

International Protection Bill 2026 – New procedures for international protection applications

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Policy and Legislative Briefing Paper

Abstract

This Policy and Legislative Briefing Paper provides an overview of primary procedural changes proposed by the International Protection Bill 2026. The Briefing Paper will provide a review of the new international protection application system, beginning at the point of application for international protection and concluding with the reformed international protection appeals system, where appeals will be heard by a newly established Tribunal. The paper will also address criticisms raised by stakeholders regarding the new framework, including the introduction of “legal counselling”, a new accelerated Asylum Border Procedure and proposed timeframes and procedures for the new appeals Tribunal.



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Executive Summary

The [International Protection Bill 2026](#) was initiated on 22 January 2026 and is scheduled for Second Stage debate on Wednesday 28 January 2026 in Dáil Éireann. The Bill aims to implement the [EU Migration and Asylum Pact](#) ('the Pact') and to put in place a new procedural framework to manage migration and asylum in a manner that aligns with other EU countries. On publication of the Bill, Minister for Justice, Home Affairs and Migration, Jim O'Callaghan, TD stated that the Bill "...will lead to the most significant reform of Irish asylum laws in the history of the State."¹

In May 2025, Minister O'Callaghan forwarded the General Scheme of the Bill to the Joint Committee on Justice, Home Affairs and Migration to perform pre-legislative scrutiny (PLS). Hearings took place on 14 October 2025² and 21 October.³ The Joint Committee published its [PLS Report](#) in December 2025. The Report contains 92 recommendations.⁴ These recommendations will be addressed in an accompanying L&RS Bill Digest.

This Policy and Legislative Briefing Paper provides an overview of the primary procedural changes proposed by the Bill and will provide a review of the new international protection application system, beginning at the point of application for international protection and concluding with the reformed international protection appeals system, where appeals will be heard by a newly established Tribunal. One of the primary aims of the new systems proposed by the Bill is the streamlining and accelerating of existing international protection decision-making procedures,⁵ and this paper highlights new applicable timeframes throughout the application process.

The Briefing Paper also focuses on the primary areas of concern raised by stakeholders during pre-legislative scrutiny of the General Scheme of the Bill. These include:

- the introduction of "legal counsellors", whose role and remit have not yet been defined in the Bill,
- a lack of clarity regarding an applicant's right to legal advice and legal representation,
- the new accelerated border procedures,

¹ [Minister Jim O'Callaghan publishes International Protection Bill 2026](#), Department of Justice, January 2026

² [Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 14 Oct 2025](#)

³ [Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 21 Oct 2025](#)

⁴ Joint Committee on Justice, Home Affairs and Migration, [Report on Pre-Legislative Scrutiny of the General Scheme of the International Protection Bill 2025](#), December 2025

⁵ [Legislative milestone for implementation of EU Migration and Asylum Pact](#), Irish Legal News, 30 April 2025; European Commission, [Asylum in the EU](#), October 2025.

- the reform of the international protection appeals procedure, which includes increased limitations on the right of applicants to oral hearings on appeal and a reduced right for applicants to remain in the country while their appeal is being decided upon.

A visual representation of the current IP application process and proposed new procedures is available in the [Brief on Ireland's National Implementation Plan for the EU Migration and Asylum Pact](#).⁶

This Briefing Paper will only focus on the procedural elements of the reformed international protection application system. The Library and Research Service has published two additional papers on the Bill, which provide further detail on the background to the Bill, and the human rights implications of the new legislation. These papers are:

- A **Bill Digest**, which examines the existing legal and policy context concerning Ireland's international protection system, including reception conditions and proposals regarding family reunification. The Digest also outlines the ten EU legislative Acts that together comprise the Pact, outlines the provisions of the Bill, and examines the extent to which the Committee's PLS recommendations are reflected in the Bill, as initiated.
- A **Policy and Legislative Briefing Paper**, entitled 'International Protection Bill 2026 – Independent Monitoring Mechanism, Unaccompanied Minors, Age Assessments, Collection of Biometric Data for Eurodac, and Other Select Elements of the Bill with Human Rights Implications'. This Policy and Legislative Briefing Paper examines some of the key areas where concerns were raised regarding the potential human rights implications of the Bill, including for international protection applicants who are unaccompanied minors.

The L&RS has also produced a Bill Resource Page, available [here](#) [internal access only].

⁶ [Brief on Ireland's National Implementation Plan for the EU Migration and Asylum Pact](#), Department of Justice, pp. 14 – 16.

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Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
AMMR	Asylum and Migration Management Regulation
APR	Asylum Procedure Regulation
CEAS	Common European Asylum System
CJEU	Court of Justice of the EU
Committee	Joint Committee on Justice, Home Affairs and Migration
DA/the Authority	Determining Authority
Department / DJHAM	Department for Justice, Home Affairs and Migration
IHREC	Irish Human Rights and Equality Commission
IP	International protection
LAB	Legal Aid Board
Minister	Minister for Justice, Home Affairs and Migration
NIP	Ireland's National Implementation Plan for the Pact
Pact	EU Migration and Asylum Pact
PfG	Programme for Government
Tribunal	Tribunal for Asylum and Returns Appeals
Tusla	Child and Family Agency
UNHCR	UN Refugee Agency
2015 Act	International Protection Act 2015, as amended

Legal Counselling and Legal Representation

One of the most significant concerns raised during pre-legislative scrutiny (PLS) of the General Scheme, and in submissions by stakeholders, was the introduction of “legal counsellors” to support applicants during the international protection (IP) process, and the inconsistent guarantees of legal representation and advice during different stages of an application. It may be noted from the outset that a Department of Justice Press Release on the Bill⁷ indicated “matters to be dealt with by amendments to the Bill during the legislative process include legal counselling, legal advice and legal aid”, so clarification of some of the ambiguities discussed below may be provided at a later date.

As legal advice and representation are addressed throughout the Bill, this area will be addressed first in this paper, and then some key features of the new application and appeals procedures will then be addressed in sequential order.

Primary complaints raised by stakeholders

A primary concern raised is the definition of “legal counsellor”. This term was not defined in the General Scheme and is not defined in the Bill. The Bar Council of Ireland noted that what constitutes “legal counselling”, as well as who may act as a “legal counsellor” in this jurisdiction, was missing from the General Scheme (and Bill). The Bill also omits any recognition of the necessity for legal services to be provided by a legal practitioner within the meaning of section 2 of the Legal Services Regulation Act 2015 (‘LSRA 2015’). Thus far, the concept of legal counselling “is not one known to Irish law”.⁸ The Bar Council’s submissions to the Joint Committee noted the regulatory implications arising from a new form of legal practitioner (legal counsellor):

“The General Scheme in effect creates a two-tier system of legal practitioners in the State with the secondary tier not being governed by the terms of the LSRA entailing as it would not inter alia provide a possibility for supervision of the activities of the secondary tier by the body entrusted in law to supervise the legal professions. There must also be serious concerns about legal professional privilege in this context.”⁹

The submissions of the Law Society of Ireland¹⁰ also focused on the issue of legal counselling. They noted that, if legal counsellors are to assist applicants with their international protection application they will have access to large amounts of personal and sensitive information regarding the applicant, but would not be bound by a duty of confidentiality that binds legal

⁷ Minister Jim O’Callaghan publishes International Protection Bill 2026, Department of Justice

⁸ The Bar of Ireland, *Submission to Oireachtas Joint Committee on Justice, Home Affairs and Migration, General Scheme of the International Protection Bill 2025*, June 2025, p 10.

⁹ Ibid, p 11.

¹⁰ Law Society of Ireland, *Submission on the General Scheme of the International Protection Bill 2025, Joint Committee on Justice, Home Affairs and Migration*, 12 June 2025.

professionals. Additionally, solicitors and barristers are the only two professions allowed to provide legal advice in Ireland and to be covered by professional indemnity insurance for this purpose.¹¹

The submissions also highlighted inconsistencies and ambiguities in the access to cultural mediators, legal counselling, legal assistance and legal representatives provided throughout the General Scheme.¹² The Bar Council and UNHCR noted the lack of explicit provision for free legal assistance and representation.¹³

IHREC was also very critical of the way in which legal counselling and legal representation were addressed in the General Scheme,¹⁴ emphasising the need for effective regulation:

“According to the Pact counsellors need to be ‘admitted or permitted under national law’ - this implies a properly devised, trained and regulated profession, which is no surprise given importance of the issues in hand, the complexity of the new system and the tight timeframes”.¹⁵

IHREC reiterated many of the criticisms made above, including issues regarding confidentiality and privilege, and whether or not solicitors and barristers could provide legal counselling under existing professional, ethical and regulatory rules.¹⁶

Criticism of the Bill as published – legal representation

Civil society organisations have recently reiterated their concerns regarding the legal advice and representation provisions of the Bill as initiated.¹⁷ IHREC retained the core concerns expressed during PLS,¹⁸ namely:

¹¹ Ibid, p 5.

¹² Ibid, Table on p 13.

¹³ UNHCR Observations on the General Scheme of the International Protection Bill 2025

¹⁴ Irish Human Rights and Equality Commission, Submission on the General Scheme of the International Protection Bill 2025, June 2025

¹⁵ Ibid, p 7.

¹⁶ Ibid, p 8.

¹⁷ Asylum bill ‘lacks clarity’ on legal advice, *Law Society Gazette*, 23 January 2026; Irish Human Rights and Equality Commission responds to International Protection Bill, warning key equality safeguards remain unclear, IHREC, 22 January 2026; Civil society coalition slams new International Protection Bill published today, Doras, 22 January 2026.

¹⁸ Irish Human Rights and Equality Commission responds to International Protection Bill, warning key equality safeguards remain unclear, IHREC, 22 January 2026.

