Doras
Promoting and Protecting Human Rights

GENERAL SCHEME OF THE INTERNATIONAL PROTECTION BILL 2025

WRITTEN SUBMISSION TO JOINT COMMITTEE ON JUSTICE, HOME AFFAIRS AND MIGRATION

JUNE 2025

INTRODUCTION

Doras is a migrant support and human rights organisation, with its headquarters in Limerick. We provide a free information and support service to people from a migrant and refugee background on issues relating to international protection, immigration and integration. This work directly informs our advocacy, which aims to improve policy and practice in these thematic areas.

Doras welcomes the opportunity to comment on the General Scheme of the International Protection Bill 2025, which will support the implementation of the EU Pact on migration and asylum at a national level in Ireland. We note a number of positive developments as well as proposals to introduce new restrictive measures that may have the effect of limiting safeguards and protection for some of the most vulnerable in the international protection system.

Our submission deals primarily with the following issues:

- Screening process, including the impact of the screening process on vulnerable people
- Identifying vulnerable applicants and special reception needs
- Allocation, monitoring and standards of accommodation
- Powers to arrest, detain and restrict movement
- Family Reunification

Doras notes that there are several omissions and sections not yet complete in the Heads of Bill, including placeholder text for important issues including legal counselling, age assessments, identification of ID and security checks. Furthermore, Doras is conscious that many provisions of the EU recast Reception Conditions Directive 2024 (RCD 2024) have not been incorporated into the General Scheme. This is a cause for concern, particularly regarding the omission of a full vulnerability assessment, in compliance with article 25 of the RCD 2024. Doras is aware that this may be addressed with the Statutory Instrument (S.I.) that transposes the RCD 2024 and we are concerned that civil society may not be given opportunity to input into these important provisions at the stage of drafting the S.I. or following the drafting of sections that currently have placeholder heads and text in the General Scheme.

Speedy processing of applications needs to be balanced with the rights people have to a fair assessment of their application. Accelerated and screening procedures involving short timeframes make issues such as limited or no access to legal advice and potentially inadequate vulnerability assessments even more problematic elements of the new international protection system in Ireland. It is vital that the new system takes a human rights-based approach by considering how the provisions outlined in the General Scheme will impact the people most at risk to ensure adequate safeguarding and so that Ireland implements a system that is both efficient, humane, fair, and rights-compliant.

We hope that there will be an opportunity to input into the development of policy and law regarding the important issues that have been omitted from the General Scheme at some point in the near future.

EXECUTIVE SUMMARY

The key issues detailed in this document, and the corresponding heads, include the following:

- The power to "use reasonable force" and lack of safeguarding for vulnerable applicants during taking of biometric data (heads 7, 8).
- Lack of details or references to standards regarding accommodation including screening centres, accommodation centres and/or places of detention (heads 10, 45, 122, 129).
- Discretionary power to arrest and detain for a wide range of reasons including for the purpose of transfer to a screening centre and to verify identity and nationality, with limited oversight or safeguarding of vulnerable applicants (heads 12, 122).
- Lack of assurance and clarity regarding supports available to applicants (heads 15, 17, 19).
- Lack of provision for a full vulnerability assessment to identify special reception needs in compliance with obligations under article 25 of the recast Reception Conditions Directive 2024 (RCD 2024). In its current formulation, only a preliminary vulnerability check is provided for during the screening process (head 19).
- Limitations on the right to apply for family reunification visas (head 91).
- Special reception needs and family unity not taken into account when allocating accommodation, and no appeals mechanism provided for (head 118, 119).

COMMENTS AND RECOMMENDATIONS

PART 2: ARRIVALS AND SCREENING

<u>Head 7: Taking of biometric data</u>

1. Doras is concerned about the proposed introduction of a number of measures under Head 7. In particular, we are concerned that Head 7, sub 1 (b) ii anticipates children of age 6 years plus to have biometric data taken, in line with the EU Eurodac Regulation. While safeguarding measures are considered in this regard in Head 7, sub 2 and 3, Doras remains concerned at the lack of safeguarding for unaccompanied minors and age-disputed minors. Head 141 envisages the appointment of a representative, with no clear indication of or requirement regarding how long it may take a representative to be appointed. This impacts on the likelihood of the safeguarding provisions in Head 7, sub 2 (b) and (c) being realised in practice.

