

**Questionnaire – SR on the human rights of migrants**  
**Pushback practices and their impact on the human rights of migrants**  
**Submission of Ireland**  
**January 2021**

1. Please provide information on any relevant legislation or policy in relation to the right to seek and enjoy asylum in your country, which guarantees that migrants including asylum seekers' protection needs are examined individually, and they are not pushed back at the international border without access to this assessment and other relevant procedures. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.

Any person that arrives at the frontiers of the state that indicates that they are seeking International Protection or appears to be in need of protection is allowed enter the state to make a claim for protection. Section 13 of the International Protection Act<sup>1</sup> sets out the legal position, as follows:

**13.** (1) A person who is at the frontiers of the State, or who is in the State, and who indicates that he or she—

- (a) wishes to make an application for international protection,
- (b) is requesting not to be expelled or returned to a territory where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment, or
- (c) fears or faces persecution or serious harm if returned to his or her country of origin,

shall be interviewed by an officer of the Minister or an immigration officer at such time as may be specified by the officer concerned and the person shall make himself or herself available for such interview at the time or times so specified.

(2) A preliminary interview shall be conducted so as to establish, among other things—

- (a) whether the person wishes to make an application for international protection and, if he or she does so wish, the general grounds on which the application is based,
- (b) the identity of the person,
- (c) the nationality of the person,
- (d) the country of origin of the person,

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<sup>1</sup> <http://www.irishstatutebook.ie/eli/2015/act/66/section/13/enacted/en/html#sec13>

(e) the route travelled by the person to the State, the means of transport used and details of any person who assisted the person in travelling to the State,

(f) the reason why the person came to the State,

(g) the legal basis for the entry into or presence in the State of the person, and

(h) whether any of the circumstances referred to in section 21 (2)<sup>2</sup> may apply.

(3) A preliminary interview shall, where necessary to ensure appropriate communication between the person and the person who conducts the interview, be conducted with the assistance of an interpreter.

(4) A record of a preliminary interview shall be kept by the officer conducting it and a copy of it shall be furnished to the person and, if the preliminary interview was conducted by an immigration officer who is not an officer of the Minister, to the Minister.

(5) The Minister shall furnish a copy of the record of a preliminary interview to the High Commissioner whenever requested in writing by the High Commissioner to do so.

2. Please provide information on any existing good practices or measures taken (such as screening and referral mechanisms at borders) in your country to ensure that persons crossing international borders in mixed movements are protected according to international human rights law. Please indicate any specific measures aimed at reducing vulnerabilities of migrants, including by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach.

Border Management Unit (BMU) officers receive human rights training and Safe Guarding and Modern Slavery (SAMS) training, which increases awareness of potentially vulnerable migrants. When deemed necessary, BMU officers refer encountered individuals to the Garda National Immigration Bureau, which is a unit of the Irish police force. Regarding minors, BMU officers have received Children First training and refer relevant cases to the national dedicated State agency responsible for improving wellbeing and outcomes for children, the Child and Family Agency. (TUSLA). In addition, where BMU officers at the border consider that a person who is seeking to make an application for international protection is under the age of 18 and is not accompanied by an adult who is taking responsibility for their care and protection, they are legally obliged under Section 14 of the International Protection Act 2015<sup>3</sup> to notify TUSLA following which the Child Care Acts 1991<sup>4</sup> to 2013<sup>5</sup>, the Child and Family Agency Act 2013<sup>6</sup> and other enactments relating to the care and welfare of children apply.

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<sup>2</sup> <http://www.irishstatutebook.ie/eli/2015/act/66/section/21/enacted/en/html#sec21>

<sup>3</sup> <http://www.irishstatutebook.ie/eli/2015/act/66/section/14/enacted/en/html#sec14>

<sup>4</sup> <http://www.irishstatutebook.ie/eli/1991/act/17/enacted/en/html>

<sup>5</sup> <http://www.irishstatutebook.ie/eli/2013/act/40/enacted/en/html>

<sup>6</sup> <http://www.irishstatutebook.ie/eli/2013/act/40/enacted/en/html>

3. Please provide information on existing restrictions or limitations in law and in practice in relation to the right to claim and seek asylum at international borders in your country (e.g., border controls, restricted access to territory) and elaborate the impact of these restrictions on the protection of the rights of migrants crossing international borders.

There are no restrictions on Irish Borders either physical or legal that would prevent a person making a claim for protection.

4. Please provide information on any concrete instances of pushbacks, including an analysis on the circumstances of the event.

There have been no pushbacks at Irish borders.

5. Please indicate any specific challenges that your Government has encountered, in the context of the COVID-19 pandemic, on ensuring the human rights of migrants crossing international borders, either by land or by sea.

In support of the EU Member States most affected by migration movements in the Mediterranean region, Ireland committed itself in 2018 to taking persons from Search and Rescue missions in the Mediterranean from Italy and Malta. During 2019, Ireland also agreed to take people from boats disembarked in Italy and Malta in an act of EU solidarity with some other Member States. Our commitments for 2019 rolled over into 2020.

While Ireland remains committed to supporting these missions, because of the COVID-19 pandemic, the logistics in conducting missions is proving very difficult, especially with regard to Italy. The International Protection Office, within the Department of Justice, is closely monitoring the situation in respect of COVID-19 in Italy and Ireland. It continues to examine the logistics involved in fulfilling all outstanding pledges to Italy as soon as it is feasible to do so, in line with current guidelines and regional restrictions.

6. Please indicate any challenges and/or obstacles faced by Governmental institutions or civil society organizations and individuals in protecting the human rights of migrants at international borders, including those in distress at sea and in situations where pushbacks or pullbacks are likely to take place.

Ireland has no restrictions or pushback practices in place at the border.