

Buan-Mhisean na hÉireann chuig na Náisiún Aontaithe agus
Eagraíoch idirnáisúnta eile | An Ghinéiv
Permanent Mission of Ireland to the United Nations and
Other International Organisations | Geneva
Mission Permanente de l'Irlande auprès de l'Office des Nations Unies et
des autres organisations internationales | Genève



TPN/027/2021

The Permanent Mission of Ireland to the United Nations Office and other International Organisations in Geneva presents its compliments to the Secretary-General of the United Nations (High Commissioner for Human Rights) and refers to the communication OL IRL 1/2021.

With reference to the aforementioned communication, enclosed please find a response from Minister for Foreign Affairs, Mr Simon Coveney T.D.

The Permanent Mission of Ireland to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Secretary-General of the United Nations (High Commissioner for Human Rights) the assurances of its highest consideration.

Geneva, 12 May 2021



Ms Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children
United Nations Human Rights Special Procedures

12 May 2021

Re: Communication from Special Procedures
Your Ref: OL IRL 1/2021

Dear Special Rapporteur Mullally,

I refer to the above-mentioned communication directed to me and my colleagues, the Minister for Justice and the Minister for Children, Equality, Disability, Integration and Youth on the topic of the Government White Paper on the Future of the International Protection System.

Thank you for your input to the development of the White Paper.

Following consultation with my colleagues, Minister O’Gorman and Minister Naughton, I wish to present the following information to you on behalf of the Government:

Ireland is committed to providing safe, lasting refuge to those who seek protection due to war, persecution and migratory pressures.

As a member of the United Nations and of the European Union, Ireland is bound by obligations under international law. In the area of international refugee law, the principal legal instruments are the 1951 Convention relating to the Status of Refugees (the Geneva Refugee Convention) and the 1967 Protocol to that Convention.

Ireland has opted in to a number of legislative instruments which form part of the Common European Asylum System.¹ In 2018, Ireland opted in to the EU’s Reception Conditions Directive (recast).² This Directive sets minimum standards for the accommodation and accompanying supports offered to those seeking International protection. The Directive requires Ireland to offer accommodation to all applicants who require such accommodation. It also requires Ireland to assess the vulnerability of applicants and to use the results of this assessment when determining the accommodation and accompanying services that are most appropriate to their needs. Ireland is meeting its obligations under Articles 21 and 22 of the Reception Conditions Directive (recast) to ensure that the support provided takes into account their special reception needs throughout the duration of the asylum procedure.

¹ Ireland has opted-in to the following asylum-related legislation under Protocol 21 and its predecessor Protocol attached to the Treaty of Amsterdam: the Recast EUODAC Regulation (EU No 603/2013); ([EU No 603/2013](#)); the Dublin III Regulation ([EU No 604/2013](#)); the Recast Reception Conditions Directive ([2013/33/EU](#)); the Regulation establishing the European Asylum Support Office (EASO) ([EU No 439/2010](#)); the Regulation providing for the establishment of the Asylum, Migration and Integration Fund (AMIF) ([EU No 516/2014](#)); the Qualification Directive ([2004/9/EC](#)); the Asylum Procedures Directive ([2005/85/EC](#)).

² The Recast Reception Conditions Directive ([2013/33/EU](#)) was transposed into Irish law as the European Communities (Reception Conditions) Regulations 2018 ([S.I. No. 230/2018](#)).

In response to human trafficking, Ireland's national legislation has its foundation in the global and European commitment to fight human trafficking, the key international instruments being:

- The UN Palermo Protocol of the year 2000: A Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- The Council of Europe Convention against Human Trafficking: A 2005 Council of Europe Convention on Action against Trafficking in Human Beings ratified July 2010.
- EU Directive 2011/36/EU.

