A coalition of NGOs submitted its opinion on the International Protection Bill 2025 to the JHAM committee

In its Submission to the Committee on Justice, Home Affairs and Migration on the General Scheme of the International Protection Bill 2025, a coalition of ten organisations identified various issues, summarised below:

Inaccurate or incomplete transposition of the text of the Pact regulations and directive: throughout the Heads of Bill important text from the Pact regulations has not been transposed. Regulations have direct effect on member states. However, failure to transpose text creates gaps between EU standards and national practice, resulting in legal uncertainty for applicants, practitioners, and decision-makers. It also increases the likelihood of litigation.

Crucially, many of the elements that have not been transposed appear to be important safeguards for applicants Gaps in the Heads of Bill: There are significant omissions in the Heads of Bill. These include: little or no reference to reception conditions and the reception conditions directive, little reference to age assessment and what legal counselling may involve.

These are of critical importance to the protection process. 2 Pre legislative scrutiny risks being undermined if significant parts of the Bill only emerge later in the process. In person appeals withdrawn (Head 69): The Coalition sought an opinion from Colin Smith SC and Aoife Doonan BL on the wording of Head 69(2) of the 2025 Bill and whether it is compatible with the right to an effective remedy under EU law. While there is not an absolute obligation to hold an oral hearing in all proceedings, the EU and national jurisprudence indicates that there are certain situations that may necessitate an oral hearing being held and that the obligation depends on the specific circumstances of the case.

The Opinion sets out: The jurisprudence of the CJEU, and in particular the judgment in Sacko, emphasises the importance of the principle of effectiveness and the need for the appellate court or tribunal to carry out a full and ex nunc examination of both facts and points of law. This includes an oral hearing if the appellate court or tribunal considers that this is necessary in order to carry out the full and ex nunc examination required.

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The justification for the withdrawal of de facto oral hearings is that an applicant has had an oral hearing at first instance. This conflates two different parts of the protection process, the substantive interview and an appeal hearing. Recognition of vulnerable groups: This need to vulnerability proof the international protection process and reception systems is reflected in the Recast Reception Conditions Directive (RRCD) and the Asylum Procedure Regulation (APR) of 2024, which aim to ensure common minimum standards in asylum systems across the EU. There are a number of key provisions and safeguards contained in these Directives relating to applicants with special reception need or special procedural guarantees that must be transposed in the new IP Bill 2025.

These safeguards and provisions inform commentary and recommendations on General Scheme of the IP Bill 2025.

Greater clarity on who is defined as vulnerable and the process around both the procedural and reception vulnerability assessment is required. Broader use of the border procedure than envisaged in the pact (Part 12): The Bill defines any Screening Centre as an "external border crossing point " and deviates slightly from the Asylum Procedures Regulation Article 43(1), but with a change to the meaning of the Head, thus giving the Minister the power to apply the border procedure to any applicant who has undergone screening.

This is a departure from the border procedure as laid out in Article 43(1) APR with the consequence that a greater number of applicants may be subject to the border procedure along with the consequential restrictions of movement and alternatives to detention that entails. Border procedure and detention (Head 115): While Head 115 states that detention may be imposed as a last resort, the coalition are concerned that the Head introduces the concept of detention in the Irish protection process.

Suspensive Effect of an Appeal (Head 68): the Coalition is fundamentally opposed to the Pact concept of non-suspensive appeals and considers that it is extremely challenging for applicants to access effective remedies when subjected to Return Order. It is particularly concerning that applicants for international protection, whose applications are implicitly withdrawn, will not have the Return Orders suspended. Legal advice and legal counselling: Well-resourced, individual, impartial, free legal assistance and representation, provided by qualified legal representatives, should be provided throughout the international protection process, including during the administrative and first instance procedures, in order to ensure more efficient as well as fairer processes.

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Design of the Appeals and Second Instance Body (Part 11): There are various examples in the Heads of Bill where the Minister, and the Director of the SIB, who is appointed by the Minister, have significant and decisive powers that could be considered to undermine the SIB's independence. Design of the Chief

Inspector of Asylum Border Procedures (Part 15): The Coalition is concerned that the powers conferred on the Chief Inspectorate are more limited than those envisioned in the Pact. Article 10(2) of the Screening Regulation, which the State is replicating in Irish law, states that the monitoring mechanism should: monitor compliance with Union and international law, including the Charter, in particular as regards access to the asylum procedure, the principle of non-refoulement, the best interest of the child, the exclusion of the principle of non-refoulement within the scope of powers severely limits the Inspector's ability to meaningfully monitor fundamental rights compliance in the Border Procedures. There are unclear parameters of the Chief Inspector regarding its relationship with other monitoring bodies, such as those on the Advisory Board, which can lead to unnecessary duplication of work and the potential for responsibilities to be overlooked.

The independence of agencies on the Advisory Board must not be compromised. This Bill must also align with the Inspection of Places of Detention Bill. The coalition also recommend that a designated NGO be a member of the advisory board and that the Chief Inspector have the power to receive and investigate complaints and reports from NGOs, other relevant agencies, and members of the public, as is the case with HIQA.

Safe county of origin and safe third country designation process (Head 149 and Head 150): The bill introduces a new power to designate a country as a partially safe, both as a safe country of origin and as a safe third country. While the Pact allows member states to do this, it does not obligate member states to do so. Moreover, protections in existing law, including that a person would be readmitted to the third country, and that they must have a sufficient connection to it, have been not copied from existing law.

The coalition is concerned that the text allows for the expanded use of both the safe country and safe third country concepts, both of which externalise refugee protection beyond member states and the EU As the Bill progresses through the legislative process the Coalition will continue to analyse and make submissions on the text. The submission is not final.

Source(s)

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- Jesuit Refugee Service Ireland (12 June, 2025), [Civil Society Coalition on the EU Pact on Migration and Asylum, Submission to the Committee on Justice, Home Affairs and Migration on the General Scheme of the International Protection Bill 2025], https://jrs.ie/wp-content/uploads/2025/07/Civil-Society-Coalition_Submission-on-the-General-Scheme-of-the-International-Protection-Bill_June2025.pdf

Date of development
12.06.2025
Country
Ireland
Thematic area(s)
First instance determination
Development type
Policy

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