- The Bill does not define what is meant by legal counselling or clarify who will provide it. With fewer than five months remaining before the Pact is due to be implemented, this creates serious uncertainty regarding IP applicants' entitlements to legal advice and representation at all stages of the new process.
- The Commission is particularly concerned about the lack of clarity around whether legal counselling may be provided by non-legal professionals.
- The Commission does not believe that group counselling can be provided by legal professionals under existing professional or ethical rules.
- The Commission remains concerned that applicants may be denied tailored, individualised legal advice.¹⁹

The recent comments on the Bill made by Nick Henderson, CEO at the Irish Refugee Council, also centred on legal counselling, and the timeframes and suspensive effect of the new appeals process:

“To quote the minister, this is ‘the most significant reform of Irish asylum laws in the history of the State’, yet it is still being rushed through on a compressed timeline, with key safeguards deferred to later amendments, undermining the legislative process. Crucially, the concept of legal counselling is yet to be explained with just five months until this law is enacted.

“The Legal Aid Board has indicated it may struggle to meet demand for its services within the tighter timeframes under this Bill. It is crucial to adequately resource all bodies ahead of the law coming into effect to avoid undermining the right to asylum and an effective remedy. Proper legal advice and representation are vital to a system which will be extremely complex for both applicants and their advocates. Appeals to the new appeals body will not be automatically suspensive for all applicants, meaning a person could be returned to a country where they face harm or persecution. A separate ‘request to remain’ application must be made, underlining the need for adequate legal advice for applicants. These are some of the many issues which must be carefully considered in the coming weeks and months.”²⁰

Proposed approach – lack of clarity

It appears from comments made by the Government and Department representatives that the new system of legal counselling and representation will not differ significantly from the existing systems. The Government’s National Implementation Plan set out the following proposals:

“Applicants for international protection are to be offered Legal Counselling which is to be provided to through the Legal Aid Board, an independent State body. [...] Legal

¹⁹ Ibid.

²⁰ [Civil society coalition slams new International Protection Bill published today](#), Doras, 22 January 2026.

counselling and representation are to be provided through an expansion of the current provision by the Legal Aid Board using a mixed model of service delivery. This involves the use of in-house staff, including solicitor staff, and the use of private practitioners' panels of legal professionals."

It has been confirmed by Department officials that applicants for IP will still be permitted to apply to the Legal Aid Board in accordance with the Civil Legal Aid Act.²¹ However, ambiguity has remained regarding the role of a legal counsellor, and it is still unclear whether the people providing legal counselling will be registered legal professionals (i.e. solicitors or barristers), or if there will be a separate category of legal professional. Ms. Tracy O'Keeffe from the Department of Justice noted during PLS:

"That work in examining the exact categories of people who will provide legal counselling is still under examination. The pact measures do not specifically require that it be solicitors, barristers or similar professionals."²²

It was noted that "legal counselling is an additional service that will be of most benefit to applicants at the outset of the application process",²³ where they will be provided with information on the existing procedures and legal framework.

Noeleen Healy BL, writing in the *Bar Review*, commented on the potential role of a legal counsellor:

"At first impression, it is an additional right, an information service, which should be provided in advance of making an application. As matters stand, applicants are not receiving any legal advice before making their applications and submitting questionnaires. Previously there was a period of time between making the initial application and submitting the questionnaire. At the present time, the questionnaire is completed immediately upon making an application for international protection. A fairer and more efficient first-instance procedure should include the right to be represented and advised by a legal representative."²⁴

Previous studies on the IP process have accorded with the above comments and recommended that legal advice and representation should be afforded to applicants at all stages of the application process. For example, the [Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection](#)

²¹ Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 14 Oct 2025

²² Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 14 Oct 2025

²³ Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 21 Oct 2025

²⁴ Noeleen Healy BL, [Emerging Barriers in the International Protection Process](#), *The Bar Review* 2025, 30(2), 65-69, p 68.

Process²⁵ indicated that “[w]here applicants for protection have access to legal advice early in the process, both the quality and the timeliness of decision-making are improved”.²⁶ This was also called for by the Law Society of Ireland, in a letter written to the Minister for Justice.²⁷

The provisions of the Bill relating to legal representation and counselling will be addressed below.

Resources for the new system of representation

Concerns have also been raised during and following PLS of the General Scheme that the new legal counselling system and new shorter timeframes introduced by the Bill would place an additional burden on the Legal Aid Board, and that this would need to be addressed.

“The Legal Aid Board has indicated it may struggle to meet demand for its services within the tighter timeframes under this Bill. It is crucial to adequately resource all bodies ahead of the law coming into effect to avoid undermining the right to asylum and an effective remedy.”²⁸

This was also acknowledged by the National Implementation Plan:

“The role of the Legal Aid Board as independent advisors of applicants for international protection is acknowledged as a continuing feature in the provision of legal advice and representation under the Pact. Meeting requirements and expectations under the Pact will require a significant scaling up of services through increased staff and resourcing provision for the Legal Aid Board.”²⁹

²⁵ See e.g. [Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process](#), Department of Justice, Home Affairs and Migration, 4 February 2021; [White Paper on Ending Direct Provision](#), February 2021 (“The LAB should be given sufficient staffing and resources annually to enable it to support 3,500 new applicants for International Protection who wish to avail of legal aid, covering early legal advice at the reception stage until a final decision has been taken, including the judicial review stage.”, p 141 of the White Paper.)

²⁶ *Ibid*, p 76.

²⁷ [Changes to the International Protection system](#), Letter from the President of the Law Society to the Minister for Justice, 18 May 2023.

²⁸ [Civil society coalition slams new International Protection Bill published today](#), Doras, 22 January 2026

²⁹ [National Implementation Plan | Ireland Implementation of the Pact on Migration and Asylum](#); [Brief on Ireland’s National Implementation Plan for the EU Migration and Asylum Pact](#), Department of Justice, p 107.

The PLS Report of the Joint Committee recommended additional funding and support for the Legal Aid Board to help facilitate the Bill's proposed changes.³⁰ The Department has been in frequent contact with the Legal Aid Board regarding the new developments.³¹

Legal counselling and legal representation under the Pact

The introduction in the Pact of the concept of legal counselling, in addition to legal representation and advice, was broadly welcomed, and the introduction of additional legal guidance, particularly at the early stages of the IP application process, "forms part of the safeguards for the applicant to exercise their rights and comply with their obligations".³² The efficiency and fairness of asylum procedures depend, to a large extent, on the legal support provided to applicants.³³ Article 16 of the APR indicates:

"it is essential to ensure a correct recognition of international protection needs already at the stage of the administrative procedure by providing good quality information and legal support which leads to more efficient and better quality decision-making. For that purpose, access to legal counselling, assistance and representation should be an integral part of the common procedure for international protection"³⁴

The importance of access to legal advisers and legal assistance for asylum seekers was stressed by the European Court of Human Rights when considering the right to an effective remedy (Article 13 of the European Convention on Human Rights).³⁵ Additionally, Article 47 of the Charter of Fundamental Rights of the European Union provides:

"Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice".

However, the lack of clarity as to what legal counselling entails is also present in the instruments of the Pact. The term "legal counselling" is not defined in the APR. The European Commission (EC), in its explanatory memorandum on the Pact,³⁶ suggests that "the right to

³⁰ Joint Committee on Justice, Home Affairs and Migration, [Report on Pre-Legislative Scrutiny of the General Scheme of the International Protection Bill 2025](#), December 2025.

³¹ "The Department is engaging on an ongoing basis with the Legal Aid Board regarding all matters relating to legal assistance, legal advice and legal counselling", Ms Tracy O'Keeffe, Department of Justice, [Joint Committee on Justice, Home Affairs and Migration debate - Tuesday, 14 Oct 2025](#).

³² European Union Agency for Asylum, [Practical Guide on Free Legal Counselling](#), October 2025.

³³ Prof. Barbara Mikołajczyk, [The maze of legal support in the New Pact on Migration and Asylum](#), June 2024.

³⁴ Article 16 APR.

³⁵ European Court of Human Rights, [Guide on Article 13 of the European Convention on Human Rights - Right to an effective remedy](#), August 2025, p 35.

³⁶ [Explanatory memo on the Pact on Migration and Asylum](#), May 14, 2024

information is backed by a new right” thanks to the adoption of the Pact. Thus, the Commission implies that this practice will not be about providing basic information, as in the previous Procedures Directive; “rather, this will mean a significant change in practice, raising standards of legal support for asylum seekers”.³⁷

The APR sets out the minimum requirements for free legal counselling. It should at least include guidance and explanations on the administrative procedure, including information on rights and obligations during the procedure, as well as assistance in submitting an application. In addition, it should cover guidance on the various procedures and rules related to admissibility and legal issues arising during the procedure, including information on how to challenge a decision rejecting an application.³⁸ Member States may organise all forms of legal support under their national systems, so chosen national solutions may differ.

Due to this ambiguity about the parameters of the new right, it has been suggested that “a global judgement on legal counselling will need time and observation of its practical implementation by different Member States”.³⁹

Specific provisions of the APR relating to legal counselling

The Asylum Procedures Regulation (APR) requires Member States to provide free legal counselling during the administrative phase (Article 16) and free legal assistance at the appeal stage (Article 17), both upon the applicant’s request. Member States have the discretion to extend free legal assistance and representation to the administrative procedure as well, in accordance with national law (Article. 15(3)).⁴⁰

Section III of the APR sets out appropriate standards in relation to the provision of legal counselling and legal assistance and representation. Article 15 of the Asylum Procedure Regulation (APR) provides for a right to “legal counselling” at first instance in international protection applications. The term “legal counsellor” does not appear in the APR or in the AMMR.⁴¹

Additionally, under Article 12 of the AMMR, there is an obligation for Members States to provide legal counselling free of charge to applicants for international protection, upon request, in the context of the responsibility determination procedure.