2. Head 7, sub 4 gives increased power to immigration officers, members of the Gardaí or other officials preliminarily assess the age of individuals for determining whether

safeguarding measures from Head 7, sub 2 and 3 will apply. It is unclear what constitutes "reasonable grounds" in Head 7, sub 4 and there is concern that minors will be very vulnerable under this provision. Doras recommends that age-disputed minors should be treated as minors while awaiting an age assessment by the responsible authority.

3. Doras is deeply concerned about power to "use reasonable force" for the purposes of taking biometric data, detailed further below under Head 8. With regard to Head 7, sub 6 and the provision of information to applicants regarding the potential use of reasonable force, Doras recommends that private and confidential spaces are provided for the purpose of taking biometric data. Furthermore, on site supports including interpreters, legal representatives, and NGO support workers will play an important role in ensuring safeguarding and minimising harm. In order for staff involved in taking biometric data to be able to provide applicants with information about the process, significant specialist training will be required on an ongoing basis to ensure that rights are being upheld.

<u>Head 8: Use of reasonable force in certain circumstances</u>

4. Doras is deeply concerned about the power to "use reasonable force" for the purposes of taking biometric data, in Head 8. This will have the biggest impact on vulnerable persons, whose vulnerabilities will most likely not yet have been identified. Of note, this provision also applies to age-disputed minors who the immigration official, garda or other official (referred to as from here on as "official") has deemed to be an adult despite having not yet had an age assessment, with reference to Head, sub 4. Doras recommends that this provision makes it explicitly clear that force is only to be used as last resort, that clear guidelines and ongoing training is provided to staff , that specialist professional staff with are on-site to monitor taking of biometric data and any incidents of use of force. Incidents of use of force should be recorded and reported.

5. With regard to Head 8, sub 2 (b), Doras recommends that a clear timeframe is included for confirming authorisation in writing, replacing "as soon as practicable", ideally within 24 hours. Similarly, with regard to Head 8, sub 5, details of the case should be provided to the Chief Inspector within a clearly specified timeframe, ideally within 24 hours and no longer than 5 days. Details of these cases should be made publicly available in annual reports to ensure appropriate oversight and transparency.

6. Doras recommends that significant safeguarding measures are further considered with regard to Head 8 and the screening process more broadly.

<u>Head 10: Designation of screening centres</u>

7. There is a lack of clarity and a need for more specific details regarding what is deemed to be "appropriate" and "suitable for the purpose", under Head 10, sub 1 (a). Doras recommends that the existing national standards are updated and made applicable to

screening centres, as well as all other accommodation provided to applicants at all stages of the process. Private and confidential spaces will be essential for carrying out the 11 processes envisaged under the Screening procedure. This is particularly significant for people with vulnerabilities, including children, victims of torture or trafficking, people with physical and mental health issues and all categories considered under Article 24 of the RCD 2024. Doras recommends that standards for screening centres, and all accommodation provided during the international protection process, outlining required on-site supports and facilities are produced and legislated for, regularly monitored and reported on.

Head 12: Arrest and detention for purposes of transfer to a screening centre

8. In general, the provisions outlined under head 12 raise concerns about the legitimate grounds for arrest. Compared to Head 11(1), the generic language used gives broad discretion to immigration officers or members of the Garda Síochána to assess the necessity of an arrest. In this respect, there is a lack of clarity about how extensive the officers' freedom to proceed with an arrest can be. There are no mechanisms within this provision to safeguard vulnerable applicants.

9. In relation to head 12, sub 3 "the person may be taken to a prison", considering that this is an administrative arrest carried out solely to transfer the person to the Screening Centre, this reveals a lack of protection for the arrested individual. This provision also conflicts with the "*Codifying Instrument of Fundamental Rules on the Administrative Detention of Migrants – 1st Draft*" of the Council of Europe, which calls for migrants not to be detained in ordinary prisons or held alongside criminal detainees. The explanatory notes on this point delays the designation of detention places to a future Head related to detention. The absence of provisions and clarity regarding places of detention in the bill's current formulation is worrying.

10. Doras is concerned that the language used in head 12, sub 6 (b) in relation to sub 8, is overly generic and grants too much power to officers to evaluate whether the behaviour of applicants is "likely to endanger the safety of ...". This is provision does not foresee any oversight or protection of the person under arrest from the arbitrary evaluation of their behaviour.