Ireland's legislation, combined with administrative measures for victim support, fully implements these international treaties. The key legal instruments in Ireland are:

- The Criminal Law (Human Trafficking) Act 2008. This is the main human trafficking Act which defines the crime and its penalties, with the exception of child sex trafficking. The Act criminalises: the trafficking of adults; child trafficking for purposes other than sexual exploitation (dealt with by 1998 Act – see below); prostituting a trafficked person; and the payment for sex with a trafficked person.
- Child Trafficking and Pornography Act 1998. This Act covers child trafficking, child sex abuse and child pornography. In relation to human trafficking, the legislation criminalises child trafficking for sexual exploitation.
- The Criminal Law (Human Trafficking) (Amendment) Act 2013. The 2013 amending Act modified the definition of Labour Exploitation to bring it into line with ILO definitions of forced labour and gave effect to the EU Directive 2011/36/EU.

The National Referral Mechanism (NRM) is the national framework for identification of victims of trafficking through which State bodies fulfil their obligations to protect and promote the human rights of trafficking victims, working in partnership with civil society. A victim of human trafficking may be detected through many means: An Garda Síochána, the Health Service Executive, other State bodies, NGOs or members of the public. The current position is that An Garda Síochána are the sole body with authority to formally identify victims.

The victim is referred to the Garda Human Trafficking Investigation and Co-ordination Unit (HTICU), who are the competent authority for the identification of victims which is decided on "reasonable grounds" basis. Once identified by HTICU, victims enter the NRM, which is coordinated by the HSE's Anti Human Trafficking Team (AHTT).

The Department of Children, Equality, Disability, Integration and Youth (DCEDIY), provides accommodation to suspected victims of trafficking who seek international protection through the International Protection Accommodation Service (IPAS).

The supports available under the NRM include accommodation, medical care, care planning, legal advice and aid, immigration permission, police services, material assistance, including supplementary welfare allowance or rent, access to the labour market, employment/vocational training, translation and interpretation services and voluntary return home. The victim remains under HSE care until they are ready to move on and re-engage independently with society. The range of assistance and support services provided under Ireland's NRM to both foreign and domestic victims of human trafficking depends on their individual circumstances.

In cases where non-EEA victims do not have permission to remain in the State (such as permission provided through the International Protection process, for example), residence permission is provided by Immigration Service Delivery under the 'Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking'. Under these arrangements, an initial 60-day period of 'Recovery and Reflection' is granted. Following this 60-day period, a renewable 6-month temporary 'Stamp 4' residence permission can be sought which entitles the applicant to seek employment while their application is being considered.

Ireland continues to ensure that the right to seek and enjoy asylum does not impede identification as a victim of trafficking. The International Protection Office places a strong emphasis on detecting human trafficking in International Protection applicants and has an ongoing training programme in place.

Ireland is sensitive to the concern that having An Garda Síochána as the only body with authority to formally identify victims may act as an unintended barrier to access the NRM on the basis that it requires victims to liaise with An Garda Síochána before receiving access to victim supports, potentially deterring possible victims from coming forward.

This week (11 May), the Government this week approved the creation of a revised National Referral Mechanism. The new model for the NRM aims to create a more holistic framework with multiple channels of entry to the NRM granting access to specialised supports. Under the proposed revised model, the HSE, Tusla, Department of Justice Immigration Services and DCEDIY accommodation services will also become competent authorities with authority to formally identify victims.

In addition, an important feature of the new model is that NGOs who have been designated as 'trusted partners' will become authorised referral partners. They will provide an alternative and trusted pathway to recognition by a competent authority. The advantages are that victims may find it easier to approach an NGO, and the NGO will apply the same due diligence process that a competent authority would apply in assessing an application for recognition as a victim of human trafficking.

Recognition within the new NRM model will not require a victim to give evidence, but it is expected that provision of support over a period of time will build up enough trust and self-confidence to facilitate a greater number of victims than at present to give evidence. Ireland will continue to ensure that victims of trafficking have early access to legal practitioners, including by means of funding NGO groups that provide legal assistance.

