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ANNUAL REPORT ON MIGRATION AND ASYLUM 2022: IRELAND

KEIRE MURPHY AND ANNE SHERIDAN



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EMN
European Migration Network



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ANNUAL REPORT ON MIGRATION AND ASYLUM 2022: IRELAND

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CORRIGENDUM

This version updates figures 2.2 and 2.3 to reflect revised figures from the Central Statistics Office as a result of the 2022 census.

This version also corrects errors on page 6. Page 6 now reads: 'increased by 38% from the previous year'. This previously read 'increased by 39%'. In addition, it now reads 'with immigration of European Union (EU) citizens increasing by 20%'. This previously read 'increasing by 66%'.

This version also corrects an error on page 7, which now reads 'since 2016'. This previously read 'since 2017'.

ERRATUM

This version corrects headers throughout the report, which previously referred to the 'annual review of asylum and migration'.

THE EUROPEAN MIGRATION NETWORK

The aim of the European Migration Network (EMN) is to provide up-to-date, objective, reliable and comparable information on migration and asylum at Member State and EU levels with a view to supporting policymaking and informing the general public. The Irish National Contact Point of the European Migration Network, EMN Ireland, sits within the Economic and Social Research Institute (ESRI).

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THE AUTHORS

Keire Murphy is a Policy Officer at the Irish National Contact Point of the European Migration Network (EMN Ireland), within the Economic and Social Research Institute (ESRI). Anne Sheridan is a Senior Policy Officer at EMN Ireland.

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ABOUT THIS REPORT

This EMN study, compiled according to commonly agreed specifications, provides an overview of migration, asylum trends and policy developments for 2022. The report consists of information gathered primarily for the EU-level synthesis report of the EMN, *Annual report on migration and asylum 2021*. All reports are available at: https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-publications/emn-annual-reports_en.

This report has been accepted for publication by the Institute, which does not itself take institutional policy positions. The report has been peer reviewed prior to publication. The authors are solely responsible for the content and the views expressed do not represent the position of the Economic and Social Research Institute, the Department of Justice, or the European Commission, Directorate-General Migration and Home Affairs.

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ABBREVIATIONS AND IRISH TERMS

AIDA	Asylum Information Database
AMIF	Asylum, Migration and Integration Fund
An Garda Síochána	Irish national police force
ARP	Accommodation Recognition Payment
AWS	Atypical Working Scheme
BMU	Border Management Unit
BOTP	Beneficiary of temporary protection
CCMA	County and City Management Association
CJEU	Court of Justice of the European Union
CRA	Children’s Rights Alliance
CRC	United Nations Committee on the Rights of the Child
CSO	Central Statistics Office
CSOL	Critical Skills Occupations List
Dáil	Irish parliament, lower house
DCEDIY	Department of Children, Equality, Disability, Integration and Youth
DETE	Department of Enterprise, Trade and Employment
DFA	Department of Foreign Affairs
DFHERIS	Department of Further and Higher Education, Research, Innovation and Science
DHLGH	Department of Housing, Local Government and Heritage
DPER	Department of Public Expenditure and Reform
DPP	Director of Public Prosecutions
EAL	English as additional language
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
EEA	European Economic Area
EMN	European Migration Network
EROC	Emergency Reception and Orientation Centre
ESOL	English speakers of other languages
ESRI	Economic and Social Research Institute
ETB	Education and Training Boards
EU	European Union

EUAA	European Union Agency for Asylum
GP	General practitioner
GNIB	Garda National Immigration Bureau
GNPSB	Garda National Protective Services Bureau
GRETA	Group of Experts Against Trafficking in Human Beings
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
HTICU	Human Trafficking Investigation and Coordination Unit
ICCPR	International Covenant on Civil and Political Rights
ICCL	Irish Council of Civil Liberties
ICI	Immigrant Council of Ireland
IEM	International Education Mark
IHAP	IRPP Humanitarian Assistance Programme
IHREC	Irish Human Rights and Equality Commission
IIP	Immigrant Investor Programme
ILEP	Interim List of Eligible Programmes
IOL	Ineligible Occupations List
IOM	International Organization for Migration
IPAS	International Protection Accommodation Services
IPAT	International Protection Appeals Tribunal
IPIU	Irish Passenger Information Unit
IPO	International Protection Office
IRC	Irish Refugee Council
IRP	Irish Residence Permit
IRPP	Irish Refugee Protection Programme
ISD	Immigration Service Delivery
IVARRP	Irregular Voluntary Assisted Return and Reintegration Programme
JRS	Jesuit Refugee Service
LAIT	Local Authority Integration Team
LGBTI	Lesbian, gay, bisexual, transgender, intersex
LGMA	Local Government Management Agency
MASI	Movement of Asylum Seekers in Ireland
MDU	Ministerial Decisions Unit
MRCI	Migrant Rights Centre Ireland

NARIC	National Academic Recognition Information Centre
NCP	National Contact Point
NEPS	National Educational Psychological Service
NFQ	National Framework for Qualifications
NGO	Non-governmental organisation
NRM	National Referral Mechanism
NSR	National Student and Researcher Helpdesk
OCO	Ombudsman for Children's Office
ODA	Official development assistance
Oireachtas	Irish parliament, both houses
PLC	Post-Leaving Certificate
PPSN	Personal public service number
QQI	Quality and Qualifications Ireland
REALT	Regional Education and Language Teams
RSA	Road Safety Authority
SCSIP	Separated Children Seeking International Protection
SICAP	Social Inclusion and Community Activation Programme
Seanad	Irish parliament, upper house
SPSV	Small Public Service Vehicle
STEP	Start-Up Entrepreneur Programme
SUSI	Student Universal Support Ireland
Tánaiste	Deputy prime minister
Taoiseach	Prime minister
TCN	Third-country national
TD	Teachta Dála (member of the Dáil)
TIP	Trafficking in persons (report)
Tusla	Child and Family Agency
UAM	Unaccompanied minor
UN	United Nations
UNCAT	United Nations Convention Against Torture
UNCRC	United Nations Convention on the Rights of the Child
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees

VR

Voluntary return

WRC

Workplace Relations Commission

EXECUTIVE SUMMARY

MIGRATION OVERVIEW AND OVERARCHING DEVELOPMENTS

According to the Central Statistics Office (CSO), the population of Ireland was 5.282 million as of April 2023. Immigration rose significantly in the year to April 2023, with 141,600 immigrants, a 31% increase from the year to April 2022. Emigration also continued to increase, with 64,000 emigrants in the year to April 2023, a 14% increase from the previous year. This gives net migration of 77,600, a 50% increase from the year before.

Overarching developments¹ include Ireland opting in to the Asylum, Migration and Integration Fund (AMIF) Regulation, an European Union (EU) fund which aims to build migration management capacity and procedures for migration management. The Department of Justice also published its Justice Plan for 2022, based on the Department of Justice's *Statement of strategy 2021–2023*. The Justice Plan for 2022 includes multiple migration-related activities and objectives. The year 2022 also saw the end of the temporary extensions to residence permits from the COVID-19 pandemic, with the ninth and final extension expiring in May 2022.

LEGISLATION

Several legislative provisions relevant to migration were introduced during 2022, with many relating to facilitating access to rights for beneficiaries of temporary protection, adding grounds for accelerated procedures for international protection, and changing employment permit lists, among others. A list of legislation introduced in the period is included in Chapter 2 and relevant legislation is discussed under thematic headings throughout the report.

INTERNATIONAL DEVELOPMENTS

Ireland engaged with multiple United Nations (UN) committees and processes throughout 2022, in line with reporting commitments. Ireland underwent its fifth review under the International Covenant on Civil and Political Rights in 2022. Migration-related issues raised in the concluding observations included the welcoming of legislative and policy measures to combat discrimination but continued concern about: discrimination and data collection; possible shortcomings in the Hate Crime Bill; and concern about the system for identification, investigation and accommodation of trafficking victims. Developments in international protection were welcomed but the review raised

¹ Developments that are not directly migration-related but that impact migration, or that are migration-related but have overarching impacts with relevance beyond a single category of migration.

concerns about delays, reception conditions and the increased use of emergency accommodation.

Ireland also submitted its fifth and sixth state reports under the Convention on the Rights of the Child to the UN Committee on the Rights of the Child in 2022. The state report responds to a list of issues provided by the UN Committee to Ireland in November 2020. As part of the review process, submissions were also received from non-governmental organisations (NGOs), including migration-related NGOs. The Children's Rights Alliance (CRA) submitted an alternative report, which highlighted migration-related issues including: the restricted definition of 'family' for the purposes of family reunification in the *International Protection Act 2015*; delays in the implementation of the White Paper on Ending Direct Provision and the lack of progress implementing aspects relating to children, including the accommodation of children seeking international protection in privately-operated centres which are not subject to adequately independent inspections and in emergency accommodation; and slow progress implementing vulnerability assessments for international protection applicants, among other things. AkiDWA raised issues including the disproportionate representation of children from ethnic minorities in childcare proceedings. The joint submission by the Immigrant Council of Ireland (ICI) and the Irish Refugee Council (IRC) raised: the prevalence of discretion in Irish immigration law and the lack of engagement with children as individual rights holders; the lack of an effective statelessness determination procedure; processing delays; the lack of legal aid or information for children in immigration processes; concerns about the age assessment process; and issues with the identification of and protections for child victims of trafficking.

LEGAL MIGRATION

In 2022, there was a significant increase in first-residence permits, with 85,793 such permits issued. This was a 146% increase from 2021 and a 45% increase from 2019. As in previous years, education was the most common reason for permits (48% of all permits in 2022), followed by 'other reasons' (24%) and employment (23%). The number of all valid permits at the end of 2022 was also the highest over the last ten years, with 234,057 permits valid at the end of the year. The most common nationality of residence permit holders was Indian (24%), followed by Brazilian (15%) and Chinese (7%).

A total of 39,995 employment permits were issued in 2022. This is a significant increase on equivalent figures for the previous ten years. This in part reflected changes to occupations lists over 2021 and 2022, which widened the occupations for which employment permits could be granted. The information and communication sector was the largest recipient of employment permits in 2022 (10,382 permits), a change from previous years when health and social work (9,791, now the second largest) was the largest sector. Almost all sectors saw large increases in permits from 2021. Applications,

approvals and refusals under the Atypical Working Scheme (AWS) also increased significantly in 2022.

Statistics on permits for education reasons show a recovery from the impact of COVID-19 in 2022, returning to a steady increase from 2019. Therefore, while all valid education permits increased by 54% from 2021, this was only a 3% increase from 2019.

A total of 1,316 applications for the Immigrant Investor Programme (IIP) were received in 2022, a 410% increase from 2021. Of these, 306 applications were approved, with a total value of €205.9 million. This represents a significant increase in applications across all previous years of this programme, though only a small increase in approvals (+16% from 2021).

There were several major developments relating to legal migration in 2022. One of these was the introduction of the *Employment Permits Bill* in the Dáil, the aim of which is to consolidate the law concerning employment permits and modernise the employment permit system. Key provisions include the introduction of a seasonal employment permit, the moving of operational detail to Regulations to allow for greater flexibility, and automatic indexation of minimum remuneration thresholds, among others. The General Scheme of the Bill completed pre-legislative scrutiny in 2021 and completed committee stage in 2022. Several issues were raised with the Minister for Enterprise, Trade and Employment, which he agreed to examine prior to report stage.

Another significant development in 2022 was the review of and changes to the AWS. After continued criticism of the aspect of the scheme that related to fishers, a review was conducted and the report was published in October 2022. The key recommendation of the review was that the employment of non-European Economic Area (EEA) fishing crew should be provided for under the employment permit system administered by the Department of Enterprise, Trade and Employment (DETE) rather than the AWS, which is administered by the Department of Justice. As a result, the AWS closed for new applications for third-country national fishing crew in December 2022 to allow for transition of this category of worker to the employment permit system. All AWS fishers holding a valid permission on the date the scheme closed or with an outstanding application were granted Stamp 4 immigration permission on an exceptional basis, allowing unrestricted access to the labour market. The salary threshold for the general AWS permission was also revised.

In December 2022, the Government agreed in principle that a single application procedure for employment permits and immigration permissions should be developed. They also agreed that an interdepartmental working group would be set up to look at this. Currently, an individual or their employer applies for an employment permit (to

DETE) and the individual applies separately to the Department of Justice for an immigration permission.

There were also multiple changes to occupation lists in 2022, with several occupations added to the Critical Skills Occupations List (CSOL) and changes also made to the Ineligible Occupations List (IOL).

Other developments included: no further applications being accepted from Russian or Belarussian citizens for the IIP or the Start-Up Entrepreneur Programme (STEP); a new data-sharing agreement between the Department of Justice and Revenue; changes for non-consultant hospital doctors in relation to moving between employments in hospitals; the opening of a consultation phase for the International Education Mark (IEM) for education providers; expansion of the Ireland Fellows Programme; the issuing of all employment permits in an electronic format; and changes to the Irish Residence Permit (IRP) card and the system of registration of residence permissions for non-EEA nationals.

In terms of research on legal migration in 2022, Georgiana Mihut published an article on first-generation migrant, international and domestic students at Irish universities.

In relation to relevant case law, *Rahman v Healy* related to issuing taxi licences to people who hold a temporary residence permit.

INTERNATIONAL PROTECTION

A total of 13,651 applications for international protection were made in 2022. This marked a significant increase from previous years (a 415% increase from 2021 and a 186% increase from 2019, the last comparable year before COVID-19 travel restrictions), and the highest number of asylum applications on record in Ireland. The top three countries of origin among applicants were Georgia, Algeria and Somalia. Applications for international protection in Ireland accounted for 1.3% of the EU total. There was also a significant increase in the number of pending applications at the end of 2022 compared with previous years, to 14,865.

According to Eurostat, a total of 4,470 first-instance decisions were made in 2022, a significant increase in decision making on previous years. Eighty per cent of these were positive, a drop from the artificially high rate in 2020 and 2021 (resulting from the pause in issuing negative decisions during 2020). In total, 3,913 personal interviews were conducted in 2022, over triple the number conducted in 2021. In 2022, 2,300 final decisions were made on appeal or review. Of these, 59% were positive. Humanitarian status was the status most commonly awarded at first instance in 2022 (58% of positive decisions), followed by Geneva Convention (refugee) status (40%) and subsidiary

protection status (2%). Humanitarian status was also the most commonly granted status in final decisions on appeal or review in 2022 (62% of positive decisions), followed by Geneva Convention status (36%) and subsidiary protection (2%). The median processing time for all cases processed to completion in the International Protection Office (IPO) in 2022 was 18 months, down from 23 months in 2021.

A total of 1,180 appeals were made to the International Protection Appeals Tribunal (IPAT) in 2022, a 54% increase from 2021 but still lower than pre-pandemic levels, unlike other areas of international protection where activity has surpassed pre-pandemic levels. Almost two-fifths (39%) of IPO recommendations (single procedure appeals) were set aside on appeal to IPAT, similar to 2021, with significant variances based on the country of origin of applicants.

Outgoing Dublin requests fell significantly in 2022 (a 48% decrease from 2021 and 60% decrease from 2019). There was a slight increase in incoming requests and transfers, although it was still a fraction of previous years' figures. Both of these are in part the result of the departure of the United Kingdom (UK) from the European Union (EU) and the Dublin Regulation. The year 2022 saw a clear increase in secondary movement of international protection beneficiaries from other EU countries (a 33% increase from 2021, which was in turn a 111% increase from 2020), based on Eurodac hits.

In 2022, 363 people were resettled to Ireland, a 22% decrease from 2021. This includes 160 people granted visa waivers under the Afghan Humanitarian Admission Programme.

Due to the large increase in international protection applications from previous years, there was increased pressure on the accommodation system in 2022. Occupancy on 1 January 2023 was 19,104, a significant increase from previous years. There was also an increase in labour market applications and approvals in 2022 (79% and 81% increase from 2021 respectively), as would be expected with a large increase in applicants.

There were several major developments in the field of international protection in 2022. One of these was unprecedented pressure on reception systems, which resulted in extraordinary measures to scale up reception capacity, in spite of which some individuals still could not be accommodated immediately. The IRC published a policy paper identifying long-term issues with the system that exacerbated the crisis as well as recommendations.

In line with these pressures, the International Protection Accommodation Service (IPAS) also made changes to their vulnerability assessment procedure, with the effect that vulnerability assessment questionnaires are now made available to applicants who can return them to the Resident Welfare Team in IPAS. Service providers and third parties

working with applicants can also complete a referral form to the Resident Welfare Team with the applicant's consent.

After putting in place governance structures and beginning to implement the White Paper on Ending Direct Provision in 2021 (see *Annual report on migration and asylum 2021*), doubts were raised in 2022 about the future of the plan and timelines following the significant increase in international protection applications, as a result of which the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) began a review of the projected timelines and deliverables. While this review was underway, DCEDIY progressed certain elements of the White Paper, including the acquisition of properties for vulnerable applicants, working towards increasing state-owned accommodation capacity, the development of an integration programme and negotiating with the County and City Management Association (CCMA) and the Local Government Management Agency (LGMA) to put in place a permanent model of integration support workers in each local authority, and funding for supports.

To speed up processing in response to the significant increase in international protection applications, the IPO made several operational changes in November 2022. This included a new procedure whereby all applicants applying for international protection complete a preliminary interview and the international protection questionnaire on the same day, and in English. Prior to this change, applicants had a non-statutory 15 working days to fill in the questionnaire. In addition, applicants from designated safe countries are given a date for substantive interview on the same day, reducing their waiting time to weeks. In addition, in order to respond to high numbers of applications including from designated safe countries of origin, new regulations were brought in to enable the acceleration of the international protection procedure for a number of reasons including that the applicant is from a safe country of origin. New regulations were also passed to shorten time periods in relation to oral hearings for international protection appeals under certain circumstances, including when an applicant is from a safe country of origin.

The changes were met with significant criticism from NGOs, as the changes to the questionnaire procedure mean that it is much more difficult for applicants to obtain legal advice prior to filling in the questionnaire and because of the difficulties that arise from applicants not being able to fill in the questionnaire in their native language. NGOs also raised concerns about the new regulations for applicants from safe countries of origin.

The year 2022 also saw the opening of the international protection strand of the regularisation scheme, which allows international protection applicants who have been in the asylum process for at least two years to apply for regularisation.

A new International Protection Integration Fund was established in 2022. It supports projects aimed at supporting the integration of international protection applicants. The fund aims to support projects across ten specific thematic areas, including employment, education, language, civil and legal supports, health and wellbeing. One million euro was initially made available. The Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) also reviewed and renewed the International Protection Student Scheme 2022–2023, which provides grants to eligible school leavers in the international protection system. In 2022, Ireland also opted into the *European Union Agency for Asylum (EUAA) Regulation*. This Regulation replaces the previous European Asylum Support Office (EASO) Regulation, in which Ireland had participated.

The Afghan Admission Programme (which offers temporary residence in Ireland to Afghans who have close family members in Ireland) closed for applications in 2022; by the end of that year, approvals had been issued for 81 beneficiaries. Other avenues of humanitarian admission were also made available, including join family visas, family reunification and visa waivers.

Selection missions for resettlement, which had been interrupted, were resumed in 2022. In line with its 2019 pledge, Ireland pledged to offer 800 places for 2023 under the United Nations High Commissioner for Refugees (UNHCR) Resettlement Programme, as well as accepting 100 beneficiaries under the Afghan Humanitarian Programme in 2022. Two projects developing complementary pathways for refugees to come to Ireland also commenced in 2022, and Ireland took over as the global chair of the Annual Tripartite Consultations on Resettlement for 2023.

Research conducted in relation to international protection in 2022 included: research by the Economic and Social Research Institute (ESRI) on the potential drivers behind the significant increase in international protection applications in Ireland in the first six months of 2022; Nasc research on the implementation of the White Paper on Ending Direct Provision; Nasc research on equality issues that can arise during community sponsorship and resettlement of refugees; research by Collins et al. on the quality of life for Syrian refugees in Ireland; and guidance published by University College Dublin on ethical research with refugees. An International Organization for Migration (IOM) / DCEDIY research report was also launched on the experience of resettled Syrian refugees.

Several cases relevant to international protection were also decided in 2022. *MY v IPAT* concerned the possibility of future persecution related to political activism. *SH and AJ v Minister for Justice* related to family reunification for aged-out minors in situations of significant delays in the international protection process. *A&B v IPAT* related to delays in seeking appeals and the definition of an ‘applicant’ in the *International Protection Act 2015* and regulations. *HA v Minister for Justice* related to family reunification in a

situation of guardianship of children without formal adoption. *ASA v Minister for Justice and Equality* related to the role of international protection officers in the international protection and leave to remain processes.

TEMPORARY PROTECTION

Following the Russian invasion of Ukraine in February 2022 and subsequent war, the Temporary Protection Directive was activated on 4 March 2022 for the first time. Temporary protection is an exceptional measure to provide immediate and temporary protection in the event of a mass influx of displaced persons who are unable to return to their country of origin. The Directive provides for immediate protection with a standard set of rights for beneficiaries and also requires signatories to reduce any formalities related to entry requirements to a minimum.

As of December 2022, 67,448 people had arrived in Ireland from Ukraine under the Temporary Protection Directive, according to personal public service number (PPSN) data. As of December 2022, 13% of arrivals (8,654) were enrolled in primary education, 7% (4,875) in secondary and 20% (13,619) in further education and training, of which 86% were English language courses.

Significant policy, legislative and operational developments occurred to respond to these arrivals and to ensure access to the rights guaranteed by the Temporary Protection Directive.

To coordinate the response, the Government established the Cabinet Committee on Humanitarian Response to Ukraine with membership from relevant ministries. A community response forum was also established by every local authority to provide a coordination point for the community and voluntary response in their area.

Ireland extended temporary protection to: Ukrainian nationals who were residing in Ukraine; nationals of other countries benefitting from a protection status in Ukraine; the family members of those within both of these categories; and those with a permanent Ukrainian residence permit who cannot safely return to their country of origin. Ireland established a single registration and service point for beneficiaries, which covered registration for temporary protection, allocation of the PPSN, referral to accommodation for those in need of it, and other supports and services. Visa requirements for Ukrainian nationals were lifted with effect from 25 February 2022.

A range of temporary accommodation options have been used, including hotels, recreational facilities, tented accommodation and privately pledged accommodation from the general public. Initiatives included a register of pledges for private accommodation, the 'Offer a Home' programme for unoccupied properties, the

Accommodation Recognition Payment (ARP) for households who host beneficiaries of temporary protection (BOTPs), access to rent supplement, refurbishment of properties, and a modular housing project. In October 2022, a suite of measures were brought in following an announcement that the Government would move from an emergency response to a more mainstreamed approach. This included an update to the policy in relation to refusals of offers of short-term accommodation, which meant that beneficiaries would only be made one offer and that they would be required to make a financial contribution for the cost of meals if they were in serviced accommodation.

The Temporary Protection Directive also grants the right to social welfare on the same conditions as Irish nationals, and special arrangements and outreach were put in place for BOTPs to access PPSNs and income supports, as well as programmes such as the Affordable Childcare Scheme.

Beneficiaries of temporary protection also have the right to access medical care on the same conditions as Irish nationals, and a simplified application process was developed to provide access to medical cards for BOTPs for the first year. By the end of 2022, 51,650 medical cards had been awarded to BOTPs. The Health Service Executive (HSE) also provided an interim health service support at points of entry.

To ensure access to education for minors, regional education and language teams (REALT) were established by the Department of Education in March 2022, which support existing structures in meeting the needs of beneficiaries accessing education. A range of additional teaching resources and guidelines were also designed during 2022 to assist schools to support new pupils coming from Ukraine.

To support access to education for adults, DFHERIS established the National Student and Researcher Helpdesk to assist students and researchers displaced from Ukraine seeking to continue higher education in Ireland. In July 2022, the helpdesk launched an online application system for beneficiaries of temporary protection in Ireland who wish to apply to higher education institutions for the 2022/2023 academic year. In June 2022, government approval was obtained for a range of measures to ensure that students displaced from Ukraine living in Ireland would be treated on the same basis as EU students and would not be subject to international fees. In addition, in September 2022, the Minister for Further and Higher Education, Research, Innovation and Science announced the Post-Leaving Certificate (PLC) Bursary Scheme for Displaced Persons (Ukraine) 2022, to help beneficiaries to access further education and training.

BOTPs in Ireland are entitled to direct access to the labour market. They have access to the range of supports provided by the Irish public employment service (Intreo), which has employed Ukrainian-speaking staff. Ireland also introduced a number of measures relating to the recognition of qualifications.

There was a significant civil society response to the arrival of Ukrainian refugees in communities across Ireland. Groups from across the non-governmental and community sectors provided frontline services to support new arrivals, many using their own capacity as well as government funding for the purpose. These were coordinated by the community response forums that were set up within each local authority. In addition to this local-level coordination, the Ukraine Civil Society Forum was established in March 2022 as a short-term initiative by civil society organisations working collectively to provide on-the-ground support.

Other developments relating to temporary protection include a government decision to accept up to 500 people relocated from Moldova, the facilitation of driving licence recognition, initiatives to improve transport and connectivity for BOTPs, and several funding schemes to support organisations who are supporting beneficiaries of temporary protection.

Research in this area included a briefing paper by the Ukraine Civil Society Forum with recommendations in relation to the response to the displacement from Ukraine.

UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

A total of 597 referrals of unaccompanied minors were made to Tusla, Child and Family Agency, in 2022, of which 261 were from Ukraine. Tusla provided placements for 350 children, meaning that there were 200% more unaccompanied children being supported by Tusla at the end of 2022 versus the end of 2021. On the other hand, according to rounded Eurostat data, the number of applicants for international protection who were classified as unaccompanied minors fell to 40, a decrease from the 2021 high of 55. According to Eurostat, there were 2,420 child applicants for international protection in 2022 in Ireland. The majority (80%) of these were under 14, similar to previous years.

There were multiple developments in this area in 2022. The Government published the *Third National Strategy on Domestic, Sexual and Gender-Based Violence* in June 2022. The Strategy identifies groups, including migrants, undocumented migrants, refugees and international protection applicants, and victims of trafficking, that may require additional inclusion measures to address domestic, sexual and gender-based violence. In addition, draft legislation published in September 2022 and that passed committee stage in November 2022 included an amendment to the *Irish Nationality and Citizenship Act 1956* to reduce the residence requirement for naturalisation of minors from five to three years for those born in the State. Changes were also made to the vulnerability assessment procedure, with questionnaires now made available to applicants in their accommodation centres and online.

The remit of the REALT teams, which were established to assist school placements for children displaced from Ukraine, was extended to include supporting applicant children in International Protection Accommodation Service (IPAS) centres and children under the Irish Refugee Protection Programme (IRPP) to find school places.

Other developments included DFHERIS' publication of the International Protection Student Scheme (for Further and Higher Education Students) 2022–2023, the removal of participant charges for PLC courses for all participants, and the purchase of 37 properties for vulnerable international protection applicants.

Research on this topic included: ESRI research about English language and self-concept development among children born in Ireland with at least one migrant parent; Citizens Information research assessing the extent to which their information services meet the information needs of vulnerable migrants; and research by Sprong and Skopek about academic achievement gaps by migration background among children starting school in Ireland.

CITIZENSHIP AND STATELESSNESS

A total of 17,188 applications for citizenship were made in 2022, the highest since 2013 and a 44% increase from 2021. The number of certificates issued was also at its highest level since 2014, with a 39% increase from 2021, to 13,605. Similar to 2021, the UK was the most common country of origin; the other common countries of origin were also similar to previous years, apart from Syria, which featured in the top ten for the first time. Processing times decreased in 2022, from their very high level in 2021 compared with recent years. In 2022, the average processing time was 22 months (compared with 30 months in 2021 and 14 months in 2020).

According to Eurostat, there were 8 first permits issued to persons whose nationality was recorded as stateless and 30 valid residence permits at the end of the year, although the difficulty of collating statistics on statelessness in Ireland should be noted.

There were several developments in relation to citizenship and statelessness in 2022. One of these was draft legislation, which was published and which passed committee stage in 2022, including a proposed amendment to the *Irish Nationality and Citizenship Act 1956* to reduce the residence requirement for naturalisation of minors from five to three years for those born in the State. Another was a clarification in the same draft legislation in relation to the definition of 'continuous residence' for the purpose of naturalisation.

Other developments included a data-sharing agreement between the Department of Justice and the Department of Foreign Affairs (DFA) in relation to naturalisation data,

the potential applicability of temporary protection to stateless people, the introduction of a new scorecard approach to proofs of residence in citizenship applications, and the resumption of in-person citizenship ceremonies.

Two relevant cases were also decided in 2022 that are highlighted in this report. These were *UM v Minister for Foreign Affairs*, in relationship to the citizenship of a child whose father's refugee status had been revoked; and *AJA v Minister for Justice and Equality* in relation to a fraudulent passport and the good character requirement under the *Irish Nationality and Citizenship Act 1956*.

INTEGRATION AND INCLUSION

Key indicators from the *Monitoring report on integration 2022*, published by the ESRI, show that foreign-born people in Ireland (which includes EU nationals and Irish citizens as well as third-country nationals) have higher employment, education and activity rates than Irish-born people, as well as better self-reported health. They show a higher share of early school leavers, lower median annual net income, a higher risk of poverty and high housing costs. They also show that the proportion of non-EEA nationals naturalising as a proportion of all non-EEA nationals holding immigration permissions increased in 2022, although this still remains low compared with earlier years.

Several important developments happened relating to integration and inclusion in 2022. One of these was the development of the National Action Plan Against Racism, with the Anti-Racism Committee submitting its plan to the Minister for Children, Equality, Disability, Integration and Youth in June 2022.

In addition, the *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022* was published in October 2022. The report on the pre-legislative scrutiny of the Bill was published in April 2022 and the Bill completed second stage (introductory debate of the general principles) in the Dáil in November 2022. The Bill would repeal the *Prohibition of Incitement to Hatred Act 1989* and replace it with provisions creating new incitement to violence or hatred offences, and would also provide for offences aggravated by hatred. It would create an offence of condoning, denying or grossly trivialising genocide, crimes against humanity and war crimes against persons on account of their protected characteristics. There has been significant criticism and discussion about the Bill.

In 2022, DCEDIY secured Budget 2023 funding to set up a local authority integration team (LAIT) in each of the 31 local authorities. The primary role of the LAITs is to provide ongoing integration supports to international protection applicants, resettled refugees and BOTPs to enable them to live independently in the community.

Other developments included the call for proposals for the Communities Integration Fund for 2022, a call for proposals under the Programme for Employment, Inclusion, Skills and Training, and the launch of Mayo's migrant integration strategy.

Research on this topic included: Immigrant Council of Ireland research on local authority progress in terms of achieving integration outcomes and providing integration services; an article by Creighton et al. on masked and unmasked attitudes towards migrants in Ireland; ESRI / European Migration Network (EMN) Ireland research on policies in relation to the integration of non-EU migrant women in Ireland; an article by Cross and Turner on immigrants' assimilation into the labour market in Ireland between 1998 and 2019; and ESRI research that compares the housing and family situation of Irish-born to that of first-generation migrants.

TRAFFICKING IN HUMAN BEINGS

Thirty persons from countries outside the EEA were identified as victims of trafficking in human beings in Ireland in 2022. An additional 12 people from EEA countries or of Irish nationality were identified as victims. Of the total victims, 57% were victims of sexual exploitation and 35% of labour exploitation.

Significant developments occurred in this area in 2022. One was the publication of the *General Scheme of the Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*, which included the draft statutory provisions for the revised National Referral Mechanism for victims of trafficking. The new approach will recognise the role of other state bodies and NGOs, in addition to An Garda Síochána, in identifying victims of trafficking and referring them. Pre-legislative scrutiny of the General Scheme started in December 2022, and involved consultation with and submissions from stakeholders, many of whom raised concerns and made recommendations.

Another development is work on the new national action plan on human trafficking, which was originally due to be published in 2022 and is now due to be published in autumn 2023. The drafting involved consultations with representatives from NGOs and government bodies. Similarly, as reported previously, the Government published the *Third National Strategy on Domestic, Sexual and Gender-Based Violence* in 2022.

The review of the AWS could also be considered a development in this space, as many commentators previously raised concerns that the part of the scheme in relation to non-EEA fishers leaves individuals vulnerable to labour exploitation.

The *Trafficking in persons report 2023*, which covers developments in 2022, was published by the US State Department in June 2023. In the 2023 report, Ireland remained at Tier 2, having been upgraded from the Tier 2 watchlist in the 2022 report.

The Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) also published its report on the third round of evaluation in Ireland. The report welcomed some practices and raised concerns about others. The Irish Human Rights and Equality Commission (IHREC) (which was designated Ireland's independent National Rapporteur on trafficking in human beings in 2020) also produced the first annual national evaluation report on the implementation of the EU Anti-Trafficking Directive in 2022, with several recommendations.

Other developments include funding for non-governmental organisations (NGO) programming, a new victims' forum, and the launch of an awareness-raising film on trafficking by the IOM.

Research published in this area included an ESRI / EMN Ireland report on the policy and practice in Ireland for the detection of human trafficking, and the identification and protection of victims of human trafficking.

IRREGULAR MIGRATION, VISAS, BORDERS AND RETURN

A total of 9,240 people were refused leave to land in Ireland in 2022, a 24% increase from 2019 and a 148% increase from 2021. After a significant decline in 2020 and 2021, there was an increase in the number of third-country nationals ordered to leave in 2022 with a total of 630 people ordered to leave, a 294% increase from 2021. However, this was still a fraction of pre-pandemic numbers. The most common country of citizenship among those ordered to leave in 2022 was Pakistan (145), followed by Albania (130) and Georgia (75). There were 26 deportations enforced against third-country nationals in 2022, a slight increase from 2021 but still low compared with previous years. Thirty-seven EU removals were effected in 2022, similar to pandemic years, which was a significant decrease on previous years.

There was a significant increase in visa applications and approvals compared with 2021 (with applications increasing by 133%, to 135,732), although applications and short-stay approvals remain below pre-COVID-19 levels.

The Regularisation Scheme for Long-Term Undocumented Migrants opened for applications in 2022. In total, 6,548 applications relating to 8,311 people were received under the scheme. In addition, 3,240 applications were received for the international protection strand of the regularisation scheme.

Multiple developments occurred in 2022 in relation to irregular entry, borders, visas and return. One of these was the resumption of issuing deportation orders, which had been mainly paused during 2020 and 2021 due to the decision to deport persons in very restricted circumstances during the COVID-19 pandemic.

In July 2022, the Government suspended the operation of the Council of Europe Agreement on the Abolition of Visas for Refugees for 12 months. This agreement allows refugees recognised by a number of other European countries to visit Ireland for up to three months, and also allows refugees recognised by Ireland to visit other signatory countries. Following the suspension, refugees recognised by these countries are required to apply for visas under standard arrangements.

As reported for 2021, the regularisation scheme for long-term undocumented migrants opened for applications in 2022. In April 2022, the Minister for Justice announced the first positive decisions under the scheme.

The first return order was issued in 2022, under section 51A of the *International Protection Act 2015*, which introduces a return order for applicants whose applications are deemed inadmissible.

Ireland doubled the return and reintegration grant in 2022 to both individuals (from €600 to €1,200) and families (from €1,000 to €2,000 per family) to encourage uptake of voluntary return.

Other developments include: the installation of access to the EU–Pakistan Readmission Case Management System; the removal of Russia and Belarus from the Short Stay Visa Waiver Programme; the suspension of a re-entry visa requirement for children under 16; the extension of the five-year multi-entry visa option to eligible applicants from all visa-required countries; immigration detention facilities becoming operational at Dublin Airport Garda Station; a call for applications from organisations to support the delivery of the voluntary return programme for 2023; a proposed extension to the timeline for unsuccessful international protection applicants to notify their acceptance of voluntary return; and the lifting of final COVID-19 border controls.

Research in this area in 2022 includes ESRI / EMN Ireland research on Ireland's responses to irregularly staying migrants.

Two relevant cases in this area are also covered in this report. *Akram v Minister for Justice and Equality* related to a refusal of leave to land and the legality of searching and taking screenshots from an individual's phone in this context. *MK v Minister for Justice and Equality* related to Article 8 of the European Convention on Human Rights (ECHR) rights for 'unsettled migrants'.

CHAPTER 1

Introduction

The *Annual report on migration and asylum 2022: Ireland* is the nineteenth in a series of annual reports on developments in the fields of migration and asylum in Ireland. The series provides an annual overview of migration and asylum trends and policy developments in Ireland.

In accordance with Article 9(1) of Council Decision 2008/381/EC, which establishes the European Migration Network (EMN), the EMN National Contact Points (NCPs) in each Member State are tasked with providing an annual report detailing the migration and asylum situation in their Member State, including policy developments and statistical data. NCPs gather information according to a common template and a comparative European Union (EU) level EMN synthesis report is compiled, which places the main findings from the templates within an EU perspective.

NCPs also publish national-level reports. The purpose of the national-level reports is to provide an insight into the most significant political and legislative developments at state level, practical developments as well as public debates in migration and asylum.

The *EMN annual report on migration and asylum 2022: Ireland* covers the period 1 January 2022 to 31 December 2022.

1.1 METHODOLOGY

As in previous years, NCPs filled in a common questionnaire to inform the EU-level *Annual report on migration and asylum 2022*. NCPs were asked to report on key developments (legislative policy and, to a limited extent, practice) during 2022. NCPs then adapt these questionnaires to develop national-level reports. The Irish NCP therefore developed on the original submission with an expanded definition of developments. In this report, we include:

- all legislative developments;
- major institutional developments;
- major debates in parliament;
- government statements;
- media and civil society debates;
- items of scale that are discussed outside a particular sector and as such are considered newsworthy while not being within the Dáil remit; and
- academic research.

Statistics, where available, were taken from published first-source material such as government or other annual reports, and statistics from the Central Statistics Office (CSO) and Eurostat. Where noted, and where it was not possible to access original statistical sources, data may be taken from secondary sources. Where possible, verified data have been used; where provisional data have been included, this has been highlighted.

The report is based on extensive desk research. To provide a comprehensive and reflective overview of national legislative and other debates, stakeholders from the following bodies were contacted with regard to input on a draft report:

- Department of Enterprise, Trade and Employment (DETE)
- Department of Justice
- Department of Children, Equality, Disability, Integration and Youth (DCEDIY)
- Department of Education
- Department of Further and Higher Education, Research, Innovation and Science (DFHERIS)
- Department of Health
- Department of Housing, Local Government and Heritage (DHLGH)
- Department of Transport
- Department of Social Protection
- Irish Human Rights and Equality Commission (IHREC)
- Immigrant Council of Ireland (ICI)
- International Organization for Migration (IOM) Ireland
- Irish Refugee Council (IRC)
- International Protection Office (IPO)
- International Protection Appeals Tribunal (IPAT)
- Migrant Rights Centre Ireland (MRCI)
- Nasc, Refugee and Migrant Rights Centre (Nasc)
- UNHCR Ireland.

All definitions of technical terms or concepts used in the study are as per the *EMN migration and asylum glossary 9.0*.²

1.2 STRUCTURE OF MIGRATION AND ASYLUM POLICY

Figures 1.1 and 1.2 provide an outline of the governance structure for migration and asylum policy as of 31 December 2022. For more information on the respective roles

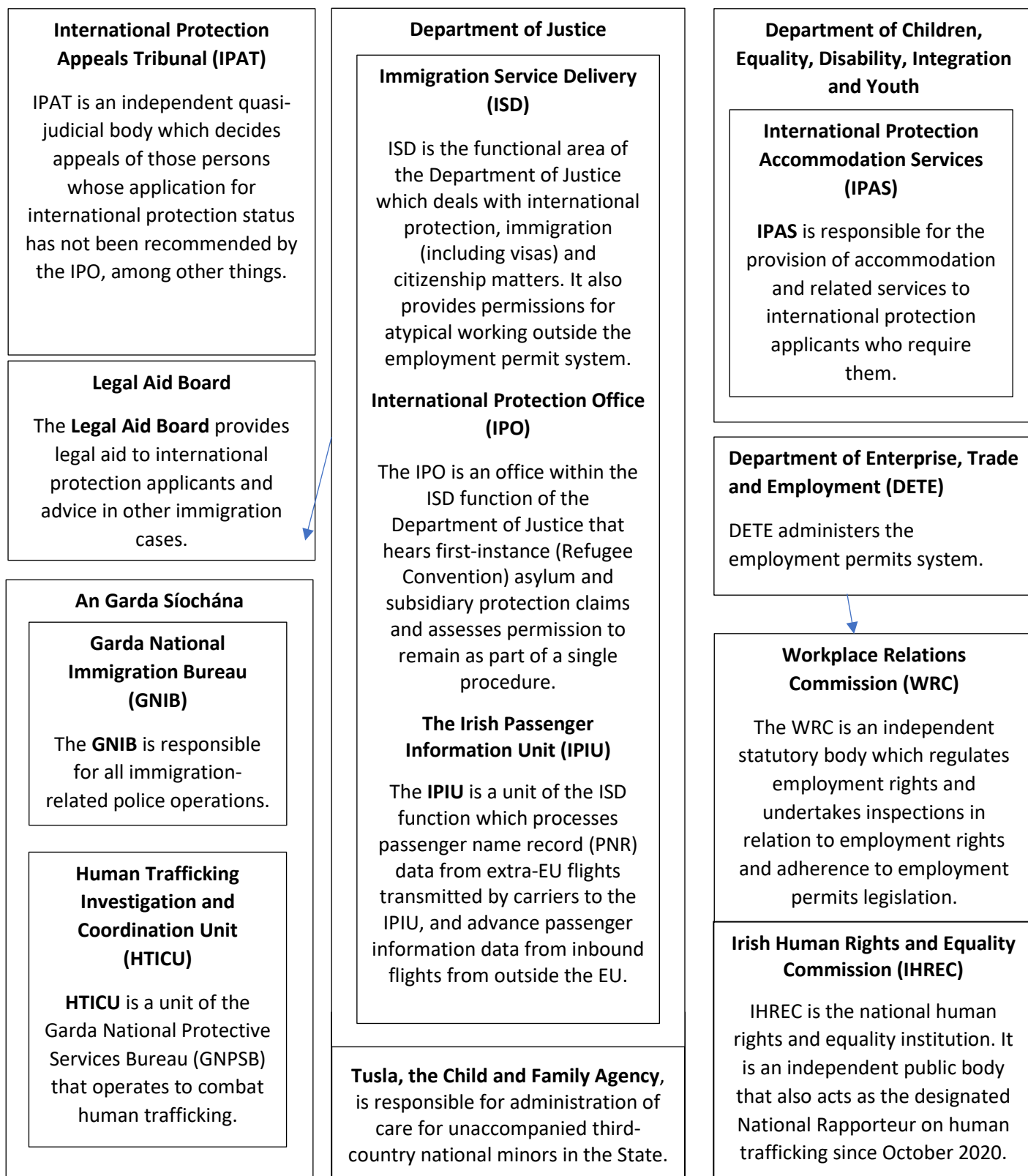
² See www.emn.ie and https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en.

within migration and asylum policy in Ireland and the legislative framework, see Annex A.

FIGURE 1.1 GOVERNMENT DEPARTMENTS IN IRELAND WITH RESPONSIBILITY FOR ASYLUM AND MIGRATION, 2022



FIGURE 1.2 INSTITUTIONS IN IRELAND WITH RESPONSIBILITY FOR ASYLUM AND MIGRATION AT 31 DECEMBER, 2022

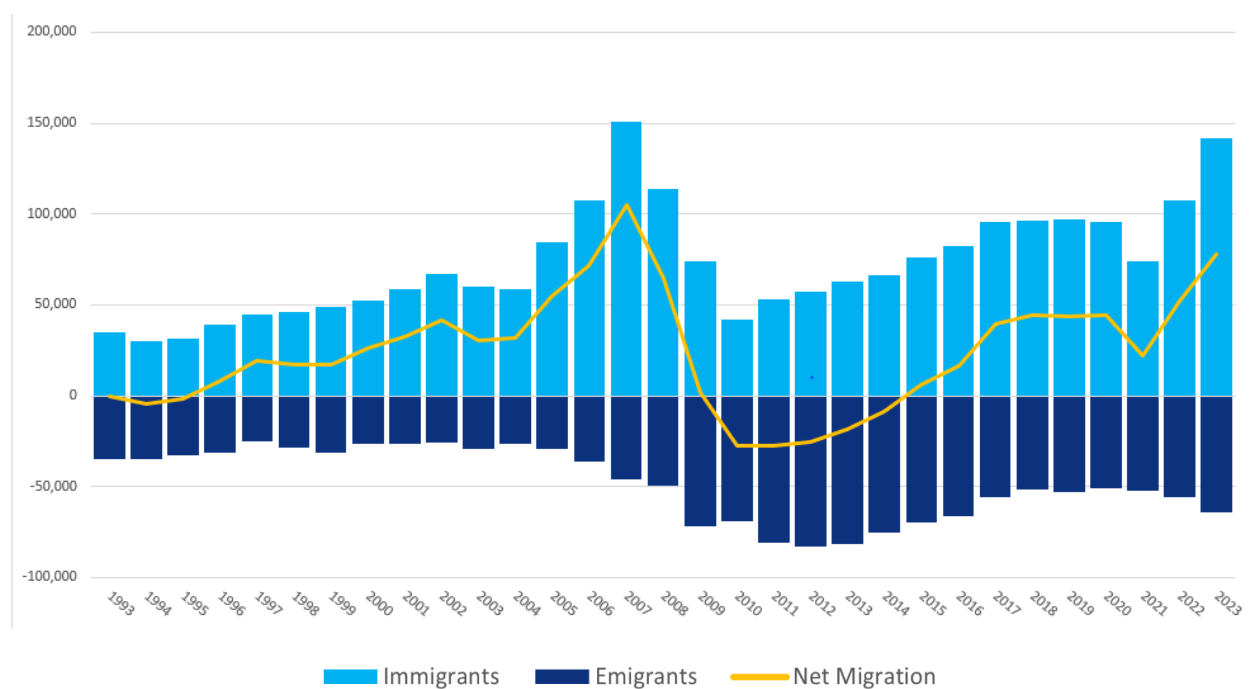


CHAPTER 2

Migration overview

2.1 STATISTICAL OVERVIEW

FIGURE 2.1 GROSS AND NET MIGRATION TO AND FROM IRELAND, 1993–2023



Source: CSO (2023). 'Population and migration estimates, April 2023'.

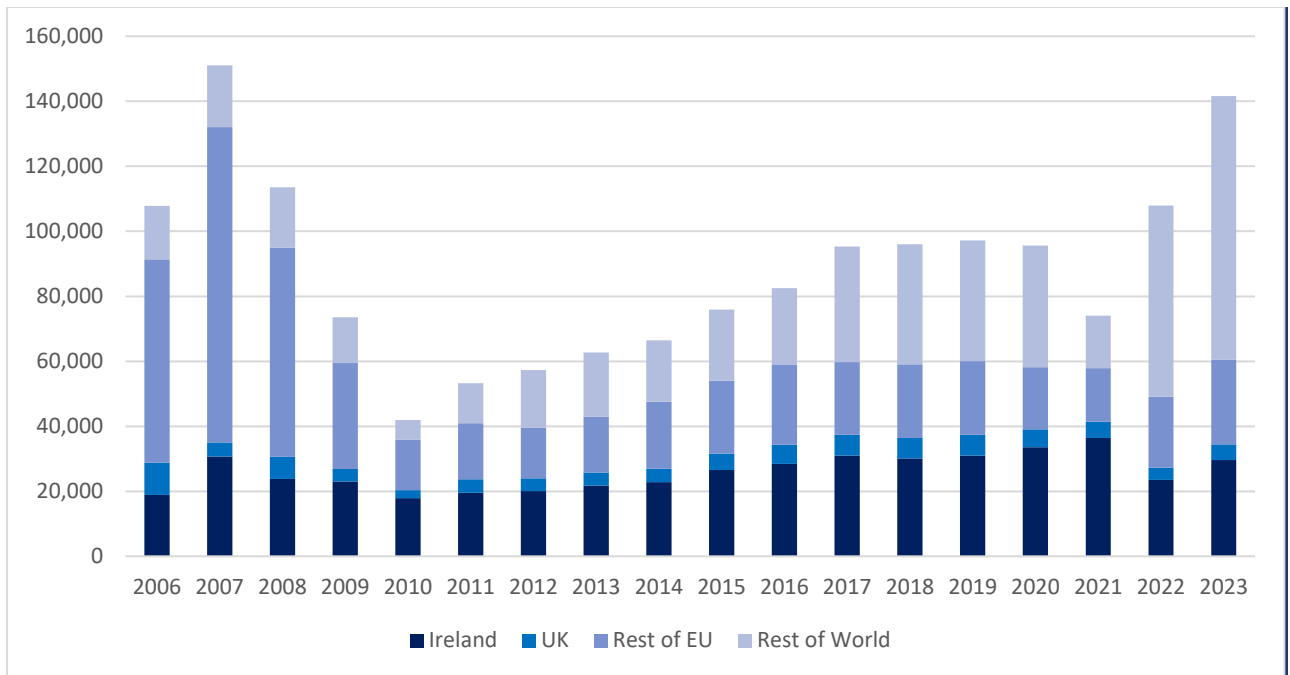
As mentioned in the 2021 annual report, a census of the population was conducted in April 2022. According to this census, the population of Ireland was 5.184 million in April 2022, a 7.6% increase since Census 2016 and the highest population on record since 1841.³ The Central Statistics Office (CSO) estimates that the population was 5.282 million as of April 2023.⁴

As is evident from Figure 2.1, immigration rose significantly in the year to April 2023, to 141,600 immigrants, a 31% increase from the year to April 2022. Emigration also continued to increase, with 64,000 emigrants in the year to April 2023, a 14% increase from the previous year.⁵ This gives net migration of 77,600, a 50% increase from the year before.

³ CSO (2022). 'Census of population 2022 – Preliminary results', 23 June, www.cso.ie.

⁴ CSO (2023). 'Population and migration estimates, April 2023', 25 September, www.cso.ie.