11. In head 12, sub 9, there is a lack of clarity as to how the officers will seek to determine the age of an individual and what is to be considered "reasonable grounds". There is no protection of the individual foreseen in this provision. Doras recommends that where the age of an individual is in dispute with regard to them being a minor or adult, individuals should be given the benefit of the doubt and treated as minors until an age assessment has concluded. This is an important safeguarding measure.

Head 13: Purpose and application of screening

12. Doras is concerned that Head 13, sub 2 states that the purpose of the preliminary health and vulnerability checks is to identify special reception needs, without any reference to or provision for a full vulnerability assessment in compliance with article 25 of the EU recast Reception Conditions Directive 2024 (RCD 2024) for regarding the identification of special reception needs. The preliminary checks outlined in the Heads of Bill do not comply with Article 25 of the RCD 2024. Doras is concerned that a full vulnerability assessment in compliance with the RCD 2024 is not being provided for. Doras hopes that this will be given serious consideration and addressed in the drafting process, as well as by way of statutory instrument to transpose the RCD 2024, giving a legal obligation to conduct a full vulnerability assessment to all applicants for the purpose of identifying special reception needs.

Head 15: Screening authority

13. Doras is concerned with the language used in Head 15, sub 2, and recommends that “may" is replaced with “will” to ensure support is made available. There is a lack of detail provided regarding the scope of the role of cultural mediators in Head 15, sub 2. While the provision to involve cultural mediators in Part 2 of the general scheme regarding arrival and screening processes is welcome, Doras is concerned about the duties potentially assigned to cultural mediators and the skills, qualifications and experience required. In particular, Doras is concerned that cultural mediators may be given a role in undertaking preliminary health and vulnerability checks, which should be carried out by specialist professionals.

Head 16: Obligations of applicants subject to screening

14. The rules of the accommodation centre referred to in head 16 sub 3 (b) should be produced with regard to fundamental human rights and principles, and provisions outlined in the RCD 2024.

Head 17: Provision of information

15. Doras notes that heads dealing with the right to legal counselling and legal advice have yet to be formulated, with reference to head 17, sub 1 (c). Doras recommends that relevant organisations and bodies are given an opportunity to input on this crucial aspect of the proposed new system. Access to early legal advice is essential, and helps to ensure that a system is fair and efficient. Failing to provide adequate legal support in the early stages of the international protection system will lead to lengthy delays by way of appeals and will disproportionately affect the most vulnerable applicants.

16. Doras recommends that head 17 sub 5 is strengthened by replacing “may” with “shall”

regarding the provision of information to applicants by "relevant and competent national, international and nongovernmental organisations and bodies". This will help to ensure that applicants have access to the information that they need.

Head 18: Preliminary health checks

17. Doras welcomes the right to refuse a preliminary health check provided for in head 18, sub 7 and recommends that this provision be further strengthened. Doras recommends that applicants are provided with information on the health check including on their right to refuse, with their informed consent confirmed before a preliminary health check is carried out.

Head 19: Preliminary vulnerability checks

18. Head 19 outlines the preliminary vulnerability checks foreseen under the screening process. While this is an important provision, Doras is deeply concerned that the preliminary vulnerability checks outlined in Head 19 do not comply with article 25 of the RCD 2024, which obliges States to undertake a full vulnerability assessment.

19. Doras is concerned that the preliminary vulnerability check outlined in the General Scheme will fail to appropriately identify vulnerable people, particularly those with hidden and complex issues. There is increased risk of vulnerable people being missed by the foreseen preliminary vulnerability checks given the tight 7-day timeframe for the screening process, during which 11 procedures will be conducted immediately after arrival in Ireland for most at a stressful and disorientating time. Furthermore, head 19 does not provide for an appeals mechanism or a re-assessment mechanism. Doras recommends that an appeals process should be legislated for under head 19 in order to help ensure safeguarding of vulnerable applicants.

20. Head 19, sub 1 lists some but not all groups likely to have special reception needs. Doras recommends that all groups likely to have special reception needs, as listed in article 24 of the RCD 2024, are detailed here in head 19, sub 1.

21. Doras welcomes head 19, sub 2 that allows for the potential of NGOs and professionals to assist with the vulnerability checks. This will be crucial. Furthermore, Doras recommends that NGOs and relevant professionals with the relevant expertise are involved in training staff involved in the screening process, with reference to Head 19, sub 1, regarding vulnerabilities of particular groups, for example identifying and supporting victims of trafficking or torture.

