

Pathways to Irish Citizenship

Separated, Stateless, Asylum Seeking
and Undocumented Children

Samantha Arnold
June 2020



Table of Contents

Glossary of Key Terms	3
List of Abbreviations and Acronyms	5
Section 1 Introduction	7
Section 2 Eligibility for citizenship in Ireland	9
Section 3 Citizenship by naturalisation	11
Section 4 Residence permissions and registration	15
Section 5 Separated children seeking asylum	17
Section 6 Statelessness and stateless children	19
Section 7 Accompanied children who come through the asylum process	22
Section 8 Undocumented children	23
Section 9 Next steps	23

Acknowledgements

The author would like to thank Sarah Groarke (ESRI/European Migration Network Ireland) for reviewing this report.

Disclaimer: The views expressed in this paper are those of the author and do not necessarily reflect the views of the Ombudsman for Children's Office.

Glossary of Key Terms

Citizenship by Naturalisation

Irish citizenship may be conferred on a non-national by means of a certificate of naturalisation granted by the Minister for Justice and Equality. A number of conditions must be met. The applicant:

- o is 18 years old or older or a minor born in the State;
- o is of good character;
- o has had a period of one year's continuous residence in the State immediately before the date of his application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to four years;
- o intends to continue to reside in the State

(For all conditions, see: Irish Nationality and Citizenship Act 1956, as amended, sections 15 and 15A).

Habitual residence

Habitual residence means being resident in Ireland and having a proven close link to the state.

Factors include:

- o Having the right to reside
- o Length of time spent in Ireland
- o Continuity of residence
- o Nature of residence

Habitual residence is a condition that must be satisfied for certain social welfare payments and Child Benefit (Department of Employment Affairs and Social Protection).

International protection status

Status in the State either—

- a. as a refugee, on the basis of a refugee declaration, or
- b. as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration (International Protection Act 2015, section 2).

Long-term residency

A status available on application for persons legally resident in the State for a minimum of 5 years on work permit/work authorization/working visa conditions subject to other terms having been met.

Permission to remain/ Immigration permission

- o Permission to remain or immigration permission in Ireland is a statement of the conditions under which a non-EEA national is permitted to remain in the State and the duration of that permission. It is given on behalf of the Minister for Justice and Equality in the form of a stamp (endorsement) in the passport. It is required for stays longer than 90 days (INIS).
- o If the International Protection Office (IPO) recommends an applicant is not entitled to International protection, the Minister for Justice and Equality will consider whether to give that person permission to remain for another reason, e.g. family or personal circumstances (IPO; See also: International Protection Act 2015, section 49).

Reckonable residence

The following forms of residence are not reckonable for the purposes of section 16A of the Irish Nationality and Citizenship Act 1956, as amended:

- Residence in contravention of section 5(1) of the Immigration Act 2004, e.g. persons in the State without permission / in breach of their conditions
- Residence for education reasons, e.g. international students
- Residence as an applicant for international protection

Refugee

A person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside his or her country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it and who is not otherwise excluded from being eligible for refugee protection as set out in the Act (International Protection Act 2015, section 2).

Separated Child / Unaccompanied minor

A person under 18 years of age who is outside his/her country of origin or habitual residence and is separated from both parents or their previous legal/customary primary caregiver (McMahon, 2015).

Subsidiary protection

A person (a) who is not a national of a Member State of the European Union, (b) who does not qualify as a refugee, (c) in respect of whom substantial grounds have been shown for believing that he or she, if returned to his or her country of origin, would face a real risk of suffering serious harm and who is unable or, owing to such risk, unwilling to avail himself or herself of the protection of that country, and (d) who is not excluded under section 12 from being eligible for subsidiary protection (International Protection Act 2015, section 2).

Travel document

A document issued by a government or international treaty organisation which is acceptable proof of identity for the purpose of entering another country (EMN, Glossary 6.0, 2018).

Undocumented migrant

A person who, owing to irregular entry, breach of a condition of entry or the expiry of their legal basis for entering and residing, lacks legal status/permission to remain (EMN, Glossary 6.0, 2018).

