

**Mandate of the Special Rapporteur on trafficking in persons, especially women and children**

REFERENCE:  
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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolution 44/4.

In this connection, I would like to draw the attention of your Excellency's Government to information we have received concerning the **forthcoming White Paper on the Future of the International Protection System. Current discussions on reform of the reception conditions for asylum seekers in Ireland provide an opportunity to address serious concerns, specifically in relation to accommodation and assistance to victims.**

The reception system for asylum seekers in Ireland, known as Direct Provision, has been the subject of repeated calls for reform, including by UN Human Rights Treaty Bodies and by civil society organisations. In June 2020, your Excellency's Government made commitments to end the Direct Provision system and to replace it with a new international protection accommodation policy. Given that many victims of trafficking are accommodated in Direct Provision centres, it is critically important to ensure that the human rights of victims of trafficking are protected and ensured in this reform process, (A/75/169, para 61). Identification of and assistance to victims of trafficking, has been described as among the most urgent challenges to be addressed in Ireland.<sup>1</sup>

I take this opportunity, as you move towards reform of the system of Direct Provision, to remind your Excellency's Government of Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), which requires States to implement measures to provide for the physical, psychological and social recovery of victims of trafficking, where appropriate in co-operation with non-governmental organizations. I highlight the State's obligation to ensure the provision of appropriate housing, counselling and information on legal rights, medical, psychological and material assistance, in addition to employment, education and training opportunities.

I would also like to refer to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking. Guideline 6 provides that States should ensure the availability of safe and adequate shelter, which meets the needs of trafficked persons. Principle 8 requires States to ensure access to adequate physical and psychological care to victims, and to ensure such provision of care should not be made contingent on the willingness of victims to give evidence in criminal proceedings. In this regard, I wish to further highlight the need for early support to victims of

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<sup>1</sup> Office of the Special Representative and Co-ordinator for Combatting Trafficking in Human Beings, 'On visit to Ireland, OSCE Special Representative for Combatting Trafficking in Human Beings urges more prosecutions of traffickers and increased victim assistance' [OSCE](#) (21 February 2020).

trafficking, which is individually tailored and provides at minimum appropriate and secure accommodation, psychological and material assistance, healthcare and employment and education opportunities. There is also a need to explore independent accommodation for victims of trafficking (A/HRC/44/45, para 69 and 74).

I also wish to remind your Excellency's Government of the obligation to exercise due diligence to promote social inclusion of victims of trafficking, as an integral element of the State's due diligence obligations as well as the right of victims to an effective remedy (A/HRC/44/45, para 77a). I draw your Excellency's attention to the UN Committee on Elimination of Discrimination Against Women (CEDAW)'s General Recommendation No. 38, which emphasizes the importance of:

“[...] quality support services, that must be inclusive and accessible, including access to information on their rights, medical, psychological, social and legal services available to them and how to access them as well as to safe and appropriate accommodation.”

I wish to remind your Excellency's Government of concerns raised by the UN Human Rights Committee in 2014:

“[...] that victims of trafficking who exercise their right to apply for asylum are not granted a “recovery and reflection period” or temporary residence permission and are kept in Direct Provision centres. It is also concerned at inadequacies in the legal support provided to victims of trafficking and the absence of legislation protecting their rights (arts. 2 and 8).”, ( CCPR/C/IRL/CO/4, para. 20).

In addition, I highlight recommendations made by the UN Committee on Economic, Social and Cultural Rights regarding the system of Direct Provision, in particular to improve reception of asylum seekers to ensure economic, social and cultural rights are fulfilled and integration into society, is facilitated, (E/C.12/IRL/CO/3, para. 14c). These recommendations are equally applicable to victims of trafficking, who are seeking international protection in Ireland.

I also note the recommendation of the UN Committee on the Rights of the Child to:

“Ensure that a vulnerability assessment is conducted for all unaccompanied children within 30 days of their arrival in the State party.” (UN Doc. [CRC/C/IRL/QPR/5-6](#) at para. 29).

The UN Committee on the Elimination of Racial Discrimination (CERD) has also expressed concern regarding the system of Direct Provision, noting inadequate regulation or accountability measures, (CERD/C/IRL/CO/5-9, para 37b) Specifically in relation to victims of trafficking, CERD recommended that legislation should be enacted to provide victims of trafficking with rights to specialized assistance and legal protection irrespective of nationality or immigration status, (CERD/C/IRL/CO/5-9, para 42c).

I would like to remind your Excellency's Government of Article 12 of the Council of Europe Convention on Action against Trafficking in Human Beings, which

requires States to adopt legislative or other measures to assist victims in their physical, psychological, and social recovery. State Parties' obligations in relation to assistance to victims are further highlighted in the Explanatory Report to the to the Council of Europe Convention on Action against Trafficking in Human Beings (2005).

