

**IRELAND**

**SUBMISSION TO THE UNITED NATIONS  
UNIVERSAL PERIODIC REVIEW (UPR) –  
STAKEHOLDER INFORMATION**

**Doras**

25<sup>th</sup> March 2021

# DORAS SUBMISSION – UN UPR IRELAND

## ABOUT DORAS

Doras is an independent non-governmental organisation that works to promote and protect the rights of migrants in Ireland through direct support and advocacy. Doras was established in the year 2000 and our work now covers a broad spectrum of areas including immigration, international protection, refugee resettlement, anti-trafficking, integration and anti-racism. Doras supports approximately 1,200 people each year through our Advice & Information centre in Limerick city. The people we support are currently in the international protection process, or from a migrant or refugee background. Our experience of providing direct support services informs our evidence-base for national and international advocacy on these issues.

Our direct support services include the following:

- Drop-in centre open to the public
- Outreach to Direct Provision centres, prison, hospital
- Support accessing employment, education, housing, social welfare and healthcare
- Family reunification, immigration permissions, travel documents and residency
- Refugee resettlement and community sponsorship
- English language and computer classes
- Capacity building with mainstream service providers
- Intercultural awareness and anti-racism training
- Racism reporting and victim support

To contact Doras directly, please contact Aideen Roche, Policy Officer, at [a.roche@doras.org](mailto:a.roche@doras.org). For more information on our work, visit [www.doras.org](http://www.doras.org)



## **INTERNATIONAL HUMAN RIGHTS INSTRUMENTS & INFRASTRUCTURE**

1. Doras welcomes the recent ratification of the International Convention on the Rights of People with Disabilities (ICRPD) and the Istanbul Convention Combating Violence Against Women, since the last Universal Periodic Review (UPR) of Ireland in 2016.
2. We also welcome the recent appointment of the Irish Human Rights and Equality Commission as National Rapporteur on Human Trafficking and the clarification on the remit of the Office of the Ombudsman and the Ombudsman for Children regarding complaints from people living in Direct Provision centres under Ireland's international protection system.

### **Recommendations:**

Ireland should take the necessary steps to ratify the following instruments:

- ICRMW
- OP-CAT
- OP-CRC-SC
- OP-ICESCR
- OP-ICRPD

## **INTERNATIONAL PROTECTION & RECEPTION CONDITIONS**

3. In Ireland's previous UPR in 2016, Doras and other stakeholders raised serious concerns regarding the overcrowded and inappropriate reception conditions in what are commonly known as Direct Provision centres in Ireland, as part of the international protection system. These issues are compounded by significant delays and a backlog of cases in the system which leaves people living in these conditions for several years.
4. Since the 2016 UPR, some progress has been made to acknowledge and address the unsuitable conditions and the negative impact that lengthy stays in Direct Provision

centres have on people's lives. Doras welcomes the recent report of the Advisory Group<sup>1</sup> and the subsequent White Paper<sup>2</sup> that provides a roadmap for Ireland to transition away from the system of Direct Provision and towards a human rights-compliant reception system.

5. Doras remains concerned that the people currently living within Direct Provision continue to be at risk and that no progress has been made in practice to address the human rights issues faced by people who have been stuck within this system for several years. The Advisory Group identified lengthy delays in the system as a key concern and recommended that the Government regularise the status of people who have been in the system for more than two years in an attempt to clear the backlog of cases. This is essential in order to effectively transition to a new system and to address the failures of the current system on the people who have been forced to live in these appalling conditions for so many years.

### **Recommendations**

- Take immediate steps to ensure that the backlog of cases and related delays in the international protection system are addressed by regularising the status of people in the system for more than two years and providing adequate resources to the International Protection Office and Legal Aid Board.
- Ensure that early and ongoing vulnerability assessments are carried out with all applicants for international protection, and that appropriate accommodation and supports are made available accordingly.
- Discontinue the policy of accommodating victims of trafficking in Direct Provision centres and ensure that appropriate gender-sensitive accommodation is

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<sup>1</sup> Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process (2020). Available here: <https://www.gov.ie/en/publication/634ad-report-of-the-advisory-group-on-the-provision-of-support-including-accommodation-to-persons-in-the-international-protection-process/>

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<sup>2</sup> White Paper on Ending Direct Provision (2021). Available here: <https://www.gov.ie/en/publication/7aad0-minister-ogorman-publishes-the-white-paper-on-ending-direct-provision/>

available as a matter of priority.