A Forum for Human Trafficking Stakeholders has been established by the Department of Justice and operates mainly via a subgroup structure. The proposals for a revised NRM were developed with the help of a subgroup of the Forum and an additional subgroup has been established recently to work with the Department on development of a new Human Trafficking Action Plan.

The Department of Justice is also working with the International Organisation for Migration (IOM) Ireland on a Cultural Mediation project. The project will build the capacity of State professionals who work with/for migrants, to identify and address the needs of (potential) victims of gender-based violence and trafficking more effectively and to provide culturally sensitive support to them. It will also allow victims of gender based violence and trafficking better access to information and effectively engage with support and referral services and will promote a culturally sensitive approach to victims, through the use of cultural mediators.

A White Paper to End Direct Provision and to Establish a New International protection Support Service

Ending Direct Provision³ is a key commitment of the Government, explicitly contained in the Programme for Government. The Minister for Children, Equality, Disability, Integration and Youth published [*A White Paper to End Direct Provision and to Establish a New International Protection Support Service*](#) on 26 February 2021. This White Paper sets out a new Government policy on the accommodation and supports that will be offered to international protection applicants by the State while they await a decision on their claim for international protection in Ireland.

The primary change represented by the new policy is that applicants will, after an orientation period not exceeding four months, be offered accommodation in the community. All families will be offered own-door accommodation, while single people will be offered own-room accommodation. Congregated accommodation settings will be phased out by the end of 2024. New accommodation will be managed by independent not-for-profit organisations operating on behalf of the State. Early integration is a key principle of the new policy. In developing the White Paper, the Minister for Children, Equality, Disability, Integration and Youth and his officials worked intensively with colleagues across Government to design a new model for meeting the needs of those who come to Ireland seeking international protection. This work was informed by a number of previous reports commissioned by the State, in particular, the *Report of the Advisory Group on the Provision of Support, including Accommodation, to Persons in the International protection Process* (September 2020); the *Inter-Departmental Group Report on Direct Provision* (December 2019); and the *Oireachtas Joint Committee on Justice & Equality, Report on Direct Provision* (December 2019).

Minister O’Gorman wishes to reassure you that the human rights of victims of trafficking are protected and ensured in the new model; and in the ongoing reforms to the current system of Direct Provision.

In developing the new model, the Minister for Children, Equality, Disability, Integration and Youth consulted with the UNHCR and civil society organisations who work in the areas of international protection and refugee integration. He also consulted with residents living in State provided international protection accommodation. Ireland takes seriously its role in promoting the work of UN Human Rights Treaty Bodies, and as promised in the Programme for Government, the policy is centred on human rights, and respect for autonomy and privacy. Direct Provision will be phased out over a four-year period and will be replaced with a new International Protection Support Service, which will cater for people’s needs in a fundamentally different way. The new model will operate on a not-for-profit basis.

A new model of supports for those seeking international protection in Ireland

A White Paper to End Direct Provision and to Establish a New International Protection Support Service commits to the development of a new permanent, professional and applicant-centred system of accommodation and support for those seeking international protection status. This new system is designed to enable the State to fulfil its international commitments now and into the future. It is distinctively different from the system currently in place. It is centred on a human rights approach, which will support people to integrate and to live independently.

³ Ireland has operated Direct Provision since 2000 as the system through which it offers accommodation and accompanying services and supports to people seeking International Protection. Ireland’s system of Direct Provision has been distinctive for its reliance on the private sector and for the absence of not-for-profit organisations as operators of centres. The system has been widely criticised and has been determined by the Government to be in need of change.

The White Paper describes in detail the new International Protection Support Service that will be developed between now and the end of 2024. The new Service will co-ordinate a system of accommodation and supports that ensures people who are applying for protection are helped integrate into Ireland from day one, with health, housing, education, and employment supports at the core of the new system.

