General Scheme of the International Protection Bill 2025

Submission to Joint Oireachtas Justice Committee

Nasc
Migrant & Refugee Rights

Charities Regulator No. 20043612
Registered Charity: CHY13752

34 Paul Street, Cork City

Executive Summary

This submission sets out initial observations on selected Heads of the General Scheme of the International Protection Bill 2025. Due to the breadth of the Scheme and the limited time available for consultation, it is not a comprehensive response. We fully support the submission made on behalf of a wide coalition of civil society organisations, including Nasc, by the Irish Refugee Council. The observations here are intended to complement that submission by highlighting specific areas where urgent clarification, redrafting, or further consultation is required.

Concerns are raised in relation to the following provisions:

- **Head 4**: The proposed provision for electronic service of documents may disproportionately affect applicants experiencing digital exclusion. There is no requirement for explicit consent, and no guarantee of delivery or access.
- **Head 8**: The authorisation of "reasonable force" during screening is undefined and lacks adequate safeguards, oversight mechanisms, or a trauma-informed approach.
- **Head 14**: Treating applicants undergoing screening as not having entered the State undermines their access to protections under Irish and international law.
- **Head 15**: The role of cultural mediators is undefined, and no minimum standards, training, or safeguards are proposed.
- **Head 16**: The obligation to comply with unspecified "rules of the accommodation centre" is unclear and risks arbitrary or inconsistent application.
- **Head 17**: Legal counselling is introduced without any statutory definition, framework, or assurance that it will not replace access to independent legal advice.
- **Head 18**: The reference to "acute medical care" is undefined, and there is no provision for follow-up or the identification of delayed-onset conditions, particularly mental health or trauma-related needs.

- **Head 19**: Vulnerability checks appear to be one-off procedures with no mechanism for reassessment. The provision allowing adverse inferences for non-compliance lacks necessary safeguards.
- **Head 26**: Adults may apply on behalf of children without being a legal guardian, and without mandatory oversight from child protection authorities. This risks undermining the child's best interests.
- **Head 31**: The reference to "necessary support" for applicants in need of special procedural guarantees is not defined, and there is no mechanism for individualised assessment or review.
- **Head 47**: The power to omit a substantive interview lacks procedural safeguards and does not ensure the applicant can submit evidence in another form.
- **Head 48**: No training or qualification standards are provided for cultural mediators or interviewers, and the provisions do not ensure adequate procedural fairness.
- **Head 67**: The five-day appeal deadline in some cases is too short to ensure effective access to legal advice or prepare a meaningful appeal.
- **Head 69**: The removal of the presumption in favour of oral hearings at appeal stage significantly undermines fairness. The grounds for requesting a hearing are narrow and there is no mechanism to challenge a refusal.
- **Head 77**: The provision allows for retrospective withdrawal of protection without adequate consideration of derived rights, including those of children and dependants.
- **Head 89**: The shorter residence permission for subsidiary protection beneficiaries creates instability and places an unnecessary administrative burden on both applicants and the State.
- **Head 91**: This Head, which addresses family reunification, introduces a number of problematic provisions. These include the use of undefined criteria such as

"domestic circumstances," the linking of family members' residence permissions to that of the sponsor (even where the sponsor's permission is near expiry), and the absence of saver clauses in cases of domestic violence, divorce, death, or departure of the sponsor. Strict application deadlines are also imposed, with no mechanism for humanitarian extension. These provisions risk excluding eligible family members and disproportionately affecting women and children.

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Submission on the General Scheme of the International Protection Bill 2025

Introduction

1. This submission sets out a number of concerns and observations on the General Scheme of the International Protection Bill 2025, with a focus on issues that are most relevant to safeguarding the rights of applicants and ensuring the procedural fairness of the proposed system.

2. We note with concern that several important elements of the proposed legislation—including Heads 21, 22, 37, 82 and 83, relating respectively to the identification or verification of identity, security checks, discretionary assessment of examination, restricted permission to remain, and the contents of that permission—are currently presented as placeholders. In addition, legal counselling, a topic of considerable debate during the last Oireachtas Justice Committee hearings on the EU Migration Pact in 2024, has not been set out in the Scheme, and we remain unclear as to how it will be implemented in practice. We further note that while age assessment is referred to in Head 110(1)(b), a specific Head outlining the procedure has yet to be drafted. Similarly, although Head 115 refers to the obligation to consider alternatives to detention in the context of the border procedure, no dedicated Head detailing such alternatives has been provided. Given the critical importance of these areas to the rights and welfare of applicants, their absence makes it difficult to fully respond to the Heads of the Bill at this time and highlights the need for further drafting and consultation.