List of Abbreviations

DCYA	Department of Children and Youth Affairs
EEA	European Economic Area
EMN	European Migration Network
GNIB	Garda National Immigration Bureau
HRC	Habitual Residence Condition
ICI	Immigrant Council of Ireland
INIS	Irish Naturalisation and Immigration Service
IPO	International Protection Office
SWTSCSA	Social Work Team for Separated Children Seeking Asylum
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations Refugee Agency

Message from Dr Niall Muldoon, Ombudsman for Children

The UN Convention on the Right of the Child (UNCRC) was ratified by Ireland in 1992. In ratifying the UNCRC, the State committed to protecting and promoting the rights of all children living within the state. As with the UNCRC, the Ombudsman for Children's Office works on behalf of all children in Ireland. Neither the UNCRC nor the provisions of the Ombudsman for Children Act, 2002, refers or applies only to citizen children.

Under the UNCRC every child has the right to acquire a nationality. In Ireland, as in many other countries, this is inextricably linked with acquiring citizenship. With increasing diversity in Irish society, the number of non-national and non-citizen children has grown considerably. While many of these children and their parents may have no wish to acquire Irish citizenship, there are many who do. However, for many of the most vulnerable children, acquiring citizenship through the naturalisation process is far from straightforward. These include separated children seeking asylum, stateless children, children who have come through the asylum process and undocumented children. For these children and their families, the path to Irish citizenship and the rights and entitlements this gives them is long, complex and expensive.

Since its establishment in 2004, my Office has worked to highlight many of the difficulties faced by children who, for various reasons, did not hold Irish citizenship. These have included children from each of the above groups. In the course of my Office's work we have assisted children who are unaccompanied in Ireland, children of undocumented or irregular migrants and those whose parents are seeking international or subsidiary protection. Since 2017 the Office's remit was clarified as including children living within the Direct Provision system and this has resulted in an increase in our direct engagement with children who are not Irish citizens. It is striking that, among each of these groups, the majority of children have been in Ireland for extended periods and consider themselves to be, first and foremostly, Irish.

In seeking to understand the ways in which these children can acquire Irish citizenship and their needs, we commissioned this research into the avenues available for accessing citizenship in Ireland for non-EEA children. In doing so we hoped to learn of the current position and to explore some ways forward in the best interest of children. Dr Samantha Arnold took on the considerable challenge of distilling what are complex and legalistic procedures and issues into this research paper. I am very grateful to her for doing so and for sharing here some of the changes that she believes would help improve non-national children's access to Irish citizenship. This paper will be an important resource for my office in understanding these issues. It will also guide our engagement with the children affected by these issues and inform our contribution to policy and legislative debates.

While many of the benefits of having Irish citizenship arise when children reach adulthood (e.g. ability to vote in General Elections, eligibility for some Government jobs), a grant of Irish citizenship, in particular for undocumented children, means some additional freedoms and rights, such as greater access to family reunification in some cases, freedom to travel within the EU and overseas including with family or indeed foster families, and, generally speaking, protection against deportation. Most importantly, however, citizenship brings with it intangible benefits such as a sense of belonging, stability and security that many of the children with whom this paper is concerned have not had for long periods of time. While allowing for proper checks to be undertaken by the national authorities, affording children this security is sufficient reason to consider how we make pathways to citizenship for them as accessible and transparent as possible.

1. Introduction

Children have the right to acquire a nationality under Article 7 of the United Nations (UN) Convention on the Rights of the Child (hereafter the UNCRC). This Article states that:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

In line with the UN Convention on the Reduction of Statelessness 1961, the UNCRC requires that where children would not ordinarily be entitled to nationality in the country in which they are present, yet where they are otherwise not entitled to the nationality of any other country, they should be given the nationality of the host State. Article 7(2) above explicitly provides for this protection.

Article 8 of the UNCRC addresses the preservation of identity and further states that:

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

The right to acquire a nationality is also enshrined in other international conventions to which Ireland is a party. These include the International Covenant on Civil and Political Rights and the UN Convention on the Reduction of Statelessness.

The Oxford Dictionary defines nationality as the 'status of belonging to a particular nation'. It is also defined as 'an ethnic group forming a part of one or more political nations'. Citizenship is defined as the 'position or status of being a citizen of a particular country'. The Cambridge Dictionary defines citizenship as 'the state of being a member of a particular country and having rights because of it', but also 'the state of living in a particular area or town and behaving in a way that other people who live there expect of you'.