## **RIGHT TO FAMILY REUNIFICATION**

6. A number of human rights instruments protect the right to family life, including the ICCPR, ICESCR, UDHR and the Geneva Convention relating to the Status of Refugees. In Ireland, the family is recognised as being central and fundamental to Irish society in the Irish Constitution.<sup>3</sup>
  
7. Since the last UPR, Ireland has restricted the right to family reunification for people who have come through the international protection process through the enactment of the International Protection Act 2015, which entered into force on 31<sup>st</sup> December 2016.

The change in legislation removed the right to family reunification for a range of dependent family members who had previously been eligible to apply, including grandparents, older siblings and unmarried spouses or partners, which particularly impacts unmarried same sex couples. Ireland now defines “family members” for the purposes of family reunification as spouses, children under the age of 18 years and parents of minor applicants who are aged under 18 years. This more restrictive definition has had a distressing impact on people who have been unable to reunite with their family in Ireland. In our experience, separation from family can cause severe mental health difficulties with people reporting anxiety, depression, insomnia and loneliness. The fear that some people experience regarding the safety of family left behind causes intense feelings of guilt, panic and trauma.

### **Recommendations**

- Amend the International Protection Act 2015 to extend the definition of family members for the purposes of family reunification to include all dependent family

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<sup>3</sup> Article 41 of the Irish Constitution: “The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.”

members and reinstate the discretionary power of the Minister of Justice to grant the right to family reunification.

- Amend the International Protection Act 2015 to include a right of appeal for family reunification applications which have been refused at first instance.

## **TRAFFICKING IN HUMAN BEINGS**

9. Victim identification policy and practice regarding human trafficking has been widely criticised, including as part of Ireland's previous UPR in 2016 (A/HRC/WG.6/25/IRL/2, para. 49). While Ireland provides some supports and protections to victims of trafficking, the victim identification process is wholly insufficient and Doras remains concerned that human trafficking is treated primarily as an immigration issue, rather than a human rights issue.
10. The current protections available to victims under the Administrative Immigration Arrangements for the Protection for Victims of Human Trafficking<sup>4</sup> discriminates on the basis of nationality and applies only to a limited number of cases involving undocumented migrants from non-EEA countries, who are offered temporary residency permission and a range of support services. Doras remains concerned that victims of trafficking who are seeking asylum in the international protection process and victims who are EEA citizens are not systematically being identified, appropriately accommodated or supported.
11. Ireland's system of identification therefore excludes a large proportion of victims of trafficking from obtaining supports and interferes with the right of victims of trafficking to seek international protection.

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<sup>4</sup> Administrative Immigration Arrangements for the Protection for Victims of Human Trafficking. Available here: <http://www.inis.gov.ie/en/INIS/Administrative%20Immigration%20Arrangements%20for%20the%20Protection%20of%20Victims%20of%20Human%20Trafficking%20-%20March%202011.pdf/Files/Administrative%20Immigration%20Arrangements%20for%20the%20Protection%20of%20Victims%20of%20Human%20Trafficking%20-%20March%202011.pdf>



### Victims of trafficking in the international protection process

12. Ireland is required by law to conduct early vulnerability assessments with people in the international protection process<sup>5</sup> to ensure that victims of trafficking and others with additional vulnerabilities, are identified and provided with the necessary supports and appropriate gender-specific accommodation. Vulnerability assessments have yet to be systematically conducted and victims of trafficking are not being systematically identified.
13. Furthermore, victims of trafficking in the international protection process, who have been identified, remain living in congregated communal Direct provision centres, which are unsuitable, unsafe and have the potential for re-traumatisation and re-trafficking.

### Victims of trafficking from EEA countries

14. Victims from EEA member states are often left destitute due to a lack of entitlement to social welfare resulting from the Habitual Residency Condition. This issue was raised in the UPR report for Ireland in 2016 in relation to victims of domestic violence, asylum seekers and other minority groups (A/HRC/WG.6/25/IRL/2, para. 49). Given the ineligibility for social welfare allowances for many EEA victims of trafficking, victims have little choice but to remain in Direct Provision centres while investigations are on-going. This accommodation system has proven to have had negative impacts on residents, including the potential to further traumatise victims of trafficking.

