CIVIL SOCIETY COALITION ON THE EU MIGRATION AND ASYLUM PACT

ANALYSIS OF THE INTERNATIONAL PROTECTION BILL 2026

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INTRODUCTION:

The Coalition on the EU Migration Pact[1] comprises civil society organisations which share the mission of advancing human rights by supporting and working with international protection applicants and refugees. Many members of the coalition opposed the Pact. It comprises an erosion of refugee rights and involves a shift towards deterrence and externalisation.

The coalition gave detailed analysis of the Heads of Bill and submitted to the Justice Committee. Our principal concerns about the Bill are:

- Significant gaps remain that undermine the scrutiny of such important legislation
- Detention of an unaccompanied child permitted (this was not contained in the heads of bill)
- Bill creates overarching and disproportionate power of the minister across the protection process
- Information provision to the applicant is unclear
- Many recommendations of the Justice Committee not implemented
- Key safeguards still absent
- Age assessment provisions unclear and missing key principles of child age assessment safeguarding
- Vulnerability assessment only preliminary and not ongoing
- Oral appeals allowed only if deemed necessary
- Independence of the appeals body from government unclear
- Scope of Chief Inspectorate improved but still limitations and crucially its scope is still inconsistent with the Pact regulation; funding of the inspectorate also unclear
- Expanded Garda powers, new crimes
- Amendment on Family Reunification significantly reduces the rights of qualified refugees to bring family members to Ireland.

[1] This submission is endorsed by: Irish Refugee Council, Crosscare, Doras, Irish Council for Civil Liberties, Immigrant Council of Ireland, Irish Penal Reform Trust, Jesuit Refugee Service, Nasc, Spirasi, Outhouse, LGBT Ireland, Action Aid, Sanctuary Runners.

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Significant gaps and omissions remain:

There remain very significant omissions in the Bill, including Legal Counselling and the Reception Conditions Directive, text that was in the Heads has been withdrawn. Putting forward such significant text at later

stage undermines the scrutiny of an important piece of legislation. Omissions include:

Legal counselling: Not mentioned or defined

Family Reunification: introduced by way of amendment, but key provisions remain unclear. For example, which social welfare payments or housing assistance will deem someone ineligible to apply for family reunification.

Reception conditions: Not included

Design of the Designated Authority: Not included

Age assessment: The regulations that will implement the multi-disciplinary age

assessment and the medical assessment have not been published.

Unaccompanied Minors: the regulations that will regulate the Representative role have not been published.

Overarching power of the minister:

The Bill gives the minister broad and overarching powers across Ireland's international protection process. The minister is mentioned 548 times in the Bill.

Examples of disproportionate powers include:

In the current International Protection Act 2015, the Chief International Protection Officer is '*independent in the performance of his or her functions'*.

In the 2026 Bill the equivalent of the IPO is simply the 'Determining Authority' which

is simply defined as 'The Minister'.

The Determining Authority, and therefore the Minister can:

- decide if an NGO can give information to an applicant
- direct the appeals body to prioritise an appeal
- remove the Chief Inspector if deemed in the interests of government

There is no clear funding for the Chief Inspector which raises issues of independence from government.

Key safeguards still absent:

Failure to include safeguards which are contained within the Pact text not only limits applicants' rights, it increases the risk of a legal challenge against the State.

- **S.27(5):** Results of preliminary health assessment made available to the minister.
- **S.28**: "A preliminary vulnerability assessment shall be carried out by officers or agents of the Minister who have received specialised training." This is unclear.
- **S.28(6)**: preliminary vulnerability assessment and health assessment may form the entirety of vulnerability assessment. The Vulnerability Assessment is a crucial aspect of of the process. According to the Reception Conditions Directive, vulnerability should be assessed on an ongoing basis.
- It is unclear if adequate and appropriate resources are in place to identify and meet the needs of persons with vulnerabilities.
- **S.68:** Subsequent Applications: Limits possibility of personal interview where Determining Authority considers there are clear reasons that no new information has arisen. Does not allow applicant opportunity to provide reasons as to why inadmissibility grounds should not be applicable, as required in A.11 Asylum Procedures Regulation.

- **S.68:** The State's right to assess the merits of an application even if the conditions for regarding it as inadmissible are met, is not included in the Bill, and should be set out clearly, with both first instance decision-makers and the Tribunal being empowered to make such decisions (Recital 48 and A.38, APR)
- Staff conducting personal interviews should have training on matters that could "*adversely affect the applicant's ability to be interviewed, such as indications that the person may have been tortured in the past or a victim of trafficking in human beings*" (A.13 AMMR).