Formal recognition of Irish nationality may be achieved through a recognition or grant of citizenship. The legislation that deals with Irish nationality and citizenship, the Irish Nationality and Citizenship Act 1956, as amended, does not define nationality or citizenship in a substantive way:

- o "Irish citizen" is defined as a citizen of Ireland
- o "Naturalised Irish citizen" is defined as a person who acquires Irish citizenship by naturalisation.

However, section 28 provides that any person claiming to be an Irish citizen, other than a naturalised Irish citizen, may apply for a certificate of nationality stating that the person is an Irish citizen. Naturalised Irish citizens receive a certificate of naturalisation.

The Irish Constitution shines further light on the issue of defining nationality and citizenship. Article 2 provides:

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish Nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

However, Article 9, which was amended by referendum in 2004 (Twenty-seventh Amendment, discussed below), while referring to nationality and citizenship in tandem, changed Irish citizenship rights and the ability of Irish born children to fully participate in the 'Irish Nation'. Although this introduced a number of changes, the most significant in the context of this paper are those introduced under Article 9(2)(1).

- o Article 9(1)(2): 'The future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law'.
- o Article 9(1)(3): 'No person may be excluded from Irish nationality and citizenship by reason of the sex of such person'.
- o Article 9(2)(1): 'Notwithstanding any other provision in this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless provided for by law'.

Prior to this Constitutional change, Irish citizenship was automatically granted to all children born in Ireland by virtue of their place of birth. Since 2005, this is no longer the case. For children born in the State, only those who have at least one parent who is an Irish citizen or is entitled to Irish citizenship are now automatically granted citizenship by virtue of having been born here.

Generally speaking, 'nationality' and 'citizenship' can be further defined by recourse to the Constitution which enumerates the content of rights attached to a person's status as a citizen or national of Ireland.

1.1 Rationale for research

The Ombudsman for Children's Office (OCO) is an independent statutory body established in 2004 under primary legislation, that is, the Ombudsman for Children Act 2002. The Ombudsman for Children has two overall statutory functions:

- o to deal with complaints made by or for children and young people about the administrative actions of public bodies that have, or may have, adversely affected a child;
- o to promote the rights and welfare of children and young people under 18 years of age living in Ireland.

The Ombudsman for Children is independent and directly accountable to the Oireachtas in relation to the exercise of these statutory functions.¹

The right to a nationality and the relationship between this, citizenship and statelessness is an issue that has arisen in the context of the OCO's work. In the context of this research, the OCO is specifically interested in access to citizenship, and to rights linked to citizenship, in Ireland for non-EEA children:

- o whose parents are seeking international protection;
- o whose parents are undocumented;
- o who are separated from their families and in the care of the State (that is separated children); and
- o stateless children.

This paper outlines the citizenship process in Ireland with a focus on the above groups of children. The purpose of this paper is to outline eligibility and the conditions of naturalisation applicable to children, in particular those categories of children mentioned above, to inform the work of the OCO. This paper also sets out immigration pathways the above-mentioned groups of children may pursue subject to their individual circumstances. This is a fundamental part of this paper as eligibility to apply for citizenship by naturalisation is dependent on the child and/or their parents accruing a certain number of years' legal residence in Ireland. In this paper, the term citizenship is primarily used as children who are not eligible for Irish citizenship at the time of birth (see Section 2.2) may only become Irish nationals through the grant or recognition of citizenship. For the vast majority of those children who fall within the scope of this paper, the granting of a certificate of naturalisation is their only route to Irish citizenship and nationality.

¹ See: www.oco.ie

2. Eligibility for citizenship in Ireland

While there are a number of ways in which a child may acquire or be granted Irish citizenship, few of these are straight forward. This section first sets out how eligibility for citizenship is determined in Irish law.

2.1 Change in citizenship laws – the 2004 Referendum

Prior to 31 December 2004, any child born in the Island of Ireland was eligible for Irish citizenship in accordance with Article 2 of the Constitution. The original purpose of Article 2 of the Constitution as amended by referendum in 1999 (Nineteenth Amendment) was primarily to ensure persons from Northern Ireland would not be deprived of Irish citizenship.

