

THE ASYLUM PROCESS: TERMS AND DEFINITIONS

Refugee:

A refugee is a person who has had to leave their country of origin due to a well-founded fear of persecution. The legal definition states that a refugee is:

“any person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to such fear, is unwilling to return to it.”

(United Nations 1951 Refugee Convention)

Asylum seeker:

An asylum seeker is a person who has applied for refugee status and is waiting on a decision to be made on their application. If they are successful and are granted refugee status, they are declared a refugee and are no longer considered to be an asylum seeker.

Subsidiary Protection:

If a person does not qualify as a refugee but they are not able to return to their country of origin due to a real risk of suffering serious harm (torture or inhuman or degrading treatment, death penalty or execution, or serious individual threat to the life or person as a result of indiscriminate violence) may be granted subsidiary protection by the Minister for Justice and Equality.

Asylum-seekers may apply for subsidiary protection when they are making an application for asylum at the Office for Refugee Applications Commissioner (ORAC); or they can apply if their application for refugee status has been refused; or when an application for refugee status is pending at ORAC or at appeal stage with the Refugee Appeals Tribunal. (See here for more information on how to apply for subsidiary protection).

Leave to Remain:

Leave to remain is a status that gives permission to live and work in Ireland, on a temporary basis. People who have been granted leave to Remain cannot apply for family reunification. This status may be given to persons who were not successful in applications for refugee status or subsidiary protection. Leave to remain may be granted to persons on humanitarian grounds or for some other compelling reason. The decision to grant Leave to Remain is at the discretion of the Minister for Justice and Equality.

Family reunification:

A person with refugee status or subsidiary protection can apply for permission to have a member of their family enter and live in Ireland.

INFOSHEET

Separated Children/ Unaccompanied minors:

Children under the age of 18 who arrive in Ireland or who present themselves at ORAC and who are not in the custody of their parents or an adult care giver/ guardian. Separated children will be placed in the care of the Health Service Executive (HSE). The HSE is responsible for the general care and wellbeing of the minor and will provide assistance to that minor. The HSE may then decide that an application for a declaration as a refugee should be made on behalf of the minor. Specific arrangements will be made by the HSE in conjunction with ORAC for the processing of such an application.

Direct Provision:

The system for accommodating asylum seekers in Ireland is known as Direct Provision. Asylum seekers are accommodated in centres which are mostly managed by private contractors. The centres provide a bed, three meals per day, and for basic needs. In addition asylum seekers receive a weekly allowance of €19.10 per adult and €9.60 per child and a medical card. They are not allowed to work and do not have access to third level education (international fees apply).

Deportation:

If a person is not granted any legal entitlement to stay in Ireland, the Minister for Justice and Equality may make a Deportation Order. A person will no longer have a legal entitlement to stay in Ireland if he/she has been denied refugee status and/or failed in his/her application for Subsidiary Protection and Leave to Remain. Once a Deportation Order has been signed and the person has been notified (or served notice), it is the responsibility of the Garda National Immigration Bureau (GNIB) to enforce the Order. In the time between receiving the Order and it being carried out, the person will be asked to present themselves at their local Garda Station (police station) at regular intervals.

In some instances, it is not possible to return failed asylum seekers to certain countries. If this occurs, a Deportation Order will be issued but not carried out.

The Dublin II Regulation:

The Dublin II Regulation is a piece of EU legislation. Its aim is to establish which country in the EU is responsible for processing a claim of asylum where the asylum seeker has travelled through more than one EU country. The country that is generally responsible for processing the claim is the first EU country in which the asylum seeker arrives. A system called Eurodac takes fingerprint records of asylum seekers as they arrive in the EU. If an asylum seekers fingerprint was previously recorded somewhere else in the EU, then the asylum seeker may be returned to that country.

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