3. We are also deeply concerned by the removal of the presumption in favour of oral hearings at the appeal stage. This represents a significant departure from current practice and risks undermining the procedural fairness and effectiveness of the appeals process, particularly for applicants who may face challenges in presenting their case through written submissions alone.

4. More broadly, we are concerned that, taken as a whole, the General Scheme appears to prioritise administrative efficiency and expedited decision-making over fairness

and procedural safeguards for applicants. A number of proposed changes—including the removal of the presumption in favour of oral hearings on appeal, the reduction of timeframes, and the introduction of truncated procedures—risk undermining the rights of individuals seeking protection. While we acknowledge the importance of an effective and responsive international protection system, it must not come at the expense of fairness, due process, and the ability of applicants to meaningfully engage with the system.

Head 4 – Service of Documents

5. Subhead 2 permits the service of documents on applicants by electronic means. While digital tools can improve administrative efficiency, this provision risks excluding vulnerable applicants who experience digital poverty or marginalisation.

6. Many protection applicants rely exclusively on mobile phones for internet access, often without consistent access to credit, data, or secure accommodation with Wi-Fi. Phones may be lost, stolen, or unusable. Others may lack digital literacy or familiarity with official communication platforms. Without adequate safeguards, electronic communication may result in missed deadlines or procedural failures through no fault of the applicant.

7. Electronic service may disproportionately affect those in precarious living situations, and without proper access to legal assistance or case updates, applicants' rights and status could be seriously prejudiced.

Recommendation:

8. Amend the Head to provide that service by electronic means may only occur with the informed, explicit consent of the applicant.

9. Ensure applicants are provided with a clear, opt-in choice and informed of the consequences of electronic communication.

10. Guarantee the continued availability of non-digital alternatives, including postal or in-person service, especially for those in emergency or independent accommodation.

11. Establish that service by electronic means is not deemed valid unless delivery and receipt can be reliably confirmed.

Head 8 – Reasonable Force

13. Head 8 allows authorised officers to use "reasonable force" in connection with screening and detention. However, the term is undefined and lacks clear limitations, safeguards, or oversight mechanisms.

14. The use of force against protection applicants—who may include survivors of torture, trauma, or other human rights abuses—raises serious concerns. Without safeguards, there is a risk of disproportionate or unlawful use of force, in breach of Ireland's obligations under the ECHR and the Convention Against Torture.

Recommendation:

15. Define "reasonable force" with reference to necessity, proportionality, and minimum intervention.

16. Require that force is only used when all non-coercive alternatives have been exhausted.

17. Mandate training for all officers in trauma-informed, rights-based, and de-escalation approaches.

18. Introduce an independent oversight mechanism to review and report on incidents involving force, including a right of complaint for affected individuals.

19. Clarity and oversight are essential to ensure that this provision is not misused and that applicants' rights and dignity are protected.

Head 14 – Permission to Enter the State

20. Head 14 reflects elements of the EU Screening Regulation and introduces the concept of a pre-entry screening process. We are concerned about the legal fiction that individuals undergoing screening are not considered to have entered the State, despite their physical presence.

21. This extra-territorial fiction undermines access to rights and procedural protections under Irish and international law. It risks creating a two-tier system in which applicants are effectively held in a legal limbo without clear status, access to legal remedies, or oversight.

Recommendation:

22. Amend the Head to confirm that individuals physically present on Irish territory are deemed to have entered the State and are entitled to the associated legal protections.

23. Ensure access to the asylum procedure is immediate, transparent, and not conditioned on the outcome of screening.

24. Provide for independent oversight of all screening processes, including by a designated human rights body

Head 15 – Screening Authority

25. Head 15 refers to the use of "cultural mediators" during the screening process but provides no definition, standards, or safeguards relating to their role. Cultural mediators may play a valuable role in facilitating communication and cultural understanding but are not legally trained and must not be treated as substitutes for legal advice.