The Twenty-seventh Amendment to the Irish Constitution in 2004 limited the constitutional right to citizenship to persons born in the Island of Ireland with at least one parent who is an Irish citizen or entitled to Irish citizenship at the time of the child's birth. It was both approved by referendum and subsequently signed into law in June 2004. Citizenship solely by birth on the territory of a country (*jus soli*) is not granted in any EU Member State. The Twenty-seventh Amendment therefore brought this area of Irish law into line with the rest of Europe.

The implications of the Twenty-seventh Amendment and the law as it currently stands are discussed throughout this paper.

There has been increased debate on revisiting the 2004 Referendum, the outcome of which resulted in a shift in citizenship law in Ireland from *jus soli* (that is birth right citizenship) towards a more *jus sanguinis* approach (that is citizenship determined by the nationality of one or both parents). According to a 2018 Sunday Times poll (O'Brien, 2018), 71% of persons surveyed believe being born in Ireland should automatically entitle a child to citizenship, illustrating a potential change in public opinion since 2004. However, it has been floated that seeking to repeal the Twenty-seventh Amendment by referendum could lead to negative campaigning, and that reforming current citizenship laws through the Oireachtas could be possible and possibly a better option (Thornton, 2018).

A number of attempts to change the legislation on citizenship rights of Irish born children have been made in recent years. The Irish Nationality and Citizenship (Restoration of Birthright Citizenship) Bill 2017² would have restored Irish-born children's right to citizenship, but was ultimately defeated. After the high-profile case of Eric Zhi Ying Xue³, Senator Ivana Bacik tabled the Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018, which has since lapsed with the dissolution of the Dáil and Senead in January 2020. The 2018 Bill would have ensured that children born in Ireland to parents who are not legally resident/do not have reckonable residency (e.g. undocumented persons, persons seeking international protection and students) would be eligible to apply for naturalisation after three years residence in Ireland.

2 Section 2: (1) The Principal Act is amended in section 6 by the substitution of the following for subsection (1) (inserted by section 3(a) of the Act of 2004)—“(1) Every person born in the island of Ireland is entitled to be an Irish citizen.”

3 Eric Zhi Xue was a nine-year-old boy living in Wicklow and had a deportation order issued against him. He was born in Ireland and spent nine years here. His mother came to Ireland over 12 years ago and her attempts to regularise her status were unsuccessful. After Minister for Health, Simon Harris, TD intervened, he confirmed that the family were not in danger of imminent deportation. See: Irish Times 26 October 2018 'Eric Zhi Ying Xue faces 'no imminent threat of deportation', says Simon Harris'.

2.2 Citizenship by birth

At present, a child will be an Irish citizen upon birth if born in Ireland where one or both parents are Irish (See Table 1). Children born in Ireland are entitled to citizenship if their non-Irish parent(s) resided legally in the Island of Ireland for 3 out of the 4 years immediately preceding the child's birth.⁴

Table 1 Irish Born Children's Entitlement to Irish Citizenship at Birth

'Link' to Ireland	Entitlement to Irish citizenship
Irish citizen parent(s) (at time of birth)	Automatic
British or entitled to live in Northern Ireland or the Irish State without restriction on their residency	Automatic
Irish Recognised Refugee Parent	Automatic
Non-Irish national parent(s) legally ⁵ resident 3 out of 4 of the previous years in the Island of Ireland immediately prior to birth of child. (Including EU/EEA and Swiss citizens).	Automatic – but must fill in Form A 'Declaration of Residence'

2.3 Citizenship by descent

A child may be an Irish citizen if born outside Ireland to at least one Irish parent if that parent was (i) born in Ireland or (ii) if they were not born in Ireland but had previously registered their own foreign birth with the Department of Foreign Affairs (that is, before their own child was born). With each generation, the links and foreign birth registrations become more complicated. For example, if it is the child's grandparent that was the first person in the family born outside Ireland, they must have registered their own birth before the birth of his/her child(ren). If this was not done, the chain of Irish citizenship may be broken. To ensure successive generations maintain their entitlement to Irish citizenship, each foreign birth should be registered in good time.