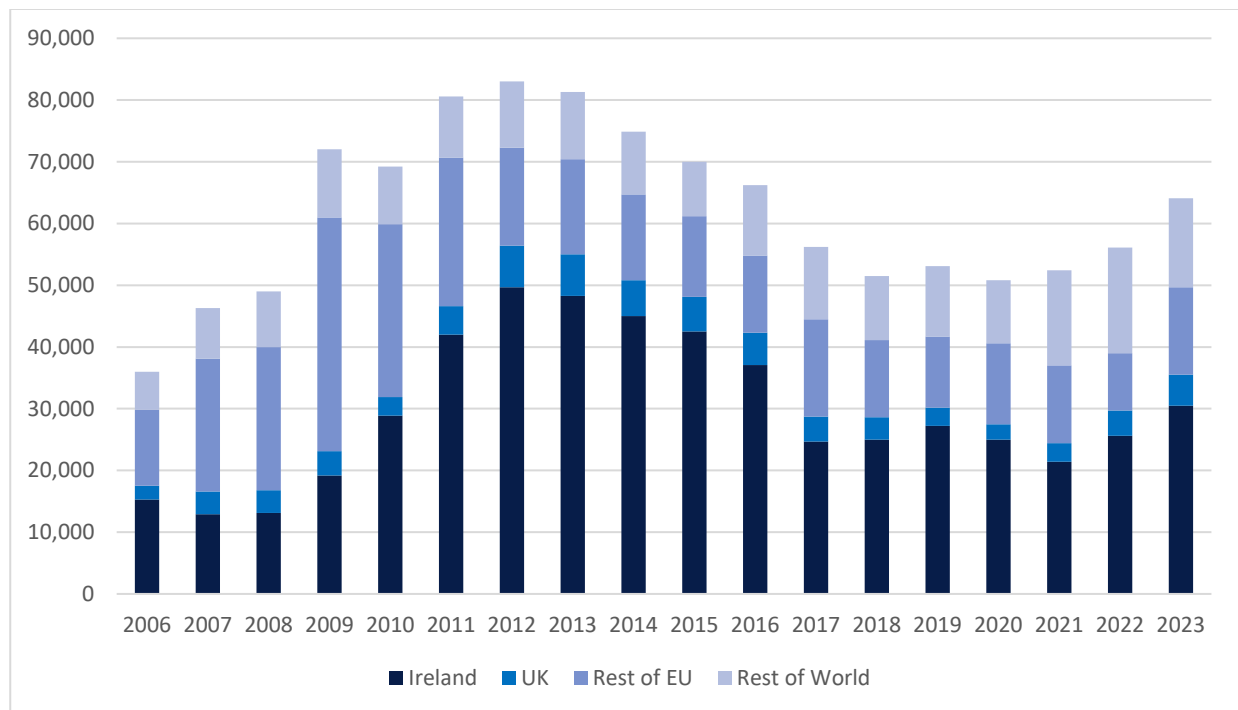
⁵ CSO (2023). 'Population and migration estimates, April 2023', 25 September, www.cso.ie.

FIGURE 2.2 ESTIMATED IMMIGRATION TO IRELAND, 2003–2023

Source: CSO (2023). 'Population and migration estimates, April 2023'.

As shown in Figure 2.2, immigration to Ireland increased significantly in the year to April 2023 compared with previous years. The increase is largely a result of a jump in immigration among nationals from the 'rest of the world' category, which increased by 38% from the previous year and includes almost 42,000 Ukrainians.⁶ However, all citizenship categories increased, with immigration of European Union (EU) citizens increasing by 20%, and both United Kingdom (UK) nationals and returning Irish nationals by 26%.

⁶ CSO (2023). 'Population and migration estimates, April 2023', 25 September, www.cso.ie.

FIGURE 2.3 ESTIMATED EMIGRATION FROM IRELAND, 2006–2023

Source: CSO (2023) 'Population and migration estimates, April 2023'.

As shown in Figure 2.3, emigration also increased, with a 14% increase in the year to April 2023, to 64,000. This is the first time it has been above 60,000 since 2016.⁷ The largest category was Irish nationals (who represented 48% of emigrants), with Irish emigration increasing by 19% from the previous year. EU and UK emigration also increased slightly, by 53% and 22% respectively. Emigration for those in the 'rest of the world' category decreased by 16%.

2.2 OVERARCHING DEVELOPMENTS

This section presents developments that are not directly migration related but that impact migration, or that are migration related but have overarching impacts with relevance beyond a single category of migration.

⁷ CSO (2023). 'Population and migration estimates, April 2023', 25 September, www.cso.ie.

2.2.1 Opt-in to Asylum, Migration and Integration Fund Regulation

In March 2022, the Irish Parliament approved participation in the EU Regulation that established the Asylum, Migration and Integration Fund (AMIF).⁸ Confirmation of opt-in was received from the European Commission on 29 March.⁹

The AMIF is an EU fund which aims to build migration management capacity and procedures for migration management. The current round of the fund runs 2021–2027 and has a total value of €9.88 billion.¹⁰

Ireland's national programme for the AMIF was drafted following consultations with relevant stakeholders in the State, including non-governmental organisations (NGOs), as well as with the European Commission.

Under Ireland's national programme, it is intended: to provide a range of supports for refugees and asylum seekers arriving in Ireland; to delegate and oversee activities via awards to specialised bodies; and to fund the management of returns of third-country nationals to their country of origin, where appropriate. The range of supports planned for refugees and asylum seekers ranges from information and assistance with basic needs to specialist supports in areas such as medical/psychosocial and legal assistance.¹¹

Ireland had participated in the previous AMIF 2014–2020 and the European Refugee Fund, as well as the European Integration Fund which preceded it. Ireland was allocated €55.5 million under AMIF 2014–2020 across the areas of asylum, integration and return.¹²

In response to the influx of beneficiaries of temporary protection fleeing Ukraine, the closing date of AMIF 2014–2020 was extended by one year via Regulation (EU) 2022/585.¹³ Ireland also notified the Commission in July 2022 of its wish to accept and

⁸ See Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund.

⁹ NB: Ireland does not participate in measures adopted under Title V of the Treaty on the Functioning of the European Union (TFEU). Under Protocol 21 to the Treaty on European Union (TEU) and TFEU, Ireland may exercise the option to participate in a measure either within three months of the proposal being published (Article 3) or after the proposal has been adopted by the EU (Article 4). Government approval and approval of both houses of parliament (Oireachtas approval) is required to participate in a measure. Ireland then notifies the European Commission of Ireland's wish to participate, and the European Commission adopts a decision accepting Ireland's participation. Commission Decision (EU) 2022/507 of 29 March 2022 confirming the participation of Ireland in Regulation (EU) 2021/1147 of the European Parliament and of the Council establishing the Asylum, Migration and Integration Fund, Official Journal of the European Union, L102/33 of 30.3.2022, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022D0507>.

¹⁰ European Commission (n.d.) 'Asylum, Migration and Integration Fund 2021-2027', www.home-affairs.ec.europa.eu.

¹¹ Correspondence with DCEDIY, June 2023.

¹² Dáil Éireann (2022). 'EU Regulation: Motion', 3 February, www.debatesarchive.oireachtas.ie.

¹³ Regulation (EU) 2022/585 of the European Parliament and of the Council of 6 April 2022 amending Regulations (EU) No 514/2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, (EU) No 516/2014

be bound by this Regulation and Ireland’s participation was confirmed in October 2022.¹⁴

2.2.2 Justice Plan 2022

As reported for 2021, the Department of Justice published its *Statement of strategy 2021–2023* in February 2021.¹⁵ The *Justice Plan 2022*, setting out plans and objectives for 2022, was published in March 2022.¹⁶ Goal 4 of the statement of strategy is to ‘deliver a “fair immigration system for a digital age”’ (see *Annual report on migration and asylum 2021* for further details).¹⁷

Along with a range of objectives and actions relating to improvement of case processing times and volumes and moving processes online, objectives and actions included:

- a review of the policy of holding immigration detainees in prisons;
- implementation of the regularisation scheme for long-term undocumented migrants (see Section 10.2.3);
- agreement of high-level design for Single Person Committee restructure;¹⁸ and
- completion of Catherine Day Advisory Group¹⁹ recommendations.

The Catherine Day Advisory Group recommendations include:

- getting the first-instance decision time (for international protection) to less than six months (see Section 4.1.5 for processing times);
- concluding analysis in relation to guiding a strategy for unsuccessful applicants who cannot return to their home country;
- implementing recommendations from the end-to-end review of the international protection process (see *Annual report on migration and asylum 2021* for further details on the review);
- reviewing the impact of access to labour market improvements introduced in 2021 (see *Annual report on migration and asylum 2021*, for further details);

establishing the Asylum, Migration and Integration Fund and (EU) 2021/1147 establishing the Asylum, Migration and Integration Fund, www.eur-lex.europa.eu.

¹⁴ Commission Decision (EU) 2022/1928 of 11 October 2022 confirming the participation of Ireland in Regulation (EU) 2022/585 of the European Parliament and of the Council amending Regulations (EU) No 514/2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund and (EU) 2021/1147 establishing the Asylum, Migration and Integration Fund, www.eur-lex.europa.eu.

¹⁵ Department of Justice (2021). *A safe, fair and inclusive Ireland: Statement of Strategy 2021 – 2023*, February, www.gov.ie.

¹⁶ Department of Justice (2022). *Justice Plan 2022*, 28 March, www.gov.ie.

¹⁷ Department of Justice (2021). *A safe, fair and inclusive Ireland Statement of Strategy 2021 – 2023*, February, p. 19, www.gov.ie.

¹⁸ The Single Person Committee of Inquiry was established in 2021 to review requests for disclosure of the information relied upon in refusals of naturalisation on the grounds of national security concerns. See *Annual report on migration and asylum 2021* for further details. Further details on the proposed restructure are: <https://www.irishimmigration.ie/the-establishment-of-the-single-person-committee-of-inquiry/>.

¹⁹ Department of Justice (2020). *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*.

- identifying common European asylum system measures that Ireland can opt-in to now or in the future when measures on the EU Pact on Migration and Asylum have been adopted; and
- finalising a future design model for immigration services, along with a phased implementation plan for same, including:
 - review and expansion of list of countries with the five-year multi-visa option (See section 10.2.8 for further details); and
 - review of additional application types that could transition to a pre-clearance model.

2.2.3 Final temporary extension of residence permits

As reported for 2021, the Minister for Justice announced the ninth temporary extension of immigration and international protection permissions in December 2021.²⁰ This meant people who were legally in the State in March 2020 – when the COVID-19 pandemic began – had a valid permission to remain until 31 May 2022.²¹

In May 2022, the Minister for Justice announced arrangements to provide clarity for some groups in returning to the normal way of registering for immigration permission. This clarified that non-European Economic Area (EEA) nationals who were still waiting for renewal of their Irish Residence Permit (IRP) card could continue to work once they could provide to their employer evidence of an ongoing application for renewal of the card.

As was the case prior to the pandemic, English language students who had completed their maximum allowable three English language courses and who had applied for an undergraduate/graduate course for autumn 2022 could apply for a short-term letter of permission, based on their proof of application or enrolment. This letter was a bridging permission to cover them for the summer months. Once enrolled in the course in the autumn, they could then register as a student in the normal way.²²

2.3 LEGISLATION

Civil Law (Miscellaneous Provisions) Act 2022, Act No. 19 of 2022

Civil Law (Miscellaneous Provisions) Act 2022 (Parts 1, 4,5 and 8) (Commencement) Order 2022, [S.I. No. 370/2022]

²⁰ Department of Justice (2021). 'Minister McEntee announces further temporary extension of immigration permissions', press release, 17 December, www.irishimmigration.ie.

²¹ Department of Justice (2021). 'Immigration Service Delivery – Impact of COVID-19 on immigration and international protection – Frequently asked questions – December 2021', question 35, www.irishimmigration.ie.

²² Department of Justice (2022). 'Statement from the Minister for Justice on the arrangements for the renewal and registration of immigration permissions post-31 May 2022', press release, 27 May, www.gov.ie.

Civil Law (Miscellaneous Provisions) Act 2022 (Parts 2 and 3) (Commencement) Order 2022 [S.I. No. 374/2022]

Civil Law (Miscellaneous Provisions) Act 2022 (Parts 6 and 7) (Commencement) Order 2022 [S.I. No. 390/2022]

Civil Law (Miscellaneous Provisions) Act 2022 (Part 2) (Eligible Dwelling Standards) Regulations 2022 [S.I. No. 377/2022]

Employment Permits (Amendment) Regulations 2022 [S.I. No. 273/2022]

Employment Permits (Amendment) (No. 2) Regulations 2022 [S.I. No. 412/2022]

Employment Permits (Amendment) (No. 3) Regulations 2022 [S.I. No. 677/2022]

European Communities (International Protection Procedures) Regulations 2022 [S.I. No. 541/2022]

European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 [S.I. No. 306/2022]

International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 [S.I. No.542/2022]

Immigration Act 2004 (Visas) (Amendment) Order 2022 [S.I. No. 86/2022]

Immigration Act 2004 (Visas) (Amendment) (No. 2) Order 2022 [S.I. No. 364/2022]

Immigration Act 2004 (Visas) (Amendment) (No. 3) Order 2022 [S.I. No. 553/2022]

Immigration Act 2004 (Registration Certificate Fee) (Amendment) Regulations 2022 [S.I. No. 667/2022]

Planning and Development (Exempted Development) (No. 4) Regulations 2022 [S.I. No. 605/2022]

Road Traffic (Recognition of Foreign Driving Licences) (Ukraine) Order 2022 [S.I. No. 192/2022]

Road Traffic (Recognition of Foreign Driving Licences) (Ukraine) (Revocation) Order 2022 [S.I. No. 391/2022]

Road Traffic (Recognition of Foreign Driving Licences Held by Relevant Persons) (Ukraine) Order 2022 [S.I. No. 434/2022].

2.4 COURTS: JUDICIAL REVIEW

In 2022, 336 applications for judicial review were made on the ‘asylum’ list to the High Court. According to the *Courts Service annual report, 2022*, this was a decrease from the

360 applications in 2021.²³ This list covers asylum-related cases as well as judicial review of ministerial decisions in other immigration-related matters.

In 2022, 349 cases were resolved by the High Court, a decrease from 377 in 2021, and 20 were resolved out of court, a significant decrease from 251 in 2021.

The Court of Appeal received 10 asylum list appeals in 2022 and resolved 11 cases in court, leaving 7 cases pending at the end of the year.

Waiting times continued for the pre-leave application stage on the asylum list in 2022, with a waiting time of two weeks. Post-leave application stage waiting times reduced to one month in 2022.²⁴

2.5 UNITED NATIONS AND OTHER INTERNATIONAL DEVELOPMENTS

2.5.1 International Covenant on Civil and Political Rights

As a signatory of the International Covenant on Civil and Political Rights (ICCPR), Ireland is required to undergo regular review by the United Nations (UN) Human Rights Committee on how it is implementing the Covenant as well as the Committee's previous recommendations. Ireland underwent its fifth review in July 2022,²⁵ after submitting its fifth periodic report in 2019 (see *Annual report on migration and asylum* for the years 2019, 2020 and 2021 for further details on the process, submissions and list of issues). Ireland submitted its reply to the list of issues raised by the Committee in March 2022.²⁶ The Committee made its concluding observations in relation to Ireland at the end of July 2022.²⁷

Migration-related issues raised in the concluding observations included the following.

- Legislative and policy measures to combat discrimination were welcomed, but continued concern was raised about discrimination as well as shortcomings in data collection.²⁸
- Concerns were raised about reports of increases in hate crime and discrimination during the COVID-19 pandemic, and possible shortcomings in the

²³ Courts Service (2023). *Courts Service annual report, 2022*, www.courts.ie.

²⁴ Courts Service (2023). *Courts Service annual report, 2022*, www.courts.ie.

²⁵ United Nations (2022). 'UN Human Rights Committee to review Luxembourg, Uruguay, Ireland, Georgia, Hong Kong and Macao', press release, 28 June.

²⁶ United Nations (2022). 'Replies of Ireland to the list of issues in relation to its fifth periodic report', CCPR/C/IRL.RQ/5.

²⁷ United Nations (2023). 'Concluding observations on the fifth periodic report of Ireland', CCPR/C/IRL/CO/5.

²⁸ Section 15.

Hate Crime Bill,²⁹ in relation to the definitions of hatred and incitement, as well as the scope of exceptions.³⁰

- Concern was also raised about low rates of identification of trafficking victims and scarcity of prosecutions and convictions for the crime of trafficking, and the lack of gender-specific accommodation for trafficking victims.³¹
- The single application procedure for international protection and the adoption of the Reception Conditions Directive were welcomed. However, continued concerns were raised about long delays in processing international protection applications, reception conditions for asylum seekers and the increased use of emergency accommodation, and reports of the disappearance of unaccompanied minors.³²
- Concern was raised about discrimination against Roma communities.³³

2.5.2 UN Committee on the Rights of the Child

In February 2022, Ireland submitted its fifth and sixth state reports under the Convention on the Rights of the Child to the UN Committee on the Rights of the Child in Geneva. The state report responds to a list of issues provided by the UN Committee to Ireland in November 2020. The UN Committee has scheduled the oral examination hearing for January 2023.

To prepare the state report, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) held a series of consultations with children and young people, the general public, and civil society stakeholders (see Section 5.2.5 of *Annual report on migration and asylum 2021* for further details). A review of past consultations with children and young people as part of the United Nation Commissioner for Refugees (UNHCR) reporting process was also completed.

As part of the review process, submissions were also received from non-governmental organisations (NGOs), including migration-related NGOs such as AkiDwA and the Migrants Rights Centre of Ireland (MRCI),³⁴ and a joint report from the Immigrant Council of Ireland (ICI) and the Irish Refugee Council (IRC).³⁵ In an alternative report, the Children’s Rights Alliance (CRA) highlighted the following issues:

- the restricted definition of ‘family’ for the purposes of family reunification in the *International Protection Act 2015*, as well as a lack of entitlement to legal aid for applicants and no independent appeals mechanism;

²⁹ Note that this related to the *General Scheme of the Criminal Justice (Hate Crime) Bill 2021*, which differs in many respects from the draft legislation discussed in Section 8.2.2; correspondence with Department of Justice, October 2023.

³⁰ Section 17.

³¹ Section 31.

³² Section 37.

³³ Section 39.

³⁴ The MRCI report was submitted in 2020 and therefore not included in this summary.

³⁵ Immigrant Council of Ireland and Irish Refugee Council (2022). *NGO report to the UN Committee on the Rights of the Child*, www.immigrantcouncil.ie.

- the need for formal procedures for awarding status to children and families in irregular migration situations, and the need for multiple pathways to regularisation in addition to the regularisation scheme (see Section 10.2.3), which they welcomed;
- delays in the implementation of the White Paper on Ending Direct Provision and the lack of progress implementing aspects relating to children;
- the accommodation of children seeking international protection in privately-operated centres that are not subject to adequately independent inspections, and emergency accommodation;
- slow progress implementing vulnerability assessments for international protection applicants;
- a lack of transparency around the methods used by Tusla in making age assessments; and
- delays in applying for international protection for unaccompanied minors.³⁶

AkiDWA raised issues including the disproportionate representation of children from ethnic minorities in childcare proceedings and subsequent issues that arise, in particular mistrust of state institutions among African parents as well as cultural misunderstandings, a lack of awareness of Irish law, and a lack of culturally sensitive foster placements and childcare services.³⁷

The ICI and IRC joint submission raised issues, some of which had also been reflected in the CRA report, including:

- the prevalence of discretion in Irish immigration law and the lack of engagement with children as individual rights holders;
- the lack of an effective statelessness determination procedure, the lack of definition of statelessness in Irish law, and the lack of guidance relating to statelessness and procedures;
- concerns that the reduction of the residence requirement for naturalisation of children (Section 7.2.1) does not go far enough to expand access to citizenship for minors and or to address the lack of eligibility for children whose parents are undocumented in the State;
- concerns over the lack of a specific process for naturalisation of children in state care, and over the lack of provision to enable children to apply for citizenship by themselves;
- concerns about extreme delays for migrant children as a result of processing delays and the requirement to submit applications only after their parents have been granted citizenship;

³⁶ Children's Rights Alliance (2022). *Civil society alternative report in response to the fifth and sixth combined report of Ireland under the UN convention on the Rights of the Child*, UN code: INT/CRC/NGO/IRL/50238/E.

³⁷ AkiDWA (2022). 'Submission to the Committee on the Rights of the Child', UN code: INT/CRC/NGO/IRL/50229/E.

- inconsistency in immigration statuses granted to young people when they turn 16 and incorrect stamps being granted, as well as the lack of child-friendly information about their immigration status and their duties under immigration law;
- issues with the family reunification framework, the impact of delays in international protection determination on a person's eligibility for family reunification, as well as long processing delays;
- the lack of legal aid or information for children in immigration processes;
- concerns that the age assessment process does not meet international and national standards and the lack of an independent review process;
- the lack of an independent appeals mechanism for general immigration matters, in particular matters affecting children; and
- issues with the identification of and protections for child victims of trafficking.³⁸

³⁸ Immigrant Council of Ireland and Irish Refugee Council (2022). *NGO report to the UN Committee on the Rights of the Child: The Republic of Ireland's implementation of the UNCRC*.

CHAPTER 3

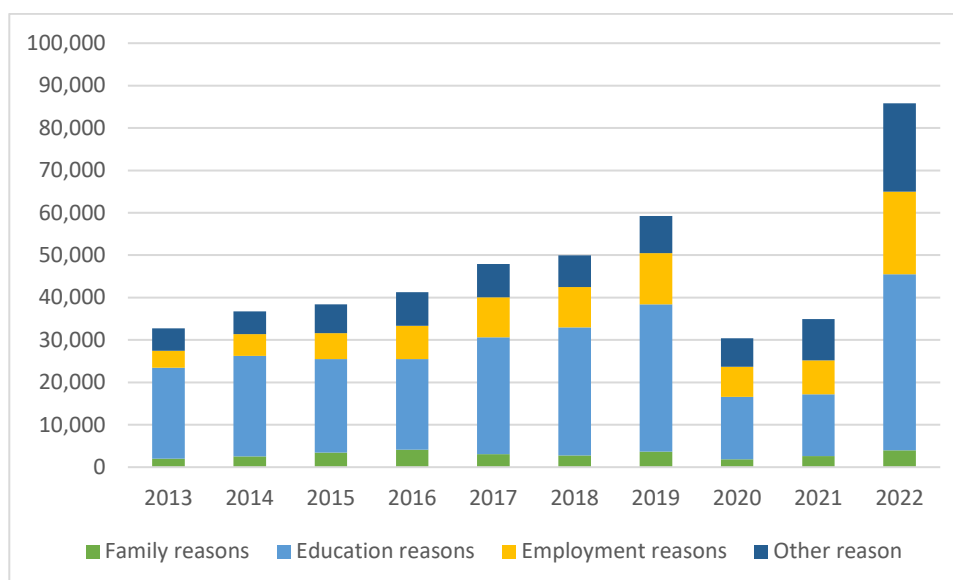
Legal migration

3.1 STATISTICS

3.1.1 Residence

Figure 3.1 shows first-residence permits issued for all reasons between 2013 and 2022. A total of 85,793 first permits were issued in 2022, a 146% increase from 2021 and a 45% increase from 2019, the last comparable year before COVID-19 and the highest number in recent years. As in previous years, education was the most common reason for permits (48% of all permits in 2022), followed by ‘other reasons’ (24%) and employment (23%).

FIGURE 3.1 FIRST-RESIDENCE PERMITS IN IRELAND BY REASON, 2013–2022



Source: Eurostat (2023). ‘First permits by reason, length of validity and citizenship’, extracted 28 August 2023.

The most common country of citizenship of those issued with first permits was India (21%), followed by Brazil (20%) and China (6%). Over half of the permits were valid for between 6 and 11 months (53%), while 37% were valid for over 12 months, according to Eurostat.

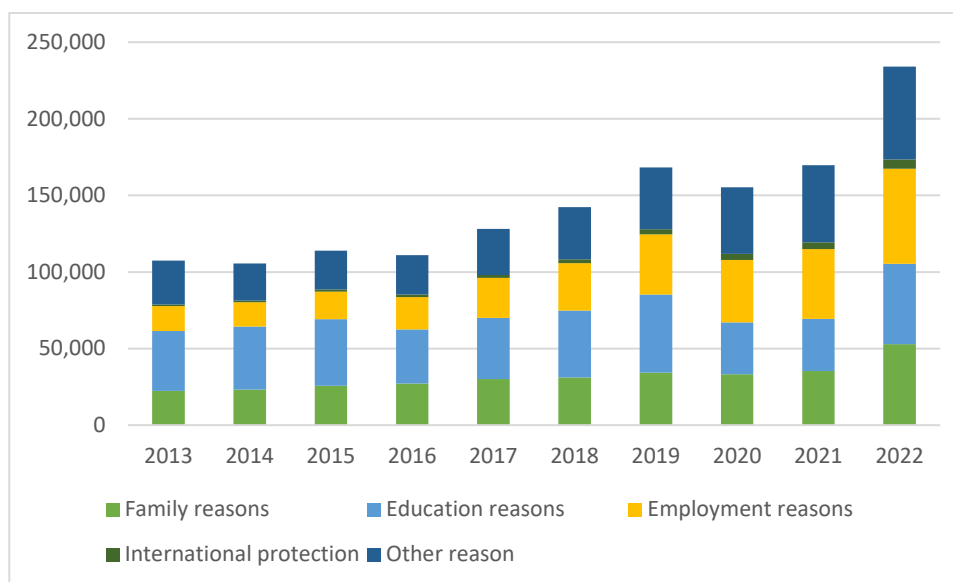
Across the EU, 3.442 million first-residence permits were granted (also a significant increase on 2021 and the highest since at least 2013),³⁹ with first permits in Ireland

³⁹ Eurostat (2023). ‘First permits by reason, length of validity and citizenship’, extracted 23 October.

therefore representing 2.49% of the EU total. This rises to 9.1% for education-related permits and drops to 0.45% for family-related permits.

Figure 3.2 shows all valid residence permits at the end of the year, and shows that 2022 was the highest year in the last ten years, with 234,057 permits valid at the end of the year. The increase happened across all categories, and proportions are similar to previous years, with 27% granted for employment reasons, 23% for family reasons and 22% for education reasons. Over one-quarter (26%) were for other reasons and 3% were for international protection reasons (refugee and subsidiary protection status), according to Eurostat data. The most common nationality of residence permit holders was Indian (24%), followed by Brazilian (15%) and Chinese (7%).

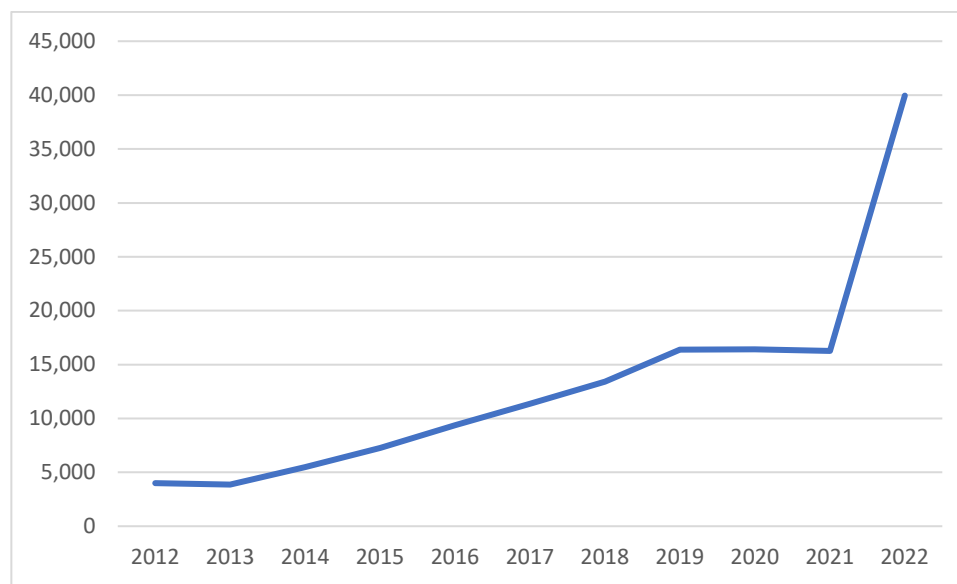
FIGURE 3.2 ALL VALID RESIDENCE PERMITS IN IRELAND AS OF 31 DECEMBER, 2013–2022



Source Eurostat (2023). 'All valid permits by reason, length of validity and citizenship on 31 December of each year', extracted 29 August.

3.1.2 Employment permits

FIGURE 3.3 EMPLOYMENT PERMIT GRANTS, 2012–2022



Source: DETE (2023). 'Employment permit statistics 2022'.

A total of 39,995 employment permits were issued in 2022.⁴⁰ This is a significant increase on the previous ten years, and over double the previous peak in 2019 (16,383) (see Figure 3.3). This reflects a steep increase in applications (with 2021 showing a 47% increase in applications compared with 2019, which itself represented an 11-year high in applications),⁴¹ as well as changes to occupations lists over 2021 and 2022, which widened the sectors for which employment permits could be granted (see *Annual report on migration and asylum 2021* and Section 3.2.4 below). Initiatives implemented during the COVID-19 pandemic, such as expediting medical applications, soft copy permits and ensuring renewals were processed, also had an impact on 2022 permit figures.⁴²

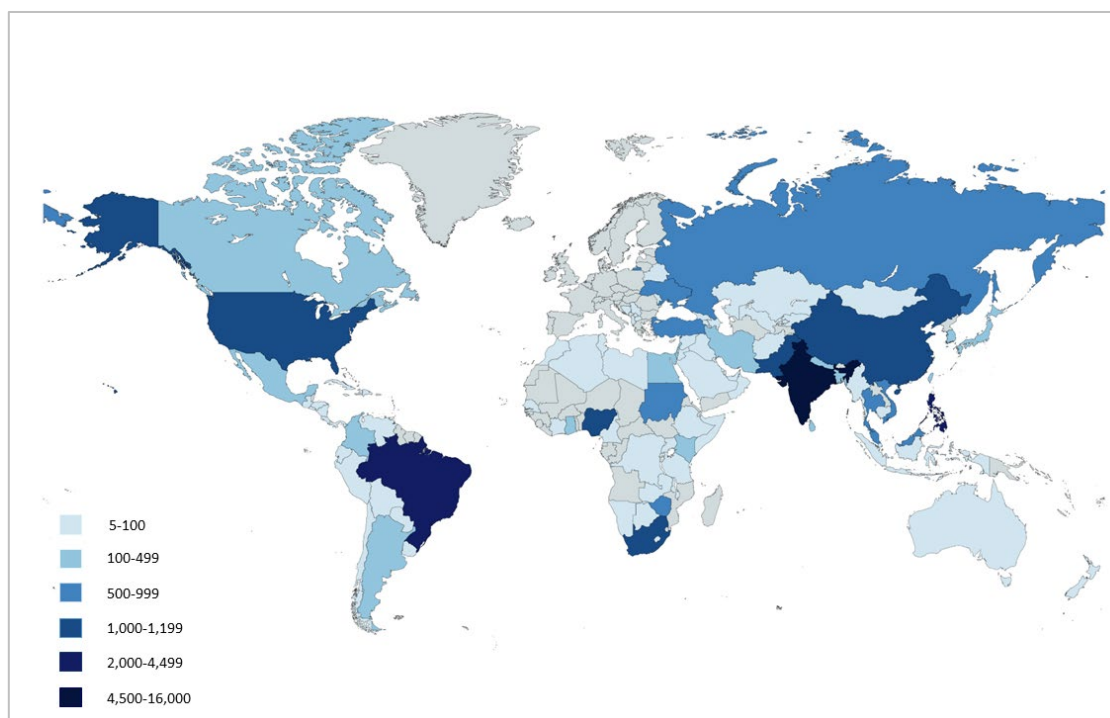
As can be seen from Figure 3.4, a diverse range of nationalities are represented among those issued employment permits in 2022. As with previous years, India is the most common nationality (15,695 permits, 39% of all permits). The next most common countries of origin are Brazil (4,304, 11%), the Philippines (2,203, 6%), Pakistan (1,757, 4%) and China (1,497, 4%).⁴³

⁴⁰ Department of Enterprise, Trade and Employment (2023). 'Employment permit statistics 2022'.

⁴¹ Correspondence with DETE, October 2023.

⁴² Correspondence with DETE, October 2023.

⁴³ DETE (2023). 'Employment permit statistics 2022: Permits by nationality 2022'.

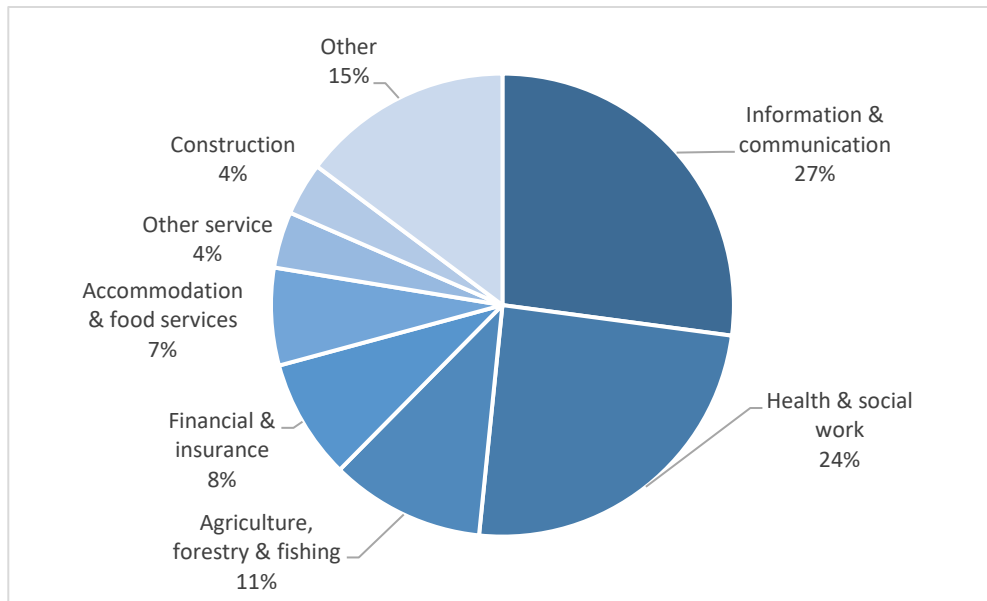
FIGURE 3.4 COUNTRIES OF ORIGIN FOR THOSE ISSUED EMPLOYMENT PERMITS IN 2022

Source: DETE (2023). 'Employment permit statistics 2022: Permits by nationality, 2022'.

The sectors to which the employment permits were granted are shown in Figure 3.5 and Table 3.1.⁴⁴ The information and communication sector was the largest recipient of employment permits in 2022 (10,382 permits), a change from previous years when health and social work (9,791, now the second largest) was the largest sector. Almost all sectors saw large increases in permits from 2021, with information and communications permits increasing by 125%, health increasing by 69% and agriculture (including forestry and fishing) increasing by 385% since 2021.

⁴⁴ DETE (2023). 'Employment permit statistics 2022: Permits by sector 2022'.

FIGURE 3.5 SECTORS TO WHICH EMPLOYMENT PERMITS WERE ISSUED IN 2022



Source: DETE (2023). 'Employment permit statistics 2022: Permits by sector 2022'.

Note: Agriculture includes forestry and fishing.

TABLE 3.1 EMPLOYMENT PERMITS BY SECTOR, 2021–2022, AND PERCENTAGE INCREASE

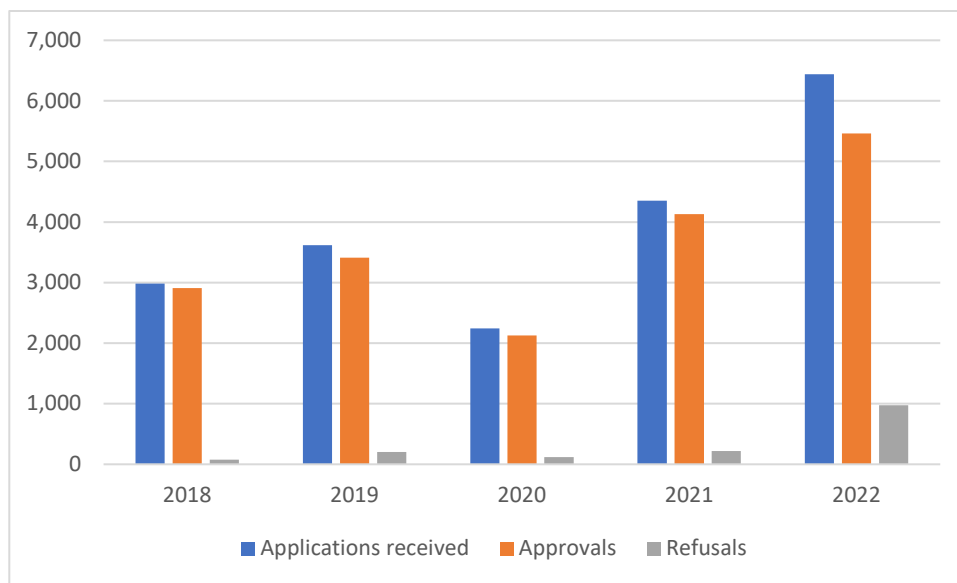
Sector	2021	2022	% increase
A – Agriculture, forestry and fishing	888	4,311	385.5
B – Mining and quarrying	2	15	650.0
C – All other manufacturing	248	701	182.7
C – Manufacture of chemicals and pharmaceuticals	274	682	148.9
C – Manufacture of computers, electronics and Optica	72	610	747.2
C – Manufacture of food, drink and tobacco	111	357	221.6
C – Manufacture of medical devices	93	312	235.5
D – Electricity and gas and air conditioning supply	86	209	143.0
E – Water supply – sewerage waste management and remediation	12	25	108.3
F – Construction	607	1,474	142.8
G – Wholesale and retail trade	120	324	170.0
H – Transport and storage	265	512	93.2
I – Accommodation and food services activities	786	2,720	246.1
J – Information and communication activities	4,615	10,832	134.7
K – Financial and insurance activities	1,094	3,351	206.3
L – Real estate activities	7	21	200.0
M – All other professional, scientific and technical	151	1,072	609.9
M – Professional, scientific and technical activities	85	388	356.5
N – Administrative and support service activities	21	86	309.5
O – Public administration and defence	4	41	925.0
P – Education	91	207	127.5
Q – Health and social work activities	5,793	9,791	69.0
R – Arts, entertainment and recreation	252	340	34.9
S – Other service activities	595	1,572	164.2
T – Domestic – activities of households as employer	3	2	-33.3
Total	16,275	39,955	145.5

Source: DETE (2023). 'Employment permit statistics 2022: Permits by sector 2022'.

3.1.3 Atypical Working Scheme

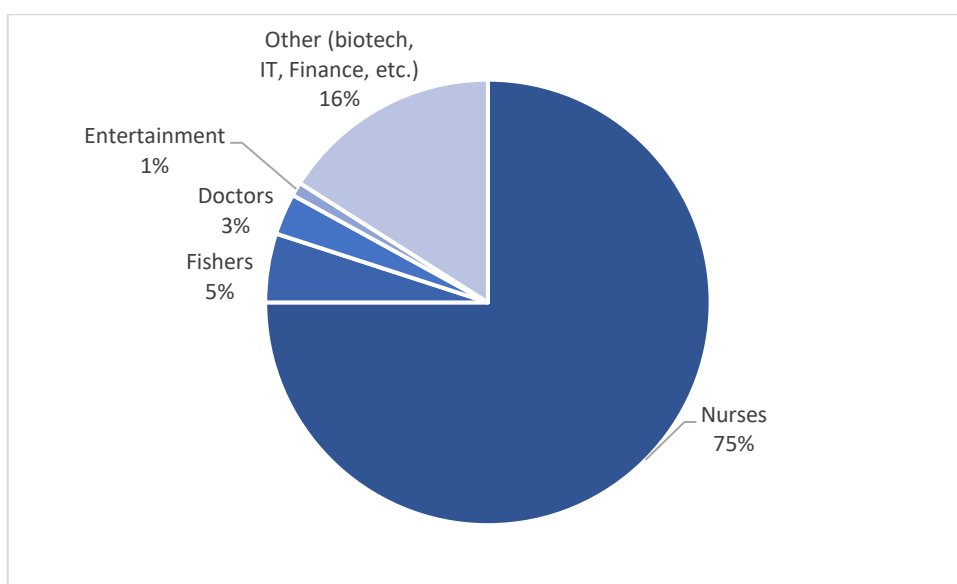
Figure 3.6 shows the applications, approvals and refusals for the Atypical Working Scheme (AWS) between 2018 and 2022. It shows a significant increase in applications in 2022 compared with the previous years (48% increase from 2021), as well as approvals and refusals. Figure 3.7 shows that in 2022 the majority of applications to the AWS were made by nurses (75%).

FIGURE 3.6 ATYPICAL WORKING SCHEME APPLICATIONS, APPROVALS AND REFUSALS, 2018–2022



Source: Correspondence with Department of Justice, October 2023.

FIGURE 3.7 SECTORAL BREAKDOWN OF APPLICATIONS FOR THE AWS IN 2022 (AS % OF TOTAL APPLICATIONS)



Source: Correspondence with Department of Justice, October 2023.

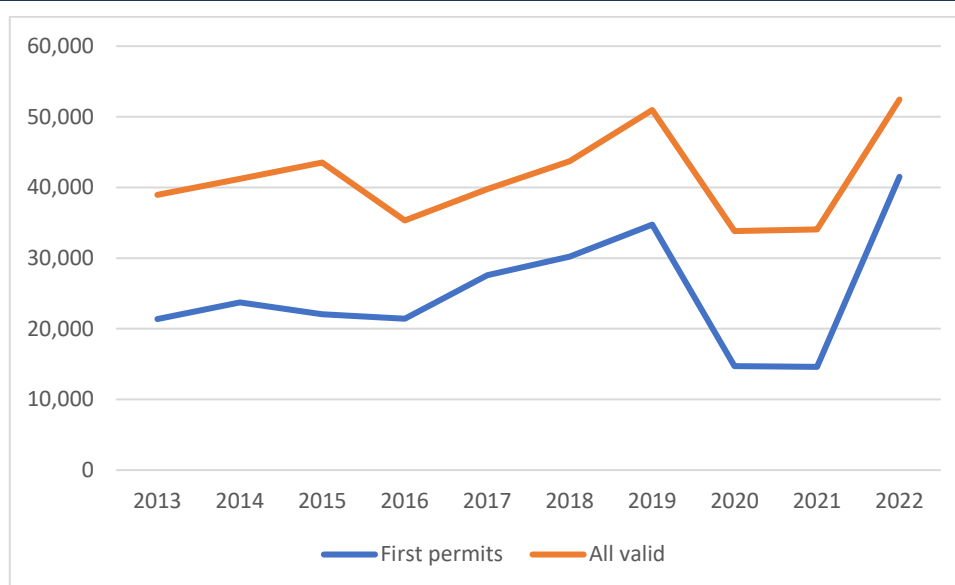
As discussed in Section 3.2.2 below, the AWS closed to applications from seafishers in December 2022. All AWS fishers holding a valid permission on the date the scheme closed or with an outstanding application were granted Stamp 4 immigration permission on an exceptional basis, allowing unrestricted access to the labour market. It is estimated that around 290 individuals were in a position to avail of this measure. A

further 45 individuals who had formerly participated in the AWS also received a Stamp 4 immigration permission.⁴⁵

3.1.4 International students

Figure 3.8 shows first permits and all valid permits for education reasons. It shows that permits for education reasons recovered from the COVID-19 dip in 2022, returning to a steady increase from 2019. Therefore, while all valid permits increased by 54% from 2021, this was only a 3% increase from 2019. Similarly, while first permits for education reasons increased by 184% from 2019, this was only a 19% increase from 2019.

FIGURE 3.8 FIRST PERMITS AND ALL VALID PERMITS ON 31 DECEMBER FOR EDUCATION REASONS, 2013–2022



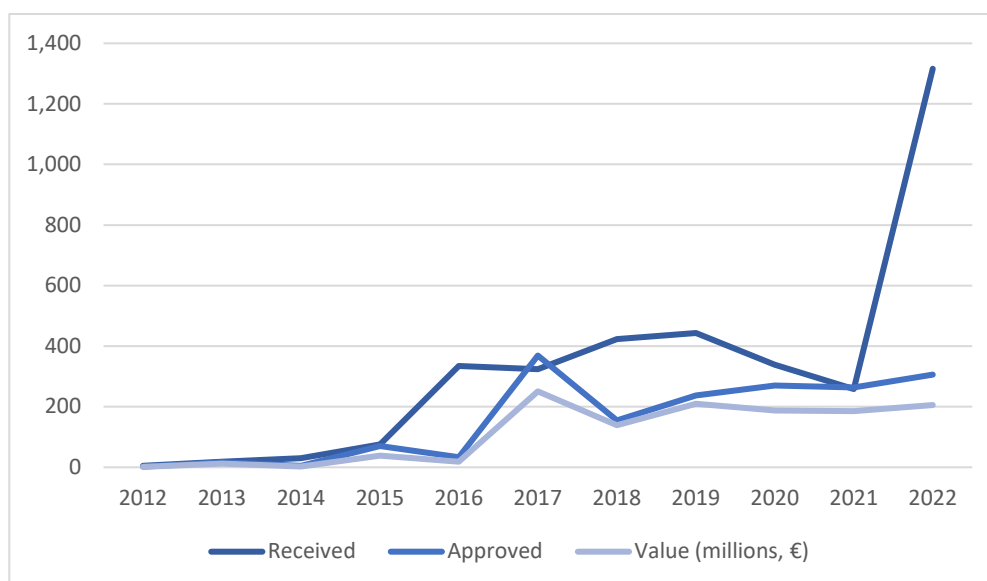
Source: Eurostat (2023). 'All valid permits by reason, length of validity and citizenship on 31 December of each year', extracted 28 August 2023; Eurostat (2023). 'First permits by reason, length of validity and citizenship', extracted 21 August 2023.

3.1.5 Immigrant investors

A total of 1,316 applications for the Immigrant Investor Programme (IIP) were received in 2022, a 410% increase from 2021. A total of 306 applications were approved, with a total value of €205.9 million.⁴⁶ This represents a significant increase of applications from all previous years of the programme, although only a small increase in approvals (+16% from 2021).

⁴⁵ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴⁶ Department of Justice (2023) 'Response to parliamentary questions 29630-29637/23', 20 June, www.oireachtas.ie.

FIGURE 3.9 APPLICATIONS FOR THE IIP, 2022

Source: Department of Justice, 'Response to parliamentary questions 29630-29637/23'.

While outside the scope of this report, it should be noted that the IIP closed to further new applications relating to new investment projects in February 2023. This will be reported on in the annual report for migration and asylum, 2023. Existing applications relating to projects already received and on hand will continue to be processed for some time to come.⁴⁷

3.2 DEVELOPMENTS

3.2.1 *Employment Permits Bill 2022*

The *Employment Permits Bill 2022* was introduced in the Dáil in October 2022. The Bill completed committee stage in November 2022.^{48,49} The main purpose of the Bill is to consolidate the law concerning employment permits, modernise the employment permit system and increase the system's responsiveness.⁵⁰ The Bill also proposes to introduce a seasonal employment permit. It is largely based on recommendations made in the Government's 2018 review of economic migration policy.⁵¹ The General Scheme of the Bill completed pre-legislative scrutiny in 2021, and a summary of this is included in the 2021 report in this series.

⁴⁷ Correspondence with the Department of Justice, October 2023.

⁴⁸ Committee stage is the third stage of the legislative process where Bills are examined section by section and amendments may be made.

⁴⁹ *Employment Permits Bill 2022*, Bill 91 of 2022, www.oireachtas.ie.

⁵⁰ Houses of the Oireachtas (2022). 'Employment Permits Bill 2022', *Library & Research Service Bill Digest*, www.data.oireachtas.ie.

⁵¹ Government of Ireland (2018). *Review of economic migration policy: Report of the Inter-Departmental Group*, www.enterprise.gov.ie.

The main Provisions of the Bill, as initiated, included:

- the introduction of a seasonal employment permit;
- revision of the labour market needs test;
- moving of operational detail to Regulations to allow for greater flexibility;
- providing for additional conditions for the granting of an employment permit, such as training or accommodation support for migrant workers in some circumstances; and
- automatic indexation of minimum remuneration thresholds to ensure the levels required for each permit keep pace with wage growth.

At committee stage in November 2022, Committee members proposed amendments which would remove seasonal employment permits from the Bill, with some representatives raising concerns about risks of exploitation with seasonal employment permits. These amendments were not accepted, with the Minister for Enterprise, Trade and Employment outlining protections proposed for workers on seasonal employment permits.

The main amendment made at committee stage was a section added relating to public employment of non-consultant hospital doctors.⁵²

Several issues were raised that the Minister for Enterprise, Trade and Employment agreed to examine prior to report stage, including: the issue of permit holders' spouses' inability to work (for permits other than critical skills employment permits); potential automatic disbarment of employers from being granted employment permits if they have been found in breach of equality and employment legislation and the Regulation of the provision of accommodation; and the possibility of enabling employees to change employers.

Some Committee members also raised concerns about the scope of powers delegated to the Minister (for them to legislate through regulation), arguing that fewer powers delegated to the Minister would enable greater public scrutiny and transparency. However, no changes were made to the Bill in respect to this, with the Minister arguing that without having delegating powers to the Minister for key operational matters, the system would be inoperable.

3.2.2 Review of and changes to the Atypical Working Scheme

The Atypical Working Scheme (AWS) was adopted in 2015 and provides atypical worker permissions for specialised, highly-skilled employment where contracts are between 15 to 90 days, or more than 90 days for specific sectors. At the beginning of 2022, these

⁵² See section 25 of the revised Bill.

sectors were: crew members in the Irish fishing fleet (12 month maximum); doctors providing locum services in the hospital sector (6 month maximum); nurses seeking registration with the Nursing and Midwifery Board of Ireland on the basis of an overseas qualification (6 months maximum); and paid internships where they are required for studies in an accredited institution (12 months maximum).⁵³

The strand of the scheme relating to the Irish fishing fleet was established in 2016 following allegations of exploitation and trafficking of undocumented non-European Economic Area (EEA) workers in the Irish fishing fleet. In December 2015 the government published *Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet*, a cross-departmental review report by senior officials from the Departments of Agriculture, Food and the Marine, Enterprise, Trade and Employment, and Justice.⁵⁴ The fishing fleet strand was established on the basis of the recommendation of this report.

The scheme continued to be subject to criticism on this issue however, including a legal challenge which was subsequently resolved by a mediation agreement in 2019 (see previous annual reports). The mediation agreement contained several recommendations to address problems with workplace abuses experienced by non-EEA crew. Another review was conducted in October 2022.^{55,56} Its key recommendation was that the employment of non-EEA fishing crew should be provided for under the employment permit system administered by the Department of Enterprise, Trade and Employment (DETE) rather than the AWS administered by the Department of Justice.

