



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

# Overview of International Protection Bill 2026

Irish Human Rights and Equality Commission

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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.

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## Introduction

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The Irish Human Rights and Equality Commission ('the Commission') is Ireland's independent National Human Rights Institution ('NHRI') and National Equality Body ('NEB').

We protect and promote human rights and equality in Ireland.

We are the Independent Monitoring Mechanism for Ireland under the United Nations Convention on the Rights of Persons with Disabilities; the independent National Rapporteur on the Trafficking of Human Beings; and will be assigned the role of the Co-ordinating National Preventive Mechanism under the Optional Protocol to the Convention against Torture, pending ratification.

This is an initial analysis of the International Protection Bill 2026, published ahead of Second Stage in Dáil Éireann on 28 January 2026.

## Legal counselling

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It appears that the Government's position remains that it will not provide individuals with legal advice (from a solicitor) – but rather legal counselling - at the first stage of their IP application process, despite the fact that there is nothing in the Pact preventing them from doing so.

The Bill does not define 'legal counselling' (as opposed to legal advice), nor specify who may provide it. While the Minister has indicated that these details may be inserted at a later stage, with less than five months remaining before implementation of the Pact, this creates significant uncertainty regarding the rights and entitlements of international protection applicants ('IP applicants') to legal aid for advice and representation at all stages of the new procedure.

The absence of clarity on who will provide legal counselling is particularly problematic. As we have previously stated, solicitors cannot reasonably be expected to provide general legal counselling, including to groups of IP applicants, while the State withholds individualised and tailored legal advice from people who would otherwise be their clients.

This uncertainty risks undermining access to effective legal assistance, as required under the Pact.

If IP applicants do not have access to legal advice at first instance, this has potentially huge implications for their refugee application. For example, there is a real risk an IP applicant could fail to disclose relevant and highly sensitive information, for instance if they are a victim of trafficking or torture. This could mean they are wrongfully placed in the 12-week border procedure, leading to wrongful deportation and a denial of specialised care.

The Commission recommends that the State exercises its discretion to continue providing legal advice and assistance during the first stage of the process to ensure effective access to justice.

## Detention

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The Bill introduces significant new powers of arrest and detention of IP applicants including children and unaccompanied minors. Worryingly, it fails to set out clear alternatives to detention for children travelling alone or with families, as required by the Pact.

The Bill confers powers on the Garda Síochána to direct any individual holding an immigration registration certificate (including, for example, those lawfully in Ireland on specialist work visas) to attend screening centres and, notably, provides for arrest and detention where an individual refuses to comply with such a direction. This is troubling as it provides a power of arrest for large swathes of the non-Irish population and not just IP applicants.

The Commission recommends that the Bill is amended to set out clear alternatives to detention, and to include safeguards for the right to liberty, in line with the Pact.

The Commission recommends that the Bill is amended to ensure that victims of trafficking are not subject to detention.

The Commission recommends that the Bill is amended to also explicitly prohibit the detention of minors, whether travelling alone or with their families, in Garda stations or prisons in all circumstances.

## Vulnerability assessments

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In line with the Pact, the Bill provides for a preliminary vulnerability assessment at an early stage of the IP process. However, contrary to the Pact, it makes no provision for subsequent vulnerability assessments to identify special reception needs that become apparent later in the process, including for example disability, pregnancy, trafficking, or experiences of torture or sexual violence.

The Bill also fails to provide for the ongoing monitoring and support of individuals with special reception needs throughout the process. In this respect, the Bill appears to fall short of Pact requirements.

The Commission recommends that the Bill is amended to provide for the availability of vulnerability assessments later in the process, when people may be more able to disclose a special reception need.

The Commission recommends that people with special reception needs are monitored and supported throughout the process.

## Increased range of offences

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The Bill significantly increases the criminal liability of IP applicants, creating a wide range of new offences for IP applicants who are lawfully resident in the State while exercising their right to seek asylum.

In particular, the Bill criminalises the use of false or substitute documents, including by individuals fleeing war or persecution who are unable to obtain official documentation from their country of origin. By criminalising such conduct, the Bill effectively criminalises the route to seeking asylum. The result is an unwarranted interference with the right to apply for asylum.

The Bill also fails to adequately account for the situation of vulnerable persons or those with special reception needs.

For example:

- › If a disabled person behaves in a way that endangers their own safety in the course of arrest and detention, they may be guilty of an offence and imprisoned.  
If a disabled person behaves in a way that endangers their own safety in the course of arrest and detention, they may be guilty of an offence and imprisoned.
- › If a young person resists arrest, they could be imprisoned for up to a year.
- › If a pregnant woman refuses to provide passcodes to their phone for inspection by the Garda Síochána or immigration authorities, they may be guilty of a criminal offence.

The situation is all the more stark when we consider that IP applicants have varying degrees of education and diverse backgrounds.

The Commission recommends that the Bill is amended to ensure that applicants are able to exercise their right to apply for asylum in the State without facing unnecessary and disproportionate criminal sanctions and that the increased range of offences be reviewed.



