The Irish Human Rights and Equality Commission (the Commission) today issued its initial analysis of the General Scheme of the International Protection Bill 2025 which proposes to introduce a new international protection system in Ireland.

In its observations on the General Scheme of the International Protection Bill 2025, the Commission expressed deep concern that implementation of the EU Migration and Asylum Pact (?the Pact?) could introduce a system prone to legal challenge, administrative dysfunction, and human rights violations. While the Commission recognises the complexity and challenges facing the State in implementing the Migration Pact, we also believe that many aspects of this General Scheme are impractical and may lead to the new system becoming mired in litigation and uncertainty.

Key Concerns Highlighted:

Legislative Process and Timelines

The scale, complexity and timeline of the transposition of the EU pact into domestic law emphasises the importance of meaningful consultation, and the Commission believes that stakeholder engagement regarding the development of this legislation remains a concern. Given the likely size of the Bill, the tight timeframe and the importance of the issues arising, the opportunity for meaningful pre-legislative scrutiny is now heavily circumscribed. There is a real risk that issues that may have been thrashed out in consultation and meaningful Oireachtas scrutiny, will result in imperfect legislation that may ultimately end up in the courts.

State Capacity and Implementation Readiness

Significant doubts are raised about the State's ability to deliver the quantity and quality of services required under the new system by the June 2026 deadline, especially given systemic failures under the current International Protection Act 2015, and the fact that this system will continue to operate to process all of those who sought IP before the entry into force of the Pact Vulnerability Assessments Given the State's chronic failure to deliver vulnerability assessments under the existing IP system, the Commission believes that there is little or no realistic prospect that, by June 2026, Ireland will be able to deliver the necessary level and quality of vulnerability assessments within the prescribed time periods.

Digital processing of applications

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While digital access can have administrative advantages, it has significant limitations, including the assumption of literacy, failure to provide reasonable accommodation and the lack of human contact and advice during what can be a traumatic and difficult process for vulnerable people.

Detention and De Facto Detention

The General Scheme broadens the circumstances under which an individual can be detained. This includes the power to arrest and detain applicants without a warrant if they refuse to travel to screening centres, with no absolute time limit on this detention. The provisions also allow for the arrest and detention of children without a warrant. Though the Bill commits to minimising detention, the Commission is deeply concerned about the introduction of measures such as biometric reporting and electronic surveillance that will constitute de facto detention. Ireland is the only country governed by the Pact that has not yet ratified the Optional Protocol on the Convention Against Torture (OPCAT) and, accordingly, that will fail to afford IP applicants the protections deriving from OPCAT. Legal Representation The right to appropriate legal support is part of an IP applicants right to an effective remedy under Article 47 of the EU's Charter of Fundament Rights. We believe that the limitations on access to legal advice and representation during the administrative process will likely be the subject of legal challenge for their compliance with the EU Charter of Fundamental Rights.

Legal counselling

In addition, we believe that solicitors and barristers could not provide legal counselling - which the General Scheme makes clear that the State intends using - under existing professional, ethical and regulatory rules. We would ask that the State abandons its intention to introduce legal counselling. Instead, as is permissible under the Pact, the State should undertake to provide legal assistance throughout the International Protection process.

Age-Disputed Minors

The Commission highlights the lack of clarity on age assessment procedures under the proposed legislation, warning that children wrongly assessed as adults could be subjected to the fast-track border procedure. The Commission is concerned that children will not be afforded the presumption of minority and, with no credible age assessment process in place, they will end up being treated as adults and entering the truncated 12-week asylum border procedure. Any such failure by the State will inevitably end up in litigation and most certainly will not

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serve the best interest of the children involved.

Victims of Human Trafficking

The Pact's border and accelerated asylum procedures may inadvertently expose trafficking victims, particularly those without documentation, to inappropriate processing, including possible detention. The Commission emphasises that the system must be aligned with Ireland's obligations under the EU Anti-Trafficking Directive and the soon-to-be operational National Referral Mechanism (NRM). The State must publish clear operational guidelines to ensure the International Protection Bill aligns with anti-trafficking obligations and offers effective protections for presumed and identified victims.

Source(s)

- Irish Human rights and Equality Commission | Coimisiún na hÉireann um Chearta an Duine agus Comhionannas (15 July, 2025), [Commission Raises Grave Concerns Over Proposed Asylum System’s Fairness and Effectiveness], https://www.ihrec.ie/news-press/commission-raises-grave-concerns-over-proposed-asylum-systems-fairness-and-effectiveness

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