³⁷ Dilahan Bice-Kurtoglu, [Proceed with Caution: Legal Counselling in the New EU Migration and Asylum Pact and Notes from the Greek Experience](#), Refugee Law Initiative, 8 October, 2025

³⁸ Prof. Barbara Mikołajczyk, [The maze of legal support in the New Pact on Migration and Asylum](#), June 2024

³⁹ Dilahan Bice-Kurtoglu, [Proceed with Caution: Legal Counselling in the New EU Migration and Asylum Pact and Notes from the Greek Experience](#), Refugee Law Initiative, 8 October, 2025

⁴⁰ UNHCR Advocacy Brief: [Legal counselling, legal assistance, and representation under the European Union Pact on Migration and Asylum](#), September 2025

⁴¹ European Union Agency for Asylum, [Practical Guide on Free Legal Counselling](#), October 2025

Provisions of the Bill

The terms “legal assistance”⁴² and “legal representative”⁴³ are defined in section 2 of the Bill. As noted above, there is no definition of legal counsellor or legal counselling.

The term “legal counselling” only appears once in the Bill.⁴⁴ Section 106(5) of the Bill provides that the “substantive interview”⁴⁵ may be conducted at the same time as the “admissibility interview”⁴⁶ provided the applicant has been informed of such a possibility in advance by either a legal adviser or a “person entrusted with providing legal counselling”.

Both a “substantive interview” and an “admissibility interview” are considered to be “personal interviews” under the Bill. The standards for such interviews are set out in Chapter 3 of the Bill. A legal adviser may be present during a personal interview conducted by the Determining Authority⁴⁷ once an application for IP has been lodged by the applicant⁴⁸. The legal adviser may only intervene at the end of the personal interview. It is not a requirement to have a legal adviser present during the interview (section 96).

The General Scheme of the Bill also provided for legal representation in the following circumstances:

- where international protection is withdrawn, the person shall have access to legal representation (Head 77(8))
- where an applicant has been detained under certain provisions of the Bill, they are entitled to (a) consult a legal representative in accordance with Head YY (head on legal representation) and (b) seek legal assistance and legal representation, and be notified of their right to do so (Head 122 (13),(14)).

⁴² “Legal assistance” means legal aid or legal advice, within the meaning of the Civil Legal Aid Act 1995.

⁴³ “Legal representative” means a practising solicitor or a practising barrister

⁴⁴ There is a possible reference to “legal counsellor” in Section 81 of the Bill, which provides where the Minister takes a decision to transfer an applicant to the Member State responsible or the Member State of relocation, the Minister shall notify, and provide or communicate information to—

(a) the person concerned, and

(b) any legal adviser or other counsellor representing the person concerned,

⁴⁵ Section 106(3) of the Bill describes a “substantive interview” as follows: “Before the Determining Authority takes a decision on the merits of an application for international protection, the applicant shall be given the opportunity of a personal interview on the substance of his or her application”.

⁴⁶ Section 99(4) of the Bill describes an “admissibility interview” as follows: “Before a decision is taken by the Determining Authority on the inadmissibility of an application the Determining Authority shall give the applicant the opportunity of a personal interview on admissibility”.

⁴⁷ Section 7 of the International Protection Bill 2026 states: “The Minister is designated as the Determining Authority for the purposes of Article 4 of the Asylum Procedures Regulation”.

⁴⁸ Section 96 of the International Protection Bill 2026.

These provisions are not in the Bill. As noted above, the Department of Justice Press Release on the Bill⁴⁹ indicated that further amendments would be proposed during the legislative process relating to legal representation, so these provisions are subject to change.

The Bar Council of Ireland was critical of the restrictions placed on legal representatives during personal interviews (i.e. the legal adviser may only intervene at the end of the personal interview). The Bar Council's submissions to the Joint Committee during PLS⁵⁰ indicated that this approach appears to conflict with the Bar of Ireland's Code of Conduct.⁵¹ It was also suggested that the provision "appears inconsistent with Article 6(1)(h) of the Luxembourg Convention which provides that Parties to the Convention shall ensure that lawyers can: 'effectively participate in all proceedings in which they are acting on behalf of their clients'".⁵²

⁴⁹ Minister Jim O'Callaghan publishes International Protection Bill 2026, Department of Justice

⁵⁰ The Bar of Ireland, Submission to Oireachtas Joint Committee on Justice, Home Affairs and Migration, General Scheme of the International Protection Bill 2025, June 2025.

⁵¹ Bar of Ireland's Code of Conduct (22nd July 2024) states at §2.6: "Barristers must promote and protect fearlessly and by all proper and lawful means their client's best interests and do so without regard to their own interest or to any consequences for themselves or to any other person including fellow members of the legal profession."

⁵² The Bar of Ireland, Submission to Oireachtas Joint Committee on Justice, Home Affairs and Migration, General Scheme of the International Protection Bill 2025, June 2025, p 14.

Application and Appeals Procedures

The following section outlines key aspects of the new international protection application and appeals procedure under Bill.

Part 1 – Chapter 2 – Safe third country and first country of asylum

Chapter 2 of the Bill describes the applicability of the concepts of first country of asylum and safe third country, which are both relevant to the admissibility of an application, and are concepts used throughout the application assessment process.⁵³

Safe third country

The safe third country concept is based on the assumption that an asylum applicant could have obtained international protection in another country and therefore the receiving state is entitled to reject responsibility for the protection claim.⁵⁴

A safe third country is a country that has been designated by the Government as generally safe for the nationals or former residents of the country. Under section 216 of the Bill, the Minister may by order designate a country as a safe third country in accordance with the Asylum Procedures Regulation. The “safe third country” concept is a ground for a finding of inadmissibility of an application (see section 99(3)(b) of the Bill).

Where a country has been designated as a “safe third country” in accordance with relevant requirements under EU law and international law, an applicant for international protection may be returned to that safe third country to have their application examined there, if certain criteria are satisfied, including that the applicant has a sufficient connection with the designated safe third country.⁵⁵

The APR provides for the broader applicability of safe country clauses. There are four central aspects to the concept under the APR:

- (i) the safety assessment when applying the safe third country concept;
- (ii) interpretation of the 'connection requirement', i.e. the connection between an asylum seeker and a third country, when readmitting an applicant to a designated safe third country;

⁵³ [Safe third country concept in the EU pact on migration and asylum](#), European Parliamentary Research Service, December 2024.

⁵⁴ Roberto Cortinovis, [The role and limits of the Safe third country concept in EU Asylum policy](#), Research Social Platform on Migration and Asylum, 2018. The concept is also defined in section 2 of the Bill as a country that has been designated as a safe third country at an EU level or by the Minister, or a country other than a Member state that is safe for the applicant.

⁵⁵ See [Designation of UK as a Safe Third Country](#), Oireachtas Library & Research Service, 25th June, 2024

- (iii) the option to designate a third country as safe with territorial limitations or to exclude certain vulnerable groups from such a designation; and
- (iv) the creation of a common EU list of safe third countries in addition to national lists.⁵⁶

Regarding the designation of safe third countries, the European Council recently agreed on the first ever common EU list of safe countries of origin and revised the safe third country concept, thus expanding the circumstances under which an asylum application can be rejected as inadmissible.⁵⁷

Section 11 of the Bill provides that the concept of safe third country may only be applied where:

- “(a) the applicant cannot provide elements justifying why the concept of safe third country is not applicable to him or her, in the framework of an individual assessment, and
- (b) there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for him or her to go to that country.”

A third country may only be considered to be a safe third country for an unaccompanied minor where it is not contrary to his or her best interests and where the Minister has first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that they will immediately have access to effective protection.⁵⁸

Safe third country and accelerated procedures

Under the APR, Member States must apply an accelerated procedure for applicants from a safe country of origin and may carry it out at the border or in transit zones.⁵⁹ Currently, under Irish law, international protection applications submitted by individuals from designated safe countries of origin can be subjected to an accelerated examination process pursuant to the [European Communities \(International Protection Procedures\) Regulations 2022](#).⁶⁰ Under the provisions of the Bill that relate to the accelerated Asylum Border Procedure (discussed later

⁵⁶ Ibid.

⁵⁷ [Asylum policy: Council pushes ahead with EU laws on safe countries of origin and safe third countries](#), European Council, December 2025.

⁵⁸ Section 12 of the International Protection Bill 2026.

⁵⁹ [Asylum policy: Council pushes ahead with EU laws on safe countries of origin and safe third countries](#), European Council, December 2025.

⁶⁰ The Regulations amend section 73(2) of the International Protection Act 2015. They add to the list of matters to which the Minister for Justice may have regard when deciding whether to prioritise the processing of an application for international protection or requesting IPAT to prioritise an appeal. See

in this paper), where the number of applicants exceeds the “adequate capacity of the State”⁶¹, an application may be prioritised where the applicant, who has received a negative decision, may have a higher prospect of being returned to a safe third country.⁶²

In 2024, the High Court found that there were shortcomings in the procedure for the designation of safe third countries.⁶³ The 2015 Act was amended to ensure that serious harm would be taken into account in the designation process.⁶⁴ Section 216(3)(b) of the Bill provides that the Minister may only designate a ‘safe third country’ where he/she is satisfied that non-nationals face “no real risk of serious harm”.

First country of asylum

Under section 21(15) of the [International Protection Act 2015](#), a country is a first country of asylum for a person if they: (a) have been recognised in that country as a refugee and can still avail themselves of that protection, or otherwise enjoy sufficient protection in that country including benefiting from the principle of non-*refoulement*;⁶⁵ and (b) will be re-admitted to that country. An application for international protection is inadmissible if a country is deemed to be a first country of asylum for an applicant.

Like the safe third country concept, the first country of asylum concept related to the admissibility of an application and may be grounds for prioritisation of an application. Both concepts rely on the presumption that IP applicants are required to make an application at the first instance possible.⁶⁶

The Bill provides that the concept of first country of asylum may only be applied where the applicant cannot establish why the first country concept is not applicable to them.⁶⁷ Where the applicant is an unaccompanied minor, a third country may only be considered a first country of asylum where this is not contrary to the child’s best interests and where the Minister has

⁶¹ Section 2 of the Bill defines “adequate capacity” as the adequate capacity of the State calculated by the European Commission in accordance with the Asylum Procedures Regulation.

⁶² Section 119.

