



**IHREC Designate Roundtable on the Asylum process and Direct Provision System:
Challenges and Solutions from a Human Rights and Equality Perspective
1 April 2014, Morrison Hotel, Dublin**

UNHCR paper – check against delivery

1. UNHCR Role

UNHCR is the UN agency mandated to promote and protect the rights of refugees, asylum seekers, stateless persons and internally displaced persons. UNHCR has a supervisory role in relation to the implementation of the 1951 Refugee Convention. This supervisory role is reflected in domestic law including the Refugee Act, 1996 and Statutory Instrument (S.I.) 426 on Subsidiary Protection.

UNHCR undertakes a range of activities in Ireland. Those of relevance to the IHREC Designate roundtable include the provision of guidance on law, policy and practice to the Irish authorities. In partnership with the Irish authorities, UNHCR delivers training to bodies working in the asylum area on the basis of agreed guidelines and monitoring arrangements. UNHCR consults regularly with refugees and asylum seekers in a range of settings including during visits to reception and accommodation centres. On issues where advocacy runs its course, UNHCR intervenes at the level of the Irish High Court, Irish Supreme Court and European Courts as Amicus Curiae to advance the rights of refugees and asylum seekers.

2. UNHCR priorities in Ireland of relevance to the roundtable

UNHCR priorities are set through consultation with persons of concern and key partners.

- Introduction of a single protection determination procedure
The introduction of a single procedure, under which eligibility for refugee status and subsidiary protection would be determined at the same time under one procedure, has been outstanding for many years. Its early introduction was a key objective of the mission of the High Commissioner for Refugees to Ireland in October 2012. UNHCR welcomes the opportunity to discuss how we might work together to advance law reform in this area.
- Clearing the backlog of Subsidiary Protection (SP) applications
UNHCR welcomes S.I. 426 introduced in November 2013 to process outstanding and new SP applications. This procedure is designed to clear the backlog of SP applications and to be replaced by the single procedure. The Irish authorities, in particular ORAC, have undertaken excellent work in recent months to get the procedure up and running in a very short timeframe.

- Enhancing the quality of decision making
UNHCR launched its ongoing Quality project in late 2010 when Ireland had the lowest refugee recognition rate in the EU at 1.3. %. The recognition rate is now up to just under 20% in 2013. **[SEE SLIDE 1]**.
- Promoting integration
UNHCR recently concluded the Refugee Integration Capacity in Europe (RICE) project. In Ireland, the RICE project involved consultation with over 70 refugees. It contains useful findings regarding the length of asylum procedures in Ireland.

3. Causes for delays in decision making and long stays in centres

UNHCR identifies a number of causes, key among which are the following:

- The lack of a single procedure
- In the past, a low refugee recognition rate
- Backlogs at the High Court
- Life events – including children born who then enter the asylum process
- The lack of alternative procedures for persons without a protection need (e.g. stateless persons)
- The management of deportation orders

4. Solutions

To effectively look at solutions it is important to challenge the assumptions often made about the profile of persons living in accommodation centres and the assumption that all asylum seekers live in such centres under the Direct Provision system. This is an important first step as to design solutions an understanding is required of the range of circumstances in which people awaiting decisions and/or living in centres under the Direct Provision system (DP) find themselves. Many of the people living in DP are asylum seekers in that they have an outstanding application for protection in the State which has not been finalized. However, many of the people in DP are not asylum seekers in that they have completed the asylum process, or they withdrew from it or they never engaged in it in the first place. And finally, many asylum seekers are not living in Direct Provision. They live outside the system with relatives, friends or in their own accommodation. **[SEE SLIDES 2 - 4]**

There is, in summary, a large number of people, larger than the total population of persons accommodated in DP, who are looking for a final decision in their case or a clarification or regularization of their status. UNHCR recommends a focus on how these final decisions, clarifications, regularisations or other solutions might be accessed.

I would like to address 3 groupings and then outline some recommendations. The groupings roughly indicate those people for whom solutions are in train, those in respect of whom there has been some engagement on solutions and those where potential solutions are as yet unclear.

5. Solutions in train (Group 1)

5.1 Asylum seekers awaiting determination of their SP application

- There are approximately 1,400 such persons of whom around half are living in DP
- The new SP procedure was introduced in November 2013. It is an enhanced procedure with provision for oral interview and oral appeal and a new provision on credibility assessment
- The procedure is up and running. Over 50 decisions have issued and there is a high initial recognition rate
- Prioritisation is in place under which oldest cases, unaccompanied and aged out minors; the elderly; possible victims of torture and applications which are likely well founded due to the country of origin of applicants are prioritised
- All cases should be decided within approximately 12 months

5.2 Asylum seekers awaiting determination of their refugee status application

- There are approximately 900 applications pending at ORAC and the Refugee Appeals Tribunal (+ families with child applicants)
- Applications are being processed efficiently
- There is engagement with UNHCR on the quality of decision making and a refugee recognition rate of approximately 20% at ORAC (first instance)
- The newly constituted RAT is up and running and its Members have received training including from UNHCR
- There is the new enhanced SP decision for those refused RSD

6. Some engagement on solutions (Group 2)

6.1 Asylum seekers with judicial reviews pending before the Irish High Court

- There are approximately 1,000 JR cases
- A paper prepared by practitioners on possible solutions has been circulated to judges and practitioners
- Some measures have been taken by the High Court. More are needed
- Reference Patricia Brazil paper to the IHREC roundtable
- This could be a useful area for possible engagement of the IHREC Designate

7. Solutions unclear (Group 3)

7.1 People who have exhausted the protection system and have an outstanding Deportation Order (DO)

- There are approximately 1,000 such persons in DP
- There is a need to define their circumstances and rights
- There is a need to look at all potential options for this group from regularization in Ireland to return to countries of origin in appropriate cases.
- A partnership approach might be taken. For example the “Still Human Still Here” initiative in the UK
- A UNHCR policy paper of relevance to this matter is to issue in 2014

7.2 Other groups in DP: destitute persons, victims of trafficking, etc.

8. Recommendations

UNHCR recommends the following possible areas of activity:

- Mapping of groups currently without solutions – their circumstances and rights (including those living outside of DP)
- Mapping of Mandates of relevant agencies and organizations
- Mapping of possible solutions
- The identification of measures which can be taken to enhance reception conditions, integration measures and supports pending the regularization of cases

9. Comment on timeliness

Now is the time to act on the delivery of solutions. It is the right thing to do and the following strategic considerations support the need for swift action.

- The Minister for Justice and Equality has given a commitment to the enactment of single procedure legislation in 2014 and its implementation in early 2015. The caseloads in Groups 1, 2, and 3 above should be resolved in advance of that.
- The new subsidiary protection procedure is off to a good start but gains in clearing backlogs will be undermined if the single procedure is further delayed.
- Asylum applications may be on the rise again in Ireland for the first time in many years. Asylum application figures for the first quarter of 2014 indicate a 25% rise in applications compared to the first quarter of 2013. [In January to March last year, 227 applications were received, whereas 284 have been received up to 28 March 2014.].

UNHCR looks forward to engaging with the IHREC Designate and other partners on advancing solutions for asylum seekers and other groups including those who have completed the protection process.

UNHCR, 1 April 2014