It sets out the accommodation options that will be offered to an applicant for international protection, depending on what stage they are at in their application process. Accommodation type will also take account of the specific needs of each individual.

- The White Paper specifically focuses on the needs of victims of trafficking in the following ways:
- Specific supports for people who have been trafficked and/or suffered gender-based violence.
- The type and location of accommodation offered will take account of the outcome of a Vulnerability Assessment carried out within 30 days of the making of an application. Being a victim of human trafficking or sexual exploitation is a named category within the framework used to conduct the vulnerability assessments.
- Specific accommodation will be provided for both female and male victims of trafficking and/or sexual exploitation.
- Women-only accommodation will be available for female applicants who have experienced gender-based violence and who need ongoing psychological support.

More detailed information on the new model is provided in the following sections.

Phase One: Reception and Integration Centre

Under the new system set out in the White Paper, international protection applicants who avail of State-provided accommodation will initially stay in one of a number of Reception and Integration Centres. These Centres will be State-owned and purpose built to provide suitable accommodation for families and single people, as well as access to support services. People will stay in the Centres for a maximum of four months.

During that time, applicants will receive intensive English language training, and they will be linked with employment activation services. Tusla (the Child and Family Agency), the Health Service Executive (HSE) and the Legal Aid Board will have offices onsite and applicants will receive caseworker support to ensure that their immediate needs are met and to prepare them to transition to independent living in the community.

A comprehensive Vulnerability Assessment undertaken while the applicant is in the Reception and Integration Centre will determine the level and type of accommodation and supports needed. These will be provided through a combination of mainstream provision and NGO-led programmes, with special funding available for supports for victims of trafficking.

Where an applicant is assessed as highly vulnerable, the caseworkers working in the Phase One Reception and Integration Centres will ensure that the accommodation offered is appropriate to the needs of highly vulnerable people and that they are linked into appropriate supports. Applicants in this category will receive accommodation supported by NGOs with relevant expertise in supporting vulnerable people. These NGOs will be specifically commissioned to support highly vulnerable people.

Where further vulnerabilities emerge following initial screening and assessment, the assigned caseworker will notify appropriate services and will arrange for additional supports and for further assessments to be undertaken as necessary. The ongoing assessment of vulnerabilities is an important part of the overall process.

Phase Two: Independent Living in the Community

After a maximum of four months, if the applicant has not yet had a decision on their application, they will move to Phase Two: State-provided accommodation in towns and cities across the country while they await the outcome of their claim. The new model will support the applicant to live independently and will also help to foster inclusion and integration between applicants and their host communities.

Accommodation for this second phase will be delivered through a multi-strand approach, which includes bespoke accommodation for victims of trafficking. During this second phase, families will have own door accommodation while single people will have their own bedrooms and will share living and cooking facilities.

Different support options will apply depending on the outcome of vulnerability assessments:

- Supports will be provided by not-for-profit organisations for vulnerable people. These organisations will be contracted and funded by the Department of Children, Equality, Disability, Integration and Youth to provide the service in a particular location / housing or apartment complex.
- Where 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 (as they do now), such as in relation to education and health. Access to further intensive English language supports will be provided. A new healthcare model will be introduced.

When moving into Phase Two accommodation, the applicant will receive an income support payment from the Department of Children, Equality, Disability, Integration and Youth at a rate broadly similar to the Supplementary Welfare Allowance if they have not yet entered employment, or if their wages are below a threshold. Applicants with children will also receive a child support payment.

Applicants will be entitled and encouraged to access employment if they do not receive a first instance decision within six months of applying for International protection. Applicants will be entitled to access employment activation supports and to link with employer networks. They will be linked with business start-up and entrepreneurship supports if they receive positive decisions on their applications for International protection.

Accommodation will be located in urban areas across the country according to a settlement pattern determined in co-operation with Local Authorities. Existing Inter-Agency Working Groups, which are led by Local Authorities to co-ordinate services to programme refugees under the Irish Refugee Protection Programme, will be given an expanded mandate to support the co-ordination of services and promote the integration of applicants.