22. Further clarity is needed in head 19, sub 3 regarding the timeframe for providing

supports to people identified as having special reception needs, as well as the supports and facilities to be provided. If this provision is strengthened, it will help to safeguard vulnerable applicants. However, in its current form, this provision provides little guarantee to applicants with special reception needs.

23. Doras recommends that a full vulnerability assessment is provided for on an ongoing basis in compliance with article 25 of the RCD 2024 in addition to the preliminary vulnerability check. In this regard, Doras recommends that "in its entirety" is removed from head 19, sub 5.

24. Doras recommends that the provision outlined in head 19, sub 6 regarding credibility implications for refusing to undertake a vulnerability check is removed. Vulnerability checks and assessments should be conducted without prejudice to a claim for international protection. This is recognised in article 25 of the RCD 2024.

Head 25: Termination of screening

25. There is a lack of clarity as to whether or not screening will be terminated after seven days if a preliminary health and vulnerability check has not yet been undertaken. Doras recommends that if preliminary health and vulnerability checks have not been completed within seven days, applicants should be considered potentially vulnerable and therefore be exempt from the Asylum Border Procedure, with reference to head 110, sub 1.

PART 4: ASYLUM AND MIGRATION MANAGEMENT

Head 45: Detention of an applicant under this Part

26. Doras is concerned that head 45 does not provide adequate protection for the person subject to arrest. The reference to Articles 44 and 45 of the AMMR is not sufficient to cover the risk of abuse that the formulation of this head may create. It must be noted that the maximum length of the arrest is five weeks, which is longer than what is prescribed by the "Codifying Instrument of Fundamental Rules on the Administrative Detention of Migrants – 1st Draft" of the Council of Europe (to be verified). The grounds for arrest and the powers granted to the officers are broad.

27. With regard to head 45, sub 1 (a), Doras notes that "Significant risk of absconding" is a generic term that leaves room for officers to justify an arrest without any effective limitation.

28. Places of detention are not specified in head 12 sub 2. Doras notes that it is necessary to exclude detention in prisons and/or contact with people in criminal detention. Doras also notes that there is no mention of judicial control over the legality of the arrest or the conditions of detention in these provisions.

29. Head 45, sub 3 allows immigration officers and Gardaí to access a dwelling where they suspect a person is absconding. The provision does not establish any judicial oversight for this action. Neither is a warrant required to enter the dwelling, nor must officers report to any authority to evaluate the legitimacy of their entry. This creates a significant risk of abuse of force by immigration officers, leaving room only for their discretion to enter forcibly under the mere suspicion that the person is absconding. Head 45 sub 3 (b) also permits access to places where the person is not normally residing and further broadens the officers' scope of action, potentially affecting third parties subjected to immigration controls.

30. There is a lack of clarity regarding how the age of an individual will be evaluated in head 45, sub 6. The "reasonable grounds" on which the assessment will be based appear vague and fail to protect the individual. This provision should delegate the evaluation to specialized officers. Where there is doubt as to whether the individual is a minor or an adult, the individual should be treated as a minor and exempt from arrest while awaiting the outcome of an age assessment.

PART 5: ASSESSMENT OF APPLICATIONS FOR INTERNATIONAL PROTECTION AT FIRST INSTANCE

Head 48: Requirements for personal interviews

31. Doras recommends that head 48, sub 3 is strengthened to establish an accreditation scheme and training programme for interpreters working with international protection applicants in order to ensure interpreters are "sufficiently competent", referred to in head 48, sub 3 (a) and to ensure "appropriate communication" as referred to in head 48, sub 3 (b).

PART 6: EXAMINATION OF APPLICATIONS FOR INTERNATIONAL PROTECTION

Head 59: Assessments of facts and circumstances and Duty to Cooperate

32. Doras is concerned that head 59, subs 5 to 8, which relate to medical assessments and related documentation for the purpose of assessing facts and circumstances, makes no reference to the establishment of a panel of medical practitioners who can provide medico-legal reports. This is currently provided for in sub 23 (3) of the International Protection Act 2025. Doras notes that resources and expertise are needed in order to support applicants to substantiate their claims, in particular by way of medico-legal reports. Doras recommends that section 23 (3) of the IPA 2015 is replicated in head 59 regarding the establishment of a panel of registered medical practitioners who can provide medico-legal reports.