On this basis, the AWS closed for new applications for third-country national fishing crew in December 2022 to allow for transition of this category of worker to the employment permit system.⁵⁷ The transition is to be overseen by a cross-departmental working group with an approximate implementation time of 12 months.⁵⁸ All AWS fishers holding a valid permission on the date the scheme closed or with an outstanding application were granted Stamp 4 immigration permission on an exceptional basis, allowing unrestricted access to the labour market. It is estimated that around 290 individuals were in a position to avail of this measure. A further 45 individuals who had formerly participated in the AWS also received a Stamp 4 immigration permission.⁵⁹

⁵³ For full criteria, see Department of Justice (2022). 'Atypical Working Scheme', www.irishimmigration.ie.

⁵⁴ Inter-Departmental Government Task Force (2015). *Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet*, www.assets.gov.ie.

⁵⁵ Government of Ireland (2022), *Report of Review of Atypical Working Scheme for non-EEA crew in the Irish fishing fleet*, www.assets.gov.ie.

⁵⁶ Department of Justice, Immigration Service Delivery (2022). 'Non-EEA sea fishers in Irish fleet to become eligible for employment permits', 14 October, www.irishimmigration.ie.

⁵⁷ Department of Justice, Immigration Service Delivery (2022). 'Non-EEA sea fishers in Irish fleet to become eligible for employment permits', 14 October, www.irishimmigration.ie.

⁵⁸ Correspondence with Department of Enterprise, Trade and Employment, April 2023.

⁵⁹ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

In addition, following stakeholder consultation, the salary threshold for a general AWS permission was revised to €30,000, the same as a General Employment Permit, to minimise any distorting effect on the labour market.⁶⁰ In addition, changes were made to allow intermittent travel in and out of the State, as well as to the cooling-off period before a new AWS permit can be granted.⁶¹

3.2.3 Single application procedure for employment permits and immigration permissions

In December 2022, the Government agreed in principle that a single application procedure for employment permits and immigration permissions should be developed. They also agreed that an inter-departmental working group would be set up to develop an implementation plan for consideration, with membership including the Department of Justice, DETE, the Department of Social Protection, the Department of Housing, the Department Further and Higher Education, Research Innovation and Science (DFHERIS), the Department of Public Expenditure and Reform (DPER), Department of An Taoiseach and An Garda Síochána.⁶² Currently, an individual or their employer applies for an employment permit (to DETE) and the individual applies separately for an immigration permission (to the Department of Justice). Ireland does not participate in the current Single Permit Directive 2011/98/EU.⁶³ Ministers indicated that the goal of this reform was to increase the attractiveness of Ireland in the international jobs market, to respond quickly to meet the needs of the economy, and to provide certainty to processing timeframes.⁶⁴ The Working Group was due to report to Government in 2023.

This followed a European Commission proposal for a Directive concerning a single permit procedure and a common set of rights for third-country workers legally residing in a Member State, which was issued in April 2022. According to the Tánaiste and Minister for Enterprise Trade and Employment, the Working Group report would allow Government to consider opting into the Directive at a later date.⁶⁵

3.2.4 Changes to occupations lists

Ireland manages employment permits through the operation of two lists: one outlines critical skills needed in the labour market – the Critical Skills Occupation List (CSOL) –

⁶⁰ This included the entertainment industry, biotech, and the pharmaceutical and technology sectors. It does not impact medical personnel or other categories entering the State under the AWS.

⁶¹ Department of Justice, Immigration Service Delivery (2022). 'Changes to the Atypical Working Scheme effective from 01 January 2023', 22 December, www.irishimmigration.ie.

⁶² Department of Enterprise, Trade and Employment (2022). 'Single application procedure for employment permits and immigration permissions to be developed', press release, 15 December, www.enterprise.gov.ie.

⁶³ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, www.eur-lex.europa.eu.

⁶⁴ DETE (2022). 'Single application procedure for employment permits and immigration permissions to be developed' press release, 15 December, www.enterprise.gov.ie.

⁶⁵ DETE (2022). 'Single application procedure for employment permits and immigration permissions to be developed' press release, 15 December, www.enterprise.gov.ie.

and the other outlines occupations ineligible for employment permits – the Ineligible Occupations List (IOL). These lists are subject to regular reviews based on evidence and consultations. As part of the review process, submissions are invited from stakeholders and research on topics such as future skills needs and labour market needs are taken into account.

An occupation may be added to the CSOL or removed from the IOL provided that:

- shortage exists across the occupation, despite attempts by industry to train and there are no suitable Irish/EEA nationals available to undertake the work;
- development opportunities for Irish/EEA nationals are not undermined;
- genuine skills shortage exists and that it is not a recruitment or retention problem; and
- the government education, training, employment and economic development policies are supported.

The following occupations were added to the CSOL in June 2022:

- Pharmacist
- Cardiac physiologist
- Medical scientist
- Occupational therapist
- Physiotherapist
- Podiatrist/chiroprapist
- Psychologist
- Speech and language therapist.⁶⁶

These changes were informed by evidence from the health sector of scarcity in these roles.⁶⁷

Several changes were also made to the IOL throughout 2022 to meet skills and labour demand for low- and medium-skilled workers with general employment permits. These included:

- Removal of the quota restriction for bricklayers and plasterers (June 2022);⁶⁸

⁶⁶ *Employment Permits (Amendment) Regulations 2022* [S.I. No. 273/2022].

⁶⁷ DETE (2022). 'Minister English announces changes made to the employment permits system', press release, 20 June, www.enterprise.gov.ie.

⁶⁸ *Employment Permits (Amendment) Regulations 2022* [S.I. No. 273/2022].

- Extension of the quota for meat processing operatives by 425 (June 2022)⁶⁹ – this quota was filled by the end of September 2022;⁷⁰
- Introduction of a quota of 100 for vehicle roadworthiness testers. Conditions included minimum qualifications or experience (August 2022);⁷¹
- Introduction of a quota of 1,000 for care workers and home carers. Conditions included minimum qualifications or the completion of qualifications within two years, and a minimum two-year period for permits (December 2022).⁷² This followed a recommendation in the *Report of the Strategic Workforce Advisory Group on Home Carers and Nursing Home Healthcare Assistants*;
- Increase of the quota for dairy farm assistants by 500 and application of a minimum remuneration threshold of €30,000 per year (December 2022);⁷³ and
- Introduction of a quota of 1,500 for bus and coach drivers, with a minimum remuneration threshold of €30,000 (December 2022).⁷⁴

All general employment permit applications require a labour market needs test, which means that the vacancy must be advertised and the advertisement must meet specific conditions.⁷⁵

3.2.5 Immigrant Investor Programme: Update and data-sharing agreement

The Minister for Justice instructed that, from March 2022, no further applications from Russian and Belarussian citizens would be accepted into either the IIP or the Start-Up Entrepreneur Programme (STEP).⁷⁶

In February 2022, the Department of Justice published a proposed data-sharing agreement to share IIP data with Revenue.⁷⁷ This proposed data-sharing agreement was one of the first two agreements to be developed under the *Data Sharing and Governance Act 2019*.⁷⁸

The agreement enabled the Department of Justice to share data relating to successful IIP applicants with Revenue's exchange of information branch, which shares the data with relevant tax authorities. The onward transfer of data allows Ireland to fulfil its commitments under the Organisation for Economic Co-operation and Development

⁶⁹ *Employment Permits (Amendment) Regulations 2022* [S.I. No. 273/2022].

⁷⁰ DETE (2022). 'Update on quota for meat operatives and dairy farm assistants', *Employment Permits: Latest notices and developments*, 30 September.

⁷¹ *Employment Permits (Amendment) (No. 2) Regulations 2022* [S.I. No. 412/2022].

⁷² *Employment Permits (Amendment) (No. 3) Regulations 2022* [S.I. No. 677/2022].

⁷³ *Employment Permits (Amendment) (No. 3) Regulations 2022* [S.I. No. 677/2022].

⁷⁴ For a 39-hour week; *Employment Permits (Amendment) (No. 3) Regulations 2022* [S.I. No. 677/2022].

⁷⁵ DETE (n.d.). 'Labour market needs test', www.enterprise.gov.ie.

⁷⁶ Correspondence with Department of Justice, Immigration Service Delivery, June 2023.

⁷⁷ Department of Justice, Office of the Revenue Commissioners (2022). 'Proposed data sharing agreement between the Department of Justice and Revenue', *DSA for Immigration Investor Data*, 10 February, www.gov.ie.

⁷⁸ Department of Public Expenditure, NDP Delivery and Reform (2022). 'Minister McGrath welcomes publication of first Two Data Sharing Agreements for public consultation', press release, 1 March, www.gov.ie.

(OECD) Common Reporting Standard by notifying the jurisdiction of the tax residence of successful applicants of the IIP scheme.⁷⁹

The proposed data-sharing agreement was made available for public consultation for a period of 28 days and the finalised agreement was published in November 2022.⁸⁰

3.2.6 Non-consultant hospital doctors

As reported for 2021, the Tánaiste announced plans to allow for non-consultant hospital doctors on general employment permits to transfer more easily between employments in hospitals without the need for a new permit each time, and for faster access to Stamp 4 immigration permission for non-consultant hospital doctors. Under the scheme, which opened in March 2022,⁸¹ these doctors have access to Stamp 4 immigration permission after two years instead of five years (in line with the conditions for holders of critical skills employment permits). Doctors currently in the State for 21 months or more can apply for the scheme. Stamp 4 immigration permission allows for access to the labour market without an employment permit, and also enables spouses to work.

At the time the scheme was opened, it was estimated that up to 1,800 doctors already in Ireland could benefit from this scheme.⁸²

3.2.7 International Education Mark

In November 2022, the Minister for Further and Higher Education, Research, Innovation and Science announced that International Education Mark (IEM) policy documents, including codes of practice, had been launched for public consultation.⁸³ The IEM is a quality education mark that will be awarded to higher education and English language education providers who have demonstrated that they meet national standards to ensure a high-quality experience for international students. It will be administered by Quality and Qualifications Ireland (QQI), the national agency responsible for promoting the quality, integrity and reputation of Ireland's further and higher education system.

Third-country national students must be registered to study on an eligible higher education, foundation or English language programme, in order to obtain an immigration permission as a student. Pending the introduction of the IEM in 2024, eligible programmes are included on the Interim List of Eligible Programmes (ILEP). Education providers must fulfil criteria to qualify for inclusion of their programme on

⁷⁹ Department of Justice, Office of the Revenue Commissioners (2022). 'Proposed data sharing agreement between the Department of Justice and Revenue', DSA for Immigration Investor Data, 10 February, www.gov.ie.

⁸⁰ Department of Justice (2022). Department of Justice Data Sharing Agreements, 22 November, www.gov.ie

⁸¹ DETE (2022). 'Up to 1,800 doctors to benefit from changes to immigration rules', press release, 8 March, www.gov.ie.

⁸² Ibid.

⁸³ Department of Further and Higher Education (2022). 'Significant progress on International Education Mark announced by Minister Harris', press release, 4 November, www.gov.ie.

the ILEP.⁸⁴ The ILEP is managed by the Department of Justice Immigration Service Delivery in cooperation with DFHERIS.⁸⁵ The *Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2019* contains legal provisions to facilitate the introduction of the IEM.

3.2.8 Expansion of Ireland Fellows Programme

The Ireland Fellows Programme, which has existed since 1974, gives opportunities for students from Ireland's partner countries to study in Ireland. Almost 200 students from countries across Africa, Asia, the Middle East, Pacific and the Caribbean are currently taking part in the Ireland Fellows Programme, studying in a variety of third-level institutions around Ireland.⁸⁶ In October 2022, the Minister for Overseas Development Aid and Diaspora announced the expansion of the Ireland Fellows Programme to applicants from six countries in Latin America for the first time.⁸⁷ The programme was expanded to applicants from Argentina, Brazil, Colombia, Ecuador, Peru and Venezuela to study for masters-level qualifications in Ireland in human rights and STEM subjects.⁸⁸

The programme is one of a number of commitments set out in the Government's Strategy for Latin America and the Caribbean,⁸⁹ which was launched in February 2022.

3.2.9 Other developments

In September 2022, DETE started issuing all employment permits in an electronic format with the addition of the signature of a senior official on behalf of the Minister, as well as a unique permit number.⁹⁰

In March 2022, a new version of the Irish Residence Permit (IRP) card was introduced. The new IRP card complies with updated EU common format specifications and includes the cardholder's signature as well as additional security features.⁹¹

⁸⁴ See Department of Justice ILEP page, www.irishimmigration.ie.

⁸⁵ Department of Further and Higher Education (2022). 'Response to parliamentary question 14750/22', 22 March, www.oireachtas.ie.

⁸⁶ Statistics as quoted in press release.

⁸⁷ Department of Foreign Affairs (2022). 'Minister Brophy announces expansion of Ireland Fellows Programme into Latin America', press release, 13 October, www.irishaid.ie.

⁸⁸ Two awards were announced – the Roger Casement Award for Human Rights (Brazil, Peru, Colombia, Venezuela and Ecuador) and the Cecilia Grierson Award for Equality (Argentina).

⁸⁹ Government of Ireland (2022). *Global Ireland: Ireland's Strategy for Latin America and the Caribbean to 2025*, February, www.dfa.ie.

⁹⁰ DETE (2022). 'Latest employment permits developments and notices', 1 September, www.enterprise.gov.ie.

⁹¹ Department of Justice, Immigration Service Delivery (2022). 'New Irish Residence Permit cards introduced', 1 March, www.irishimmigration.ie.

Changes were made to the system of registration of residence permissions for non-European Economic Area (EEA) nationals, through the *Civil Law (Miscellaneous Provisions) Act 2022*.⁹² Several changes were introduced, including:

- Removal of the connection to a particular registration office (s.9 of the Act);
- Changes to the definition of a registration officer to include persons other than members of An Garda Síochána, and to include members of An Garda Síochána not below the rank of superintendent or officers of the Minister for Justice not below the rank or grade of Assistant Principal Officer (section 9b); and
- Provisions introduced for a registration officer to delegate their functions.
- These amendments mean that a person will no longer be obliged to register in the registration district where they reside, but will be able to do so anywhere in the State. They will also enable the furnishing of information by electronic means.

3.3 RESEARCH

3.3.1 First-generation migrant, international and domestic students at Irish universities

Georgiana Mihut published an article in the *Journal of Studies in International Education* exploring the different experiences of Irish-born domestic students, first-generation migrant students and international students in Irish universities. She found that first-generation migrant students reported lower levels of preparation for the domestic labour market than either Irish-born domestic students or international students. She found that international students also report higher levels of academic satisfaction than both first-generation migrant students and domestic students. Her research indicated that the academic satisfaction of the three groups was shaped by both common and different factors. She concludes that it is useful to look at first-generation migrant students along with international students, groups that are often analysed separately.⁹³

3.4 CASE LAW

3.4.1 Issuance of taxi driver licence when on temporary immigration permissions: *Rahman v Healy [2022] IEHC 206*

The applicant, a citizen of Bangladesh, held a residence permit in the State on the basis of marriage to an EU citizen. The marriage dissolved and the applicant applied to retain his residence permit. This was refused in May 2019. The applicant sought a review of this decision, and a review decision was issued in March 2021, upholding the initial

⁹² Part 4. Part 4 came into operation on 22 July 2022, as provided for by the *Civil Law (Miscellaneous Provisions) Act 2022 (Parts 1, 4, 5 and 8) (Commencement) Order 2022* [S.I. No. 370/2022].

⁹³ Mihut, G. (2022). 'Learning from each other: Comparing the experiences of first-generation migrant, international and domestic Students at Irish universities', *Journal of Studies in International Education*.

decision. In the interim, the applicant was granted a series of temporary immigration permissions allowing him to remain in the State and engage in employment. In 2019, the applicant applied for a Small Public Service Vehicle (SPSV) driver's licence, required to drive a taxi. He was notified that he was not a 'suitable person' to hold this licence as he did not hold an immigration permission. This decision was overturned, and he was issued a licence for the duration of his temporary immigration permission. When the applicant went to renew his licence, he was again refused on the ground he was not a 'suitable person'.

The appellant sought judicial review of two decisions. First, to not grant a licence for a five-year period, but rather, for a shorter period having regard to his immigration status. Second, to have regard to his immigration status in assessing good character and determining if he was a suitable person to hold a licence. In March 2021, the appellant's temporary immigration permission was not renewed.

In the High Court, with regard to the first decision, Simons J. noted that Regulation 7(3) of the *Taxi Regulation (Small Public Service Vehicle) Regulations 2015* provides that a SPSV licence is valid for five years.⁹⁴ Relying on the literal interpretation of this provision, it was held that it cannot be said that the duration of an SPSV driver's licence must always be coterminous with the duration of an applicant's immigration permission. The licensing authority is, however, entitled to make it a condition of a licence that the licensee produce a renewed immigration permission on the expiration of the current one. If not produced on time, then the licensing authority would be entitled to revoke the SPSV driver's licence.

With regard to the second decision, Simons J. noted that the National Transport Authority's Regulations on SPSV driver's licence applications do not refer to immigration status. Under section 10 of the *Taxi Regulation Act 2013*, the licensing authority is precluded from issuing a licence unless it is satisfied that the applicant is a 'suitable person'. The High Court judge was satisfied that while the term is undefined, criteria such as being of good character and any concerns raised by the National Transport Authority or Garda Commissioner, among others, can be considered. Currently, An Garda Síochána acts as the licensing authority on an interim basis and in February 2020, An Garda Síochána changed the licensing policy. Previously, persons were issued with a licence for the duration of their immigration permission. Under the new policy, regard was to be had to both the nature and length of the immigration permission, and where an applicant was on a short and temporary permission this would be taken into account

⁹⁴ Note: The National Transport Authority introduced new regulations in December 2022 – *Small Public Service Vehicle (Fixed Payment Offences And Driver Licence Period) Regulations 2022* [S.I. No. 589 of 2022]. Among other provisions, Regulation 4 of the S.I. amends Regulation 7(3)(a) of the *Taxi Regulation (Small Public Service Vehicle) Regulations 2015* [S.I. No. 33 of 2015] by inserting 'up to' before 'five years' for the period of validity of an SPSV driver's licence.

in assessing suitability. Applicants on short and temporary permissions would, for the most part, not be deemed suitable.

It was held that the licencing authority cannot refuse to issue an SPSV licence on the grounds that a person holds a temporary immigration permission, and it cannot issue a licence for a period of less than five years. However, the licensing authority can have regard to adverse findings made against the applicant in the context of the immigration process when assessing their 'good character'.

CHAPTER 4

International protection

4.1 STATISTICS

4.1.1 Applications

A total of 13,651 applications for international protection were made in 2022.⁹⁵ Of these, 67.5% were male and 17.7% were children, according to rounded Eurostat data.⁹⁶ It is clear from Figure 4.1 that 2022 represented a significant increase from previous years (a 415% increase from 2021 and a 186% increase from 2019, the last comparable year before COVID-19 travel restrictions), and its rate represented the highest number of asylum applications on record in Ireland. These statistics do not include Ukrainian beneficiaries of temporary protection, who are covered by a different legal framework.

There was an increase in applications for international protection from Ukrainian nationals in 2022 (see Chapter 5 for a full discussion of temporary protection). As is the case for all nationalities, Ukrainian nationals may make an application for international protection. However, it is not possible to hold temporary protection status and be an applicant for international protection at the same time.⁹⁷ International protection may be applied for, for example, by a national of Ukraine who was not living in Ukraine prior to the outbreak of war and is therefore not eligible for temporary protection.⁹⁸

Research from the Economic and Social Research Institute (ESRI) indicates that the overall increase in international protection applications was likely a result of the end of COVID-19 travel restrictions, instability and conditions in countries of origin, a minor deflection effect from the United Kingdom (UK), and long-term social network effects.⁹⁹

Applications for international protection in Ireland accounted for 1.3% of the European Union (EU) total of 965,665.¹⁰⁰ EU applications increased by 53% from 2021, and were at the highest level since 2016.

⁹⁵ IPO (2023). 'Monthly statistical report: December 2022', www.ipo.gov.ie.

⁹⁶ Eurostat (2023). 'Asylum applicants by type of applicant, citizenship, age and sex – Annual aggregated data', extracted 21 August 2023.

⁹⁷ Department of Justice, Immigration Service Delivery (2022). 'Information on temporary protection for people fleeing the conflict in Ukraine: Entitlements for persons granted Temporary Protection', last updated 23 December, www.irishimmigration.ie; Department of Justice (2023). 'Response to parliamentary question 25934/23', 11 July, www.oireachtas.ie; See section 60(14) of the *International Protection Act 2015*.

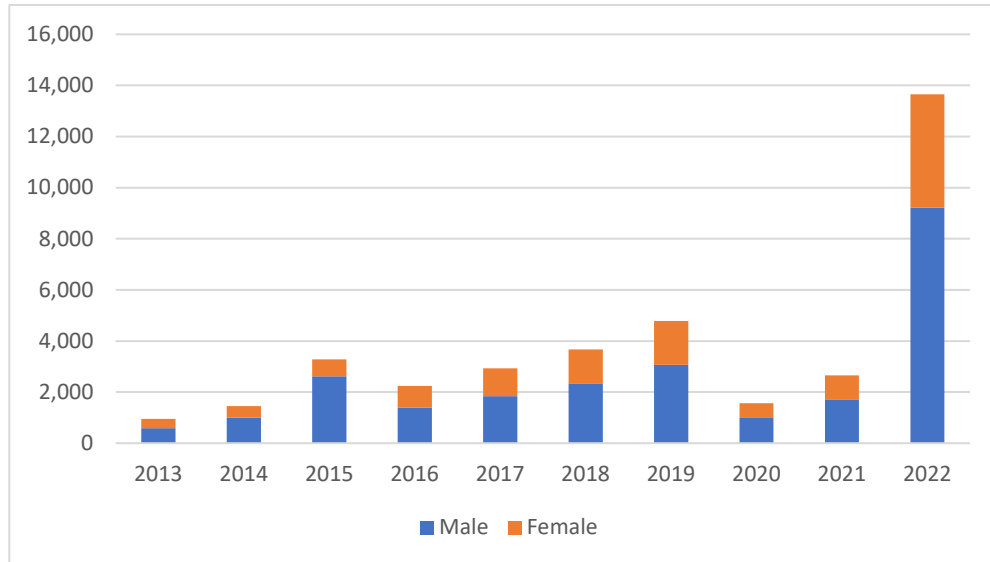
⁹⁸ Department of Justice (2023). 'Response to parliamentary question 25934/23', 11 July, www.oireachtas.ie.

⁹⁹ Cunniffe et al. (2022). *Explaining recent trends in international protection applications in Ireland*, Survey and Statistical Annex Series Number 115, Dublin: Economic and Social Research Institute.

¹⁰⁰ Eurostat (2023). 'Asylum applicants by type of applicant, citizenship, age and sex – Annual aggregated data', extracted 21 August, all applications.

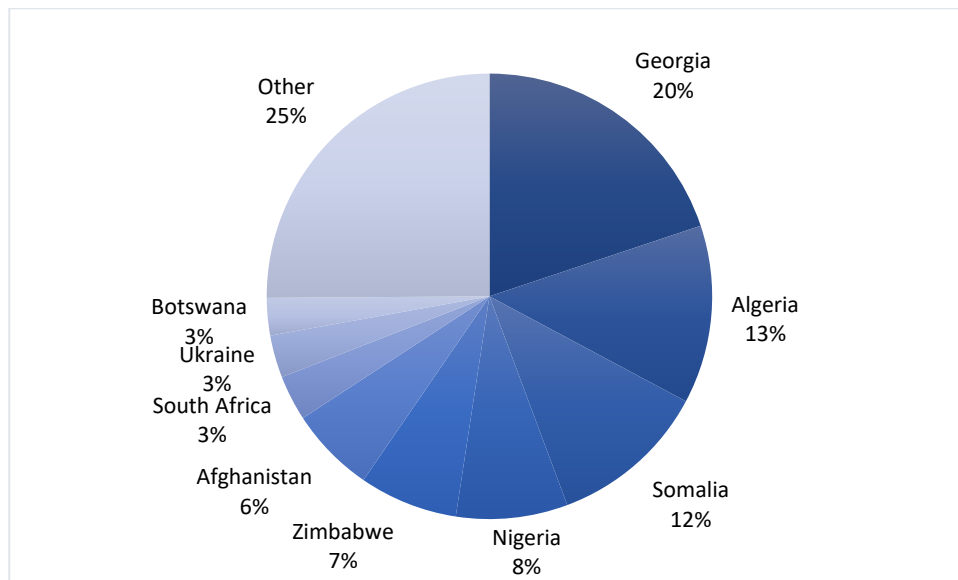
According to Eurostat, there were 14,865 pending international protection applications in Ireland at the end of December 2022.¹⁰¹

FIGURE 4.1 ASYLUM APPLICATIONS BY GENDER, 2013–2022



Source: Eurostat (2023). 'Asylum applicants by type of applicant, citizenship, age and sex – Annual aggregated data', extracted 21 August 2023.

FIGURE 4.2 NATIONALITY OF INTERNATIONAL PROTECTION APPLICANTS IN IRELAND, 2022



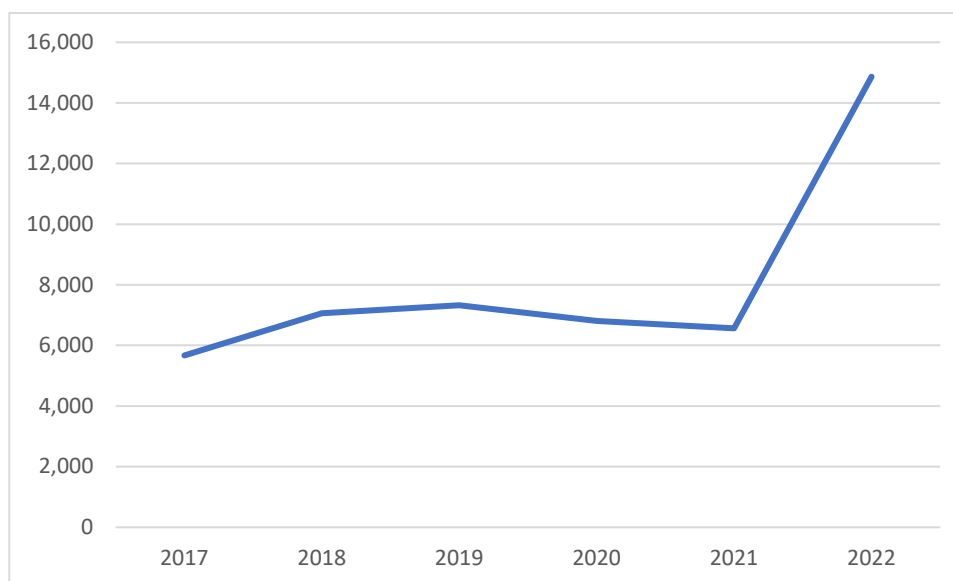
Source: Eurostat (2023). 'Asylum applicants by type of applicant, citizenship, age and sex – Annual aggregated data', extracted 21 August 2023.

Figure 4.2 shows the main countries of origin of applicants; Georgia, Algeria and Somalia are the top three countries of origin in 2022. These countries have frequently been

¹⁰¹ Eurostat (2023). 'Persons subject of asylum applications pending at the end of the month by citizenship, age and sex – Monthly data', extracted 24 August.

among the main origin countries in previous years, although Algeria has historically not been among the top three.¹⁰²

FIGURE 4.3 PERSONS SUBJECT OF ASYLUM APPLICATIONS PENDING AT THE END OF DECEMBER, 2017–2022



Source: Eurostat (2023). ‘Persons subject of asylum applications pending at the end of the month by citizenship, age and sex – Monthly data’, extracted 28 August 2023.

Figure 4.3 shows the number of asylum applications pending at the end of each year between 2017 and 2022. It shows a significant increase in the number of pending applications at the end of 2022 compared with previous years, to 14,865.

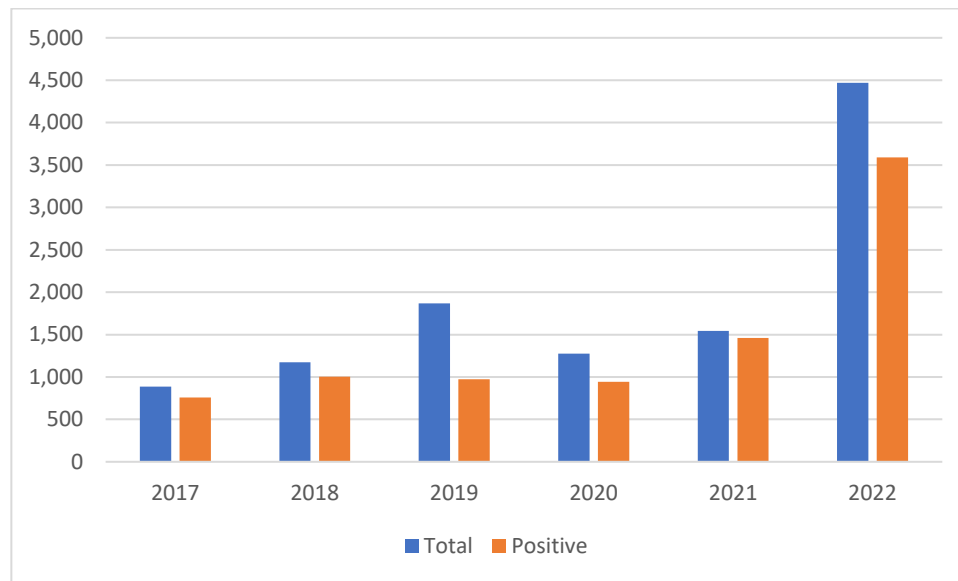
4.1.2 Decisions

According to Eurostat, a total of 4,470 first-instance decisions were made in 2022, of which 80% were positive. As can be seen from Figure 4.3, this represents a significant increase in decision making on previous years, and a drop in the rate of positive decisions from the artificially high rate in 2021, following the Department of Justice’s decision to pause the issuing of negative decisions during 2020, throughout 2021 and for the first half of 2022 due to COVID-19 travel restrictions (see *Annual report on migration and asylum 2021* further details). As reported for previous years, decisions referred to here represent ministerial decisions rather than International Protection Office (IPO) recommendations. It should be noted that cases that received a negative IPO recommendation and are then appealed to the International Protection Appeals Tribunal (IPAT) are not included in the first-instance figures, as a ministerial decision will only issue after the appeals process has concluded and a formal IPAT decision has been made.

¹⁰² Based on data over the last ten years – Algeria has almost always been in the top ten countries of origin, however.

A total of 3,913 personal interviews were conducted in 2022, according to an Asylum Information Database (AIDA) report,¹⁰³ over triple the number conducted in 2021 (a 222% increase).¹⁰⁴ While this increase in interviews may account for a significant amount of the increase in decisions, part of the increase in decisions is likely also accounted for by the delayed issuing of negative decisions, which were delayed from mid-2020 until mid-2022.¹⁰⁵

FIGURE 4.4 TOTAL FIRST-INSTANCE DECISIONS AND POSITIVE FIRST-INSTANCE DECISIONS ON INTERNATIONAL PROTECTION APPLICATIONS, 2017–2022



Source: Eurostat (2023). 'First-instance decisions on applications by citizenship, age and sex – Annual aggregated data', extracted 21 August 2023.

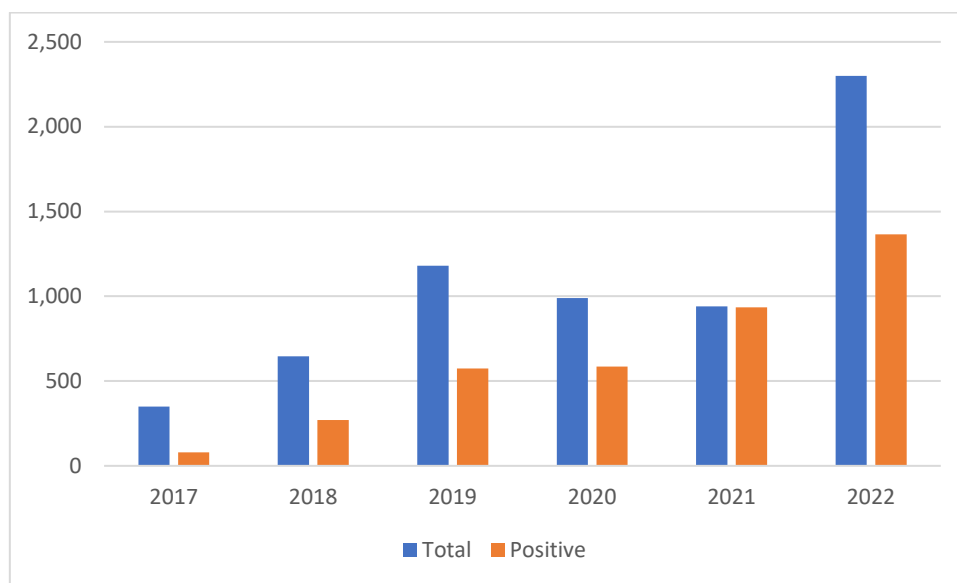
In 2022, 2,300 final decisions were made in appeal or review, according to rounded Eurostat data.¹⁰⁶ Of these, 59% were positive. This represents a significant increase in decision making on previous years, as is evident from Figure 4.4, and a lower positive rate than the artificially high rate in 2021 (due to the Department of Justice pause on issuing negative decisions, see *Annual report on migration and asylum 2021*). Once again, this increase likely results from a combination of increased capacity and the issuing of negative decisions from 2021.

¹⁰³ AIDA (2023). *Country report: Ireland – 2022 update*, p. 12.

¹⁰⁴ Note, however, that 2021 was affected by COVID-19 public health restrictions, which suspended IPO interviews and which may also account for part of the increase in interviews between 2021 and 2022; correspondence with UNHCR, October 2023; Department of Justice (2021). 'Response to parliamentary questions 18131-7/21 and 20498/21', 21 April.

¹⁰⁵ Correspondence with IPO, October 2023.

¹⁰⁶ Eurostat (2023). 'Final decisions in appeal or review on applications by citizenship, age and sex – Annual data', extracted 21 August 2023.

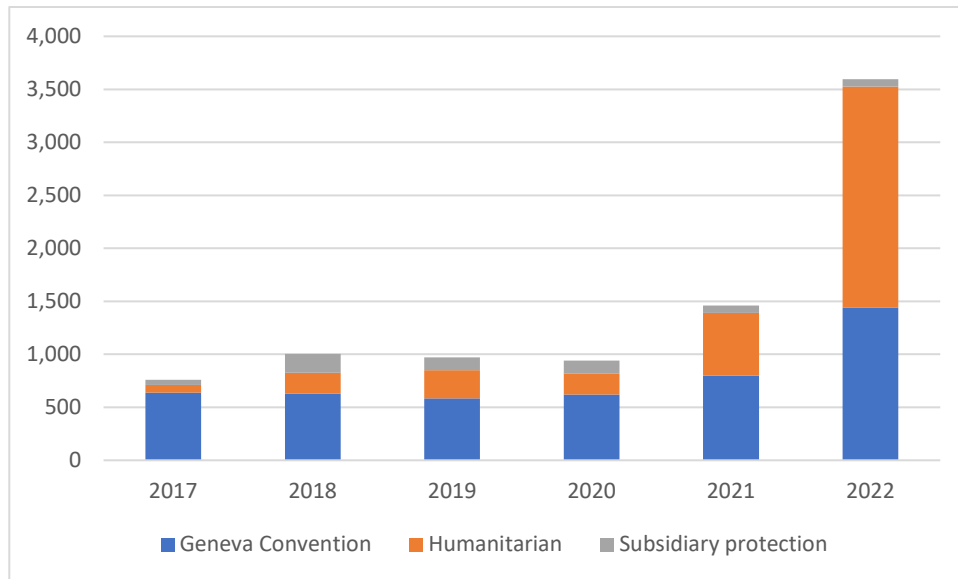
FIGURE 4.5 TOTAL FINAL DECISIONS IN APPEAL OR REVIEW AND POSITIVE FINAL DECISIONS IN APPEAL OR REVIEW, 2017–2022

Source: Eurostat (2023). 'Final decisions in appeal or review on applications by citizenship, age and sex – Annual data', extracted 21 August 2023.

4.1.3 Statuses awarded

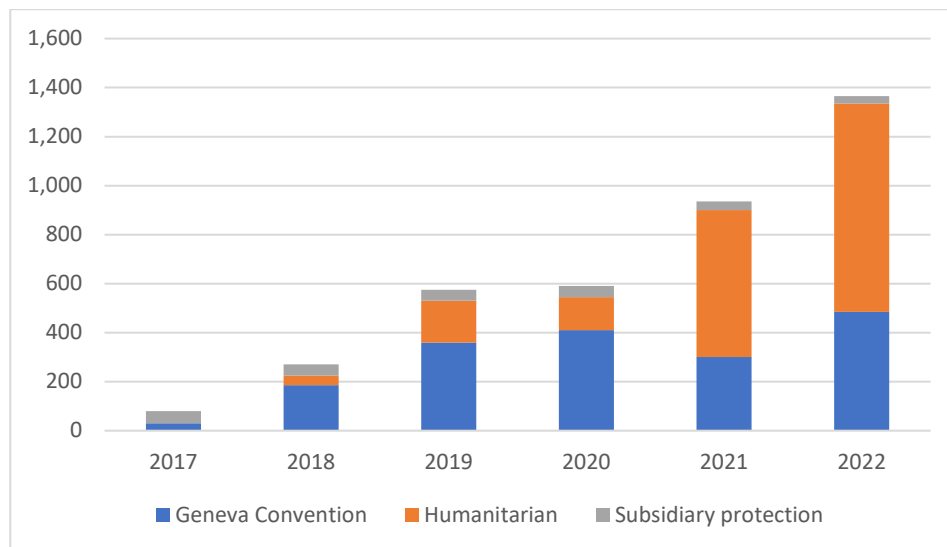
Figure 4.6 shows that humanitarian status was the most common status awarded at first instance in 2022 (58% of positive decisions).¹⁰⁷ This was followed by Geneva Convention (refugee) status (40%) and subsidiary protection status (2%). This is dissimilar to previous years when Geneva Convention (refugee) status was the most common status awarded. Figure 4.5 also shows the much higher number of statuses awarded in 2022 compared to previous years, with 2,085 people granted humanitarian status, 1,440 granted Geneva Convention status and 70 granted subsidiary protection status.

¹⁰⁷ In Ireland this refers to permission to remain under section 49 of the *International Protection Act 2015*.

FIGURE 4.6 STATUSES AWARDED AT FIRST INSTANCE, 2017–2022

Source: Eurostat (2023). 'First instance decisions on applications by citizenship, age and sex – Annual aggregated data', extracted 21 August 2023.

Figure 4.7 shows that humanitarian status was also the most common status granted in final decisions in 2022 (62% of positive decisions), followed by Geneva Convention status (36%) and subsidiary protection (2%). These proportions were similar to those for 2021, which had been the first year that humanitarian status was the most common status awarded at final decision stage. It should be noted that this status in final decision statistics refers to grants of permission to remain on review under section 49(7) of the *International Protection Act 2015*.

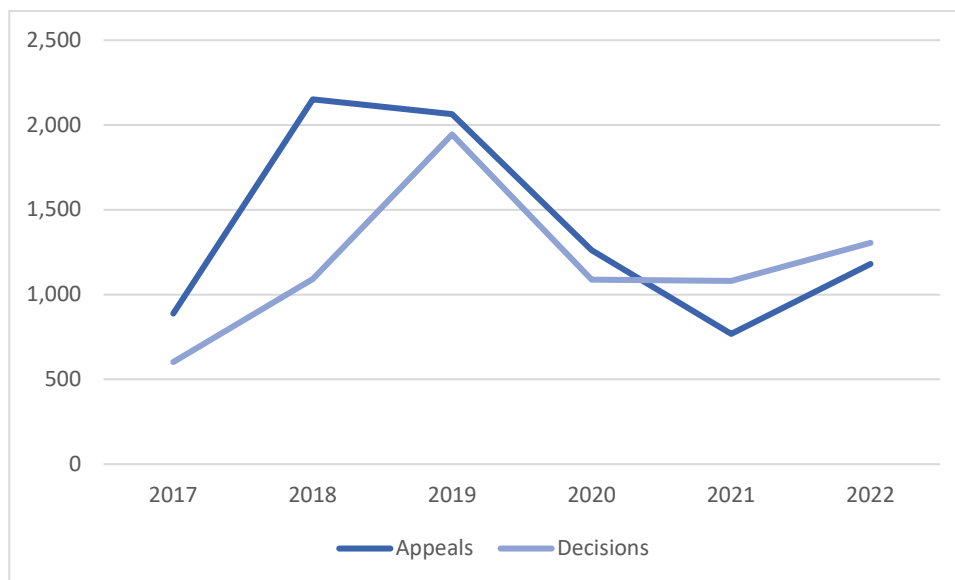
FIGURE 4.7 STATUSES AWARDED AT FINAL DECISIONS IN APPEAL OR REVIEW, 2017–2022

Source: Eurostat (2023). 'Final decisions in appeal or review on applications by citizenship, age and sex - annual data', extracted 21 August 2023.

4.1.4 Appeals

A total of 1,180 appeals were made to IPAT in 2022 (see Figure 4.7), a 54% increase from 2021 but still lower than pre-pandemic levels, unlike other areas of international protection, which have surpassed pre-pandemic levels. This may indicate a time lag for appeals. At the end of 2022, 851 appeals were on hand, a significant reduction on previous years (a 28% decrease from those on hand at the end of 2021).

FIGURE 4.8 APPEALS MADE TO IPAT AND DECISIONS MADE BY IPAT, 2017–2022



Source: IPAT annual reports 2017–2022.

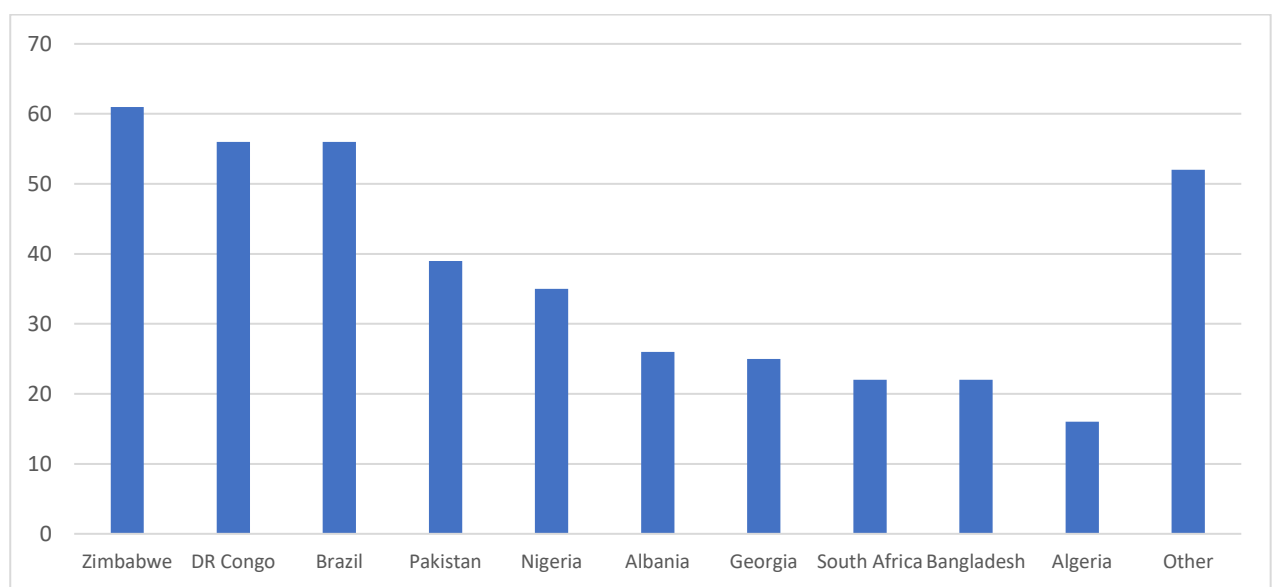
In 2022, 39% of recommendations (single procedure appeals) were set aside on appeal, similar to 2021.¹⁰⁸ Of Dublin III Regulation decisions, 27% were set aside on appeal, as were 19% of inadmissibility decisions and 43% of decisions not to grant consent to make subsequent applications.¹⁰⁹

There was significant variance in the rate of international protection decisions set aside, depending on the country of origin of the applicant, as shown in Figure 4.8, with 61% of decisions relating to Zimbabweans set aside down to 16% of decisions relating to Algerians.¹¹⁰

¹⁰⁸ IPAT (2023). *International Protection Appeals Tribunal annual report 2022*, pp. 32, www.protectionappeals.ie.

¹⁰⁹ IPAT (2023). *International Protection Appeals Tribunal annual report 2022*, pp. 33-34.

¹¹⁰ It should be noted that these do not necessarily represent the highest and lowest rates; they are the highest and lowest of the top ten most common among those set aside.

FIGURE 4.9 PERCENTAGE OF INTERNATIONAL PROTECTION APPLICATIONS SET ASIDE BY IPAT IN 2022, BY NATIONALITY

Source: IPAT (2023). *International Protection Appeals Tribunal annual report 2022*.

Note: This shows only the top ten most common nationalities among decisions set aside, which does not necessarily indicate the highest or lowest grant rates.

4.1.5 Processing times

The median processing time for all cases processed to completion in the IPO in 2022 was 18 months (down from 23 months in 2021 and 11 months for prioritised cases),¹¹¹ which is down from 19 months in 2021.

The median processing time in IPAT was 10.2 months, although there was significant variance depending on the type of appeal.¹¹² This is a reduction from the 13.5 month median processing time in 2021.

4.1.6 Secondary movements

Figure 4.10 shows outgoing Dublin requests and transfers between 2013 and 2022, indicating that outgoing Dublin requests fell significantly in 2022, to 698 (a 48% decrease from 2021 and 60% decrease from 2019, which was not affected by COVID-19). It should be noted that from 2020, the UK was no longer part of the Dublin Regulation,¹¹³ and had often been one of the largest recipients of outgoing requests from Ireland (although

¹¹¹ Correspondence with the IPO, October 2023.

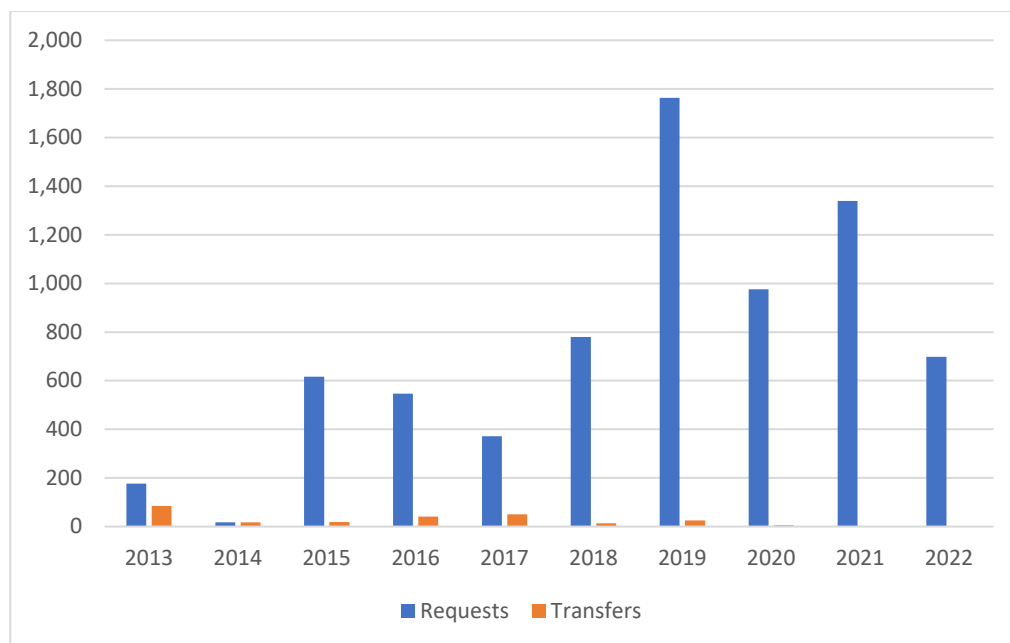
¹¹² IPAT (2023). *International Protection Appeals Tribunal annual report 2022*.

¹¹³ The UK is now included in similar safe third-country provisions by section 21(2)(c) and section 21(7) of the *International Protection Act 2015* (as amended).

this figure had been steadily declining every year since 2015, from a peak of 83% of outgoing requests in 2015 to 13% in 2019).¹¹⁴

The largest recipient of requests was Greece (20%), followed by Sweden (14%), Germany (13%) and Italy (12%).

FIGURE 4.10 OUTGOING DUBLIN REQUESTS AND TRANSFERS, 2013–2022



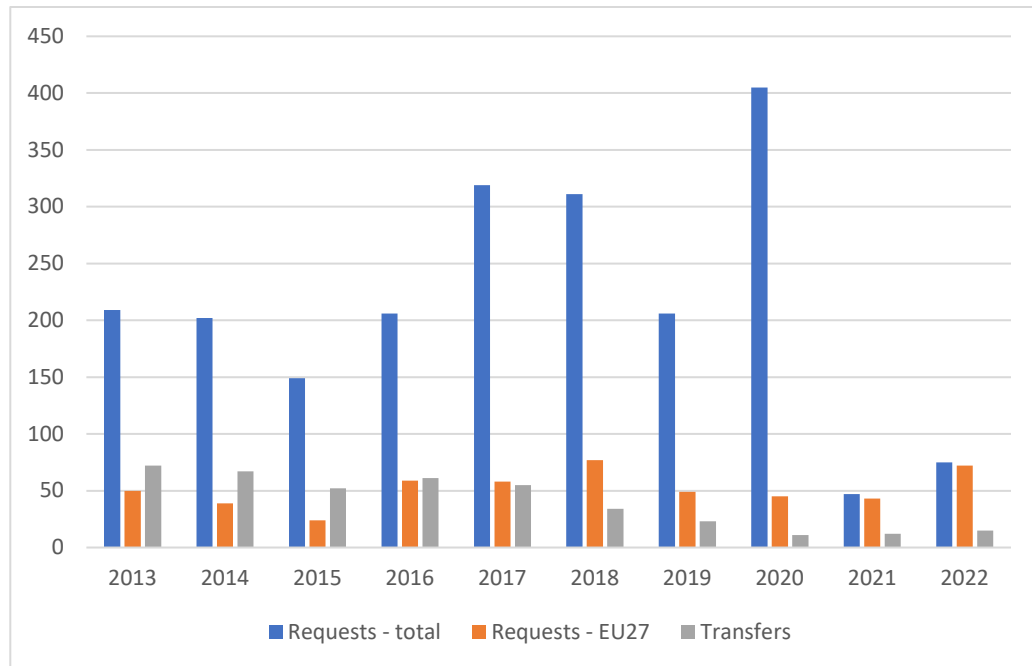
Source: Eurostat (2023).