⁶³ [A & B v IPAT and Ors](#) [2024] IEHC 183

⁶⁴ Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024

⁶⁵ The principle of non-*refoulement* forms an essential protection under international human rights, refugee, humanitarian and customary law. It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations. [The principle of non-refoulement under international human rights law](#), Office of the High Commissioner for Human Rights

⁶⁶ Gamze Ovacık, [The right to choose country of asylum: The 1951 Convention and the EU’s Temporary Protection Directive](#), Forum on the EU Temporary Protection Responses to the Ukraine War, 31 August 2022.

⁶⁷ Section 9 of the International Protection Bill 2026.

received assurance from the third country that the child will be taken in charge by that country's authorities and will immediately benefit from effective protection.⁶⁸

Part 3 – Application for International Protection

Chapter 1 – Making, registration and lodgement of application

Section 34 sets out who may apply for international protection. A third country national or stateless person who is in the State, or at the State's frontier, may apply for international protection. This provision includes unaccompanied minors. The applicant must express their wish to apply for international protection to a state official specified in section 34.

Applications on behalf of minors and those lacking capacity (sections 35 and 36)

An application may be made for a minor by the minor's parent or by a person who has responsibility for the minor (section 35). Applications for minors shall be examined in conjunction with the application of their parent or responsible person. The Minister may request that documentation is submitted which substantiates the relationship between the minor and the person who is applying on the minor's behalf.

Under section 36, an application may be made on behalf of a person who lacks capacity. The section sets out the personal circumstances of the person on whose behalf such an application may be made, including where the person concerned is a ward of court or has decision-making assistance arrangement.

Registration and lodgement of an application

Section 37 provides for the registration of an application for international protection. The Minister is designated as the competent authority to register applications for international protection pursuant to Article 4(3) of the Asylum Procedures Regulation. Section 37(2) sets out a list of the types of information that the Minister shall record during the application process, e.g. the applicant's name, date of birth, residence, family member etc. This is in accordance with Article 27 APR. An applicant must be provided with the services of an interpreter during the registration process, where appropriate (section 37(4)).

The procedure for the lodgement of an application is set out in section 38. The applicant must attend at a time and place specified by the Minister to lodge their application, and, where practicable, the lodgement must take place at the same time as the registration of an application. An application may be lodged on behalf of a minor.

Section 39 provides for the submission of materials with an application for international protection. All available documents needed to substantiate the applicant's claim must be submitted without undue delay. Regarding the permissible timelines for submission, section

⁶⁸ Section 10 of the International Protection Bill 2026.

39(3) provides that an applicant must endeavour to submit any additional elements and documents relevant to the examination of their application within the period ending 5 days after the day on which the applicant's substantive interview takes place. Section 39(5) sets out a list of materials that may be considered to be "elements and documents" for the purposes of the section, including personal information relating to the applicant, their travel history and travel documentation.

Chapter 4 - Consequences of making application

The right to remain in the country

The applicant has the right to remain in the State until the Determining Authority has made a decision on their application, notwithstanding the exceptions set out in section 64, and the limitations on the right to remain pending the outcome of an appeal, which is addressed later in this paper. The applicant must remain in the State during this time, and inform the Minister of any changes in residence and contact details within 48 hours of any such changes. This does not apply if the applicant's housing is provided by the State.

A right to remain shall not constitute permission to land or be in the State, under section 4 of the [Immigration Act 2004](#), or a right to travel to another Member State without a valid travel document (section 62).

There is a duty on the applicant to fully cooperate with the Determining Authority, the Tribunal for Asylum and Returns Appeals, Minister and An Garda Síochána for the duration of the procedure for international protection (section 63).

Section 64 sets out exceptions to an applicant's right to remain during the application process.

An "international protection applicant card" shall be issued to the applicant as soon as possible after the lodging of an application, containing information set out in section 65.

Chapter 5 – Withdrawal of application

An international protection application (first instance or on appeal) may be withdrawn at any time by the applicant, who may express this intention in writing to the Authority or the Tribunal. When the withdrawal is accepted, this will be communicated in writing to the applicant (section 66). If the applicant seeks to withdraw their application, and the Determining Authority has already found that applicant does not qualify for international protection, the Determining Authority may still take a decision to reject the application as unfounded or manifestly unfounded.

Section 67 sets out the 7 grounds for implicit withdrawal of an application, which relate primarily to failure to engage with different stages of the application process.

Chapter 6 – Subsequent applications

Where an applicant makes a subsequent application, the Determining Authority shall conduct a preliminary examination to establish whether any new elements have arisen that would significantly increase the likelihood of the applicant qualifying for IP.⁶⁹ This preliminary examination may be carried out on the basis of an interview or on written submissions alone, in certain circumstances⁷⁰.

Part 5 – Examination of an application for International Protection

Chapter 1 - Medical examination for indications of past persecution or serious harm

The Determining Authority may request that an applicant undergo a medical examination concerning signs and symptoms that “might indicate past persecutions or serious harm”. This examination is performed subject to the applicant’s consent.⁷¹ In the case of a minor, the consent of the minor’s parent, guardian or representative must be obtained. The medical examination is free of charge. Applicants may also arrange their own medical examination assessing past persecution or harm. The results of the examination must be submitted to the Determining Authority. The examination must be the “least invasive possible” and be performed in a way that respects the applicant’s dignity.⁷² The Determining Authority or Tribunal may make a decision on an application in the absence of a medical examination.

Chapter 2 – Procedure for the examination of applications

The Determining Authority examines and takes decisions on applications for international protection in accordance with the guarantees set out in Chapter II of the APR. Applications must be examined “objectively, impartially and on an individual basis”. Section 91(4) sets out a list of factors that may be taken into account by the Determining Authority when examining an application. These include:

- a) Relevant statements and documents providing personal information, including those provided under section 39 of the Bill,
- b) Relevant and up to date country of origin information,
- c) If applying the concepts of first country of asylum or safe third country, the relevant and current information regarding these countries, and any serious grounds submitted by the applicant for considering a country to not be a safe third country,

⁶⁹ Section 68 of the International Protection Bill 2026.

⁷⁰ Such an examination will be carried out where it is clear that neither section 68(1)(a) or 68(1)(b) applies.

⁷¹ Section 90 of the International Protection Bill 2026.

⁷² Section 90(7) of the International Protection Bill 2026.

- d) Where applying the concept of safe third country or country of origin (in accordance with section 13 of the Bill), any serious grounds submitted by the applicant for considering the country to not be a safe third country in the applicant's particular circumstances,
- e) The individual position and personal circumstances of the applicant (e.g. age, gender) so as to determine if the acts to which the individual had been exposed constitute persecution or serious harm,
- f) Whether the activities engaged in by the applicant since leaving their country of origin were carried out for the sole or main purpose of creating the conditions on which to ground an application for international protection,
- g) Whether the applicant could be expected to avail themselves of protection in another country there they could assert citizenship,
- h) Whether the internal protection alternative for the applicant applies.

The staff of the Determining Authority who examine applications shall have the relevant knowledge and training, have the possibility to seek advice from experts where necessary, and be able to submit queries to the Asylum Agency. Provision is also made for the translation of relevant documents.

Section 92 of the Bill lists 17 circumstances in which an application may be prioritised by the Determining authority, and are factors that make a decision more likely to be positive or negative (e.g. the application is likely to be well founded or the applicant is a danger to national security).

Chapter 3 - Personal interviews

Under the APR, an IP applicant has the right to an admissibility interview⁷³ before the competent authority decides on the inadmissibility of the application (Article 11 APR) and to a substantive interview before a decision is taken on the merits (Article 12 APR). The presence of the applicant's legal adviser shall be ensured in both cases (Article 14(4) APR).⁷⁴

Section 95 of the Bill provides that once an application has been lodged (in accordance with section 38 of the Bill) an applicant shall be given the opportunity to participate in a personal interview. An admissibility interview may be omitted where the Determining Authority considers that, on the evidence, the application is not inadmissible⁷⁵.

The admissibility interview or substantive interview may be omitted, where:

⁷³ Section 99 of the Bill sets out the grounds on which an application may be rejected as inadmissible.

⁷⁴ Prof. Vincent Chetail and Mariana Ferolla Vallandro do Valle, *The Asylum Procedure Regulation and the Erosion of Refugee's Rights*, EU Immigration and Asylum Law and Policy, May 2024

⁷⁵ Section 93(3) of the International Protection Bill 2026.

- The Authority is able, on the evidence available, to make a positive decision with regard to refugee status,
- The Authority is of the opinion that the applicant is unfit to be interviewed, for reasons beyond the applicant's control,
- In the case of a subsequent application, the preliminary examination referred to in section 68 is carried out on the basis of a written statement,
- The Authority has deemed the application inadmissible because a Member State other than the State has granted the applicant international protection,
- Where the applicant is a minor, it has been decided by the assessor that a personal interview would not be in the best interests of the minor.

The omission of a personal interview shall not adversely affect the decision of the Authority, and the applicant shall be given further opportunity to submit further information in writing. The interview may also be rescheduled by the Authority.

Personal interviews shall be conducted in a manner that ensures privacy and confidentiality, and which “allows the applicant to present the grounds for their applications in a comprehensive manner”.⁷⁶ Interviews may be held by video conference, where appropriate. An interpreter must be provided when necessary. While interviews shall usually be conducted by staff of the Determining Authority, where a disproportionate number of applications are received staff of other authorities of the State may be provided with appropriate training and conduct such interviews.

Section 95 of the Bill sets out the persons who may be present at a substantive interview. These include the applicant's legal representative, a cultural mediator⁷⁷, a minor's representative or the High Commissioner, if the Commissioner so requests.

An applicant shall be allowed to be assisted by a legal adviser in the personal interview, though the absence of an adviser shall not prevent the Authority from conducting the interview.⁷⁸ Where a legal adviser participates in the personal interview, the legal adviser may only intervene at the end of the personal interview.

Section 97 provides that the Minister shall by regulations require the Determining Authority to produce full reports or transcripts of interviews, referred to as “personal interview reports”. The reporting process shall follow fair procedures, and any fraudulent altering of written reports or audio recordings shall be guilty of an offence.