Legal advice and information unclear:

- **S 26:** no requirement or timeline within which the Minister shall inform the applicant of information. This is required by the Pact. There is little use to have information other than at the beginning of the process.
- Information on rights under A. 19 AMMR should be set out for clarity. This includes: on family reunification, right to and aim of the personal interview, obligation to submit any relevant information, right of an effective remedy, right of legal counselling and legal assistance, subject access rights, rights specific to unaccompanied minors.
- **S 26 (4):** the Minister should not have the power to permit or not that an NGO to give information to an applicant. This section should be withdrawn or amended.
- S 31 (6): This section requires the Minister to request the applicant to confirm the accuracy of the information in the form, and make a note where the applicant disputes the accuracy of any information. However, there is no requirement that this should be done in a language the person understands. Given the gravity and weight of the screening process and the impact of the decision that flows from this (e.g. referral to Border Procedure), it is essential that this section include the requirement that this be communicated in a language the applicant understands.
- **S 32:** The role of the cultural mediator remains unclear and clarification requested by the Justice Committee not implemented.
- **S.106 (5)**: Allows the substantive interview (which determines refugee/subsidiary protection status) to be merged with the admissibility interview, even if the applicant does not have legal advisor (provided the applicant has legal counselling). As legal counselling is not defined in the Bill and the qualifications, independence and scope of the role of a legal counsellor are not set out, this raises serious concerns about the adequacy of procedural safeguards at a critical stage of the process. The merging of interviews significantly increases the evidential and credibility stakes for applicants at an early point, and risks disadvantaging those who are unrepresented, traumatised, or unfamiliar with the system. It will also increase the likelihood of appeal.

- **S.96**: Legal Adviser's intervention is confined to "end of the personal interview". This confinement of the legal adviser's intervention seems an unnecessary block to the useful participation of the legal adviser in the interview. It may be necessary and more practical for a legal adviser to provide information such as in relation to the applicants' special procedural needs, difficulties arising due to interpretation, which would be more appropriately received at an earlier point in the interview. The Asylum Procedures Regulation does not contain any such limitations, and this provision in the Bill appears inconsistent with s.14 APR and s.13 APR.

Restriction on freedom of movement:

The International Protection Bill 2026 introduces broad administrative powers to limit applicants' freedom of movement, including obligations to reside in a specific location, remain within a designated area, or report regularly to the authorities.

- **S 126:** applicants to reside in 'designated locations'. These locations are undefined and the Bill contains no definition for designated locations (i.e. how big or small? Within a geographical radius (like 5km during covid) or based on neighbourhoods, counties?). This could amount to *de facto* detention.

Fair appeals and an independent appeal body:

While rolling back on the *de facto* ending of oral hearings that the Heads of Bill contained, this section allows for an oral hearing if a full and ex nunc examination of facts and the points of law requires an oral hearing. We believe this remains too narrow and the applicant, as in the current system, should have the option of an oral hearing.

- **S.82**: Creates a one-week period to appeal a transfer decision. This time period is insufficient for the applicant to adequately prepare an appeal and access legal assistance and creates a disproportionate burden to the applicant.
- **S. 130** The design of the Tribunal, combined with the roles of the Minister and "Director of Tribunal", who reports to the Minister, compromise the independence of the Tribunal. The Minister can compel the Tribunal to accelerate certain cases.
- **S.129 & 131:** Not all appeals are suspensive, and an applicant must make a separate application for permission to remain in the State pending appeal. An applicant has just 10 days to make this request. If this request is refused, an applicant can be put through a returns procedure before their appeal has been decided.

The border procedure:

There is no statistical cap or transparency requirement on the number of people who will have their applications processed through the border procedure and the safeguards for vulnerable applicants are limited (no automatic exclusion for children, torture survivors, trafficked persons or survivors of sexual or gender-based violence).

The design of the procedure raises concerns as to how applicants will participate in interviews, respond to and gather evidence, receive decisions and submit appeals, all within a highly condensed period of time (12 weeks, including appeal), and without guaranteed access to legal assistance at the point of entry or shortly thereafter.

Applicants who have been processed in the border procedure and receive a negative decision, will be referred to the Return Border Procedure, with a short, strict deadline for returns.

