



**Submission to the Department of Justice & Equality
in advance of Ireland's Cycle 2 UPR (April/May 2016)**

BACKGROUND INFORMATION

Doras Luimní is an independent non-governmental organisation that supports the rights of asylum seekers, refugees and all migrants. Our work focuses on three core areas: direct support services; advocacy and integration planning.

Our mission is to promote and protect the rights of all migrants, including asylum seekers, refugees and migrant workers. Our role is to support migrants on a personal level, while engaging in advocacy with them and for their collective interests.

This submission deals with the following issues:

- A. Immigration and International Protection Framework
- B. Reception Conditions for asylum seekers and refugees
- C. Integration and Anti-Racism support
- D. Statelessness
- E. Victims of Trafficking

Doras Luimní welcomes the opportunity to input into the drafting of Ireland's second national report and appreciates the opportunity to further discuss the issues raised at the planned consultation in advance of the UPR. The following observations are intended to provide insight on the particular areas of concern as they relate to our work in the area of protection, integration and anti-trafficking.

A. Immigration and International Protection Framework

In Ireland's previous UPR, several recommendations were made by member States to the Irish Government relating to Ireland's protection system. In 2011 CERD called for the introduction of legislative framework for family reunification, which was previously envisaged in the Immigration, residence and Protection Bill (see below). Ireland did however reiterate commitments to introduce comprehensive legislation under the Immigration, Residence and Protection Bill in 2014. This legislation went through several drafts and an extensive consultation process with relevant stakeholders. Regrettably, the only aspect of this legislation which has progressed, though still not realised, is the introduction of a 'single procedure' envisaged under the new General Scheme for International Protection Bill. Despite a draft circulated in March 2015 on which many NGOs working in the migrant sector made comments, no further updates have been received.

Recommendation:

- Ireland should take into consideration the input and comments from NGOs regarding the recent General Scheme of the International Protection Bill, in particular the need to include a legal framework for reception conditions.
- Legislation should address the issues raised regarding limited rights to family reunification and include the establishment of an independent authority to oversee and family reunification applications.

B. Reception conditions and supports for asylum seekers and refugees

Doras Luimní remain concerned that Ireland's reception conditions and support services for asylum seekers and refugees fail to meet international standards, including Ireland's human rights obligations. The impact of the Direct Provision system on the lives of asylum seekers has been heavily criticised by UN bodies in the past, including the UN Human rights Committee who stated that the Committee have "grave concerns" about the Direct Provision system¹. The Committee on the Elimination of Racial Discrimination (CERD) expressed its concern at "the negative impact that the policy of 'direct provision' has had on the welfare of asylum seekers, particularly in light of the inordinate delay in the processing of their applications"². Similar recommendations have been made throughout the past 10 years by CERD and other UN bodies.³

In Ireland's interim UPR report, despite recommendations from several UN member states, Ireland did not address the issue of Direct Provision.

1) Long-term residents of Direct Provision

In June 2015, the Government's Working Group report was published, outlining a number of recommendations including those that relate to reform of the Direct Provision system. Unfortunately the recommendations from the Working Group process have not yet been implemented. The lack of action on this issue over the past 15 years has been a considerable cause for concern and has led to considerable physical and mental health issues for many residents.

¹ UN Human Rights Committee, Concluding observations on the fourth periodic report of Ireland, August 2014, CCPR/C/IRL/CO/04

² Concluding observations of the Committee on the Elimination of Racial Discrimination, Ireland, March 2011, CERD/C/IRL/CO/3-4

³ Concluding observations of the Committee on the Elimination of Racial Discrimination, Ireland, November 2005, CERD/C/IRL/CO/2

A key recommendation arising from the report, to which Government representatives involved in the Working Group process agreed, recommended that permission to remain in Ireland be granted to people who have already been in the system for five years or more. This issue was also highlighted by UN human rights bodies in the past, including the concluding observations of the UN Committee on Economic Social and Cultural Rights.⁴

Doras Luimní believes that a principle of a five year time limit for living in Direct Provision is entirely inadequate and sets a dangerous precedent. The five year proposal is at odds with our experience of directly working with asylum seekers over the past 15 years, from which we would conclude that a maximum time limit of 9 months living in Direct Provision should be introduced, ideally no longer than 6 months. Similarly, the EU Directive to which the majority of EU states are signatory advocates for a time limit of 9 months after which the right to seek employment should be granted.

In our experience, the effects of living in Direct Provision begin to take hold after 6 months. Following 12 months in the system, the effects and damage caused by the Direct Provision system can be visible and often manifests in physical and mental health conditions. Furthermore, it creates significant barriers to effective integration, promotes social exclusion and contributes to de-skilling leading to long-term unemployment and reliance on social welfare.