PART 9: CONTENT OF INTERNATIONAL PROTECTION

Head 91: Permission to Enter and Reside for Member of Family of Beneficiary of International Protection

33. Doras welcomes some provisions contained under head 91 but remains concerned that the limited definition of family members and short timeframes will have the effect of keeping families apart where the criteria is not met. Family separation has a devastating and lasting impact. Given the limited number of legal pathways available to Ireland, family reunification visas are a lifeline and one of the very few opportunities to reunite families. Doras recommends that the State considers extending family reunification criteria, including broadening the definition and lengthening the timeframe to minimise harm. Furthermore, Doras recommends that information regarding the right to family reunification, including details of criteria and timeframes, is communicated to applicants in the early stages of the process along with other comprehensive and important information relating to the international protection system and integration in Ireland. This information relating to family reunification should again be communicated by the Ministerial Decisions Unit when they issue correspondence granting international protection.

34. Head 91, sub 11 outlines the maximum 12-month timeframe for considering family reunification applications. Doras recommends that a discretionary power for the Minister be provided under head 91, sub 11, to consider applications after 12 months based on humanitarian grounds and/or exceptional circumstances.

35. Head 91, sub 12 (a) outlines the family members that may be applied for. It is unclear what is meant by "insofar as the family already existed before the sponsor arrived on the territory of the State". This may have a negative impact on people who left their country of origin when their spouse was pregnant and arrived in Ireland before their child was born. Doras recommends that this reference is removed and that family members/ children born after the sponsor arrived in the State are eligible and provided for under head 91 sub 12 (a).

36. Doras recommends that Head 91, sub 12 (a) i be broadened to include "unmarried partner in a stable relationship", with reference to article 3 of the Qualifications Directive. This will be particularly important for people in same-sex relationships who may be unable to marry as well as people who are married in traditional ceremonies outside of legal frameworks.

37. Doras recommends that head 91, sub 2 (a) iii is amended so that the date for eligibility is the date of application for international protection, rather than the date of application for family reunification. This will mean that any delays experienced in Ireland will not have a negative impact on family members who were aged under 18 years when the sponsor arrived in Ireland but may no longer be eligible for family reunification by the time a positive decision is granted to the sponsor.

38. Head 91 sub 10 provides for the cessation of permission to beneficiaries when a marriage or civil partnership dissolves. Doras recommends that consideration be given to circumstances experienced by a spouse that has dissolved the marriage due to domestic abuse. These circumstances should be considered on humanitarian grounds and have explicit access to independent residency permission, provided for in head 91, sub 10.

39. Doras recommends that the provision outlined in head 91 sub 12 (b) is broadened to unsure safeguarding of dependent adult children in the country of origin who may be at risk for reasons not outlined. This may impact single adult females who may be at risk of trafficking or other forms of exploitation if they remain alone without family members in the country of origin, but who may not have a physical or mental illness or disability. Doras recommends that this provision is amended to include provision for "other humanitarian grounds or circumstances" in head 91 sub 2 (b). Furthermore, it is unclear how "individual assessments" will be conducted and clarification on this is welcome.

40. Doras recommends that additional provision should be added to head 91 to provide for the right to an independent appeals mechanism and access to legal aid for the purposes of applying for family reunification.

Head 93: Situation of vulnerable persons

41. The definition of "vulnerable persons" outlined in head 93 should be updated and amended to reflect the groups outlined in Article 24 of the RCD 2024.

PART 12: ASYLUM BORDER PROCEDURE

Head 106: Mandatory application of the asylum border procedure

42. Doras is concerned that head 106 proposes the mandatory application of the Asylum Border Procedure to applicants who arrive without travel documents or with forged documents, with reference to head 63, sub 1 (a) iii. Doras recommends that applicants who arrive without travel documents or with forged documents are provided with reasonable opportunity to explain their circumstances before a decision is made on the application of the Asylum Border Procedure. Furthermore, the authorities should be required to demonstrate "bad faith" before a decision is made on the application of the asylum border procedure. Doras recommends that specialised staff support this determination process given the risk that some people travelling without or with forged documents will be vulnerable, including victims of trafficking. A lack of travel documents or forged travel documents is a common indicator of human trafficking and victims of trafficking may not be open to communicating their situation upon arrival given the high-pressure situation and the level of trauma experienced. Doras recommends that a trauma-informed approach is taken and that the application of the Asylum Border Procedure (ABP) for people who have arrived without travel documents or with forged documents is taken on a case by case basis with due regard for potential vulnerabilities.

