



GARDA

**COUNTRY REPORT**  
**IMMIGRATION DETENTION IN**  
**IRELAND: CAN YOU DETAIN "BETTER"**  
**WITHOUT DETAINING MORE?**

*AUGUST 2019*



**GLOBALDETENTIONPROJECT**

## **COUNTRY REPORT**

### **IMMIGRATION DETENTION IN IRELAND:**

CAN YOU DETAIN "BETTER" WITHOUT DETAINING MORE?

*AUGUST 2019*

# THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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**Front cover image:** The new Garda station at Dublin Airport, which currently remains idle © Fran Veale

This report is also available online at [www.globaldetentionproject.org](http://www.globaldetentionproject.org)

# CONTENTS

<b>Glossary</b>	<b>5</b>
<b>Key Findings</b>	<b>6</b>
<b>1. Introduction</b>	<b>7</b>
<b>2. Laws, Policies, Practices</b>	<b>10</b>
2.1 Key norms	10
2.2 Grounds for detention	11
2.3 Criminalisation	12
2.4 Asylum seekers	12
2.5 Children	15
2.6 Other vulnerable groups	17
2.7 Length of detention	17
2.8 Procedural guarantees	18
2.9 Non-custodial measures (“alternatives to detention”)	19
2.10 Detaining authorities and institutions	20
2.11 Regulation of detention centre conditions and regimes	20
2.12 Domestic monitoring	21
2.13 International monitoring	21
2.14 Trends and statistics	22
<b>3. Detention Infrastructure</b>	<b>24</b>
3.1 Summary	24
3.2 Detention facilities	24
3.2a Dublin Airport	25
3.3 Conditions and regimes in detention centres	25



## **GLOSSARY**

<b>CAT</b>	UN Committee against Torture
<b>CPT</b>	European Committee on the Prevention of Torture
<b>HRC</b>	UN Human Rights Committee
<b>IPRT</b>	Irish Penal Reform Trust
<b>IPS</b>	Irish Prison Service
<b>IRC</b>	Irish Refugee Council
<b>Nasc</b>	Migrant and Refugee Rights Centre
<b>ORAC</b>	Office of the Refugee Applications Commissioner



## KEY FINDINGS

- Ireland uses prisons to confine immigration detainees, which has been repeatedly criticised by rights watchdogs both at home and abroad, who have urged the country to establish specialised detention facilities.
- A dedicated detention centre initially slated to open at Dublin Airport in 2016/2017 will reportedly open in 2019.
- Non-citizens confined at a Dublin Airport transit facility lack access to legal safeguards and guarantees, including lawyers, medical assistance, and detention reviews.
- An immigration officer or a *Garda Síochána* (police officer) can detain an asylum seeker and other non-citizens without a warrant.
- Asylum seekers can be repeatedly detained under orders of a District Judge for 21-day “committals,” making them potentially vulnerable to indefinite detention.
- Asylum seekers are often housed in “Direct Provision” reception centres, which some observers have argued operate as *de facto* detention facilities because of their limits upon freedom of movement.
- When age assessments fail to establish the exact age of a young person, immigration officials reportedly generally presume that the person is over 18 and can be placed in custodial settings intended for adults.



## 1. INTRODUCTION

Ireland detains among the fewest numbers of migrants and asylum seekers in the European Union (EU), approximately 400 individuals annually (and 11 on any given day), most of whom are detained for very brief periods of time.<sup>1</sup> However, because Ireland uses prisons and police (*Garda*) stations for immigration purposes, it has come under repeated pressure to build dedicated immigration detention facilities,<sup>2</sup> a move that some observers think could lead to more detention in the country.<sup>3</sup>

Among the consistent critics of Ireland's failure to open a specialised immigration centre has been the European Committee on the Prevention of Torture (CPT).<sup>4</sup> After its most recent visit to the country (in 2014), the committee admonished Ireland, saying: "A prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence."<sup>5</sup> (The CPT has a planned visit to Ireland in 2019.<sup>6</sup>)

The issue of immigration detention gained widespread public attention in 2017 after a former *au pair* from Brazil who had returned to Ireland to visit friends was detained at the [Dochas](#)

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<sup>1</sup> Nasc, the Migrant and Refugee Rights Centre, "Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice," 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>; Irish Prison Service (IPS), "Annual Report 2018," 2019, [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Annual-Report-2018.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf)

<sup>2</sup> UN Committee against Torture (CAT), "Concluding Observations on the Second Periodic Report of Ireland, CAT/C/IRL/CO/2," 31 August 2017, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En); European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 26 September 2014," *Council of Europe*, 17 November 2015, <https://rm.coe.int/1680696c9a>

<sup>3</sup> See, for instance, M. Flynn, "Be Careful What You Wish For," *Forced Migration Review*, September 2013, <https://www.fmreview.org/detention/flynn>

<sup>4</sup> Nasc, the Migrant and Refugee Rights Centre, "Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice," 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>5</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 26 September 2014," *Council of Europe*, 17 November 2015, <https://rm.coe.int/1680696c9a>

<sup>6</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "The CPT and Ireland," <https://www.coe.int/en/web/cpt/ireland>

all-female prison under suspicion of attempting to enter the country to work illegally.<sup>7</sup> The incident spurred public protest as well as censure from the Brazilian Embassy, which expressed concern over how people refused entry into Ireland could be sent to “common prisons.”<sup>8</sup> The Irish Times, in a follow up story titled “421 people committed to prison in 2016 on immigration-related issues,”<sup>9</sup> reported that the use of prisons had also received criticism from the UN Committee against Torture, which provided recommendations to Ireland on this issue in both 2011 and 2017.<sup>10</sup>

Ireland has responded to the criticism by repeatedly stating that it intends to open an immigration detention centre at Dublin Airport. Despite initially announcing that it would open a facility by 2016, in 2017 the government revised its projections, stating that construction would not be completed until July 2018.<sup>11</sup> Nearly a year later however, the Minister for Justice and Equality stated that work would not be completed until the end of 2018.<sup>12</sup> According to the Irish Refugee Council (IRC), however, as of early 2019 the Dublin Airport facility had still not opened.<sup>13</sup>

Press reports from mid-June 2019 indicated that the facility—built at a cost of 3.6 million EUR and located on the premises of an unused building called Transaer House—would not be open until late 2019.<sup>14</sup> According to one report, there have been delays in opening the facility due to disagreements over its dual use as a Garda station and a detention facility. The centre is reportedly intended to be used to confine persons deemed inadmissible upon arrival to the country and will have holding “pens” for up to 15 persons sitting and 30 standing.<sup>15</sup>

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<sup>7</sup> The Independent, “Calls for Apology for Brazilian Au Pair 'Unfairly' Detained in Irish prison on Visit to Ireland,” 30 July 2017, <https://www.independent.ie/irish-news/calls-for-apology-for-brazilian-au-pair-unfairly-detained-in-irish-prison-on-visit-to-ireland-35982146.html>

<sup>8</sup> M. Byrne and E. Quinn, “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” *European Migration Network*, November 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/14a\\_ireland\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/14a_ireland_effectiveness_of_return_final_en.pdf)

<sup>9</sup> The Irish Times, “421 People Committed to Prison in 2016 on Immigration-Related Issues,” 20 July 2017, <https://www.irishtimes.com/news/social-affairs/421-people-committed-to-prison-in-2016-on-immigration-related-issues-1.3161858>

<sup>10</sup> UN Committee against Torture (CAT), “Concluding Observations on the Second Periodic Report of Ireland, CAT/C/IRL/CO/2,” 31 August 2017, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En)

<sup>11</sup> The Irish Times, “Work on Dublin Airport Immigration Detention Centre to begin,” 28 July 2017, <https://www.irishtimes.com/news/politics/work-on-dublin-airport-immigration-detention-centre-to-begin-1.3169079>

<sup>12</sup> Minister for Justice and Equality, “Response to Parliamentary Question 545, Detention Centres Provision – Dàil Éireann Debate,” 12 June 2018, <https://www.oireachtas.ie/en/debates/question/2018-06-12/545/#pq-answers-545>

<sup>13</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>14</sup> A. Bracken, “Brand New €3.6m Garda Station Lying Idle At Dublin Airport Amid Row,” *Extra.ie*, 17 June 2019, <https://extra.ie/2019/06/17/news/irish-news/garda-station-dublin-airport-row>; C. O’Keefe, “Dedicated Immigration Facility Due to Open at Dublin Airport,” *Irish Examiner*, 12 June 2019, <https://www.irishexaminer.com/breakingnews/ireland/dedicated-immigration-facility-due-to-open-at-dublin-airport-930395.html>