⁷⁶ Section 94 of the International Protection Bill 2026.

⁷⁷ Section 32 of the Bill provides that the Minister may make arrangements to allow cultural mediators to assist and applicant.

⁷⁸ Section 96 of the International Protection Bill 2026.

Chapter 4 - Decisions on applications

Section 98 provides for notification of the applicant of the decision of the Determining Authority. A decision on the applicant's application shall be made by the Authority and notified in writing to the applicant and, where appropriate, the applicant's legal representative or legal adviser (referred to as a "section 98 notification"). Where an application is rejected as inadmissible, as unfounded or as manifestly unfounded with regard to refugee status or subsidiary protection status, as explicitly withdrawn or as implicitly withdrawn, the reasons in fact and in law for the rejection shall be stated in the decision. Provision is made for the notification to be communicated to the applicant or their legal adviser in an appropriate language and using appropriate phrasing.

Decision on admissibility

Section 99 provides for assessment of the admissibility of an application, which will be assessed in accordance with the basic principles and guarantees provided for in Chapter II of the Asylum Procedures Regulation. The section sets out the grounds on which an application may be rejected as inadmissible. An application will be considered inadmissible if it is a subsequent application and no new relevant information has been presented. An application be inadmissible where a country which is not a Member State is considered to be a first country of asylum or safe third country for the applicant; or a Member State other than the State has granted the applicant international protection. Additionally, an application may be inadmissible where the International Criminal Court or an international tribunal has provided safe relocation for the applicant to a Member State or third country, or is unequivocally undertaking actions to that effect. The Determining Authority may reject an application as inadmissible where the applicant has been issued with a deportation order, or return decision or order and made his or her IP application more than 7 working days from the date on which the applicant received that order or decision.

The timeframe for an admissibility decision is **two months** from the date on which the application is lodged.⁷⁹ An application will not be deemed admissible simply because a decision has not been reached by the Authority within the prescribed time limit. In certain circumstances, the time limits may be extended by the Authority by no more than two months. Decisions rejecting an application as inadmissible shall be communicated to the applicant in an appropriate manner and timeframe.

⁷⁹ In the case referred to in section 99(3)(e), the Determining Authority shall conclude the examination within ten working days. This section relates to where the applicant has been issued with a deportation order, or return decision or order and made his or her IP application more than 7 working days from the date on which the applicant received that order or decision.

Decision on merits of the application

Under section 106, the Determining Authority shall make a decision on applications for subsidiary protection or refugee status in accordance with the provisions of the [Qualification Regulation](#). The Determining Authority shall give the applicant an opportunity for a personal interview on the substance of their application (“the substantive interview”). The applicant must be given the opportunity to present the elements needed to substantiate their claims or explain contradictions or inconsistencies in their statements. Following the interview, the DA may then make a decision as to whether the applicant qualifies for refugee status or subsidiary protection, or neither status. An application will be rejected as unfounded where the applicant does not qualify for either status.⁸⁰

The Determining Authority shall ensure that an examination procedure on the merits, provided that it is not under the accelerated examination procedure or the asylum border procedure, is concluded as soon as possible and no later than **six months** from the date on which the application is lodged.⁸¹ This time limit may be extended by six months. In any event, the Determining Authority shall conclude the examination procedure within **21 months** from the lodging of an application.⁸²

⁸⁰ Section 109 of the International Protection Bill 2026.

⁸¹ Section 110 of the International Protection Bill 2026.

⁸² Section 111 of the International Protection Bill 2026.

Accelerated Procedures and the Asylum Border Procedure

The accelerated procedure and asylum border procedure

The Asylum Procedures Regulation increases the use of “special procedures” for the examination of international protection applications, partly by expanding the use of an “accelerated examination procedure” (Article 42 APR) and the “asylum border procedure” (Article 43 APR), which is a type of accelerated asylum procedure.⁸³ Both procedures are provided for in the Bill (Part 5, Chapters 5 and 6, respectively).

The APR establishes legally binding time limits for processing asylum applications. The previous iteration of these timeframes (which Ireland did not opt into) had already established some time limits. The new Border Procedure is mandatory under the APR.⁸⁴ It will be a frequently used procedure. According to the National Implementation Plan, the DJHAM “assumes some 13% of all applicants going into the standard procedure”, with the large majority be dealt with under some form of accelerated procedure - it is assumed that 65% of applicants may be eligible for the Border Procedure.⁸⁵

The time limits included in the new APR are:

- for a decision on inadmissibility (Two months)
- for a first-instance decision in the **standard process (Six months)**
- for a first-instance decision in **accelerated cases (Three months)**
- for first instance, appeal and return decisions for those subject to the **border procedure (Three months)**

Return decisions must be issued with the rejection decision or ‘without undue delay’, while respecting the principle of *non-refoulement*.

For standard and accelerated procedures, the Regulation leaves it to Member States to set national-level time limits for appeals. It should be noted that these time limits do not include any potential judicial review.

Accelerated procedures

When an application for international protection is considered to be unfounded or where there are specific grounds (discussed below), Member States may use accelerated procedures for the examination of the application. The accelerated procedure applies a 20% rule: applicants

⁸³ See Jens Vedsted-Hansen, *Harmonisation of types of asylum procedures: new Regulation, old dilemmas*, May 2024

⁸⁴ Articles 43 – 54 of the APR.

⁸⁵ *National Implementation Plan | Ireland Implementation of the Pact on Migration and Asylum; Brief on Ireland’s National Implementation Plan for the EU Migration and Asylum Pact*, Department of Justice

from countries for which the proportion of decisions granting international protection is 20% or lower of the total number of decisions for that third country (based on EU wide figures on an annual basis) will be subject to an accelerated procedure. It has been noted that this procedure may be particularly relevant for Ireland “as a substantial percentage of asylum applicants in the country come from such low recognition rate states”.⁸⁶

Asylum border procedure

The accelerated procedure is “closely connected” to the asylum border procedure.⁸⁷ Under the Asylum Border Procedure, when an individual arrives at the border of the State without legal right of entry, the individual is not admitted to the State until or unless there is a positive decision on their protection need and the assessment of the protection claim is conducted according to accelerated procedures. The individual concerned must not have entered the State, and not be entitled to do so. In effect the requirement of the Asylum Border Procedure is likely to mean *de facto* detention for the applicant.⁸⁸

When will the Border Procedure apply?

Implementing the approach taken in the APR, the Bill proposes mandatory Asylum Border Procedure for three types of cases, and optional border procedure for other listed circumstances. The ABP will be mandatory where:

- the applicant intentionally misled the authorities by presenting false information or documents or by withholding relevant information or documents that could have had a negative impact on the decision, including destroying identity documents
- the applicant is a danger to the national security or public order of the State or the applicant had been forcibly expelled for serious reasons of national security or public order under the national law of a Member State
- the applicant is a national of a third country for which the proportion of decisions by the Determining Authority (according to the latest available yearly Union-wide average Eurostat data) granting international protection is 20 per cent or lower, unless a significant change has recently occurred in the third country. This principle may not apply where the applicant belongs to a category of persons “for whom the proportion of 20 per cent or lower cannot be considered to be representative for their protection needs”.

The border procedure is linked to a concept of adequate capacity. There will be an EU-wide goal of processing 30,000 applicants through the border procedure (which is deemed

⁸⁶ Elspeth Guild, *The EU’s New Asylum Pact and Ireland’s Opt-in*, *European Journal of Migration and Law* 27 (2025) 41 – 56

⁸⁷ Jens Vedsted-Hansen, *Harmonisation of types of asylum procedures: new Regulation, old dilemmas*, May 2024.

⁸⁸ Ulrike Brandl, *Mix and Match. Detention, “De-Facto Detention” or just Restrictions of Freedom of Movement in the New Pact*, EU Immigration and Asylum Law and Policy, October 2024.

‘adequate capacity’ under the Regulation). Each Member State will have a quota of applicants who must be processed through the border procedure, decided by a formula (based on irregular border crossings, search and rescue arrivals, and refusals of entry over a three-year period). For Ireland, this is **464 applications at any given time and 1,856 per year**. Once Member States reach their quota, they can choose whether or not to process further applicants through the border procedure.⁸⁹

“The innovations of the Pact in the legal design of these border procedures can be summarised in two main points. Firstly, the novelty of the proposal consists in unifying identification, asylum and return procedures. Thus, the Commission seeks to ensure the outcome of the removal and to eliminate the possibility of remaining irregular after the rejection of entry or of the asylum application. In fact, the Commission now refers to the “general asylum and return system” as a whole. Secondly, this set of border procedures (preentry control, asylum and return) are developed under the fiction of non-entry into the territory. The novelty is due to the explicit reference to this fiction, although the border procedures set out in the Pact are similar to those already in force under Article 43 of Asylum Procedure Directive 2013/33.”⁹⁰

Current procedures and processing times

The current system for processing international protection applications is set out in the 2015 Act and the associated secondary legislation.⁹¹ The most recent Government report on the median processing time for applications was published in October 2025. The report noted:

- The median processing time to determining an outcome to an asylum application had been increasing in the last three months for Standard Cases. There has been some fluctuation in the median processing time for cases under the Accelerated Procedure, with the latest figures showing a decrease in October 2025,

⁸⁹ A quick look at the EU Migration and Asylum Pact’s Asylum Procedure Regulation (APR), European Migration Network (ESRI)

⁹⁰ De La Orden Bosch, G., “Pre-entry screening and border procedures as new detention landscape in the EU Pact on migration and asylum. The Spanish borders as a laboratory for immobility policies”, Peace & Security – Paix et Sécurité Internationales, No 12, 2024.

⁹¹ International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017 (S.I. No. 116/2017), the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 (S.I. No. 542 of 2022), European Communities (International Protection Procedures) Regulations 2022 (S.I. No. 541/2022) on additional clauses for prioritisation of applications (safe country of origin, countries from which there are a large number of applications) and accelerating the examination of an application; and the International Protection Act 2015 (Application for International Protection Form) Regulations 2024 (S.I. No. 366 of 2024).

