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ORGANISATION OF MIGRATION AND ASYLUM SYSTEM IN IRELAND OVERVIEW

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INTRODUCTION

This document provides an overview of how asylum and migration policies are organised in **Ireland**, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on the information provided by Ireland in **February 2023**



OVERVIEW OF ORGANISATION OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

THE INSTITUTIONAL CONTEXT

Four government departments manage migration in Ireland: the Department of Justice (DoJ), the Department of Enterprise, Trade and Employment (DETE), the Department of Children, Equality, Disability Integration and Youth (DCEDI+Y) and the Department of Foreign Affairs (DFA).

The Department of Justice

The Department of Justice (DoJ) has primary responsibility for migration matters including border control, visas, residence permissions, international protection, repatriation/removal and citizenship matters. The Department of Justice also has policy responsibility for combatting human trafficking and administers the Atypical Working Scheme (AWS).

Immigration Service Delivery (ISD) is a functional area of the DoJ which deals with international protection, immigration (including visas) and citizenship. The DoJ administers registration of immigration permission in the Dublin area. The Border Management Unit (BMU) undertakes border management functions at Dublin Airport. The Irish Passenger Information Unit (IPIU) is a unit of the ISD function which processes Passenger Name Record (PNR) data from extra-EU flights transmitted by carriers to the IPIU, and Advance Passenger Information (API) data from inbound flights from outside the European Union.

The International Protection Office (IPO) is an office within the ISD function of the DoJ that hears first instance (Geneva Convention) asylum and subsidiary protection claims and assesses permission to remain on non-protection grounds as part of a single procedure. The International Protection Appeals Tribunal (IPAT) is an independent agency which decides appeals under the International Protection Act 2015. The Tribunal also determines appeals under the Dublin System Regulations and the Reception Conditions Regulations.

The specialised Services for Asylum Seekers office within the Legal Aid Board provides legal aid to international protection applicants in Ireland.

ISD maintains a working relationship with the Garda National Immigration Bureau (GNIB) on return and repatriation matters and border control. GNIB, a unit of An Garda Síochána (national police) is responsible for all immigration-related police operations in the State. The GNIB carries out policing functions of immigration such as deportations, detentions at border control posts and investigations of immigration issues. It also provides

border management functions at all ports of entry other than Dublin airport. An Garda Síochána also retains responsibility for registration of immigration permissions outside Dublin. The Human Trafficking Investigation and Coordination Unit of the Garda National Protective Services Bureau is responsible for the identification of victims of trafficking and trafficking-related investigations and cooperates with the DoJ which has responsibility for anti-human trafficking policy and legislation under its criminal justice pillar.

The Department of Enterprise, Trade and Employment

The Department of Enterprise, Trade and Employment (DETE) Economic Migration Policy Unit and Employment Permits Section administers the employment permit system. The Economic Migration Policy unit of the DET+E implements a skills-oriented employment permits system in order to fill labour and skills gaps that cannot be filled through European Economic Area (EEA) labour supply. The Employment Permits Section processes applications for employment permits; issues guidelines, information and procedures; and produces online statistics on applications and permits issued. In addition, the Economic Migration Policy Unit contributes to the Department's work in formulating and implementing labour market policies and reviews policy on economic migration and access to employment in Ireland for non-EEA nationals. A statutorily independent body, the Workplace Relations Commission was established under the Workplace Relations Act 2015 and regulates employment rights and undertakes inspections in relation to employment rights and adherence to employment permits legislation. The DET+E cooperates with the DoJ in that employment permits are operated in parallel with the State's immigration process. A holder of an employment permit is also required to register for an immigration residence permission on that basis from the DoJ.

The Department of Children, Equality, Disability, Integration and Youth (DCEDI+Y)

The Department of Children, Equality, Disability, Integration and Youth (DCEDI+Y) has responsibility for integration, resettlement and the provision of accommodation and other supports to applicants for international protection. The International Protection Accommodation Services (IPAS) is a unit of the DCEDI+Y responsible for the provision of accommodation and related services to international protection applicants who require them. The DCEDI+Y cooperates and coordinates with the DoJ.

The DCEDI+Y also has policy responsibility for children, including unaccompanied minors arriving into the State who are in the care of Tusla, the Child and Family Agency.

Tusla, the Child and Family Agency, is responsible for administration of the care of unaccompanied minors in the State, as well as putting in place suitable arrangements for unaccompanied minors arriving to the State under Irish Refugee Protection Programme and other immigration schemes. This involves cooperation with the Department of Justice, An Garda Síochána and the Garda National Immigration Bureau (GNIB) in relation to unaccompanied minors entering the State, and with the IPO in relation to the making of protection applications on behalf of unaccompanied minors.

The Department of Foreign Affairs

The Department of Foreign Affairs (DFA) has responsibility for the issuance of visas overseas under guidance from DoJ. The DFA has operative function only and is not responsible for visa policy or decisions, which are the remit of the DoJ.