- **S.117 (3):** Applicants who are in the border procedure are not authorised to enter the State (legal fiction of non-entry) and are required to reside in 'designated locations'. This is not defined in the Bill.
- **S.117 (1) & (2):** Appear to give the State discretion to apply the border procedure to almost any applicant (apart from those who already have a pre-existing immigration status in the State).
- **S.121:** Makes the border procedure mandatory where certain circumstances apply (including irregular entry to the State with false documentation or nationality (or habitual residence in the case of a stateless person) of a country with a 20% or lower recognition rate).
- **S.125:** The border procedure may apply to unaccompanied minors, in certain circumstances.

Vulnerability and health assessment:

- **S 28:** There is no requirement for the preliminary vulnerability assessment to happen within 30 days as required by the regulation. It is unclear if the assessment will take place before the applicant is routed into accelerated or border procedures, where procedural safeguards are weaker.
- The vulnerability assessment in the Bill is defined as 'preliminary' and not ongoing as required by the Pact. This was recommended by the Justice committee and not implemented.
- There is no provision for independent review of the outcome of a vulnerability determination. Applicants are not required to receive a copy of the assessment in writing which further limits their ability to challenge the results of the assessment.

- **S 122:** Does not exclude applicants with special reception needs (including victims of torture, rape, or other serious forms of psychological, physical or sexual violence) from the application of the asylum border procedure, nor does it prevent them from being subject to accelerated processing or extensive movement restrictions.
- **S 27:** as recommended by the Justice Committee, acute medical care should be defined to include mental health and trauma-related needs. The health assessment, as recommended by the Justice Committee should also be ongoing.

Design, scope and independence of the Chief Inspector:

The scope of the Chief Inspectorate in the Bill[2] remains narrower than that required by the Screening Regulation[3]. The regulation's text includes monitoring: access to the procedure, the principle of non-refoulement and the screening process. The Chief Inspector has no power to publish reports or recommendations independently of the Minster.

- **S.192(a):** Oversight of screening, border procedure and return border locations and anywhere a person arrives to the State and where an immigration officer is deployed.
- **S.198**: Remit is broader than Heads: "in line with that provided for in the Screening Regulation"
- **S196(1)(d):** Chief Inspector can be removed if in the opinion of the Government, this would be in the best interest of the State. Such a broad power of government is not consistent with other oversight bodies.[4]
- **S. 202**: Advisory Board of Chief Inspector: removed inclusion of National Preventive Mechanism under OPCAT. This was contained in the Heads. Also, no civil society representation on the Board (Fundamental Rights Agency guidance says NGOs can be included).

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[2] Bill text: "*to monitor asylum border procedures and compliance with European Union and international law, including the Charter, in designated asylum border facilities, in line with the independent monitoring mechanism provided for by the Screening Regulation and referred to in Article 43 of the Asylum Procedures Regulation; (b) to ensure that complaints regarding, and allegations of breaches of fundamental rights in, designated asylum border facilities are dealt with effectively and without undue delay, and trigger, where necessary, formal investigations as provided for in section 209, into such allegations and monitor the progress of such investigations; (c) to carry out regular inspections under section 207 of all designated asylum border facilities in the State.*"

[3] Regulation text: "Each Member State shall provide for an independent monitoring mechanism in accordance with the requirements set out in this Article, which shall: (a) monitor compliance with Union and international law, including the Charter, in particular as regards access to the asylum procedure, the principle of non-refoulement, the best interest of the child and the relevant rules on detention, including relevant provisions on detention in national law, during the screening; and (b) ensure that substantiated allegations of failure to respect fundamental rights in all relevant activities in relation to the screening are dealt with effectively and without undue delay, trigger, where necessary, investigations into such allegations and monitor the progress of such investigations."

[4] E.g. Police Ombudsman has very limited grounds for removal; Ombudsman for Defence Forces may be removed from office by the President but shall not be removed from office except for stated misbehaviour, incapacity or bankruptcy where there is a recommendation for removal by the Government - section 2(4)(b) of the Ombudsman (Defence Forces) Act 2004.