<sup>15</sup> A. Bracken, “Brand New €3.6m Garda Station Lying Idle At Dublin Airport Amid Row,” *Extra.ie*, 17 June 2019, <https://extra.ie/2019/06/17/news/irish-news/garda-station-dublin-airport-row>



In November 2017, Ireland's Minister of Justice and Equality announced that the country would opt-in to the EU Recast Reception Conditions Directive to comply with a May 2017 Supreme Court ruling, which ruled against the country's prohibition on asylum seekers accessing employment.<sup>16</sup> In July 2018, Ireland adopted the European Communities (Reception Conditions) Regulations to transpose the Directive into its domestic law, following the decision to opt-in.<sup>17</sup> The directive requires the state to provide a specialised detention facility for detained protection applicants, amongst other measures.<sup>18</sup> This implies that Ireland is no longer permitted to detain asylum applicants in penal facilities, which could spur changes in Irish immigration legislation.<sup>19</sup>

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<sup>16</sup> European Council of Refugees and Exiles (ECRE), "Ireland: Planned Opt-In to Recast Reception Conditions Directive," 24 November 2017, <https://www.ecre.org/ireland-planned-opt-in-to-recast-reception-conditions-directive/>

<sup>17</sup> European Council on Refugees and Exiles (ECRE), "Ireland: New Reception Rules Following Opt-In To the EU Directive," 13 July 2018, <https://www.ecre.org/ireland-new-reception-rules-following-opt-in-to-eu-directive/>; Irish Refugee Council, "Country Report: Ireland," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>18</sup> Nasc, the Migrant and Refugee Rights Centre, "Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice," 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>19</sup> Irish Refugee Council, "Country Report: Ireland," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** Ireland's principal immigration norms are provided in the 1946 Aliens Act, the 1999 Immigration Act, the 2000 Illegal Immigrants (Trafficking) Act, the 2003 Immigration Act, the 2004 Immigration Act, and the 2015 International Protection Act, as well as subsequent amendments and regulations.

A new Immigration, Residence, and Protection Bill, intended to replace all previous legislation on immigration, was introduced in 2010.<sup>20</sup> The legislation was designed to establish a more unified immigration code, with its primary focus being the improvement of efficiency and transparency within the system.<sup>21</sup> However, the bill was left "in limbo, waiting to be re-drafted" after part of it was used to create the International Protection Act 2015, which was signed into law in January 2016 and came into force on 31 December 2016.<sup>22</sup>

The International Protection Act 2015 reformed asylum law in Ireland. The act "streamlines procedures, creating a single application process for all applicants of international protection aimed at speeding up waiting times and reducing time spent in the Direct Provision system of reception." However, the restrictive measures provided in the act, including provisions on detention and restricting family reunification,<sup>23</sup> led observers to characterise the law as a "step backwards for Ireland in both its support for refugees and in its standing in the international community."<sup>24</sup>

In July 2018, Ireland adopted the European Communities (Reception Conditions) Regulations to transpose the EU Recast Reception Conditions Directive into its domestic

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<sup>20</sup> Nasc, the Migrant and Refugee Rights Centre, "Immigration Residence & Protection Bill (Archive)," <http://www.nascireland.org/campaigns-for-change/immigration-residence-protection-bill/>

<sup>21</sup> Irish Refugee Council, "The Right to Protection: Submission to the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights on the Protection Aspects of the Immigration, Residence and Protection Bill," March 2008, <http://www.irishrefugeecouncil.ie/wp-content/uploads/2011/08/IRC-Submission-on-the-IRP-Bill-2008.pdf>

<sup>22</sup> European Council on Refugees and Exiles (ECRE), "Asylum Reforms in Ireland will Fail Refugees," 8 January 2016, <http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/1333-asylum-reforms-in-ireland-will-fail-refugees-.html>; The Irish Immigrant Support Centre, "Immigration Residence & Protection Bill (Archive)," <http://www.nascireland.org/campaigns-for-change/immigration-residence-protection-bill/>; European Council on Refugees and Exiles (ECRE), "AIDA 2016 Update: Ireland," 13 March 2017, <https://www.ecre.org/aida-2016-update-ireland/>

<sup>23</sup> European Council on Refugees and Exiles (ECRE), "Asylum Reforms in Ireland will Fail Refugees," 8 January 2016, <http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/1333-asylum-reforms-in-ireland-will-fail-refugees-.html>

<sup>24</sup> Irish Refugee Council, "International Protection Act 2015 is a Step Backwards for Ireland's Support for Refugees, Say Irish Refugee Council," 30 December 2015, <http://www.irishrefugeecouncil.ie/news/international-protection-act-2015-is-a-step-backwards-for-irelands-support-for-refugees-say-irish-refugee-council/4533>

law, following the decision to opt-in.<sup>25</sup> The directive requires the state to provide a specialised detention facility for detained protection applicants, amongst other measures.<sup>26</sup> This implies that Ireland is no longer permitted to detain asylum applicants in penal facilities, which could spur changes in Irish immigration legislation.<sup>27</sup>

**2.2 Grounds for detention.** Irish law provides various grounds for the detention of both asylum seekers (see section **2.4 Asylum seekers**) and unauthorised migrants, including for those refused entry to the country and those in removal proceedings.<sup>28</sup> Three broad categories for immigration detention exist: detention following refusal of permission to land, detention pending deportation, and detention of asylum seekers.<sup>29</sup>

Detention following refusal of permission to land is regulated by the 2003 Immigration Act. Section 5.2 provides that an immigration officer or Garda Síochána (police officer) can detain anyone aged 18 or over who has been refused entry to the country or who is suspected of being “unlawfully in the State for a continuous period of less than 3 months.”<sup>30</sup> The Irish government, in a 2013 response to questions raised by the UN Working Group on Arbitrary Detention (WGAD), stated that “in practice, persons refused leave to land are held for very short periods (in most cases overnight). There is a requirement in law to remove such persons as soon as practicable.”<sup>31</sup>

Detention pending deportation is regulated by the 1999 Immigration Act. Ireland and the **United Kingdom** are the only EU countries that do not implement the **EU Returns Directive**. However, the grounds for pre-removal detention in Ireland broadly reflect the directive. Section 3.1 of the 1999 Immigration Act provides for removal and indefinite exclusion, as well as detention in order to carry out a removal order. According to Section 5.1 of the 1999 law, “where an immigration officer or a member of the Garda Síochána, with reasonable cause, suspects that a person against whom a deportation order is in force has

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<sup>25</sup> European Council on Refugees and Exiles (ECRE), “Ireland: New Reception Rules Following Opt-In To the EU Directive,” 13 July 2018, <https://www.ecre.org/ireland-new-reception-rules-following-opt-in-to-eu-directive/>; Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>26</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>27</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>28</sup> E. Quinn and G. Kingston, “Practical Measures for Reducing Irregular Migration,” *European Migration Network/ Economic and Social Research Institute*, March 2012, [http://emn.ie/files/p\\_201205080239292012\\_Irregular%20Migration%20Study\\_Mar2012.pdf](http://emn.ie/files/p_201205080239292012_Irregular%20Migration%20Study_Mar2012.pdf)

<sup>29</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention & Border Control in Ireland. Revisiting Irish Law, Policy and Practice,” 14 March 2018, <http://www.nascireland.org/feature-reports/immigration-detention-border-control-ireland/>

<sup>30</sup> Government of Ireland, “Immigration Act 2003, Section 5.2,” <http://www.irishstatutebook.ie/eli/2003/act/26/section/5/enacted/en/html#sec5>

<sup>31</sup> Government of Ireland, “Observations of Ireland on the Questionnaire Related to: The Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court, in Order that the Court May Decide Without Delay on the Lawfulness of His or Her Detention and Order His or Her Release if the Detention is Not Lawful,” *UN Working Group on Arbitrary Detention*, 2013, <http://www.ohchr.org/EN/Issues/Detention/Pages/QuestionnaireDraftBasicPrinciples.aspx>

failed to comply with any provision of the order or with a requirement in a notice under section 3(3)(b)(ii), he or she may arrest him or her without warrant and detain him or her in a prescribed place.”<sup>32</sup>

Section 5.1 of the 1999 Act further specifies that authorities can arrest, and detain without warrant, a person who has been issued a removal order and has: (1) failed to comply with any provision of the order; (2) can reasonably be suspected of trying to leave the country and enter another without legal authorisation; (3) has destroyed identity documents or is in possession of false documents; or (4) intends to avoid removal.<sup>33</sup> With the amendment of Section 5.1 of the 1999 Immigration Act introduced by Section 78 of the 2015 International Protection Act, an additional ground for detention was included: (5) not leaving the State within the time specified in the deportation order. This amendment also introduced the possibility of detaining non-citizens at airports or other ports of entry for a maximum of twelve hours (2015 International Protection Act, Section 78).