In cases where it is not possible to register foreign births, but Irish lineage can still be proven, applicants may apply for Irish citizenship by naturalisation (see below), seeking an exemption from some conditions on the basis of Irish ancestry. These decisions are made at the discretion of the Minister for Justice and Equality (hereafter the Minister).

2.4 Citizenship by gift

Citizenship may be granted by the President of Ireland (as advised by Government) as a token of honour.⁶ This is not a route to citizenship open to the vast majority of non-nationals, be they adults or children.

2.5 Adoption and 'Foundlings'

Children adopted by an Irish citizen(s) are Irish citizens.⁷ 'Foundlings', or 'every deserted new-born child first found in the State shall, unless the contrary is proved, be deemed to have been born in the island of Ireland to parents at least one of whom is an Irish citizen'.⁸ They are therefore automatically considered to be Irish citizens.

4 Section 6A of the Irish Nationality and Citizenship Act 1956, as amended

5 Legally in this context means: reckonable for third country nationals (see Section 6B of 1956 Act, as amended). For EEA nationals, this means they are resident in Ireland in accordance with the Free Movement Directive (Directive 2004/38/EC).

6 Irish Nationality and Citizenship Act 1956, as amended, section 12. .

7 Section 11(1) of the Irish Nationality and Citizenship Act 1956 as substituted by section 3 of the Irish Nationality and Citizenship Act 2001.

8 Section 10 of the Irish Nationality and Citizenship Act 1956 as substituted by section 6 of the Irish Nationality and Citizenship Act 2001.

3. Citizenship by naturalisation

Where none of the above routes apply, naturalisation is the only mechanism through which non-Irish nationals can secure Irish citizenship. Nationals from within and outside the European Economic Area (EEA) may apply for Irish citizenship through naturalisation. The following sections set out the conditions applicants, and specifically child applicants, must satisfy to be eligible to apply for naturalisation. This is the most common route to citizenship for persons who have resided in Ireland on the basis of international protection status, permission to remain or other permissions (e.g. for work purposes).

3.1 Naturalisation and children

At present, children cannot apply for Irish citizenship by naturalisation in their own right. An adult parent, guardian or person acting in loco parentis must apply on behalf of children. This is set out in section 15(3) of the 1956 Act as follows:

In this section “applicant” means, in relation to an application for a certificate of naturalisation by a minor, the parent or guardian of, or person who is in loco parentis to, the minor.

There are three possible applications that may be submitted on behalf of a child.

1. The first is for children who are of Irish descent or who have ‘Irish associations’ (Form 10).⁹
2. The second is where one of the child’s parents become naturalised. This form (Form 9) is only used where the parents are recently naturalised and, in this case, the child must also ‘generally’ have three or more years residence in Ireland prior to the date of application.
3. The final application type is for children who were born in the State after 1 January 2005 and were not entitled to Irish citizenship at the time of birth but have, along with their parent/legal guardian, since accumulated 5 years reckonable residence (Form 11).

3.2 Establishing identity

Applicants must establish their identity. They must do so by providing passports and birth certificates and sometimes other secondary identification. For children, the most relevant document is the birth certificate. INIS, however, note that in certain exceptional circumstances, an affidavit (written statement) confirmed by oath or affirmation stating birth information such as place, date and parents for a minor will be accepted.¹⁰

3.3 Application fees

Each naturalisation application, without exception, costs €175. If the application is approved, the candidate must also pay a certificate fee. The certificate fee at present is €950 for an adult and €200 for children. The certificate fee is waived for refugees and stateless persons.¹¹

3.4 Application processing times

The Irish Naturalisation and Immigration Service (INIS) note that the application process takes around 6 months, but can be longer if the application is not straightforward.¹²

9 ‘Irish associations’ is defined by INIS as ‘related by blood, affinity or adoption to an Irish citizen’. See: INIS, ‘Naturalisation application forms’, <http://www.inis.gov.ie/en/INIS/Pages/citizenship-naturalisation-forms>.