Notes: 'Outgoing "Dublin" requests by submitting country (PARTNER), type of request, legal provision, sex and type of applicant', extracted 22 August 2023; 'Outgoing "Dublin" transfers by submitting country (PARTNER), legal provision, duration of transfer, sex and type of applicant', extracted 22 August 2023.

Figure 4.11 shows incoming Dublin requests and transfers between 2013 and 2022, indicating a slight increase in 2022 from 2021, although this was still a fraction of previous years' figures. This largely reflects the UK's exit from the Regulation, as they were the main source of incoming requests from Ireland prior to 2021. This is evident from the difference between total figures and EU27 (which excludes the UK) in Figure 4.11.

The main sources of incoming requests were Germany (19%), Cyprus (17%) and France (16%).

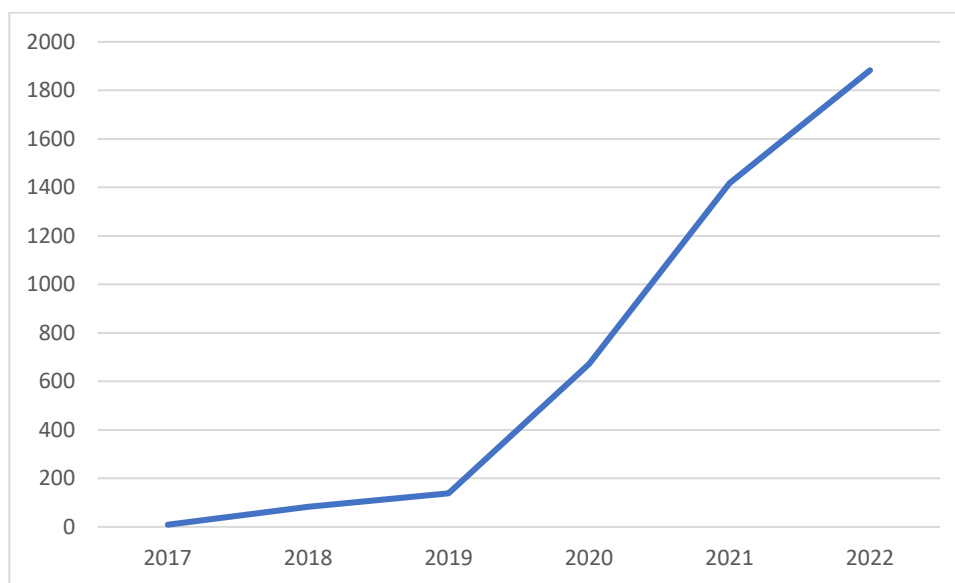
¹¹⁴ With the exception of 2020, when it increased to 21%. However, travel restrictions heavily impacted on statistics and applications in this year; Eurostat (2023). 'Outgoing "Dublin" requests by submitting country (PARTNER), type of request, legal provision, sex and type of applicant', extracted 26 September 2023.

FIGURE 4.11 INCOMING DUBLIN REQUESTS AND TRANSFERS, 2013–2022

Source: Eurostat (2023). 'Incoming "Dublin" requests by submitting country (PARTNER), type of request, legal provision, sex and type of applicant', extracted 22 August 2023; Eurostat (2023). 'Incoming "Dublin" transfers by submitting country (PARTNER), legal provision, duration of transfer, sex and type of applicant', extracted 22 August 2023.

Figure 4.12 shows the number of Eurodac hits for people who have been marked as having international protection in other EU countries. It shows a clear increase in secondary movements of international protection beneficiaries from other EU countries in 2022 (a 33% increase from 2021, which was in turn a 111% increase from 2020), to 1,883 hits. The main source countries for these were Greece (46%), Germany (15%) and France (10%) in 2022.¹¹⁵

¹¹⁵ EU-LISA (2023). 'Eurodac 2022 statistics', www.eulisa.europa.eu.

FIGURE 4.12 NUMBER OF EURODAC HITS IN IRELAND FOR PEOPLE WHO HAVE BEEN MARKED AS HAVING INTERNATIONAL PROTECTION IN OTHER EU COUNTRIES

Source: Cunniffe et al. (2022). *Explaining recent trends in international protection applications in Ireland*, Dublin: Economic and Social Research Institute; EU-LISA (2023). Eurodac 2022 statistics, p. 27.

The discrepancy in trends between the secondary movement of beneficiaries and international protection applicants may partially result from the higher number of beneficiaries present in Europe following the significant increase in international protection applications in 2015–2016.¹¹⁶

4.1.7 Resettlement and relocation

In 2022, 363 people were resettled to Ireland,¹¹⁷ a 22% decrease from 2021 (see Figure 4.13).¹¹⁸ This includes 160 people granted visa waivers under the Afghan Humanitarian Admission Programme (see section 4.2.11).¹¹⁹ Almost half (48%) of these were female, and 47% of all those resettled were under 18.¹²⁰ The nationalities resettled were Syrian and Afghan.¹²¹

¹¹⁶ Cunniffe, E. et al. (2022). *Explaining recent trends in international protection applications in Ireland*, Survey and Statistical Report Series Number 115, Dublin: Economic and Social Research Institute.

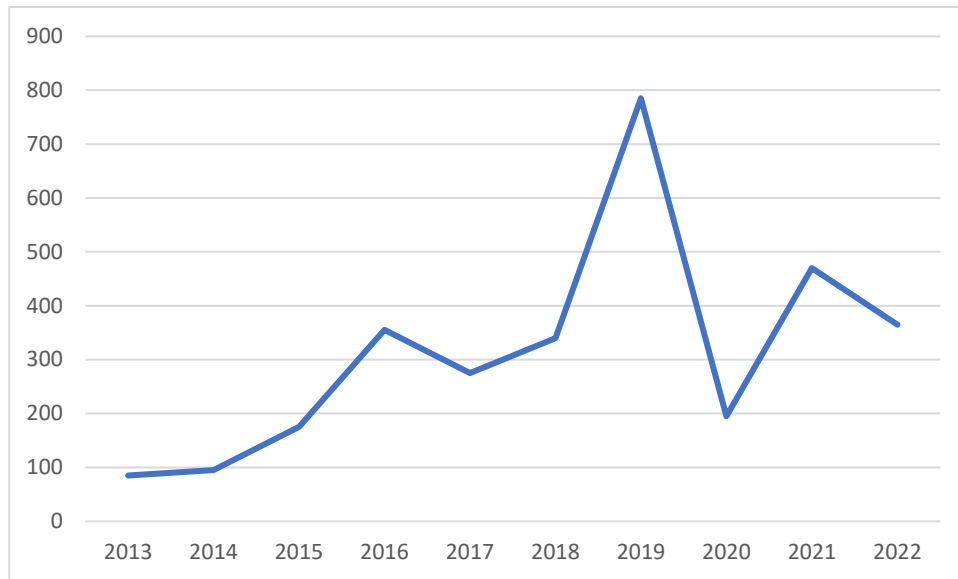
¹¹⁷ EMN (2023). *Annual report on migration and asylum 2022: Statistical annex*.

¹¹⁸ Based on Eurostat figures – Eurostat, ‘Resettled persons by age, sex and citizenship – Annual data (migr_asyresa)’, extracted 5 July 2023.

¹¹⁹ DCEDIY (2023). ‘Response to parliamentary question 18298/23’, 18 April, www.oireachtas.ie.

¹²⁰ Correspondence with DCEDIY, October 2023.

¹²¹ Correspondence with DCEDIY, October 2023.

FIGURE 4.13 RESETTLED PERSONS TO IRELAND, 2013–2022

Source: Eurostat (n.d.). 'Resettled persons by age, sex and citizenship – Annual data (migr_asyresa)', extracted 5 July 2023.

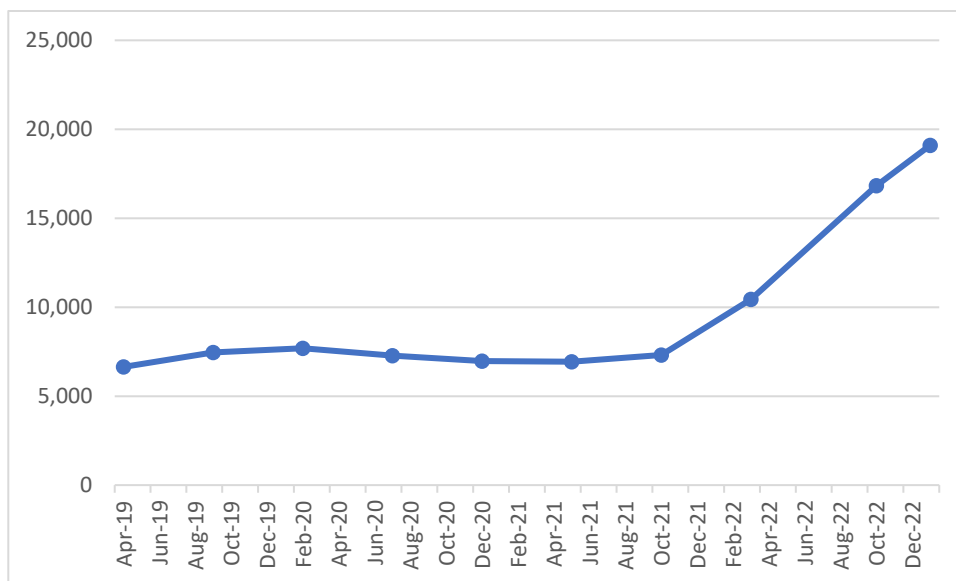
There were no relocations of international protection applicants in 2022.

4.1.8 Accommodation

Due to the large increase in international protection applications from previous years, there was significant pressure on the accommodation system in 2022. Occupancy on 1 January 2023 was 19,104, a significant increase from previous years (see Figure 4.14). As a result, 61 new centres were opened in 2022, as well as one site for tented accommodation and the transit hub in the Citywest Convention Centre (see Section 4.2.1).¹²²

¹²² Correspondence with DCEDIY, October 2023. This figure does not include mixed centres, which do not house only international protection applicants.

FIGURE 4.14 IPAS ACCOMMODATION OCCUPANCY, 2018–2022

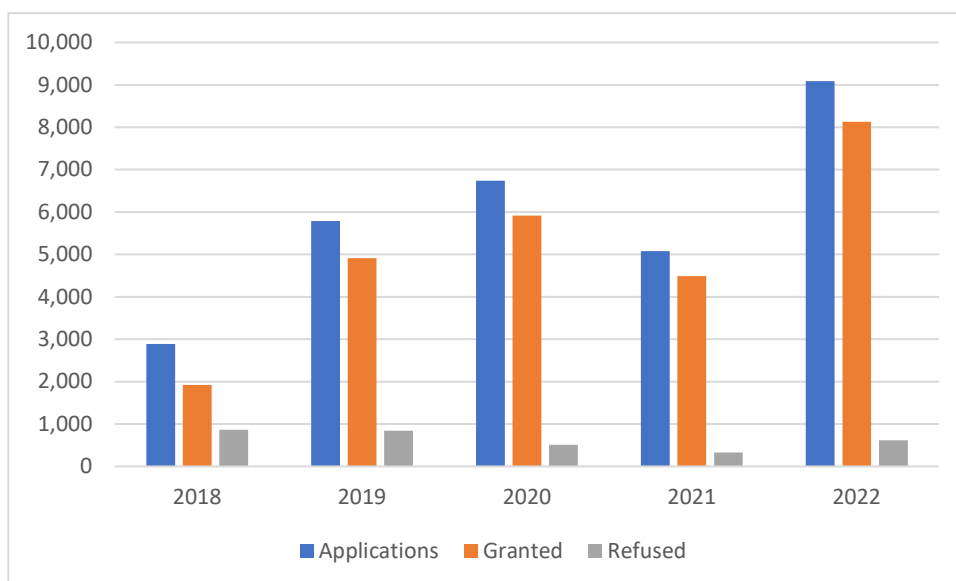


Source: DCEDIY (2023). ‘DCEDIY IPAS – Weekly stats 01/01/2023’.

4.1.9 Labour market application

Figure 4.15 shows the labour market applications by international protection applicants received, granted and refused between 2018 and 2022. It shows a significant increase in labour market applications and approvals in 2022 (79% and 81% increase from 2021 respectively), as would be expected with a large increase in applicants. There were 9,085 applications and 8,132 approvals in 2022.

FIGURE 4.15 LABOUR MARKET APPLICATIONS RECEIVED, GRANTED, AND REFUSED 2018–2022



Source: Correspondence with Department of Justice, October 2023.

Note: Data are subject to data cleansing.

4.2 DEVELOPMENTS

4.2.1 Pressure on reception systems

Due to the significant increase in international protection applications in 2022 (see Section 4.1.1), which coincided with the arrival of Ukrainian beneficiaries of temporary protection (see Section 5.1.1), there was unprecedented pressure on reception systems. This led to the Government taking extraordinary measures to accommodate individuals, including opening tented accommodation and a transit hub in the Citywest Hotel for initial processing of beneficiaries of temporary protection (BOTP) applications for those fleeing the war in Ukraine.¹²³ They also passed regulations that allowed for the temporary (up to 31 December 2024) use of a range of existing public buildings to accommodate people seeking international protection; such buildings included schools, sports clubs/stadiums, Defence Forces barracks, wholesale warehouses and repositories.¹²⁴ Over 50 emergency accommodation centres were opened in 2022.¹²⁵

In spite of these emergency efforts, there were points in 2022 when International Protection Accommodation Services (IPAS) turned away newly arrived international protection applicants. These were later accommodated, however.¹²⁶

The Irish Refugee Council (IRC), in a policy paper on the issue, drew attention to long-term issues in the system that made the crisis particularly difficult, and to the amount of money now being spent on emergency and hotel accommodation with no long-term return or investment. They also drew attention to deteriorating accommodation standards, the long-term use of temporary, emergency accommodation, and the fact that the Health Information and Quality Authority (HIQA), which was appointed to inspect standards in centres, is only mandated to inspect permanent centres. Their recommendations included: the appointment of a refugee response director to coordinate the response; safeguarding the most vulnerable; a whole-of-government approach; the development of communication plans; that all IPAS staff be at a minimum Garda vetted; and that efforts be made to help people with status to leave IPAS accommodation.¹²⁷

¹²³ Citywest is also currently providing temporary emergency accommodation for up to 650 male international protection applicants. The Citywest complex comprises a number of distinct business entities. This includes the Citywest Convention Centre, the Citywest Hotel, the CityArk Aparthotel and Citywest Health and Leisure Club. The convention centre has been converted into the Citywest Transport Hub and is used by DCEDIY and other government departments, as described below. The Citywest Hotel and the CityArk Aparthotel are two of more than 800 locations throughout the State providing accommodation to BOTPs. They are completely separate to the Transit Hub. Correspondence with DCEDIY, October 2023. *Planning and Development (Exempted Development) (No. 4) Regulations 2022* [S.I. No. 605/2022].

¹²⁴ Correspondence with DCEDIY, June 2023.

¹²⁶ Irish Refugee Council (2022). *Accommodation crisis 2022: Response and recommendations*, www.irishrefugeecouncil.ie.

¹²⁷ Irish Refugee Council (2022). *Accommodation crisis 2022: Response and recommendations*, www.irishrefugeecouncil.ie.

4.2.2 Changes to vulnerability assessment

In light of the capacity issues that arose due to the accommodation crisis, IPAS made changes to their vulnerability assessment procedure. Vulnerability assessment questionnaires have been made available to applicants in their accommodation centres, as well as online. Applicants are invited to complete vulnerability assessment questionnaires and return them to the Resident Welfare Team. Engagement in the vulnerability assessment process is voluntary. It is also possible for service providers and third parties working with applicants to complete a referral form on behalf of the applicant, with their consent.

Assessment Officers from the Resident Welfare Team review all returned questionnaires and referral forms in order to make a determination of each applicant's vulnerability status. Where the assessment indicates that a person has one or more vulnerabilities within the meaning of the law governing vulnerability assessments, the person's reception needs are determined in light of the vulnerabilities identified. Where consent is given by the applicant, the Assessment Officer may contact them to discuss their vulnerabilities and reception needs further by scheduling a telephone appointment for the next available date.¹²⁸

4.2.3 White Paper implementation

After putting in place governance structures and beginning to implement the White Paper on Ending Direct Provision in 2021 (see *Annual report on migration and asylum 2021* report), doubts were raised in 2022 about the future of the plan and timelines following the significant increase in international protection applications. The paper was based on a requirement for 2,000 places in Phase 1 reception centres and 3,500 applications a year (for comparison, there were over 13,000 applications in 2022). Due to this and uncertainty about the reasons behind the increase and how long the increased application numbers would continue, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) began a review of the projected timelines and deliverables.¹²⁹ The review was also due to look at whether certain elements of the White Paper should be prioritised to help the system to manage in the context of such uncertainty and the demand-led nature of the service, and to address future needs.¹³⁰ It was anticipated to be completed in Quarter 2 of 2023.¹³¹

While this review was underway, DCEDIY progressed certain elements of the White Paper. This included:

- The acquisition of 37 properties for 'Phase 2' (independent, in the community) accommodation for vulnerable applicants, managed and supported by

¹²⁸ Correspondence with DCEDIY, October 2023.

¹²⁹ DCEDIY (2023). 'Response to parliamentary questions 15740/23 and 15741/23', 30 March, www.oireachtas.ie.

¹³⁰ Correspondence with DCEDIY, October 2023.

¹³¹ DCEDIY (2023). 'Response to parliamentary questions 15740/23 and 15741/23', 30 March, www.oireachtas.ie.

approved housing bodies. It was planned that some vulnerable applicants would start moving into these properties in the first half of 2023;

- Working towards increasing state-owned accommodation capacity by progressing the buying of pre-existing buildings and advancing progress on the construction of Phase 1 reception centres;¹³²
- The development of an integration programme and negotiating with the County and City Management Association (CCMA) and the Local Government Management Agency (LGMA) to put in place a permanent model of integration support workers in each local authority;
- The development of an information hub and online orientation programme including language supports;
- A funding framework for 2023 for the Children and Young People Services Committee to further develop, enhance and expand the provision of their support services to families in the international protection system; and
- Commissioning NGOs to provide targeted supports.¹³³

4.2.4 Shortened processing timelines for protection applicants

To speed up processing in response to the significant increase in international protection applications, the IPO adopted a new policy in November 2022 whereby all applicants applying for international protection complete a preliminary interview and the international protection questionnaire on the same day, in English. The IPO indicated that interpreters would be available to support applicants filling in their questionnaire. In addition, they also indicated that applicants from designated safe countries will be given a date for their substantive interview on the day they apply, thereby reducing their waiting time to a matter of weeks.¹³⁴

Prior to this change, applicants had a non-statutory 15 working days to fill in the questionnaire,¹³⁵ which is used as the basis for the substantive international protection interview.

There was significant criticism of this move from NGOs working in the area. The IRC wrote a letter to the Department of Justice raising concerns about these changes, as well as the changes described in Sections 4.2.5 and 4.2.6 below. They said that when applicants had several weeks to fill in the questionnaire, they had time to recover from their journeys and obtain legal advice, which enabled them to fill in the questionnaire completely and accurately. In addition, they were able to fill in the questionnaire in their

¹³² Additional information from correspondence with UNHCR, October 2023.

¹³³ DCEDIY (2023). 'Response to parliamentary questions 15740/23 and 15741/23', 30 March, www.oireachtas.ie.

¹³⁴ IPO (2022). '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 November, www.ipa.gov.ie.

¹³⁵ Cunniffe, E. and A. Sheridan (2021), *Data management in the international protection procedure*, Dublin: Economic and Social Research Institute, p. 15.

own language. They raised concerns about the lack of notice to stakeholders, the lack of practical access to legal advice for a long, complex document and the likelihood that the needs of vulnerable applicants would not be met. They indicated that the changes were retrogressive in nature and had been adopted to respond to the crisis in accommodation without regard to the rights of protection applicants.¹³⁶ Cultúr Migrant Centre expressed similar concerns, and indicated that the questionnaire can affect subsequent processes such as family reunification; they also raised concerns that poorly filled out questionnaires could increase processing times and long-term costs on appeals.¹³⁷

The IPO introduced a new model of working with cultural mediators from the International Organization for Migration (IOM) to support applicants in completing their questionnaires in English through providing on the spot interpretation and assistance in a culturally sensitive manner.¹³⁸

The new procedures were accompanied by an increase in the Budget allocation of almost €18 million for the IPO for 2023.¹³⁹

4.2.5 Accelerated procedure for examining applications under the *International Protection Act 2015*

Protection applications in Ireland in 2022 increased significantly from previous years (415.5% over 2021 and 186% over 2019, the last comparable year before COVID-19 travel restrictions lowered applications). Georgia, a designated safe country of origin in Irish law, accounted for the highest number of applicants (19.9%).¹⁴⁰ By November 2022, over 25% of applications came from countries designated as safe countries of origin.¹⁴¹ To respond to this, the Minister for Justice adopted new regulations in November 2022 to accelerate the international protection procedure, including for applicants from safe countries of origin.¹⁴²

The Regulations amend section 73(2) of the *International Protection Act 2015*. They add to the list of matters to which the Minister for Justice may have regard when deciding whether to prioritise the processing of an application for international protection or

¹³⁶ IRC (2022). 'Re: international protection procedure changes', open letter, www.irishrefugeecouncil.ie.

¹³⁷ Cultúr Migrant Centre (2022). 'Cultúr Migrant Centre is concerned about recent changes in the International Protection applications process', press release, www.cultur.ie.

¹³⁸ Correspondence with IPO, October 2023.

¹³⁹ International Protection Office (2022). '*The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 – Information note*', www.ipa.gov.ie; Department of Justice (2023). 'Response to parliamentary question 4297/23', 31 January, www.oireachtas.ie.

¹⁴⁰ Department of Justice, 'International Protection Office – Statistics', December 2022 and December, www.ipa.gov.ie.

¹⁴¹ Department of Justice, International Protection Office (2022). '*The European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 FAQs*', www.ipa.gov.ie.

¹⁴² *European Communities (International Protection Procedures) Regulations 2022* [S.I. No. 541/2022].

requesting IPAT to prioritise an appeal. The additions include whether the applicant is from a safe country of origin, and whether the country of origin of the applicant is a country in respect of which there are a large number of applications or appeals and there is a need to ensure an efficient processing of application or appeals.

The Regulations also insert a new section 73A into the *International Protection Act 2015* to enable the Minister to accelerate the examination of any application, having regard to the matters in section 73(2).¹⁴³

These Regulations give further effect in Irish law to the EU Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (Council Directive 2005/85/EC).¹⁴⁴

Countries designated as safe countries of origin under the *International Protection Act 2015 (Safe Countries of Origin) Order 2018* are: Albania; Bosnia and Herzegovina; Georgia; Kosovo; Montenegro; North Macedonia; Serbia; and South Africa.¹⁴⁵

Several NGOs raised concerns about this change, with the IRC stating that it meant that many people would potentially not be able to access legal advice in advance of either their substantive interviews or the deadlines for submitting their appeal documents due to the current waiting list at the Legal Aid Board.¹⁴⁶

4.2.6 Shortened appeals timeline for accelerated appeals

In a related development, new regulations were signed in November 2022 to shorten time periods related to the holding of an oral hearing for appeals of findings under section 39(4) of the *International Protection Act 2015*.¹⁴⁷ This section relates to specific refusals of international protection where there is a finding (among others) that:

- the applicant is from a safe country of origin;
- that the applicant has raised only issues that are not relevant or are of minimal relevance to his or her eligibility for international protection;
- that the applicant has made inconsistent, contradictory, improbable or insufficient representations which make his or her claim to be eligible for international protection clearly unconvincing;
- that the applicant failed without reasonable cause to make their application as soon as reasonably practicable; and

¹⁴³ See EMN (2022). 'European Communities (*International Protection Procedures*) Regulations 2022', www.emn.ie.

¹⁴⁴ Ibid., see explanatory note.

¹⁴⁵ *International Protection Act 2015 (Safe Countries of Origin) Order 2018* [S.I. No. 121/2018].

¹⁴⁶ IRC (2022). 'Re: international protection procedure changes', open letter, www.irishrefugeecouncil.ie.

¹⁴⁷ The *International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022*.

- that internal protection is possible in their country of origin (according to s.32 of the *International Protection Act 2015*).

These findings lead to an accelerated appeals procedure under section 43 of the 2015 Act. In this case, and where IPAT decides to hold an oral hearing, the new Regulations reduce the time for sending notice of the oral hearing to 10 working days in advance of the oral hearing (previously 20 working days), and the time for lodging additional documents to IPAT is reduced to 5 working days (previously 10 working days).

The Regulations also introduced a new application form for use in this type of appeal.

4.2.7 International protection strand of the regularisation scheme

A parallel process to the regularisation scheme (see Section 10.2.3) targets international protection applicants. It allows people with an outstanding application for international protection who have been in the asylum process for at least two years to apply for regularisation. This implemented a recommendation by the Advisory Group on the Provision of Support, including Accommodation, to Persons in the International Protection Process regarding people in the protection process for two years or more.¹⁴⁸ This helped to address legacy cases that had been in the international protection system for a long time, reducing average processing times.¹⁴⁹

The scheme opened for applications in January 2022, and applications were accepted for six months.¹⁵⁰ A regulation passed in December 2022 provides that those granted a permission under this scheme will not have to pay a registration fee.¹⁵¹

A total of 3,240 people applied for the scheme. As of June 2023, 1,596 people had been granted permission under the Scheme. A further 1,102 applicants were separately granted an equivalent or higher order of immigration permission during the scheme.¹⁵²

4.2.8 European Union Agency for Asylum opt-in

In October 2022, the Government approved the participation of Ireland in *Regulation (EU) 2021/2303 on the European Union Agency for Asylum (EUAA)*.¹⁵³ This was followed

¹⁴⁸ Department of Justice (2021). 'Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants', press release, 3 December, www.gov.ie.

¹⁴⁹ Department of Justice (2022). 'International protection strand of the regularisation scheme for long-term undocumented migrants now open', 7 January, www.irishimmigration.ie.

¹⁵⁰ Department of Justice (2022). 'International protection strand of the regularisation scheme for long-term undocumented migrants now open', 7 January, www.irishimmigration.ie.

¹⁵¹ The *Immigration Act 2004 (Registration Certificate Fee) (Amendment) Regulations 2022* [S.I. No. 667/2022].

¹⁵² Minister for Justice (2023). 'Response to parliamentary question 33877/23', 11 July, www.oireachtas.ie.

¹⁵³ Department of Justice (2022). 'Response to parliamentary question 52237/22', 19 October, www.oireachtas.ie. NB: Ireland has now opted in with effect from August 2023. NB: Ireland does not participate in measures adopted under Title V of the Treaty on the Functioning of the European Union (TFEU). Under Protocol 21 to the Treaty of the European Union and TFEU,

up by motions in both houses of the Oireachtas, and other necessary arrangements to confirm Ireland's participation.¹⁵⁴

The regulation in question replaces the earlier *Regulation 439/2010 establishing a European Asylum Support Office (EASO)*, in which Ireland also participated.¹⁵⁵ The new regulation builds on the mandate of EASO, turning it into an agency (EUAA). The enhanced mandate of EUAA includes increased operational and technical support to Member States, supported by an asylum reserve pool of 500 people from Member States, to which Ireland will have to contribute.¹⁵⁶

According to the Minister of Justice, an advantage of Ireland's opting into the regulation would be to ensure that they have access to trainings and reports provided by the EUAA.¹⁵⁷

4.2.9 Integration fund for international protection applicants

A new International Protection Integration Fund was established in 2022, with the call for proposals launched in July 2022. This call was aimed at community-based organisations, including local authorities, for projects aimed at supporting the integration of international protection applicants. The fund aims to support projects across ten specific thematic areas, including employment, education, language, civil and legal supports, health and wellbeing. One million euro was initially made available.¹⁵⁸

For the 2022 call, special priority was given to projects supporting a number of specific objectives. These were:

- bolstering employability
- creating greater opportunities for language exchange in Irish society
- provision of civic and legal supports
- supporting men aged 19–25
- supporting pre-school aged children.¹⁵⁹

Ireland may exercise the option to participate in a measure either within three months of the proposal being published or after the proposal has been adopted by the EU. Government approval and approval of both houses of the Oireachtas is required to participate in a measure. Ireland then notifies the European Commission of Ireland's wish to participate, and the European Commission adopts a decision accepting Ireland's participation.

¹⁵⁴ The motions for approval were passed by Dáil Éireann on 21 February 2023 and Seanad Éireann on 28 February 2023. The decision of the European Commission accepting Ireland's request to participate was published on 28 July 2023 and entered into force from 20 August 2023. See <https://eur-lex.europa.eu/eli/dec/2023/1576/oj>.

¹⁵⁵ Department of Justice (2022). 'Response to parliamentary question 52237/22', 19 October, www.oireachtas.ie.

¹⁵⁶ Department of Justice (2022). 'Response to parliamentary question 52237/22', 19 October, www.oireachtas.ie.

¹⁵⁷ Department of Justice (2022). 'Response to parliamentary question 52237/22', 19 October, www.oireachtas.ie.

¹⁵⁸ DCEDIY (2022). 'Minister O'Gorman announces €1,000,000 International Protection Integration Fund 2022', press release, 26 August, www.gov.ie.

¹⁵⁹ DCEDIY (2022). 'Minister O'Gorman announces €1,000,000 International Protection Integration Fund 2022', press release, 26 August, www.gov.ie.

In November 2022, the Minister for Children, Equality, Disability, Integration and Youth announced that a total of 67 projects had been awarded a total of €1.6 million in funding for 2022.¹⁶⁰ The fund reflects the principles of the White Paper on Ending Direct Provision, in particular integration from day one.

4.2.10 Student scheme

In September 2022, the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) published the International Protection Student Scheme (for further and higher education students) 2022–2023.¹⁶¹ The scheme provides grants, in line with the current Student Grant Scheme (SUSI), to eligible school leavers who are in the international protection system (except those at the deportation order stage). Applicants must have been in the protection system for three years. The scheme has been reviewed annually since its inception in 2014.

The Scheme covers attendance at approved courses in approved institutions at post-Leaving Certificate (PLC), undergraduate and postgraduate level.

4.2.11 Afghan Admission Programme and humanitarian admissions of Afghans

As reported for 2021, the Government opened the Afghan Admission Programme for applications in December 2021, following the withdrawal of United States (US) troops from Afghanistan and the subsequent takeover by the Taliban. The original closing date in February 2022 was extended by almost two weeks. A total of 528 applications were received for the programme. At the end of 2022, approvals had been issued for 81 beneficiaries under the programme, with no refusals issued.¹⁶²

The Afghan Admission Programme offers temporary residence to Afghans who have close family members in Ireland. Applicants can be resident in Afghanistan or certain neighbouring countries, having fled Afghanistan since 1 August 2021.¹⁶³ An eligible proposer is originally from Afghanistan, legally resident in Ireland with certain immigration permissions, or is a naturalised Irish citizen previously from Afghanistan. For more details see *Annual report on migration and asylum 2021*.

¹⁶⁰ DCEDIY (2022). 'Minister O'Gorman announces 67 projects to be funded under the International Protection Integration Fund 2022', press release, 1 November, www.gov.ie.

¹⁶¹ DFHERIS (2022). 'International Protection Student Scheme (for Further and Higher Education Students) 2022–2023', 26 September, www.gov.ie.

¹⁶² Department of Justice (2023). 'Response to parliamentary question 6408/23', 9 February, www.oireachtas.ie. Confirmed by ISD June 2023.

¹⁶³ See Department of Justice Immigration Service Delivery, Afghan Admission Programme information page, www.irishimmigration.ie.

The Immigrant Council of Ireland (ICI) was critical of the slow pace of approvals for the Afghan Admission Programme,¹⁶⁴ with the first approvals issued in the last quarter of 2022.¹⁶⁵

Other avenues of humanitarian admission were also made available by the Irish Government in reaction to the humanitarian situation. As of 9 February 2023, 143 ‘family join visas’ had been approved for Afghan nationals, as well as 107 family reunification applications,¹⁶⁶ following moves by the Department of Justice to prioritise Afghan applications. In addition, around 600 visa waiver letters were issued for Afghans since 2021.¹⁶⁷ According to DCEDIY, 169 of these were during 2022.¹⁶⁸

4.2.12 Resettlement updates

In line with its 2019 pledge, Ireland pledged to offer 800 places for 2023 under the United Nations High Commissioner for Refugees (UNHCR) Resettlement Programme, as well as accepting 100 beneficiaries under the Afghan Humanitarian Programme in 2022.

Following an interruption to missions, Ireland resumed selection missions in 2022 with a resettlement mission to Lebanon.¹⁶⁹

Two projects relating to developing complementary pathways for refugees to come to Ireland also commenced in 2022. Nasc and UNHCR Ireland are the Irish partners on an EU Asylum Migration and Integration Fund (AMIF) funded project called EU Passworld, which seeks to develop education and labour pathways to Ireland. These new pathways are supported by community sponsorship and are additional to government-led resettlement. The second was DT4E, which focuses on the labour market mobility of displaced skilled professionals to respond to labour market needs. IOM is the lead Irish partner on this project.¹⁷⁰

In June 2022, Ireland took over as the global chair of the Annual Tripartite Consultations on Resettlement for 2023. The Irish Refugee Protection Programme (IRPP) is the State chair and Nasc is their non-governmental organisation (NGO) co-chair. This event brings different stakeholders together to discuss and advance resettlement issues.¹⁷¹

¹⁶⁴ Immigrant Council of Ireland (2022). ‘Immigrant Council calls on Government for urgent update on Afghan Admission Programme’ Press Release, 15 December, www.immigrantcouncil.ie.

¹⁶⁵ Department of Justice (2023). ‘Response to parliamentary question 6408/23’, 9 February, www.oireachtas.ie

¹⁶⁶ Department of Justice (2023). ‘Response to parliamentary question 6408/23’, 9 February, www.oireachtas.ie

¹⁶⁷ Department of Justice (2023). ‘Response to parliamentary question 6408/23’, 9 February, www.oireachtas.ie

¹⁶⁸ DCEDIY (2023). ‘Response to parliamentary question 18298/23’, 18 April, www.oireachtas.ie; Correspondence with DCEDIY, November 2023.

¹⁶⁹ Correspondence with DCEDIY, April 2023.

¹⁷⁰ Correspondence with Nasc, October 2023.

¹⁷¹ See UNHCR Ireland (n.d.). ‘Annual Tripartite Consultations on Resettlement’, <https://www.unhcr.org/ie/what-we-do/build-better-futures/long-term-solutions/resettlement/annual-tripartite-consultations>.

4.3 RESEARCH

4.3.1 Explaining increased international protection applications

The Economic and Social Research Institute (ESRI) published a report that analysed the potential drivers behind the significant increase in international protection applications in Ireland in the first six months of 2022. The report identified seven potential explanations for the increase, and noted that a combination of these seemed to be responsible for the increase. The report both analysed the absolute increase in numbers and explored why Ireland seemed to be seeing a greater increase than other EU countries. The factors identified were: post-COVID-19 catch-up migration, conditions in countries of origin and countries of first asylum, UK policy changes, secondary movement from EU Members States, network effects, perceptions of Ireland, and possible changes to intervening obstacles.

4.3.2 Implementation of the White Paper

Nasc published a research report that monitored the progress made in implementing the White Paper on Ending Direct Provision (see also Section 4.2.3 of this report and *Annual report on migration and asylum 2021*). The research was based on a compilation of freedom of information requests, as well as qualitative research with people living in International Protection Accommodation Services (IPAS) accommodation. Issues flagged covered a range of areas, including: the right to work, which they recommended be provided after four months rather than six; the reconsideration of the exclusion of asylum applicants from the civil and public sector; and the need to engage with the Department of Social Protection to ensure access to employment supports. Another issue raised was the right to housing. On this, issues flagged included: the need for multi-year capital expenditure budgets for delivering on Phase 1 and Phase 2 accommodation commitments; the need for a clear policy of dispersal; the need to commence a capital building or acquisition programme; potential overreliance on a small number of approved housing bodies and the need for engagement with them to assess their capacity and expertise to provide this housing; and the need to provide updated timelines and planning in light of increased numbers. It also raised the need for immediate planning to deliver housing rights for those with vulnerabilities and the lack of engagement (at the time of freedom of information requests) with NGOs, who the White Paper identifies as responsible for delivering wrap-around supports. It also covered social assistance, and raised concerns about the daily expense allowance rate not being reviewed since 2019, and the need for the establishment of criteria of eligibility for the payments foreseen by the White Paper.

4.3.3 Community sponsorship: Equality and feedback

Nasc published a report on equality issues that can arise during community sponsorship and resettlement of refugees.¹⁷² Some equality issues flagged included potential racial discrimination, recognition of prior qualifications and a lack of sensitivity to circumstances of resettled people when accessing mainstream benefits. Concerns were also raised about disparities between mainstream resettlement programme and community sponsorship, as well as spatial inequalities in public and social services, and the unequal relationship between sponsor groups and the resettled persons supported. Members of community sponsorship groups also raised concerns about a lack of oversight of the work of these groups, and the need for a formal mechanism for resettled persons to make complaints. The report emphasised the importance of obtaining feedback from resettled persons, with concerns raised about practical and ethical barriers to obtaining these views, in particular due to power imbalances and a fear of causing upset or offence.

4.3.4 Quality of life for Syrian refugees in Ireland

Claire Collins, Ivana Pericin, James Larkin and Esparanza Diaz published an article about health and quality of life among Syrian refugees in Ireland, based on a questionnaire filled in by 194 Syrian refugees.¹⁷³ The research found that while two-thirds of respondents reported their overall health to be good or very good, chronic pain was relatively widespread and that 27.5% suffered from anxiety and 10% had symptoms compatible with post-traumatic stress disorder. They found a significant relationship between chronic pain and self-rated health and anxiety. They found that the lowest scores were observed for the environment domain of the quality of life measure, which looks at safety, home environment, work satisfaction, financial resources, access to health and social care, learning opportunities, recreational activities, transport, and the physical environment.¹⁷⁴

4.3.5 Ethical research with refugees

A group of organisations and researchers published a guidance document for ethical research with refugees.¹⁷⁵ The research process significantly involved refugees and the document covers ethical considerations before, during and after data collection. Guidance before data collection includes considering whether the research is necessary, potential risks to participants, linguistic and cultural barriers, and considerations for ensuring informed and voluntary consent. Guidance during data collection includes the ongoing nature of consent, adopting a reflexive approach, empowerment of the

¹⁷² Smith, K. et al. (2022). *Equality matters in community sponsorship: Considerations for obtaining feedback from stakeholders*, Nasc, the Migrant and Refugee Rights Centre.

¹⁷³ Collins, C. et al. (2022). 'Self-rated health and quality of life among Syrian refugees in Ireland – Data from a cross-sectional study', *BMC Public Health*, Vol. 22, No. 1202.

¹⁷⁴ World Health Organization (2012). 'WHOQOL user manual'. <https://www.who.int/tools/whoqol>.

¹⁷⁵ Albrtan, A. et al. (2022). 'Research involving people of refugee background: Considerations for ethical engagement', University College Dublin.

participant, and ongoing attention to the impact of past experiences. Guidance after data collection includes continuous involvement of a participant and ensuring confidentiality and privacy.

4.3.6 Voices of resettled Syrian refugees

Research that examined the experiences of resettled Syrian refugees was launched by DCEDIY in 2022.¹⁷⁶ Please see Section 4.3.5 of the 2021 annual report for a summary.

4.4 CASE LAW

4.4.1 Assessment of future persecution in country of origin: *MY v the International Protection Appeals Tribunal & anor [2022] IEHC 345*

The applicant was a member of the Berber Amazigh people, an ethnic minority in Algeria, and supported the ideals of the Berber separatist MAK movement. He travelled to the UK on a short-term visa in 2013 and remained there after its expiry. In 2018, he travelled to Ireland and applied for international protection. The IPO recommended that he not be granted refugee status or subsidiary protection and also recommended that he not be granted permission to remain. The applicant appealed to IPAT, which rejected the appeal and affirmed the IPO recommendation. The applicant brought judicial review proceedings challenging the decision of IPAT.

In the High Court, Ferriter J first examined whether IPAT's decision was contrary to section 28(6) of the *International Protection Act 2015*, which provides that the fact that the applicant was previously subject to persecution or serious harm, or direct threats in that regard, is a serious indication of well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to believe they will not be repeated. While IPAT accepted as credible that the applicant experienced persecution and/or serious harm in Algeria in the past, Ferriter J found that IPAT failed to make express reference to s.28(6). It also did not afford the applicant the benefit of the rebuttable presumption regarding the possibility of facing future persecution and/or serious harm if returned.

In comments made in *obiter*, Ferriter J considered the applicability of the principles established in *HJ (Iran)* ([2010] UKSC 31). The appellant argued that IPAT had erred in law and acted unreasonably and irrationally in expecting and/or requiring him to hide his political beliefs and to not take part in the Berber separatist movement for the rest of his life to avoid persecution and serious harm. In *HJ (Iran)*, the UK Supreme Court had overturned the ruling of the Court of Appeal, which held that a gay applicant, if returned, could live 'discreetly' in their country of origin to avoid persecution. Ferriter J reflected on the tests used in subsequent cases in the UK and in Ireland, noting that it had not

¹⁷⁶ DCEDIY (2023). 'Voices of Syrians-Resettled Refugees in Ireland report launched', press release, 3 August, www.gov.ie.

been applied in Ireland outside of the context of gay applicants for international protection. Ferriter J opined that a close reading of *HJ (Iran)* demonstrates that the UK Supreme Court believed the principles could apply to other convention grounds beyond membership of a particular social group based on sexual orientation, such as the holding of a political opinion. He recognised, nonetheless, the ‘fact-sensitive nature’ of the principles, underscoring the need for a tribunal faced with arguments based on *HJ (Iran)* to carefully assess the facts of the case.

The High Court quashed the decision of IPAT and remitted the matter for fresh determination by a different tribunal member. Ferriter J stated that IPAT should proceed on the basis that *HJ (Iran)* applies in principle. He stated that if IPAT finds that the applicant will not be engaging in activism if returned to Algeria, it should assess why that is and whether it relates to a well-founded fear of persecution.

4.4.2 Family reunification for aged-out minors: *SH and AJ v Minister for Justice, Ireland and the Attorney General [2022] IEHC 392*

SH was a Syrian national whose wife and three children resided in Syria. SH applied for international protection in Ireland in February 2020. There were delays in processing his case, including due to COVID-19. While awaiting an interview, one of SH’s sons turned 18. In June 2021, SH was granted refugee status and he applied for family reunification under section 56 of the *International Protection Act 2015*. The Minister refused the application in respect of SH’s two oldest children because they were over 18. SH then applied under the non-statutory scheme for non-EEA family reunification for them. At the date of hearing, these applications had not been determined.

AJ was a national of Somalia. In August 2019, he applied for international protection in Ireland. On 11 November 2020 he received a formal declaration of refugee status and on 15 December 2020, he received an Irish residency permit. On 2 January 2021, his son turned 18. On 29 January 2021, AJ applied for family reunification under s.56, which was refused for his son who was over 18. A review upheld the initial decision. AJ then applied under the non-EEA family reunification scheme. At the time of hearing, he had received a first-instance decision refusing this application and the review requested by AJ was still pending.

In judicial reviews pursued in the High Court, both SH and AJ maintained that that the excessive delay experienced in relation to their international protection applications meant they could not apply for family reunification for their sons under s.56 of the 2015 Act. Ferriter J accepted that the applicants were entitled to a prompt determination; however, the process had been clearly severely impeded on an exceptional basis by the COVID-19 pandemic. The IPO could therefore not be blamed for the delay.

With regard to the review of the s.56 decision requested by AJ, Ferriter J did not agree with the contention that the review decision was unlawful and that the Minister could exercise discretion. Ferriter J stated that an objective reading of the review decision letter was that the Minister was referring to any discretion under s.56 to alter the definition of family member at the date of the family reunification application or to accept applications under s.56 for persons who fall outside of the definition, and not, as contended by the applicant, to her executive discretion more generally.

Ferriter J then assessed the compatibility of the age restrictions in s.56(9)(d) of the 2015 Act with the Constitution, EU law and the European Convention on Human Rights (ECHR). As regards EU law, Ferriter J recalled that Article 18 of the Charter of Fundamental Rights does not create a right to family reunification and there is no EU law right to family reunification from the date of an application for international protection. The terms of s.56 of the 2015 Act were held to be a matter of policy choice by the legislature and not in breach of EU law. Ferriter J further found that s.56(9)(d) was not repugnant to the Constitution or contrary to the ECHR, with particular reference to *A, S, S & I v Minister for Justice ([2020] IESC 70)*. He held that there was no difference in treatment of the applicants as compared to other declared refugees and that the appropriate comparator would be to look at the date at which they were granted status, not prior.

With regard to the non-EEA policy document, both applicants contended that the scheme failed to adequately vindicate their rights. Ferriter J accepted that a permission granted under the scheme does not grant the same level of rights as those under s.56 of the 2015 Act; however, it provides a route for family reunification. For AJ, who had received an initial refusal to grant family reunification to his son under the scheme, Ferriter J recognised that the decision was not under challenge, but that there was a failure to engage with the direct evidence submitted by AJ's son as regards his fears in Somalia. The decision also referred to insufficient documentation to evidence their relationship. However, Ferriter J pointed out that it was not clear how such documentation would be obtained given that AJ had to flee Somalia due to murder attempts and a well-founded fear of persecution and his son had to frequently leave their home due to fear of persecution. The fact that SH and AJ may have missed out on a statutory right to family reunification as a result of significant delays in processing their international protection application due to the COVID-19 pandemic was a matter to which appropriate weight must be given by the Minister in assessing SH's pending application and in the review of AJ's refusal decision.

Ferriter J held that it would not be appropriate to consider striking down the non-EEA family reunification scheme policy document as a whole but recognised that situations could arise where it would not be proportionate for an applicant facing very difficult humanitarian circumstances to wait 12 months or more for a decision under the scheme. Commenting *obiter*, Ferriter J saw the policy document as an exemplification

of the executive discretion enjoyed by the Minister and that a fast-track procedure and detailed guidelines would be preferable.

Finally, AJ submitted that he was not aware of the fact that submitting his application weeks after his son turned 18 would exclude him from applying for family reunification. Ferriter J found that the State breached AJ's right under Article 22 of the Qualification Directive 2004/83/EC by failing to give him information in a language he could reasonably be believed to understand, specifically the criteria and cut-off dates for family reunification purposes in Somali. This was found to have a direct causal link to AJ not claiming family reunification prior to his son's birthday. AJ was found to have a right to Francovich damages for non-transposition of Article 22 of the Qualification Directive.

4.4.3 Delays in seeking appeals and the definition of an applicant: *A & B v International Protection Appeals Tribunal & ors [2022] IESC 35*

Mr A, from Georgia, and Ms B, from Brazil, both separately applied for international protection in Ireland. It was recommended that their applications be refused under section 39(3)(b) of the *International Protection Act 2015* and reports were issued to the Minister under section 40 of the 2015 Act recommending the refusal of their applications. Neither appellant brought an appeal against the recommendations. After several months, the Minister accepted the recommendations that the applications be refused and, pursuant to section 47(5)(b) of the 2015 Act, the Minister refused to grant them international protection and later made orders for their deportation.

The appellants applied to extend the time for appeal of the section 39 recommendations to IPAT. IPAT refused to examine the applications for extension. The applicants then brought judicial review proceedings challenging this refusal. In the High Court, the IPAT decision was upheld and it was found that the two appellants were no longer deemed 'applicants', which is required for an application for an extension of time under Regulation 4(5), *International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017*. The appellants were granted permission to appeal directly to the Supreme Court.

MacMenamin J, delivering the judgment of the Supreme Court, first examined the definition of an 'applicant' in the legislation. It was recalled that under the *Refugee Act 1996* the definition of 'applicant' was broadly defined. The 2015 Act sought to limit the definition to prevent persons from being applicants indefinitely. Section 2(2)(a)(ii) of the 2015 Act provides that a person shall cease to be an applicant on the date on which, under section 47(5), the Minister refuses 'both to give a refugee declaration and to give a subsidiary protection declaration to the person'. MacMenamin J was not persuaded s.2(2) or s.47(5) of the 2015 Act were in breach of EU law.

MacMenamin J examined the preliminary issues of the case. First, he affirmed the contention of the respondents that the section 39(3) recommendation was superseded by the Minister's refusal under section 47(5)(b). MacMenamin J secondly found there was no lacuna in the Act for this type of appeal, finding that section 77 identifies the relevant section for the appeal and the relevant timeframe. Thirdly, MacMenamin J dismissed the contention of the respondents that the appellants were seeking to engage in a 'collateral attack' on an earlier step in the proceedings that should have been challenged within the time prescribed.

MacMenamin J recalled that the decision letters issued by IPAT to the appellants did not fully set out the reasons for non-acceptance of the appeal applications and s.2(2) was not mentioned. Moreover, neither s.2(2) nor s.47(5)(b) contain any words regarding the timeframe in which the Minister may issue a decision. In addition, the appeal processes for applications under s.21, which concerns inadmissible applications, and s.22, which concerns subsequent applications made by a person, do not refer to an 'applicant' and have provisions that allow for an extension of time. Furthermore, under the previous legislation, the appellants would have been able to apply for an extension of time.

It was held that although the provisions were not in themselves unconstitutional, IPAT, in applying s.2(2) and s.47(5)(b) of the 2015 Act in conjunction with each other, applied them in a way that operated against the applicants and that was unlawful and incorrect. This created a bar that the appellants could not reach and had the effect of infringing their right to fair procedures.

Charleton J, although concurring with the ruling of MacMenamin J, found that the 2015 Act could not be found to be unconstitutional for different reasons. He held that where there is no clear restriction by the legislature on the Minister's discretion to suspend an order made under section 47 (including to refuse both international protection and/or subsidiary protection), it is also within the Minister's power to suspend a section 47 order allowing the appellants to seek an extension of time to appeal. Nonetheless, Charleton J stated that the Minister was not required to overturn the order if IPAT did not find that there are exceptional circumstances to extend the time to lodge an appeal.