According to the Irish Prison Service (IPS), there were 414 immigration law-related committals involving 406 individuals in 2018, 418 committals involving 396 individuals in 2017, 421 committals involving 408 detainees in 2016, and 342 committals involving 335 detainees in 2015.<sup>34</sup>

**2.3 Criminalisation.** Criminal penalties for violations of immigration provisions have been on the books since as early as the Aliens Act of 1935. Currently, Irish law provides criminal sanctions for at least two immigration-status related violations. “Irregular entry and stay” can result in a fine of up to 3,000 EUR and/or one-year imprisonment (see Immigration Act 2004, Section 4(9) and Section 13). Also, under the International Protection Act, “irregular exit” by asylum applicants can result in fines and/or a prison sentence of up to one month (Section 16(3.a) and (5); IPA 2005).

**2.4 Asylum seekers.** Generally, only a very small number of asylum seekers are detained in Ireland,<sup>35</sup> although observers have struggled to obtain clear statistics on this issue.<sup>36</sup> Irish law provides a number of grounds for detaining asylum seekers and some observers have criticised reception conditions as being overly restrictive.

In 2018, Ireland adopted the European Communities (Reception Conditions) Regulations, transposing the recast Receptions Directive,<sup>37</sup> which—inter alia—requires that detained

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<sup>32</sup> Government of Ireland, “Immigration Act 1999 Section 3.1,” <http://www.irishstatutebook.ie/eli/1999/act/22/section/3/enacted/en/html#sec3>

<sup>33</sup> Government of Ireland, “Immigration Act 1999 Section 5.1,” <http://www.irishstatutebook.ie/eli/1999/act/22/section/5/enacted/en/html#sec5>.

<sup>34</sup> Irish Prison Service (IPS), “Annual Report,” 2017, [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/12631-IPS-annualreport-2016\\_Web.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12631-IPS-annualreport-2016_Web.pdf); Irish Prisons Service (IPS), “Annual Report 2017,” 2018, [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/IPS-annualreport-2017.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf); Irish Prisons Service (IPS), “Annual Report 2017,” 2018, <https://bit.ly/2TOsA90>

<sup>35</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>36</sup> See, for example, Global Detention Project (GDP) and Access Info Europe, “The Uncounted: The Detention of Migrants and Asylum Seekers in Europe,” 2015, <https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe>

<sup>37</sup> European Council on Refugees and Exiles (ECRE), “Ireland: New Reception Rules Following Opt-In To the EU Directive,” 13 July 2018, <https://www.ecre.org/ireland-new-reception-rules-following-opt-in-to-eu-directive/>; Irish

asylum seekers be confined in specialised detention facilities.<sup>38</sup> While the new regulations have not changed the basic elements of Ireland’s asylum system, the Irish Refugee Council reports that they “do provide for a number of legislative guarantees that did not previously exist in the Irish reception context, such vulnerability assessments; appeals related to reception conditions; provisions for withdrawal and restriction of reception conditions; and provisions on detention conditions. The extent to which these provisions are being effectively implemented as of early 2019 appears to be limited in the experience of Irish Refugee Council casework.”<sup>39</sup>

The 2015 International Protection Act (Section 20) provides that a member of the Garda Síochána or an immigration officer can detain an asylum seeker without a warrant if there is reasonable cause to suspect that the person: (1) poses a threat to national security or public order; (2) has committed a serious non-political crime; (3) has not made reasonable efforts to establish his or her identity; (4) intends to leave the state and enter another state without lawful authority; (5) has acted or intends to act in a way that would undermine the asylum system or arrangements related to the Common Travel Area (the United Kingdom, Channel Islands, Isle of Man, and Ireland); or, (6) without reasonable cause, has destroyed his or her identity or travel documents or has been or is in possession of a forged, altered, or substituted identity document.<sup>40</sup>

Irish law also provides for the detention of asylum seekers subject to a Dublin transfer. Pursuant to Regulation 10(4) of the 2018 European Union (Dublin System) Regulations, a foreign national subject to a transfer procedure can be detained for up to seven days if an immigration officer or member of Garda Síochána determines a significant risk of absconding.<sup>41</sup>

It is unclear if the Irish government is able to provide desegregated statistics specifying the numbers of asylum seekers placed in detention. In 2013, responding to a freedom of information request sent as part of a joint Global Detention Project–Access Info Europe study, a government Freedom of Information Officer wrote that “the Irish Prison Service does not keep statistics on the specific immigration or residency status of prisoners so it is unable to provide details of ‘the total number of asylum-seekers who were placed in detention.’”<sup>42</sup> More recently, in early 2019, an officer at the prison service told the GDP that he would send information providing a breakdown of statistics on people detained for immigration

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Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>38</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>39</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>40</sup> Government of Ireland, “International Protection Act 2015, Section 20,” <http://www.irishstatutebook.ie/eli/2015/act/66/section/20/enacted/en/html#sec20>

<sup>41</sup> Government of Ireland, “S.I. No. 62/2018 – European Union (Dublin System) Regulations 2018,” 2018, <http://www.irishstatutebook.ie/eli/2018/si/62/made/en/print>

<sup>42</sup> Aisling Brennan (Ireland Department of Justice and Equality), Letter to Lydia Medland (Access Info) Responding to Joint Access Info-Global Detention Project Questionnaire, 14 October 2013.

reasons.<sup>43</sup> At the time of this publication (in August 2019), the GDP had still not received this information.

According to the Office of the Refugee Applications Commissioner (ORAC),<sup>44</sup> “22 applications—1.5 percent of all applications—were received from persons in places of detention” in 2014.<sup>45</sup> ORAC reported that during 2015, of the 335 total immigration detainees, 35 expressed a desire to apply for asylum after being detained and 17 people were given asylum interviews while still in detention.<sup>46</sup>

The 2015 International Protection Act streamlined Ireland’s asylum system by creating a single application procedure for asylum seekers in an attempt to shorten waiting times and reduce time spent in the Direct Provision system.<sup>47</sup> While agencies such as UNHCR have lauded Ireland for not emphasising the detention of asylum seekers,<sup>48</sup> the Direct Provision system has been widely criticised. Under this system, newly arrived asylum seekers are placed in one of the country’s reception centres,<sup>49</sup> which have at times lacked sufficient space to accommodate new arrivals.<sup>50</sup>

The accommodation centres are managed by private contractors on behalf of Ireland’s Reception and Integration Agency.<sup>51</sup> When Ireland introduced the Direct Provision system in 2000, the idea was for asylum seekers to live in the centres on a short-term basis for no more than six months while their applications were being processed. In practice however,

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<sup>43</sup> Irish Prison Service (IPS), Phone call with Agnese Zucca (Global Detention Project), 9 May 2019.

<sup>44</sup> With the implementation of the International Protection Act 2015, ORAC was abolished and certain functions were transferred to the newly established International Protection Office within the Irish Naturalisation and Immigration Service, which is responsible for the assessment of applications. The former Refugee Appeals Tribunal was replaced by the International Protection Appeal Tribunal (IPAT), a statutorily independent body. See: ORAC, “Important Information Notice: Abolition of ORAC and Transfer of Certain Functions to New International Protection Office,” <http://www.orac.ie/website/orac/oracwebsite.nsf/page/index-en>; Department of Justice and Equality, “Irish Naturalisation and Immigration Service: Immigration in Ireland: Annual Review 2016,” [http://justice.ie/en/JELR/INIS\\_Immigration\\_in\\_Ireland\\_Annual\\_Review\\_2016.pdf/Files/INIS\\_Immigration\\_in\\_Ireland\\_Annual\\_Review\\_2016.pdf](http://justice.ie/en/JELR/INIS_Immigration_in_Ireland_Annual_Review_2016.pdf/Files/INIS_Immigration_in_Ireland_Annual_Review_2016.pdf)

