

Submission on the Draft State Report on the United Nations Convention
on the Rights of Persons with Disabilities

Asylum Seekers with Disabilities in Direct Provision

Irish Centre for Human Rights (ICHR)

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Introduction

The Irish Centre for Human Rights (ICHR) welcomes the opportunity to submit feedback on the Irish Government's 'Draft Initial Report under the Convention on the Rights of Persons with Disabilities'. It is very regrettable that nowhere in the 'Draft Initial Report under the Convention on the Rights of Persons with Disabilities' is there any mention of asylum seekers with disabilities in Direct Provision. This particular group of disabled people are one of the most marginalised and potentially most vulnerable population groups of disabled persons in Ireland who require specific and targeted attention in the State Report.

Direct Provision as a system contravenes the object and purpose of the Convention on the Rights of Persons with Disabilities (CRPD).¹ Article 1 of the Convention states that its purpose is "to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity".² The system of Direct Provision has long been argued to violate the human rights of asylum seekers and is unsuitable as an institutionalised setting to accommodate children and adults with disabilities seeking international protection in Ireland.

The human rights and fundamental freedoms of asylum seekers with disabilities are restricted by barriers and difficult living conditions in Direct Provision often endured for several years. Specific obstacles to the realisation of equal human rights and dignity include buildings that are not purpose built or accessible to house asylum seekers with disabilities, and an institutional lack of awareness of asylum seekers with disabilities needs especially in relation to less visible or invisible disabilities. In addition, the protracted lengths of time that people seeking international protection spend living in Direct Provision has long been argued to potentially cause or exacerbate existing psychosocial disabilities, and contributes to a failure to respect, protect and fulfil the rights of asylum seekers with disabilities.

This report will focus on the rights of child and adult asylum seekers with disabilities who are living in the Direct Provision system in relation to the CRPD. To begin the report will discuss the situation regarding disabled asylum seekers and the vulnerability assessment tool. Please [see here](#) for the February 2021 Centre for Disability Law and Policy (CDLP) & ICHR joint submission³ to the Government on the situation of disability in Direct Provision, and the call for a 'disability lens' to be applied to the development of the vulnerability assessment tool, as required under S.I. No 230/2018 European Communities (Reception Conditions) Regulations. Following this, the report will set out specific questions linked to

¹ United Nations, Convention on the Rights of Persons with Disabilities, (2007).

² United Nations, Convention on the Rights of Persons with Disabilities, (2007), 4, Para 1.

³ Barry, K. The Vulnerability Assessment Tool and Disability in Direct Provision: Submission to Minister O'Gorman and Minister Rabbitte, (2021), Irish Centre for Human Rights. Available at: https://drive.google.com/file/d/1lagYsmccTuvrzWHn3_9owEghUQR2RCsL/view

relevant provisions of the CRPD, concerning asylum seekers with disabilities living in Direct Provision.

Questions Regarding the Vulnerability Assessment Tool and Disability in Direct Provision

1. When will information be published on the processes to be followed in applying the vulnerability assessment tool, and its application to asylum seekers within disabilities living in Direct Provision?
2. By what date will the vulnerability assessment be available to asylum seekers with disabilities in all Direct Provision centres and Emergency Accommodation?
3. Will access to the vulnerability assessment tool be available retroactively to those already living in Direct Provision so that appropriate disability related accommodations can be made as a matter of urgency, as required by the State's obligations under the CRPD and the 2018 Regulations?
4. Please provide specific details on how the Health Service Executive (HSE) are involved in supporting the vulnerability assessment tool process?
5. The 'White Paper to End Direct Provision and to Establish a New International Protection Support Service' (2021)⁴ (hereinafter referred to as the "White Paper") states that the International Protection Office (IPO) will undertake the initial vulnerability assessment in parallel with the International Protection application process at the IPO.⁵ Please clarify which IPO staff will be responsible for undertaking the vulnerability assessments?
6. What disability specific training has been given to these IPO staff on asylum, disability and vulnerability assessments, particularly to ensure training is given to be aware of the specific and additional barriers faced by asylum seekers in regards to disclosing disability, and the specific barriers that may arise in identifying less visible and invisible disabilities in the initial reception stage? For more information about these particular barriers please see [here](#).
7. Are trauma informed processes incorporated into the general vulnerability assessment undertaken in the initial reception interview by IPO staff?
8. In the 'White Paper' it states that once a person is placed in one of the Emergency Reception Centres, an assigned caseworker is solely responsible for linking the individual with specialised supports, and for referral for further vulnerability assessments as decided if needed by the case worker.⁶ What training is given to case workers on vulnerability assessments and particularly the barriers faced by disabled asylum seekers in relation to disability and vulnerability?