4.4.4 Family reunification with a niece and nephew in Somalia: *HA v Minister for Justice* [2022] IECA 166

The respondent was a national of Somalia who was granted refugee status in Ireland. She applied for family reunification with her niece and nephew under section 56 of the *International Protection Act 2015*. Her niece and nephew are orphans and she had accepted responsibility for them. A 'declaration of responsibility' from Somalia was submitted in this regard. The application for family reunification was refused and the applicant challenged that refusal in judicial review proceedings. In the High Court, Ferriter J held that the 'declaration of responsibility' was not referenced or engaged

with by the Minister in making this decision. As a result, the High Court granted an order of *certiorari* quashing the Minister's refusal decision.

In an appeal brought by the Minister to the Court of Appeal, it was found that there was no evidence the decision maker considered the 'declaration of responsibility', and it was not referenced in the decision issued. The Court of Appeal agreed with the High Court's finding that the declaration was relevant and material when considering if the niece and nephew could be considered children of the respondent.

The Minister submitted that remitting the case for reconsideration was futile given that the 'declaration of responsibility' would not be recognised as adoption in the State. However, the Court of Appeal, with reference to the Supreme Court decision in *X v Minister for Justice and Equality [2020] IESC 30*, in which it was found that the definition of child in the family reunification provisions of the *International Protection Act 2015* (section 56) included only biological or adopted children, held that the precise meaning of adopted child was not addressed in *X v Minister for Justice and Equality* and, as such, the case should be remitted for reconsideration. The appeal was dismissed and the decision of the High Court was upheld. The case was remitted to the Minister for fresh consideration.

4.4.5 Roles in decision making for international protection recommendations and permission to remain recommendations: *ASA v Minister for Justice and Equality [2022] IESC 49*

The appellant was a national of Nigeria who applied for international protection in 2016. His application was unsuccessful. The appellant was informed that an international protection officer had recommended he not be granted refugee status or subsidiary protection pursuant to section 39 of the *International Protection Act 2015*. He was subsequently informed that the Minister for Justice had refused him permission to remain, pursuant to section 49(4)(b) of the 2015 Act. This decision was signed by an officer described as 'Case Worker, International Protection Office'.

In a judicial review, the appellant submitted that there was a conflict of roles in decision making, whereby international protection officers consider applications for international protection and might also consider permission to remain applications as officers of the Minister. In the High Court, Burns J dismissed the challenge, highlighting that the two roles were distinct under the 2015 Act. This ruling was appealed.

Central to this case was whether international protection officers are precluded from engaging in permission to remain involved in decision making under section 49 of the 2015 Act. In the Supreme Court, MacMenamin J first examined the applicability and understanding of the *Carltona* principle, whereby officials acting on behalf of a Minister are presumed to be acting as the 'alter ego' of that Minister. MacMenamin J held that,

despite submissions on behalf of the appellant to understand the principle differently, for the purposes of this case, the long-established understanding of the principle would be applied and it was through this prism that the decision making under the 2015 Act was examined.

Reviewing the 2015 Act, and in particular section 74, which sets out the role of an international protection officer, it was held that there was no legislative intention to create an absolute segregation of types of decision makers but that, importantly, in either role – as an officer of the Minister or as an international protection officer – the individual must be entirely independent in carrying out their functions of decision making.

MacMenamin J further considered what effect, if any, EU asylum law would have on the case, namely the *Asylum Procedures Directive 2005/85/EC* and the *Qualifications Directive 2004/83/EC*. The Courts of Justice of the European Union (CJEU), in *B and D (C-57/09 and C-101/09)*, stated that where a Member State has discretion to grant state protection in accordance with its national law, this must not be confused with international protection, and that there must be a clear distinction between both. MacMenamin contended that the 2015 Act established a clear distinction between international protection and leave to remain procedures and statuses. Further, he recalled that this distinction was not at issue in this case, but rather this case concerned decision-making powers.

The Supreme Court affirmed the High Court ruling that there was no conflict of roles or functions between an international protection officer involved in the international protection decision-making process and an officer involved in the permission to remain decision-making process under section 49 of the 2015 Act.

CHAPTER 5

Temporary protection of persons fleeing war in Ukraine

Following the Russian invasion of Ukraine in February 2022 and subsequent war, the Temporary Protection Directive was activated on 4 March 2022 by *Council Implementing Decision 2022/382*.^{177,178} Temporary protection is an exceptional measure to provide immediate and temporary protection in the event of a mass influx of displaced persons who are unable to return to their country of origin. It applies when the European Council, on a proposal from the European Commission, decides that there is a mass influx, in particular if entailing a risk of the asylum system struggling to cope with demand.¹⁷⁹ The March 2022 decision triggered the Directive for the first time.

The Directive provides for immediate protection with a standard set of rights for beneficiaries. Rights for beneficiaries include:

- a residence permit for the entire duration of the protection;
- guaranteed access to the asylum procedure;
- access to employment, subject to rules applicable to the profession and to national labour market policies and general conditions of employment;
- access to suitable accommodation or housing;
- access to social welfare or means of subsistence if necessary;
- access to medical care;
- access to education for persons under 18 years to the state education system;
- opportunities for families to reunite in certain circumstances;
- access to banking services, for instance opening a basic bank account;
- move to another European Union (EU) country, before the issuance of a residence permit; and
- move freely in EU countries (other than the Member State of residence) for 90 days within a 180-day period after a residence permit in the host EU country is issued.

¹⁷⁷ Temporary Protection Directive: Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

¹⁷⁸ Decision 22/382: Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.

¹⁷⁹ See https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en.

The Directive also requires signatories to reduce to a minimum any formalities related to entry requirement.¹⁸⁰ It also includes provision for excluding individuals who have committed serious crimes or who pose a threat to security from the benefit of temporary protection.¹⁸¹

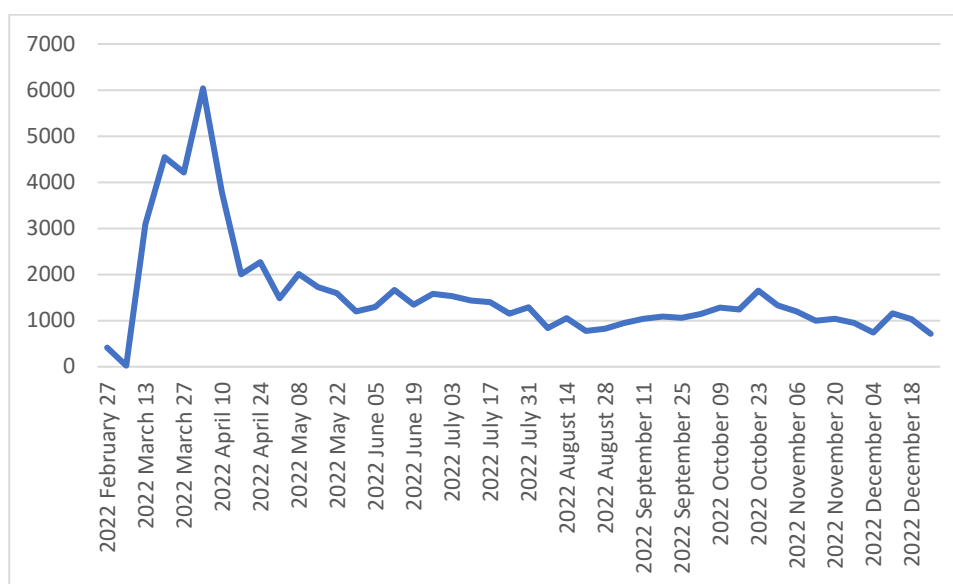
This chapter outlines the actions taken by Ireland to implement the Directive and respond to the Ukrainian arrivals.

5.1 STATISTICS

5.1.1 Arrivals

As of December 2022, 67,448 people had arrived in Ireland from Ukraine under the Temporary Protection Directive, according to personal public service number (PPSN) data. Figure 5.1 shows the timing of these arrivals. It should be noted that this is not necessarily indicative of people remaining in Ireland long-term, as some may subsequently leave. As of December 2022, 87 per cent of those who had been granted temporary protection had recent activity indicating that they were still living in the country.¹⁸²

FIGURE 5.1 NUMBER OF WEEKLY PPSN ALLOCATIONS TO ARRIVALS FROM UKRAINE IN 2022



Source: CSO (2022). 'Arrivals from Ukraine in Ireland Series 8',

Note: UA07: PPSN allocations to arrivals from Ukraine (cumulative) by nationality and week.

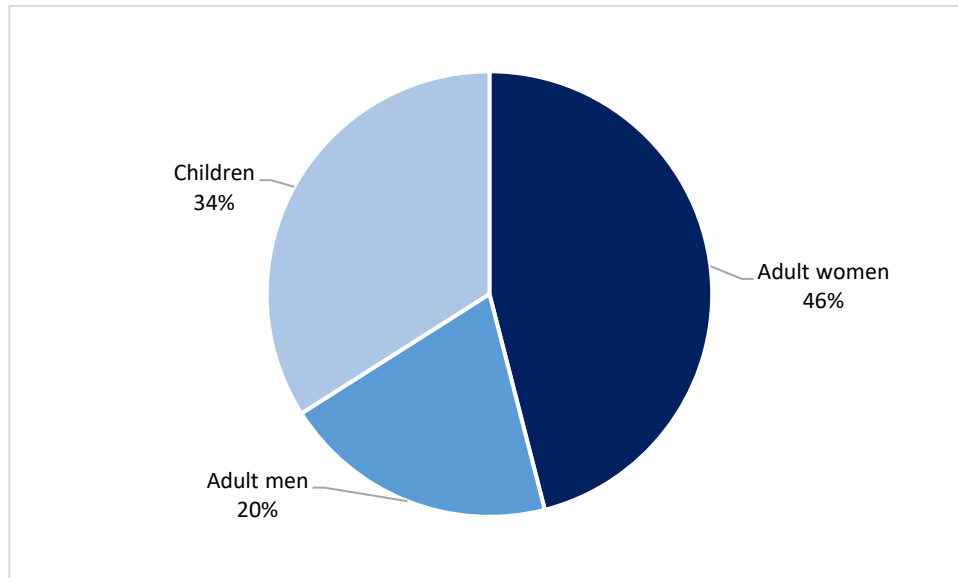
¹⁸⁰ Article 8(3).

¹⁸¹ See https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en.

¹⁸² CSO (2022). 'Arrivals from Ukraine in Ireland Series 8', www.cso.ie.

As shown in Figure 5.2, as of 11 December 2022 almost half (46%) of the arrivals were adult women, one-third (34%) were children aged 0–19 and the remaining one-fifth (20%) were adult men.

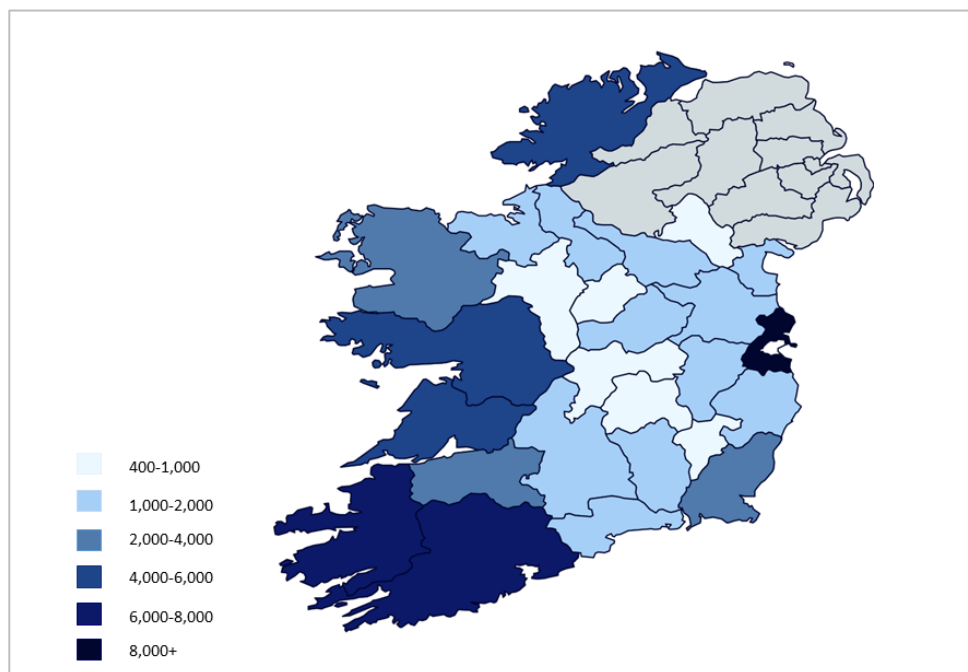
FIGURE 5.2 GENDER AND AGE BREAKDOWN OF ARRIVALS AS OF 11 DECEMBER 2022



Source: CSO (2022). 'Arrivals from Ukraine in Ireland Series 8'.

Note: Adult is defined as people aged 20 and over, with the child category comprising those aged 0–19, following CSO classifications.

Figure 5.3 shows the number of arrivals from Ukraine per county, as of 11 December 2022. It shows a clear concentration in Dublin as well as in the west of Ireland.

FIGURE 5.3 NUMBER OF ARRIVALS FROM UKRAINE IN IRELAND PER COUNTY BASED ON PPSN ALLOCATIONS AS OF 11 DECEMBER 2022

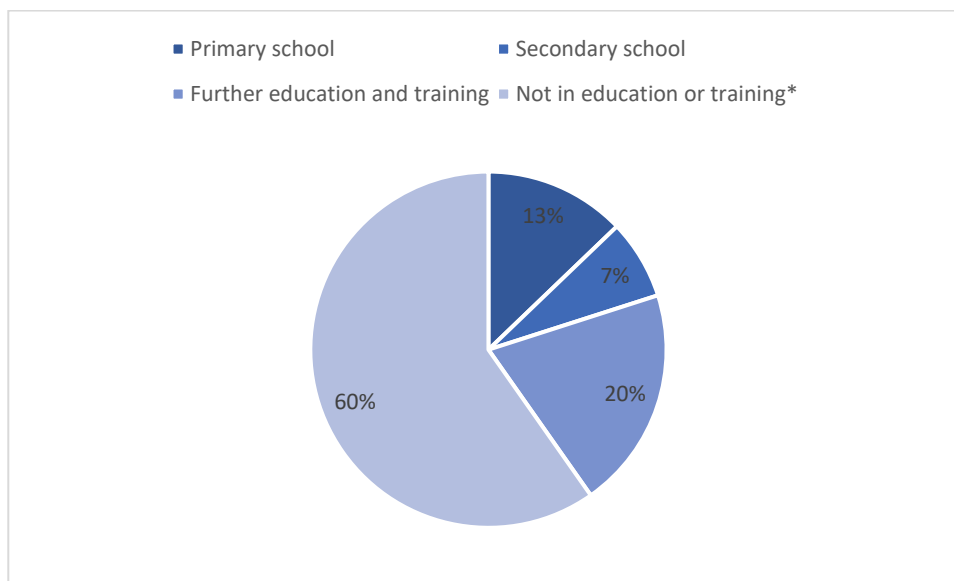
Source: CSO (2023). 'UA34: Number and location (based on PPSN allocations data) of arrivals from Ukraine'.

5.1.2 Education and employment

Figure 5.4 shows the percentage of arrivals enrolled in education as of December 2022. It shows that 13% of arrivals (8,654) were enrolled in primary education, 7% (4,875) in secondary, and 20% (13,619) in further education and training. Of those in further education and training, 86% were enrolled in English language courses.¹⁸³ For those enrolling in schools, it took an average of 2.4 weeks from PPSN registration to first school enrolment.¹⁸⁴

¹⁸³ CSO (2022). 'Arrivals from Ukraine in Ireland Series 8', 19 December, www.cso.ie.

¹⁸⁴ CSO (2022). 'Arrivals from Ukraine in Ireland Series 8', 19 December, www.cso.ie.

FIGURE 5.4 ENROLMENTS IN PRIMARY, SECONDARY AND FURTHER EDUCATION AS A PERCENTAGE OF TOTAL ARRIVALS AS OF DECEMBER 2022

Source: CSO (2022). 'Arrivals from Ukraine in Ireland Series 8'.

Note: *This is calculated based on PPSN allocations up to December 2022. However, it may be an overestimation because some people who received a PPSN may have left the country.

5.2 DEVELOPMENTS

5.2.1 Governance structures

To assist with ensuring a whole-of-government response to the arrivals of beneficiaries of temporary protection (BOTPs) from Ukraine, the Government established the Cabinet Committee on Humanitarian Response to Ukraine. Cabinet committees derive their authority and privileges from Government.¹⁸⁵

The members of this committee are:

- An Taoiseach (chair)
- An Tánaiste (also Minister for Foreign Affairs and Minister for Defence)
- Minister for the Environment, Climate and Communications and Minister for Transport
- Minister for Housing, Local Government and Heritage
- Minister for Children, Equality, Disability, Integration and Youth
- Minister for Social Protection and Minister for Rural and Community Development
- Minister for Public Expenditure, National Development Plan Delivery and Reform
- Minister for Justice.¹⁸⁶

¹⁸⁵ Department of the Taoiseach (2023). 'Cabinet Committees of the 33rd Government', 23 January, www.gov.ie.

¹⁸⁶ Department of An Taoiseach (2023). 'Membership of Cabinet Committees of the 33rd Government', 23 January, www.gov.ie.

In addition, the Community Response Forums that had been established in every local authority for the COVID-19 response were repurposed to provide a coordination point for the community and voluntary response in their area. The responsible Ministers provided a template to each local authority setting out arrangements. The forums work to supplement the services of government agencies provided in the local area.¹⁸⁷

5.2.2 Scope of temporary protection and registration

Ireland extended temporary protection to the following people:

- a) Ukrainian nationals who were residing in Ukraine before 24 February 2022;
- b) Nationals of another country or a stateless person who would have benefited from international protection or an equivalent national protection status in Ukraine and were residing there before 24 February 2022;
- c) Family members of persons covered by a) and b), where their family already existed in Ukraine, prior to 24 February. Family members include a spouse or partner, unmarried minor children of either of them, and their other close dependent family relatives who had been living with them as part of the family unit before 24 February 2022;
- d) Nationals of a third country and stateless people who were residing in Ukraine before 24 February 2022 with a permanent Ukrainian residence permit, who cannot safely return to their country of origin.

For people from Ukraine who were already in Ireland before 24 February, Ireland put in place the following approaches to permits:

- People who were on a 90-day visa could avail of temporary protection;
- People who had an existing Irish residence permission (employment, study) can remain on their existing permission until it expires. At time of renewal, the person can decide to renew that residence permission or avail of temporary protection for the remainder of the period of temporary protection as determined by the EU.¹⁸⁸

From 9 March to 25 May 2022, Ireland had a single registration and service point for beneficiaries of temporary protection from Ukraine at Dublin Airport.¹⁸⁹ It was led by the Department of Justice's newly established Ukraine Response Team, supported by the Department of Social Protection, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), the Health Service Executive (HSE) and others.¹⁹⁰ This

¹⁸⁷ Department of Housing, Local Government and Heritage (2022). 'Community Response Forum in each area to coordinate local measures welcoming Ukrainians', press release, 4 April, www.gov.ie.

¹⁸⁸ Department of Justice, Immigration Service Delivery (2022). 'Information on temporary protection for people fleeing the conflict in Ukraine', last updated December, www.irishimmigration.ie.

¹⁸⁹ Eligible arrivals in Ireland are registered for temporary protection in accordance with section 60 of the International Protection Act 2015, the EU Temporary Protection Directive 2001/55/EC and Council Implementing Decision (EU) 2022/382 of 4 March 2022.

¹⁹⁰ Department of Justice (2022). 'Transfer of the 'one-stop shop' reception facility from Dublin Airport to Citywest', press release, 25 May, www.gov.ie; Correspondence with Department of Justice, October 2023.

‘one-stop shop’ covered registration for temporary protection, allocation of PPSNs, referral to accommodation for those in need of it, and other supports and services. From 25 May 2022, this service was moved to Citywest Convention Centre, and arrivals at Dublin Airport were subsequently transferred to Citywest for processing.¹⁹¹ In May 2022, the Government approved the decision to enter into a two-year lease for both the use of all 764 rooms in the hotel and the use of the convention centre as a transit hub.¹⁹²

From 9 March 2022, beneficiaries of temporary protection arriving in Ireland through Dublin Airport received a temporary protection permission letter. Different arrangements were put in place for persons arriving prior to 9 March or through different ports to receive their temporary protection permission letter. The temporary protection permission letter confirms that the holder is a beneficiary of temporary protection in accordance with section 60 of the *International Protection Act 2015*, the *Temporary Protection Directive 2001/55/EC* and Council Implementing Decision (EU) 2022/382 of 4 March 2022. The temporary protection permission letter confirms temporary protection status and allows the holder immediate access to employment, accommodation (if needed), income support, medical care, education and other relevant state services in Ireland.¹⁹³

Eligible arrivals were also registered for temporary protection directly on arrival at Rosslare Ferryport from 31 March 2022. However, it was estimated that approximately 90% of arrivals came through Dublin Airport.¹⁹⁴ Other eligible persons (for example those who had arrived before 9 March 2022) could register for temporary protection and apply for the PPSN at one of the Ukraine Support Centres set up in Dublin, Cork and Limerick.¹⁹⁵

Since October 2022, the temporary protection permission of new arrivals over 16 is registered under Irish immigration law (Immigration Act 2004) at the time of initial processing in Citywest. The registrations of permissions for those who arrived prior to October 2022 are being processed on a pragmatic basis.¹⁹⁶

¹⁹¹ Department of Justice (2022). ‘Transfer of the ‘one-stop shop’ reception facility from Dublin Airport to Citywest’ press release, 25 May, www.gov.ie.

¹⁹² DCEDIY (2022). ‘Government approves licence agreement for the use of the Citywest Hotel and Conference Centre’, press release, 1 June, last updated 2 June, www.gov.ie.

¹⁹³ Department of Justice Immigration Service Delivery (2022). ‘FAQs for Ukraine nationals and residents of Ukraine’, last updated 23 December, www.irishimmigration.ie; EMN (2022). *Application of the Temporary Protection Directive – Scope and registration*, EMN Inform, 5 July.

¹⁹⁴ Department of Social Protection (2022). ‘Minister Humphreys announces the opening of 3 new city centre hubs to support Ukrainian families’, press release, 17 March, www.gov.ie.

¹⁹⁵ Department of Social Protection (2022). ‘Minister Humphreys announces the opening of 3 new city centre hubs to support Ukrainian families’, press release, 17 March, www.gov.ie.

¹⁹⁶ Correspondence with Department of Justice, September 2023.

5.2.3 Lifting visa requirements

Visa requirements for Ukrainian nationals were lifted with effect from 25 February 2022. The *Immigration Act 2004 (Visas) (Amendment) Order 2022* provides that nationals of Ukraine are not required to be in possession of a valid Irish visa when landing in the State and are not required to be in possession of a valid Irish transit visa when transiting through a port in the State to travel to another state.¹⁹⁷ This was necessary as Ireland is not part of the Schengen Area, and Ukraine was a visa-required country in national legislation. This was to ensure compliance with Article 8(3) of the Temporary Protection Directive. While this section does not prohibit signatories from requiring visas, it requires that entry formalities are to be reduced to a minimum for persons enjoying temporary protection and that visas should be free of charge or their cost reduced to a minimum.¹⁹⁸

In March 2022, the Minister for Justice suspended all cases involving possible deportation to Ukraine.¹⁹⁹

5.2.4 Accommodation

The Ukraine Crisis Temporary Accommodation Team was established in DCEDIY to provide short-term temporary emergency accommodation for beneficiaries of temporary protection. A range of temporary accommodation options have been used, including hotels, recreational facilities, tented accommodation and privately pledged accommodation from the general public.²⁰⁰

In April 2022, the Government agreed that the Department of Housing, Local Government and Heritage (DHLGH) would lead on addressing the medium- and long-term need to develop capacity for Ukrainian arrivals, including the possible provision of modular accommodation. A task force was set up, led by the DHLGH, to oversee a three-streamed approach to modular refurbishments and new builds.²⁰¹ Responsibility for modular housing was subsequently transferred to DCEDIY, supported by the Office of Public Works (OPW).²⁰² DHLGH retained responsibility for the refurbishment programme.

¹⁹⁷ *Immigration Act 2004 (Visas) (Amendment) Order 2022* [S.I. No. 86/2022].

¹⁹⁸ Article 8(3): The Member States shall, if necessary, provide persons to be admitted to their territory for the purposes of temporary protection with every facility for obtaining the necessary visas, including transit visas. Formalities must be reduced to a minimum because of the urgency of the situation. Visas should be free of charge or their cost reduced to a minimum.

¹⁹⁹ Department of Justice (2022). 'Response to parliamentary question 13117/22', 8 March, www.oireachtas.ie.

²⁰⁰ See EMN (2022). *Arrangements for accommodation and housing for beneficiaries of temporary protection*, EMN Inform, 23 November, www.emn.ie.

²⁰¹ DEPR (2022). 'Response to parliamentary question 33084/22', 4 October, www.oireachtas.ie.

²⁰² DEPR (2022). 'Response to parliamentary question 33084/22', 4 October, www.oireachtas.ie.

In line with the review of the Housing for All policy²⁰³ and a general assessment of net migration impacts on medium to longer-term housing needs, the DHLGH is also responsible for assessing the potential impact of a proportion of beneficiaries of temporary protection (BOTPs) remaining in Ireland after the period of temporary protection comes to an end.²⁰⁴

In October 2022, the Government announced that Ireland would move from an emergency response to a more mainstreamed approach, announcing a suite of measures that are described below.²⁰⁵

From 28 November 2022, the policy in relation to refusals of short-term accommodation was updated to provide that all beneficiaries of temporary protection will be made one offer of short-term accommodation only. If the beneficiary of temporary protection does not accept this offer of accommodation, no further offer will be made, and the beneficiary will need to source their own accommodation.²⁰⁶

In addition, it was announced that beneficiaries accommodated in serviced accommodation provided by the State, such as hotels, hostels and guesthouses, would be required to make a financial contribution towards meals in order to avail of the accommodation. The contribution is €10 per day for adults and €5 for children. Personal laundry was also removed from the accommodation contract.²⁰⁷

Register of pledges for private accommodation

A register of pledges was announced by the Minister for Children, Equality, Disability, Integration and Youth and the Irish Red Cross on 7 March 2022. The Irish Red Cross established a register to allow people to register accommodation and other services to assist Ukrainian refugees; the accommodation would then be reviewed and matched with refugees.²⁰⁸ The International Organization for Migration (IOM), the Peter McVerry Trust and local authorities have provided support with activating accommodation offered through the Red Cross/DCEDIY pledge appeal.²⁰⁹ Helping Irish Hosts was also established to support matches between potential hosts and persons displaced from Ukraine across Ireland, and is considered to have played a critical role.²¹⁰

²⁰³ Government of Ireland (2021). *Housing for All: A new housing plan for Ireland*, www.gov.ie.

²⁰⁴ Correspondence with DHLGH, October 2023; see also DEPR (2022). 'Response to parliamentary question 33084/22', 4 October, www.oireachtas.ie.

²⁰⁵ Department of An Taoiseach (2022). 'Statement following Government Meeting on 28 October 2022', 28 October, www.gov.ie

²⁰⁶ DCEDIY (2022). 'Updated accommodation refusals policy for BOTPs', 28 November, www.gov.ie.

²⁰⁷ DCEDIY (2022). 'Serviced Accommodation Contribution Policy - Beneficiaries of temporary protection From Ukraine', 12 December, www.gov.ie.

²⁰⁸ DCEDIY (2022). 'DCEDIY and Irish Red Cross launch accommodation pledge register to support Ukrainian refugees, press release, 7 March, www.gov.ie.

²⁰⁹ Correspondence with DCEDIY, April 2023.

²¹⁰ Correspondence with Ukraine Civil Society Forum, October 2023.

‘Offer a Home’ programme

A new call to the public for unoccupied properties which could be used to accommodate beneficiaries of temporary protection was launched in November 2022, led by the County and City Management Association (CCMA), under the aegis of the DHLGH.²¹¹ Under the new initiative, local authorities take offers of houses, apartments or holiday homes for temporary accommodation, liaise with owners to assess suitability, and arrange for their use by people from Ukraine, ideally for six months or longer. Rent is not payable, but the arrangement can attract the Accommodation Recognition Payment (ARP) rate of €800 per month, introduced from December 2022. The payment is linked to a minimum commitment of six months (see below).²¹²

Accommodation Recognition Payment

The ARP is a tax-free recognition payment made to households who host in their own homes or make available vacant properties to beneficiaries of temporary protection, with a minimum hosting commitment of six months. It was announced in May 2022.²¹³ The initial amount of the payment was €400 per month per property (not per person hosted). This was subsequently increased to €800 per month from December 2022.²¹⁴ The payment was applicable where the host offered the accommodation via the Irish Red Cross pledge scheme (see above), or independently.²¹⁵

Part 2 of the *Civil Law (Miscellaneous Provisions) Act 2022* put in place the legal basis for the ARP. It provides that a person shall be eligible to receive a financial contribution where they are the owner of or a tenant in the dwelling and one or more beneficiaries of temporary protection have the right to enter and occupy all or part of the dwelling and at least one is being hosted on the last day of the calendar month when the payment is due. There cannot be a rental agreement in place and the temporary protection beneficiary cannot be in receipt of rent supplement, housing assistance or social housing support.²¹⁶ The host must also confirm that the dwelling is safe and meets certain minimum standards. This eligible standard applies even when the accommodation offered is a room in the host’s home. The eligible standards are set out in Regulations.²¹⁷

²¹¹ Correspondence with DHLGH, October 2023.

²¹² Department of An Taoiseach (2022). ‘Local authorities launch appeal for unoccupied properties to house people fleeing the war in Ukraine’, press release, 24 November, www.gov.ie.

²¹³ DCEDIY (2022). ‘Ministers O’Gorman and Humphreys announce €400 Recognition Payment for people who provide accommodation to those fleeing the war in Ukraine’, press release, 19 May, www.gov.ie.

²¹⁴ Department of An Taoiseach (2022). ‘Statement following Government Meeting on 28 October 2022’, 28 October, www.gov.ie.

²¹⁵ Department of An Taoiseach (2022). ‘Statement following Government Meeting on 28 October 2022’, 28 October, www.gov.ie.

²¹⁶ See EMN legal summary, <https://emn.ie/legislation/civil-law-miscellaneous-provisions-act-2022/>.

²¹⁷ *Civil Law (Miscellaneous Provisions) Act 2022 (Part 2) (Eligible Dwelling Standards) Regulations 2022* [S.I. 377/2022]; DCEDIY and Department of Social Protection (2022). ‘Housing Standard for the Accommodation Recognition Payment Scheme’, 26 July, www.gov.ie.

The scheme opened for applications in July 2022.²¹⁸ The Department of Social Protection administers payment of the ARP on behalf of DCEDIY.

The ARP was doubled to €800 per month with effect from 1 December 2022.²¹⁹

Rent supplement

Beneficiaries of temporary protection who incur rent costs in the private rental market may qualify for rent supplement at equivalent rates to Irish nationals and others with permission to reside in Ireland. Rent supplement is a social welfare payment administered by the Department of Social Protection, and is subject to a means test. Criteria for rent supplement were specifically adapted for beneficiaries of temporary protection.²²⁰ During 2022, beneficiaries of temporary protection did not have to satisfy certain criteria related to rental history over the previous 12 months, or to register with the local housing authority to have their housing needs addressed.²²¹

Refurbishment of existing properties

In April 2022, the Government agreed that the DHLGH would lead on addressing the medium- and long-term need to develop capacity for Ukrainian arrivals. This included refurbishment of existing buildings.²²² Later in the month, the Minister for Housing, Local Government and Heritage announced that the Local Government Management Agency (LGMA) had been requested to develop a proposal to establish an Emergency Vacant Housing Delivery Unit, drawing on expertise from the local government and private sector to coordinate and direct refurbishment of buildings. Exemptions from planning requirements were also to be determined where necessary on these buildings.²²³

To implement this, the *European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022* came into effect in June 2022.²²⁴ These Regulations provide for an exemption from the *Planning and Development Act 2000* for certain classes of development made by or on behalf of a state authority. This includes the ‘change of use and repurposing of existing buildings and facilities, and temporary new-build accommodation and structures to address the urgent need to

²¹⁸ DCEDIY and Department of Social Protection (2022). ‘€400 “Accommodation Recognition Payment” for hosts accommodating people from Ukraine is open for applications’, press release, 26 July, www.gov.ie.

²¹⁹ Department of An Taoiseach (2022). ‘Statement following Government Meeting on 28 October 2022’, 28 October, www.gov.ie.

²²⁰ Correspondence with Department of Social Protection; EMN (2022). *Arrangements for accommodation and housing for beneficiaries of temporary protection*, EMN Inform, www.emn.ie.

²²¹ Correspondence with Department of Social Protection, September 2022.

²²² Department of Public Expenditure and Reform (2022). ‘Response to parliamentary question 33084/22’, 4 October, www.oireachtas.ie.

²²³ Department of Housing, Local Government and Heritage (2022). ‘Update on the Ukrainian crisis from the Department of Housing, Local Government and Heritage’, press release, 26 April, www.gov.ie.

²²⁴ *European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022* [S.I. 306/2022].

provide emergency accommodation and support to displaced persons from the conflict in Ukraine'.²²⁵ This exemption applies for as long as the Regulations are in force. Environmental considerations covered by sections 181A to section 181C of the *Planning and Development Act 2000* (as amended) still apply.²²⁶

The Government agreed to rapidly accelerate the refurbishment and modular housing programmes in October 2022.²²⁷

Rapid build homes

In June 2022, the Government approved 500 modular/rapid build homes to develop housing capacity for beneficiaries of temporary protection, to be led by DCEDIY, with the DHLGH finalising site selection. That number was subsequently increased to 700 in October 2022.²²⁸ Once in place, the homes will accommodate 2,800 people over a number of sites across the country.²²⁹ Details of seven sites for proposed modular developments were published from November 2022, including environmental impact assessments.²³⁰

The Government agreed to rapidly accelerate the refurbishment and modular housing programmes in October 2022.²³¹

Pets

While pet-friendly accommodation was initially provided for beneficiaries of temporary protection, extreme challenges sourcing accommodation that catered to pets led to DCEDIY deciding to no longer provide accommodation catering to pets for newly arriving BOTPs from November 2022.²³² From November, all beneficiaries of temporary protection were required to provide for any pets at their own cost. Beneficiaries already residing in state-funded accommodation with pets were advised that there was no guarantee of pet-friendly accommodation in the event of their being transferred to new accommodation. An exception was made for service dogs.²³³

²²⁵ Explanatory Note to S.I. 306/2022.

²²⁶ Ibid. See also Department of Housing, Local Government and Heritage (2022). 'European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022', press release, 4 July, www.gov.ie.

²²⁷ Department of An Taoiseach (2022). 'Statement following government meeting on 28 October 2022', 28 October, www.gov.ie.

²²⁸ Correspondence with DCEDIY, October 2023.

²²⁹ Correspondence with DCEDIY, October 2023.

²³⁰ Department of An Taoiseach (2022). 'Rapid build housing', 4 November, www.gov.ie.

²³¹ Department of An Taoiseach (2022). 'Statement following government meeting on 28 October 2022', 28 October, www.gov.ie.

²³² The announcement of the new policy was made on 9 November 2022. The policy became operational from 28 November 2022. See 'FAQ on policy on pets in accommodation supported by the Department of Children, Equality, Integration, Disability and Youth', www.gov.ie.

²³³ Ibid.

5.2.5 Access to welfare

Access to income supports

Section 60 (10) (b) of the *International Protection Act 2015* provides that beneficiaries of temporary protection are entitled:

(b) 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.

Special arrangements were put in place so that beneficiaries of temporary protection do not have to apply for PPSNs online, including at the single service point (in Dublin Airport, then Citywest) reported above.²³⁴ Staff from the Department of Social Protection also conducted an outreach campaign to beneficiaries of temporary protection accommodated in hotel accommodation by DCEDIY to process applications for PPSNs and income supports.²³⁵

Once the PPSN number is allocated, beneficiaries of temporary protection can apply for income supports. In the first instance, beneficiaries of temporary protection could apply for Supplementary Welfare Allowance. An updated fast-track procedure was put in place for processing relevant weekly income support payments (e.g., Jobseekers' Allowance, One-Parent Family Payment, Disability Allowance, the State Pension).²³⁶

Beneficiaries of temporary protection are also entitled to Child Benefit, a universal payment of €140 per child per month for children under 16 years of age. Child Benefit is also payable for children aged 16 or 17 in full-time education or full-time training or with a disability who cannot support themselves.²³⁷

Childcare supports

Part 3 of the *Civil Law (Miscellaneous Provisions) Act 2022*²³⁸ amends the Childcare Support Act 2018 to add beneficiaries of temporary protection to the categories of

²³⁴ Department of Social Protection (2022). 'Social welfare supports for those arriving from Ukraine under the EU Temporary Protection Directive', 7 March and updated, www.gov.ie.

²³⁵ Department of Social Protection (2022). 'Minister Humphreys announces the opening of 3 new city centre hubs to support Ukrainian families', press release, 17 March, www.gov.ie.

²³⁶ Correspondence with Department of Social Protection; EMN (2022). *Access to services for beneficiaries of temporary protection*, EMN Inform, www.emn.ie.

²³⁷ Department of Social Protection (2022). 'Social welfare supports for those arriving from Ukraine under the EU Temporary Protection Directive', 7 March and updated, www.gov.ie.

²³⁸ Act No. 19 of 2022.

persons who may apply for financial support under the national Affordable Childcare Scheme.²³⁹ This was commenced on 26 July 2022.²⁴⁰

Data-sharing agreement

Part 5 of the *Civil Law (Miscellaneous Provisions) Act 2022* provides for a legal base for sharing of personal data for the purpose of an immigration enactment and a social welfare enactment.²⁴¹ Section 42 of the Act allows personal data to be collected for the purpose of a relevant immigration enactment, a relevant social welfare enactment, or both. The definition of a ‘relevant immigration enactment’ includes section 60 of the *International Protection Act 2015*. This provision was enacted to provide a legal base for the sharing of data between the Department of Justice and the Department of Social Protection for the purpose of the single service point set up to provide arrivals from Ukraine with temporary protection, PPSNs and income supports.²⁴²

5.2.6 Medical care

As reported above, section 60(10)(b) of the *International Protection Act 2015* provides that beneficiaries of temporary protection are entitled to medical care at the same level as Irish citizens. This includes access to public hospitals, mental health supports in the public system, community care (e.g., vaccinations) and access to a general practitioner (GP).²⁴³

A simplified and streamlined application process was developed to provide automatic eligibility for a medical card for BOTPs for their first year after arrival. Upon renewal of the medical card, beneficiaries will be means tested in line with standard application procedures. By the end of 2022, 51,650 medical cards had been awarded to beneficiaries. A simplified application form was made available by the HSE.²⁴⁴

The medical card allows for access to public healthcare services in Ireland, including primary healthcare services available from a GP, free of charge.²⁴⁵

The HSE also provided an interim health service support at Dublin Airport and other ports of entry, and then at Citywest when the single service point moved. This service provided:

²³⁹ Amendment to section 7 (1) (b) of the *Childcare Support Act 2018* inserted by section 25 (a) of the *Civil Law (Miscellaneous Provisions) Act 2022*; Amendment to section 15 (2) (c) of the *Childcare Support Act 2018* inserted by section 25 (b) of the *Civil Law (Miscellaneous Provisions) Act 2022*.

²⁴⁰ *Civil Law (Miscellaneous Provisions) Act 2022 (Parts 2 and 3) (Commencement) Order 2022* [S.I. No. 374/2022].
²⁴¹ Act No. 19 of 2022.

²⁴² *Civil Law (Miscellaneous Provisions) Bill 2022*, Explanatory Memorandum, www.oireachtas.ie.

²⁴³ Correspondence with the Department of Health, June 2023.

²⁴⁴ HSE UKR medical card application form, www.hse.ie.

²⁴⁵ Family doctors, also called general practitioners (GPs); nurses; community care services (e.g., physiotherapy, speech therapy); hospital or emergency services; children’s health services; mental health services; disability services; and pregnancy services. See UKR medical card application form, www.hse.ie.

- immediate medical assessment/provision of prescriptions for existing conditions
- management of minor ailments and first-aid requirements
- identification of immediate complex health issues which require pathways into secondary acute or community services.

Access to GP services was also provided for beneficiaries of temporary protection living in emergency accommodation.²⁴⁶

An introduction to the Irish health service was made available on the HSE website, and translated into Ukrainian and Russian. HSE Live, the HSE contact service for the general population, employed Ukrainian staff to provide support with information on the health service. The HSE also published multilingual aids in Ukrainian and Russian to help individuals to communicate when accessing emergency health services.²⁴⁷

The HSE developed a programme to deliver age-appropriate catch-up immunisations for all refugees, including displaced persons from Ukraine, and international protection applicant children and young adults up to the age of 23 years, in line with the Irish Primary Childhood Immunisation Schedule. This programme was developed in recognition that these groups are vulnerable to vaccine-preventable diseases due to a lack of healthcare or interrupted care in their country of origin, compounded by increased exposure to disease in transit and risk of outbreaks in congregated living arrangements in the host country.²⁴⁸

5.2.7 Education

Access to education for minors

Section 60 (10) (a) of the *International Protection Act 2015* provides that beneficiaries of temporary protection are entitled to access education and training in the State on the same basis as Irish citizens.²⁴⁹

Regional Education and Language Teams (REALT) were established by the Department of Education in March 2022. The purpose of REALT is to support existing structures in supporting the needs of Ukrainian children accessing education. The REALT are hosted by the 16 existing Education and Training Boards (ETBs) across the country. The primary role of REALT is to assist in allocating children to school places, and to support schools

²⁴⁶ Department of Health (2022). 'Update on medical humanitarian support to Ukraine – 1 April 2022', press release, 1 April, www.gov.ie.

²⁴⁷ HSE (n.d.), 'Healthcare services for Ukrainian nationals in Ireland', <https://www2.hse.ie/services/healthcare-in-ireland/ukrainian-refugees.html>.

²⁴⁸ Correspondence with Department of Health, June 2023.

²⁴⁹ NB: In addition, under the *Education (Admission to Schools) Act 2018*, a school must admit all students where it is not oversubscribed and places are available.

in meeting the needs of children as they arise. Ukrainian families may enrol their children in schools as per usual practice; however, REALT are available to assist families where difficulties arise such as a lack of school capacity.

REALT have a role in coordinating the following work areas:

- Aligning current school capacity with the placement of Ukrainian families;
- Identifying additional capacity within their geographic areas to prepare for situations where demand may exceed available school capacity, and work with the Department of Education and other organisations to make additional capacity available;
- Assisting families and schools with accessing information on school places for Ukrainian children;
- Assisting families and schools with signposting resources and supports for wellbeing, educational needs and materials to support learners with English as an additional language;
- Assisting with the supply of English speakers of other languages (ESOL) tutors. For the academic year 2022–2023, a total of 2,054 schools (primary and post-primary) received new English as an additional language (EAL) resources. EAL resources are provided for all pupils/students, regardless of nationality, who arrived in Ireland within the previous two years with an EAL requirement;²⁵⁰
- Providing resources and guidance on how to support children from Ukraine with special educational needs who may need to access a special class or special school placement. For the year 2022, 386 schools received a total of 3,935 special education teaching hours. This represents the provision of an additional 165.5 additional special education teachers (whole-time equivalent) to schools; and
- Liaising with other local coordinating structures that may be established for the delivery of public services for Ukrainian families.²⁵¹

A range of additional teaching resources and guidelines were also designed during 2022 to assist schools to support new pupils coming from Ukraine.²⁵² These include teaching resources for culturally and linguistically diverse learners, and guidelines on critical incident response and supporting pupils who have suffered bereavement through conflict or war. These bereavement guides are also available in Ukrainian and Russian.²⁵³ Guidance on extra supports for students with special education needs were also

²⁵⁰ Correspondence with Department of Education, October 2023.

²⁵¹ Department of Education (2022). 'Minister Foley announces establishment of Regional Education and Language Teams for Ukraine', press release, 25 March, www.gov.ie.

²⁵² Department of Education (n.d.). 'Information for schools – Ukraine', www.gov.ie.

²⁵³ *Supporting children and young people from Ukraine; Stages of grief; How to cope; Reactions to critical incidents; Reaction to death; Reintegration of the bereaved child in school*, www.gov.ie.

published, including how schools could access extra special education teaching and special needs assistant hours depending on needs.²⁵⁴

The National Educational Psychological Service (NEPS) developed a wide range of resources on how to support the psychological wellbeing of students coming from Ukraine for both primary and post-primary level.²⁵⁵

Some resources are also targeted at parents and students themselves. NEPS published *Guidance for parents and carers from Ukraine on supporting the wellbeing of their children*, also available in Russian and Ukrainian. Information on the REALT and accessing school places was made available in Ukrainian and Russian too, as were information guides on language used in the Irish school system,²⁵⁶ aspects of the Irish school system,²⁵⁷ and the Ukraine school system for schools.²⁵⁸

Access to education for adults

National Student and Researcher helpdesk

In May 2022, the Minister for Further and Higher Education, Research, Innovation and Science announced the establishment of the National Student and Researcher (NSR) helpdesk to assist students and researchers displaced from Ukraine seeking to continue higher education in Ireland. The helpdesk was hosted by Maynooth University, with funding from DFHERIS.²⁵⁹

In July 2022, the NSR helpdesk launched an online application system for beneficiaries of temporary protection in Ireland to apply to higher education institutions for the 2022/2023 academic year. The NSR application desk was a single point for all applications from students displaced from Ukraine seeking places for the 2022/2023 academic year. Applicants were required to have a temporary permission letter issued by the Department of Justice and to be currently living in Ireland. They could apply for up to three higher education institutions in order of choice, nominating a maximum of two courses in each. Proof of English language proficiency was a requirement of all higher education institutions. Applicants also submitted their prior academic records to support their application. The NSR helpdesk had Ukrainian speaking advisors in place to assist applicants. The NSR helpdesk processed applications, which were then assessed

²⁵⁴ Department of Education (2022). *Supports for children from Ukraine with special educational needs*, August, www.gov.ie.

²⁵⁵ Department of Education (2022). *Supporting the wellbeing of children from Ukraine in your school – Primary and post-primary*, 25 March, www.gov.ie; Department of Education (2022). *Supporting children and young people in a time of war – Advice for school staff primary/post-primary*, 7 March, www.gov.ie; Department of Education (2022). *Supporting children and young people in a time of war – Advice for parents/guardians*, www.gov.ie.

²⁵⁶ Department of Education (n.d.). *Information for pupils/students and parents/guardians – languages*.

²⁵⁷ Department of Education (n.d.). 'Information on transition year for parents/guardians – Infographic'; Government of Ireland (n.d.). 'Information on ECCE and primary school systems in Ireland – Infographic', www.gov.ie.

²⁵⁸ Department of Education (n.d.). *Ukraine education system*, www.gov.ie.

²⁵⁹ Department of Further and Higher Education, Research, Innovation and Science (2022). 'Minister Harris announces central helpdesk for Ukrainian people seeking access to third level education', press release, 2 May, www.gov.ie.

by higher education institutions, following which they made offers directly to applicants by email.²⁶⁰

Temporary Tuition Fee Support Scheme

In June 2022, government approval was obtained for a range of measures to ensure that students displaced from Ukraine living in Ireland would be treated on the same basis as EU students and would not be subject to international fees.²⁶¹

One of these initiatives was the Higher Education Temporary Tuition Fee Support Scheme for Displaced Persons (Ukraine) 2022/23. This scheme applied for the 2022/2023 academic year to both beneficiaries of temporary protection residing in Ireland and Irish students who had been studying in Ukraine. The scheme provides EU tuition fee supports for full-time undergraduate and postgraduate courses in approved institutions and approved transition schemes.

Fee support is not provided for undergraduate students who already hold a qualification on Level 8 of the National Framework of Qualifications (honours bachelor's degree), or for postgraduate students who already hold a postgraduate qualification.²⁶² Such students, however, only need to pay EU fees, rather than international fees, in line with the earlier Government decision.

Post-Leaving Certificate Bursary Scheme

In September 2022, the Minister for Further and Higher Education, Research, Innovation and Science announced the Post-Leaving Certificate (PLC) Bursary Scheme for Displaced Persons (Ukraine) 2022, to help beneficiaries of temporary protection to access further education and training.

Through the scheme, beneficiaries of temporary protection registered in Ireland can access PLC courses and financial support to attend the courses. The financial support is available on a temporary basis for one year for participation in approved PLC courses in the academic years 2022/2023 and 2023/2024. The bursary of €6,115 is paid in nine monthly instalments²⁶³ and is not means tested.²⁶⁴

²⁶⁰ 'National student and researcher helpdesk FAQ', updated September 2022, <https://files.pac.ie/public/organisation-23/FAQs-for-PAC-portal-PC-9PCW9G3-NSR-Application-Desk.pdf>.

²⁶¹ Department of Further and Higher Education (2022). 'Minister Harris announces new measures to provide access to further and higher education for displaced Ukrainian students', press release, 21 June, www.gov.ie.

²⁶² Department of Further and Higher Education (2022). 'Higher Education Temporary Tuition Fee Support Scheme for Displaced Persons (Ukraine) in academic year 2022/23 – Criteria', 5 September, <https://assets.gov.ie>.

²⁶³ Department of Further and Higher Education (2022). PLC Bursary for Displaced Persons (Ukraine) Scheme 2022: Your questions answered', 17 August, www.gov.ie.

²⁶⁴ Department of Further and Higher Education (2022). 'Minister Harris announces new measures to provide access to further and higher education for displaced Ukrainian students', press release, 21 June, www.gov.ie.

PLC courses are further education and training courses which focus on technical knowledge, core skills and work experience, with many leading to an industry-recognised qualification. They can also provide an alternative route to higher education. PLC courses are available in schools, colleges and community education centres throughout the country.²⁶⁵

5.2.8 Labour market and employment services

Beneficiaries of temporary protection in Ireland are entitled to direct access to the labour market. The Temporary Protection Directive is transposed into Irish law via section 60 of the *International Protection Act 2015*. Section 60 (10) (a) provides that beneficiaries of temporary 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.

Beneficiaries of temporary protection have access to the range of supports provided by the Irish public employment service (Intreo) administered by the Department of Social Protection. Ukrainian-speaking staff have been employed in Intreo offices.