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<sup>5</sup> Ireland transposed the EU recast Reception Conditions Directive in July 2018, which legally obliges vulnerability assessments to be carried out with all international protection applicants. Available here: <http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print>

## **Recommendations**

- Discontinue the policy of victim identification on the basis of nationality and immigration status. All victims of trafficking should be formally recognised regardless of their nationality or immigration status. Victims of trafficking who are EEA nationals and victims who are in the international protection process should be given access to the same supports as those from non-EEA countries.
- Discontinue the policy of accommodating victims of trafficking in Direct Provision centres. Ensure that early and ongoing vulnerability assessments are carried out systematically and that appropriate accommodation and supports for identified victims of trafficking are in place accordingly.
- Review the Habitual Residence Condition in relation to the impact it has on access to social welfare for victims of trafficking.

## **MIGRANT VICTIMS OF DOMESTIC VIOLENCE**

15. In Ireland's second UPR in 2016, concerns were raised about the prevalence of domestic violence and the lack of support services available to victims (A/HRC/33/17). Since then, Ireland has strengthened legislation, with the enactment of the Domestic Violence Act 2018.
16. Doras remains concerned that migrant victims of domestic violence face significant additional barriers trying to leave abusive relationships and access support services. These include language and cultural barriers; lack of access to information; limited support networks and dependent immigration status (immigration status that is linked to a spouse or partner) being used as a threat and form of power over victims.
17. Migrant victims of domestic violence with dependent immigration status linked to an abusive spouse, can apply for independent immigration status as per the

Immigration Guidelines for Victims of Domestic Violence<sup>6</sup>. These Immigration Guidelines are an administrative arrangement and are not a legal right. The Guidelines are only available in English and are not easily accessible online. The application process can be complicated for people to make independently. The application process can take several months, during which time an individual may be at risk of further violence.

18. In our experience, there is a significant lack of awareness among migrant communities and mainstream service providers about the rights and entitlements to support services for migrant victims of domestic violence and in particular the application process for independent status.

**Recommendations:**

- Ireland should formalise the Immigration Guidelines for Victims of Domestic Violence so that the policy of granting independent status has a statutory basis in law.
- Provide temporary residency permission while an application for independent immigration status is pending to ensure interim access to support services.
- Conduct multilingual public awareness campaigns so that victims are aware of their rights and entitlements, including the available support services and how they can apply for independent status.

## **ACCESS TO EMPLOYMENT**

19. The disproportionately high rate of unemployment among people from minority backgrounds was highlighted in Ireland's previous UPR in 2016 (A/HRC/33/17, para. 15) and it was recommended that Ireland introduce dedicated measures to address this gap and to improve access to support services.

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<sup>6</sup> Immigration Guidelines for Victims of Domestic Violence. Available here: <http://inis.gov.ie/en/INIS/Victims%20Of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf/Files/Victims%20Of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf>

20. Since Ireland's previous UPR in 2016, a supreme court judgement forced Ireland to lift the employment ban on people in the international protection process. The right to work for people in the international protection process was introduced in July 2018 and limits access to people who have not received a first instance decision within 9 months of their application. The majority of people currently in the international protection system remain prohibited from seeking employment as they do not meet the eligibility criteria. For those with permission to seek employment, securing employment remains a challenge for a number of reasons, including the following:

- No right to open a bank account or obtain a driver's license;
- Lack of knowledge of how to navigate the system or find work;
- Discrimination;
- Prohibited from accessing a range of mainstream employment supports;
- Social and economic disadvantage as a result of living in Direct Provision while in the international protection application process;
- Lack of access to childcare, disproportionately affecting women;
- Limited recognition of qualifications and experience obtained overseas;
- Employer attitudes and lack of knowledge around the international protection system.

21. Doras is concerned that people with experience of the international protection system are among the most underemployed and discriminated against in terms of access to employment.

**Recommendations:**

- Remove the administrative and legislative barriers that restrict international protection applicant's access to work to enable broad labour market access.

- Take immediate steps to ensure that people who have applied for international protection have the right to open bank accounts and obtain driver's licenses as a matter of priority.
- Ensure that international protection applicants and refugees have early access to targeted and mainstream employment supports to help realise the right to work.

## **ACCESS TO MENTAL HEALTHCARE SERVICES**

Refugees and international protection applicants are at increased risk of mental health difficulties and are up to ten times more likely to suffer from post-traumatic stress disorder<sup>7</sup>. In our recent report on mental health issues<sup>8</sup>, Doras highlighted a number of concerns around access to mental healthcare services, including:

- Lack of specialised supports for refugees and international protection applicants;
- Lack of access to or knowledge of mainstream services;
- Lack of multilingual mental healthcare services;
- Constrained physical access to services due to the isolated locations of many centres in rural areas with limited transport options.