Tusla, Child and Family Agency

Under the Child and Family Act 2013, the Child and Family Agency, Tusla, is charged with supporting and promoting the development, welfare and protection of children, and the effective functioning of families in the State. The agency cooperates with both the DoJ and DCEDI+Y.

Embedded stakeholders

The Irish branch of the International Organization for Migration (IOM) runs voluntary return programmes on behalf of the DoJ.

The Irish Human Rights and Equality Commission (IHREC) is Ireland's national human rights and equality institution. It is an independent public body that also acts as the designated national rapporteur on human trafficking.

THE LEGAL SYSTEM

Ireland does not participate in EU legislation adopted pursuant to Title V of the Treaty of the Functioning of the European Union (TFEU) unless it decides to participate in accordance with Protocol 21 to the Treaty on the European Union and TFEU, following a motion of the Houses of the Oireachtas.

The International Protection Act 2015, which repealed and replaced the Refugee Act 1996, and came into effect on 31 December 2016, sets out the domestic legal framework regarding applications for international protection in the State. The International Protection Act 2015 introduced a single procedure for international protection applications in Ireland, encompassing examination of applications for refugee status, subsidiary protection and permission to remain on non-protection grounds as one process.

Ireland has exercised its option to participate in the Reception Conditions Directive (2013/33/EU) and the European Communities (Reception Conditions) Regulations 2018¹, came into operation on 30 June 2018, transposing the Directive into Irish law.

Ireland is also subject to the Dublin Regulation (EU Regulation 604/2013). The European Union (Dublin System) Regulations 2018² came into effect on 6 March 2018 and give further effect to the Dublin III Regulation in Ireland and revoke earlier regulations from 2014 and 2016.³

Ireland participates in the Temporary Protection Directive (2001/55/EC) which is transposed into Irish law via the International Protection Act 2015.

Domestic immigration law in Ireland is based on various pieces of legislation including the Illegal Immigrants (Trafficking) Act 2000, and the Immigration Act 1999, 2003 and 2004. The Immigration Act 1999 sets out the principles, procedures and criteria which govern the detention and removal of non-Irish nationals from the State and makes provision for the issuing of deportation and exclusion orders. The Immigration Act 2003 introduced carrier sanctions and liability. The Immigration Act 2004 provides the statutory basis for granting permission to non-EU nationals to reside in the State. The Criminal Justice (Smuggling of Persons) Act 2021 makes it an offence for a person to intentionally assist the entry, transit or presence in the State of a person where the person knows or has reasonable cause to believe that this is in breach of a specified provision of immigration law, whether such conduct occurs inside or outside the State. The offence also covers smuggling into other countries, including EU Member States and parties

to the UN Protocol against people smuggling. These provisions update earlier provisions in the Illegal Immigrants (Trafficking) Act 2000. The legislation provides for a defence where the person was acting on behalf of a *bona fide* humanitarian organisation or for genuine humanitarian reasons rather than for gain. The Act provides for the transposition of three international legal instruments in the area of people smuggling:

1. EU Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence;
2. EU Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence; and
3. UN Protocol against the smuggling of migrants by land, sea and air, supplementing the UN Convention against Transnational Organized Crime, adopted in November 2000.

The Employment Permits Act 2006 as amended in the Employment Permits (Amendment) Act 2014 and secondary legislation made under it⁴ sets out the legal framework for the employment permits schemes in Ireland.

Immigration matters are dealt with on an administrative basis by the Minister for Justice. The relevance of the courts in relation to asylum and immigration cases is generally limited to judicial review.^{5,6}

LINKS TO OTHER POLICY AREAS

Ireland's migration and asylum systems are linked with several other policy areas, including within the Department of Health, the Department of Social Protection, the Department of Education and the Department of Further and Higher Education, Research, Innovation and Science. The DoJ links with all Government Departments and agencies as necessary to ensure that migration policy meets the needs of the State with respect to tourism, employment, education provision, family reunification and humanitarian migration responses.

¹ S.I. No. 230 of 2018

² S.I. No. 62 of 2018.

³ S.I. No. 525 of 2014 and S.I. No. 140 of 2016 respectively.

⁴ S.I. No. 430 of 2014

⁵ There is a statutory appeal to the courts against decisions to revoke refugee status under section 52 of the International Protection Act 2015.

⁶ In the Irish legal system, judicial review focuses on assessing the determination process through which a decision was reached to ensure that the decision-maker made their decision properly and in accordance with the law. It does not look at the merits or the substance of the underlying case. Source: www.citizensinformation.ie



INSTITUTIONAL CHART

The most up to date Institutional Chart will be added in as an Annex.

Ireland

Institutional Framework for migration and asylum in Ireland, February 2023*

NATIONAL LEVEL

Department of Foreign Affairs

<https://www.dfa.ie/>

Network of diplomatic and consular missions overseas. Limited role in issuance of visas overseas under guidance from Department of Justice.

