**Request for information from the Special Rapporteur on the human rights of migrants, pursuant to resolution 34/21 of the Human Rights Council**

**“Ending immigration detention of children and seeking adequate reception and care for them”**

**Submission of Ireland**

**May 2020**

**Question 1:**

**Please provide information on any legislation or policy that prohibits or restricts the use of immigration detention of children and their families in your country.**

Established Irish Government policy is that minors (anyone under the age of 18 years) are not detained either for immigration or protection (asylum) related reasons. There is no provision for the detention of minors for immigration-related reasons in Irish legislation.

Irish law provides for the detention of migrants in certain limited situations, both in the context of irregular migrants and asylum seekers.

The Immigration Act 2003 allows for the detention of persons in certain circumstances where entry to the State has been refused. Section 5(2) provides that an immigration officer or a member of the Garda Síochána (Irish police force) may arrest and detain anyone aged 18 or over who has been refused entry to the country or who is suspected of being “unlawfully in the State for a continuous period of less than 3 months.”[[1]](#footnote-1) Section 5(2)(d) further provides that where a minor under the age of 18 is in the custody of any person detained under Section 5 of the Act, the immigration officer or a member of the Garda Síochána concerned shall notify the health board for the area in which the person is detained.

The Immigration Act 1999 under Section 5 provides for detention of persons, under certain circumstances and who are not under the age of 18, who have been issued a removal order.[[2]](#footnote-2) Similar to in the case of refused entry, Section 5(4)(c) of the 1999 Act provides that where a minor is in the custody of a person detained under the Section 5 of the Act, the immigration officer or a member of the Garda Síochána concerned must notify the health board for the area in which the person is detained.

In the case of international protection, Section 20(6) of the International Protection Act 2015 specifically prohibits the detention of any protection applicant under the age of 18 years.[[3]](#footnote-3) Where in rare cases the parent(s) of the minor are being detained for immigration or protection related reasons, the minor will be taken into the care of Tusla, the Child and Family Agency. Tusla was established under the Child and Family Agency Act 2013, and brings together key services relevant to children and families including child protection and welfare services previously operated by the Health Service Executive (HSE), the Family Support Agency and the National Educational Welfare Board.

**Question 2:**

**Please provide information on existing non-custodial alternatives to immigration detention of children in your country (e.g. community-based reception solutions) and elaborate how these alternatives effectively enhance the protection of the rights of migrant children and their families.**

Ireland opted-in to the (recast) EU Reception Conditions Directive in June 2018 and Ireland applies at least the minimum standards for reception of international protection applicants as other EU Member States. The Directive is given effect in Irish law through the European Communities (Reception Conditions) Regulations 2018.

Ireland operates a system of direct provision for those seeking international protection. Under this system, asylum seekers are offered accommodation and related services while claims are examined. This includes meals, medical care and utilities. A weekly personal allowance is paid to each person in direct provision and exceptional needs are covered by the State. There is no obligation on any asylum seeker to accept the offer of accommodation and there is no restriction on their freedom of movement throughout the State.

Children in the State with their parents/guardians are in the care of their parents/ guardians. Tusla works with parents and children through a family support response, and has a guidance and a practice model in place to work with families. Tusla has a statutory obligation to receive a child into care where it is not possible for adequate care and protection to be provided for the child otherwise.

Tusla offers services in relation to separated children seeking asylum, including access to social workers. While a social work and risk and needs assessment is carried out, all newly arriving separated children under 12 years are placed in foster care, while those over the age of 12 are placed in one of three residential intake units in Dublin which are registered children’s homes. After assessment, children are place in the most appropriate placement option, the most prevalent form being with a foster family.

**Question 3:**

**Please provide information on any existing good practices or measures taken in your country to protect the human rights of migrant children and their families while their migrant status is being resolved, including *inter alia* adequate reception, healthcare, education, legal advice, family reunion).**

International protection applicants have the same access to basic health services as Irish citizens. This includes medicine prescriptions, dental care, eyesight tests, pregnancy services and children’s health.

The Legal Aid Board provides assistance to international protection applicants where needed, including in relation to advice before submitting paperwork to the International Protection Office, interpreters for appointments with solicitors, assistance in the submission of applications for leave to remain, and advice in relation to deportation orders. Legal assistance is subject to a means test.

Children between the ages of 6 and 16 must attend school. Children of school-going age are registered to attend mainstream local primary or secondary schools in the vicinity of their accommodation, and additional resources are provided to such schools to ensure they have capacity to manage the additional students. The Department of Education and Skills works with Tusla to effectively engage with local schools on issues specific to immigrant students and how to ensure proper supports are available. Where possible, children will be given language support.

Families and other residents have access to all public health services and travel costs are covered where necessary.

Where international protection applicants are granted refugee or subsidiary protection status, or permission to remain, the Reception and Integration Agency (RIA) will help individuals and families make the transition into independent living.

Friends of the Centre groups are established to support integration, and encourage friendship opportunities between new and established residents in communities. Start-up funding of €5,000 is available for community integration linked to these groups, to organise events which provide opportunities for developing friendships and mutual understanding. A once-off grant of up to €45,000 is also provided to the local authority to develop or upgrade infrastructure for integration such as sports facilities, community halls and playgrounds. The local authority consults with the residents of the town to prioritise a suitable project.

The Immigration Service Policy Document on Non-EEA Family Reunification sets out a comprehensive statement of Irish immigration policy in the area of family reunification.[[4]](#footnote-4) Ministerial discretion applies to most decision-making in the area of family reunification. This excludes circumstances where family reunification is essentially automatic, for example where the reunification is in relation to an EU national exercising rights of free movement, or where the sponsor is a beneficiary of international protection in Ireland whose application for family reunification falls within the scope of Section 56 or 57 of the International Protection Act 2015.

1. http://www.irishstatutebook.ie/eli/2003/act/26/enacted/en/print [↑](#footnote-ref-1)
2. http://www.irishstatutebook.ie/eli/1999/act/22/enacted/en/print [↑](#footnote-ref-2)
3. http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html [↑](#footnote-ref-3)
4. http://www.inis.gov.ie/en/INIS/Family%20Reunification%20Policy%20Document.pdf/Files/Family%20Reunification%20Policy%20Document.pdf [↑](#footnote-ref-4)