<sup>45</sup> Office of the Refugee Applications Commissioner, “Annual Report - 2014,” 2015, [http://www.orac.ie/website/orac/oracwebsite.nsf/page/CRSE-9XQK2A15304722-en/\\$File/2014%20Annual%20Report.pdf](http://www.orac.ie/website/orac/oracwebsite.nsf/page/CRSE-9XQK2A15304722-en/$File/2014%20Annual%20Report.pdf)

<sup>46</sup> Office of the Refugee Applications Commissioner, “Annual Report - 2015,” 2016, <https://bit.ly/2dmWsbu>

<sup>47</sup> K. Holland, “Government Pledge on Asylum Reform Report Dropped,” *The Irish Times*, 14 May 2016, <http://www.irishtimes.com/news/social-affairs/government-pledge-on-asylum-reform-report-dropped-1.2647500>

<sup>48</sup> United Nations High Commissioner for Refugees (UNHCR), “Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review: Ireland,” March 2011, <http://bit.ly/2HNXnLT>

<sup>49</sup> L. Thornton, “Time to Legislate for Direct Provision System for Asylum Seekers,” *Irish Times*, 5 August 2013, <http://www.irishtimes.com/news/politics/oireachtas/time-to-legislate-for-direct-provision-system-for-asylum-seekers-1.1484416>; Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, “Final Report,” *Government of Ireland*, June 2015, <http://bit.ly/1GYBUL5>; Ó. Ryan, “Plan to Open a Direct Provision Centre in Leitrim Scrapped,” *The Journal.ie*, 21 March 2019, <https://www.thejournal.ie/direct-provision-centre-rooskey-4553521-Mar2019/>

<sup>50</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>51</sup> Children’s Rights Alliance, “Report Card 2016,” 6 February 2016, <http://www.childrensrights.ie/content/report-card-2016-1>

many asylum seekers find themselves staying in the centres for lengthier periods of time.<sup>52</sup> Some observers have argued that the situation of individuals in Direct Provision amounts to *de facto* detention, given that in practice asylum seekers are severely limited in their ability to leave the reception centres.<sup>53</sup> (For more on children in the Direct Provision system, see **2.5 Children**).

The treatment of asylum seekers also came under criticism because of low asylum recognition rates, which at one time were among the lowest in the EU.<sup>54</sup> In 2012, Ireland had a 1.5 percent acceptance at first instance and six percent on appeal. In 2014, the acceptance rate at first instance reached 12.5 percent.<sup>55</sup> By 2015, it had increased to 42 percent at first instance, compared to the EU average of 52 percent.<sup>56</sup> These rates continued to grow into 2018, according to Eurostat.<sup>57</sup>

The number of asylum applications in Ireland fell every year between 2004 and 2013, with 4,766 asylum applications in 2004 and only 946 in 2013.<sup>58</sup> However, the country asylum applications rose to 3,670 in 2018.<sup>59</sup>

**2.5 Children.** The detention of children is explicitly forbidden as per Section 20(6) of the 2015 International Protection Act; Section 5 (2b) of the 2003 Immigration Act; and Section 5(4a) of the 1999 Immigration Act. However, concerns have been raised on occasion about the possibility of minors being placed in detention because of deficiencies in the process of determining a person's age.<sup>60</sup>

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<sup>52</sup> Working Group to Report to Government on Improvements to the Protection Process, Including Direct Provision and Supports to Asylum Seekers, "Final Report," *Government of Ireland*, June 2015, <http://bit.ly/1GYBUL5>

<sup>53</sup> M. Rachel and E. Steinerte, "Ireland and the Optional Protocol to the UN Convention Against Torture," *Irish Human Rights and Equality Commission*, January 2017, <https://www.ihrec.ie/app/uploads/2017/09/Ireland-and-the-Optional-Protocol-to-the-UN-Convention-against-Torture.pdf>; Irish Refugee Council, "Country Report: Ireland," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>54</sup> See, for example, L. Thornton, "Ireland's Asylum & Direct Provision System Under the Spotlight in Northern Ireland High Court," *Human Rights in Ireland*, 14 August 2013, <http://rightsni.org/2013/08/ireland%E2%80%99s-asylum-direct-provision-system-under-the-spotlight-in-northern-ireland-high-court/>

<sup>55</sup> K. Foxe, "Seeking Asylum in Ireland," *RTÉ Ireland, (Investigations Unit)*, 20 October 2015, <http://www.rte.ie/iu/asylum/>

<sup>56</sup> Eurostat, "Asylum Decisions in the EU: EU Member States Granted Protection to More than 185,000 Asylum Seekers in 2014," *European Union*, 12 May 2015, <http://ec.europa.eu/eurostat/documents/2995521/6827382/3-12052015-AP-EN.pdf/6733f080-c072-4bf5-91fc-f591abf28176>

<sup>57</sup> Eurostat, "Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded)," *Asylum and Dublin Statistics*, 8 April 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)

<sup>58</sup> K. Foxe, "Seeking Asylum in Ireland," *RTÉ Ireland (Investigations Unit)*, 20 October 2015, <http://www.rte.ie/iu/asylum/>; Irish Refugee Council, "Statistics: Republic of Ireland," *Asylum Information Database (AIDA)*, <http://www.asylumineurope.org/reports/country/republic-ireland/statistics>

<sup>59</sup> Eurostat, "Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated Data (Rounded)," *Asylum and Dublin Statistics*, 8 April 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en)

<sup>60</sup> Irish Refugee Council, "Country Report: Ireland," *Asylum Information Database*, November 2015, <http://www.asylumineurope.org/reports/country/republic-ireland>

Under the 2015 International Protection Act, when it appears that an unaccompanied minor is applying for asylum, an immigration officer must notify the Child and Family Agency as soon as possible. Once the Child and Family Agency is notified, it will be presumed that the individual is a child and the relevant laws and regulations related to children will apply.<sup>61</sup>

With regard to the possible detention of children, it should be noted that while Section 20(6) of the 2015 International Protection Act forbids the detention of children, Section 20(7) stipulates that the detention provisions of the act will apply to “a person who has indicated that he or she has not attained the age of 18 years if and for so long as” two members of the Garda Síochána, two immigration officers, or one member of the Garda Síochána and one immigration officer reasonably believe that the individual is not a child. In addition, detention provisions will apply to such individuals when just one member of the Garda Síochána or one immigration officer reasonably believes the person to be over 18, and if an age assessment determines that the person is at least 18 or if the person refuses to undergo an age assessment examination.<sup>62</sup>

With regards to accompanied children, Irish law stipulates that if an accompanied child is in the custody of the parent or legal guardian and this person is detained, authorities shall immediately inform the Child and Family Agency (2003 Immigration Act, Section 5(2d); 1999 Immigration Act, Section 5(4c); International Protection Act, Section 20(8)).

According to ORAC, UNHCR facilitated additional training for a group of experienced interviewers, to better prepare them for cases involving unaccompanied minors. However, the Irish Refugee Council has found that in practice, when age assessments cannot establish the exact age of an individual, “young people are not generally given the benefit of the doubt. If someone seems over 18, even by a day, there is typically a decision to move the young person into adult accommodation.”<sup>63</sup> Specific concerns have also been raised in relation to the provisions of the International Protection Act 2015—namely, the possibility of child asylum seekers being detained in adult prisons.<sup>64</sup>

Migrant child asylum seekers, along with their families, can also be accommodated in the Direct Provision system.<sup>65</sup> While these accommodations do not constitute places of detention, the system has been criticised in relation to children. The Children’s Rights Alliance estimates that half of the children in asylum-seeking families in Ireland live in Direct Provision accommodation centres.<sup>66</sup> In its 2016 concluding observations on Ireland, the UN Committee on the Rights of the Child expressed concern “about reports that the majority of

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<sup>61</sup> Government of Ireland, “International Protection Act 2015, Section 14,” <http://www.irishstatutebook.ie/eli/2015/act/66/section/14/enacted/en/html>

<sup>62</sup> Government of Ireland, “International Protection Act 2015, Section 20,” <http://www.irishstatutebook.ie/eli/2015/act/66/section/20/enacted/en/html>

<sup>63</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database*, November 2015, <http://www.asylumineurope.org/reports/country/republic-ireland>

<sup>64</sup> F. Gartland, “New Asylum Laws Could See Under-18s in Adult Jails, Conference Told,” *The Irish Times*, 7 March 2016, <http://www.irishtimes.com/news/crime-and-law/new-asylum-laws-could-see-under-18s-in-adult-jails-conference-told-1.2563595>

<sup>65</sup> Irish Penal Reform Trust, “Children’s Rights Behind Bars, Human Rights of Children Deprived of Liberty: Improving Monitoring Mechanisms, National Report: Ireland,” August 2014, <http://www.iprt.ie/contents/2685>