⁴ Government of Ireland 'A White Paper to End Direct Provision and to Establish a New International Protection Support Service', Department of Children, Equality, Disability, Integration and Youth, (2021). Available at: <https://www.gov.ie/en/publication/7aad0-minister-ogorman-publishes-the-white-paper-on-ending-direct-provision/>

⁵ Ibid, 31.

⁶ Ibid.

9. What training on applying a 'disability lens' to the vulnerability assessment process is given to the caseworkers especially in relation to the identification of less visible and invisible disabilities, as well as dealing with people in a trauma informed manner when discussing and assessing if additional vulnerability assessments are necessary?
10. Is there a monitoring system in place for the caseworker approach?
11. Is there an appeals process regarding decisions on vulnerability assessments?
12. Can an asylum seekers request an alternative caseworker, or a caseworker of the same gender?
13. Can disabled asylum seekers ask for their vulnerability assessment to be undertaken by an independent professional expert in the area of disability?
14. In the 'White Paper'⁷ it is stated that the caseworker can request an additional vulnerability assessment, if needed, after the initial assessment is completed. What training has been provided to the caseworkers to assess this need?
15. Will asylum seekers living in more remote settings have the same opportunity to be assessed and referred for further vulnerability assessments by caseworkers as those living in urban areas?
16. Are there experts in the needs of children with disabilities seeking asylum involved in the processes of vulnerability assessments?
17. Are there experts in the wide varieties and diverse spectrum of disabilities involved in relation to best practice in the vulnerability assessment process?

The Convention on the Rights of Persons with Disabilities and Disability in Direct Provision

Article 1: Purpose

- The 'White Paper to End Direct Provision and to Establish a New International Protection Support Service'⁸ (2021) sets out a plan to end Direct Provision by 2024. By what date will the specific process of moving asylum seekers with disabilities out of Direct Provision into the community begin?
- By what date, and by what specific processes, does the Government intend to prioritise those with psychosocial disabilities, invisible disabilities, or multiple disabilities to be moved out of the institution of Direct Provision to independent community accommodation?

⁷ Government of Ireland 'A White Paper to End Direct Provision and to Establish a New International Protection Support Service', Department of Children, Equality, Disability, Integration and Youth, (2021). Available at: <https://www.gov.ie/en/publication/7aad0-minister-ogorman-publishes-the-white-paper-on-ending-direct-provision/>

⁸ Ibid.

Article 2: Definitions

- What access is available to child and adult asylum seekers with disabilities living in Direct Provision to languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology?
- How does an asylum seeker with a disability (including less visible or invisible disability(ies)) access supports and reasonable accommodations in Direct Provision?
- What access is available for persons with disabilities in Direct Provision to supports and interpreters in regards to diverse 'languages' including spoken and signed languages and other forms of non-spoken language?
- How do disabled asylum seekers living in Direct Provision access appropriate assistive devices and related services when this is needed?

Article 3: General Principles

- How is discrimination, including disability discrimination, identified in the system of Direct Provision?
- What measures have been taken to eliminate discrimination on the basis of disability by any person, organisation or private enterprise involved in the Direct Provision system?
- What is the complaints process for disability discrimination in Direct Provision?
- What information is available to asylum seekers with disabilities in relation to disability discrimination in Direct Provision and available remedies?
- In relation to 'accessibility' of the Direct Provision system, has there been an accessibility audit of all Direct Provision and Emergency Accommodation used to house asylum seekers with disabilities? If yes, please provide details of this audit, including publication details.
- What administrative measures have been taken in the Irish International Protection system to implement and mainstream the rights of persons with disabilities living in Direct Provision?
- What measures have been adopted to provide accessible information to asylum seekers with disabilities regarding mobility aids, devices and assistive technologies including new technologies, software applications and other forms of assistance and support services?
- What measures are in place to provide ongoing training to all staff of the Irish International Protection system in regards to the CRPD and the particular needs of asylum seekers with disabilities living in Direct Provision.

Article 4 General Obligations

- What measures are in place to provide accessible information to persons with disabilities regarding mobility aids, devices, and assistive technologies including new technologies.
- How has the State consulted with disabled asylum seekers living in Direct Provision in relation to the 'White Paper' and how does the Government plan to consult with asylum seekers with disabilities on an ongoing basis in the future?

