

# CIVIL SOCIETY COALITION ON THE EU MIGRATION AND ASYLUM PACT

## SUBMISSION IN ADVANCE OF SECOND STAGE READING OF THE INTERNATIONAL PROTECTION BILL 2026

28 JANUARY 2026

### INTRODUCTION:

The Coalition on the EU Migration Pact 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 still inconsistent with the regulation; funding of the inspectorate also unclear*
- *Expanded Garda powers*

### INTERNATIONAL PROTECTION BILL 2026 ANALYSIS:

**Significant gaps and omissions remain:**

There remain very significant omissions in the Bill, such as the family reunification section, text that was in the Heads has been withdrawn.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: Provisions removed from the Heads of Bill and no clarity on the proposed 3 year rule despite being announced in early January by the minister
- 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 and 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 Bill the equivalent of the IPO is simply the Determining Authority which is simply defined as 'The Minister'.
  - Can decide if an NGO can give information to an applicant
  - Can direct the appeals body to prioritise an appeal
  - Can remove the Chief Inspector if deemed in the interests of government
  - No clear funding for the Inspectorate which raises issues of independence from government

#### **Key safeguards still absent:**

- **S.27(5)**: Results of preliminary health assessment made available to the minister.
- Applicant can refuse to undergo health assessment
- **S.28** "A preliminary vulnerability assessment shall be carried out by officers or agents of the Minister who have received specialised training"
- Results of VA available to Minister where applicants consents
- **S.28(6)** preliminary VA and health assessment may form the entirety of VA under RCD. Ensure 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.

- S.68 The State’s right of 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 APR and A.38 APR)
- acquired general knowledge of factors which could
- 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. 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, 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, 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.
- 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 Regulation does not contain any such limitations, and it 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 it is nit no definition for designated locations. How big or small? Within a geographical radius (like 5km during covid) or will it be based on neighbourhoods?

#### **Fair appeals and an independent appeal body:**

- **S.133:** 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 be able to request 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.
- We remain concerned that the design of the Tribunal, combined with the roles of the Minister and "Director of Tribunal", who reports to the Minister

#### **Limit the application of 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 procedure is frontloaded and raises concerns as to how applicants will participate in interviews, respond to and gather evidence, and receive decisions and submit appeals, all within a highly condensed period of time (12 weeks), and without guaranteed access to legal assistance at the point of entry or shortly thereafter.
- **S. 117 (3):** Applicants who are in the border procedure are not authorised to enter the State and may be required to reside as specific accommodation centres.
- **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).

### **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 that the application will take place before the applicant is routed into accelerated or border procedures, where procedural safeguards are weaker.
- The vulnerability assessment is also 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 Inspectorate:**

- The scope of the Chief Inspectorate in the Bill<sup>1</sup> remains narrower than that required by the Screening Regulation<sup>2</sup>.
- The regulation’s text includes monitoring: access to the procedure, the principle of non-refoulement and during the screening.
- It is essential

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<sup>1</sup> 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.

<sup>2</sup> 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.”

- **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”
- 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.
- **Section 196(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. Police Ombudsman, very limited grounds for 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).
- **Section 202** re advisory board: removed reference to NPM under OPCAT. Also no civil society representation (FRA guidance says NGOs can be included).
- **Section 210(1)** re actions following a formal investigation: the Chief Inspector can provide a report with recommendations to the Minister, and if they suspect a criminal offence, can inform any member of An Garda Síochána - if there is an instance of multiple, serious criminal offences, might be worth having it in the Bill that the Chief Inspector should inform a guard of a certain rank (e.g., superintendent) to ensure it is taken seriously.
- 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 IPAs will be held/deprived of their liberty. This is contrary to the State obligation under Arts 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. No power to publish report independently of minister.

#### **Ongoing lack of clarity on age assessment process:**

- Absent the implementing regulations it is completely unclear if the assessment be truly ‘multi-disciplinary’ or who will carry out ‘multi-disciplinary’ assessment and what qualifications or training?
- While the best interests of the child ‘primary consideration’ - how does this impact medical age assessment?

- **S 54 (4) (b):** inappropriate that refusal to undergo a medical examination should create a rebuttable presumption is not a minor. This is inappropriate.
- **S.54 (8)** Inappropriate to include registered midwife, social care worker, social worker and “such other designated profession as the Minister may prescribe” within the meaning of a “designated healthcare professional” who can carry out age assessments. A social worker is not a healthcare professional.
- **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)** Should include submissions by legal representatives.
- **S.56 (7)** Should also inform legal representatives.
- **S.58** Estimated Date of Birth: Estimated DOB shall be considered the applicant’s DOB for the purposes of the Act. Conflicts with the right to identity.

#### 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 24.4:** The Bill explicitly provides for the detention of minors, including in a screening centre for the purposes of determining or verifying their identity.
- **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.

#### Expansion of Garda powers:

- 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.
- 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.
- **Section 17 (3):** designating An Garda Siochana as the designated authority is concerning given their exceptionally poor record with data protection.
- **Section 24(2):** minimum safeguards around “measure of last resort” and “where necessary” for arresting someone

- **Section 24(5):** if someone 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 (and 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)
- **Sections 87 and 170** allow an An Garda Síochána 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 ground" 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 involve 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.

ENDS