26. There is also no provision for access to independent legal advice at this stage, despite the fact that information collected during screening may impact later decisions.

Recommendation:

27. Define the function and limits of cultural mediators in statute, including mandatory training in impartiality and trauma-informed practice.

28. Guarantee access to independent legal advice during the screening process.

29. Ensure all applicants are informed of their right to legal assistance in a language they understand.

Head 16 – Obligation to Cooperate with the Screening Process

30. Subhead 3(b) requires applicants to abide by the rules of the accommodation centre during the screening period. While it is reasonable to expect residents to follow general rules in shared living settings, this provision lacks clarity and risks inconsistent application without appropriate legal safeguards.

31. There is no statutory definition of what constitutes the "rules of the accommodation centre". House Rules were previously developed for use in direct provision centres, but these have not been implemented across emergency accommodation centres, which currently house the majority of applicants.

Recommendation:

32. Amend Head 16 to specify that any accommodation rules must be clearly defined, accessible, and applied uniformly across all forms of accommodation, including emergency centres;

33. Clarify that accommodation rules are to be developed and periodically reviewed in consultation with residents, civil society organisations, and relevant stakeholders and must be available in multiple languages and formats that are accessible to applicants.

34. Accommodation rules should also include a right of appeal against any findings of non-compliance with centre rules and an independent complaints mechanism through which residents can challenge enforcement practices or raise issues.

Head 17 – Obligation to Undergo Screening

35. Subhead 1(c) introduces an obligation for applicants to undergo "legal counselling" during the screening process. However, the term is undefined and does not correspond to any established concept in Irish law.

36. The introduction of legal counselling without clarity on its scope or standards raises concerns about the potential dilution of applicants' rights. There is a risk that legal counselling will be viewed as a substitute for full access to independent legal advice, which is essential for applicants navigating complex legal and procedural systems. The lack of a separate Head setting out the framework for legal counselling, as anticipated in the General Scheme, compounds these concerns. Without such a framework, it is unclear who will provide this counselling, what qualifications they must have, and what information or assistance they are expected to offer. Criticism of similar proposals in the EU context highlighted that legal counselling should never be used to replace independent legal assistance. The risk is particularly acute in a high-stakes protection context where decisions may determine whether an applicant receives refuge or is returned to danger.

Recommendation:

37. Clarify that legal counselling is not a substitute for independent legal advice, and provide a clear statutory definition of its scope, purpose, and limits.

38. Establish a separate provision or Head detailing who may provide legal counselling, what qualifications are required, and how the quality and independence of such support will be maintained.

Head 18 – Preliminary Health Checks

39. Subhead 1 refers to applicants requiring "acute medical care" but does not define what this encompasses. The lack of definition creates ambiguity and may result in inconsistent or overly narrow interpretations that fail to reflect applicants' actual needs. It is also unclear whether mental health and trauma-related conditions are intended to be included.

40. Subhead 2 allows a medical practitioner to determine that no further check is necessary following an initial assessment. This raises concern that the screening may be treated as a one-off event, with no mechanism for follow-up. In practice, applicants may only begin to exhibit signs of psychological distress or trauma after a period of stability and safety, particularly in the case of mental health conditions or gender-based violence.

41. The Head also does not make provision for interpretation during medical examinations or for ensuring that applicants understand the purpose and nature of the health checks. Without accessible communication, the screening process may be ineffective or distressing.

Recommendation:

47. Define "acute medical care" clearly in the legislation or related guidance, and confirm that it includes mental health and trauma-related needs.

48. Amend Subhead 2 to ensure that medical screening is not limited to a one-time check and that follow-up assessments are permitted where appropriate as screening for health concerns must be flexible, accessible, and capable of adapting to an applicant's evolving needs, particularly in the case of delayed or non-visible conditions.

Head 19 – Preliminary Vulnerability Checks

49. Subhead 5 allows the vulnerability check under this Head, and the health check under Head 18, to form part of a broader vulnerability assessment. However, it appears to treat these checks as discrete, one-time events. This is problematic, as vulnerability is often dynamic. Applicants may experience trauma-related symptoms or other needs that only manifest after arrival in Ireland or after a period of safety and stability. Additionally, new vulnerabilities may arise while in the protection process.