## Age assessments

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Both the Pact and the Bill envisage a two-step age assessment process. Where doubt remains after an initial assessment, which may include a visual examination, a medical examination may follow.

There is no necessity on the State to introduce medical examinations to assess the age of a child and we note that the Ombudsman for Children has previously said medical examinations should not be used to assess the age of a child as they cannot comply with the principle of the best interests of the child.<sup>1</sup>

However the Government is persisting in including the power and we have significant concerns around the proposed methods of delivery and the discretion the Minister is reserving to himself to decide on who will conduct these most sensitive of medical tests.

The Pact clearly requires that medical age assessments be conducted by “qualified medical professionals”. However, the Bill reserves the power to determine who qualifies as a “designated health professional” to the Minister, allowing this to include non-medical professionals such as social care workers or other categories determined by the Minister.

Given the sensitive and invasive nature of age assessments, the Commission considers that only qualified medical professionals, as required by the Pact, should conduct such examinations. These assessments must be carried out in the least invasive manner possible and with full respect for the dignity of the applicant.

The Bill also lacks detail on what constitutes a “suitable medical means” of age assessment, again leaving this to future ministerial prescription.

It is crucial that the presumption of minority applies during the age assessment process to avoid the very real risk that children are placed in inappropriate adult accommodation.

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<sup>1</sup> Ombudsman for Children, [EU Pact on Migration and Asylum - Ireland's National Implementation Plan](#)

The Commission recommends that the Bill should provide greater clarity and safeguards for children's rights when conducting age assessments.

## Chief Inspector of Border Procedures

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The Pact requires there be a Chief Inspector of Border Procedures. We are concerned that the Bill constrains the independence of the Chief Inspector and falls short of EU's Fundamental Rights Agency requirements. In particular, expanded ministerial powers to remove the Chief Inspector and members of the Advisory Board, as well as amendments affecting independent reporting to the Oireachtas, raise serious concerns about undue influence and operational autonomy.

Despite the proposed expansion of immigration detention, there are inadequate monitoring mechanisms of such detention, including *de facto* detention, as required by the Optional Protocol of the Convention Against Torture ('OPCAT'). The Bill further demonstrates a lack of commitment to ratifying OPCAT, indicated by the removal of references to a representative of an independent National Preventive Mechanism sitting on the Advisory Board together with other listed agencies.

While the functions of the Chief Inspector include monitoring asylum border procedures, complaints handling, investigations and inspections, there is a lack of clarity as to how these functions will operate in practice. The functions of the Chief Inspector remain largely regulatory in nature and we have concerns regarding its ability to meaningfully participate in investigations into deaths or serious harm, respect for privacy and data protection etc. Furthermore there remains a worrying lack of clarity the degree of overlap with existing oversight bodies, and the potential impact of this on the most serious and sensitive of investigations.

There is no requirement to ensure sufficient funding for the Chief Inspector, which further undermines independence, as no safeguards are included to guarantee financial autonomy.

The Commission recommends that the Bill is amended to ensure that the Chief Inspector of Border Procedures meets the EU Fundamental Rights Agency's core requirements for independence.

## Victims of Trafficking

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Screening procedures are to be completed within seven days and, if properly designed, could provide a crucial opportunity to identify presumed victims of trafficking and refer them to the National Referral Mechanism ('NRM') for identification and specialist support. However, the Bill contains no reference to detection of victims of trafficking and provides unclear referral pathways for presumed victims to access formal identification, specialist supports and accommodation.

The State is obliged under the EU Anti-Trafficking Directive (2024/1712) to ensure early detection and access to specialist supports for presumed victims. Amendments are required to align the Bill with the mandatory obligations under Article 11 of the Directive.

The Bill also makes no reference to the State's new NRM, which was provided for in the Criminal Law (Human Trafficking and Sexual Offences) Act 2024 but has yet to be commenced or operationalised. Under the Directive, the NRM must be operational by July of this year. It is essential that the Bill explicitly aligns with and facilitates referral to the NRM.

While the Bill includes provisions on representatives for unaccompanied minors, age assessment procedures, and training requirements, none make reference to child trafficking. There should be explicit requirements for training and expertise on child trafficking and the NRM across all relevant functions and operational measures, in line with EU law, specifically Article 14 of the Directive. This is particularly important given the absence of child-specific measures in the new NRM.

Victims of trafficking who are also applicants for international protection often have complex migration histories, including movement through third countries or other Member States that cannot be considered "safe" in their circumstances. The Bill's provisions on accelerated procedures and safe country concepts fail to adequately account for these risks.

In particular, the application of accelerated procedures based on low recognition rates is inappropriate for victims of trafficking, who may originate from countries with low overall recognition rates but high prevalence of trafficking.

The Commission recommends that the Bill is amended to expressly exclude presumed or identified victims of trafficking from accelerated procedures and the application of safe country or safe third country concepts.



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