Recommendation:

- Doras Luimní recommends that Ireland prioritise the issue of long-term stays in Direct Provision and systematically grant permission to remain to people in the system for more than 12 months. As a first step in this regard, the Government should immediately implement the five year proposal put forward and agreed by Government representatives as part of the Working Group process.
- Ireland should opt-in to the Council Directive 2003/9/EC on minimum standards for the reception of asylum seekers and legislate for the practical implementation of same.

2) Oversight and standards in reception and Direct Provision centres

A recent judgement in the High Court⁵ found aspects of the Direct Provision system to be disproportionate and unlawful, including the lack of an independent complaints mechanism. No action by the State has been made by the State to implement the findings of this case.

Complaints made by people living in Direct Provision are excluded from the ambit of the Ombudsman, despite several recommendations repeatedly made by UN member states, the recent Working Group and national human rights bodies, including the Office of the Ombudsman.

Recommendation:

- Ireland should immediately establish an independent complaints mechanism so as to ensure that the rights of asylum seekers and the conditions in which people live under the system of Direct Provision are upheld and monitored.
- Immediately extend the remit of the Ombudsman to include people living in Direct Provision.

⁴ UN Committee on Economic Social and Cultural Rights, concluding observations on the third periodic report of Ireland, E/C.12/IRL/CO/3, para 14. "These centres have a negative impact on the family life, their mental health and their children's best interest". Available at: <file:///S:/Research,%20Policy%20&%20Campaigns/Justice/Bail%20Bill/G1515067.pdf>

⁵ C.A. and T.A v The Minister for Justice and others, 14 November 2014.

- Develop national standards for reception centres under the responsibility of an independent authority tasked with inspections and monitoring of same.
- Ireland should take steps towards developing an alternative not for profit reception system for asylum seekers that meets the needs of protection seeking applicants, limiting time spent in centres to a maximum of 6 - 9 nine months, with self-catering facilities and relevant specialised support services provided.
- Introduce vulnerability assessments at an early stage in the application process so as to ensure appropriate specialised supports can be put in place when needed.

C. Integration and anti-racism support

There is a worrying increase in anti-immigrant attitudes across the country in recent years, most notably however since August 2015. The need for the development of a national action plan and strategy for integration and anti-racism is glaringly obvious and urgently needed as Ireland prepares to accept a further intake of relocated and resettled refugees. Equally, there is a need for the allocation of adequate resources to ensure that integration activities and anti-racism measures can be implemented by organisations working to address these issues, particularly in light of reduced funding to the migrant sector since 2013.

Recommendation:

- Ensure that adequate resources are made available to implement integration and anti-racism work by organisations working with migrant communities.
- Invest in the promotion of reporting and recording hate crime.
- Take steps towards introducing hate crime legislation which would see the introduction of aggravated offences and enhanced sentencing.

D. Statelessness

Doras Luimní works with a number of people from Bhutan with Nepalese ethnicity. Despite confirmation of statelessness in some ORAC and RAT reports during some of our clients' asylum processes, securing their legal rights as stateless persons is not possible due to the lack of a formal determination procedure. Now granted temporary leave to remain they face the constant difficulties involved in renewing their permission and registering granted permission without possessing a national passport.

The UNHCR asserts that this lack of identification impacts on many other stateless persons' abilities to get stay permits, travel documents, and also to make representation to the Minister for Justice and Law Reform to waive the naturalisation requirements as specified in Section 16 (g) of the Irish Nationality and Citizenship Act 1956 as amended.⁶

There is, therefore, an urgent need for a legal and administrative process to be set up for the recognition of stateless persons in Ireland.

Recommendations:

- Ireland must introduce a formal legal and administrative determination procedure for stateless persons immediately.

⁶ <http://www.unhcr.ie/statelessness.html>

E. Victims of Trafficking in Ireland

The current protections available to victims under the *Administrative Immigration Arrangements for the Protection for Victims of Human Trafficking* discriminates on the basis on nationality. While the Irish state does provide a Stamp 4 to victims from non-EEA countries renewable every six months, EU victims of trafficking and asylum seekers must rely on Reception and Integration Agency (RIA) accommodation, €19.10 per week and are generally not entitled to additional supports.

Recommendations:

- Victims of trafficking from the EEA should be given access to the same supports and services as those from non-EEA countries. Asylum seeker victims should be given parallel protections, in the form of an application for International protection and access to the Administrative Arrangements.
- Discontinue the use of direct provision centres to house victims of trafficking. These centres are particularly unsuitable for all victims of trafficking as it can lead to secondary trauma.
- The Irish state should appoint an Independent National Rapporteur to monitor the implementation of legislation and policy developments, with responsibility for ensuring effective implementation of the Irish anti-trafficking framework.