004/83/EC)* and the *Asylum Procedures Directive (2005/85/EC)*. Ireland transposed the recast *Reception Conditions Directive (2013/33/EU)* on 30 June 2018.³

As of 31 December 2019, Ireland hosted 7,346 asylum-seekers, 534 persons awaiting judicial review of their asylum decision and had a population of approximately 7,800 refugees and subsidiary protection beneficiaries, including roughly 1,700 resettled refugees. Of the 7,346 asylum-seekers, 63 per cent were male and 37 per cent female, with 22 per cent under 18 years of age, 77 per cent between 18 and 59 years of age, and 1 per cent over 60 years of age.⁴ The top countries of origin of international protection applicants in 2020 were Nigeria (13 per cent), Somalia (11 per cent), Pakistan (6 per cent), South Africa (5 per cent) and Zimbabwe (5 per cent). From 1 January to 31 December 2020 there were 1,566 applications for international protection; this represents a 67% decrease on the same period in 2019, which is attributable to COVID-19 global travel restrictions.⁵

On 17 December 2019, Ireland pledged to welcome 2,900 refugees between 2020 and 2023 on resettlement and community sponsorship, the majority of whom, for the first two years, will be Syrians resettled from Jordan and Lebanon, along with 150 Eritrean refugees residing in

¹ Irish Statute Book, *International Protection Act, 2015*, available at: <http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/pdf>

² Protocol No.21 annexed to the Treaty on the Functioning of the European Union.

³ S.I. No. 230/2018 - European Communities (Reception Conditions) Regulations 2018, available at: <http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print>

⁴ UNHCR Annual Statistical Report on Ireland, 2019.

⁵ Department of Justice and Equality, International Protection Office, Monthly Statistical Report, December 2020, available at: <http://www.ipo.gov.ie/en/IPO/IPO%20Website%20Statistics%20December%202020%20FINAL.pdf/Files/IPO%20Website%20Statistics%20December%202020%20FINAL.pdf>

Ethiopia.⁶ Ireland continues to work towards fulfilling its commitment to relocate persons under the Mediterranean Search and Rescue Missions. In December 2018, Ireland agreed to invite up to 36 unaccompanied children from Greece,⁷ 8 of whom arrived in June 2020. In the aftermath of the Moria refugee camp fire on the Greek island of Lesbos, Ireland committed to welcoming a further 50 international protection beneficiaries in family groups.⁸

Following a general election in February 2020, a coalition government was formed in June between Fianna Fáil, Fine Gael and the Green Party. As part of the programme for government, the coalition committed to supporting community sponsorship of refugees and ending the Direct Provision⁹ system and replacing it with a new International Protection accommodation policy, centred on a not-for-profit approach.¹⁰

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 2nd cycle UPR recommendation no.135.148 *Apply international standards relating to the treatment of refugees and asylum seekers, provide them with adequate services and speed up the processing of their application (Qatar)*

UNHCR welcomed the commencement of the *International Protection Act 2015* on 31 December 2016. The 2015 Act establishes a single protection determination procedure, which allows for the streamlining of the asylum procedure and a reduction in delays as it encompasses the assessment of refugee status, subsidiary protection and permission to remain. This improves efficiency in the asylum process and reduces the length of time asylum-seekers spend in accommodation offered to people in the protection process (IPAS accommodation).¹¹

Linked to 2nd cycle UPR recommendation no. 136.90 *Ensure family reunification and the conditions of the reception of refugees and asylum-seekers, in the implementation of the Law on International Protection, are in accordance with international law (Guatemala)*

UNHCR strongly welcomes the establishment of national legislation on reception conditions through the transposition of the recast *Reception Conditions Directive (2013/33/EU)*, which introduces labour market access for asylum-seekers. UNHCR commends the recent government decision¹² that asylum-seekers may apply for access to the labour market if they have not received a first instance decision within 6 months, reducing the previous 9-month timeframe. UNHCR also welcomes the extension of the remit of the Ombudsman and the Ombudsman for Children to include those living in IPAS accommodation.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Access to adequate and dignified services and accommodation.

