Irish Refugee Council's Opening Statement to the Joint Committee on Justice, Home Affairs and Migration, Pre-Legislative Scrutiny of the General Scheme of the International Protection Bill 2025

We thank the Committee for the invite.

We share the concerns outlined by our civil society colleagues and wish to highlight three concerns:

Firstly, that the content of the Bill is regressive and will implement multiple barriers and obstacles to accessing international protection. This means that meaningful access to asylum and refugee status in this country is under real threat.

Secondly, that the process by which the Pact text, EU law, is transposed into Irish law is deficient.

Thirdly, that the pre legislative scrutiny process is flawed due to key omissions in the Bill.

Concern 1: The Content:

Under this Bill, a person could apply for protection and go through a screening process, with a rushed vulnerability assessment. Depending on the outcome of that assessment, they could be referred to the border procedure. This referral will be crucial for an applicant, with significant adverse consequences. There is no effective remedy for this referral in the Bill.

The border procedure will restrict a person's movement in a manner which could amount to detention. Their asylum application will be fast tracked. They may not have access to legal advice or representation, compromising their access to justice and right to an effective remedy.

Should they receive a negative decision and lodge an appeal, that appeal will not have suspensive effect, severely undermining the right to an effective remedy and the credibility of the appeal process. They likely will not have access to an in-person appeal; a provision which is not compliant, we believe, with EU law and is also not required by the Pact text.

Regarding access to legal counselling at the first stage, we are still in the dark, though we note the following:

Early legal advice and representation, which is free, specialist, confidential, individual, and case-specific provides the opportunity for an applicant to understand the international protection process as it relates to them, and to properly prepare and fully articulate their claim at first instance. This reduces the number of appeals and judicial review applications. Early legal advice is crucial for the efficiency and effectiveness of the process.

Furthermore, the European Commission Common Implementation Plan state's "*if the Member State is already providing free legal assistance and representation…during the administrative phase … adjustments to their systems are not necessary*". Ireland should therefore retain, and properly resource the provision by the Legal Aid Board of legal advice and representation at first instance and throughout the process, with recruitment and training beginning immediately.

Concern 2: Deficient Transposition process:

We are also gravely concerned that the Bill has failed to transpose many protections from the Pact Directives. There are several examples of significant safeguards not being transposed. For example,

- the scope of the Monitoring Mechanism is far narrower than envisaged in the Pact, as it does not include the monitoring of the principle of non-refoulement, or the best interests of the child.

The Bill also takes a more restrictive approach than necessary in key areas:

- The shortest timeframes for deadlines have been selected, creating unnecessary administrative and practical burdens.
- The competency requirements for staff conducting Personal Interviews are set out in the Pact, but not the Heads of Bill.
- The Heads confine a legal representatives' participation in the personal interview to the end of the personal interview, a limitation not required by the Pact, and limits the utility of the presence of the legal representative.
- The establishment of the Second Instance Body under the Bill undermines the independence of that Body.

There are many more examples in our submission to the Committee, written in conjunction with several other NGOs.

The Pact provides for the minimum standards required. It represents an agreed compromise throughout EU States. Where Ireland has well-established systems in place which meet and exceed those standards, there is no requirement to take regressive steps.

Concern 3: Pre legislative process:

This Committee is being asked to scrutinise a Bill that contains significant omissions on critical issues: legal counselling, age assessment and reception conditions. The published Bill will contain significant amounts of text that have not been subject to pre-legislative scrutiny. Sound pre legislative scrutiny is compromised.

We are also concerned that there has been insufficient engagement with civil society, despite requests to meet. One-way information sessions are not the same as meetings to listen and take feedback from people with lived and professional experience. Organisations like ours and across the country are supporting thousands of people seeking international protection and have worked through multiple crises in recent years: we know what will work and what won't work.

Conclusion:

This Committee has a unique opportunity to correct and prevent issues, problems and omissions that could plague our system for years to come. We can, and should, do better.