50. Subhead 6 provides that adverse inferences may be drawn from an applicant's refusal to undergo a vulnerability check. While refusal may require procedural consequences in some instances, this provision lacks nuance. It does not account for circumstances where refusal may stem from trauma, fear, communication barriers, or a lack of understanding. There is a risk that this provision will be applied without adequate procedural safeguards.

Recommendation:

51. Clarify that vulnerability screening must be an ongoing and adaptable process, allowing for repeated assessments where necessary. Applicants or their legal representatives should have a statutory mechanism to request further assessments if new vulnerabilities emerge.

52. Revise Subhead 6 to introduce safeguards, including a requirement that applicants be informed of the purpose and consequences of a vulnerability check in a language they understand;

Head 26 – Application for International Protection

53. Subhead 1(a)(ii) permits a person who has attained the age of 18 years to apply for international protection on behalf of a child under 18 "where the person who has attained the age of 18 years is taking responsibility for the care and protection" of that child.

54. While this may be appropriate in some cases, the provision lacks essential safeguards and clarification. It risks enabling applications to be made on behalf of children by adults who are not formally recognised guardians or do not have a verified legal or care relationship. The absence of oversight by child protection authorities is particularly concerning, as it may lead to situations where minors are attached to applications without proper assessment of their best interests or protection needs—especially in cases involving coercion, trafficking, or other forms of exploitation. This is especially problematic where there may be coercion, trafficking, or other forms of exploitation involved.

Recommendation:

55. Amend Subhead 1(a)(ii) to specify that adults applying on behalf of a minor must be a parent or legal guardian, or a person appointed by the Child and Family Agency under relevant child welfare legislation.

59. Include a requirement for notification to and involvement of TUSLA where an adult who is not a parent or legal guardian seeks to make an application on behalf of a minor.

60. Ensure that any application on behalf of a minor includes an assessment of the child's best interests and appropriate legal representation.

Head 31 – Applicants in Need of Special Procedural Guarantees

61. Subhead 1 provides that the Minister shall ensure the applicant is provided with "the necessary support" to enable them to benefit from rights and comply with obligations under the Act and the Asylum Procedures Regulation. However, the term is not defined in the Bill, and no examples are provided. This lack of clarity may result in inconsistent or inadequate support for applicants who require accommodation, communication aids, legal assistance, trauma-informed interviewing, or other procedural adaptations.

62. Subhead 2 provides that if such supports cannot be delivered within the accelerated procedure framework, that procedure shall not apply. However detail on how this determination is made or what supports are considered is not included.

Recommendation:

63. Amend the Head to include a non-exhaustive list of what "necessary support" may include, for example, access to legal assistance, interpretation and translation services, psychological or medical support, adjustments to interview or reporting formats, and caseworker continuity or enhanced communication supports.

64. Include a requirement for individualised assessment and documentation of support needs, with regular review as applicants' circumstances change.

65. Establish clear standards for determining when the accelerated procedure cannot fairly be applied due to procedural vulnerabilities.

Head 47 – Substantive Interview

66. Head 47 provides for the conduct of a substantive interview before a decision is made on an application for international protection. Subhead 5 allows for an interview to be omitted in limited circumstances, including where the applicant is medically unfit or where the application may be granted without it. Notably, Subhead 5(a)(iii) permits omission of an interview for a child where it is determined, under Head 50(1)(a), that it is not in the child's best interests.

67. While this cross-reference to Head 50 introduces an important safeguard for children, it remains essential that the decision to omit an interview—whether for a child or any vulnerable applicant—is accompanied by adequate procedural guarantees. These are not explicitly provided in Head 47.

68. In particular, Head 47 does not require that applicants be informed of the decision to omit an interview, nor does it establish a right to submit written representations or evidence in its place. This could result in key elements of the applicant's claim not being adequately considered, especially in complex or sensitive cases.

Recommendation:

69. Amend Head 47(5) to provide that where a substantive interview is omitted, the applicant and their legal representative must be notified in writing, including the reasons for the decision. The applicant must be afforded the opportunity to submit written observations or alternative forms of evidence.

70. In the case of a child, the decision must be explicitly based on a best interests determination carried out in accordance with Head 50(1)(a), and a record of that determination must be retained on file.

Head 48 – Requirements for Personal Interviews

71. Subheads 3, 7, and 8 outline provisions for personal interviews, including the use of cultural mediators and staff from other authorities during periods of high demand. However, these provisions lack clarity and safeguards.