⁶ Ireland commits to a new Refugee Protection Programme, Press release of 17 December 2019, available at: <http://www.justice.ie/en/JELR/Pages/PR19000319>

⁷ Minister Flanagan agrees to invite up to 36 unaccompanied minors to Ireland from Greece, Press release of 6 December 2018, available at: <http://www.justice.ie/en/JELR/Pages/PR18000390>

⁸ Minister McEntee announces resettlement of refugee families from Greece, Press release of 1 October 2020, available at: <http://www.justice.ie/en/JELR/Pages/PR20000223>

⁹ Direct Provision is the system by which the State seeks to meet its obligations to provide for the material needs of people seeking international protection in Ireland and encompasses both the living conditions and the services provided to residents within International Protection Accommodation Service (IPAS) accommodation centres.

¹⁰ *Programme for Government: Our Shared Future*, published 29 October 2020, available at: <https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/>

¹¹ The International Protection Accommodation Service (IPAS) is responsible for the procurement and overall administration of accommodation offered to people in the protection process.

¹² Minister McEntee announces reduced 6 month waiting period for international protection applicants to access work, Press release of 28 January 2021, available at: <http://www.justice.ie/en/JELR/Pages/PR21000016>

Linked to 2nd cycle UPR recommendation no. 136.89: Improve the protection of refugees, migrants and asylum seekers and improve their living conditions and access to social security and guarantee other human rights (China)

As of October 2020, there were 6,998 people accommodated in 45 IPAS accommodation centres across Ireland, including 1,204 people accommodated in 29 temporary, emergency settings in hotels and guest-houses.¹³ UNHCR notes that, in its *Concluding observations on the combined fifth to ninth reports of Ireland*, the Committee on the Elimination of Racial Discrimination urged Ireland to "... regulate and inspect the operation of IPAS accommodation centres" and "[h]alt the emergency accommodation as soon as possible and develop a contingency planning framework with a view to effectively responding to capacity pressures".¹⁴

Building on its commitment to replace IPAS accommodation with a new international protection accommodation policy, the government is expected to publish a White Paper in February 2021 that will outline the structure of the new system and the transitional process towards achieving it.¹⁵ It will be informed by the *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process (the Day Report)* of September 2020.¹⁶ However, during the transitional process to the new system, several improvements are required to protect and promote the human rights of applicants for international protection and to ensure a consistent, dignified standard of living for them. Over the short to medium term, UNHCR encourages the government to continue its efforts to improve IPAS accommodation, in particular by focusing on three key areas:

- Vulnerability assessments for international protection applicants
- Emergency accommodation and contingency planning for the international protection accommodation system.
- Independent inspection and monitoring of the *National Standards for accommodation offered to people in the protection process*

Vulnerability assessments

Ireland's transposition of the recast *Reception Conditions Directive (2013/33/EU)* in June 2018 placed reception conditions for asylum-seekers in Ireland on a legislative footing for the first time.¹⁷ The recast *Reception Conditions Directive (2013/33/EU)* obliges Member States to establish mechanisms for identifying special reception needs. The early identification of asylum-seekers with vulnerabilities and special needs, including children, is key to ensuring that their specific accommodation and support needs are met. In light of this obligation, the existing Health Service Executive (HSE) health screening service for asylum-seekers upon arrival in the first reception centre should be reviewed and strengthened so as to facilitate a multidisciplinary needs assessment at an early stage.¹⁸

¹³ Minister for Justice (Deputy McEntee) response to a parliamentary question, 8 October 2020, available at: <https://www.oireachtas.ie/en/debates/question/2020-10-08/237/>

¹⁴ Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifth to ninth reports of Ireland*, CERD/C/IRL/CO/5-9, 23 January 2020, at paragraphs 38(b) and 38(c).

¹⁵ Minister for Children, Equality, Disability, Integration and Youth (Deputy O'Gorman) response to a parliamentary question, 15 December 2020, available at: <https://www.oireachtas.ie/en/debates/question/2020-12-15/397/?highlight%5B0%5D=42937>

¹⁶ *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*, September 2020, available at: <https://www.gov.ie/en/publication/634ad-report-of-the-advisory-group-on-the-provision-of-support-including-accommodation-to-persons-in-the-international-protection-process/>

¹⁷ *Supra*, note 3.