- Can forward a report or complaint at any time, as well as following formal investigation, to the Minister or the Gardai. Minister has obligation to respond, but not to act.
- **S. 210(1):** Actions following a formal investigation: the Chief Inspector can provide a report with recommendations to the Minister. The Chief Inspector cannot publish this report independently and the Minister is not obliged to take substantive action. If the Chief Inspector suspects a criminal offence, they can inform any member of An Garda Siochana - if there is an instance of multiple, serious criminal offences, the Bill should require that the Chief Inspector inform a guard of a certain rank (e.g., superintendent) to ensure it receives adequate attention.
- There is no statutory obligation for the Chief Inspector to investigate incidents of death or serious harm in the border procedure or other areas where applicants will be held or deprived of their liberty. This is contrary to the State's obligations under Articles 2 and 3 of the ECHR to investigate any loss of life or acts of torture or ill-treatment. There is such investigatory powers in these cases for other Ombudsman bodies, such as the Fiosru (Office of the Police Ombudsman).
- **S 205(1)**: The Chief Inspector shall, not later than 3 months after the end of each year, or before a date as may be specified by the Minister, submit to the Minister an annual report on the performance of the Chief Inspector's functions and on such other related matters during the previous year." The Minister shall then cause a copy of the report to be laid before each House of the Oireachtas. The Chief Inspector has no power to publish reports independently of minister.

Ongoing lack of clarity on age assessment process:

An age-assessment arises when there are serious doubts as to an applicant's age, specifically whether they are under or over 18. This generally applies to applicants who arrive unaccompanied. The benefit of the doubt and presumption of minority should apply to the person being assessed until such time as the determining authority concludes that the person is not a minor. Irish Refugee Council has worked with dozens of children - as young as 15 years old- who have been incorrectly assessed as adults, leading to them living in adult accommodation centres, losing access to education, a social worker, and other rights. Many, though not all, of these children were later assessed as children and taken into Tusla care, sometimes after many months being treated as adults.

- The Bill includes the concept of 'medical' age assessments. This is a controversial process with limited accuracy.
- It is unclear if the assessment be truly 'multi-disciplinary', who will carry out 'multi-disciplinary' assessment and what qualifications or training they will have.

- **S 54 (4) (b):** It is inappropriate that a refusal to undergo a medical age assessment should create a rebuttable presumption is not a minor. This effectively forces a person to undergo an unnecessary procedure or examination to access their rights as a child.
- **S.54 (8):** The meaning of a "designated healthcare professional" who can carry out medical age assessments includes a registered midwife, social care worker, social worker and "such other designated profession as the Minister may prescribe." Some of these inclusions are inappropriate.
- **S. 55 (a)**: Allows the State to rely on an age assessment carried out by another Member State. Countries who are the frontiers of Europe, such as Italy and Greece with poor age assessment procedures could provide false results that can be perpetuated by the absence of a fresh assessment.
- **S.56 (3)**: Legal representatives are excluded from the list of those able to make submissions on behalf of the applicant. This should be amended.
- **S.56 (7):** Legal representatives are excluded from the list of those whom the Determining Authority will notify of a decision. This should be amended.
- **S.58** Estimated Date of Birth: Estimated DOB shall be considered the applicant's DOB for the purposes of the Act. This is problematic and conflicts with the right to identity. An applicant should have the right to correct this.

Children:

The best interests of the child principle is fragmented rather than mainstreamed across all provisions of the bill which may impact children, including withdrawal of status and freedom of movement restrictions.

- **S.24 (11)**: Allows for the arrest and detention of minors where the minor is in the care/custody of a parent or person in loco parentis where they are being detained under s.24.
- **S 24 (12):** The Bill explicitly provides for the detention of unaccompanied minors, including in a screening centre for the purposes of determining or verifying their identity.

Expansion of Garda powers:

This Bill introduces multiple new offence and powers of arrest and detention for the Garda Siochana and immigration officers. The Commission on the Future of Policing in Ireland called for gardai to be removed from immigration duties. Having gardai involved can have an impact on public trust in policing and police/community relations for IPAs and other minoritised communities.

The expansion of Garda powers contained within the International Protection Bill is happening alongside general expansion of Garda powers, including the publication of the Garda Siochana (Powers) Bill 2026, the Garda Siochana (Recording Devices) Amendment Bill 2025 and announcements to expand Garda interception and surveillance powers. Gardai already have vast powers under legislation and across the common law to arrest someone (including without a warrant) if they reasonably suspect an offence, including failure to comply with a deportation order.