- In October 2025, the median processing time to determination for **standard cases** was 76 weeks (up from 73 weeks in April 2025 and 67 weeks in July 2025),
- For **accelerated procedure** only, the median processing time was 9 weeks in October 2025, down from 13 weeks in August and 19 weeks in September.

As of June 2025 in Ireland, the median processing time for first instance decisions was 71 weeks (over 16 months). In 2024, the median processing time for appeals was 10 months.⁹²

Issues with the current accelerated process

In 2020, new accelerated procedures introduced in the Irish IP system by the [European Communities \(International Protection Procedures\) Regulations 2022](#) and the [International Protection Act \(Procedures and Periods for Appeals\) \(Amendment\) Regulations 2022](#). These Regulations shortened the timeframe for the submission of an appeal of a decision on an IP application,⁹³ and amended the 2015 Act to permit the use of accelerated procedures for certain IP applications.⁹⁴ Some legal practitioners have expressed concern with the operation of these accelerated procedures and shortened timeframes thus far. These concerns may be relevant in light of shortening of certain procedural timeframes proposed by the Bill. In 2022, the President of the Law Society of Ireland, in a letter to the then Minister for Justice, Simon Harris TD,⁹⁵ highlighting the negative impacts of these changes including reduced access to legal advice and delays in case referrals to legal practitioners from the Legal Aid Board. It was suggested these attempts to accelerate the IP application process “will inevitably lead to further appeals and delays in the process [...] having the opposite effect of those intended by the Minister”.⁹⁶ Noeleen Healy BL, writing in the *Bar Review* in 2025 noted that the accelerated procedures introduced in 2022 have had some negative outcomes: “Issues have already been

⁹² International Protection Appeals Tribunal, [Annual Report 2024](#)

⁹³ The [International Protection Act \(Procedures and Periods for Appeals\) \(Amendment\) Regulations 2022](#) shorten certain time periods connected with the holding of an oral hearing where the appeal is against a report that contains a finding under section 39(4) of the International Protection Act 2015, and IPAT has decided that it is in the interests of justice to hold an oral hearing. The time for sending notice of the oral hearing is reduced to 10 working days in advance of the oral hearing. The time for lodging of additional documents with the Tribunal is reduced to 5 working days.

⁹⁴ The [European Communities \(International Protection Procedures\) Regulations 2022](#) amend [section 73 \(2\) of the International Protection Act 2015](#) to add to the list of matters to which the Minister for Justice may have regard when deciding whether to prioritise the processing of an application for international protection or requesting IPAT to prioritise an appeal. The Regulations insert a new section 73A into the International Protection Act 2015 to enable the Minister to accelerate the examination of any application, having regard to the matters in section 73(2).

⁹⁵ [Changes to the International Protection system](#), Letter from the President of the Law Society to the Minister for Justice, 18 May 2023.

⁹⁶ *Ibid*, p 4.

arising in practice with the expedited procedures and the manner in which applications have been accelerated.”⁹⁷

The “legal fiction” of non-entry in asylum border procedures

The asylum border procedure is predicated on a “legal fiction” of non-entry, whereby the State views persons to have not formally entered the territory of the state, regardless of their physical presence in the country. The situation has been described as “*de facto* detention”.⁹⁸

In the EU, Member States make use of the fiction of non-entry in transit zones at ports of entry and it is increasingly used to oversee the arrival of people seeking international protection.⁹⁹ For example, a 2025 publication by the European Parliamentary Research Service noted:

“Countries such as Austria, Belgium, France, Spain, Greece, Hungary and Portugal consider persons applying for international protection at their borders or transit zones as not having legally entered their territory. This interpretation is often upheld by national case law”.¹⁰⁰

The Article 10(4) of the [Recast Reception Conditions Directive](#)¹⁰¹ permits detention on 7 grounds: to verify the identity or nationality of an applicant, to determine elements on which the application for international protection is based and which could not be obtained in the absence of detention, in particular where there is a risk of absconding, and also to decide, in the context of a border procedure on the applicant’s right to enter the state in accordance with Article 43 of the Asylum Procedures Regulation (APR).¹⁰² Applicants may not be detained for the sole reason that they file an application for international protection.¹⁰³

Section 126 of the Bill, relating to the proposed border procedure acknowledges that a person may be present in the State, but their presence is not legally authorised or acknowledged. Under this section, any requirement to reside at a particular place in accordance with this

⁹⁷ Noeleen Healy BL, [Emerging Barriers in the International Protection Process](#), The Bar Review 2025, 30(2), 65-69

⁹⁸ Ulrike Brandl, [Mix and Match. Detention, “De-Facto Detention” or just Restrictions of Freedom of Movement in the New Pact](#), EU Immigration and Asylum Law and Policy, October 2024.

⁹⁹ Francesca Rondine, [Between physical and legal borders: the fiction of non-entry and its impact on fundamental rights of migrants at the borders between EU law and the ECHR](#), 31 August 2022; Anita Orav and Nefeli Barlaoura, [Legal fiction of non-entry in EU asylum policy: Implications of the new Screening Regulation](#), European Parliamentary Research Service, March 2024.

¹⁰⁰ Anita Orav and Nefeli Barlaoura, [Legal fiction of non-entry in EU asylum policy: Implications of the new Screening Regulation](#), European Parliamentary Research Service, March 2024, p 3.

¹⁰¹ Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection

¹⁰² European Commission – Migration and Home Affairs, [Reception conditions](#), 2 April 2025

¹⁰³ Article 10(1) of the [Recast Reception Conditions Directive](#). Ulrike Brandl, [Mix and Match. Detention, “De-Facto Detention” or just Restrictions of Freedom of Movement in the New Pact](#), EU Immigration and Asylum Law and Policy, October 2024.

section shall not be regarded as an authorisation to enter the State. Similarly, where applicants subject to the ABP who are moved between locations in the State to, e.g. receive medical treatment, such travel shall not in itself constitute an entry to the State.

Provisions of the Bill – Accelerated procedures

Chapter 5 of the Bill provides for accelerated examination procedures and Chapter 6 of the Bill provides for the new Asylum Border Procedure.

Part 5 - Chapter 5 - Special procedures (accelerated examination procedure)

Section 115 of the Bill provides for accelerated examination procedures, in accordance with the principles and guarantees provided for in Chapter II of the Asylum Procedure Regulation (APR). The section sets out the circumstances in which an accelerated procedure will be applied when examining the merits of an international protection application. These include:

- a) The applicant's application has only raised issues that are not relevant to the examination of whether he or she qualifies for IP
- b) the applicant has made clearly inconsistent or contradictory or clearly false or obviously improbable representations or representations which contradict relevant and available country of origin information, thus making his or her claim clearly unconvincing
- c) the applicant intentionally misled the authorities by presenting false information or documents or by withholding relevant information or documents that could have had a negative impact on the decision, including destroying identity documents
- d) the applicant makes an application merely to delay, frustrate or prevent the enforcement of a decision for his or her removal from the territory of the State,
- e) a third country may be considered to be a safe country of origin for the applicant,
- f) the applicant is a danger to the national security or public order of the State
- g) the application is a subsequent application which is not inadmissible,
- h) the applicant entered the State unlawfully and, without good reason, has not made an application as soon as possible
- i) the applicant entered the State lawfully and, without good reason, has not made an application as soon as possible
- j) the applicant is a national of a third country for which the proportion of decisions by the Determining Authority (according to the latest available yearly Union-wide average Eurostat data) granting international protection is 20 per cent or lower, unless a significant change has recently occurred in the third country. This principle may also not apply where the applicant belongs to a category of persons "for whom the proportion of 20 per cent or lower cannot be considered to be representative for their protection needs".

Regarding subsection (j), above, where the Asylum Agency has provided a guidance note on a country of origin showing that a significant change has occurred in the third country concerned, the Determining Authority shall use that guidance note as a reference.

Where the application contains complex matters of fact or law, the Authority may instead consider the merits of the application, following the procedures and timeframes in sections 110 and 112.

The accelerated procedure shall only be applied to unaccompanied minors if at least one of the circumstances below are applicable:

- the applicant comes from a third country that may be considered to be a safe country of origin;
- the applicant may reasonably be believed to be danger to the national security or public order of the State
- the applicant intentionally misled the authorities by presenting false information or documents or by withholding relevant information or documents that could have had a negative impact on the decision, including destroying identity documents
- the application is a subsequent application which is not inadmissible
- the applicant is a national of a third country for which the proportion of decisions by the Determining Authority (according to the latest available yearly Union-wide average Eurostat data) granting international protection is 20 per cent or lower, unless a significant change has recently occurred in the third country. This principle may also not apply where the applicant belongs to a category of persons “for whom the proportion of 20 per cent or lower cannot be considered to be representative for their protection needs”.

Section 116 sets out the appropriate time frame for the accelerated procedure. The Authority is to conclude the examination procedure “as soon as possible”, and no later than three months from the date on which the application is lodged.

Chapter 6 - Asylum Border Procedure

Following the screening process, carried out pursuant to the provisions set out in Part 2 of the Bill, and in accordance with the principles and guarantees under Chapter II of the APR, the Minister may examine an application in an “asylum border procedure” (ABP). An ABP applies where the applicant does not fulfil the conditions for entry to the State and meets any of the criteria for refusal of permission to land in the State, set out in [section 4\(3\)](#) of the Immigration Act 2004.

The ABP may take place in the following circumstances:

- (a) following an application made at an external border crossing point or in a transit zone;

- (b) following apprehension in connection with an unauthorised crossing of the external border;
- (c) following disembarkation in the State after a search and rescue operation;
- (d) following relocation in accordance with Article 67(11) of the Asylum and Migration Management Regulation.

A person subject to the ABP shall not be authorised to enter the State.

Deadlines under the ABP are set out in section 118 of the Bill. The procedure shall be “as short as possible”, while still allowing a fair examination of the applicant’s claims. The maximum duration of the ABP shall be 12 weeks from when the application is registered until the applicant no longer has a right to remain and is not allowed to remain.

