



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

Analysis of the International Protection Bill 2025 for Committee on Justice, Home Affairs and Migration

Irish Human Rights and Equality Commission

November 2025

Published by the Irish Human Rights and Equality Commission.

Copyright © Irish Human Rights and Equality Commission 2025

The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

Contents

Introduction 1

Legal Counselling..... 2

The Independent Monitoring Mechanism (IMM) 3

Detention and *De Facto* Detention..... 4

Vulnerability and Age Assessments..... 5

Children's Rights and Biometric Data 6

Introduction

The International Protection Bill 2025 ("the Bill") is intended to transpose the EU Migration and Asylum Pact ("the Pact") into Irish law by June 2026. As indicated to the Committee on Justice, Home Affairs and Migration on 14 October 2025, the Commission has significant concerns about human rights and equality issues raised by the General Scheme. Recent engagement with the Department, including the Department's comments at the Justice Committee, has not allayed those concerns.

Our analysis indicates that the Bill, in its current form, goes further than required by the Pact in restricting the rights of international protection applicants, and not as far as the Pact allows in protecting them.

We anticipate that this will likely lead to significant legal challenges.

In the briefing below, we detail our primary concerns and provide clear recommendations for amending the Bill to ensure compliance with Ireland's human rights and equality obligations.

Legal Counselling

What the Pact Requires

The Pact requires the State¹ to provide applicants with free legal counselling at first instance stage² and free legal assistance and representation at appeal stage. It explicitly allows Member States to provide free legal assistance and representation at first instance if their national laws allow³.

What the Bill Provides

The Bill provides for free legal counselling at first instance, but not free legal advice or representation. The General Scheme does not define "legal counselling" or specify who is to provide it.

Commission Position and Recommendations

"Legal counselling" is not an adequate substitute for legal advice and representation as currently provided. Applicants will enter into a legal process without having received individualised legal advice about it. This raises serious access to justice issues, including the right to an effective remedy under Article 47 of the EU Charter of Fundamental Rights.

The Commission recommends that the Department should exercise its discretion under the Pact to continue providing full legal advice and representation at the first instance.

¹ The Pact, which is intended to harmonise standards across the EU, requires all EU Member States to do the same things. In some areas, however, Member States such as Ireland have a discretion about how to implement the Pact's requirements. The Pact is made up of EU Directives and Regulations; where Directives are concerned, Member States have a discretion about how to implement the requirements; where Regulations are concerned, they have none. For the most part, this Briefing Note focuses on the way in which Ireland proposes to give effect to EU Pact Directives, and contrasts what those Directives require with what the State has proposed to do in the General Scheme of the Bill.

² 'First instance stage' broadly refers to a person's first substantive interview with the International Protection Office.

³ Ireland's national laws allow this; indeed at present, Ireland provides legal advice at first instance.

The Commission recommends that the Department should immediately provide a draft definition of "legal counselling" for review.

The Independent Monitoring Mechanism (IMM)

What the Pact Requires

An Independent Monitoring Mechanism ("IMM") to monitor fundamental rights compliance during screening and border procedures. The IMM must meet minimum standards set out by the EU's Fundamental Rights Agency ("FRA"), including that it is independent, adequately resourced, and has the power to investigate rights violations. This is particularly important noting that Ireland is the only EU Member State not to have ratified OPCAT.

What the Bill Provides

The Bill proposes the establishment of a "Chief Inspector of Asylum Border Procedures," appointed by and potentially removed by the Minister for Justice. The Minister for Public Expenditure, National Development Plan Delivery and Reform sets the terms and conditions of the Chief Inspector's office, including remuneration.

Commission Position and Recommendations

The proposed Office of the Chief Inspector fails to meet FRA's core requirement of independence. Furthermore, it is unable to conduct investigations into death or serious harm. For these reasons, we are concerned that the Chief Inspector is not a credible IMM.

The Commission recommends that the Bill should be redrafted to ensure that the IMM fully complies with FRA standards.

The Commission recommends that the IMM must be granted sufficient powers and resources to conduct effective investigations into alleged rights violations.

Detention and *De Facto* Detention

What the Pact Requires

Detention is permissible only as a measure of last resort where less coercive alternatives cannot be effectively applied. National law must establish clear alternatives to detention. The detention of applicants with special reception needs is prohibited if it puts their mental or physical health at serious risk.

What the Bill Provides

The Bill refers to detention as a last resort but fails to set out explicit alternatives. Head 121 appears to create an open-ended form of *de facto* detention, whereby applicants' freedom of movement can be restricted for public order or to prevent absconding.

Commission Position and Recommendations

Because alternatives to detention are not set out in the Bill, it is not possible to assess the lawfulness of its detention powers overall. The restriction of movement provisions, however, are overly broad, lack adequate safeguards, particularly for vulnerable individuals, and amount to *de facto* detention.

The Commission recommends that the Bill must explicitly define and establish clear, less coercive alternatives to detention in primary legislation.

The Commission recommends that the provision for an open-ended form of *de facto* detention contained at Head 121 should be revised to ensure that it complies with the requirements of the Pact including protections for vulnerable people.