<sup>66</sup> Children’s Rights Alliance, “Report Card 2016,” 6 February 2016, <http://www.childrensrightrights.ie/content/report-card-2016-1>



children in an asylum-seeking or refugee situation are accommodated in privately run centres that are not covered by national standards.”<sup>67</sup>

**2.6 Other vulnerable groups.** The Reception Conditions Regulations adopted in 2018 include a specific reference to vulnerable groups in detention. Section 19(9) stipulates that when a vulnerable applicant is held in detention, “the Minister shall ensure, taking into account the person’s particular situation, including his or her health, that: (a) the person is monitored regularly, and (b) he or she is provided with adequate support.”<sup>68</sup>

However, concerns regarding the identification of vulnerable individuals have been raised. In 2019, eight civil society organisations expressed alarm at the lack of vulnerability assessments for identifying special reception needs at the beginning of the asylum procedure, and highlighted this as a critical gap in the implementation of the Reception Conditions Directive.<sup>69</sup> According to Nasc, “It is essential to ensure that the specialised needs of vulnerable applicants such as victims of trafficking, those who have been subjected to rape, torture, or other serious forms of psychological physical or sexual abuse are identified at the earliest possible stage so that the requisite supports can be put in place. The absence of this assessment may risk further harm and ongoing distress to this vulnerable group.”<sup>70</sup>

**2.7 Length of detention.** There are differing provisions in Irish law regarding lengths of detention, depending on a person’s specific circumstances and whether they have applied for asylum.

Asylum seekers can be detained under orders of a District Judge for consecutive 21-day “committals,” until their application has been decided. There is no limit to the number of committals, which means asylum seekers can potentially be detained indefinitely.<sup>71</sup> In its 2017 concluding observations, the Committee against Torture (CAT) recommended that Ireland amend its legislation so as to stipulate that asylum applicants are detained for the shortest period possible and only as a last resort.<sup>72</sup>

Detention pending a Dublin transfer can last up to seven days (Regulation 10, European Union Dublin System Regulations). An amendment to the 1999 Immigration Act provided in

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<sup>67</sup> UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland, CRC/C/IRL/CO/3-4,” 29 January 2016, <http://www.refworld.org/docid/56c17f574.html>

<sup>68</sup> Government of Ireland, “European Communities (Reception Conditions) Regulations 2018, S.I. No. 230 of 2018,” 2018, [http://opac.oireachtas.ie/AWDData/Library3/JUQdoclaid060718\\_155358.pdf](http://opac.oireachtas.ie/AWDData/Library3/JUQdoclaid060718_155358.pdf)

<sup>69</sup> Irish Refugee Council, “Refugee Organisations Highlight Absence of Vulnerability Assessment in Irish Asylum Procedure,” 27 May 2019, <https://www.irishrefugeecouncil.ie/news/refugee-organisations-highlight-absence-of-vulnerability-assessment-in-irish-asylum-procedure/7094>

<sup>70</sup> Irish Refugee Council, “Refugee Organisations Highlight Absence of Vulnerability Assessment in Irish Asylum Procedure,” 27 May 2019, <https://www.irishrefugeecouncil.ie/news/refugee-organisations-highlight-absence-of-vulnerability-assessment-in-irish-asylum-procedure/7094>

<sup>71</sup> Irish Refugee Council, “Duration of Detention,” *Asylum Information Database*, <http://www.asylumineurope.org/reports/country/republic-ireland/detention-asylum-seekers/legal-framework-detention/duration> ; Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>72</sup> UN Committee against Torture (CAT), “Concluding Observations on the Second Periodic Report of Ireland,” CAT/C/IRL/CO/2,” 31 August 2017, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT/C/IRL/CO/2&Lang=En)

Section 78 of the 2015 International Protection Act provides that a non-citizen can be detained for up to 12 hours in a facility at a port of entry.

Pursuant to Section 5 of both the 2003 Immigration Act and the 1999 Immigration Act, unauthorised non-nationals can be detained for a period not exceeding 56 days (eight weeks). However, if they contest removal orders or appeal negative decisions, the period of time during which those legal processes are on-going are not counted as part of the eight-week detention limit.<sup>73</sup> While the eight-week maximum detention period is relatively short when compared to the majority of the EU countries and the EU Returns Directive (which permits detention for up to 18 months), under the EU Returns Directive, as interpreted by the Court of Justice of the European Union (CJEU) in the *Kadzoev case*, the period of time during appeal proceedings is to be taken into account in calculating the maximum permissible length of detention.

According to the Minister of Justice and Equality, between 2011 and 2012, 780 people were detained for immigration-related issues. Of these, 465 were detained for three days or less, 113 were detained for four to seven days, 68 were detained for eight to 14 days, 67 were detained for 15 to 30 days, 37 were detained for 31 to 50 days, and 30 were detained for 51 days or longer.<sup>74</sup>

**2.8 Procedural guarantees.** Immigration detainees can challenge the lawfulness of their detention through *habeas corpus* proceedings, pursuant to Article 40(4) of the Irish Constitution.<sup>75</sup> In addition, non-citizens detained under Section 5 of the 2003 Immigration Act or under Section 5 of the 1999 Immigration Act can challenge their proposed removal or deportation order—during such proceedings, the Court may also decide on the validity of detention (2003 Immigration Act, Section 5(4); 1999 Immigration Act, Section 5(7), as amended by Article 78 of the 2015 International Protection Act).<sup>76</sup> Automatic judicial review of detention orders exists for asylum seekers. Pursuant to Section 20 of the 2015 International Protection Act, the District Judge must review the decision as soon as possible. The judge must review (and renew) detention orders every 21 days.<sup>77</sup>

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<sup>73</sup> Government of Ireland, “Immigration Act 2003 Section 5.2,” <http://www.irishstatutebook.ie/eli/2003/act/26/section/5/enacted/en/html#sec5>

<sup>74</sup> Nasc, the Migrant and Refugee Rights Centre, “Parliamentary Question: Immigration Data (Length of Time in Detention),” 29 January 2014, <http://www.nascireland.org/parliamentary-questions/pq-immigration-data-length-time-detention/>

<sup>75</sup> Government of Ireland, “Constitution of Ireland – Bunreacht na hÉireann,” December 2018, <http://www.irishstatutebook.ie/pdf/en.cons.pdf>; Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland. Revisiting Irish Law, Policy and Practice,” 14 March 2018, <http://www.nascireland.org/feature-reports/immigration-detention-border-control-ireland/>; Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>76</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland. Revisiting Irish Law, Policy and Practice,” 14 March 2018, <http://www.nascireland.org/feature-reports/immigration-detention-border-control-ireland/>; Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>77</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

Irish law provides various guarantees for individuals detained for immigration purposes. These include considering the special needs of those who may have a physical or mental disability, the right of detainees to maintain contact with their family, and the fact that information regarding a detainee cannot be communicated to the consular authorities of the state from which the detainee claims to be fleeing without the detainee's express consent, in writing.<sup>78</sup>

The 2015 Immigration Act enshrines several safeguards in Section 20, such as the detainee's right to consult a legal representative and to be assisted by an interpreter for the purpose of the consultations; the detainee's entitlement to have the High Commissioner and another nominated individual notified about their detention (Section 20(14)); the detainee's right to be informed about the grounds of their detention, without delay, in a language they can understand; and the provision that the detainee has to be brought before a court, as soon as possible (Section 20(15)).<sup>79</sup>

Prison rules, which are to be applied to persons detained, including those under the various immigration acts, are also set out in Statutory Instrument No. 252 of 2007.<sup>80</sup> Section 16(1) determines that a "foreign national shall be provided with the means to contact a consul and, in addition, an asylum applicant shall be provided with the means to contact (a) the United Nations High Commissioner for Refugees or the Representative in Ireland of the High Commissioner, [...] and national or international authorities and organisations whose principal object is to serve the interests of refugees or stateless persons or to protect the civil and human rights of such persons." Section 16(2) further states that the detainee is to be informed about the entitlement to be visited by a legal adviser (Rule 38).