The time frame may be extended to 16 weeks by the Authority where:

- (a) a person is transferred to the State pursuant to Article 67(11) of the Asylum and Migration Management Regulation,¹⁰⁴ and
- (b) the Determining Authority is applying the asylum border procedure.

On the expiration of the above time frames, the Minister shall authorise the applicant to enter the State unless one of the circumstances set out in subsection (5) are applicable.

Under section 119, certain ABP applications may be prioritised. These include where the ABP is applied to minors and their family members. If the number of applicants exceeds the number that “corresponds to the adequate capacity of the State”, the Bill provides a list of categories of applications that may be prioritised as follows:

- Applicants who, in the event of a negative decision, have a higher prospect of being returned (as applicable) to their country of origin, to their country of former habitual residence, to a safe third country or to a first country of asylum
- Applicants who are considered, on serious grounds, to pose a danger to the national security or public order of the State
- Applicants who are not minors and their adult family members

An applicant who is deemed to be a national security risk may be placed under the ABP at any point in the application procedure (section 120).

¹⁰⁴ Article 67 of the AMMR provides for Procedures before relocation. Article 67(11) provides that “The transfer of the person concerned from the benefitting Member State to the Member State of relocation shall be carried out in accordance with the national law of the benefitting Member State, after consultation between the Member States concerned, as soon as practically possible, and within 4 weeks of the confirmation by the Member State of relocation or of the final decision on an appeal or review of a transfer decision with suspensive effect in accordance with Article 43(3).”

The ABP shall be applied where any of the circumstances in section 115(1)(c), (f) or (j) apply, i.e.:

- (c) the applicant intentionally misled the authorities by presenting false information or documents or by withholding relevant information or documents that could have had a negative impact on the decision, including destroying identity documents
- (f) the applicant is a danger to the national security or public order of the State or the applicant had been forcibly expelled for serious reasons of national security or public order under the national law of a Member State
- (j) the applicant is a national of a third country for which the proportion of decisions by the Determining Authority (according to the latest available yearly Union-wide average Eurostat data) granting international protection is 20 per cent or lower, unless a significant change has recently occurred in the third country. This principle may also not apply where the applicant belongs to a category of persons “for whom the proportion of 20 per cent or lower cannot be considered to be representative for their protection needs”.

Where the adequate capacity of the State is reached, the ABP shall no longer be applied in cases of subsection (j), above.

In cases where subsection (f) apply, the Authority shall take appropriate measures to maintain family unity in the ABP.

Certain applicants may be in need of special procedural guarantees, particularly victims of torture, rape or other serious forms of psychological, physical, sexual violence or gender-based violence. Where the Authority is of the view that the necessary support referred to in Article 21(1) of the Asylum Procedure Regulation cannot be provided within the framework of the accelerated examination procedure, the Authority shall not apply or cease to apply those procedures.¹⁰⁵ Article 21(1) of the APR requires that:

“Where applicants have been identified as being in need of special procedural guarantees, they shall be provided with the necessary support allowing them to benefit from the rights and comply with the obligations under this Regulation throughout the duration of the procedure for international protection.”

Section 123 of the Bill provides that where the ABP applies, the Minister shall determine the Member State responsible as part of the ABP.

Where an applicant is transferred to the State under the ABP, and the conditions of the ABP are met, the Authority may apply the ABP without prejudice to the deadlines established in section 118. If the person transferred meets the above criteria, and is also a national security

¹⁰⁵ Section 122 of the International Protection Bill 2026.

risk, the Authority does not have discretion as to whether the ABP is to be applied (the ABP must be applied).¹⁰⁶

Exceptions to the ABP are set out in section 125. These include the requirements above, relating to unaccompanied minors. Where there is doubt about the applicant's age, the competent authorities shall carry out an age assessment in accordance with Part 3 Chapter 3. The ABP shall not apply if the grounds for rejecting an application as inadmissible or for applying the accelerated examination procedure are no longer applicable. The ABP will not apply where necessary supports cannot be provided for applicants with special reception needs (including minors) or for those in need of special procedural guarantees. The ABP will not be applied where there are relevant medical reasons, including mental health reasons. Finally, the guarantees and conditions for detention laid down in the Reception Conditions Directive are not, or are no longer, met and the asylum border procedure cannot be applied to the applicant without the use of detention.

Section 126 of the Bill provides for restrictions on freedom of movement during the ABP. During the examination of an APB application, the applicant shall be required to reside in "designated locations" within the State. The Minister shall ensure that families with minors reside in reception facilities appropriate to their needs, ensuring that the minor's various developmental needs are met, per the requirement of Chapter IV of the Reception Conditions Directive. Under this section, any requirement to reside at a particular place in accordance with this section shall not be regarded as an authorisation to enter the State. Similarly, where applicants subject to the ABP who are moved between locations in the State to, e.g. receive medical treatment, such travel shall not in itself constitute an entry to the State.

Under section 127 of the Bill, the Minister is required to notify the European Commission of instances where the number of applications that have been examined in the border procedure in the State within one calendar year is equal to or exceeds the maximum number of applications permitted under the "adequate capacity of a Member State" which is to be determined in line with Article 47(1) of the Asylum Procedure Regulation.

¹⁰⁶ Section 124 of the International Protection Bill 2026.

New Appeals Tribunal

Applications for international protection are currently examined by the International Protection Office (the IPO),¹⁰⁷ which is a unit within the Department of Justice. Appeals of decisions by the IPO are heard by the International Protection Appeals Tribunal (IPAT),¹⁰⁸ an independent statutory body created by the 2015 Act. Refugee status and subsidiary protection appeals are the primary matters heard by the IPAT.¹⁰⁹ Decisions issued by the IPAT on appeal can be subject to judicial review in the High Court.

The current appeals system, as provided for by the 2015 Act, conforms with Ireland's obligations under the 2005 Asylum Procedures Directive.¹¹⁰ Ireland did not opt in to most of the second phase of the Common European Asylum System,¹¹¹ and was not bound by the 2013 Recast Asylum Procedures Directive.¹¹² The Bill aims to reflect Ireland's obligations under the 2024 Asylum Procedures Regulation (APR). While the APR has direct effect, it affords discretion to Member States on certain issues, for which the Bill proposes to provide. Additional appeals procedures are set out in the [Asylum and Migration Management Regulation \(AMMR\)](#) (replacing the Dublin III Regulation), but these will not be addressed in this briefing paper. The Bill proposes to establish a new appeals tribunal ("the Tribunal") to replace the IPAT. It is envisaged that both appeals bodies will operate concurrently for a period of time, as appeals that have been lodged with the IPAT before the establishment of the new Tribunal are heard.¹¹³

Jurisdiction of the new Tribunal

Part 6 of the Bill provides for the mechanism of appeals to the new Tribunal and Part 11 establishes the Tribunal. The Tribunal is to be established on a day appointed by the Minister,¹¹⁴ and the new Tribunal will be called the Tribunal for Asylum and Returns Appeals ('the Tribunal'). The Tribunal will consider return decisions. The appeal of return decisions were not within the remit of the IPAT. Like the IPAT, the Tribunal shall be inquisitorial in

¹⁰⁷ [International Protection Office](#)

¹⁰⁸ [International Protection Appeals Tribunal](#)

¹⁰⁹ International Protection Appeals Tribunal, [Annual Report 2024](#)

¹¹⁰ The IPAT performs the judicial scrutiny function under Article 39 of the 2005 Directive. Ireland did not opt in to the 2013 Recast Asylum Procedures Directive; Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) - [ECRE-Information-Note-on-the-Asylum-Procedures-Directive-recast_December-2014.pdf](#)

¹¹¹ [The evolution of the Common European Asylum System \(CEAS\)](#) (though Ireland did take part in Dublin III Regulation)

¹¹² See Joanne Williams BL, '[Appellate Reform and the Pact](#)', Immigration, Asylum and Citizenship Bar Association Annual Conference, December 2025, p 4

¹¹³ [IACBA Annual Conference 2025 - 12 December 2025](#)

¹¹⁴ Section 176.

nature, and independent in the performance of its functions.¹¹⁵ According to the National Implementation Plan, the system of appeals will continue to provide a right to an effective remedy before a court or tribunal within the meaning of Article 267 Treaty on the Functioning of the EU (TFEU) and in line with the requirements of Article 47 of the Charter of Fundamental Rights.¹¹⁶

The following appeals will be dealt with by the new Tribunal, as set out in section 129(1) of the Bill:

- (a) a decision under *section 98* to reject an application as **inadmissible**,
 - (b) a decision under *section 98* to reject an application as unfounded or manifestly unfounded where the applicant is eligible for subsidiary protection but **does not qualify as a refugee**,
 - (c) a decision under *section 98* to reject an application as unfounded or manifestly unfounded where the applicant does not qualify as a refugee and **is not eligible for subsidiary protection**,
 - (d) a declaration under *section 67(2)* that an application has been **implicitly withdrawn**, or
 - (e) **a return decision**¹¹⁷ under *section 154* or *156*.
- (emphasis added)

Time frames for appeal

On receipt of a negative decision regarding admissibility of their international protection application, a declaration of withdrawal of an application, or a decision on refugee status or subsidiary protection (paras a – d, above), an appeal shall be brought by notice in writing by the applicant within **1 month** from date of receipt of a section 98 notification.

Where an applicant in receipt of the above notification has been the subject of the accelerated examination procedure, or asylum border procedure, an appeal shall be brought by notice in writing by the applicant within **10 days** from date of receipt of a section 98 notification.

If an applicant appeals a return decision under section, per section 129(1)(e), the following time limits apply:

¹¹⁵ Section 61 of the 2015 Act.

¹¹⁶ [National Implementation Plan | Ireland Implementation of the Pact on Migration and Asylum](#), p 75.

¹¹⁷ A return decision shall be made by the Minister where an application is found to be inadmissible on certain grounds, unfounded, manifestly unfounded or withdrawn. A person the subject of a return decision under subsection (1) shall be required to leave the State.