¹⁸ According to the Minister for Children, Equality, Disability, Integration and Youth (Deputy O'Gorman), the government was recently in discussions with the HSE to enable formal vulnerability assessments for international protection applicants by the end of 2020. This was in response to a parliamentary question of 3 December 2020, available at: <https://www.oireachtas.ie/en/debates/question/2020-12-03/111/?highlight%5B0%5D=hse&highlight%5B1%5D=enable&highlight%5B2%5D=formal&highlight%5B3%5D=vulnerability&highlight%5B4%5D=assessments>

UNHCR notes that the Committee against Torture considered that Ireland should “Establish a formalized vulnerability-screening mechanism for torture victims and other persons with special needs and provide them with care and protection to avoid retraumatization, including during international protection procedures”.¹⁹ UNHCR encourages the introduction of a procedure to identify vulnerabilities which may arise on the arrival of an asylum-seeker in IPAS accommodation and at a later stage following dispersal from the initial reception centre. UNHCR also encourages the Government to explore how such vulnerability assessments can assist in identifying special procedural needs within the protection determination system.

Emergency accommodation

Since September 2018 capacity pressures have emerged in the IPAS accommodation system and it can no longer meet demand. Shortages in housing outside of IPAS accommodation means residents with international protection or another form of permission to remain²⁰ are unable to exit IPAS accommodation, while international protection applicants continue to arrive. In response, IPAS has sought emergency accommodation for new asylum-seekers. As of October 2020, 1,204 asylum-seekers were accommodated in 29 temporary settings in hotels and guesthouses.²¹ Emergency accommodation providers are not bound by the same contractual obligations as those who are running dedicated IPAS accommodation centres. Asylum-seekers living in emergency accommodation can face challenges in accessing necessary state services and supports and to fully exercise their rights. UNHCR recommends that emergency accommodation for asylum-seekers should be relied upon on an exceptional basis only and should be phased out as soon as possible. In order to ensure an effective response to capacity pressures, periodic fluctuations and increased asylum applications, a contingency planning framework should be developed by government.

Independent inspectorate and monitoring of the National Standards

On foot of a *McMahon Report*²² recommendation, the *National Standards for accommodation offered to people in the protection process* (National Standards) were published in August 2019 and became fully binding in January 2021.²³ UNHCR welcomes the new standards, which provide a framework for the continual development of person-centred, high-quality, safe and effective services and supports for IPAS accommodation residents. However, it is imperative that the standards are bolstered by the establishment of an independent inspectorate with the authority to inspect and monitor the implementation of the National Standards in all IPAS accommodation centres. UNHCR encourages the government to move forward with establishing the independent inspectorate as quickly as possible so that it can drive improvements and ensure consistency in standards across centres.

Recommendations:

UNHCR recommends that the Government of Ireland:

- a) Introduce a mechanism to screen for vulnerabilities and special needs among asylum-seekers to ensure that their specific reception needs are met and to assist in identifying special procedural needs;

¹⁹ Committee Against Torture, Concluding observations on the second periodic report of Ireland, CAT/C/IRL/CO/2, 31 August 2017, at paragraph 12(b).

²⁰ As of the end of November 2020, there were 727 adults and 300 children who have been granted status, residing in Direct Provision accommodation centres. Minister for Children, Equality, Disability, Integration and Youth (Deputy O’Gorman) response to a parliamentary question, 15 December 2020, available at: <https://www.oireachtas.ie/en/debates/question/2020-12-15/395/?highlight%5B0%5D=42922&highlight%5B1%5D=20>

²¹ Minister for Justice (Deputy McEntee) response to a parliamentary question, 8 October 2020, available at: <https://www.oireachtas.ie/en/debates/question/2020-10-08/237/>

²² *Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers*, June 2015, available at: <http://www.justice.ie/en/JELR/Report%20to%20Government%20on%20Improvements%20to%20the%20Protection%20Process,%20including%20Direct%20Provision%20and%20Supports%20to%20Asylum%20Seekers.pdf/Files/Report%20to%20Government%20on%20Improvements%20to%20the%20Protection%20Process,%20including%20Direct%20Provision%20and%20Supports%20to%20Asylum%20Seekers.pdf>

²³ *National Standards for accommodation offered to people in the protection process*, available at: <http://www.accommodationcentres.ie/wp-content/uploads/2021/01/national-standards-justice-2019.pdf>

- b) Phase out the use of emergency accommodation for asylum-seekers and develop a contingency planning framework for their accommodation; and,
- c) Establish an independent inspectorate without delay to monitor implementation of the national standards on accommodation for asylum-seekers and ensure consistency and dignified living conditions across all centres.