However, after the introduction of the International Protection Act in 2015, concerns were raised about its lack of provisions concerning procedural safeguards, which could prolong the asylum process as a result of lengthy appeals or result in people being wrongfully deported to countries where they may face persecution. The European Council on Refugees and Exiles noted that the procedure "lacks a mechanism to identify and assess the needs of vulnerable applicants," in addition to including harsher detention measures and more restrictive family reunification provisions.<sup>81</sup>

**2.9 Non-custodial measures ("alternatives to detention").** Irish law does not make explicit reference to "alternatives to detention."<sup>82</sup> However, there are provisions that concern application of non-custodial measures.<sup>83</sup> According to Section 20(3b) of the 2015

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<sup>78</sup> Irish Refugee Council, "Country Report: Ireland," *Asylum Information Database*, November 2015, <http://www.asylumineurope.org/reports/country/republic-ireland>

<sup>79</sup> Government of Ireland, "International Protection Act 2015, Section 20," <http://www.irishstatutebook.ie/eli/2015/act/66/section/20/enacted/en/html>

<sup>80</sup> Government of Ireland, "S.I. No. 252/2007 - Prison Rules, 2007, Section 16," <http://www.irishstatutebook.ie/eli/2007/si/252/made/en/print#article16>; Irish Refugee Council, "Legal Assistance for Review of Detention, Republic of Ireland," <http://www.asylumineurope.org/reports/country/republic-ireland/detention-asylum-seekers/procedural-safeguards/legal-assistance>

<sup>81</sup> European Council on Refugees and Exiles (ECRE), "Asylum Reforms in Ireland Will Fail Refugees," 8 January 2016, <http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/1333-asylum-reforms-in-ireland-will-fail-refugees-.html>

<sup>82</sup> Government of Ireland, "Immigration Act 2003 Section 5.2," <http://www.irishstatutebook.ie/eli/2003/act/26/section/5/enacted/en/html#sec5>

<sup>83</sup> Irish Refugee Council, "Alternatives to Detention," *Asylum Information Database*, <http://www.asylumineurope.org/reports/country/republic-ireland/detention-asylum-seekers/legal-framework->

International Protection Act and Section 14 of the 2004 Immigration Act, detainees can be released but requested to reside or remain in particular districts or locations in the state or to regularly report to an immigration officer or member of the Garda Síochána. Pursuant to Section 20(3) of the 2015 International Protection Act, a District Judge may conditionally release an applicant from detention, ordering one or more of the following: residence restriction, reporting obligations, or surrender of identity documents. If, subsequently, an applicant breaches the conditions of release, he or she can be placed in detention (Section 20(9) 2015 International Protection Act).

According to the Irish Refugee Service, these measures are seldom granted in practice.<sup>84</sup> An official within the Ministry for Justice and Equality stated in 2016 that “where possible, persons are served with a notice under Section 14 of the Immigration Act 2004 which provides for the issue of a written instruction setting out reporting and residence conditions to a non-national who does not have permission to be in the State. This is used in certain low risk cases as an alternative to detention prior to return.”<sup>85</sup>

**2.10 Detaining authorities and institutions.** Police (Garda Síochána) and immigration officers are legally authorised to arrest people suspected of immigration violations (Section 20(1) of the 2015 International Protection Act; Section 5(1) of the 1999 Immigration Act; and Section 5(2) of the 2003 Immigration Act). The Minister for Justice, Equality, and Law Reform can also authorise medical inspectors to detain and examine suspected non-citizens arriving at or leaving the country.<sup>86</sup>

**2.11 Regulation of detention conditions.** Immigration detention must be carried out in places prescribed for this purpose by specific legal instruments: 1999 Immigration Act (Deportation) Regulations 2005 (S.I. 55/2005); 2003 Immigration Act (Removal Places of Detention) Regulations 2005 (S.I. 56/2005); 2015 International Protection Act (Places of Detention) Regulations 2016 (S.I. 666/2016, as amended by the 2018 Reception Conditions Regulations).

For detainees held in prison facilities, the 2007 Prison Rules apply.<sup>87</sup> The rules stipulate, *inter alia*, that detainees have a right to inform their family and friends about their detention; they can take hot showers or baths; they can wear their own clothes in prison; they shall receive sufficient food; they are entitled to practice their religion; they can make at least one phone call a week; they can spend time outside of their cells; they are entitled to spend at

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[detention/alternatives](#) ; Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>84</sup> Government of Ireland, “International Protection Act 2015, Section 20 (3b),” <http://www.irishstatutebook.ie/eli/2015/act/66/section/20/enacted/en/html>; Government of Ireland, “Immigration Act 14, Section 14,” <http://www.irishstatutebook.ie/eli/2004/act/1/section/14/enacted/en/html#sec14>

<sup>85</sup> Minister for Justice and Equality (Deputy Frances Fitzgerald), “Dáil Answer to Question No 69, Addressed by Deputy Jonathan O’Brien,” 7 July 2016, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2016070700075>

<sup>86</sup> Government of Ireland, “Immigration Act 2004 Section 3.3,” <http://www.irishstatutebook.ie/eli/2004/act/1/section/3/enacted/en/html#sec3>

<sup>87</sup> Nasc, the Migrant and refugee Rights Centre, “Immigration Detention and Border Control in Ireland. Revisiting Irish Law, Policy and Practice,” 14 March 2018, <http://www.nascireland.org/feature-reports/immigration-detention-border-control-ireland/>

least one hour a exercising outdoors; and they can receive visits (Prison Rules 2007 S.I. 252/2007).

Specific rules on detention conditions for foreign citizens detained under Section 20 of the 2015 International Protection Act are spelled out in Section 19 of the 2018 European Communities (Reception Conditions) Regulations. This newly adopted instrument, transposing the Reception Condition Directive, stipulates that applicants must be detained separately from prisoners and, to the extent that it is possible, from other immigration detainees who are not asylum seekers (Section 19(1)). Detained applicants shall have access to outdoor areas (Section 19(3)), and be granted the right to communicate with their family, legal representatives, NGOs, and UNHCR representatives (Section 19(4)). Detainees should also be informed of the house rules of the facility and their rights and obligations in detention (Section 19(6)).

**2.12 Domestic monitoring.** There are both official and non-governmental institutions that scrutinise Ireland’s treatment of migrants and asylum seekers in detention. However, as of May 2019, Ireland had yet to implement a national preventive mechanism, as required by the Optional Protocol to the UN Convention against Torture (OPCAT), which Ireland signed in 2007.<sup>88</sup>

The Inspector of Prisons, a statutory independent office established under the 2007 Prisons Act, is responsible for monitoring the country’s prisons. Concerns have been raised over gaps in its monitoring<sup>89</sup> and the extent to which it has focused on the appropriateness of the conditions of confinement of people in immigration or asylum procedures is unclear.<sup>90</sup>

Among the civil society groups that have monitored Ireland’s immigration detention practices are the [Migrant and Refugee Rights Centre \(Nasc\)](#),<sup>91</sup> the [Irish Refugee Council](#),<sup>92</sup> the [Irish Penal Reform Trust](#),<sup>93</sup> and the [Immigrant Council of Ireland](#).<sup>94</sup>

**2.13 International monitoring.** Ireland’s immigration detention practices have been the focus of numerous reports and investigations by regional and international human rights mechanisms, particularly its use of prisons for immigration and asylum procedures.

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<sup>88</sup> Association for the Prevention of Torture, “Global Status of Ratifications, Signatures and NPM Designations Optional Protocol to the UN Convention against Torture,” 2019, <https://apt.ch/en/global-status/>

<sup>89</sup> UN Committee against Torture (CAT), “Concluding Observations on the Second Periodic Report of Ireland, CAT /C/IRL/CO/2,” 31 August 2017, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En)

<sup>90</sup> Office of the Inspector of Prisons, “Homepage,” <http://www.inspectorofprisons.gov.ie/en/IOP/Pages/home>

<sup>91</sup> See, for example, Migrant and Refugee Rights Centre (Nasc), “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>92</sup> See, for example, Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>93</sup> Irish Penal Reform Trust, “Immigration Detention,” <http://www.iprt.ie/immigration-detention>; M. Kelly, “Immigration Related Detention in Ireland: A Report for the Irish Refugee Council, Irish Penal Reform Trust and Immigrant Council of Ireland,” November 2005, [http://www.iprt.ie/files/immigrationrelated\\_detention\\_report.pdf](http://www.iprt.ie/files/immigrationrelated_detention_report.pdf)

<sup>94</sup> Immigrant Council of Ireland, “Homepage,” <https://www.immigrantcouncil.ie/>; M. Kelly, “Immigration Related Detention in Ireland: A Report for the Irish Refugee Council, Irish Penal Reform Trust and Immigrant Council of Ireland,” November 2005, [http://www.iprt.ie/files/immigrationrelated\\_detention\\_report.pdf](http://www.iprt.ie/files/immigrationrelated_detention_report.pdf)