Children

In both Phase One and Phase Two, there will be an emphasis on child welfare and child protection. Children and Young People's Services Committees (CYPSCs) will ensure that there is a specific focus on the needs of children, young people and their families in international protection accommodation settings, with the input of Tusla in the key areas of provision, to include Prevention, Partnership and Family Support and Educational Support Services.

Parenting supports and child development services will be made available to applicant families to support child development during the application process for International protection. Childcare will be provided to enable parents to attend English language classes.

Women

Women passing through the international protection process will be entitled to avail of the same healthcare supports as Irish nationals, including reproductive care, antenatal, birth and postnatal care, cervical checks. Breast screening will be available for all applicants aged over 50. It is crucial that information relating to these services is conveyed in an accessible and culturally sensitive manner. Information on the range of healthcare supports will be provided at the earliest point of contact on arrival in a Reception and Integration Centre.

Mental health needs will be identified as part of the general Health Assessment carried out at the Reception and Integration Centre, and further informed by the Vulnerability Assessments. Where applicants have mental health needs, including trauma, they will be referred to healthcare professionals with relevant experience, and this will be done in a culturally sensitive manner with appropriate interpretation services. Once this assessment has been carried out, appropriate community-based care will be initiated and all relevant information will be communicated to mental health services in a timely manner.

As applicants commence the move to Phase Two accommodation, their mental health support and treatment requirements will be factored into the type and location of their accommodation, to ensure both continuity of treatment and living arrangements that are appropriate for their needs.

In the enhanced model of community healthcare, community healthcare teams will develop a comprehensive and efficient model of care for applicants for international protection. The teams will include General Practitioner (GP) services, nursing and health worker services, interpretation and NGO supports, and specialisms such as dentistry, psychology, and referral to mental health services based on assessment

International protection applicants will have the right to pursue a grievance or complaint about any aspect of the services they receive through the accommodation process. Complaints will be handled sensitively, appropriately and promptly.

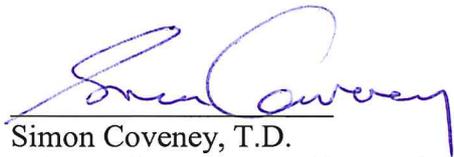
Transition to the new model of accommodation and supports

The Government is working to complete the transition to the new model by December 2024. A detailed implementation plan is now being developed which will drive forward significant changes for each year between now and 2024. The Department of Children, Equality, Disability, Integration and Youth will lead this process. The implementation of the new model will be overseen by a Programme Board which will include representatives of relevant Government Departments and agencies, NGOs, at least one person who has transited through the Direct Provision system and relevant experts. The Programme Board will be chaired by the Department of Children, Equality, Disability, Integration and Youth. The Minister for Children, Equality, Disability, Integration and Youth will report to the Cabinet Committee on Social Affairs and Equality on progress in the establishment of the new model.

An external advisory group of three independent persons will be appointed by the Minister for Children, Equality, Disability, Integration and Youth to advise on the implementation of the new model. This group will publish reports periodically on the progress of the reforms and to highlight any concerns arising.

The Department of Children, Equality, Disability, Integration and Youth is also overseeing the ongoing reform of the International Protection Accommodation Service and the current system of Direct Provision, pending its replacement by the new International protection Support Service. Ongoing reforms include the implementation of recommendations from the Expert Advisory Group Report (2020) as well as the previous McMahon Report (2015)⁴. The introduction of Vulnerability Assessments on a pilot basis from December 2020 forms part of this programme of reform.

Yours sincerely,



Simon Coveney, T.D.
Minister for Foreign Affairs and
Minister for Defence

⁴ *Working Group on the Protection Process including Direct Provision and Supports for Asylum Seekers* chaired by Judge Bryan McMahon, published its report 2015.