10 INIS, ‘Naturalisation application forms’, <http://www.inis.gov.ie/en/INIS/Pages/citizenship-naturalisation-forms>

11 INIS, ‘Become an Irish Citizen by Naturalisation’, <http://www.inis.gov.ie/en/inis/pages/wp16000022#fees>.

12 INIS, ‘Becoming an Irish citizen by Naturalisation’, <http://www.inis.gov.ie/en/inis/pages/wp16000022>.

3.5 Conditions of naturalisation

While children cannot apply independently for citizenship by naturalisation, parents/guardians/persons acting in loco parentis may apply on behalf of children born in the State. In the 2019 judgment, Iurescu, the High Court reasoned:

The interpretation of s. 15(3) that I believe to be at once more consistent with justice and with the purpose of the Act of 1956 is that whereby the ‘applicant’ in that section in relation to an application for a certificate of naturalisation by a minor born in the State is the parent or guardian of, or person in loco parentis to, the minor, whereas the applicant who must meet the conditions of naturalisation to the satisfaction of the Minister is the minor born in the State.

In line with this position, for procedural purposes, the parent/guardian/person in loco parentis appears to be the applicant and for substantive considerations, the applicant is the child (see 3.5.2 below).¹³

Pursuant to section 15 of the Citizenship Acts, the Minister in his/her absolute discretion may grant a certificate of naturalisation to the applicant if s/he is satisfied that the applicant:

- a. is 18 years old or older or a minor born in the State;
- b. is of good character;
- c. has had a period of one year’s continuous residence in the State immediately before the date of his application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to four years;
- d. intends in good faith to continue to reside in the State after naturalisation;
- e. has made, either before a Justice of the District Court in open court or in such manner as the Minister, for special reasons, allows, a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State, observe the laws of the State and respect its democratic values.

As stated above, satisfaction of the above requirements does not equate to a grant of citizenship. While it is established that the Minister has discretion in the area of citizenship, it is not without its limits. For example, the Minister must provide reasons for refusal of citizenship.¹⁴

3.5.1 Residence condition and reckonable residence

In accordance with section 15 of the Citizenship Acts, applicants must have physically resided in Ireland for at least five of the previous nine years, including one year’s continuous residence prior to submitting an application for citizenship. While they must be resident in Ireland for four of the remaining eight years, these need not be continuous. Two of the five years are waived for certain applicants including refugees, spouses/civil partners of Irish citizens and stateless persons.

The following forms of residence (on the part of the parent) are not reckonable:

- o Residence in contravention of section 5(1) of the Immigration Act 2004, e.g. undocumented persons
- o Residence for education reasons, e.g. international students
- o Residence as an applicant for international protection¹⁵

3.5.2 Good character

Section 15(1)(b) has been the subject of a number of High Court proceedings. ‘Good character’ is not defined and the Minister has a wide discretion to determine the factors to be considered in assessing

¹³ *Iurescu (a minor) v The Minister for Justice and Equality & ors [2019] IEHC 535, para 50.*

¹⁴ For example, in *Mallak v Minister for Justice, Equality and Law Reform [2012] IESC 59*, the Supreme Court held that the Minister must provide reasons for a refusal of a grant of citizenship

¹⁵ Section 16A of the Citizenship Acts.

the applicant's good character in each case.¹⁶ 'Good character' was considered in *Hussain v Minister for Justice and Equality* to comprise 'reasonable standards of civic responsibility as gauged by reference to contemporary values'.¹⁷ Criminal convictions are particularly taken into account by the Minister in reviews of applications for naturalisation.¹⁸

It is important to note that there have been instances whereby applications on behalf of children have been refused based on adverse character findings against their parents. This has led to some judicial debate.

For example, a 2019 case (*Iurescu*) concerned the refusal of an application on behalf of a seven-year-old girl born in Ireland to non-EU parents residing lawfully in Ireland who subsequently separated.¹⁹ The father applied for naturalisation for him and his child. His application was refused due to a conviction, threatening behaviour and an assault charge. The child was also refused citizenship on the basis that her father was not of good character. The child lives with her mother and has supervised visits with her father. The Minister argued that Section 15(3) allows for the refusal of an application on the basis of the parent's (that is, the applicant's) character. The High Court held that the Minister was wrong to refuse the child's application based on her parent's circumstances. The court held that while the applicant in accordance with section 15(3) is the parent/guardian/person acting in loco parentis, it is the minor born in the State who is required to meet the conditions of naturalisation. This development should positively impact the processing of applications on behalf of minors going forward.