Beneficiaries of temporary protection seeking employment can directly upload details of their skills and experience for matching with available job opportunities, on www.jobsireland.ie. Information material is available in Ukrainian and Russian. Employers may also register on www.jobsireland.ie to advertise vacancies. Intreo then matches jobs advertised with those seeking employment.²⁶⁶

5.2.9 Recognition of qualifications

Ireland introduced a number of measures relating to the recognition of qualifications. Recognition of qualifications falls into two broad categories depending on how the individual plans to use their qualification: academic recognition and professional recognition.

Academic recognition

Ireland participates in the ENIC-NARIC,²⁶⁷ the European network supporting the recognition of Ukrainian qualifications. The National Academic Recognition Information Centre (NARIC) Ireland is hosted by Quality and Qualifications Ireland (QQI) and provides advice, free of charge, on the recognition of foreign qualifications by comparing it to a

²⁶⁵ Department of Further and Higher Education (2022). 'PLC Bursary for Displaced Persons (Ukraine) Scheme 2022: Your questions answered', 17 August, www.gov.ie.

²⁶⁶ Correspondence with Department of Social Protection; EMN (2022). *Access to services for beneficiaries of temporary protection*, EMN Inform, November, www.emn.ie.

²⁶⁷ European Network of Information Centres-National Academic Recognition Information Centres. NARIC Ireland operates under the Council of Europe Lisbon Recognition Convention.

major award type and level on the Irish National Framework of Qualification (NFQ)s. In September 2022, NARIC Ireland published, *Rough guide to Ukrainian qualifications in the context of the Irish National Qualifications Framework*, which aims to support the work of a broad range of stakeholders working with Ukrainian people nationally to give fair recognition to their qualifications and learning. The QQI NARIC database currently lists a range of Ukrainian qualifications, including general professional, further education and higher education qualifications, across a number of levels on the NFQ. The online database allows users to download a document comparing their qualification with the Irish NFQ. Advice on Ukrainian qualifications not listed in the NARIC database can be requested directly from QQI using an online form.²⁶⁸ Where NARIC receives a request for the recognition of a previously unlisted qualification, once it is assessed, it is added to the list of published qualifications. The NARIC service also helps to inform employers if an applicant holds the academic qualifications necessary for a particular job or employment opportunity.

Professional recognition

Where a profession is unregulated, there is no formal barrier to prevent someone from continuing to practice their profession in Ireland. However, where a profession is regulated, the decision to recognise qualifications, and to register to practice, rests with the appropriate regulator.

Ireland has over 45 competent authorities covering a wide range of professions. Many of these authorities have already reached out to the Ukrainian community and have published dedicated material on their websites to assist Ukrainians who are now seeking to practice their profession in Ireland. DFHERIS has been providing ongoing support to this work by sharing best practice material alongside toolkits and resources developed by the EU and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to assist in dealing with cases where refugees do not have complete evidence or documentation of their qualifications. This includes Recommendation (EU) 2022/554 concerning the recognition of qualifications for people fleeing Russia's invasion of Ukraine. The recognition process is in line with this recommendation and the Commission's published guidelines.²⁶⁹

To further support individuals seeking the recognition of their qualifications, a list of regulated professions in Ireland, their corresponding competent authority and the relevant contact information for each authority are all available on the Government's website.²⁷⁰

²⁶⁸ QQI (2022). 'QQI supports for displaced Ukraine nationals', 11 March, www.qqi.ie.

²⁶⁹ QQI (2022). 'QQI supports for displaced Ukraine nationals', 11 March, www.qqi.ie; Department of Education (2022). 'Response to parliamentary question 29977/22', 14 June, www.oireachtas.ie.

²⁷⁰ See Department of the Taoiseach (2023). 'Employment, childcare and education', 10 March 2022, www.gov.ie.

Below is a sample of measures introduced by some of the professional authorities in Ireland to support Ukrainian professionals accessing the labour market:

- creating a direct email support link and dedicated supports on websites with guidance for Ukrainian professionals;
- translating guidance; and
- providing appropriate continuing professional development free of charge in accountancy areas to support Ukrainians adapting to a new environment.

In addition, the Teaching Council in Ireland developed a tailored registration process to support the registration of teachers qualified in Ukraine who are beneficiaries of temporary protection.^{271,272} The sequencing of the registration process has been modified for Ukrainian teachers. Qualifications are assessed following initial registration. The vetting and police clearance processes have also been adjusted.²⁷³

5.2.10 Civil society response

There was a significant civil society response to the arrival of Ukrainian refugees in communities across Ireland. Groups from across the non-governmental and community sectors provided frontline services to support new arrivals,²⁷⁴ many using their own capacity or existing funding streams, private/philanthropic funding,²⁷⁵ as well as government funding for the purpose (see below). These were coordinated by Community Response Forums, which had been set up in each local authority for the COVID-19 response and were repurposed for the Ukrainian response to support coordination.²⁷⁶

In addition to this local-level coordination, the Ukraine Civil Society Forum was established in March 2022 as a short-term initiative by civil society organisations working collectively to support the emergency response and welcome of persons displaced from Ukraine. There are 90 participating organisations.²⁷⁷ The forum shares information, tries to avoid duplication, identifies gaps in service provision, works to share solutions and escalate issues to Government where necessary, and engages with

²⁷¹ The Teaching Council is the regulatory body which is designated as the competent authority within the State for the assessment and recognition of teaching qualifications from EU and third-country applicants.

²⁷² This takes account of the 'Guidelines on the recognition of professional qualifications of people fleeing from the war in Ukraine' published by the European Commission, as well as the legislative underpinning of teaching qualifications in Ireland: *Professional Qualifications Directive (EU Directive 2005/36/EC, as amended; EU (Recognition of Professional Qualifications) Regulations* [S.I. 8 of 2017]; *Teaching Council Acts 2001–2015*, the *National Vetting Bureau (Children and Vulnerable Persons) Act 2012*; and *Teaching Council (Registration) Regulations 2016*.

²⁷³ Teaching Council (n.d.). 'The Teaching Council tailored registration process for qualified Ukrainian teachers', www.teachingcouncil.ie.

²⁷⁴ DHLGH and DRCD (2022). 'Community Response Forum in each area to coordinate local measures welcoming Ukrainians', press release, 4 April; Ukraine Civil Society Forum (2022). 'Certainty, stability and integration: A briefing paper on responses to people fleeing Ukraine'.

²⁷⁵ Correspondence with ICI, November 2023.

²⁷⁶ DHLGH and DRCD (2022). 'Community Response Forum in each area to coordinate local measures welcoming Ukrainians', press release, 4 April.

²⁷⁷ Correspondence with ICI, November 2023.

the media.²⁷⁸ The Immigrant Council of Ireland (ICI) hosts the forum, funded by Community Foundation Ireland and the Sunflower Foundation. The forum is organised around seven clusters, overseen by a core group comprised of the chairs of each cluster and two representatives of the Ukrainian community in Ireland. The clusters are:

- Accommodation, chaired by Irish Refugee Council (IRC)
- Community Response, chaired by Community Work Ireland
- Health and Mental Health, chaired by Cairde
- Trafficking and Gender-based Violence, chaired by ICI
- Employment, Training and Further Education, chaired by the Open Door Initiative
- Refugee Information and legal issues, chaired by ICI
- Children and Young People and Education, chaired by the Childrens' Rights Alliance (CRA).²⁷⁹

5.2.11 Other developments

Relocations from Moldova

In March 2022, the Government decided to accept up to 500 persons who had fled Ukraine to Moldova to help relieve the pressure on Moldova.²⁸⁰ The identification of BOTPs interested in relocating to Ireland was managed by the United Nations High Commissioner for Refugees (UNHCR) and IOM in Moldova, working with DCEDIY and the Department of Justice to arrange for travel and accommodation.²⁸¹ By end December 2022, 38 people had been successfully transferred from Moldova.²⁸²

Driving licences

To enable Ukrainians resident in Ireland to drive here, the Minister for Transport signed an Order in April 2022,²⁸³ which enabled holders of a temporary protection permission under the *International Protection Act 2015* to exchange their Ukrainian driving licence for an Irish driving licence on a temporary basis. The Irish licence was valid for 12 months and applied to cars only.²⁸⁴ These changes were required because BOTPs became residents on arrival in Ireland, meaning that they could not use their Ukrainian (non-EEA) driving licences to drive in Ireland.

²⁷⁸ Correspondence with ICI, November 2023.

²⁷⁹ See ICI (n.d.). 'Ukraine Civil Society Forum', www.immigrantcouncil.ie.

²⁸⁰ Department of the Taoiseach (2022). 'Government statement on Ukraine – 15 March 2022', 15 March, www.gov.ie.

²⁸¹ DCEDIY (2022). 'Response to parliamentary question 33147/22', 22 June, www.oireachtas.ie.

²⁸² Correspondence with Department of Justice, June 2023.

²⁸³ *Road Traffic (Recognition of Foreign Driving Licences) (Ukraine) Order 2022* [S.I. No. 192/2022], 22 April 2022.

²⁸⁴ Department of Transport (2022). 'Minister Ryan announces measures to allow Ukrainian licence holders to drive in Ireland', press release, 22 April, www.gov.ie.

To provide a longer-term solution, the Road Traffic Acts were amended by the *Civil Law (Miscellaneous Provisions) Act 2022*;²⁸⁵ this allowed, by order, for the recognition of driving licences held by BOTPs registered in Ireland. When an order is made under the Act, the driving licence will be recognised for the duration of the temporary protection. The new provisions also allow for a legal base for recognition of driving licences issued by non-EEA States in the event of a future situation of temporary protection.²⁸⁶ These provisions were commenced from July 2022.²⁸⁷ On the same date, the April 2022 Order permitting the exchange of Ukrainian driving licences for Irish driving licences was revoked as it was no longer required.²⁸⁸

In September 2022, the Minister for Transport made an Order on the foot of this change,²⁸⁹ recognising a Ukrainian driving licence held by BOTPs registered in Ireland for the duration of their permission.²⁹⁰ If an Irish driving licence had already been obtained in exchange for a Ukrainian licence, it remained valid for 12 months. However, beneficiaries of temporary protection could return the Irish licence and reclaim their original Ukrainian licence.²⁹¹

Transport

The Connecting Ireland Rural Mobility Plan aims to ensure that settlements over a certain size can connect to the national public transport system, expand the Transport for Ireland (TFI) Local Link rural transport service, and prioritise public transport projects that enhance regional and rural connectivity. During Phase 1 in 2022, routes identified through the Connecting Ireland consultation process were prioritised to provide emergency public transport services to those beneficiaries housed in rural or isolated locations to ensure better access to local communities. This was achieved through an acceleration of network improvements, including additional stops, route modifications, and more frequent services with the aim to increase connectivity.

In addition, funding was provided by the National Transport Authority in 2022 for community once-off funding for BOTPs. This ‘once-off’ non-regular public transport provision was to alleviate a gap in transport service that could lead to social exclusion or undue hardship for BOTPs. Examples of such services could include community welcome days, intercultural local events, job fairs and access to essential services or supplies.²⁹²

²⁸⁵ Act No. 19 of 2022.

²⁸⁶ Dáil Éireann (2022). *Second Stage Debate Civil Law (Miscellaneous Provisions) Bill 2022*, Minister of State at the Department of Transport, 1 July, www.oireachtas.ie.

²⁸⁷ *Civil Law (Miscellaneous Provisions) Act 2022 (Parts 6 and 7) (Commencement) Order 2022* [S.I. No. 390/2022], 27 July 2022.

²⁸⁸ *Road Traffic (Recognition of Foreign Driving Licences) (Ukraine) (Revocation) Order 2022* [S.I. No. 391/2022], 27 July 2022.

²⁸⁹ *Road Traffic (Recognition of Foreign Driving Licences Held by Relevant Persons) (Ukraine) Order 2022* [S.I. No. 434/2022].

²⁹⁰ Issued under section 60(6) of the *International Protection Act 2015*.

²⁹¹ Road Safety Authority (2022). ‘FAQs for driving in Ireland: A guide for Ukrainian drivers’, 16 December, www.rsa.ie.

²⁹² Correspondence with the Department of Transport, October 2023.

Funding

Several funding schemes have been put in place for organisations supporting arrivals from Ukraine. This included an additional €10.5 million in funding for the community response announced in June (€5 million for the Social Inclusion and Community Activation Programme (SICAP), €5 million for the ‘Ireland for Ukraine Fund’ administered by Community Foundation Ireland, and €500,000 for volunteer centres),²⁹³ and an additional €10 million extra funding to the Social Inclusion and Community Activation Programme (SICAP 2018–2023);²⁹⁴ the latter, announced in December, sought to enable Local Development Companies to support arrivals to Ukraine while maintaining normal SICAP service delivery.²⁹⁵ Community Foundation also raised additional funds through a public appeal.²⁹⁶

Another funding initiative was the Healthy Ireland Ukrainian Resilience Fund, a €1 million once-off funding from the Department of Health and the Department of Housing and Local Government announced in December 2022. It was designed to support projects developed by Local Authority Community Response Forums, in line with the aims of *Healthy Ireland – A framework for improved health and wellbeing, 2013–2025*. Funding was distributed between 30 local authorities and the projects were selected by local authorities and local partners based on local needs. The projects focus on recreational, physical, social and cultural activities, as well as some therapeutic interventions to support people coping with war and displacement.²⁹⁷ Ireland also opted to participate in Regulation 2022/585, which was adopted by the EU on 6 April 2022 as an emergency measure to address the significant increase in demand for the Asylum, Migration and Integration Fund (AMIF) supports as a result of the war in Ukraine, with the European Commission confirming Ireland’s participation in October 2022.²⁹⁸ Ireland was bound by the Regulation from 14 July 2022.²⁹⁹ This Regulation extended the AMIF

²⁹³ Department of Rural and Community Development (2022). ‘Ministers Humphreys and O’Brien announce an additional €10.5 million funding for the community response to support people arriving from Ukraine’, press release, 1 June, www.gov.ie.

²⁹⁴ SICAP, the government’s primary social inclusion programme, ‘aims to reduce poverty and promote social inclusion and equality through supporting communities and individuals via community development, engagement, and collaboration’. SICAP is funded by the Department of Rural and Community Development and co-funded by the European Social Fund (ESF) under the Programme for Employability, Inclusion and Learning (PEIL) 2014–2021. SICAP is managed at a local level by 33 Local Community Development Committees (LCDCs), with support from local authorities. The programme is implemented nationally by 46 Local Development Companies (LDCs) across 51 areas.

²⁹⁵ Department of Rural and Community Development (2022). ‘Minister Joe O’Brien announces funding of €10 million for social inclusion programme to support people arriving from Ukraine’, press release, 15 December, www.gov.ie.

²⁹⁶ Correspondence with Immigrant Council of Ireland, November 2023.

²⁹⁷ Irish Government News Service (2022). ‘Department of Health and Department of Housing, Local Government and Heritage announce €1 million for initiatives to support the health and wellbeing of Ukrainian refugees’, press release, 28 December, www.merriionstreet.ie.

²⁹⁸ Regulation (EU) 2022/585 of the European Parliament and of the Council of 6 April 2022 amending Regulations (EU) No 514/2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund and (EU) 2021/1147 establishing the Asylum, Migration and Integration Fund, www.eur-lex.europa.eu.

²⁹⁹ Commission Decision (EU) 2022/1928 of 11 October 2022 confirming the participation of Ireland in Regulation (EU) 2022/585 of the European Parliament and of the Council amending Regulations (EU) No 514/2014 laying down general

programme 2014–2022 and allowed Member States to repurpose unused funds under any heading to use to provide additional supports to organisations involved in supporting Ukrainian refugees.³⁰⁰ After Ireland’s opt-in to the Regulation, a closed call for proposals was held,³⁰¹ with 14 projects successfully securing funding of over €1.6 million.³⁰²

5.3 RESEARCH

5.3.1 Ukraine Civil Society Forum briefing paper

The Ukraine Civil Society Forum published a briefing paper on responses to people fleeing Ukraine. In this paper, they made multiple recommendations in relation to the response to the Ukrainian displacement. While commending the Government’s leadership, they raised serious concerns about the inconsistency of approach to people seeking refuge from other parts of the world, in particular situations where resources are for Ukrainian children only, for example. Key recommendations included the appointment of a national refugee response lead, establishing a national coordination group, publishing a plan that articulates the State’s approach, and ensuring that all counties have appointed a director of service. Other key recommendations included mandating the Housing Agency to drive development of medium-term accommodation for refugees, establishing a refugee agency, and urgently resourcing welfare and integration.

provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund and (EU) 2021/1147 establishing the Asylum, Migration and Integration Fund, www.eur-lex.europa.eu.

³⁰⁰ Dáil Éireann (2022). ‘Asylum, Migration and Integration Fund: Motion’, Dáil Éireann Debate, 12 July, www.oireachtas.ie.

³⁰¹ DCEDIY (2022). ‘Response to parliamentary question 52222/22’, 19 October, www.oireachtas.ie.

³⁰² Correspondence with DCEDIY, June 2023.

CHAPTER 6

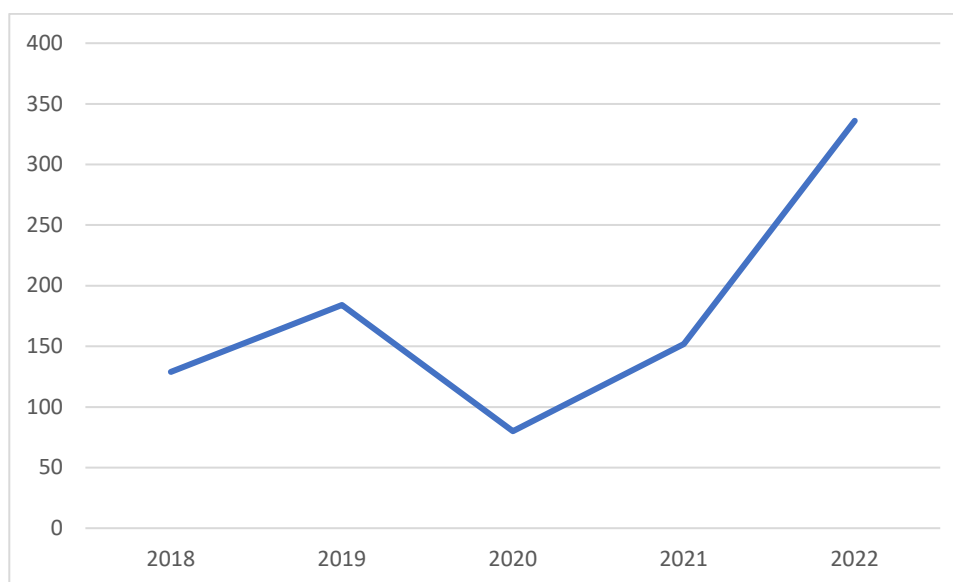
Unaccompanied minors and other vulnerable groups

6.1 STATISTICS

6.1.1 Unaccompanied minors

A total of 597 referrals of unaccompanied minors were made to Tusla, Child and Family Agency, in 2022, of which 261 were from Ukraine. Tusla provided placements for 350 children (from both groups), meaning that there were 200% more unaccompanied children in the care of Tusla at the end of 2022 versus the end of 2021.³⁰³ This represented a significant increase on previous years.

FIGURE 6.1 UNACCOMPANIED MINORS SEEKING ASYLUM REFERRED TO TUSLA, 2018–2022



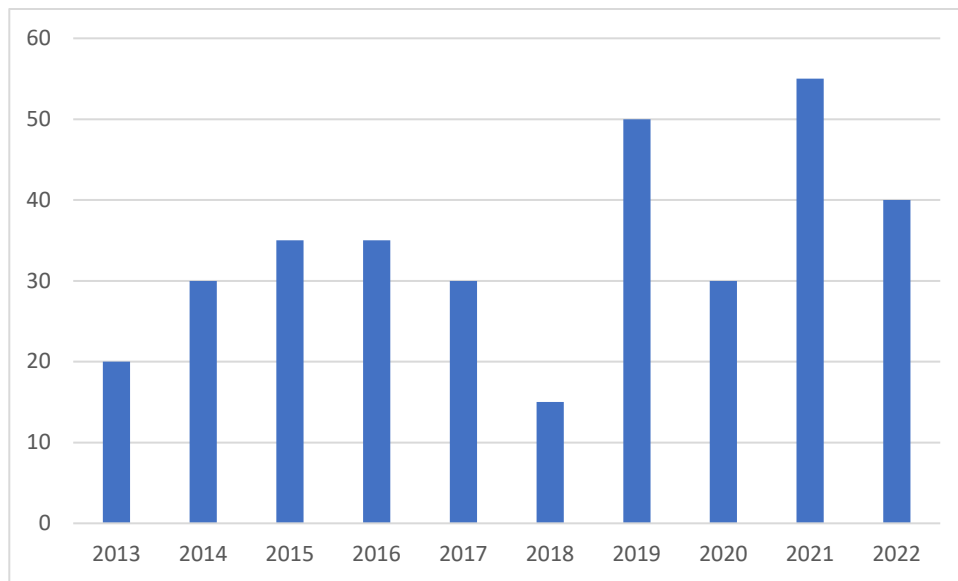
Sources: Annual reports on migration and asylum 2018, 2019 and 2021, Tusla annual reports 2020 and 2022.

Note: For 2022, the figure used is the total unaccompanied minors referred to Tusla minus those from Ukraine, for comparability.

On the other hand, according to rounded Eurostat data, the number of applicants for international protection who were classified as unaccompanied minors fell to 40, a decrease from the 2021 high of 55 (see Figure 6.2), which was explained by an increase from of unaccompanied minors (UAMs) from Afghanistan. Over one-third of UAM international protection applicants in 2022 were from Afghanistan and another third were from Somalia.³⁰⁴

³⁰³ Tusla (2023). *Annual report and financial statements 2022*, www.tusla.ie.

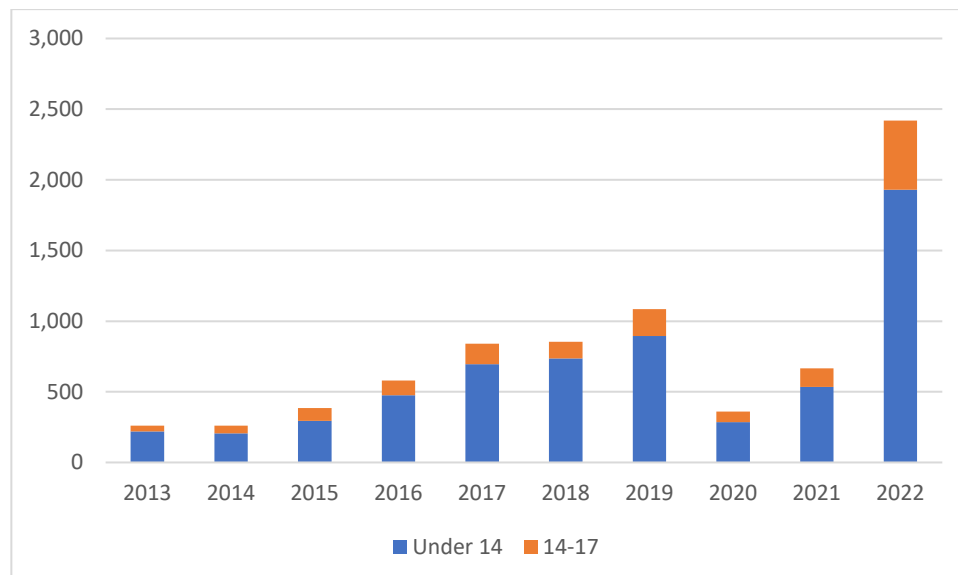
³⁰⁴ Eurostat (2023). 'Asylum applicants considered to be unaccompanied minors by citizenship, age and sex – Annual data', extracted 24 August 2023.

FIGURE 6.2 INTERNATIONAL PROTECTION APPLICANTS CLASSIFIED AS UAMS, 2013-2022

Source: Eurostat (2023). 'Asylum applicants considered to be unaccompanied minors by citizenship, age and sex – Annual data', extracted 24 August 2023.

6.1.2 Children in the international protection process

According to Eurostat, there were 2,420 child applicants for international protection in 2022 in Ireland. As shown in Figure 6.3, the majority (80%) of these were under 14, similar to previous years. At the end of the year, 2,460 children had international protection applications pending.³⁰⁵

FIGURE 6.3 FIRST-TIME APPLICANTS FOR INTERNATIONAL PROTECTION UNDER 18, 2013-2022

Source: Eurostat (2023). 'Asylum applicants by type of applicant, citizenship, age and sex – annual aggregated data', extracted 24 August 2023.

³⁰⁵ Eurostat (2023). 'Persons subject of asylum applications pending at the end of the month by citizenship, age and sex – Monthly data', extracted 24 August 2023.

6.2 DEVELOPMENTS

6.2.1 National domestic, sexual and gender-based violence strategy

The Government published the *Third National Strategy on Domestic, Sexual and Gender-Based Violence* in June 2022.^{306,307} The Strategy identifies groups, including migrants, undocumented migrants, refugees and international protection applicants, and victims of trafficking, that may require additional inclusion measures to address domestic, sexual and gender-based violence,³⁰⁸ and ‘acknowledges the additional risk factors created by overlapping forms of discrimination’.³⁰⁹ The Strategy takes an intersectional approach.³¹⁰

The implementation plan accompanying the Strategy is structured around four pillars: prevention, protection, prosecution and policy coordination.³¹¹ One action under the protection pillar is to ‘apply gender-specific guidelines and a gender sensitive interpretation of the International Protection Act 2015 as per Article 60³¹² and 61³¹³ of the Istanbul Convention in relation to refugees and asylum seekers’.

The Immigrant Council of Ireland (ICI) welcomed the recognition of the specific vulnerabilities of migrant women in situations of domestic violence that was contained in the strategy, and also welcomed the recognition of human trafficking and prostitution as forms of gender-based violence.³¹⁴

6.2.2 Proposed changes to naturalisation of minors

Draft legislation was published in September 2022 and passed committee stage in November 2022,³¹⁵ which included an amendment to the *Irish Nationality and Citizenship Act 1956* to reduce the residence requirement for naturalisation of minors

³⁰⁶ Government of Ireland (2022). *Zero tolerance: Third national strategy on domestic, sexual, and gender-based violence 2022–2026*, June, www.gov.ie.

³⁰⁷ Government of Ireland News Service (2022). ‘Government publishes Zero Tolerance strategy to tackle domestic, sexual and gender-based violence’, press release, June, www.merrionstreet.ie.

³⁰⁸ Government of Ireland (2022). *Zero tolerance: Third national strategy on domestic, sexual, and gender-based violence 2022–2026*, June, www.gov.ie.

³⁰⁹ Government of Ireland (2022). *Zero tolerance: Third national strategy on domestic, sexual, and gender-based violence 2022–2026*, June, executive summary, p. 19, www.gov.ie.

³¹⁰ *Ibid.*, p. 12.

³¹¹ Government of Ireland (June 2022). *Third national strategy on domestic, sexual and gender-based violence – Implementation plan*, June, www.gov.ie.

³¹² Article 60 relates to gender-based asylum claims.

³¹³ Article 61 relates to non-refoulement.

³¹⁴ Immigrant Council of Ireland (2022). ‘Immigrant Council of Ireland welcomes recognition of vulnerable migrant women in new national strategy on domestic gender-based violence’, press release, www.immigrantcouncil.ie.

³¹⁵ *Courts and Civil Law (Miscellaneous Provisions) Bill 2022* (Bill 84 of 2022), www.oireachtas.ie.

from five to three years for those born in the State.³¹⁶ It also provides for a clear and specific application procedure for naturalisation of a minor. See also Section 7.2.1.

6.2.3 Changes to vulnerability assessments

In light of the capacity issues that arose due to the accommodation crisis, the International Protection Accommodation Service (IPAS) made changes for their vulnerability assessment procedure. These changes mean that vulnerability assessment questionnaires are made available to applicants in their accommodation centres and online.³¹⁷ See Section 4.2.2 for further details.

6.2.4 Extension of remit of REALTs to IPAS centres

The remit of the Regional Education and Language Teams (REALT), which were established to assist school placements for children displaced from Ukraine (see Chapter 5), was extended to include supporting applicant children in IPAS centres and children under the Irish Refugee Protection Programme (IRPP) to find school places. The Tusla Education Support Service team continue to operate with new arrivals and request supports from the REALT when needed to assist with the enrolment in schools.³¹⁸

6.2.5 International Protection Student Scheme

In September 2022, the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) published the International Protection Student Scheme (for Further and Higher Education Students) 2022–2023.³¹⁹

The student scheme provides grants, in line with the current Student Grant Scheme (SUSI), to eligible school leavers who are in the international protection system (except those at the deportation order stage) and who are either international protection applicants or leave-to-remain applicants. Applicants must have three years in the protection system. The scheme has been reviewed annually since its inception in 2014.

The scheme covers attendance at approved courses in approved institutions at post-Leaving Certificate (PLC), undergraduate and postgraduate level.

³¹⁶ It should be noted that this clause was not in the legislation initiated in September 2022, but was in the General Scheme published in 2021 and was in the legislation as amended by the Select Committee on Justice in November 2022.

³¹⁷ IPAS (2022). 'Vulnerability Assessment Pilot Programme' 27 September, www.gov.ie.

³¹⁸ Correspondence with Department of Education, May 2023.

³¹⁹ Department of Further and Higher Education, Research, Innovation and Science (2022). 'International Protection Student Scheme (for Further and Higher Education Students) 2022–2023', 26 September, www.gov.ie.

6.2.6 Removal of PLC course charges

The participant charge for PLC courses was removed for all participants (Irish nationals and migrants) from September 2022. Previously there was a participant charge of €200.³²⁰

PLC courses are full-time programmes for young people who have completed their Leaving Certificate,³²¹ as well as adults returning to education. Courses last one to two years and lead to an award on the National Framework of Qualifications at the National Framework of Qualifications (NFQ) Level 5 or NFQ level 6. They also offer an alternative route to higher education.³²²

6.2.7 Purchase of properties for vulnerable international protection applicants

As part of implementation of the White Paper on Ending Direct Provision (see Section 4.2.3), 37 properties were purchased during 2022 in order to deliver approved housing body managed and supported accommodation for vulnerable applicants.³²³

6.3 RESEARCH

6.3.1 Migrant-origin children's development

The Economic and Social Research Institute (ESRI) published a report about English language and self-concept development³²⁴ among children born in Ireland with at least one migrant parent.³²⁵ They found that children with a migrant background started school at an earlier age than those with one or both Irish parents and were much more likely to attend a DEIS school. They found that having two parents that are non-native English speakers is the main factor in vocabulary scores. Their findings indicated that there was significant progress in English language development between ages three and nine for migrant-origin children. However, they also found that children of parents who are both non-native English speakers still have lower mean reading scores at age nine. On the other hand, the wellbeing at age nine of migrant-origin children did not differ from Irish-origin children. Some migrant groups were found to have lower mean child self-concept scores. They also found that participation in team sports is associated with

³²⁰ Citizens Information (n.d.). 'Post Leaving Certificate (PLC) courses', www.citizensinformation.ie; Department of Further and Higher Education (2022). 'Minister Harris announces new scheme for displaced Ukrainians to enter further education', press release, 17 August, www.gov.ie.

³²¹ Leaving Certificate: Irish school leaving examination.

³²² Citizens Information (n.d.). 'Post-Leaving Certificate (PLC) courses', www.citizensinformation.ie.

³²³ DCEDIY (2023). 'Response to parliamentary question 17371/23', www.oireachts.ie.

³²⁴ This relates to children's sense of their intellectual, educational, physical, emotional and social characteristics and is based on children's responses to a private self-completion paper questionnaire. It is made up of 31 items, which can be divided into six subscales: happiness and satisfaction, popularity, freedom from anxiety, physical appearance and attributes, intellectual and school status and behavioural adjustment.

³²⁵ Darmody, M., F. McGinnity and H. Russell (2022). *Children of migrants in Ireland: How are they faring?*, ESRI Research Series Number 134, Dublin: Economic and Social Research Institute.

higher self-concept among children, regardless of their national, ethnic or cultural background.

6.3.2 Meeting the information needs of vulnerable migrants

Citizens Information commissioned research assessing the extent to which their information services meet the information needs of vulnerable migrants, in recognition of their role in providing information to an increasingly diverse population. They noted that 24% of clients in 2018–2019 were from outside Ireland. They showed that the most common queries raised by migrants were in relation to social welfare and noted that migrants were likely to have more complex and specialised information needs due to their varying entitlements. The research identified the following groups as particularly vulnerable: non-EU migrants; migrants’ spouses, partners and families; undocumented migrants; migrants who speak little or no English; migrants who are members of ‘visible minorities’; migrants who live in the private rental sector; and migrants leaving Direct Provision. They found information providers acknowledged that progress had been made by the Department of Justice and Department of Social Protection in their collaboration and consultation with NGOs. They recommended translation services for migrants in vulnerable situations, specialist one-to-one advice for vulnerable migrants, enhancing information and support for persons exiting Direct Provision, outreach to vulnerable migrants, improved information provision for frontline government staff and NGOs on migrants’ rights and entitlements, and training decision makers on communicating their decisions. They also made recommendations to reduce the number of migrants in vulnerable situations, including updating the Migrant Integration Strategy, streamlining the immigration registration process, regulation of private rented housing, and regularisation of undocumented migrants.

6.3.3 Migrant academic achievement gaps

Stefanie Sprong and Jan Skopek published research about academic achievement gaps by migration background among children starting school in Ireland.³²⁶ The research, based on *Growing Up in Ireland* data, shows that some disparities by migration background already exist at the start of primary school but that gaps are limited to verbal skills and that they differ widely across groups. They found that social background plays only a minor role in explaining the differences, whereas a child’s first language is a stronger predictor of disadvantages by migration background in verbal skills.

³²⁶ Sprong, S. and J. Skopek (2022). ‘Academic achievement gaps by migration background at school starting age in Ireland’, *European Societies*, Vol. 24, No. 5, pp. 580–604.

CHAPTER 7

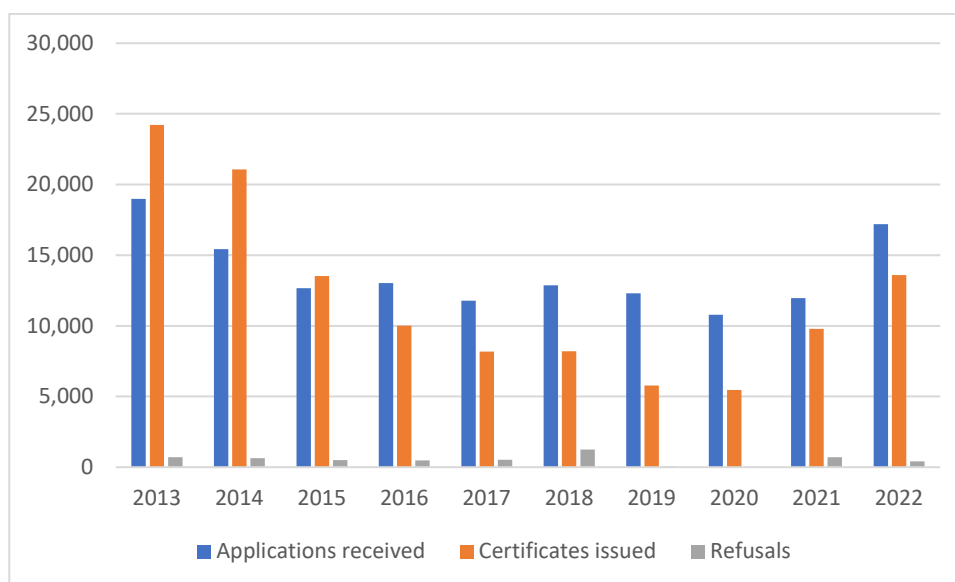
Citizenship and statelessness

7.1 STATISTICS

7.1.1 Citizenship acquisition

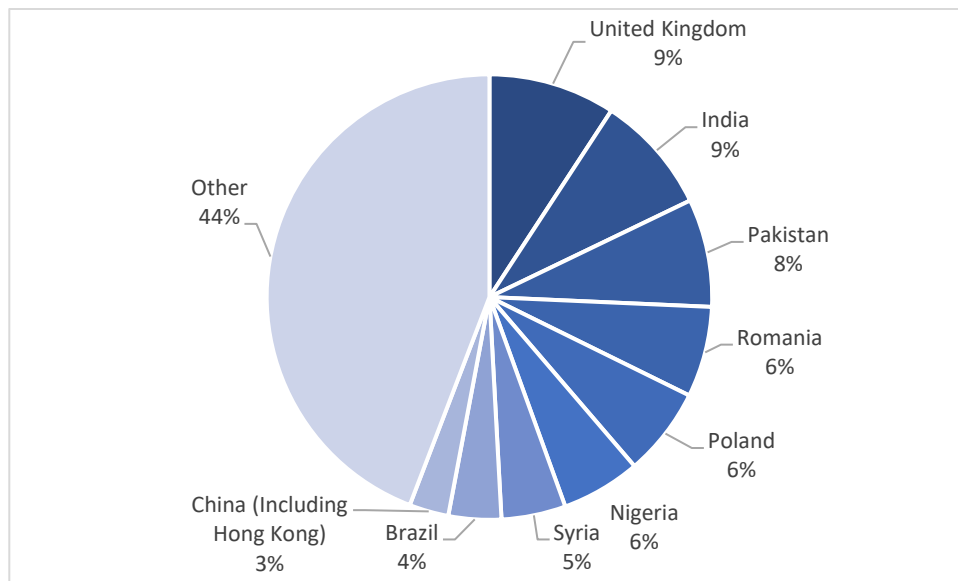
Figure 7.1 shows applications for citizenship, certificates issued and refusals in Ireland between 2013 and 2022. It shows an increase in applications in 2022, with 17,188 applications made. This is the highest since 2013 and a 44% increase from 2021. It also shows an increase in certificates issued, up 39% (to 13,605) from 2021, and a slight decrease in refusals. Certificates issued was at its highest level since 2014.

FIGURE 7.1 CITIZENSHIP APPLICATIONS, CERTIFICATES ISSUED AND REFUSALS, 2013–2022



Source: Correspondence with Department of Justice, October 2023.

Figure 7.2 shows the nationalities of those who acquired citizenship in 2022. Similar to 2022, the United Kingdom was the most common country of origin, and other countries are also similar to previous years, apart from Syria, which featured in the top ten for the first time.

FIGURE 7.2 NATIONALITIES OF THOSE WHO ACQUIRED CITIZENSHIP IN 2022

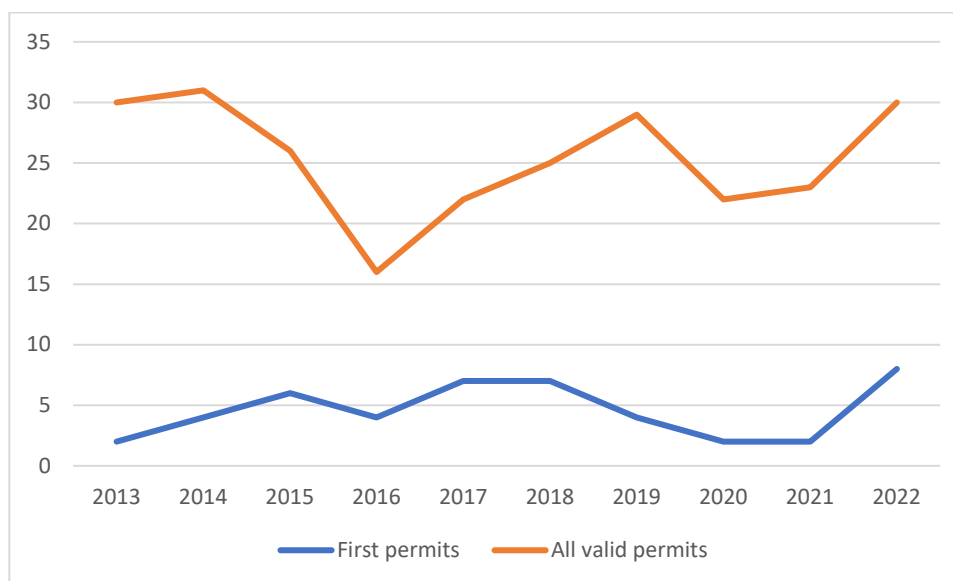
Source: Correspondence with Department of Justice, October 2023.

Processing times decreased in 2022 from their very high level in 2021 compared with prior recent years. In 2022, the average processing time was 22 months (compared with 30 months in 2021 and 14 months in 2020) and the median was 17 months (compared with 24 months in 2021 and 12 months in 2020).³²⁷

7.1.2 Statelessness

According to Eurostat, there were 8 first permits issued to persons whose nationality was recorded as stateless and 30 valid residence permits held by such persons at the end of the year. See Figure 7.3.

³²⁷ Correspondence with Department of Justice, October 2023.

FIGURE 7.3 FIRST PERMITS ISSUED AND ALL VALID PERMITS AS OF 31 DECEMBER FOR STATELESS PERSONS IN IRELAND, 2013–2022

Source: Eurostat (2023). 'All valid permits by reason, length of validity and citizenship on 31 December of each year', extracted 26 September 2023; Eurostat (2023). 'First permits by reason, length of validity and citizenship', extracted 26 September 2023.

Note: Several of the data points in this series are marked as low reliability.

United Nations High Commissioner for Refugees (UNHCR) Ireland, in their report *Mapping statelessness in Ireland*, noted the difficulty in collating statistics on statelessness in Ireland.³²⁸ This report looked at data between 2014 and 2021. They found that this collation process was challenging because different units in the Department of Justice could only provide data on different groups of stateless persons where available. This included persons registered as stateless with the Garda National Immigration Bureau (GNIB), and certificates of naturalisation awarded to stateless persons. The report noted that the Minister for Justice has stated that numbers are very low and claims of statelessness can arise at any point in the immigration and protection processes and are not centralised in a single process. With regard to stateless persons applying for asylum, the report noted that its review of case law indicated that there are more stateless persons applying for asylum than those recorded for statistical purposes by the International Protection Office (IPO) and the International Protection Appeals Tribunal (IPAT).³²⁹

³²⁸ UNHCR (2022). *Mapping statelessness in Ireland*, www.unhcr.org/ie. This report was launched on 23 May 2023.

³²⁹ UNHCR (2022). *Mapping statelessness in Ireland*, www.unhcr.org/ie, Chapter 4.

7.2 DEVELOPMENTS

7.2.1 Proposed changes to naturalisation of minors

Draft legislation was published in September 2022 and passed committee stage in November 2022,³³⁰ which included a proposed amendment to the *Irish Nationality and Citizenship Act 1956* to reduce the residence requirement for naturalisation of minors from five to three years for those born in the State.³³¹ It also provides for a clear and specific application procedure for naturalisation of a minor.

7.2.2 Proposed clarification on continuous residence

The draft legislation mentioned in Section 7.2.1 also proposes to clearly define the meaning of ‘continuous residence’ for the purpose of naturalisation. Naturalisation requires specific periods of continuous residence on the island of Ireland. The Bill proposed an amendment to the 1956 Act to clarify that during the one year of continuous residence required prior to application, a person can be absent for up to 70 days from the island for any reason, and that a person can be absent up to an additional 30 days in exceptional circumstances. Exceptional circumstances were defined as family or personal circumstances, health requirements, work or study requirements, voluntary humanitarian service, and any other circumstances that the Minister considers out of the person’s control.³³² As reported in 2021, the Law Society of Ireland welcomed this clarification as there had been confusion around the issue, but recommended that there be no upper limit placed on the exceptional circumstances clause.³³³

7.2.3 Data-sharing agreement

In February 2022, the Department of Justice published a proposed data-sharing agreement. The proposed agreement would share data about naturalisations between the Department of Justice and the Department of Foreign Affairs. This is needed because the Department of Justice issues naturalisation certificates to those who acquire Irish citizenship, on foot of which naturalised citizens can make an application to the Department of Foreign Affairs for an Irish passport. The data-sharing agreements would allow the Department of Foreign Affairs (DFA) to verify the validity of the naturalisation certificate received from the applicant.³³⁴

³³⁰ *Courts and Civil Law (Miscellaneous Provisions) Bill 2022* (Bill 84 of 2022), www.oireachtas.ie. Note that this Bill was enacted in 2023: *Courts and Civil Law (Miscellaneous Provisions) Act 2023*.

³³¹ It should be noted that this clause was not in the legislation initiated in September 2022, but was in the General Scheme published in 2021 and was in the legislation as amended by the Select Committee on Justice in November 2022.

³³² Section 7, *Courts and Civil Law (Miscellaneous Provisions) Bill 2022*, as amended in Select Committee, 22 November 2022.

³³³ Law Society of Ireland (2021). ‘Submission on the General Scheme of the Courts and Civil Law (Miscellaneous Provisions) Bill 2021’, p. 6.

³³⁴ Department of Justice and Department of Foreign Affairs (2022). ‘Proposed data sharing agreement between the Department of Justice and the Department of Foreign Affairs’, DSA for citizenship data, 10 February, www.gov.ie.

The proposed data-sharing agreement was made available for public consultation for 28 days and the finalised data-sharing agreement was published on 22 November 2022.³³⁵ This proposed data-sharing agreement was one of the first two agreements to be developed under the *Data Sharing and Governance Act 2019*.³³⁶

7.2.4 Statelessness and temporary protection

Ireland's administrative arrangements to enable Ukrainians and other qualifying third-country nationals to register for temporary protection in Ireland do not refer specifically to stateless persons, according to the Statelessness Index country survey. While guidance issued by the Department of Justice includes scope for carriers to permit access to the territory when passports are not available, it does not provide information on which documents are required for stateless and undocumented persons to enter Ireland. However, carriers have been asked to accept government-issued identity documents such as national ID cards, birth certificates, internal passports and expired passports, and Irish immigration authorities have requested that boarding is not denied to anyone without first contacting them. According to the Statelessness Index country survey, service providers in Ireland have not identified issues relating to stateless persons gaining access to the territory.³³⁷

7.2.5 Other developments

In-person citizenship ceremonies resumed during 2022, after the lifting of COVID-19 restrictions. The first two ceremonies took place in June 2022, with 950 new citizens attending.³³⁸

The new scorecard approach (reported in *Annual report on migration and asylum 2021*) to proofs of residence in citizenship applications was introduced from January 2022. The new approach gives predetermined points to different proofs of residency and identity. Applicants are required to reach a specified number of points or to provide evidence of the steps taken to obtain the needed documents.³³⁹

The terms of reference for the Single Person Committee of Inquiry for applications for naturalisation that are refused on national security grounds were revised in 2022.³⁴⁰

³³⁵ Department of Justice (2022). 'Department of Justice data sharing agreements', 22 November, www.gov.ie.

³³⁶ Department of Public Expenditure, NDP Delivery and Reform (2022). "Minister McGrath welcomes publication of first two data sharing agreements for public consultation", press release, 1 March, www.gov.ie.

³³⁷ European Network on Statelessness (2022). 'ENS Statelessness Index Survey 2022: Ireland', www.index.statelessness.eu.

³³⁸ Department of Justice (2022). 'Minister McEntee hosts first in-person citizenship ceremonies since pandemic to welcome Ireland's newest citizens', 20 July, press release, www.gov.ie.

³³⁹ Department of Justice (2023). 'Proof of residence', last updated 20 July, www.irishimmigration.ie.

³⁴⁰ See Department of Justice (2022). 'The establishment of the Single Person Committee of Inquiry', 25 November, www.irishimmigration.ie.

7.3 CASE LAW

7.4.1 Citizenship of a child whose father's refugee status has been revoked: *UM v the Minister for Foreign Affairs & anor [2022] IESC 25*

UM was born in Galway in June 2013. His father, MM, an Afghan national, was declared a refugee in Ireland in 2006. In June 2013, MM was informed by the Department of Justice of an intention to revoke his refugee status on grounds including that he had returned to Afghanistan and stayed there for two months and that he falsely stated he had never applied for asylum elsewhere.

Later, in February 2014, an application was submitted for an Irish passport for UM based on his father's reckonable residence as a refugee. The Minister for Foreign and Affairs and Trade informed UM that he intended to refuse his application as he was not satisfied UM was an Irish citizen because MM's refugee status had been revoked. A review was requested, and the initial decision was affirmed. UM subsequently commenced judicial review proceedings challenging this decision. After the institution of the proceedings, UM and his mother were declared refugees and MM was permitted to remain based on a successful family reunification application. The High Court and the Court of Appeal both refused to grant the relief sought. The appellant was granted leave to appeal to the Supreme Court. The Irish Human Rights and Equality Commission (IHREC) was added to the proceedings as an *amicus curiae*.

The Supreme Court, with reference to *Damache v Minister for Justice and Equality and others [2020] IESC 63*, recognised that the acquisition or loss of citizenship is a matter of profound significance for an individual and an important aspect of their status.

Central to the case is the acquisition of citizenship by birth. Under section 6(1), *Irish Nationality and Citizenship Act 1956*, every person born on the island of Ireland is entitled to Irish citizenship. However, section 6A limits the entitlement to citizenship of a child of non-citizen parents to require that at least one parent has reckonable residence on the island of Ireland for three of the four years immediately preceding the birth. The definition of residence is clarified under section 6B(4)(a), which provides that a period of residence shall not be reckonable if it is in contravention of section 5(1) of the *Immigration Act 2004*, which, in turn, provides that a non-national cannot be in the State other than in accordance with the terms of a permission given to them by the Minister. Section 5(2) of the 2004 Act provides that a person in the State in contravention of section 5(1) is, 'for all purposes unlawfully present in the State'. However, the requirements and provisions of section 5 are expressly stated to not apply to a refugee who is the holder of a declaration 'which is in force'.

Revocation of refugee status is provided for in section 21, *Refugee Act 1996*. A key question in deciding whether, on the date of UM's birth, his father had the necessarily

reckonable residence concerned whether the revocation of his refugee status operated retrospectively. In examining this issue, Dunne J stated that a change in the circumstances of a person does not mean that they were never a refugee and that it would be inappropriate to suggest that such a person's status is revoked with effect from the date of return to that country. Revocation could only take effect from the date on which the Minister actually made a formal decision to revoke the declaration. Dunne J disagreed with the reasoning used by the Court of Appeal, which found that a fraudulently obtained permission is a nullity and that revocation of a refugee status declaration operates to invalidate that declaration *ab initio*. Dunne J held that the grounds for revocation of refugee status under section 21(1)(a) to 21(1)(h) of the 1996 Act could operate only from the date of the formal revocation and would be prospective. This conclusion was reinforced by the discretion given to the Minister in this section. Thus, in contrast to the finding of the Court of Appeal, it was held that revocation did not operate as a matter of law to render MM's status void *ab initio* as the Minister could refuse to revoke, if he or she thought it was unnecessary to do so.