Article 5: Equality and Non-Discrimination

- How does the State guarantee asylum seekers with disabilities living in Direct Provision effective legal protection against discrimination on all grounds, on an equal basis with others?
- What measures are in place to ensure that asylum seekers with disabilities in Direct Provision are aware of the CRPD and the concept of 'reasonable accommodation'? What processes are in place to ensure reasonable accommodations are provided to asylum seekers with invisible, less visible, visible and/or multiple disabilities?
- What measures are in place to promote equality and eliminate discrimination in the Direct Provision system?
- What measures are in place to ensure antidiscrimination encompasses all forms of discrimination on the basis of impairment, including the denial of reasonable accommodations, and discrimination by association with persons with disabilities, perceived disabilities, past and future disabilities, as well as multiple intersectional discrimination?
- How are statistics collected in relation to complaints regarding disability discrimination in the Direct Provision system?

Article 6: Women with Disabilities

- Women and girls with disabilities living in Direct Provision are potentially subject to multiple discriminations. What measures are being taken to ensure gender and disability perspectives are included in all Irish International protection processes to address the particular risks of discrimination for women and girls with disabilities living in Direct Provision?
- What measures are taken by the government to ensure the full development, advancement and empowerment of women and girls with disabilities living in Direct Provision, for the purpose of guaranteeing them the exercise and enjoyment of their human rights and fundamental freedoms as are set out in the CRPD?

Article 7: Children with Disabilities

- How does the government apply the ‘best interest of the child’ in relation to all children⁹, including children with disabilities being accommodated in the Direct Provision system?
- Will children and their families, including children with disabilities, be prioritised first to be moved out of the Direct Provision system under the ‘White Paper’ plan?
- What measures are in place to ensure children with disabilities living in Direct Provision can freely express their views on all matters that affect them, and that their views are considered in decision making processes by the government?

Article 8: Awareness Raising

- What measures are taken by the government to combat stereotypes, prejudices, and harmful practices including bullying and hate crimes relating to persons with disabilities living in Direct Provision, including those based on sex and age, and all other areas of life?
- What awareness raising and training programmes are in place in the Irish International Protection system regarding disability human rights and dignity of persons with disabilities as set out in the CRPD?

Article 9: Accessibility

- Have disability accessibility audits been undertaken of all environments used to accommodate asylum seekers in Direct Provision centres and Emergency Accommodation centres?
- Are there any requirements for private operators of Direct Provision centres to provide details about specifics relating to accessibility in the centres used as Direct Provision, and are there any sanctions for non-compliance relating to a lack of disability access in Direct Provision building environments?
- Are the plans set out in the ‘White Paper’ for new buildings such as Emergency Reception centres and other forms of accommodations going to be contracted to be built to universal design standards?

⁹ For more information see: Arnold S, K. State Sanctioned Child Poverty and Exclusion: The Case of Children in State Accommodation for asylum Seekers. (2012), Irish Refugee Council. Available at: <http://www.ypar.ie/wp-content/uploads/2011/10/RCI-State-sanctioned-child-poverty-and-exclusion.pdf> [last accessed 8.4.21]

Also see: Dunbar R, Burke L, Reid M, Crivits S, Wren S, Shilova A. Direct Provision’s Impact on Children: A Human Rights Analysis. A submission to the Minister for Children, Disability, Equality, Integration and Youth. (2020) Irish Centre for Human Rights.

Available at: http://www.nuigalway.ie/media/irishcentreforhumanrights/files/reports/Direct-Provision-Report_-ICHR_Final-23.09.pdf [last accessed 8.4.21]

- What measures are in place to ensure accessible signage in Braille and easy to read formats forms and information are available for asylum seekers with disabilities in Direct Provision?
- What measures are in place to ensure that asylum seekers with disabilities have consistent access to disabled accessible transport?
- What measures are in place in the Irish Protection system to provide assistance and intermediates including guides, readers or qualified sign language interpreters in all stages of the asylum application process (including the vulnerability assessment by the IPO)?

Article 13: Access to Justice

- What measures are in place to provide accessible formats of information to asylum seekers with disabilities in regards to legal processes, disability and human rights, access to legal supports and any additional services available?
- How does the State ensure effective access to justice for asylum seekers with disabilities living in Direct Provision, on an equal basis with others persons with disabilities living outside of the Direct Provision system in Ireland?
- What measures are in place to ensure the full and unrestricted access to justice during all stages of legal proceedings for asylum seekers with disabilities from onset to the completion of their international protection applications?
- What measures are available to ensure disability accommodations are in place for asylum seekers with disabilities that may be necessary to ensure their equal access to justice during their applications for international protection in Ireland?
- What training related to asylum and disability is given to staff working across all areas of the International Protection system and also including immigration, IPO, legal, Garda Síochána and Irish prison staff?