Ireland is a member state of the Council of Europe and has ratified the European Convention on the Prevention of Torture. Consequently, it receives periodic visits from the European Committee for the Prevention of Torture (CPT), which has systematically criticised Ireland for its use of prisons and urged it to establish specialised detention centres, including after its visit in September 2014, when it admonished the country: “A prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence.”<sup>95</sup> The CPT has a planned visit to Ireland in 2019.<sup>96</sup>

Ireland is also party to the [Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment](#) (CAT) and has signed the Optional Protocol (OPCAT). Like the CPT, the Committee on the Prevention of Torture, which reviews states’ implementation of the CAT, has repeatedly raised concerns about Ireland’s use of prisons for immigration purposes.<sup>97</sup> As of May 2019, Ireland had not ratified the OPCAT, which has impeded the UN Subcommittee on the Prevention of Torture (SPT) from monitoring its places of detention. Nor has it established a National Preventive Mechanism, as mandated in the OPCAT.<sup>98</sup>

**2.14 Trends and statistics.** According to the Irish Prison Service, Ireland detained 406 individual non-citizens in 2018 (compared to 414 overall committals, implying that some people were detained twice), 396 persons in 2017, 408 in 2016, 335 in 2015, 390 in 2014, 374 in 2013, 385 in 2012, 395 in 2011, and 459 in 2010.<sup>99</sup>

The average daily number of detainees held in immigration detention was 11 in 2018,<sup>100</sup> eight in 2017,<sup>101</sup> five in 2016,<sup>102</sup> and four in 2015.<sup>103</sup>

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<sup>95</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 26 September 2014,” *Council of Europe*, 17 November 2015, <https://rm.coe.int/1680696c9a>

<sup>96</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “The CPT and Ireland,” <https://www.coe.int/en/web/cpt/ireland>

<sup>97</sup> UN Committee against Torture (CAT), “Concluding Observations on the Second Periodic Report of Ireland, CAT/C/IRL/CO/2,” 31 August 2017, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT/C/IRL/CO/2&Lang=En)

<sup>98</sup> United Nations Human Rights Office of the High Commissioner (OHCHR), “Reporting Status for Ireland,” [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=IRL&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=IRL&Lang=EN)

<sup>99</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>; Irish Prisons Service (IPS), “Annual Report 2017,” 2018, [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/IPS-annualreport-2017.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf); Irish Prisons Service (IPS), “Annual Report 2018,” 2019, [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Annual-Report-2018.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf)

<sup>100</sup> Irish Prison Service (IPS), “Annual Report 2018,” 2019, [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Annual-Report-2018.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf)

<sup>101</sup> Irish Prisons Service (IPS), “Annual Report 2017,” 2018, [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/IPS-annualreport-2017.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf)

<sup>102</sup> Irish Prisons Service (IPS), “Annual Report 2016,” 2017, [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/12631-IPS-annualreport-2016\\_Web.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12631-IPS-annualreport-2016_Web.pdf)

<sup>103</sup> Irish Prisons Service (IPS), “Annual Report 2015,” 2016, [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/12232-Irish-Prison-Service-AnnualReport2015-v7-2.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12232-Irish-Prison-Service-AnnualReport2015-v7-2.pdf)

In 2014, most detainees came from Albania (71), China (62), Nigeria (28), and Pakistan (27).<sup>104</sup> Similarly, the top nationalities of detainees, between 2012 and 2017, were Albanians (280); Chinese (212); Brazilians (173); Pakistanis (157), and Nigerians (126).<sup>105</sup>

Statistics regarding committals to Garda stations are not publicly available. According to information gathered by the GDP, these figures could only be obtained by submitting a parliamentary question or by formulating a request based on the Freedom of Information Act.<sup>106</sup>

1,385 non-citizens were ordered to leave Ireland in 2018; 1,105 in 2017; 1,355 in 2016, and 875 in 2015.<sup>107</sup> 365 persons were returned following an order to leave in 2018; 315 in 2017; 585 in 2016; and 365 in 2015.<sup>108</sup>

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<sup>104</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>105</sup> F. Maresa, “New Figures Prompt Calls for Greater Transparency on Immigration Enforcement in Republic of Ireland,” *The Detail*, 12 February 2018, <https://www.thedetail.tv/articles/republic-of-ireland-s-record-on-immigration-enforcement-prompts-calls-for-greater-transparency>; Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>106</sup> Nick Henderson (Irish Refugee Council), Email exchange with Michael Flynn (Global Detention Project), 14 June 2019.

<sup>107</sup> Eurostat, “Third-Country Nationals Ordered to Leave – Annual Data,” *Enforcement of immigration legislation*, 17 April 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eiord&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eiord&lang=en)

<sup>108</sup> Eurostat, “Third-Country Nationals Returned Following an Order to Leave – Annual Data” *Enforcement of immigration legislation*, 17 April 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eirtn&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirtn&lang=en)



## 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** Unlike its EU neighbours, Ireland does not have dedicated immigration detention centres. Rather, non-citizens subject to administrative detention can be confined briefly at police stations before being transferred to a select group of criminal prisons, which are operated by the Irish Prison Service (IPS). Importantly, because Ireland is not a state party to the EU Returns Directive, the practice of using penitentiaries for immigration purposes does not face the same legal challenges that it faces in other EU countries. The directive, which stipulates the use of separate facilities for this purpose, has led to rulings by the Court of Justice of the European Union (CJEU) against this practice, most notably in [Germany](#).<sup>109</sup>

**3.2 Detention facilities.** Places of detention are determined by Irish law and can vary depending on the ground for detention. In total, nine prisons are authorised for immigration detention, together with every Garda station in the country.

For those detained under the 1999 Immigration Act, the 1999 Immigration Act 1999 (Deportation) Regulations of 2005 apply. For those detained under the 2003 Immigration Act, the 2003 Immigration Act (Removal Places of Detention) Regulations of 2005 apply. Both regulations list the same facilities that individuals can be held in: Every Garda Síochána station and [Castlerea Prison](#); [Cloverhill Prison](#); [Cork Prison](#); [Limerick Prison](#); the [Midlands Prison](#); [Mountjoy Prison](#); [Saint Patrick's Institution](#) (Dublin, closed in 2017); the [Training Unit](#) (Glengarriff Parade, Dublin); and [Wheatfield Prison](#) (Dublin).

For those detained under the 2015 International Protection Act, the 2015 International Protection Act (Places of Detention) Regulations, as amended by the 2018 Reception Conditions Regulations, apply. Applicants may be detained in the following facilities: Every Garda Síochána station and Cloverhill Prison (2018 Reception Conditions Regulations, Section 31).

Although nine prisons are listed, according to the Irish Department of Justice and Equality, by 2013 only seven prisons were in use for immigration-related reasons: Castlerea Prison, Cloverhill Prison, Cork Prison, Limerick Prison, Mountjoy Prison, Dochas (Mountjoy Women's Prison), and Wheatfield Prison.<sup>110</sup> At one time, Ireland also reportedly used the [Arbour Hill](#) prison in Dublin to hold non-citizens for immigration reasons, despite the fact that it was not designated in the 2003 Immigration Act for this purpose.<sup>111</sup>

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<sup>109</sup> See the 2014 CJEU judgement in: "Bero and Bouzalmate," 17 July 2014, <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-473/13>

<sup>110</sup> Aisling Brennan (Ireland Department of Justice and Equality), Letter to Lydia Medland (Access Info) Responding to Joint Access Info-Global Detention Project Questionnaire, 14 October 2013.