72. The role of cultural mediators is vaguely defined and unregulated, offering no assurance of their training, neutrality, or limits—despite their potential impact on communication outcomes. Similarly, interviewers are required to be "sufficiently competent," but no training or qualification standards are established. The requirement for "relevant training" for assisting staff is also undefined and left to ministerial discretion.

Recommendation:

73. Amend Head 48 to include a clear definition of the role, function, and limitations of cultural mediators. Clarify that cultural mediators must not assume the roles of interpreters or legal representatives.

74. Set out minimum qualifications, training requirements, and ethical standards for any person acting as a cultural mediator, including safeguarding protocols and independence guarantees.

75. Require that all interviewers—whether from the Department or other authorities—receive standardised, accredited training in trauma-informed interviewing, cultural sensitivity, and legal procedures relevant to international protection.

Head 67 – Appeal to the SIB

76. Subhead 2 requires that a notice of appeal be submitted within five days for certain categories of decisions (such as inadmissibility or manifestly unfounded claims), and within two weeks for other decisions, including the withdrawal of international protection. The five-day timeframe is unreasonably short given the significant practical and procedural demands on applicants, many of whom may not yet have legal representation.

77. Within this narrow window, applicants must obtain legal advice, understand the contents and implications of the initial decision, compile supporting documents, and submit a substantive appeal. This is particularly burdensome for applicants who face language barriers, digital exclusion, or who are accommodated in emergency settings. The obligation under Subhead 4 to also specify grounds of appeal and request an oral hearing compounds the difficulty.

Recommendation:

78. Extend the deadline under Head 67(2)(a) from five days to at least ten working days.

79. Specify that the appeal period only begins once the applicant has received a full copy of the decision and the reasons for it in a language they can reasonably be expected to understand.

80. Introduce a discretionary provision allowing the SIB to accept late appeals where there is good cause for delay—particularly in cases involving vulnerability, procedural obstacles, or lack of legal assistance.

Head 69 – Oral Hearings

81. Subhead 1 removes the automatic right to an oral hearing at the appeal stage, replacing it with a discretionary model governed by limited grounds outlined in Subhead 2. This represents a significant shift from established practice, where oral hearings have served as a critical safeguard in ensuring the accuracy and fairness of protection decisions.

82. Oral hearings are particularly important in international protection claims, which frequently hinge on assessments of credibility, vulnerability, and complex personal narratives. Denying an applicant the opportunity to give oral testimony may result in incomplete or flawed assessments, especially for those who were unable to fully present their case during the initial procedure due to trauma, lack of legal advice, or other barriers.

83. The grounds in Subhead 2 for granting a hearing are narrowly defined and may exclude many applicants whose cases merit further scrutiny. In addition, there is no mechanism for challenging a refusal to grant an oral hearing, nor are there any published criteria to guide the exercise of this discretion. This lack of transparency and accountability risks undermining the fairness of the appeals process. It may also place Ireland at odds with EU law, which requires that oral hearings be available where necessary to ensure a full and fair examination of facts and legal issues.

Recommendation:

84. Reinstate a presumption in favour of oral hearings, particularly in cases involving credibility concerns, vulnerable applicants, or where the applicant was previously unrepresented.

85. Broaden the criteria in Subhead 2 to permit an oral hearing wherever it is necessary to ensure fairness.

86. Establish published criteria for the exercise of discretion to grant or refuse an oral hearing and introduce a right to challenge a refusal.

Head 77 – Withdrawal of International Protection

87. Subhead 3(b) permits the Minister to take into account "the existence of derived rights" when determining the appropriate date from which a person's protection status is withdrawn. This phrase is vague and undefined, creating uncertainty as to how derived rights are to be assessed and what legal weight they carry.

88. The provision does not clarify whether the presence of derived rights should limit or prevent retrospective withdrawal, or simply be acknowledged without consequence. This is particularly problematic where the rights of children or dependants are involved, many of whom may have acquired residence or citizenship based on a parent's protection status.