O'Donnell C.J., in a concurring judgment, examined issues of statutory interpretation, stating that absent clear language to the contrary, statutes could not retrospectively change the legal nature of past conduct. Moreover, he found that revocation under section 21(1)(h) of the 1996 Act took effect at the date of revocation and did not relate back to the facts leading to the revocation.

In the context of the Minister having discretion to revoke refugee status, it was found that the Minister could consider the impact of a revocation decision on those persons with derivative rights, such as UM. In combination with the language used under section 5 of the 2004 Act, it was held that while a declaration of refugee status is in force and until it is revoked, it must be regarded as being valid.

7.4.2 Fraudulent passport as part of naturalisation application: *AJA v Minister for Justice and Equality [2022] IEHC 624*

The applicant was a national of Somalia who applied for naturalisation in Ireland. The naturalisation application included a Somalian passport in the applicant's name. The applicant's solicitor informed the Minister that the applicant was unsure as to its genuineness. It was submitted that she obtained the passport in good faith via a member of the Somali community in Ireland following concerted efforts, including attempting to travel to the Somali embassy in Belgium, to obtain a valid passport.

An internal Department of Justice and Equality document titled 'submission/recommendation' described how the Garda Technical Bureau found the bio-data page of the passport had been substituted for a counterfeit page. It also noted that the applicant had accepted that it may be false. The 'submission/recommendation' stated that as a result of using a false document, the applicant did not meet the good

character requirement under section 15(1)(b), *Irish Nationality and Citizenship Act 1956*, as amended. It recommended that the Minister refuse the application. The applicant brought judicial review proceedings challenging the refusal.

This case considers whether fair procedures were observed in the decision-making process to refuse the application for naturalisation and whether the submission/recommendation document on which the decision was based was accurate, complete and contextualised. Simons J found that the omission from the 'submission/recommendation' of an accurate record of the explanation and exculpatory factors in the case was fatal to the validity of the decision. This included the explanations offered by the applicant for the submission of a false passport, such as the practical difficulties she faced and the lack of a functioning central government in Somalia. Recalling the Court of Appeal's ruling in *MNN v Minister for Justice and Equality* [2020] IECA 187, Simons J held that where there are serious and damaging allegations in a submission or recommendation, basic fairness and natural justice requires that any information that may assist in dispelling concerns about an applicant's good character should be specifically highlighted for the decision maker.

Simons J found that as a result of the failure to record the exculpatory factors in the submission/recommendation, the ultimate decision did not contain an adequate statement of reasons. Simons J granted an order of *certiorari* setting aside the refusal and remitted the matter for fresh consideration.

CHAPTER 8

Integration and inclusion

8.1 STATISTICS

Table 8.1 shows key integration indicators as compiled in *Monitoring report on integration 2022*. The analysis shows that foreign-born people in Ireland, which includes European Union (EU) nationals and Irish citizens as well as third-country nationals, have higher employment, education and activity rates than Irish-born people, as well as better self-reported health. It also shows a higher share of early school leavers, lower median annual net income, a higher risk of poverty, and high housing costs among foreign-born people. It shows that the proportion of non-European Economic Area (EEA) nationals naturalising as a proportion of all non-EEA nationals holding immigration permissions increased in 2022, although this still remains low compared with earlier years.³⁴¹

³⁴¹ See McGinnity et al. (2023). *Monitoring report on integration 2022*, for further details. This is based on people aged 16+ because people under 16 do not have to register with immigration authorities in Ireland.

TABLE 8.1 KEY INTEGRATION INDICATORS

Domain	Irish-born	Foreign-born
Employment, working-age population (2022)		
Employment rate	71.6	76.4*
Unemployment rate	4.6	5.9*
Activity rate	75.0	81.2*
Education (2020–2022, pooled)		
Share of 25–34 age group with third-level education	56	67*
Share of early leavers from education (20–24 age group)	3.3	4.6
Social inclusion (2020 and 2021 pooled)		
Median annual net income (adjusted for household composition)	€25,107	€22,802*
AROP rate	11.6	16.8*
Consistent poverty rate	4.1	5.3*
Share of population (aged 16+) perceiving their health as good or very good	81.9	84.9*
Proportion of households that are property owners	76.6	42.8*
Proportion of households spending more than 30% of their income on housing	8.5	29.3*
Active citizenship (end 2021)		
Annual citizenship acquisition rate		3.4
Ratio of non-EEA nationals who acquired citizenship since 2005 to the estimated immigrant population of non-EEA origin at end-2021		38.2
Share of non-EEA adults with live residence permissions holding long-term residence		0.7

Source: McGinnity, F. et al. (2023) *Monitoring report on integration 2022*, Dublin: Economic and Social Research Institute.

Note: AROP = At risk of poverty.

8.2 DEVELOPMENTS

8.2.1 National Action Plan Against Racism development

As reported previously, the Anti-Racism Committee was established at the end of 2019,³⁴² and commenced its work in 2020.³⁴³ In April 2021, the Minister for Children, Equality, Integration and Youth published the interim report of the Independent Anti-Racism Committee as part of the development of a new national action plan against racism in Ireland, and launched a public consultation.³⁴⁴

³⁴² Department of Justice (2019). 'Minister Stanton delivers Ireland's National Statement to CERD in Geneva', press release, 2 December, www.justice.ie.

³⁴³ Department of Justice (2020). 'Action Plan Against Racism for Ireland to be drawn up by new independent Anti-Racism Committee', press release, 19 June, www.justice.ie.

³⁴⁴ DCEDIY (2021). 'Minister O'Gorman publishes interim report of Independent Anti-Racism Committee and welcomes the launch of the Committee's Public Consultation', press release, 21 April, www.gov.ie.

The Anti-Racism Committee submitted its action plan against racism to the Minister for Children, Equality, Integration and Youth in June 2022.³⁴⁵ This was part of a government commitment to publish a new national action plan against racism.³⁴⁶ The Anti-Racism Committee's National Action Plan Against Racism was submitted to Government in March 2023 and launched on 21 March 2023 and will be further reported on in the 2023 version of this report.³⁴⁷

8.2.2 Hate crime and hate speech draft legislation

The *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022* was published in October 2022.³⁴⁸ The report on the pre-legislative scrutiny of the Bill was published in April 2022 and the Bill completed second stage (introductory debate of the general principles) in the Dáil in November 2022.³⁴⁹ As reported in the *Annual report on migration and asylum 2021*, the General Scheme of the Bill went through pre-legislative scrutiny in 2021, and a summary of the General Scheme is contained in *Annual report on migration and asylum 2021*. Issues including the need to protect free speech were raised in this process, as well as the need to establish a firewall between the criminal justice system and immigration enforcement.³⁵⁰

The Bill would repeal the *Prohibition of Incitement to Hatred Act 1989* and replace it with provisions creating new incitement to violence or hatred offences; it would also provide for offences aggravated by hatred. In addition, the Bill would create an offence of condoning, denying or grossly trivialising genocide, crimes against humanity and war crimes against persons on account of their protected characteristics (section 8).³⁵¹

The Bill published in October was revised to include a provision strengthening protections for genuine freedom of expression and to update the identity characteristics which are deemed protected. The free speech protection clarifies that a communication is not seen to incite violence or hatred solely on the basis that it involves discussion or criticism of matters related to a protected characteristic (section 11).

The Bill also includes an additional way of proving the hate element of an offence, by adding a 'demonstration test' to the existing 'motivation test'. This was recommended by the Joint Oireachtas Committee on Justice in its report on the pre-legislative scrutiny of the Bill. The demonstration test is that at the time of committing the offence (or

³⁴⁵ DCEDIY (2022). 'Response to parliamentary question 56949/22', 17 November, www.oireachtas.ie.

³⁴⁶ Government of Ireland (2020). *Programme for Government: Our Shared Future*, October, p. 76, www.gov.ie.

³⁴⁷ Government of Ireland (2023). *National Action Plan Against Racism*, www.gov.ie.

³⁴⁸ Department of Justice (2022). 'New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression', press release, www.gov.ie.

³⁴⁹ *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022* (Bill 105 of 2022), www.oireachtas.ie.

³⁵⁰ Murphy, K. and A. Sheridan (2022). *Annual report on migration and asylum 2021: Ireland*, Survey and Statistical Annex Series No. 116, Dublin: Economic and Social Research Institute, p. 106.

³⁵¹ Houses of the Oireachtas (2022). '*Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022*', *Library and Research Service Bill Digest*, www.data.oireachtas.ie.

immediately before or after), the person demonstrates hatred towards the person based on one of the protected characteristics. The motivation test is that the offence was motivated wholly or partly by hatred towards people with protected characteristics (section 18). The demonstration test was added because it can be difficult to establish motivation, which requires getting inside the mind of a perpetrator.³⁵² The demonstration test allows hatred to be deduced from behaviour, for example the use of slurs, gestures or other symbols or graffiti.³⁵³

Additional protected characteristics were also added. The draft version of the Bill included: race; colour; nationality; religion; national or ethnic origin; gender; sexual orientation; and disability. The new draft also included descent and sex characteristics.

- Descent means ‘persons or groups of persons who descend from persons who could be identified by certain characteristics (such as race or colour), but not necessarily all of those characteristics still exist’. The Department of Justice indicated that this would be relevant, for example, in the context of the Jewish community, where a person may have Jewish ancestry but does not practice the religion (s.3(2)(b)).
- Sex characteristics means all physical and biological features of a person relating to their sex (s. 3(2)(f)).

These were added following public consultation where minority communities shared the characteristics which are most commonly targeted, according to the Minister for Justice.³⁵⁴

The penalty for the offence of incitement to violence or hatred against persons on account of their protected characteristics is up to five years imprisonment upon conviction on indictment.

According to the Department of Justice, the new legislation has been designed to ensure that online hate speech will be captured, and indicated that there was engagement to ensure that the provisions dovetail with the regulatory framework for online safety proposed by the *Online Safety and Media Regulation Act 2022*, which regulates how companies manage hate speech on their platforms.³⁵⁵

³⁵² Department of Justice (2022). ‘New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression’, press release, www.gov.ie.

³⁵³ Department of Justice (2022). ‘New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression’, press release, www.gov.ie.

³⁵⁴ Department of Justice (2022). ‘New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression’, press release, 28 October, www.gov.ie.

³⁵⁵ Department of Justice (2022). ‘New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression’, press release, 28 October, www.gov.ie.

The Bill also creates an offence of ‘condonation, denial or gross trivialisation of genocide etc. against persons on account of their protected characteristics’. This offence includes communication of material or public behaviour that condones, denies or grossly trivialises genocide, a crime against humanity, a war crime or a crime against peace.³⁵⁶ The punishment for someone found guilty of the offence is a class A fine, up to 12 months imprisonment or both.

The Department of Justice indicated that the Bill is aligned with the European Council Framework Decision 2008/913/JHA on combatting racism and xenophobia, and will fulfil Ireland’s international obligations.

While the Government committed to enacting the Bill before the end of 2022,³⁵⁷ at the end of 2022 it still had to be passed by both the Dáil and the Seanad.

There has been significant criticism of and discussions about the Bill. The Irish Council of Civil Liberties (ICCL) called for ‘significant improvements’ and ‘much clearer definitions’, in particular on the definition of hatred. While they welcomed the freedom of expression clause, ICCL called for an explicit reference to protections under the European declarations of rights and the jurisprudence of the European Court of Human Rights, such as jurisprudence on the right to shock, offend and disturb. They also called for references to freedom of the press to prevent a chilling effect on news media.³⁵⁸

Academics from University College Cork (UCC) have also criticised the law for a lack of evidence that increased criminal sanctions actually have a deterrent effect on hate motivated crimes. They raised concerns about the emphasis on a punitive approach instead of a preventive and restorative one, arguing that the former would not address structural causes of hate and violence and would continue cycles of inequality.³⁵⁹

The Coalition Against Hate Crime also called for a comprehensive national action plan to tackle hate crime in addition to legislation, to ensure ‘proper implementation and complementary measures’. This coalition also raised concerns about the defence of ‘reasonable and genuine contribution to literary, artistic, political, scientific, religious or academic discourse’ and called for a focus on freedom of expression rather than creating exceptions for certain professions.³⁶⁰ The Coalition also criticised a lack of engagement with impacted communities and civil society organisations during pre-

³⁵⁶ The Bill specifies genocide, a crime against humanity, a war crime or an act specified in Article 6 of the Charter of the International Military Tribunal. Article 6 of the Charter of the International Military Tribunal defines crimes against peace, war crimes, and crimes against humanity.

³⁵⁷ Department of Justice (2022). ‘New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression’, press release, www.gov.ie.

³⁵⁸ McQuinn, C. (2022). ‘Calls for improvements to new hate speech legislation to avoid courts struggling to interpret law’, *Irish Times*, 8 November.

³⁵⁹ Kiely, E. and K. Swirak (2022). ‘Why we should be concerned about new hate crime legislation’, *RTÉ Brainstorm*.

³⁶⁰ ICCL (2022). ‘Hate Crime Coalition says Government will not be finished tackling hate crime when legislation is passed’.

legislative scrutiny, which they said was particularly important because public consultations focused solely on hate speech (see *Annual report on migration and asylum 2021* for further details of the public consultation).³⁶¹

The General Scheme for the Bill published in 2021 was praised by the United Nations (UN) Human Rights Committee.³⁶²

8.2.3 Community integration officers

In 2022, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) secured Budget 2023 funding to set up a Local Authority Integration Team (LAIT) in each of the 31 local authorities. The initial LAIT complement will comprise of a four-person team, to be recruited and employed by each local authority. This initiative is part the implementation of the White Paper on Ending Direct Provision (see Section 4.2.3).

The primary role of the LAITs is to provide ongoing integration supports to international protection applicants, resettled refugees and BOTPs to enable them to live independently in the community. This will involve linking these cohorts with local service providers appropriate to their needs. The LAITs will also act as the direct point of contact, providing information, guidance and advice, answering queries as they arise and ensuring that they are in receipt of applicable benefits and entitlements. They will provide support in: accessing employment and developing English language proficiency; childcare, healthcare services; and linkages to sporting and other local / community activities. The LAITs will engage with the Irish Refugee Protection Programme (IRPP) during the period of resettlement.³⁶³

8.2.4 Other developments

The Communities Integration Fund opened its call for proposals in March 2022. In June 2022, funding of €566,493 for 124 projects was announced. Individual grants are up to €5,000.³⁶⁴ The purpose of the Communities Integration Fund is to promote integration between migrant and host communities.

In July 2022, the Minister for Children, Equality, Integration and Youth launched a call for project proposals under the Integration and Employment of Migrants activity of the Programme for Employment, Inclusion, Skills and Training (EIST) 2021–2027. The funding targets legally resident migrants, both EEA nationals and third-country

³⁶¹ ICCL (2022). 'Better engagement with impacted communities paramount as hate crime and extreme hate speech legislation advances at the Oireachtas'.

³⁶² United Nations Human Rights Office of the High Commissioner (2022). 'In dialogue with Ireland, experts of the Human Rights Committee praise legislation combatting hate crimes, raise issues concerning rights abuses at institutions', www.ohchr.org.

³⁶³ Correspondence with DCEDIY, October 2023.

³⁶⁴ DCEDIY (2022). 'Minister O'Gorman announces 124 projects to be funded under the Communities Integration Fund 2022', press release, 24 June, www.gov.ie.

nationals, who are experiencing barriers to participation and employment because of language difficulties, lack of training or social exclusion.³⁶⁵ Grants totalling €2.7 million for seven successful projects were announced in November 2022. The successful projects covered topics such as English language training, CV preparation and interview skills, and practical work experience.³⁶⁶

Mayo County Council also launched its migrant integration strategy for 2022–2026.³⁶⁷

8.3 RESEARCH

8.3.1 Indicators of local integration actions

The Immigrant Council of Ireland (ICI) conducted research on progress in local authorities in achieving integration outcomes and providing integration services.³⁶⁸ Through a survey of local authorities, they found that local authorities are progressing the integration of migrant communities in their programming and services but were making less progress on integrating migrants into their internal structures. The report also highlighted the lack of data collected by local authorities that are disaggregated by migration background or other relevant demographic characteristics.

8.3.2 Masked and unmasked attitudes towards migrants

Mathew Creighton, Éamonn Fahey and Frances McGinnity published an article that analysed hidden attitudes towards migrants in Ireland.³⁶⁹ They did this through a survey experiment that allowed people to express views anonymously, with these attitudes then compared with those expressed directly (list experiment). The survey showed that respondents' support for Black and Polish immigrants is overstated when expressed directly. In contrast, attitudes towards Muslim immigrants were not sensitive to the level of anonymity, meaning that attitudes are less masked for Muslim immigrants.

8.3.3 Integration of non-EU migrant women

The Economic and Social Research Institute (ESRI) / European Migration Network (EMN) Ireland published research on the integration of non-EU migrant women in Ireland, looking at whether and how policies consider this group and challenges that they

³⁶⁵ DCEDIY (2022). 'Minister O'Gorman launches a call for proposals for project funding under the Integration and Employment of Migrants activity of the Programme for Employment, Inclusion, Skills and Training (EIST) 2021–2027', press release, 15 July, www.gov.ie.

³⁶⁶ DCEDIY (2022). 'Funding for migrant employment and integration announced by Minister O'Gorman', press release, 25 November, www.gov.ie.

³⁶⁷ Mayo County Council (2022). 'Launch of Mayo Migrant Integration Strategy and Action Plan 2022–2026', www.mayo.ie.

³⁶⁸ ICI (2022). *Indicators for migrant local integration*, www.immigrantcouncil.ie.

³⁶⁹ Creighton, M., É. Fahey and F. McGinnity (2022). 'Immigration, identity and anonymity: Intentionally masked intolerance in Ireland', *International Migration Review*, Vol. 56, No. 3, pp. 881–910.

face.³⁷⁰ The report highlights the potential ‘double disadvantage’ that migrant women may face as both migrants and women, and shows that non-EU women have higher rates of unemployment and lower activity rates than all other groups (Irish women and men and migrant men). The report highlighted potential challenges in labour market access for this group, due to caring duties, a lack of skills recognition, and a lack of right to work for spouses of certain employment permit holders. The report also highlighted other issues facing this group, such as overcrowded conditions, higher rates of perinatal deaths, discrimination and gender-based violence. The report looks at migrant integration policies, and points out that migrant women are not specifically addressed within the Migrant Integration Strategy. However, it highlighted that several projects that address the integration of migrant women have been funded.

8.3.5 Assimilation of immigrants in the labour market

Christine Cross and Thomas Turner published an article analysing how immigrants have assimilated into the Irish labour market from 1998 to 2019, looking at occupation level, education, employment sector, union membership and unemployment.³⁷¹ They found that in 1998, immigrants enjoyed conditions in the labour market that were at least as good as, if not better than, nationals and that they appeared to be relatively well assimilated. In contrast, they found that by 2019 immigrants were at a disadvantage compared to nationals. They explained this through the increasing proportion of immigrants originating from eastern European countries and the rest of the world (where previously migration flows were dominated by the United Kingdom (UK) and EU15 who have similar cultural, linguistic and ethnic characteristics). However, they showed that eastern European nationals were the least assimilated group despite their European origin and cultural similarities.

8.3.6 Housing and family among migrants in Census 2016

The ESRI published research that uses Census 2016 microdata to compare the housing and family situation of people born in Ireland with that of first-generation migrants. It found that migrants were much less likely to live in owner-occupied accommodation than Irish-born people, and that a much larger proportion were living in private rented housing, although patterns vary across migrant groups. A much higher proportion also lived in overcrowded accommodation, with some groups much more likely to live in overcrowded accommodation. They were also overrepresented in homelessness figures, compared with their proportion of the population. It found that duration of residence plays a role in housing outcomes, with those living in Ireland for longer less likely to live in rented or overcrowded accommodation. Differences in family situation were also found between migrant and Irish groups, although this was highly dependent

³⁷⁰ Stapleton, A., M. Polakowski, and E. Quinn (2022). *The integration of non-EU migrant women in Ireland*, ESRI Research Series No. 148.

³⁷¹ Cross, C. and T. Turner (2022). ‘Integration or exclusion? Assimilation of non-Irish nationals into the Irish labour market’, *Journal of Contemporary European Studies*, Vol. 31, No. 3, pp. 889–901.

on the migrant group considered. For example, households (with children) headed by migrants from eastern Europe or Asian groups are less likely to be lone-parent households than Irish households with children. Sub-Saharan and 'Other African' households were most likely to be lone parent headed. With the exception of UK-born migrants, European migrants tend to have fewer children than Irish-born people, and non-EEA households tend to have slightly more children than Irish-headed households. In relation to mixed unions (partnerships or marriages between migrants and Irish-born), the highest rate are among household heads born in the UK and US/Oceania whereas rates are very low among eastern European and Asian groups.

CHAPTER 9

Trafficking in human beings

9.1 STATISTICS

Thirty non-European Economic Area (EEA) citizens were identified as victims of trafficking in humans in Ireland in 2022.³⁷² An additional 12 people of EEA or Irish nationality were identified as victims. Almost two-fifths (37%) of non-EEA national victims were from Nigeria, which comprised the largest nationality of victims overall.³⁷³

Of the total victims, 57% were victims of sexual exploitation and 35% of labour exploitation.³⁷⁴ Regards gender, 64% of total victims were female, a figure rising to 85% for victims of sexual exploitation.³⁷⁵

9.2 DEVELOPMENTS

9.2.1 Revised National Referral Mechanism

As reported for 2021, the Minister for Justice announced a revised National Referral Mechanism (NRM) for victims of trafficking, which will be placed on a statutory footing.³⁷⁶ The General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022* was published in July 2022, which included the draft statutory provisions for the NRM.³⁷⁷

The new approach will recognise the role of other state bodies and NGOs, in addition to An Garda Síochána, in identifying victims of trafficking and referring them. A number of additional state bodies will be designated as competent authorities, including Tusla, Child and Family Agency.³⁷⁸ Non-governmental organisation (NGO) partners may also be designated as ‘trusted partners.’³⁷⁹ Persons who consider they may be victims of

³⁷² Department of Justice (2023). *Trafficking in human beings annual report 2022*, Table 2, <https://www.blueblindfold.ie/wp-content/uploads/2023/08/Human-Trafficking-Annual-Report-2022.pdf>.

³⁷³ Department of Justice (2023). *Trafficking in human beings annual report 2022*, Table 2, <https://www.blueblindfold.ie/wp-content/uploads/2023/08/Human-Trafficking-Annual-Report-2022.pdf>.

³⁷⁴ Department of Justice (2023). *Trafficking in human beings annual report 2022*, Table 2, <https://www.blueblindfold.ie/wp-content/uploads/2023/08/Human-Trafficking-Annual-Report-2022.pdf>, Table 3.

³⁷⁵ Department of Justice (2023). *Trafficking in human beings annual report 2022*, Table 2, <https://www.blueblindfold.ie/wp-content/uploads/2023/08/Human-Trafficking-Annual-Report-2022.pdf>, Tables 4 and 6.

³⁷⁶ Department of Justice (2021). ‘Government approves proposal for a revised National Referral Mechanism to make it easier for human trafficking victims to come forward and receive supports’, press release, 11 May, www.justice.ie.

³⁷⁷ Department of Justice (2022). ‘Government approves publication of general scheme of bill which will strengthen law on consent in rape cases and support victims in sexual violence and human trafficking cases’, press release, 27 July, www.gov.ie.

³⁷⁸ Head 13 of proposed Bill lists the agencies to be designated as competent authorities.

³⁷⁹ Head 12 of proposed Bill defines ‘trusted partner’ as organisations or bodies designated by the Minister for Justice to accept applications from persons who consider they may be victims of trafficking.

trafficking may make applications to a competent authority or a trusted partner.³⁸⁰ Both competent authorities and trusted partners will be members of an operational committee, which will decide on identification of cases as victims of trafficking.³⁸¹

The purpose of the revised NRM is to make it easier for victims to come forward, be officially recognised and receive the appropriate supports. It will allow other agencies, both State and civil society, to cooperate and share information in the identification of victims and facilitate their access to supports. This can be important for victims of trafficking as they may not be willing to approach police.³⁸²

Many stakeholders welcomed the Bill, including the Irish Human Rights and Equality Commission (IHREC),³⁸³ the Immigrant Council of Ireland (ICI),³⁸⁴ the Bar of Ireland,³⁸⁵ and the National Women's Council.³⁸⁶ Pre-legislative scrutiny of the General Scheme started in December 2022, with the Joint Committee on Justice meeting multiple NGOs, academics and officials from the Department of Justice.³⁸⁷ In submissions, NGOs and IHREC raised multiple concerns and recommendations, including:

- the credibility requirement, which they claim sets a standard that is not compatible with the EU Anti-Trafficking Directive,³⁸⁸ creates unnecessary duality with the 'reasonable grounds' test and could lead to a lot of litigation;³⁸⁹
- the need for a child-specific identification process, with no child-specific provisions mentioned;³⁹⁰

³⁸⁰ Head 14 of proposed Bill.

³⁸¹ Heads 15 and 17 of proposed Bill.

³⁸² Department of Justice (2022). 'Government approves publication of general scheme of bill which will strengthen law on consent in rape cases and support victims in sexual violence and human trafficking cases', press release, 27 July, www.gov.ie.

³⁸³ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁸⁴ ICI (2022). 'Submission to Joint Committee on Justice on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁸⁵ The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁸⁶ National Women's Council (2022). 'NWC Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁸⁷ Houses of the Oireachtas (2022). 'The Joint Committee on Justice will meet for pre-legislative scrutiny of the general scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*', press release, 6 December, www.oireachtas.ie. Note that the report of the Committee was published in March 2023.

³⁸⁸ 2011/36/EU.

³⁸⁹ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹⁰ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; National Women's Council (2022). 'NWC Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

- the need for an appeal process (so that decisions are not immediately subject to judicial review), and an independent review process related to trusted partner status;³⁹¹
- the need to clearly set out assistance and support for victims, including social welfare, medical support, housing support, and to provide a residence permit, rather than a bar on deportation, which would not enable someone to work;³⁹²
- that the operational framework of the committee should be provided for in primary legislation and open to parliamentary scrutiny;³⁹³
- the need for timely decisions, with clear timelines laid out and the structuring of the NRM and Committees to ensure this;³⁹⁴
- the need for an option for the referral process without a formal application by the victim, as there is an obligation on the State to identify victims whether or not they apply to be recognised;³⁹⁵
- concerns about references to Direct Provision in the General Scheme, which according to NGOs and IHREC was not an appropriate form of accommodation for victims of trafficking and was not in line with the Government's commitments to end this system;³⁹⁶
- the need for more robust protection against punishment for activities engaged in while being trafficked;³⁹⁷ and
- the need to incorporate internationally recognised indicators.³⁹⁸

The Department of Justice will aim to address many of these concerns through the development of the operational procedures of the new NRM, which are to be

³⁹¹ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹² IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; National Women's Council (2022). 'NWC Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; Immigrant Council of Ireland (2022). 'Submission to Joint Committee on Justice on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹³ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹⁴ The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹⁵ The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹⁶ Immigrant Council of Ireland (2022). 'Submission to Joint Committee on Justice on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; National Women's Council (2022). 'NWC submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹⁷ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; Immigrant Council of Ireland (2022). 'Submission to Joint Committee on Justice on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

³⁹⁸ IHREC (2022). 'Submission on Part 3 of the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; The Bar of Ireland (2022). 'Submission on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'; Immigrant Council of Ireland (2022). 'Submission to Joint Committee on Justice on the General Scheme of the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*'.

introduced alongside the rollout of the new NRM itself.³⁹⁹ The *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022* is planned to be signed into law in Quarter 4 2023.

9.2.2 Development of new national action plan

As reported in the last annual report, work started in 2021 on drafting a third national action plan on human trafficking. The plan, which was initially due to be published in 2022,⁴⁰⁰ is now due to be published in autumn 2023.⁴⁰¹ The drafting involved consultations with representatives from CSOs and government bodies. According to the Department of Justice, the main goal of the new action plan will be to further strengthen the whole-of-government approach to combatting human trafficking, to facilitate more victims coming forward. The goals of the plan will be to:

- work towards the abolition of human trafficking and its demand;
- identity and support victims of trafficking;
- bring the perpetrator to justice; and
- have a whole-of-government coordination in supporting victims and decreasing incidents of trafficking.⁴⁰²

9.2.3 Domestic, sexual and gender-based violence strategy

As reported in section 6.2.1, the Government published the *Third National Strategy on Domestic, Sexual and Gender-Based Violence* in June 2022. The strategy identifies victims of trafficking as a group that may require additional inclusion measures to address domestic, sexual and gender-based violence.⁴⁰³

The strategy contains an objective to identify linkages between the strategy and the *National Action Plan to Combat Human Trafficking*.⁴⁰⁴ The implementation plan also contains specific actions aimed at combatting prostitution and trafficking for sexual exploitation.⁴⁰⁵

³⁹⁹ Correspondence with the Department of Justice, September 2023.

⁴⁰⁰ Department of Justice (2022). *Trafficking in human beings in Ireland: Annual report 2022*, p.27, www.blueblindfold.ie.

⁴⁰¹ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴⁰² Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, p. 25, www.blueblindfold.ie.

⁴⁰³ Government of Ireland (2022). *Zero tolerance: Third national strategy on domestic, sexual, and gender-based violence 2022–2026*, Executive Summary, June, p. 20, www.gov.ie.

⁴⁰⁴ Government of Ireland (28 June 2022). *Zero tolerance: Third national strategy on domestic, sexual, and gender-based violence: Implementation plan*, Section 3.4: Reduce demand for Prostitution, www.gov.ie; Also Department of Justice (2022). ‘Minister McEntee marks EU Anti-Trafficking Day by emphasising importance of awareness’, 18 October, press release, www.gov.ie

⁴⁰⁵ Government of Ireland (2022). *Zero tolerance: Third national strategy on domestic, sexual, and gender-based violence: Implementation plan*, 28 June – for example, Section 2.6: Ensure those, primarily women, in prostitution have access to safety, health care, support and exit routes, and Section 1.1.3: Raise awareness of the harm of prostitution and its impact on wider gender equality and make the links to trafficking, www.gov.ie.

9.2.4 Review of Atypical Working Scheme

As reported in section 3.2.4, the review of the Atypical Working Scheme (AWS) was published in October 2022. As reported previously, concerns have been raised that the non-EEA fishers part of the scheme left workers vulnerable to labour exploitation.⁴⁰⁶ See Section 3.2.4 for further details.

9.2.5 Trafficking in persons report

The *Trafficking in persons report 2023*, which covers developments in 2022, was published by the United States (US) State Department in June 2023. This report outlines efforts of countries to combat human trafficking, and categorises these efforts into four tiers, based on their efforts to meet the US Trafficking Victim Protection Act's minimum standards for the elimination of human trafficking. In the 2023 report, Ireland remained at Tier 2, having been upgraded from the Tier 2 watchlist in the 2022 report (see *Annual report on migration and asylum 2021* for further details). Tier 2 indicates that a country does not fully meet the minimum standards but is making a significant effort to do so.

The report highlighted increased efforts including funding for victim care and awareness raising, the termination of the AWS for non-EEA sea fishers, and improved victim identification of children. However, it highlighted areas where minimum standards were still not met, including: a lack of convictions of traffickers and no convictions to date for labour exploitation; systemic deficiencies in victim identification, referral and assistance; and inadequate services and accommodations for victims. The report also noted delays to the national action plan and the revised NRM and the lack of convictions of traffickers in 2022, and a lack of trafficking-specific training for judges, as well as the absence of any awards of compensation for victims.

NGOs and IHREC welcomed the report and echoed its findings and recommendations, calling for the new national action plan and revised NRM, and highlighting the lack of specialised accommodation,⁴⁰⁷ inadequate victim identification,⁴⁰⁸ and a lack of convictions, in particular for labour exploitation.⁴⁰⁹ One NGO also highlighted the inability of victims of trafficking to access financial supports for third-level education.⁴¹⁰

⁴⁰⁶ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴⁰⁷ IHREC (2023). 'Ireland remains at Tier 2 in important 2023 trafficking in persons report', <https://www.ihrec.ie/ireland-remains-at-tier-2-in-important-2023-trafficking-in-persons-report/>.

⁴⁰⁸ ICI (2023). 'Ireland failing to meet minimum standards to combat human trafficking, report finds', press release, <https://www.immigrantcouncil.ie/news/ireland-failing-meet-minimum-standards-combat-human-trafficking-report-finds>.

⁴⁰⁹ MRCI (2023). 'Media Release: TIP report shows systemic deficiencies in combatting human trafficking remain', <https://www.mrci.ie/2023/06/16/media-release-tip-report-shows-systemic-deficiencies-in-combatting-human-trafficking-remain/>.

⁴¹⁰ ICI (2023). 'Ireland failing to meet minimum standards to combat human trafficking, report finds', press release,

9.2.6 GRETA third evaluation

Ireland is party to the Council of Europe Convention on Action against Trafficking in Human Beings, under which regular monitoring is conducted by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA). The third round of evaluation took place in 2021, and the final report was published in 2022. See *Annual report on migration and asylum 2021* (Section 8.2.5) for more details on the evaluation process.

The report welcomed the range of information materials available to victims on their rights, steps taken to prevent and combat trafficking for the purpose of labour exploitation, and the revised NRM.

Comments relating to concerns and recommendations included the following.

- Qualified interpreters who are sensitised to the issue of human trafficking should be made available at all stages of the victim identification process and criminal proceedings.
- The Legal Aid Board's service is limited to legal advice and information and does not extend to legal representation in criminal or civil proceedings. There is a need to ensure that legal assistance is provided systematically as soon as there are reasonable grounds for believing that a person is a victim of trafficking.
- No victim of trafficking has received compensation in Ireland, from perpetrators or the State;⁴¹¹ they are treated as witnesses in criminal proceedings and not as injured parties entitled to compensation. GRETA urged Ireland to make efforts to guarantee effective access to compensation
- The number of investigations of human trafficking offences has been decreasing over the years, the number of prosecutions is very low and there were none for labour exploitation. GRETA urged that human trafficking offences are proactively and promptly investigated.
- Ireland should take further steps to ensure consistent application of the principle of non-punishment of victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so.
- The limited number of labour inspectors does not enable the proactive identification of victims of trafficking for the purpose of labour exploitation. While the review of conditions of AWS for fishers has provided some additional safeguards, the current conditions of the scheme do not appear to be sufficient to prevent abuses. GRETA recommended establishing a safe reporting procedure for foreign workers, concrete possibilities of regularisation of trafficked persons' residence status and access to the labour market, and the provision of targeted and tailored support services.

⁴¹¹ Note from correspondence with Department of Justice, September 2023, that victims are entitled to apply for the Criminal Injuries Compensation Scheme but no trafficking victims had applied for compensation at the date of the GRETA visit.

- There were still no specialised accommodation facilities for victims of trafficking, who continued to be accommodated in International Protection Accommodation Services (IPAS) accommodation for asylum seekers. GRETA once again urged Ireland to set up specialised accommodation facilities and to ensure that accommodation is gender sensitive, appropriate and safe and that victims are provided with specialised services. Authorities should enact statutory rights to assistance and protection for possible victims of trafficking.
- The number of presumed child victims is very low due to a lack of reporting on children at risk and proactive identification of presumed victims. GRETA urged Ireland to step up efforts to combat child trafficking and to put in place a robust child protection system.

9.2.7 National Rapporteur first annual evaluation

IHREC was designated Ireland's independent National Rapporteur on trafficking in human beings in 2020 (see *Annual report on migration and asylum 2020*). As part of this role, they produced the first annual national evaluation report on the implementation of the EU Anti-Trafficking Directive in June 2022. It found that while Ireland has a comprehensive modern legislative framework criminalising human trafficking and provides measures for the protection of victims in criminal proceedings, assistance and support of victims beyond the criminal system are insufficient and have not been placed on a statutory footing. It highlighted the need for consistency in providing support to victims, the need for proactive screening, and a victim-centred approach throughout the entire process. The report also raised concerns that compensation schemes are inaccessible to victims, and IHREC was unable to find examples of victims receiving compensation in practice. In addition, they found that the inability of irregular migrants to access the Work Relations Commission (WRC) put potential victims of trafficking at a disadvantage. The report welcomed the initiative to expunge previous convictions of victims (see *Annual report on migration and asylum 2021*).

Key recommendations include:

- the establishment of a 'survivor council' to inform the development of a national action plan and revised NRM process;
- swift adoption and implementation of the revised NRM, and the need for a child-specific identification procedure within the new mechanism;
- that IPAS accommodates victims in a gender-specific, self-budgeting way rather than through the mainstream system.
- single-gender shelters in proximity to specialised services are used as an interim solution to the lack of specialised shelters;
- the wider application of the initiative to expunge previous convictions of victims, as well as the strengthening of the principle of non-prosecution of victims in Irish law;
- an urgent reform of legal aid to reflect effective access to compensation;

- legislating for forced labour, slavery and servitude as a separate offence; and
- the use of seized criminal assets to compensate victims of trafficking.

9.2.8 Other developments

Funding for NGO programming continues to comprise a large part of the Irish Government's approach to anti-trafficking work. In 2022, the Victims of Crime Grant Scheme had a budget of €4.9 million, an increase from 2021. In addition, €1.27 million was allocated to NGOs working with victims of trafficking.⁴¹² The Department of Justice's cultural mediation project (see *Annual report on migration and asylum 2021*) with the International Organization for Migration (IOM) was extended to June 2023, with additional funding.⁴¹³ This funding also covers capacity-building training, primarily to state agencies (e.g., An Garda Síochána, Director of Public Prosecutions staff), as well as research and awareness raising.⁴¹⁴

A new victims' forum for state, community and social groups held events in March and November 2022. These events facilitate information exchange between state bodies and frontline organisations supporting victims.⁴¹⁵

IOM launched a short awareness-raising film on trafficking in October 2022.⁴¹⁶

9.3 RESEARCH

9.3.1 Trafficking policy and practice in Ireland

The Economic and Social Research Institute (ESRI) / the European Migration Network (EMN) Ireland published a study on the policy and practice in Ireland for the detection of human trafficking, and the identification and protection of victims of human trafficking, with a focus on third-country nationals.⁴¹⁷ The study looks at how detection happens in Ireland, including what indicators are used, how staff in various industries are trained, and how awareness is raised about the issue. It considers the governance structures around identification of victims and the burden of proof and how it is applied. It also covers protections and supports for victims, including immigration permissions granted, care plans and socio-economic supports.

Interviewees highlighted the need for improved detection of victims of human trafficking, including through training a broader number of frontline workers and

⁴¹² Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴¹³ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴¹⁴ Correspondence with IOM, October 2023.

⁴¹⁵ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴¹⁶ Department of Justice (2023). *Trafficking in human beings in Ireland: Annual report 2022*, www.blueblindfold.ie.

⁴¹⁷ Cunniffe, E. and O. Ayodele (2022). *Detection, identification and protection of third-country national victims of human trafficking in Ireland*, ESRI Research Series No. 139, Dublin: Economic and Social Research Institute.

introducing screening in migration procedures. They also highlighted challenges in the identification procedure, including An Garda Síochána being the only competent authority, the lack of a formal identification decision issued to victims, and identification of victims in criminal investigations, raising challenges for the principle of non-punishment. It highlighted the lack of statutory footing of the procedure, which can make it difficult for victims to vindicate their rights. It also highlighted challenges and limitations in relation to protections provided, and raised concerns about the accommodation provided to victims and limitations in legal aid provided. Good practices identified included the firewall between the Department of Social Protection and the Department of Justice during the COVID-19 pandemic for social welfare supports, and recent legislative developments to protect the rights of victims of crime.

CHAPTER 10

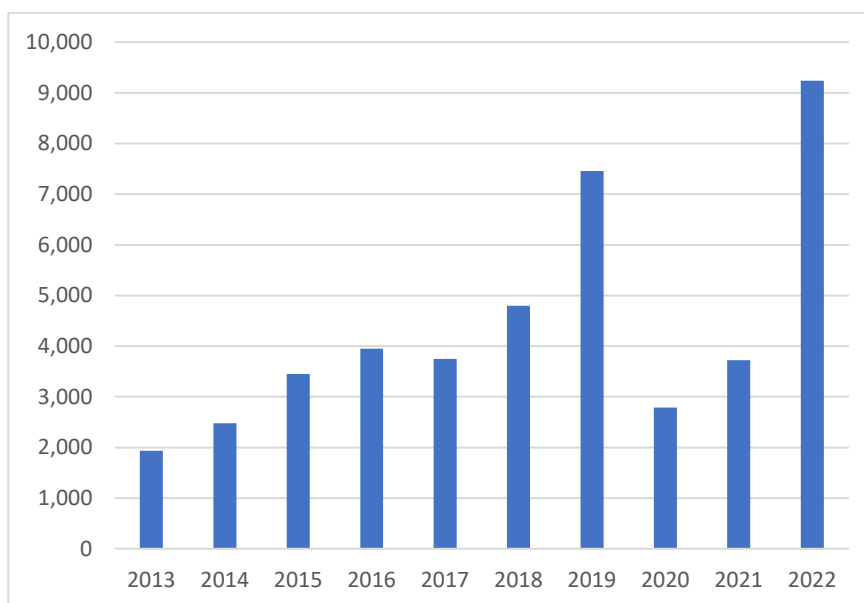
Irregular migration, visas, borders and return

10.1 STATISTICS

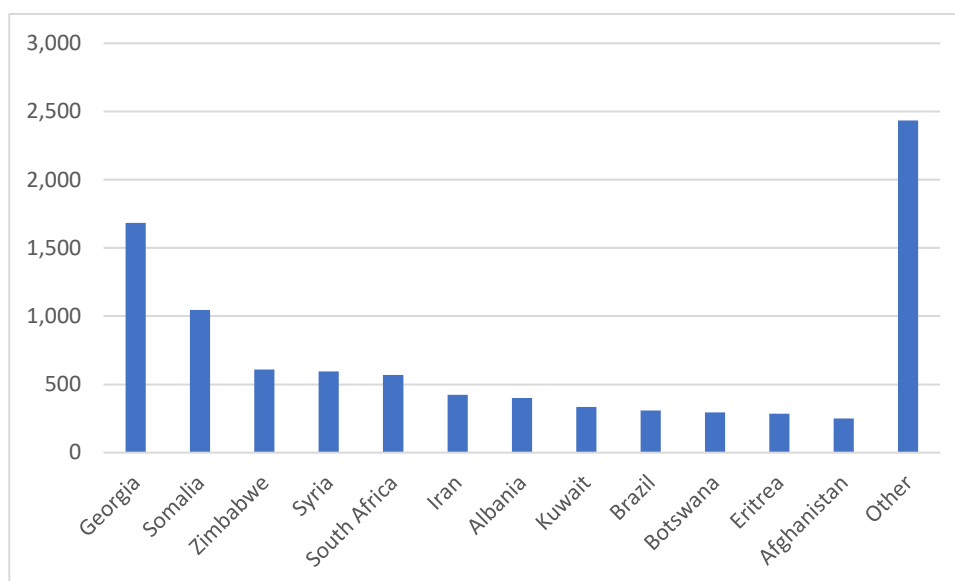
10.1.1 Refusals of leave to land

Figure 10.1 shows refusals of leave to land in Ireland 2013–2022. It shows a significant increase in 2022 from the two previous years; however, it also shows a steady trend from 2019, the last year not affected by travel restrictions related to COVID-19. In 2022, 9,240 people were refused leave to land in Ireland, a 24% increase from 2019 and a 148% increase from 2021. Figure 10.2 shows the main countries of origin of those refused leave to land, with Georgia (1,685), Somalia (1,045) and Zimbabwe (610) the top three, although the largest category was ‘other’, indicating a diverse group of nationalities.

FIGURE 10.1 THIRD-COUNTRY NATIONALS REFUSED ENTRY AT THE BORDER



Source: Eurostat (2023). ‘Third-country nationals refused entry at the external borders – Annual data (rounded)’, extracted 15 August 2023.

FIGURE 10.2 COUNTRIES OF CITIZENSHIP OF TCNS REFUSED ENTRY AT THE BORDER, 2022

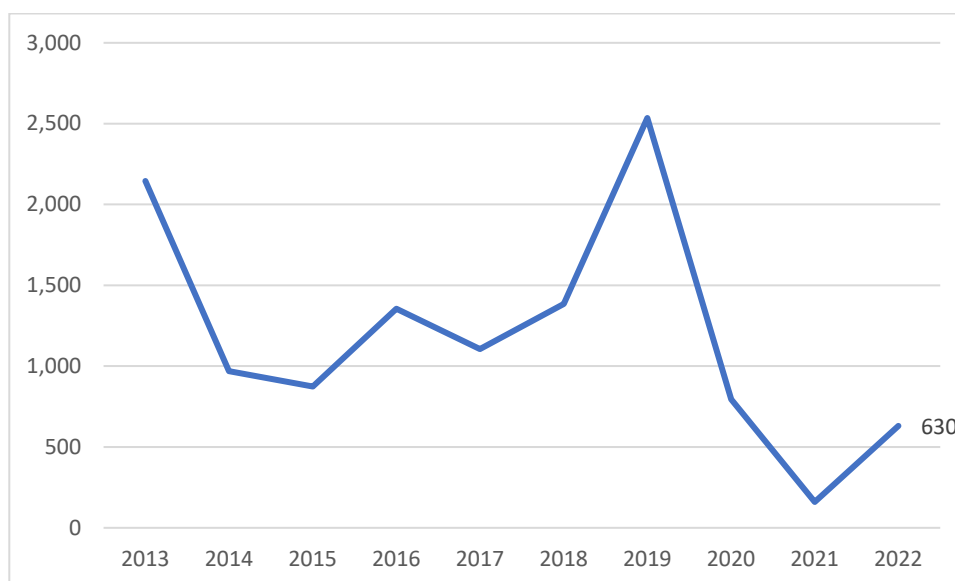
Source: Eurostat (2023). 'Third-country nationals refused entry at the external borders – Annual data (rounded)', extracted 15 August 2023.

10.1.2 Return

Figure 10.3 shows the number of third-country nationals ordered to leave between 2013 and 2022. It shows that after a significant decline in 2020 and 2021, there was an increase in 2022 (294% increase from 2021), with a total of 630 people ordered to leave according to rounded Eurostat figures. However, this was still a fraction of pre-pandemic numbers (around one-quarter of 2019 figures). Low figures during the pandemic reflect the Minister of Justice's decision to only deport people in very restricted circumstances in the context of the pandemic (see the annual report for 2021 for further details).

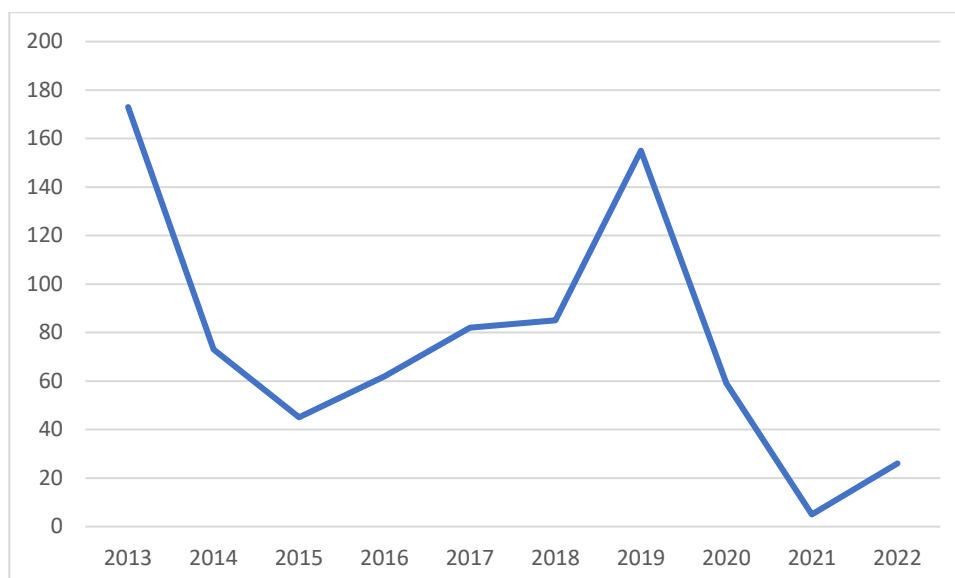
The most common country of citizenship of those ordered to leave in 2022 was Pakistan (145), followed by Albania (130) and Georgia (75).⁴¹⁸

⁴¹⁸ Eurostat (2023). 'Third country nationals ordered to leave – Annual data (rounded)', extracted 15 August 2023.

FIGURE 10.3 THIRD-COUNTRY NATIONALS ORDERED TO LEAVE, 2013–2022

Source: Eurostat (2023). 'Third-country nationals ordered to leave – Annual data (rounded)', extracted 15 August 2023.

Figure 10.4 shows the number of deportations enforced against third-country nationals between 2013 and 2022. It shows that there was a slight increase to 26 from the very low levels in 2021, but that the 2022 figure remained low compared with previous years. This likely in part reflects the continued impact of the COVID-19 pandemic and the decision only to enforce deportations in very restricted circumstances, with the issuance of deportation orders only resuming in 2022 (see Section 10.2.1 below).

FIGURE 10.4 DEPORTATIONS ENFORCED AGAINST THIRD-COUNTRY NATIONALS, 2013–2022

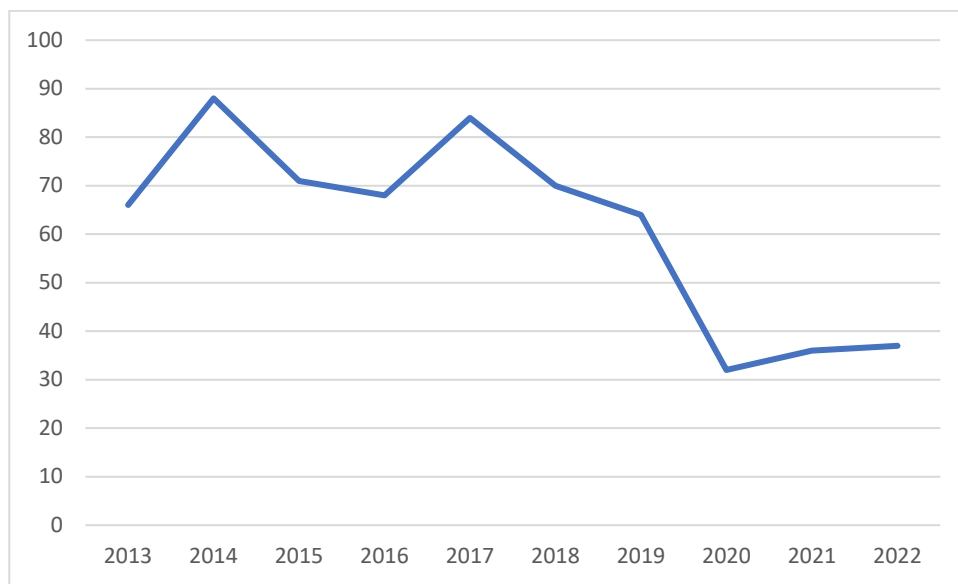
Sources: For 2013–2021: 'Parliamentary question 4389/22, 1 February 2022'; for 2022: Correspondence with Department of Justice, October 2023.