3.5.3 Intention to continue to reside in the State

Applicants must show that they intend to continue to reside in Ireland after citizenship is granted. A refusal to grant citizenship on the basis of a finding that an applicant does not intend to continue to reside in the State must be based on evidence.²⁰

3.5.4 Declaration of fidelity

In accordance with section 15(1)(e), prior to receiving the certificate of naturalisation the candidate must make a declaration of fidelity to the State in, for example, a citizenship ceremony. According to INIS, children are exempt from the requirement to attend a citizenship ceremony and will receive their certificate by post.²¹

3.6 Revocation of citizenship

Revocation of citizenship has become a topic of international debate as of late and two cases, one in Ireland and one in the UK, have garnered media attention. In both cases, the naturalised citizens were linked to activities categorised as terrorism.²²

The Minister may revoke a certificate of naturalisation under section 19 of the Citizenship Acts if s/he is satisfied that the applicant:

- o engaged in fraud, misrepresentation or concealment of material facts;
- o failed in her duty of fidelity to the State;

16 *AMA v Minister for Justice and Equality* [2016] IEHC 466, para 32. See also: *Tabi v Minister for Justice, Equality and Law Reform* [2010] IEHC 109, para 2; *AA (Algeria) v. Minister for Justice and Equality* [2016] IEHC 416; *AMA v. Minister for Justice and Equality* [2016] IEHC 466 and *AA v. Minister for Justice and Equality* [2017] IEHC 491.

17 *Hussain v Minister for Justice and Equality* [2013] 3 I.R. 257.

18 *MAD v Minister for Justice and Equality* [2015] IEHC 446.

19 *Iurescu (a minor) v The Minister for Justice and Equality & ors* [2019] IEHC 535. See also: Carolan, M. 18 April 2018, 'Child born to non-EU parents refused Irish citizenship 'absurdly'', <https://www.irishtimes.com/news/crime-and-law/courts/high-court/child-born-to-non-eu-parents-refused-irish-citizenship-absurdly-1.3465983>.

20 See, for example: *Mishra v Minister for Justice* [1996] 1 IR 189.

21 *MAD v Minister for Justice and Equality* [2015] IEHC 446.

22 Ireland: Ali Charaf Damache who has been accused of committing a terrorist offence. See: Phelan, S. 19 January 2019 'There have only ever been five revocations of Irish citizenship – it's a rare occurrence', *Irish Independent*, <https://www.independent.ie/irish-news/shane-phelan-there-have-only-ever-been-five-revocations-of-irish-citizenship-its-a-rare-occurrence-37727311.html>. UK: Shamima Begum who as a teenager allegedly fled to Syria to join Isis. See: Rawlinson, K. and Dodd, V. 19 February 2019 'Shamima Begum: Isis Briton faces move to revoke citizenship' *The Guardian*, <https://www.theguardian.com/world/2019/feb/19/isis-briton-shamima-begum-to-have-uk-citizenship-revoked>

- o has been ordinarily resident outside the State for over seven years without reasonable excuse and without registering annually in the prescribed way;
- o is also a citizen of a country at war with Ireland; or
- o has voluntarily (that is, not through marriage) acquired another citizenship.

Citizenship by birth cannot be revoked. Revocation only applies to citizens by naturalisation.

The revocation of a parent's certificate of naturalisation can impact on a child's citizenship. In a 2017 case, the High Court considered whether a revocation of the citizenship of two separate fathers would result in the revocation of their respective children's citizenship as well.²³

In brief, two children (N.A. and U.M.) were granted citizenship derived from their fathers' grants of citizenship. In both cases, the applicants' fathers had their declarations of refugee status revoked on grounds that they had provided false and misleading information which formed a basis upon which their status was ultimately granted. The fathers' grants of citizenship and their refugee status were deemed void ab initio (invalid from the start). Their children were also granted citizenship on the basis of their fathers' residence and therefore their grants were deemed void ab initio as well.²⁴ The court ultimately held that the Minister was correct in deeming the children's citizenship void ab initio owing to the fact that their fathers' and by extension their grants of citizenship were unlawfully and erroneously granted.²⁵ The ultimate outcomes or permissions to remain granted to the children concerned is unknown. These cases nevertheless highlight the ability of the Minister to revoke the citizenship of children due to the actions of their parents where these render the original grant of citizenship void.