Issue 2: Delays in the international protection process

Linked to 2nd cycle UPR recommendation no. 136.88 Ensure that the legislation that provides individual consideration of the status of refugee includes the provision of sufficient resources for its implementation in order to avoid delays in the effective determination of the requests for the concession of refugee status (Mexico)

The length of time protection applicants must wait for a final decision on their international protection application remains the single biggest issue within the international protection system. When the single protection determination procedure was introduced, it was envisaged that it would allow applications for international protection to be processed more efficiently, reducing time asylum-seekers spend in IPAS accommodation centres. However, challenges remain as regards the length of time they must wait for their final decision. The number of applications for international protection in Ireland has increased annually, from 3,276 in 2015 to 4,781 in 2019. However, the number of applicants awaiting a first instance decision has risen from 2,582 at the end of 2015 to 5,957 at the end of 2019.²⁴ While the number of applications for international protection dropped significantly in 2020 due to COVID-19 restrictions, this has not led to a reduction in processing times.

At the end of September 2020, the median processing time for all applications processed at first instance in the third quarter was 18.3 months and 14 months for prioritised cases.²⁵ It is essential that adequate, sustainable resources be allocated to the International Protection Office and the International Protection Appeals Tribunal, the first and second instance determining bodies, in order to ensure the efficient processing of applications. This is required to clear existing backlogs, avoid future backlogs, reduce the length of time spent by applicants in IPAS accommodation and, in doing so, protect their dignity and access to human rights.

Recommendations:

UNHCR recommends that the Government of Ireland:

- a) Allocate adequate, sustainable resources to the first and second instance asylum decision-making bodies to clear backlogs and reduce processing times for international protection applications.

Additional protection challenges

Issue 3: Recourse to solutions for stateless persons

Ireland is a State party to the *1954 Convention relating to the Status of Stateless Persons* (hereafter the *1954 Convention*) and the *1961 Convention on the Reduction of Statelessness* (hereafter the *1961 Convention*). The *Irish Nationality and Citizenship Act 1956* (as amended) provides safeguards against statelessness at birth and upon loss, deprivation or renunciation of nationality, in line with the *1961 Convention*. It is implicit in the *1954 Convention* that States are responsible for the identification of stateless persons in their jurisdiction so that they may

²⁴ UNHCR Annual Statistical Report on Ireland, 2019.

²⁵ At the end of March 2020, the median processing times for all cases at first instance processed in the first quarter was 14.7 months and 9.8 months for prioritised cases. The increase may be attributable to the COVID-19 pandemic. Minister for Justice (Deputy McEntee) response to a parliamentary question, 10 December 2020, available at: <https://www.oireachtas.ie/en/debates/question/2020-12-10/33/?highlight%5B0%5D=42498&highlight%5B1%5D=20>

be provided with appropriate treatment and access to a range of rights. However, there is currently no formal procedure for the determination of statelessness in Ireland.

Due to the lack of a formal determination procedure, stateless persons experience obstacles in accessing their rights under the *1954 Convention* and can encounter difficulties in various procedures, including naturalisation.²⁶ While individuals can apply to the Department of Justice for a discretionary travel document, they face barriers in accessing such a document in the absence of a statelessness declaration or access to other official or national identification documents. Furthermore, there is an absence of data on statelessness in Ireland, which hampers the full understanding of problems related to statelessness.²⁷ UNHCR notes that, in its *Concluding observations on the combined fifth to ninth reports of Ireland*, the Committee on the Elimination of Racial Discrimination urged Ireland to "... collect and report quantitative and qualitative data on refugees, beneficiaries of international protection, asylum seekers and stateless persons" and "[e]stablish a procedure for the determination of statelessness".²⁸

Recommendations:

UNHCR recommends that the Government of Ireland:

- a) Establish a procedure to determine the status of stateless persons and facilitate their access to rights, including through the provision of information and support.

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²⁶ In the absence of a formal statelessness determination procedure, potentially stateless persons have, in certain circumstances, been granted "leave to remain" on a humanitarian basis. This process typically provides neither a declaration of statelessness, nor access to any particular rights associated with such a status. Accordingly, such persons may continue to experience difficulties in seeking to avail of their right, for instance, to a travel document for stateless persons.

²⁷ UNHCR, *Scoping Paper: Statelessness in Ireland*, October 2014, available at: <https://www.refworld.org/docid/5448b6344.html>

²⁸ *Supra*, note 14 at paragraphs 36(b) and 36(d).