I also note Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA *OJL 101, 15.4.2011, p. 1–11*. Article 11(5) of the 2011 EU Anti-Trafficking Directive obliges Member States to ensure that assistance and support provided to victims of trafficking, provide a standard of living capable of ensuring a victim's subsistence, by providing appropriate and safe accommodation, material assistance and other necessary treatment and services.

I wish to remind your Excellency's Government of its obligations under the EU Reception Conditions Directive (recast), transposed under S.I. 230 of 2018, to asylum seekers who have been victims of trafficking. I refer, in particular, to Articles 21 and 22 of the Reception Conditions Directive (recast), which requires that the State take into account the specific situation of vulnerable persons, such as victims of trafficking. Member States are required to ensure that the support provided to applicants with "special reception needs," takes into account their special reception needs throughout the duration of the asylum procedure.

I also note that in 2013 and 2017, the Council of Europe treaty monitoring body, the Group of Experts on Action Against Trafficking in Human Beings (GRETA), urged the Irish authorities to review the use of Direct Provision to accommodate victims of trafficking and to consider providing specialized accommodation for victims of trafficking, with the involvement of NGOs. Among the primary concerns expressed, regarding Direct Provision as accommodation for victims of trafficking, was the lack of privacy and protection for victims of trafficking, and attendant risks of grooming and exploitation. The shared dormitory style accommodation raises privacy concerns for all residents, especially victims of human trafficking, given the trauma and serious human rights violations that they have endured.<sup>2</sup>

In relation to staff and services in Direct Provision, GRETA also expressed concern regarding the lack of awareness of staff in reception centres of the specific rights and assistance needs of trafficking victims. The lack of training provided to staff on a trauma-informed and human rights based approach to human trafficking, limits the State's ability to ensure that specialized support services are provided to victims, (GRETA(2017)28, para 127)..

In its Second Evaluation Report, GRETA once again urged the Irish authorities to:

- review as a matter of priority the policy of accommodating presumed victims of trafficking in accommodation centres for asylum seekers, with a view to ensuring that the accommodation is gender-sensitive,

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<sup>2</sup> GRETA, 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland' (20 September 2017) [GRETA\(2017\)28](#), para 127.

appropriate and safe, and that victims are provided with specialised services;

- enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victims' nationality or immigration status.

The remote location of Direct Provision centres under the dispersal policy also increases the difficulties encountered by victims of trafficking in accessing access specialist support services and in engaging with specialist NGOs.

The Council of Europe treaty monitoring body, GRETA, also highlighted the possibility for traffickers to contact victims of trafficking, given that the location of Direct Provision centres is publicly known, presents significant risks, leading to potential failings in the State's obligations of protection to victims of trafficking, (GRETA(2017)28, para 127).

I refer also to the important Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, which recommended:

“[...] that case appropriate accommodation, with additional supports and services, be provided for those identified as victims of trafficking and sexual abuse, both in the reception centres and thereafter. Dedicated staff in the reception centres should receive training in dealing with victims of trafficking. In the interim, priority should be given to designating private, non-shared rooms to trafficked people and those who have been abused. In the transition period, while women are waiting to be moved out of direct provision centres, the need for female-only accommodation should be considered a priority for those with heightened vulnerability. The Department of Justice has been developing NGO-led solutions to provide specialised accommodation for female victims of trafficking and moving them to independent long-term accommodation within a time frame which will maintain the capacity to admit new victims as needed. In the longer term the recommendations of the Immigrant Council of Ireland should be considered and, as appropriate, implemented.”

Finally, I note the 2019 Report of the Special Rapporteur on Trafficking in Persons to the Human Rights Council, which emphasizes that social inclusion of victims and survivors of trafficking in persons is a State obligation that stems from the due diligence standard and the right to effective remedy.

The Report also identifies key challenges related to long-term social inclusion, and highlights some promising practices that are innovative and transformative, recommending their consideration by States and the international community. I look forward to progress in reforming Ireland's current system for the provision of assistance to all victims of trafficking, without discrimination, and remain available to provide support to this reform process.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to our attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the information mentioned
2. Please provide detailed information on how your Excellency's Government intends to proceed with regard to the forthcoming White Paper on the Future of the International Protection System, as well as how its provisions comply with Ireland's obligations under the international legal framework of human rights law relating to trafficking in persons.
3. Please provide information on any measures that your Excellency's Government has taken or intends to take in order to implement the recommendations by human rights bodies, referred to above.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

Siobhán Mullally  
Special Rapporteur on trafficking in persons, especially women and children