Head 110: Exceptions to the asylum border procedure

43. Exceptions to the Asylum Border Procedure (ABP), as outlined in Head 110, are limited and there is significant risk that vulnerable persons will be subjected to the Asylum Border Procedure without the necessary supports or procedural safeguards they need. Exceptions to the ABP should be expanded to ensure that vulnerable applicants are provided adequate opportunity to have their claims processed. Exceptions should be extended to all groups likely to have special reception needs, including victims of torture, complex trauma and mental health, victims of DSGBV, human trafficking, unaccompanied minors and age-disputed minors.

44. Head 110, sub 1 (b) states that age-disputed minors will undergo an age assessment "promptly", though a timeframe is not specified. Doras recommends that a clear provision should be made under head 110 that exempts age-disputed minors from the asylum border procedure while awaiting an age assessment. Given the significant vulnerabilities of this group, special purpose accommodation should be provided to age-disputed minors in addition to the exemption from the ABP.

45. Furthermore, all persons who are awaiting a preliminary health and vulnerability check (Head 19) but may have been transferred from a screening centre following the seven day screening time limit, should be considered potentially vulnerable and be exempt from the ABP until a vulnerability assessment has been concluded.

PART 14: ALLOCATION OF ACCOMMODATION, RESTRICTIONS OF MOVEMENT, AND DETENTION

Head 118: Allocation of accommodation

46. Head 118 does not take into account the special reception needs of applicants or family unity, with reference to obligations under Article 7 (3) of the Receptions Conditions Directive. This has the potential to separate families and see vulnerable applicants without the supports they need. Doras recommends that special reception needs and family unity are explicitly taken into account here under head 118, as well as in the Statutory Instrument that will transpose the RCD 2024. Furthermore, Doras reiterates the needs for a full vulnerability assessment that seeks to identify special reception needs is carried out following the preliminary vulnerability check provided for in head 19.

47. Doras further recommends that a right to appeal allocations of accommodation are provided for, taking into account special reception needs, family unity and other reasonable factors. This will help to safeguard vulnerable applicants and will be particularly important given the initial 7-day timeframe for conducting preliminary health and vulnerability checks and the likelihood that vulnerabilities will only be identified after the screening process. Special provisions with regard to accommodation will be necessary for minors aged under 18 years, victims of torture, people with complex PTSD or other mental health needs, victims of trafficking and DSGBV. It may take some time for these vulnerabilities to be identified and it will be

important that it is possible to re-allocate accommodation when special reception needs are identified at later stages in the application process.

48. Children under the age of 18 years should be allocated child-friendly accommodation and should not be allocated to an accommodation centre with unrelated adults. Age-disputed minors who are awaiting an age assessment should be treated as minors and accommodated with children under age 18 years until the age assessment is concluded.

49. Doras notes that the verification mechanisms proposed under head 118 sub 4 (b) include an electronic reporting system. Verification mechanisms must be proportionate, uphold the rights of applicants to dignity, privacy and liberty in compliance with human rights obligations.

Head 119: Allocation of applicants to a geographical area

50. Doras is concerned about the proposed restrictions on freedom of movement outlined under head 119. Restrictions on freedom of movement must be proportionate. There is a lack of clarity as to how proportionality will be assessed. Furthermore, there is no appeals mechanism regarding the allocation of accommodation in a particular geographic location. Doras recommends that an appeals mechanism is provided for to ensure family unity and that the special reception needs of vulnerable applicants are met.

Head 121: Restrictions on freedom of movement

51. Doras is deeply concerned that the proposed restrictions on freedom of movement outlined in head 121 amounts to de facto detention, deprivation of liberty and a violation of the right to a private life. In particular, we are concerned at the potential impact on vulnerable applicants, children and families and those with special reception needs. A proportionality test must be implemented to determine the proportionality of any restrictions on freedom of movement under head 121.

Head 122 – Detention of applicants

52. Doras is deeply concerned regarding the increased powers foreseen for immigration officers under head 122, sub 2 to arrest without warrant and detain. Furthermore, the list of reasons outlined in head 122 sub 2 is extremely broad and includes reasons such as “verification of the applicant’s identity or nationality”, with reference to sub 2 (a). As noted elsewhere above, “place of detention” is not defined and it is unclear where people are likely to be detained and if this will occur in designated centres or in a general prison, the latter of which would be a serious cause of concern. Doras recommends that detention should only be used as a last resort and only when there

is reasonable suspicion that an individual has committed an arrestable offence.