If the appeal is brought by an applicant who has brought an appeal against a related decision, the same timeframes as the procedures above apply, i.e., **1 month** from date of receipt of a section 98 notification or 10 days from date of receipt of a section 98 notification, or where the applicant has been the subject of the accelerated examination procedure, **10 days** from date of receipt of a section 98 notification. If an appeal is sought by an applicant who has not brought an appeal against a related decision, the time limit is 10 days from receipt of notification.

The General Scheme of the Bill proposed shorter time frames for appeal than those proposed by the Bill; 5 days from date of notification of the decision and two weeks from the sending of the decision to the applicant, respectively.¹¹⁸ These proposed time frames were criticised by stakeholders during PLS of the General Scheme.¹¹⁹

The DOJ “assumes some 13% of all applicants going into the standard procedure”, with the large majority be dealt with under some form of accelerated procedure.¹²⁰

Current timeframes

Time limits within which to appeal are set out in the [International Protection Act 2015 \(Procedures and Periods for Appeals\) Regulations 2017](#) as amended by the [International Protection Act 2015 \(Procedures and Periods for Appeals\) \(Amendment\) Regulations 2022](#). The general appeal time for refusal of refugee status or subsidiary protection is **15 working days** from the date of the notification of the recommendation. For applications processed under the accelerated procedure a shorter appeal deadline of **10 working days** applies.¹²¹

Appeals procedure

Under section 132, documents are to be provided to the Tribunal by the Determining Authority (DA), for the purpose of an appeal, and the Tribunal may make further necessary inquiries of the DA. Interview transcripts may also be provided by the DA.

Section 135 provides that, before reaching its decision, the Tribunal shall carry out a full and *ex nunc* examination¹²² of facts and points of law, including examination of international

¹¹⁸ Head 67 of the [General Scheme of the International Protection Bill 2025](#).

¹¹⁹ See e.g. The Bar of Ireland, [Submission to Oireachtas Joint Committee on Justice, Home Affairs and Migration, General Scheme of the International Protection Bill 2025](#), June 2025; Law Society of Ireland, [Submission on the General Scheme of the International Protection Bill 2025](#), Joint Committee on Justice, Home Affairs and Migration, 12 June 2025.

¹²⁰ [National Implementation Plan | Ireland Implementation of the Pact on Migration and Asylum; Brief on Ireland's National Implementation Plan for the EU Migration and Asylum Pact](#), Department of Justice

¹²¹ See [International Protection Appeals - IPAT](#)

¹²² Meaning the Tribunal's consideration of the evidence of the situation (all elements, facts and points of law) available at the moment of the decision, thus allowing courts or tribunals to take into account evidence of which the administration could not have been aware during the first instance procedure.

protection needs pursuant to the Qualification Regulation. An application may be withdrawn by the applicant at any time.¹²³ The application may be deemed by the Tribunal to be withdrawn under specified circumstances relating to the actions of the applicant (e.g. failure to cooperate with the Tribunal).

On completion of their assessment, the Tribunal may affirm the relevant decision of the DA or set aside the decision.¹²⁴ The Tribunal may also affirm the decision of the DA that an applicant does not qualify as a refugee while setting aside a negative decision on the applicant's eligibility for subsidiary protection. The decision of the Tribunal may be judicially reviewed by the High Court, and where such an application is brought the applicant does not have an automatic right to remain in the state solely by virtue of such application.¹²⁵

Oral hearings

Part of the overall aim of streamlining relevant decision-making process is to reduce the use of oral hearings by the Tribunal. In the absence of an oral hearing, the appellate process consists of a paper-based review. It is necessary for provision to be made for oral hearings in certain cases, as their complete removal would likely be unconstitutional.¹²⁶ It has consistently been held by the Supreme Court that when an applicant's credibility is in issue on appeal, fair procedures dictate that an oral hearing should be afforded.¹²⁷ While EU law does not mandate hearings in all cases, the Court of Justice of the European Union has confirmed that courts must have the power to order one when necessary to ensure a fair and full examination.¹²⁸ The APR does not create a specific right to an oral hearing on appeal.

The NIP indicated an intention to legislate to allow for the consideration of appeals "without the need for an oral hearing by the future appeals mechanism".¹²⁹ The General Scheme thus proposed to provide for oral hearings on appeal in very limited circumstances, and only where the applicant requests an oral hearing.¹³⁰

¹²³ Section 136 of the International Protection Bill 2026.

¹²⁴ Section 137 of the International Protection Bill 2026.

¹²⁵ Section 139 of the International Protection Bill 2026.

¹²⁶ Submission of David Leonard BL to the Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the International Protection Bill 2025, 5 June 2025, p 1; The Bar of Ireland, Submission to Oireachtas Joint Committee on Justice, Home Affairs and Migration, General Scheme of the International Protection Bill 2025, June 2025, pp 18 – 19.

¹²⁷ *M.M v Minister for Justice, Equality and Law Reform* [2018] IESC 10, *VJ v. Minister for Justice and Equality and Ors.* [2019] IESC 75.

¹²⁸ UNHCR Observations on the General Scheme of the International Protection Bill 2025, June 2025

¹²⁹ National Implementation Plan | Ireland Implementation of the Pact on Migration and Asylum; Brief on Ireland's National Implementation Plan for the EU Migration and Asylum Pact, Department of Justice, p 81.

¹³⁰ General Scheme of the International Protection Bill 2025.

Section 133 of the Bill provides that the Tribunal shall make a decision in respect of an appeal without holding an oral hearing unless certain conditions, as set out in subsection (2) are met. This creates a presumption against the holding of an oral hearing. An oral hearing will only be held if the Appeals Officer to whom the appeal is assigned is of the opinion that “a full and *ex nunc* examination of both facts and points of law cannot be achieved without an oral hearing”. It is envisaged that the Chief Appeals Officer may issue guidelines on the practical application and operation of this subsection.¹³¹

The approach set out in section 133 is somewhat less restrictive than the provisions of the General Scheme,¹³² and creates a broader discretion for appeals officers to hold oral hearings, where necessary, though retains a presumption against the holding of an oral hearing. In particular, section 133(2) provides an oral hearing may be held where the Appeals Officer, having regard to guidelines issues by the Chief Appeals Officer under section 182(2) of the Bill, is of the opinion that “that a full and *ex nunc* examination of both facts and points of law cannot be achieved without an oral hearing”.

The current process under section 43 of the 2015 Act provides that an applicant can be subjected to accelerated appeals procedures if a finding pursuant to section 39(4) is applied to their case. The practical implication of this is the loss of an automatic right to an oral hearing, unless it is in the interests of justice, and the procedures at appeal stage should be completed more rapidly.¹³³

Suspensive effect – the right to remain in the country pending the outcome of an appeal

It is usually the case that lodging an appeal under the regular asylum procedure has automatic suspensive effect, though exceptions do apply.¹³⁴ This prevents the implementation of the first-instance asylum decision until the appeal is decided. Thus, at present, appeals to the IPAT have suspensive effect. The General Scheme of the Bill proposed to “radically overhaul

¹³¹ Section 182(2)(c) of the International Protection Bill 2026.

¹³² There was an additional requirement under Head 69 that the Chief Appeals Officer is satisfied that the applicant was not given the opportunity of a personal interview at first instance, or the record of such an interview is not available. It has been noted that “It will only be in very rare circumstances that an applicant will not be given the opportunity of a personal interview at first instance”. [Submission of David Leonard BL to the Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the International Protection Bill 2025](#), 5 June 2025

¹³³ Noeleen Healy BL, [Emerging Barriers in the International Protection Process](#), The Bar Review 2025, 30(2), 65-69.

¹³⁴ Appeals under the Dublin Regulation also suspend transfer decisions, while appeals at the second instance do not automatically have a suspensive effect.

the landscape in this regard”, setting down a series of rules that restrict the suspensive effect of appeals.¹³⁵

Under the APR,¹³⁶ applicants must have the right to remain until the time limit within which they can exercise their right to an effective remedy before a court or tribunal of first instance has expired and, where such a right has been exercised within the time limit, pending the outcome of the remedy. However, certain forms of appeal *will not* have suspensive effect under the APR. These include, *inter alia*, appeals where the application has been accelerated or subject to the border procedure, where the application has been deemed inadmissible for withdrawn.¹³⁷ Where a decision does not have automatic suspensive effect, a court or tribunal must have the power to decide whether the person should be allowed to remain pending the outcome of the remedy.¹³⁸

Right to remain pending appeals – provisions of the Bill

Section 130 of the Bill provides that an applicant shall not be removed from the State pending the outcome of their appeal. Section 130(3) of the Bill sets out the cases in which an applicant shall not have a right to remain (without prejudice to the principle of *non-refoulement*). These are:

- A decision has been made to reject an application as unfounded and this application was considered under the accelerated examination procedure of border procedure
- A decision is made to reject an application as inadmissible where one of the following circumstances applies:
 - A country which is not a Member State is considered to be a first country of asylum for the person
 - The ICC or an international tribunal has provided safe relocation for the person or is unequivocally undertaking actions to that effect.
 - Where the applicant has been issued with a deportation order or return decision or order and made his or her IP application more than 7 working days from the date on which the applicant received that order or decision.
- An application has been deemed implicitly withdrawn or a subsequent application was rejected as unfounded.

These accord with the provisions of Article 68 APR. The above principles do not apply to unaccompanied minors.

¹³⁵ Joanne Williams BL, ‘Appellate Reform and the Pact’, Immigration, Asylum and Citizenship Bar Association Annual Conference, December 2025, p 15.

¹³⁶ Article 68(3) of the APR.

¹³⁷ Article 68(3) of the APR.

¹³⁸ Article 68(4) of the APR.

Section 131 provides for requests to remain to be made to the Tribunal, in accordance with the APR. The request may be granted or refused by the Tribunal, and, without prejudice to the principle of *non-refoulement*, the Tribunal will not grant the request where it is brought for the purpose of delaying or frustrating the enforcement of a return decision.