### **Recommendations:**

- Develop specialised mental healthcare services for refugees and international protection applicants to address the specific and serious needs of this vulnerable group.
- Ensure that early and ongoing vulnerability assessments are conducted to identify and address the mental health needs of all international protection applicants.

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<sup>7</sup> <https://www.irishpsychiatry.ie/wp-content/uploads/2016/10/Mental-Health-Service-requirements-for-asylum-seekers-refugees-and-immigrants-150517-1.pdf>

<sup>8</sup> Doras (2020) Mental Health & Direct Provision: Recommendations for Addressing Urgent Concerns. Available at: <http://doras.org/wp-content/uploads/2020/03/Doras-Report.-Mental-Health-Direct-Provision.-Recommendations-for-Addressing-Urgent-Concerns.pdf>

## STATELESS DETERMINATION PROCEDURE

23. In the 2016 UPR of Ireland, Doras and other stakeholders raised concerns about the situation facing people who are stateless in Ireland and recommended the establishment of a stateless determination procedure (A/HRC/WG.6/25/IRL/2, para. 69).
24. Doras continues to provide ongoing support to people with Nepalese ethnicity who came to Ireland from Bhutan seeking international protection. The Kingdom of Bhutan claims that they are ‘voluntary emigrants’ who forfeited their citizenship rights, denying their refugee status.<sup>9</sup>
25. While a small number of people have acquired legal status as stateless persons, this has been made on an ad-hoc basis. Most of the people we support have been granted temporary residency permission and face constant difficulties registering and renewing permission without a national passport.
26. Ireland has ratified the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Stateless Persons. However, Ireland’s position has been that the introduction of a stateless determination procedure could create a pull factor whereby Ireland would become a destination country for stateless people.<sup>10</sup> Without a formal stateless determination procedure, Ireland is failing in its commitment to respect international human rights obligations.

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<sup>9</sup> Stuart Northolt (2008). *Fields of Fire: An Atlas of Ethnic Conflict*. Troubador Publishing p. 5.19. 2

<sup>10</sup> In 2014, former Minister for Justice, Frances Fitzgerald said: “It is necessary to avoid the situation where Ireland, as a small country, could become a destination for stateless persons seeking access to a determination process. I have no immediate plans to introduce a formal determination procedure but will keep the matter under review, having regard also to developments in other jurisdictions and the nature of their determination procedures”.

Available here:

<https://www.oireachtas.ie/en/debates/question/2014-06-12/173/?highlight%5B0%5D=determination&highlight%5B1%5D=stateless&highlight%5B2%5D=statelessness>

**Recommendations:**

- Immediately introduce a formal legal and administrative determination procedure for stateless persons;
- Ensure that individuals have access to a stateless determination procedure regardless of their immigration status.

**ANTI-RACISM**

27. Since Ireland's last UPR in 2016, Ireland has made commitments to introduce hate crime legislation and to develop a National Action Plan Against Racism. These commitments are very welcome and we strongly encourage the Irish Government to ensure that they are urgently realised.

28. Doras is concerned about the increase in racist incidents, including racially-motivated hate speech and hate crime. The Irish Network Against Racism, of which Doras is a member, notes that racist incidents increased by 32% in 2020, compared to 2019<sup>11</sup>. An increase in incitement to hatred by far-right hate groups was also noted in the report, which has been a worrying development since the last UPR of Ireland.

29. Anti-racism efforts, including victim support and public awareness initiatives, have largely been driven by the community and voluntary sector in Ireland, with very limited funding available by the State, particularly since the economic downturn and the closure of the National Consultative Committee on Racism and Interculturalism (NCCRI) in 2008.

30. The recent increase in racist incidents and far-right hate groups in Ireland underlines the importance of re-establishing anti-racism as a priority for the Irish government

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<sup>11</sup> Reports of Racism in Ireland 2020, Irish Network Against Racism (2021). Available here: [https://inar.ie/wp-content/uploads/2021/03/2020\\_iReport.pdf](https://inar.ie/wp-content/uploads/2021/03/2020_iReport.pdf)

and ensuring that support services are adequately resourced.

### **Recommendations**

- Ensure that Ireland's new National Action Plan Against Racism is compliant with the Durban Declaration.
- Ensure that community and voluntary organisations working in the anti-racism sector are adequately resourced to support victims of racism and implementation of the National Action Plan Against Racism.
- Consult with relevant organisations and experts on hate crime in the development of hate crime legislation.