89. Retrospective withdrawal could undermine the basis for such status, potentially raising serious legal, constitutional, and child rights concerns. There is also no indication that the best interests of the child will be assessed in these circumstances. Furthermore, existing protections under Head 93 currently apply only to Heads 88 to 92, making it unclear whether the vulnerability safeguards outlined in that Head would extend to decisions taken under Head 77. currently apply only to Heads 88 to 91. As such, it is unclear whether the vulnerability safeguards outlined in that Head would extend to decisions taken under Head 77.

Recommendation:

90. Amend Subhead 3(b) to clarify the legal implications of derived rights in withdrawal decisions and to confirm that such rights—particularly those involving children—should weigh strongly against retrospective withdrawal.

91. Extend the application of Head 93 to include decisions under Head 77 to ensure that the best interests of children, and the vulnerability of any affected persons, are fully considered and protected by appropriate procedural safeguards.

Head 89 – Permission to Reside in the State

92. Subhead 1 provides that persons granted refugee status will receive permission to reside in the State for at least three years, while those granted subsidiary protection will receive permission for at least one year. This creates an unnecessary and disproportionate distinction between two categories of international protection. A one-year permission imposes a significant administrative burden on both applicants and the State. Frequent renewals increase the risk of lapses in legal residence due to delays, illness, or digital exclusion. This, in turn, may affect individuals' access to employment, healthcare, travel, and public services.

93. While Subhead 2(c) allows subsequent renewals of subsidiary protection status for a minimum of two years, this still places an ongoing administrative burden on applicants and may not offer sufficient stability.

Recommendation:

94. Amend Subhead 1 to provide that both refugee and subsidiary protection beneficiaries receive an initial residence permission for at least three years.

95. Amend Subhead 2(c) to ensure that subsequent renewals for subsidiary protection beneficiaries are also granted for a minimum of three years.

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

96. Subhead 2(c) introduces a new and undefined criterion, the "domestic circumstances" of the subject of the application. This is not a recognised element of the current family reunification framework and lacks clarity regarding its legal relevance or interaction with vulnerability assessments under Head 93.

97. Subhead 5 links the permission to reside of family members directly to that of the beneficiary of international protection. While this may appear administratively coherent, this may result in family members receiving very short permissions if the sponsor's permission is near expiry. This poses particular risks where the sponsor naturalises or, in cases of abuse, intentionally obstructs the renewal of a family member's permission. The effect of short or misaligned permissions mirrors the concerns raised under Head 89 by creating unnecessary administrative burden and legal precarity, especially for persons who may be digitally excluded or have health-related barriers to regular registration.

98. Subheads 6(d) and 10 do not provide a saver clause in cases of domestic violence, divorce, death, or departure of the sponsor. This is a significant omission and contrasts with the protections enshrined in the EU Citizens' Rights Directive (2004/38/EC), which specifically preserves the rights of family members in such circumstances.

99. Subhead 7 appears redundant, as only marriages or civil partnerships concluded before the protection application are recognised under the proposed definition of family member in Subhead 12.

100. Subhead 9 provides no mechanism for the Minister to extend the entry deadline in situations of humanitarian concern. This risks excluding applicants facing travel restrictions, pregnancy, illness, or force majeure events, such as the closure of borders during the Taliban takeover of Afghanistan.

101. Similarly, Subhead 11 imposes a rigid 12-month application deadline for family reunification which does not account for real-world delays and exceptional situations.

102. Subhead 12(a)(ii) is welcome in its reference to adult dependent children. However, Subhead 12(b) is overly narrow and excludes consideration of humanitarian factors for unmarried children under 21. This may force families to separate in circumstances that lack legal or moral justification.

Recommendation:

109. Clarify the intent and scope of Subhead 2(c), and specify how "domestic circumstances" relate to eligibility and procedural fairness. If the provision is intended to recognise vulnerability, this should be expressly linked to Head 93.

110. Amend Subhead 5 to ensure that all family members are granted a standardised residence permission of at least three years, regardless of the sponsor's remaining status duration.

111. Insert saver clauses into Subheads 6(d) and 10 for cases of domestic violence, divorce, death, or departure of the sponsor, in line with Article 13 of Directive 2004/38/EC.

112. Provide Ministerial discretion to extend deadlines under Subheads 9 and 11 based on humanitarian grounds or force majeure.

113. Broaden Subhead 12(b) to allow for the reunification of unmarried children under 21 on humanitarian grounds, even where physical dependency is not strictly met.