- **Section 17 (3):** An Garda Siochana is the designated authority for the Eurodac regulation. Given their exceptionally poor record with data protection, and the sensitive nature of the data being stored, there should be adequate training and resourcing provided for this.
- **Section 24(2):** The Bill currently contains no minimum safeguards around "measure of last resort" and "where necessary" when arresting an applicant.
- **Section 24(5):** if an applicant is brought to a Garda Station within the meaning of the Custody Regulations, they should also be entitled to the rights and obligations contained within the Custody Regulations.
- **Section 24(8):** criminalises obstruction or hindrance of a Garda or immigration officer performing functions under the screening-related arrest and detention powers. The offence applies to third parties, without requiring that the obstruction be wilful or substantial. A conviction can result in up to 12 months' imprisonment.
- **Section 24(11):** allows for detention of children.
- **S. 24(11)(c):** Refers to an assessment that is done where detention is believed to be in the best interests of the child, this is contrary to UNCRC guidance, which states that immigration detention is never in the best interests of a child and should be avoided.
- **Sections 87 and 170:** allow an An Garda Síochána or an immigration officer to enter and search a dwelling without a warrant or consent where they believe the person they wish to arrest and detain for the purposes of a transfer or a removal ordinarily resides at the dwelling or the Garda has "reasonable grounds" to believe that the person is there. This is a disproportionate expansion of Garda powers to enter and search a home without a warrant, particularly given the constitutional protection for the "inviolability of the home".

Detention of applicants:

The International Protection Bill 2026 risks normalising detention as a routine part of the asylum process rather than an exceptional measure of last resort. The safeguards are inadequate and do not apply consistently across all contexts. Initial stages such as screening and transfer allow for detention without automatic external review and a person can be detained for up to 12 weeks without review.

- **S.24** allows for the detention for up to 2 days of a person who does not comply with directions during the screening process.
- **S.87** allows for the detention for up to 5 weeks (35 days) without any external oversight or automatic external review.
- **S. 161** allows for detention for return or removal where there is a risk of absconding, frustration of return, or concern for public order or national security for up to 12 weeks without any automatic external review.
- **S. 172** allows for internal administrative review of detention after 4 weeks but only at the written request of the detainee.
- **S. 168** allows for detention where a person has been processed under the border procedure and has received a return decision and where there is a risk of absconding, frustration of return, or concern for public order or national security. S. 172 allows for internal administrative review of detention after 4 weeks but only at the written request of the detainee.

Family Reunification

Despite the Heads of Bill including a section on family reunification for qualified refugees, the 2026 Bill was published with no such reference. An amendment was then tabled by government which severely limits family reunification rights for people with refugee status or subsidiary protection.

The amendment requires a qualified refugee to wait 2 years before applying for family reunification, requires a minimum level of income, and disqualifies applicants who are in receipt of certain social welfare and housing assistance. This is extremely restrictive and likely to push people into hardship to be able to meet these requirements.

At a minimum, these provisions should not apply to children. The amendment allows for the minister exercise discretion in this regard; this does not go far enough.

- We believe that the provisions for family reunification contained in the Heads should be maintained, with some additions contained in the government's amendments.
- **S.147(12)(a)(i) & (ii)** The amendment proposed by government includes the possibility of reunification with a *de facto* partner. This is a significant inclusion which may allow for the reunification of same-sex couples, not currently permitted under the 2015 Act. It should be retained in any further amendments. Similarly, the provision allowing for reunification with the children of the sponsor's civil or de facto partner has also been included in the government amendment and should be retained.
- **S.147(12)(a)(vi)** Government's amendment also includes the possibility of reunification with a dependent parent. This should be retained.
- **S.147(12)(a)(iv) & (vi)** Under current policy, an applicant who applied for international protection as an unaccompanied minor may apply for family

reunification for parents and minor siblings even if the applicant has reached the age of 18 before making their family reunification application. This should be reflected in legislation. Sections should been broadened to allow for reunification with minor siblings of unaccompanied minors, to ensure they are not unintentionally excluded.

- **S.147(12)(c)** The Minster should retain discretion to allow for family reunification with family members outside of those listed, in exceptional humanitarian circumstances.
- **S.147(12)(d)** Currently, family reunification applications take at least 18 months and many over 2 years to receive decisions. Where the Minister has received all relevant information from the sponsor, there should be a time limit on the decision-making process.
- The blanket cessation for all instances of dissolution of marriage / civil partnership may cause issues of undue hardship and unfairness for beneficiaries who have been forced to dissolve their relationship for whatever reason, and particularly so in certain instances for example, where there has been Domestic Violence.
  S.147(1)(b)

Ends