Overseas Development Aid and Diaspora

<https://www.irishaid.ie/>

The Department of Foreign Affairs' Development Cooperation Division manages Ireland's overseas development programme.

Department of Justice

<https://www.gov.ie/en/organisation/departments-of-justice/>

The Minister for Justice has primary responsibility for immigration matters in the State including residence permissions, international protection, visas, border control, and repatriation/removal.

Immigration Service Delivery (ISD)

<https://www.irishimmigration.ie/>

ISD is the functional area of the Department of Justice which deals with international protection, immigration (including visas) and citizenship matters. It also provides permissions for a typical working outside the Employment Permit system.

International Protection Office

<http://www.ipa.gov.ie/>

The IPO is an office within the ISD function of the Department of Justice that hears first instance (Geneva Convention) asylum and subsidiary protection claims and assesses permission to remain as part of single procedure. International protection officers are independent in the exercise of their international protection functions.

Department of Enterprise, Trade and Employment

<https://enterprise.gov.ie/en/>

The Department of Enterprise, Trade and Employment's Employment Permits Section administers the employment permit system, which allows Ireland to fill labour market needs and skills gaps by recruiting non-EEA nationals.




An employment permit is permission for a person who is not a national of Switzerland or an EEA state to be employed in Ireland. Employment permits are operated in parallel with the State's immigration processes and valid immigration is provided in line with the permit granted.

Department of Children, Equality, Disability, Integration and Youth

<https://www.gov.ie/en/organisation/departments-of-children-equality-disability-integration-and-youth/>

The Minister for Children, Equality, Disability, Integration and Youth has responsibility for integration, resettlement and the provision of accommodation and other supports to applicants for international protection. The Department of Children also has policy responsibility for children, including unaccompanied minors arriving into the State who are in the care of Tusla, the Child and Family Agency.

Legend:

-  Cooperation
-  Coordination
-  Other input

Ireland

Institutional Framework for migration and asylum in Ireland, February 2023

NATIONAL LEVEL

International Protection Appeals Tribunal (IPAT)

<http://www.protectionappeals.ie>

The Tribunal is an independent agency which decides appeals of those persons whose application for International Protection status has not been recommended to be granted by the International Protection Office. The Tribunal also determines appeals under the Dublin System Regulations and the Reception Conditions Regulations. The Tribunal is a statutorily independent body.

Courts Service

<https://www.courts.ie/>

All administrative decisions are subject to judicial review by the Superior Courts – High Court, Court of Appeal and Supreme Court. The Courts operate an 'asylum list' for immigration-related judicial reviews.

Legal Aid Board

<https://www.legalaidboard.ie/en/>

The Legal Aid Board provides legal aid to international protection applicants and advice in other immigration cases.

Department of Justice

ISD is the functional area of the Department of Justice which deals with international protection, immigration (including visas) and citizenship matters. The Border Management Unit is an operational unit of ISD which undertakes border management functions at Dublin Airport.

The Irish Passenger Information Unit is a unit of the ISD function which processes Passenger Name Record (PNR) data from extra-EU flights transmitted by carriers to the IPIU, and Advance Passenger Information (API) data from inbound flights from outside the European Union.

The IPO is an operational unit of the ISD.

The Criminal Justice pillar of the Department of Justice has responsibility for anti-human trafficking policy and legislation.

Irish Human Rights and Equality Commission

<https://www.ihrec.ie/>

IHREC is Ireland's national human rights and equality institution. It is an independent public body that also acts as the designated national rapporteur on human trafficking.

An Garda Síochána Garda National Immigration Bureau (GNIB)

<https://garda.ie/>

The GNIB is responsible for all immigration-related police operations in the State and is under the auspices of An Garda Síochána. It carries out policing functions of immigration such as deportations, detentions at border control posts and investigations of immigration issues. It also provides border management functions at all ports of entry other than Dublin airport and immigration registration for all areas outside Dublin.

Human Trafficking Investigation and Coordination Unit (HTICU)

<https://www.garda.ie/en/about-us/organised-serious-crime/garda-national-protective-services-bureau-gnpsb/>

HTICU is a unit of the Garda National Protective Services Bureau (GNPSB) that operates to combat human trafficking.

Tusla

<https://www.tusla.ie/>

Tusla, the Child and Family Agency, is responsible for improving wellbeing 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 Irish Refugee Protection Programme (IRPP) programmes and other immigration schemes.

Department of Enterprise, Trade and Employment

Workplace Relations Commission

<https://www.workplacerelations.ie/en/>

The WRC is an independent statutory body which regulates employment rights and undertakes inspections in relation to employment rights and adherence to employment permits legislation.

Department of Children, Equality, Disability, Integration and Youth

International Protection Accommodation Services (IPAS)

IPAS is responsible for the provision of accommodation and related services to IP applicants who require them.

Legend:

— Cooperation
- - - - - Coordination
→ Other input