Article 15: Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

- Direct Provision as an institutional setting used to accommodate asylum seekers for protracted periods of time is argued to constitute cruel, inhuman and degrading treatment of all asylum seekers, including children and adult asylum seekers with disabilities. Article 15 of the CRPD stipulates that “States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment”.¹⁰ What measures does the government take to ensure asylum seekers with disabilities have appropriate living

¹⁰ United Nations, Convention on the Rights of Persons with Disabilities, (2007), 12, para 2.

conditions, accessibility and reasonable accommodations to prevent cruel, inhumane or degrading treatment?

Article 16: Freedom from Exploitation, Violence and Abuse

- What measures are taken to protect asylum seekers with disabilities in Direct Provision from all forms of exploitation, violence and abuse, including Sexual and Gender Based Violence (SGBV)?
- What specific measures are in place to support girls, women, boys, and men who are Victims of Trafficking and are living in Direct Provision, some of whom may be persons with disabilities?
- What specific measures are in place to support Victims of Torture living in Direct Provision, some of whom may be persons with disabilities?
- What gender, disability, and age sensitive assistance and supports are in place for asylum seekers with disabilities in Direct Provision, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse?
- Are there measures in place for early identification of instances of exploitation, violence or abuse of asylum seekers with disabilities in Direct Provision including Victims of Trafficking?
- What processes are in place in Direct Provision to prevent the occurrence of all forms of exploitation, violence and abuse of persons with disabilities, and are these processes monitored by independent authorities?
- Are there accessible forms of information available in relation to supports for asylum seekers with disabilities in Direct Provision?
- Are there accessible shelter services or alternative accessible accommodation services available for asylum seekers with disabilities who are or have become victims of exploitation, Victims of Trafficking, violence or abuse?
- How does the State take appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of asylum seekers with disabilities in Direct Provision, who are or have become victims of any form of exploitation, violence or abuse including Victims of Trafficking and Victims of Torture?

Article 19: Living Independently and Being Included in the Community

- Do asylum seekers with disabilities have access to support services, including personal assistance while living in Direct Provision?
- Do asylum seekers with disabilities in Direct Provision have equal access to services and facilities comparable to persons with disabilities living outside of the Direct Provision system?

- The 'White Paper' sets out the aim to end Direct Provision by the year 2024. Does the government intend to prioritise and expediate the moving of child and adult asylum seekers with disabilities (and their families) out of the Direct Provision to accommodation living in the community as a matter of urgency to meet the requirements of the CRPD?

Article 20: Personal Mobility

- What measures are in place to facilitate access to mobility aids, devices, assistive technologies and forms of other assistance as may be required by asylum seekers with disabilities living in Direct Provision?

Article 21: Freedom of Expression and pinion, and Access to Information

- What measures are in place to ensure asylum seekers with disabilities in Direct Provision have accessible formats and technologies appropriate to different kinds of disabilities?
- What are the processes in place to enable the use of sign languages, Braille, augmentative and alternative communication for asylum seekers with disabilities in Direct Provision?

Article 22: Respect for Privacy

- What measures are being taken to improve the respect for privacy of asylum seekers with disabilities living in Direct Provision?
- What measures are being taken to respect the right to privacy and family life for children and adults with disabilities in Direct Provision?

Article 25: Health

- What processes are in place to ensure the particular health related needed of asylum seekers with disabilities are met, including those living in remote area Direct Provision centres?
- What measure are taken to provide adequate health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons?
- How does the government ensure asylum seekers with disabilities have access to rehabilitation services as necessary?

Article 30: Participation in Cultural Life, Recreation, Leisure and Sport

- What measures are in place to ensure asylum seekers with disabilities are entitled on an equal basis with others, to their specific cultural and linguistic identity, including sign languages and deaf culture?
- How does the government ensure that cultural materials and contents are accessible to asylum seekers with disabilities living in Direct Provision, including through the use of information and communications technologies?
- How does the government ensure that children, including children with disabilities, living in Direct Provision have access to participation in play, recreation, leisure and sporting activities?

Article 31: Statistics and Data Collection

- What measures are in place to collect best practice disaggregated disability related data in regards to child and adult asylum seekers with disabilities living in Direct Provision?
- How is this data disseminated and made accessible to persons with disabilities and to the general public?
- By what date will the government recommence the release to the public of the monthly statistical reports on Direct Provision and recommence releasing Annual Reports relating to Direct Provision?

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