<sup>111</sup> Irish Prison Service (IPS), "Irish Prison Service Annual Report 2007," 18 December 2008, [www.irishprisons.ie/documents/IPS\\_AR\\_2007.pdf](http://www.irishprisons.ie/documents/IPS_AR_2007.pdf)



The prisons traditionally used for immigration purposes have been Cloverhill Prison (for men) and the Dóchas Centre at Mountjoy Prison (for women).<sup>112</sup> In 2014, 273 non-citizens were held in Cloverhill and 76 in Dóchas. However, as stated above, the prescribed places of detention for applicants detained under the 2015 International Protection Act (amended with the adoption of the 2018 Reception Conditions Regulations) include just Cloverhill Prison (and Garda Stations). According to the Irish Refugee Council, it is unclear where women are supposed to be held since these changes have been introduced.<sup>113</sup> Various observers, however, informed the GDP that the Dóchas remains the main facility for woman detainees

**3.2a Dublin Airport.** Individuals refused entry may be detained in Dublin Airport until the next available flight. According to Nasc, this is not a designated place of detention and those placed there do not have access to legal safeguards and basic entitlements, such as access to a lawyer, medical assistance, or substantial review of decision. Nasc also observed that at times people are not placed on the next available flight and thus spend several hours at the airport.<sup>114</sup>

**3.3 Conditions and regimes in detention centres.** Observers have long criticised Ireland’s practice of confining immigration detainees in prisons, as well as the conditions of detention for asylum seekers and migrants in these facilities. Discussing this practice, Nasc states that “international best practice ... dictates that immigration detainees should not be housed with the main prison population, as they have not been suspected nor convicted of a crime.”<sup>115</sup>

Research undertaken by the Irish Refugee Council, the Immigrant Council of Ireland, and the Irish Penal Reform Trust has found that accommodation in prisons with people suspected of and/or sentenced for having committed criminal offences can be extremely traumatic for immigration detainees. They reported that immigration detainees in Ireland are a “particularly disadvantaged group—away from the public eye they may not have access to services which have been made available for immigrants, they may not be made aware of their rights and entitlements or may not be able to exercise them because of language and/or literacy difficulties.”<sup>116</sup> The report further highlighted problems experienced due to cultural difference, compounded by a lack of access to legal aid.<sup>117</sup>

Perhaps most notable have been the repeated calls by CPT to end this practice, as well as by the UN Human Rights Committee (HRC), which in 2008 urged Ireland “to take immediate and effective measures to ensure that all persons detained for immigration related reasons

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<sup>112</sup> T. O’Riordan, “Ireland of the Exclusionary Welcomes: Uncovering Immigration-Related Detention,” *Irish Quarterly Review*, 96 (381), March 2007, [http://www.jstor.org/stable/27896430?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/27896430?seq=1#page_scan_tab_contents)

<sup>113</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>114</sup> Nasc, the Migrant and Refugee Rights Centre, “Immigration Detention and Border Control in Ireland: Revisiting Irish Law, Policy and Practice,” 2018, <http://www.nascireland.org/wp-content/uploads/2018/03/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf>

<sup>115</sup> Fiona Finn (Nasc), Email correspondence with Global Detention Project (GDP), 1 July 2016.

<sup>116</sup> M. Kelly, “Immigration-Related Detention in Ireland: Research Report for the Irish Refugee Council,” *Irish Penal Reform Trust and Immigrant Council of Ireland*, November 2005, <http://idc.rfbf.com.au/wp-content/uploads/2009/06/irc-detention-report-2005.pdf>

<sup>117</sup> M. Kelly, “Immigration-Related Detention in Ireland: Research Report for the Irish Refugee Council,” *Irish Penal Reform Trust and Immigrant Council of Ireland*, November 2005, <http://idc.rfbf.com.au/wp-content/uploads/2009/06/irc-detention-report-2005.pdf>

are held in facilities specifically designed for this purpose.”<sup>118</sup> In 2014, HRC also highlighted several deficiencies in the prisons system, including with respect to immigration detainees. It stated: “the Committee is concerned at the lack of progress in eliminating adverse conditions in a number of prisons in the State party, such as ... lack of segregation of remand and convicted prisoners, and between detained immigrants and sentenced prisoners.”<sup>119</sup>

In its 2015 report to the government of Ireland, the CPT stated that “a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence. In those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centres specifically designed for that purpose.” However, because immigration detainees continue to be held in prisons, the CPT noted that “all appropriate steps should be taken to ensure that their exposure to remand and sentenced prisoners is limited, that they are offered as much time out of cell as possible and that they are afforded open visits.” Although the CPT recognised that considerable steps had been taken by the government to improve the prison system, it also expressed concern about the inability of prison managers and officers to properly care for immigration detainees. The CPT urged the Irish government to continue pursuing the establishment of a detention centre designed specifically for immigration detainees.<sup>120</sup> In 2017, the CAT also expressed concerns regarding the absence of a dedicated facility for immigration-related detention. The committee further stressed that the Irish government must guarantee the segregation of immigration detainees from other prisoners.<sup>121</sup>

In its response to the 2015 report of the CPT, the Irish government noted that “detention is used sparingly in relation to immigration related matters” and that in certain low risk cases, reporting and residence conditions are used as an alternative to detention. It also stated that immigration detainees are “in general kept apart from convicted persons while in detention.”<sup>122</sup>

The government also reported that plans for a dedicated immigration detention facility at Dublin Airport were progressing, with the facility originally intended to be ready by 2016. The opening, however, has been repeatedly delayed. During parliamentary questioning in July 2016, an official at the Ministry for Justice and Equality stated that “plans are being progressed for the provision of a dedicated immigration detention facility at Dublin Airport. ... This redevelopment will be completed as soon as possible within the next 12 months and

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<sup>118</sup> UN Human Rights Committee (HRC), “Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee – Ireland,” <http://www.refworld.org/publisher,HRC,CONCOBSERVATIONS,IRL,48c4ff452,0.html>

<sup>119</sup> UN Human Rights Committee (HRC), “Concluding Observations on the Fourth Periodic Report of Ireland CCPR/C/IRL/CO/4,” 19 August 2014, <http://bit.ly/1P3CIPE>

<sup>120</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 26 September 2014,” 17 November 2015, <https://rm.coe.int/1680696c9a>

<sup>121</sup> UN Committee against Torture (CAT), “Concluding Observations on the Second Periodic Report of Ireland, CAT/C/IRL/CO/2,” 31 August 2017, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En)

<sup>122</sup> Government of Ireland, “Response of the Government of Ireland to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its Visit to Ireland from 16 to 26 September 2014,” 17 November 2015, <http://www.refworld.org/docid/5666fc34.html>

will replace the existing Garda Station at the airport, provide office accommodation for Gardaí and civilians as well as providing a modern detention facility.”<sup>123</sup>

This Dublin airport facility, however, has never materialised, and in mid-2017 the Ministry of Justice stated that the construction of a dedicated immigration detention centre was supposed to start in September 2017 and to be completed ten months later in July 2018.<sup>124</sup> During parliamentary questioning in October 2017, authorities clarified that construction was still pending. The Minister of Justice and Equality confirmed that the commencement of the project’s development phase was due during the fourth quarter of 2017.<sup>125</sup> In June 2018, however, in response to a parliamentary question, the Minister for Justice and Equality stated that works began in May 2018 and were expected to be completed by December of the same year.<sup>126</sup> However, as of early 2019 the Dublin Airport facility had not yet opened.<sup>127</sup> According to a June 2019 newspaper article of the Irish Examiner, based on information provided by Garda authorities, the dedicated facility of Dublin Airport was to open later in 2019. The report also indicated that the detention centre will be located in the Transaer House building, which will also host a new Garda station. The detention facility will be composed of two detention rooms.<sup>128</sup>

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<sup>123</sup> Minister for Justice and Equality (Deputy Frances Fitzgerald), “Dáil Answer to Question No 69, Addressed by Deputy Jonathan O’Brien,” 7 July 2016, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2016070700075>

<sup>124</sup> The Irish Times, “Work on Dublin Airport Immigration Detention Centre to begin,” *The Irish Times*, 28 July 2017, <https://www.irishtimes.com/news/politics/work-on-dublin-airport-immigration-detention-centre-to-begin-1.3169079>

<sup>125</sup> Department of Justice and Equality, “Parliamentary Questions,” 19 October 2017, <http://www.justice.ie/en/JELR/Pages/PQ-19-10-2017-134>

<sup>126</sup> Minister for Justice and Equality, “Response to Parliamentary Question 545, Detention Centres Provision – Dáil Éireann Debate,” 12 June 2018, <https://www.oireachtas.ie/en/debates/question/2018-06-12/545/#pq-answers-545>

<sup>127</sup> Irish Refugee Council, “Country Report: Ireland,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, February 2019, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf)

<sup>128</sup> A. Bracken, “Brand New €3.6m Garda Station Lying Idle At Dublin Airport Amid Row,” *Extra.ie*, 17 June 2019, <https://extra.ie/2019/06/17/news/irish-news/garda-station-dublin-airport-row>; C. O’Keefe, “Dedicated Immigration Facility Due to Open at Dublin Airport,” *Irish Examiner*, 12 June 2019, <https://www.irishexaminer.com/breakingnews/ireland/dedicated-immigration-facility-due-to-open-at-dublin-airport-930395.html>



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