Vulnerability and Age Assessments

What the Pact Requires

The Pact requires a two-stage process: a preliminary vulnerability check followed by an in-depth assessment for special reception or procedural needs, to be completed within 30 days.

For age assessments, a multi-disciplinary approach is required, using medical examinations only as a last resort and with the applicant's consent. Where doubt remains, the applicant shall be presumed to be a minor.

What the Bill Provides

The Bill provides for a preliminary vulnerability check but allows this to constitute the entirety of the assessment, with no requirement for the separate, in-depth evaluations set out in the Pact. It also provides that, if an applicant refuses to undergo a preliminary vulnerability check, it can go against their credibility if they later claim that they previously experienced torture.

The General Scheme refers to “Head YY” to indicate the absence of any detail about age assessments or how they will be conducted. It sets out no criteria for age assessments.

Commission Position and Recommendations

The Bill fails to meet the Pact's requirements for comprehensive vulnerability assessments. As a result, individuals with special reception needs⁴ may not be identified. Such an approach is not consistent with the obligation of early identification and provision of supports and accommodation to presumed and identified victims of trafficking under the amended Anti-Human Trafficking Directive for transposition in July 2026.

Without any detail about how they will be conducted, it is not possible to assess the lawfulness of any proposed age assessment scheme. We are deeply concerned that children who are not properly age assessed can be subject to the accelerated Border Procedures, as if

⁴ The Pact provides a non-exhaustive list of such people including: minors, unaccompanied minors, people with disabilities, elderly persons, pregnant women, LGBTI persons, single parents of minor children, victims of trafficking, persons with PTSD, persons who have been subjected to torture, rape and other forms of serious violence.

they were adults. We are also concerned that serious deficiencies in the current system, which have resulted in litigation, will continue in the new system.

The Commission recommends that the Bill must be amended to mandate in-depth vulnerability assessments following preliminary checks, in line with the Pact.

The Commission recommends that the Bill must set out a comprehensive, multi-disciplinary, and rights-compliant age assessment procedure, incorporating criteria for age assessment, appropriate qualifications for personnel conducting them and the presumption of minority.

Children's Rights and Biometric Data

What the Pact Requires

The Pact allows for the collection of biometric data from children aged six and over. It provides that no form of force shall be used to do so.

It also provides that where national or EU law allows, and only as a last resort, the State can use a "*proportionate degree of coercion*", so long as the child's dignity and physical integrity is respected.

The Pact refers to the UN Convention on the Rights of the Child (UNCRC).

What the Bill Provides

Head 7 provides that if an immigration officer or Garda has "reasonable grounds" for believing that a child is over 18, the officer or Garda can collect biometric data from them as if they were an adult.

The Bill provides for the use of "reasonable force" to obtain biometric data from persons over the age of 18.

Head 7(4) expressly permits use of "reasonable force" where an immigration officer or Garda has "reasonable grounds" for believing that a person is over 18.

The Bill contains no reference to “proportionate coercion” as set out in the Pact. It does not contain the explicit protections for the child’s dignity and physical integrity set out in the Pact.

The Bill contains no references to the UNCRC.

The Bill provides that any incidents involving the use of reasonable force shall be referred to the Chief Inspector of Asylum and Border Procedures⁵.

Commission Position and Recommendations

The Bill’s provision for the use of “reasonable force” where there are “reasonable grounds” for believing a child is over 18 are deeply concerning – especially absent the safeguards for children’s dignity and physical integrity set out in the Pact.

While the Bill provides that a child’s fingerprints shall be taken in a child-friendly and child-sensitive manner, it is ambiguous as to how other forms of biometric data⁶ are to be collected from children.

It is ambiguous as to how biometric data is to be collected from minors in the absence of consent.

Under Head 7, all use of “reasonable force” including where there are “reasonable grounds” for believing that a minor is over 18 are to be reported to the Chief Inspector (the IMM, as above). However, given our concerns that the Chief Inspector is not a credible IMM, we are not satisfied that this is a sufficient protection for the rights of the child.

The Commission recommends that the Ambiguity around how biometric data is to be taken from children in the absence of consent should be resolved. Ambiguity about how to take biometric data (other than fingerprints) from children should be removed and replaced with the precise, high-threshold language of the Pact.

The Commission recommends that the protections for children’s dignity and physical integrity required by the Pact must be included in the Bill.

⁵ The IMM; see above.

⁶ Head 2 provides: “biometric data’ includes fingerprint data, facial image data and palm prints.



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

The Irish Human Rights and Equality
Commission.

16 – 22 Sráid na Faiche,
Baile Átha Cliath, D07 CR20
16 – 22 Green Street,
Dublin, D07 CR20

Guthán / Phone +353 (0) 1 858 3000

Riomhpost / Email info@ihrec.ie

Idirlíon / Web www.ihrec.ie

✕ [@_ihrec](https://twitter.com/_ihrec)

 [/irishhumanrightsequality](https://www.instagram.com/irishhumanrightsequality)