In 2022, 57 persons were assisted to return by the International Organization of Migration (IOM) and 34 persons were assisted to return by Immigration Service Delivery.⁴¹⁹ This is lower than those assisted to return by IOM in 2021 (82).

10.1.3 European Union removals

Figure 10.5 shows the number of European Union (EU) removals between 2013 and 2022. It shows that 2022 removals remained similar to levels for COVID-19 years, with 37 removals effected in 2022.⁴²⁰

FIGURE 10.5 EUROPEAN UNION REMOVALS EFFECTED, 2013–2022



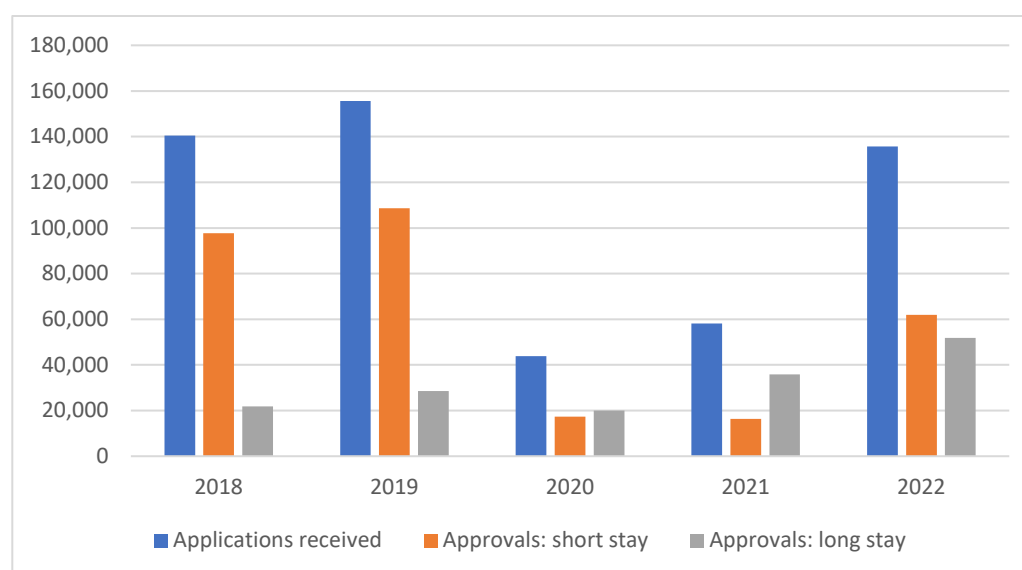
Source: For 2013–2021: ‘Parliamentary question 4389/22, 1 February 2022’; or 2022: Correspondence with Department of Justice, October 2023.

10.1.4 Visas

Figure 10.6 shows visa applications and approvals between 2018 and 2022. It shows a significant increase in visa applications between 2021 and 2022 (by 133%, to 135,732 applications) and an increase in both short-stay and long-stay visas, although short-stay visa approvals remain significantly below pre-COVID-19 levels and applications also remain below pre-COVID-19 levels.

⁴¹⁹ Correspondence with Department of Justice, October 2023.

⁴²⁰ See Murphy, K. and A. Sheridan (2022). *Annual report on migration and asylum 2021*, Dublin: Economic and Social Research Institute.

FIGURE 10.6 VISA APPLICATIONS AND APPROVALS, 2018–2022

Source: Correspondence with Department of Justice, October 2023.

10.1.5 Regularisation

The regularisation scheme for long-term undocumented migrants (see Section 10.2.3) opened for applications in 2022. A total of 6,548 applications relating to 8,311 people were received under the scheme. As of February 2023, 70% of people who applied for the scheme had received decisions, of which 97% were positive.⁴²¹

In addition, 3,240 applications were received for the international protection strand of the regularisation scheme. As of June 2023, 1,596 applicants had been granted a permission under the scheme while over the lifetime of the scheme, a further 1,102 applicants were granted an equivalent or higher order of immigration permission separate to the scheme.⁴²² This covers those cases where refugee status or subsidiary protection status was granted and those cases where permission to remain in the State was granted under section 49 of the *International Protection Act 2015*, before the Scheme application had been determined.⁴²³

10.2 DEVELOPMENTS

10.2.1 Resumption of deportation orders

Issuing of deportation orders resumed in 2022. As reported for 2021, only a very low number of deportation orders were issued during 2021, reflecting the government

⁴²¹ Department of Justice (2023). 'Response to parliamentary questions 6761/23 and 7089/23', 14 February, www.oireachtas.ie.

⁴²² Department of Justice (2023). 'Response to parliamentary questions 33877/23, 33878/23 and 34391/23', 11 July, www.oireachtas.ie.

⁴²³ Correspondence with the IPO, October 2023.

decision only to deport persons in very restricted circumstances during the COVID-19 pandemic.⁴²⁴

10.2.2 Suspension of European Agreement on the Abolition of Visas for Refugees

In July 2022, the Government temporarily suspended the operation of the European Agreement on the Abolition of Visas for Refugees (Council of Europe) for 12 months.⁴²⁵ This agreement allows refugees recognised by a number other European countries to visit Ireland for up to three months,⁴²⁶ and also allows refugees recognised by Ireland to visit other signatory countries. Following the suspension, refugees recognised by these countries are required to apply for visas under standard arrangements. The temporary suspension is provided for in the *Immigration Act 2004 (Visas) (Amendment) (No. 2) Order 2022*.⁴²⁷

The decision was made following an increasing number of international protection applications received by Ireland from refugees with status in other Member States, and was designed to protect the integrity of the immigration and international protection systems. The decision was to be reviewed 12 months from its implementation.⁴²⁸

10.2.3 Regularisation scheme

As reported for 2021, the Regularisation for Long-term Undocumented Migrants Scheme opened for applications in 2022.⁴²⁹ For details of the scheme, see the *Annual report on migration and asylum 2021*. In April 2022, the Minister for Justice announced the first positive decisions under the scheme. She noted plans to run a targeted communications campaign and to engage with NGOs in the sector to reach out to migrant communities likely to benefit from the scheme to encourage more applications.⁴³⁰ The main scheme opened for applications in January and its international protection strand (see Section 4.2.5) opened for applications in February.

⁴²⁴ Department of Justice (2021). 'Response to parliamentary question 57242/21,' 23 November, www.oireachtas.ie.

⁴²⁵ Department of An Taoiseach (2022). 'Government agrees to temporarily require refugees travelling to Ireland from safe European countries to hold visas', press release, 18 July, www.gov.ie

⁴²⁶ The countries were: Belgium, Czech Republic, Denmark, Finland, Germany, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden and Switzerland.

⁴²⁷ *Immigration Act 2004 (Visas) (Amendment) (No. 2) Order 2022* [S.I. No. 364/2022].

⁴²⁸ Department of An Taoiseach (2022). 'Government agrees to temporarily require refugees travelling to Ireland from safe European countries to hold visas', press release, 18 July, www.gov.ie.

⁴²⁹ Department of Justice (2021). 'Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants', press release, 3 December, www.gov.ie.

⁴³⁰ Department of Justice (2022). 'Minister McEntee issues first positive decisions under the Regularisation Scheme for Long-Term Undocumented Migrants', press release, www.gov.ie.

The scheme closed in July 2022, and the dedicated unit for the scheme closed in March 2023, after which remaining decisions and appeals are being processed by the Domestic Residence and Permissions division of Immigration Service Delivery (ISD).⁴³¹

See Section 10.1.5 above for statistics related to applications and decisions on the scheme.

10.2.4 First return order issued

Ireland issued the first return order in 2022.⁴³² Section 51A of the *International Protection Act 2015*⁴³³ introduced a ‘return order’ into Irish law for applicants whose applications are deemed inadmissible by the Minister of Justice.

10.2.5 Increase of return and reintegration grant and proposed changes to voluntary return

Ireland doubled the return and reintegration grant in 2022 to both individuals (from €600 to €1,200) and families (from €1,000 to €2,000 per family) to encourage uptake of voluntary return.⁴³⁴ This implements a recommendation of the Catherine Day Advisory Group that financial supports granted to those who choose voluntary return to their countries of origin should be doubled.⁴³⁵

The *Courts and Civil Law (Miscellaneous Provisions) Bill 2022* (see also Sections 6.2.2, 7.2.1 and 7.2.2) proposed an amendment to section 48 (3) of the *International Protection Act 2015* to extend the timeline for unsuccessful international protection applicants to notify their acceptance of voluntary return from 5 days to 30 days.⁴³⁶

10.2.6 Connection to EU – Readmission case management system

Between June and September 2022, a delegation from Pakistan’s National Database and Registration Authority and the Ministry of Interior of Pakistan, facilitated by a project under EU IOM EURCAP programme, visited a number of EU countries including Ireland, and installed access to the EU–Pakistan Readmission Case Management System.

⁴³¹ Department of Justice (2023). ‘Response to parliamentary questions 33877/23, 33878/23 and 34391/23’, 11 July, www.oireachtas.ie.

⁴³² Consultation with Repatriation Division, Immigration Service Delivery, Department of Justice, February 2022.

⁴³³ Inserted by section 121 of the *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020*.

⁴³⁴ Correspondence with Department of Justice, Repatriation Division, December 2022.

⁴³⁵ Government of Ireland (2020). *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*, October, p. 74, www.gov.ie.

⁴³⁶ Section 52 of the *Courts and Civil Law (Miscellaneous Provisions) Bill 2022*, as amended in Committee/Select Committee Dáil Éireann (22 November 2022), www.oireachtas.ie.

10.2.7 Removal of Russia and Belarus from Short Stay Visa Waiver Programme

From October 2022, Belarus and the Russian Federation were removed from the list of countries whose nationals may benefit from Ireland's Short-Stay Visa Waiver Programme. This was done through the *Immigration Act 2004 (Visas) (Amendment) (No. 3) Order 2022*.⁴³⁷ This programme allows people who have entered the United Kingdom (UK) on certain short-stay visas to travel to Ireland without obtaining an Irish visa, instead using the time remaining on their UK visa.⁴³⁸

10.2.8 Suspension of re-entry visa requirements for children

Re-entry visa requirements for children under 16 were suspended with immediate effect and until further notice from 14 June 2022. Children under 16 who are residing in the State and who wish to re-enter must be accompanied by a parent or legal guardian who holds an in-date permission to reside in the State. The parent/guardian must also provide documentation to prove that they are the legal parent or guardian.⁴³⁹

10.2.9 Extension of five-year visa option

In April 2022, the Minister for Justice announced the extension of the five-year multi-entry visa option to eligible applicants from all visa-required countries. Prior to this, only one-year, two-year or three-year options had been available, with the five-year option only available to Chinese passport holders (which was introduced in 2019).⁴⁴⁰

10.2.10 Other developments

Immigration detention facilities became operational at Dublin Airport Garda Station from March 2022. This allows for up to four persons refused leave to land to be detained within the airport for up to 24 hours, pending return on an outbound flight. These facilities are used primarily for immigration detainees.⁴⁴¹

In December 2022, Ireland launched an open call for applications from organisations to support the delivery of the voluntary return programme from January to December 2023. A large element of this programme was likely to be supported by the Asylum, Migration and Integration Fund (AMIF).⁴⁴²

⁴³⁷ *Immigration Act 2004 (Visas) (Amendment) (No. 3) Order 2022* [S.I. No. 533/2022].

⁴³⁸ Department of Justice (2023). 'Short stay visa waiver programme', www.irishimmigration.ie.

⁴³⁹ Department of Justice, Immigration Service Delivery (2022). 'Suspension of re-entry visa requirements for children under the age of 16 years', 14 June, www.irishimmigration.ie.

⁴⁴⁰ Department of Justice, Immigration Service Delivery (2022). 'Minister announces extension of the 5-year multi entry short-stay visa option to all visa required countries', 22 April, www.irishimmigration.ie.

⁴⁴¹ Department of Justice (2022). 'Minister McEntee attends official opening of Dublin Airport Garda Station', press release, 6 May, www.gov.ie; Correspondence with Department of Justice, October 2023.

⁴⁴² Department of Justice, Immigration Service Delivery (2022). 'Open call for applications to assist with the voluntary return of third country nationals 2023', December, www.irishimmigration.ie.

All border controls related to COVID-19 were lifted in 2022, with the requirement to have a passenger locator form lifted from March 2022.⁴⁴³

10.3 RESEARCH

10.3.1 Responses to irregularly staying migrants

In May 2022, the Economic and Social Research Institute (ESRI) / European Migration Network (EMN) Ireland published a report on Ireland's responses to irregularly staying migrants.⁴⁴⁴ It gives an overview of the situation of irregularly staying migrants in Ireland, including access to public service, major public debates and policy measures adopted to respond to the issue. The report highlights that unsuccessful international protection applicants are allowed to reside in the International Protection Accommodation Services (IPAS) system of accommodation and use all associated services, and that Ireland does not issue a written confirmation or documentation if a return cannot be enforced for legal or practical reasons. It outlines the recent regularisation scheme and policy measures taken to address issues like labour exploitation of irregularly staying migrants.

The report highlights that authorities providing services at local or state level in Ireland do not need to check the migration status of persons before providing access to the service, according to the Department of Justice. However, no specific firewall provisions were found, apart from one announcement related to COVID-19. Irregularly staying migrants can access homeless services, education (including higher education) and healthcare, but NGOs have observed that access to many of these is often difficult in practice for irregularly staying migrants. The report highlights the often contradictory goals of local-level responses to the individual needs of irregular migrants and national policy of reducing irregular migration and work.

10.4 CASE LAW

10.4.1 Copying and retaining screenshots from phone in a refusal of leave to land decision: *Akram v Minister for Justice and Equality and the Commissioner of An Garda Síochána [2022] IECA 108*

The applicant, a national of Pakistan and a student in Cyprus, was refused leave to land at Dublin Airport on 21 October 2017. While he held a visa for the State, he was refused leave to land pursuant to section 4(3)(k), *Immigration Act 2004*, on the grounds that there was reason to believe that he intended to enter the State for purposes other than

⁴⁴³ Department of the Taoiseach and Department of Health (2023). 'Current rules for travelling to Ireland – Passenger locator form', last updated 10 January, www.gov.ie.

⁴⁴⁴ Polakowski, M. and E. Quinn (2022). *Responses to irregularly staying migrants in Ireland*, ESRI Research Series No. 140, Dublin: Economic and Social Research Institute.

those expressed. He was detained in Cloverhill Prison for four days, after which he was removed from the State. In deciding to refuse leave to land, immigration officers of the Border Management Unit (BMU) searched the appellant's phone. The immigration officers also asked questions about his relationships. The appellant brought judicial review proceedings in the High Court challenging the lawfulness of the refusal of leave to land decision and the search of his phone, which was unsuccessful. He subsequently appealed to the Court of Appeal.

In relation to the decision to refuse leave to land, the Court of Appeal, upholding the decision of the High Court, held that the consideration of the appellant's brother's activities, including a note stating 'brother's sham marriage?' were part of a line of enquiry that occurred to the immigration officer as he proceeded and was one that was relevant to the consideration of the application for leave to land. The Court of Appeal also held that the appellant was given sufficient reasons as to why he was being refused permission to enter the State.

The second part of the judgment concerned the legality of the search of the appellant's phone. Section 7(3)(a) of the *Immigration Act 2004* provides that a non-national landing in the State shall declare and produce any documents they are carrying if requested to do so. The Court of Appeal examined whether the definition of documents under section 7(3)(c) of the 2004 Act includes information on a mobile phone in circumstances where the definition of documents includes 'any information in non-legible form that is capable of being converted into legible form'. Having regard to the context and subject matter of the legislation, and the objective discerned therefrom, it was held that documents included electronic forms, including a mobile phone.

The Court of Appeal went on to examine the power of an immigration officer to retain and copy information from a mobile phone. The Court recalled that section 7(3)(b) allows an immigration officer to examine and detain, for such a time as they may think proper for the purpose of such examination, any documents so produced. The immigration officer took screenshots from the appellant's phone and retained them. The Court held that the copying of documents, by way of screenshots, was not permitted by section 7 or any other legislation. The screenshots were held for more than a week after the appellant was removed from jurisdiction. The Court of Appeal held that the legislation only permits examination and detention of documents for such time as may be proper for the purpose of the examination. Thus, it was held that the purpose for which the documents could be retained had long passed. The immigration officer therefore acted in excess of the powers permitted by legislation and this was incompatible with Article 8 of the European Convention on Human Rights (ECHR).

On this final point of appeal, Ní Raifeartaigh J dissented. She stated that more precision was needed as regards a 'search power' when mounting a challenge for judicial review, particularly when it is brought with a reference to the ECHR. Ní Raifeartaigh J argued

that the way the case was pleaded and argued related to access to the phone and not to what happened in terms of the retention of the messages. In her view, the issue of copying and retention, as distinct from the issue of whether it was lawful to search the appellant's phone in the sense of accessing and reading the messages on it, was neither pleaded nor addressed by the appellant.

The appellant was found to be entitled to a declaration that the copying and retention of documents obtained from his phone was not carried out in a manner permitted under s.7(3) of the *Immigration Act 2004*, but was done in a manner that was incompatible with the State's obligations under Article 8 ECHR.

10.4.2 Article 8 ECHR rights of unsettled migrants: *MK (Albania) v Minister for Justice and Equality [2022] IESC 48*

The appellant, MK, was a national of Albania and arrived in Ireland in 2016 as an unaccompanied minor. He lived with a foster family and was enrolled in school in Dublin. He applied for international protection in 2017 with the assistance of Tusla and, in 2018, he was granted permission to enter the labour market. He left school and undertook training and worked full-time in catering. Before a decision was taken on his protection application, he turned 18. The international protection officer reviewing his case did not find his explanation for seeking asylum to be credible or reasonable and made a recommendation under section 39(3) of the *International Protection Act 2015*, as amended, to refuse refugee status and subsidiary protection status.

The application was then considered under section 49 of the 2015 Act as to whether he should be granted permission to remain. This was refused and a deportation order followed. In making this decision, the Minister applied the 'Razgar' test (*R (Razgar) v Home Secretary (No. 2) [2004] 2 AC 368*). This test sets out five questions to address when considering deportation and the application of Article 8 ECHR and the right to private and family life. The Minister held that the potential interference with the exercise of the applicant's right to respect for his private or family would not have consequences of such gravity as to engage the operation of Article 8(1) ECHR.

The applicant sought judicial review of this decision and the High Court, following the Court of Appeal's ruling in *CI and others v Minister for Justice, Equality and Law reform and anor ([2015] IECA 192)*, upheld the Minister's decision, stating that 'exceptional circumstances' were required in order to engage the applicant's Article 8 ECHR rights and that he did not have a procedural right under the Constitution to a proportionality test. The applicant appealed this decision to the Supreme Court.

The central issue in the Supreme Court concerned the rights of 'unsettled' migrants in Ireland under the ECHR and the Irish Constitution in the context of deportations. First, the Supreme Court unanimously agreed that the Minister erred in her approach to

considering the applicant's Article 8 rights and in applying the Razgar test. It held that the method used was not in line with case law from ECHR on Article 8, which applied a low threshold for the engagement of Article 8 rights and did not require the establishment of 'exceptional circumstances' to consider engaging such rights. The Supreme Court agreed that the Minister should have applied a proportionality test at the last stage of the Razgar test, as opposed to at the start, and found that the High Court judgment, in following CI, was incorrect.

The Supreme Court was further in agreement that the applicant's constitutional right to a private life should have been weighed by the Minister when considering deportation. However, the judges were divided as to the relationship between the Constitution and the ECHR and whether a full consideration of a constitutional issue was necessary.

Lastly, Chief Justice O'Donnell held that the Minister erred by conducting a proportionality assessment at the second stage of the Razgar test and not the fifth stage, but that this was an error of procedure and not substance and the Minister's decision should not be quashed. O'Malley J agreed that it was not necessary or appropriate to quash the decision. Hogan J agreed that the Minister did, in substance, conduct a proportionality assessment, as is required under Article 8(2) ECHR, and also under the Constitution. The Minister's decision could not therefore be faulted. In turn, MacMenamin J disagreed. He held that the primary purpose of a judicial review is to prevent abuse of power and assess whether the procedure followed was correct. Central to this reasoning is the upholding of the rule of law. He opined that the Minister's decision should be quashed. Baker J concurred with MacMenamin J

By a majority of three to two (O'Donnell C.J., O'Malley J and Hogan JJ; MacMenamin J and Baker JJ dissenting), the Supreme Court dismissed the appeal against the High Court judgment refusing to quash the Minister's refusal to grant permission to remain and subsequent deportation order.

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ANNEX A

Migration and asylum governance structures and policy

This section sets out the institutional structure on 31 December 2022.

Three government departments are primarily involved in migration management in Ireland (see Figure 1.1). A fourth government department, the Department of Foreign Affairs (DFA), plays a limited role in migration management, with some responsibilities for issuance of visas overseas. Other government departments may have limited input into specific aspects of migration management.

Figures 1.1 and 1.2 (page 3 and 4) set out the departmental and institutional arrangements respectively, as of 31 December 2022. This section provides further detail on their roles and responsibilities.

A.1 STRUCTURE OF THE IMMIGRATION SYSTEM

A.1.1 Department of Justice

The Department of Justice is responsible for immigration management. The Minister for Justice has ultimate decision-making powers in relation to immigration and asylum.

Immigration Service Delivery

The Department of Justice's Immigration Service Delivery (ISD) function (formerly the Irish Naturalisation and Immigration Service) is responsible for administering the statutory and administrative functions of the Minister for Justice in relation to international protection, immigration (including visas), repatriation and citizenship matters.

Since 31 December 2016, ISD has been responsible for investigating applications by beneficiaries of international protection to allow family members to enter and reside in the State and for providing a report to the Minister on such applications, under sections 56 and 57 of the *International Protection Act 2015*. ISD also administers the Atypical Working Scheme, which provides permissions for working situations that fall outside of the employment permits system.

Since 2015, the Border Management Unit (BMU) of ISD has taken over frontline border control functions at Dublin Airport. Established in May 2018, the Irish Passenger Information Unit (IPIU) is a unit of the Department of Justice that collects and processes:

- passenger name record (PNR) data for the purpose of the prevention, detection, investigation and prosecution of terrorism and serious crime; and

- advance passenger information (API), which includes data from inbound flights from outside the European Union (EU) for immigration purposes.

The Garda National Immigration Bureau (GNIB), a unit of An Garda Síochána (and therefore under the authority of the Department of Justice), is responsible for all immigration-related Garda operations in the State. GNIB carries out policing functions of immigration such as deportations, detentions at borders and investigations of immigration issues. It also provides border management functions at all ports of entry other than Dublin Airport and, for all areas outside Dublin, immigration registration of non-EEA nationals, who are required to register for residence purposes. An Garda Síochána has personnel specifically dealing with immigration in every Garda district, at all approved ports and airports, and at a border control unit attached to Dundalk Garda Station.

International protection

The International Protection Office (IPO) is an administrative unit within the ISD function of the Department of Justice that is responsible for processing applications for international protection under the *International Protection Act 2015*. It also considers, as part of a single procedure, whether applicants should be given permission to remain. International protection officers are independent in the performance of their international protection functions. International protection officers make recommendations in relation to international protection applications, but it is the function of the Minister for Justice to make the decision. The Minister for Justice also makes decisions in relation to permission to remain. These decisions are made through the Ministerial Decision Unit.

The IPO also administers the Dublin III Regulation in the State, which is given further effect in Ireland via the *European Union (Dublin System) Regulations 2018*.⁴⁴⁵

The statutorily independent International Protection Appeals Tribunal (IPAT) is responsible for hearing appeals.

Trafficking

The Department of Justice also has responsibility for anti-human trafficking policy and legislation. Since October 2020, the Irish Human Rights and Equality Commission (IHREC) is the designated national rapporteur on trafficking of human beings.⁴⁴⁶ There are three dedicated units in the State dealing with this issue: the Human Trafficking Investigation and Co-ordination Unit (HTICU) in the Garda National Protective Services Bureau (GNPSB); the Anti-Human Trafficking Team (ATT) in the Health Service Executive

⁴⁴⁵ European Union (Dublin System) Regulations 2018 [S.I. No. 62 of 2018].

⁴⁴⁶ European Union (Prevention and Combating of Human Trafficking) (National Rapporteur) Regulations 2020 [S.I. 432 of 2020].

(HSE); and a specialised human trafficking legal team in the Legal Aid Board (LAB). In Ireland, it is the responsibility of An Garda Síochána to identify a victim of human trafficking and refer them to the National Referral Mechanism (NRM). Once designated as a victim of trafficking within the NRM, the HTICU has the responsibility of referring the victim to a variety of services.⁴⁴⁷ Dedicated personnel are assigned to deal with prosecution of cases in the Office of the Director of Public Prosecutions (DPP). In addition, the ATT liaises with a dedicated team in the Department of Social Protection (DSP). Some of the services provided by the DSP include material assistance (supplementary welfare allowance, rent supplement), translation and interpretation when needed and, when appropriate, access to the labour market, vocational training and education.

A.1.2 International Protection Appeals Tribunal

The International Protection Appeals Tribunal (IPAT) is a statutorily independent quasi-judicial body that exercises the performance of its functions under the *International Protection Act 2015*.⁴⁴⁸ It is regarded as a court or tribunal of first instance, tasked with performing the judicial scrutiny function provided for in Article 39 of Directive 2005/85.⁴⁴⁹ Established in December 2016 in accordance with section 61 of the *International Protection Act 2015*, IPAT hears and determines appeals in relation to recommendations made by international protection officers in the IPO on applications for protection status in the State, and in relation to appeals of transfer decisions made by the IPO under the Dublin III Regulation. Since 30 June 2018, IPAT also hears appeals in relation to the *European Communities (Reception Conditions) Regulations 2018*.

A.1.3 Legal Aid Board

The Refugee Documentation Centre (RDC) is an independent library and research service within the LAB that provides a specialist query and research service in support of the work of the LAB and the Department of Justice.^{450,451} The specialised Services for Asylum Seekers office within the LAB provides ‘confidential and independent legal services’ to persons applying for asylum in Ireland. Legal aid and advice are also provided in ‘appropriate cases’ on immigration and deportation matters.⁴⁵² Additionally, the LAB provides legal services on certain matters to persons identified by the Human Trafficking Investigation and Co-ordination Unit of An Garda Síochána as ‘potential victims’ of human trafficking under the *Criminal Law (Human Trafficking) Act 2008*.

⁴⁴⁷ Breen, M., A.E. Healy and M. Healy (2021). *Report on human trafficking and exploitation on the island of Ireland*, Mary Immaculate College, Limerick.

⁴⁴⁸ Section 61(3)(b) of the *International Protection Act 2015*.

⁴⁴⁹ See most recently *X v International Protection Appeals Tribunal & ors* (Case C-756/21, 29 June 2023).

⁴⁵⁰ For information on the RDC, see www.legalaidboard.ie/lab/publishing.nsf/Content/RDC.

⁴⁵¹ For information on the LAB, see www.legalaidboard.ie.

⁴⁵² See www.legalaidboard.ie.

A.1.4 Department of Children, Equality, Disability, Integration and Youth

Following the transfer of functions in October 2020, the Department of Children, Disability, Equality, Integration and Youth (DCEDIY) has responsibility for the provision of accommodation and other supports to applicants for international protection, for integration and resettlement.⁴⁵³ DCEDIY also has policy responsibility for children, including unaccompanied minors arriving in the State who are in the care of Tusla, Child and Family Agency.

In August 2019, the Reception and Integration Agency (RIA), which was responsible for arranging accommodation and working with statutory and non-statutory agencies to coordinate the delivery of other services for applicants for international protection, was divided into the International Protection Accommodation Services (IPAS) and International Protection Procurement Services (IPPS). IPPS is responsible for procurement, contract management, inspection and payments for accommodation provided to international protection applicants. IPAS is responsible for all other aspects of reception of international protection applicants, including all ancillary services. Since 30 June 2018, the statutory basis for this work is the *European Communities (Reception Conditions) Regulations 2018*,⁴⁵⁴ which transpose the *EU Reception Conditions Directive 2013/33/EU* into Irish law. IPAS also provides accommodation to suspected victims of trafficking pending a determination of their case and during the 60-day recovery and reflection period.

DCEDIY has responsibility for leading and co-ordinating integration and equality policy across government departments, agencies and services.

Following the transition of functions in October 2020, responsibility for the Irish Refugee Protection Programme (IRPP), approved by Government in 2015, was transferred to DCEDIY. In 2019, the Government launched Phase II of the IRPP, stating its intention for Ireland to welcome up to 2,900 refugees between 2020 and 2023 through a combination of resettlement and the new community sponsorship initiative.

Tusla, Child and Family Agency, is responsible for the administration of care for unaccompanied third-country minors in the State and, since November 2020, sits under DCEDIY. Tusla is responsible for improving the well-being and outcomes of children, providing child protection, early intervention, family support services and putting in place suitable arrangements for those arriving to the State under relevant IRPP programmes and other immigration schemes.

⁴⁵³ *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* [S.I. No. 436 of 2020].

⁴⁵⁴ *European Union (Dublin System) Regulations 2018* [S.I. No. 62 of 2018].

A.1.5 Department of Enterprise, Trade and Employment

The Department of Enterprise, Trade and Employment (DETE) administers the States' employment permit schemes. DETE's employment permits section implements a skills-oriented employment permits system to fill labour and skills gaps that cannot be filled through EEA supply. The employment permits section: processes applications for employment permits; issues guidelines, information, and procedures; and produces online statistics on applications and permits issued.

The Economic Migration Policy Unit within DETE works to support the operation of an employment permits system that maximises the benefits of economic migration and minimises the risk of disrupting Ireland's labour market. The employment of non-EEA nationals in the State is governed by the *Employment Permits Acts 2006* (as amended), which facilitates economic migration through nine different types of employment permits for different employment scenarios.

Set up in the late 1990s, the Expert Group on Future Skills Needs (EGFSN) is an independent body that advises Government on future skills needs of enterprises and associated labour market issues. The EGFSN carries out research and analysis in relation to emerging skills requirements, engages with relevant bodies to produce action plans to address identified skills needs and disseminates findings. DETE provides administrative support to the EGFSN.⁴⁵⁵

The Workplace Relations Commission (WRC) is an independent statutory body established under the *Workplace Relations Act 2015* that regulates employment rights and undertakes inspections in relation to employment rights and adherence to employment permits legislation.

A.1.5 Department of Further and Higher Education, Research, Innovation and Science

On behalf of the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) and under the Irish University Association (IUA), EURAXESS Ireland, manages the operation of hosting agreements under the *Third Country Researchers Directive (Council Directive 2005/71/EC)*. This Directive allows researchers to carry out research projects with a recognised research organisation in Ireland using a permit that can last up to five years.⁴⁵⁶

⁴⁵⁵ Expert Group on Future Skills Needs (2021). *The Expert Group on Future Skills Needs: Statement of activity 2020*, Dublin: National Skills Council.

⁴⁵⁶ See DFHERIS (2021). 'Third country researchers directive', last updated 21 March 2023, www.gov.ie.

A.1.6 Department of Foreign Affairs

The Department of Foreign Affairs (DFA) has responsibility for the issuance of visas via Irish Embassy consular services in cases where the Department of Justice does not have a dedicated visa office within the country concerned.⁴⁵⁷ The DFA has operative function only and is not responsible for visa policy or decisions, which are the remit of the Department of Justice.

Irish Aid is the Government's programme for overseas development assistance and is managed by the Development Cooperation Division of the DFA. In 2019, the Government launched *A Better World*, a new policy for international development.⁴⁵⁸

A.2 STRUCTURE OF THE LEGAL SYSTEM

The Irish asylum process sits outside the national courts system. Immigration matters are dealt with on an administrative basis by the Minister for Justice. In accordance with the Constitution, justice is administered in public, in courts established by law, with judges appointed by the President on the advice of the Government. Independence is guaranteed in the exercise of their functions. The Irish courts system is hierarchical in nature and there are five types of court in Ireland, which each hear different types and levels of cases. In ascending hierarchical order, these are:

- the District Court;
- the Circuit Court;
- the High Court;
- the Court of Appeal;
- the Supreme Court.

The relevance of the courts in relation to asylum and immigration cases is generally limited to judicial review.⁴⁵⁹ Judicial review is a way for the High Court to supervise the lower courts, tribunals and other administrative bodies to ensure that they make proper decisions in accordance with the law. Judicial review focuses on assessing the determination process through which a decision is reached to ensure that the decision maker makes their decision properly and in accordance with the law. It does not look to the merits or the substance of the underlying case.⁴⁶⁰

⁴⁵⁷ See Quinn, E. (2009). *The organisation of asylum and migration policies in Ireland: 2009*, Dublin: The Economic and Social Research Institute.

⁴⁵⁸ See Government of Ireland (2019). *A Better World: Ireland's policy for international development*, www.irishaid.ie.

⁴⁵⁹ There is a statutory appeal to the Circuit Court against decisions to revoke refugee status and subsidiary protection under section 52 of the *International Protection Act 2015*.

⁴⁶⁰ See Citizens Information (2022). 'Judicial review of public decisions', www.citizensinformation.ie.

A.2.1 EU acquis

Ireland does not take part in measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU), under the terms of Protocol 21 of the Lisbon Treaty, unless it decides to participate in the measure following a motion in the Houses of the Oireachtas.⁴⁶¹ Under Declaration number 56 to the TFEU, Ireland has declared its intention to take part in the adoption of Title V proposals to the maximum extent it deems possible.⁴⁶²

Ireland participated in some of the first generation of instruments under the Common European Asylum System, such as the *Qualification Directive 2004/83/EC* and *Procedures Directive 2005/85/EC*.⁴⁶³ Ireland remains bound by these Directives.

Ireland does not participate in the ‘recast’ *Qualification Directive 2011/95/EU* or *Procedures Directive 2013/32/EU*. While Ireland does not participate in the original *Reception Conditions Directive 2003/9/EC* either, Ireland has opted into the recast *Reception Conditions Directive 2013/33/EU* and the *European Communities (Reception Conditions) Regulations 2018*, which came into operation on 30 June 2018.⁴⁶⁴

Ireland is a signatory to the Dublin Convention and is subject to the Dublin Regulation, which determines the EU Member State responsible for processing asylum applications made in the EU. Regulation 604/2013 (‘the Dublin III Regulation’) came into force on 29 June 2013.⁴⁶⁵ The *European Union (Dublin System) Regulations 2014* were adopted to give further effect to the Dublin III Regulation.⁴⁶⁶ These regulations were amended by the *European Union (Dublin System) (Amendment) Regulations 2016*.⁴⁶⁷ The *European Union (Dublin System) Regulations 2018* came into effect on 6 March 2018.⁴⁶⁸ The Regulations give further effect to the Dublin III Regulation in Ireland and revoke the 2014 and 2016 Regulations.

⁴⁶¹ *Protocol (no 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice* (Document 12016E/PRO/21).

⁴⁶² Declaration by Ireland on Article 3 of the *Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice (TFEU)*. Ireland also ‘affirms its commitment to the Union as an area of freedom, security and justice respecting fundamental rights and the different legal systems and traditions of the Member States within which citizens are provided with a high level of safety’.

⁴⁶³ Ireland does not participate in the ‘recast’ *Qualification Directive 2011/95/EU* or *Procedures Directive 2013/32/EU*.

⁴⁶⁴ *European Communities (Reception Conditions) Regulations 2018* [S.I. No. 230 of 2018]. The European Commission in July 2016 launched proposals to replace the Asylum Qualifications and Procedures Directives with Regulations and to further recast the Reception Conditions Directive.

⁴⁶⁵ *Regulation (EU) No. 604/2013 (Dublin III Regulation)* lays down the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

⁴⁶⁶ *European Union (Dublin System) Regulations 2014* [S.I. No. 525 of 2014].

⁴⁶⁷ *European Union (Dublin System) (Amendment) Regulations 2016* [S.I. No. 140 of 2016].

⁴⁶⁸ *European Union (Dublin System) Regulations 2018* [S.I. No. 62 of 2018].

Ireland does not participate in the legal migration instruments under Title V except for the Researcher's Directive 2005/71/EC.⁴⁶⁹

Ireland is not part of the Schengen Area. In accordance with Council Decision 2002/192/EC,⁴⁷⁰ Ireland requested to participate in certain aspects of the Schengen acquis, mostly related to police cooperation. Ireland participates in certain Schengen building measures in relation to irregular migration, including Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data,⁴⁷¹ Council Directive 2002/90/EC on facilitation of unauthorised entry,⁴⁷² and Regulation (EU) 2019/1240 on the creation of a European network of immigration liaison officers.⁴⁷³

A.2.2 Irish immigration and asylum legislation

This section sets out the legislative framework as applicable on 31 December 2022.

Following a sharp rise in immigration flows from the mid-1990s,⁴⁷⁴ several pieces of legislation were introduced to deal with immigration and asylum issues in Ireland. The *Illegal Immigrants (Trafficking) Act 2000*⁴⁷⁵ and the *Immigration Acts 1999, 2003 and 2004*, as amended, provide the basis for domestic immigration law in Ireland, in addition to pre-existing legislation such as the *Aliens Act 1935* (and Orders made under that Act). The *Employment Permits Act 2006* (as amended) and secondary legislation made under it set out the legal framework for the employment permits schemes. The *Employment Permits Regulations 2017* set down the different classes of employment permit that may be granted and the qualifying criteria, application process, fees, review process with

⁴⁶⁹ Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

⁴⁷⁰ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis.

⁴⁷¹ Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data. This Directive was transposed into Irish law via the *European Communities (Communication of Passenger Data) Regulations 2011* [S.I. No. 597 of 2011].

⁴⁷² Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence. The General Scheme of the Criminal Justice (Smuggling of Persons) Act 2021 implemented this Directive into Irish law.

⁴⁷³ Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers.

⁴⁷⁴ Prior to the mid-1990s, immigration and asylum legislation in Ireland was covered by such instruments as the Hope Hanlon procedure and the *Aliens Act 1935* (and Orders made under that Act), together with the relevant EU free movement Regulations and Directives, including Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC on freedom of movement for workers within the Community, 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families, 72/194/EEC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, 73/148/EEC on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services, 75/34/EEC concerning the right of nationals of a Member State to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity, 90/364/EEC on the right of residence, 90/365/EEC on the right of residence for employees and self-employed persons who have ceased their occupational activity, and 93/96/EEC on the right of residence for students.

⁴⁷⁵ Certain aspects of the *Illegal Immigrants (Trafficking) Act 2000* have been amended by the *Criminal Justice (Smuggling of Persons) Act 2021*.

regard to decisions taken, and other matters for these permits.⁴⁷⁶ The *International Protection Act 2015* (as amended) sets out the domestic legal framework regarding applications for international protection and replaces the *Refugee Act 1996* (as amended),⁴⁷⁷ and the *European Communities (Subsidiary Protection) Regulations 2013* (as amended). The *Irish Nationality and Citizenship Act 1956*, as amended, is the statute governing Irish citizenship.⁴⁷⁸

Since 31 December 2016, the single application procedure for international protection claims under the *International Protection Act 2015* has entered operation. Under the 2015 Act, applications for refugee status, subsidiary protection and permission to remain are assessed as part of a single procedure.

Under section 47(1) of the *International Protection Act 2015*, the Minister is bound to accept a positive recommendation of refugee status of the international protection officer or a decision to grant refugee status in relation to an appeal heard by IPAT, but retains a discretion not to grant refugee status on grounds of danger to the security of the State or to the community of the State where the refugee has been convicted of a particularly serious crime.⁴⁷⁹ The Minister shall refuse a refugee declaration where an international protection officer has recommended that the applicant be refused refugee status but be granted subsidiary protection status, and has not appealed the decision not to grant refugee status. The Minister is also bound by a recommendation or decision on appeal in relation to subsidiary protection status, under section 47(4) of the Act. The Minister shall refuse both refugee status and subsidiary protection status where the recommendation is that the applicant be refused both statuses and the applicant has not appealed the recommendation or when the IPAT upholds the recommendation not to grant either status. The Minister also refuses both refugee and subsidiary protection status in circumstances where appeals are withdrawn or deemed to be withdrawn.

Under section 49 of the *International Protection Act 2015*, the Minister is bound to consider whether or not to grant permission to remain to an unsuccessful applicant for international protection. Information given by the applicant in the original application for international protection, including at interview, as well as any additional information that the applicant is invited to provide, is taken into account.

A.2.3 Trafficking legislation

The *Criminal Law (Human Trafficking) Act 2008* creates offences related to trafficking in persons for the purposes of sexual or labour exploitation, or for the removal of their organs, and criminalises the selling or purchasing of human beings. The Act gave effect

⁴⁷⁶ *Employment Permits Regulations 2017* S.I. No. 95/2017.

⁴⁷⁷ The *Refugee Act 1996* has now been repealed.

⁴⁷⁸ The 1956 Act has been amended by the *Irish Nationality and Citizenship Acts 1986, 1994, 2001 and 2004*.

⁴⁷⁹ Section 47(3), *International Protection Act 2015*.

to the EU Council Framework Decision 2002/629/JHA on combatting trafficking in human beings. The Act criminalises the trafficking of children into, through or out of the State, and amends the *Child Trafficking and Pornography Act 1998* to bring the offence of trafficking into line with other new trafficking offences. It also criminalises trafficking in adults.

The *Criminal Law (Human Trafficking) (Amendment) Act 2013* was introduced to give effect to certain criminal law provisions of Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims, which replaced Council Framework Decision 2002/629/JHA on combatting trafficking in human beings.

The 2013 Act introduced a number of changes in substantive criminal law and criminal procedure in relation to trafficking offences. The Act replaced and expanded the original definition of exploitation in the 2008 Act to cover trafficking for the purposes of forced begging. It incorporates the definition of begging set out in the Criminal Justice (Public Order) Act 2011. The 2013 Act focuses on the phenomenon of begging as a form of forced labour. For this purpose, it incorporates the definition of forced labour in the International Labour Organization Convention No. 29 on Forced Labour into the definition of exploitation. Other exploitative activities are also covered, such as trafficking for the purposes of criminal activities.

The *Criminal Law (Sexual Offences) Act 2017* makes it an offence for a person to pay to engage in sexual activity with a prostitute or a trafficked person, regardless of nationality. The person providing the sexual service is not subject to an offence. Part 4 (section 27) of the Act contains a specific reporting requirement on the implementation of the Act within three years, including in respect of the number of arrests and convictions and an assessment of the impact of the legislation on the safety and well-being of persons who engage in sexual activity for payment.

The *Criminal Law (Sexual Offences) (Amendment) Act 2019* amends the *Criminal Law (Sexual Offences) (Amendment) Act 2017* in relation to sentencing for subsequent offences and in relation to the schedule of offences pursuant to section 58 of the *Criminal Law (Sexual Offences) Act 2017*. Section 4 of this Act inserts a new section 58 into the *Criminal Law (Sexual Offences) Act 2017* in relation to sentencing for repeat sexual offenders.

The *European Union (Prevention and Combating of Human Trafficking) (National Rapporteur) Regulations 2020* designate the Irish Human Rights and Equality Commission (IHREC) as Ireland's Independent National Rapporteur on the Trafficking of Human Beings.⁴⁸⁰ As National Rapporteur, the Commission monitors Ireland's

⁴⁸⁰ *European Union (Prevention and Combating of Human Trafficking)(National Rapporteur) Regulations 2020* [S.I. No. 432 of 2020].

performance against the State's international obligations under the EU's Anti-Trafficking Directive, as well as the Council of Europe's Convention on Action against Trafficking 2005 and the *Palermo Protocol to the UN Convention against Organised Crime 2000*.^{481s}

A.2.4 Sexual and gender-based violence

The *Criminal Law (Extraterritorial Jurisdiction) Act 2019* gives effect to certain aspects of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and extends the criminal law of the State to certain conduct engaged in outside the State.⁴⁸² Sections 1 and 3 provide for extraterritorial jurisdiction over certain 'relevant offences' including murder, manslaughter, rape and sexual assault offences under sections 3, 4, 5, 9 or 10 of the *Non-Fatal Offences Against the Person Act 1997* in accordance with Article 44 of the Istanbul Convention. Section 4 amends the *Criminal Justice (Mutual Assistance) Act 2008* to provide for the application of the provisions of that Act to the Istanbul Convention. Following this legislation, Ireland ratified the Istanbul Convention on 8 March 2019.

A.2.5 Free movement

The *European Communities (Free Movement of Persons) (No. 2) Regulations 2006*⁴⁸³ were the principal Regulations transposing EU Directive 2004/38/EC⁴⁸⁴ on free movement of persons.⁴⁸⁵ These were subsequently amended by the *European Communities (Free Movement) (Amendment) Regulations 2008*⁴⁸⁶ following the *Metock*⁴⁸⁷ judgment of the European Court of Justice (ECJ). The *European Community (Free Movement of Persons) Regulations 2015*,⁴⁸⁸ which came into operation on 1 February 2016, give further effect to EU Directive 2004/38/EC and revoke the 2006 Regulations, subject to transitional provisions.

The *European Union (Withdrawal Agreement) (Citizens Rights) Regulations 2020* entered operation on 31 December 2020. These Regulations give effect to the provisions on residence and residence documents in Part 2 (citizens' rights) of the Withdrawal Agreement between the UK and the European Union. The Regulations make provision for the application, as appropriate, of the *European*

⁴⁸¹ IHREC (2020). *Annual report 2020*.

⁴⁸² Act No. 6 of the *Criminal Law (Extraterritorial Jurisdiction) Act 2019*.

⁴⁸³ *European Communities (Free Movement of Persons) (No. 2) Regulations 2006* [S.I. No. 656 of 2006].

⁴⁸⁴ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

⁴⁸⁵ These Regulations replaced the *European Communities (Free Movement of Persons) Regulations 2006* [S.I. No. 226 of 2006], consequent upon the enlargement of the European Union on 1 January 2007.

⁴⁸⁶ *European Communities (Free Movement) (Amendment) Regulations 2008* [S.I. No. 310 of 2008].

⁴⁸⁷ Case C-127/08 *Metock and Ors vs Minister for Justice, Equality and Law Reform*. For case summary see: www.emn.ie.

⁴⁸⁸ *European Communities (Free Movement of Persons) Regulations 2015* [S.I. No. 548 of 2015].

Communities (Free Movement of Persons) Regulations 2015 [S.I. No. 548 of 2015] to UK nationals and their family members to whom Part 2 of the Withdrawal Agreement applies and make provision for the issue of residence documents and permanent residence documents to such persons.⁴⁸⁹

⁴⁸⁹ *European Union (Withdrawal Agreement) (Citizens' Rights) Regulations 2020* [S.I. No. 728 of 2020].

ANNEX B: LIST OF EMN PUBLICATIONS IN 2022

European Migration Network publications

Reports

- Children in migration: European Migration Network (EMN) report on the state of progress in 2020 of the European Commission communication on the protection of children in migration from 2017 (4 February).
- Third-country national victims of trafficking in human beings: detection, identification and protection: EMN synthesis report (31 March).
- Detention and alternatives to detention in international protection and return procedures: EMN synthesis report (25 May).
- Annual report on migration and asylum 2021: EMN synthesis report (15 June).
- Integration of migrant women: EMN synthesis report (7 September).

Inform

- Children in migration: EMN inform on the state of progress in 2020 of the European Commission communication on the protection of children in migration from 2017 (4 February).
- The use of digitalisation and artificial intelligence in migration management (Joint EMN–OECD inform) (10 February).
- Skills mobility partnerships – Exploring innovative approaches to labour migration: EMN inform (3 March).
- Preventing, detecting and tackling situations where authorisations to reside in the EU for the purpose of study are misused (14 March).
- Third-country national victims of trafficking in human beings: detection, identification and protection: EMN inform (31 March).
- Attracting and retaining international researchers: EMN inform (25 April).
- Detention and alternatives to detention in international protection and return procedures: EMN inform (25 May).
- Annual report on migration and asylum 2021: EMN inform (15 June).
- Mapping of mental health policies for third-country national migrants: EMN inform (4 July).
- Application of the Temporary Protection Directive (Scope and Registration): EMN inform (5 July).
- Incentives and motives for voluntary departure: EMN inform (8 July).

- Integration of migrant women in the EU: Policies and measures: EMN inform (7 September).
- Secondary movements of beneficiaries of international protection: EMN inform (8 September).
- Bilateral readmission agreements: EMN inform (16 September).
- Arrangements for accommodation and housing for beneficiaries of temporary protection: EMN inform (23 November).
- Access to services for beneficiaries of temporary protection: EMN inform (23 November).
- Transition of unaccompanied minors to adulthood: EMN inform (24 November).

Others

- EMN bulletin: July to September 2021 Issue 36 (21 June)
- EMN quarterly: October to December 2021 Issue 37 (22 June)
- EMN quarterly: January to March 2022 Issue 38 (22 June)
- EMN quarterly: April to June 2022 Issue 39 (1 August)
- EMN country factsheet: Ireland 2021 (18 August)
- EMN quarterly: July to September 2022 Issue 40 (14 November).

EMN IRISH NATIONAL CONTACT POINT PUBLICATIONS

- Emily Cunniffe and Oluwatoyosi Ayodele (2022). *Detection, identification and protection of third-country national victims of human trafficking in Ireland*, 27 April.
- Michal Polakowski and Emma Quinn (2022). *Responses to irregularly staying migrants in Ireland*, 24 May.
- Anne Sheridan, Emily Cunniffe and Evie McCullough (2022). *Annual report on migration and asylum 2020: Ireland*, 20 July.
- Amy Stapleton, Michal Polakowski and Emma Quinn (2022). *The integration of non-EU migrant women in Ireland*, 14 September.
- Keire Murphy and Anne Sheridan (2022). *Annual report on migration and asylum 2021: Ireland*, 15 December.

EMN Ireland,
Economic and Social Research
Institute,
Whitaker Square,
Sir John Rogerson's Quay,
Dublin 2, Ireland
Telephone **+353 1 863 2000**
Email emn.ireland@esri.ie
Web www.emn.ie /www.esri.ie
Twitter [@EMNIreland](https://twitter.com/EMNIreland)



An Roinn Dlí agus Cirt
Department of Justice