53. With regard to head 122 sub 2 (a), this provision gives broad powers to arrest individuals who for a number of reasons may not be in a position to verify their nationality or identity. This will affect vulnerable applicants disproportionally, including for example people who may have had travel documents confiscated by traffickers or smugglers, or people with mental health issues. This provision could result in a high number of arrests. Doras recommends that significant safeguarding measures are provided for under 122 and that detention is only used as a last resort.

54. Head 122 sub 2 (b) risks significantly limiting the fundamental right of an individual to apply for international protection and have their claim heard. It is unclear why arresting an individual is considered an appropriate or effective way to assess certain elements of an asylum claim under this provision. As currently formulated, this provision could lead to systematic violations of the fundamental rights of international protection applicants, who could be arrested for reasons solely connected to their international protection claim. The use of detention in relation to these two letters, head 122 sub 2 (a) and (b), appears entirely disproportionate to the prevention needs it is supposed to address.

55. Head 122 sub 2 (e) allows for arrest if it is believed that the applicant submitted the application only to avoid deportation. It is evident that, as formulated, this provision could effectively undermine the assessment of the merit of the international protection request made by the person concerned. Furthermore, the wording is vague: “reasonable grounds” can allow any discretionary judgment by the officer in charge. It should also be added that, for this purpose, the personnel assessing the merit of the asylum request should be specialized and expert in the matter; consequently, this task should not be delegated to an immigration officer but only to IPO staff.

56. Head 122 sub 4 provides for an assessment of the vulnerabilities of persons arrested. It is unclear if this assessment is to be conducted after the arrest and during detention. Doras recommends that safeguarding measures are provided to ensure that vulnerable applicants and people with special reception needs are not detained and that alternative measures are applied.

57. With regard to head 122 sub 7, Doras notes the discretionary powers provided for officers in charge to legitimise an arrest. There are no safeguards for applicants nor limits on the discretion of the officers involved.

PART 15: CHIEF INSPECTOR OF ASYLUM BORDER PROCEDURES

<u>Head 129:Appointment and terms and conditions of members of the Advisory Board</u>

58. Doras welcomes the proposed establishment of an Advisory Board to support and guide the Chief Inspector of Asylum Border Procedure. In particular, it is welcome that the Chief Inspector of HIQA is proposed as a member. HIQA has played an important

role in monitoring the implementation of national standards in a proportion of accommodation centres in recent years. Doras recommends that the mandate of HIQA to monitor compliance of accommodation centres with the national standards is expanded to include all accommodation centres operating under the new reception system from June 2026.

Head 131: Inspections of designated asylum border facilities

59. Doras welcomes the new role of the Chief Inspector and the mandate to carry out unannounced inspections of asylum boarder facilities. Doras recommends that a minimum number of inspections are legislated for in head 131 so that a minimum of one annual inspection is carried out on each facility under the jurisdiction of the Chief Inspector. This will help to safeguard applicants and to identify violations of fundamental rights and poor practices. Inspection reports should be publically available.

60. Head 131, sub 5, should be strengthened to provide a mechanism for applicants to provide information to the Chief Inspector and to request an interview with the Chief Inspector during inspections. This will help to safeguard applicants and to identify violations of fundamental rights and poor practices.

Head 132: Recording and handling of complaints

61. Doras welcomes the establishment of a complaints mechanism under head 132. In Doras' experience, applicants of international protection can be fearful of making complaints against accommodation centre management due to a real or perceived threat of it having a negative impact on their cases. Fear of making complaints is well documented in research studies, NGO reports and State reports. For this reason, Doras recommends that provision should be made for anonymous complaints to be received by the monitoring mechanism. Furthermore, efforts should be made by the Chief Inspector to make applicants aware of their rights, confidentiality policies and to reassure applicants that complaints will not impact claims for international protection.

62. Statistics and details of complaints received should be made publicly available in the annual report, provided for under head 138.

Head 133: Formal Investigation

63. Under head 133, sub 7, this is misnumbered and should read as sub 5. In this sub, Doras recommends that reports of formal investigations should be made publicly available, with a summary of formal investigations made available in the annual report, provided for under head 138.

ENDS