3.7 Where citizenship is not an option: long-term residency permission

There will be instances where persons will not want/be able to apply for naturalisation, for example for persons from a country that does not allow dual-citizenship. In these instances, it is open to the person to apply for long-term residency permission after having been legally resident in the State for a minimum of five years. Only persons who have been in Ireland for work reasons (work permit/authorisation) or spouses/dependants of persons in Ireland for work reasons are eligible. According to INIS, persons granted 'humanitarian permission to remain', refugee status, or persons who entered the State under the family reunification scheme are ineligible for this type of residency permission. While persons granted subsidiary protection are not explicitly referred to as either eligible or ineligible, they are presumably ineligible.²⁶ Successful applicants will be granted a Stamp 4 valid for five years.

After eight years reckonable residence, persons may apply for Stamp 5 permission which is open ended or 'Without Condition As To Time'.²⁷

The Economic and Social Research Institute have reported that long-term residency permission offers immigrants the same basic socio-economic rights as citizens of the host country (McGinnity et al., 2018). It does not, however, grant the same legal status as a citizen. The Migrant Integration Policy Index (MIPEX)²⁸ ranks Ireland 35th out of 38 countries on access to permanent residence²⁹, describing the scheme as 'the most unclear and discretionary of all 38 countries' (Huddleston & Vink, 2015).³⁰

23 N.A. (Somalia) & anor v Minister for Justice and Equality & ors; U.M. (Afghanistan) (a minor) v Minister for Foreign Affairs and Trade & Anor [2017] IEHC 741.

24 Ibid, as submitted by the applicants, at para 6.

25 Ibid, para 48.

26 INIS, 'Long Term Residency', http://www.inis.gov.ie/en/inis/pages/long_term_residency.

27 The following stamps do not qualify for Stamp 5: Stamp 0, Stamp 2 or Stamp 2A, Temporary Registered Doctors on Stamp 4, Trainee Accountants on Stamp 1A, Intra Company Transfer on Stamp 4, Spouse or dependent of an Intra Company Transfer on Stamp 3, Temporary visitors permission granted at the port of entry. MIPEX is a tool which measures policies to integrate migrants in all EU Member States, Australia, Canada, Iceland, Japan, South Korea, New Zealand, Norway, Switzerland, Turkey and the USA. See: <http://www.mipex.eu/what-is-mipex>.

28 MIPEX is a tool which measures policies to integrate migrants in all EU Member States, Australia, Canada, Iceland, Japan, South Korea, New Zealand, Norway, Switzerland, Turkey and the USA. See: <http://www.mipex.eu/what-is-mipex>.

29 MIPEX, 'Permanent Residence', <http://www.mipex.eu/permanent-residence>.

30 This type of permanent residence is provided for at EU level under Directives 2003/109/EC and 2011/51/EU. The 2011 Directive expanded the scope of the 2003 Directive to include beneficiaries of international protection. Ireland has not exercised its right to opt-in to either directive.

4. Residence permissions and registration

4.1 Introduction

In order to get on a path to naturalisation, potential applicants must ordinarily begin by registering their status in Ireland with INIS or the Garda National Immigration Bureau (GNIB) in order to evidence their legal reckonable residence.

Registration/applying for permission is a legal obligation for persons aged 16 and above.³¹ Persons without a residence permission in the State are considered to be unlawfully resident in the State³² and it is an offence not to register.³³ The obligation to register does not apply to those seeking international protection in the asylum process.

At present, there is no system in place whereby persons under the age of 16 can register their residence in Ireland. Pursuant to section 9 of the Immigration Act 2004, as amended, children under the age of 16 are exempt from the obligation to register with INIS or the GNIB and are therefore generally not facilitated to do so. The Employment Permits (Amendment) Act 2014 amends section 9 of the Immigration Act 2004, by removing the exemption for those under 16 to register,³⁴ but this provision is not yet commenced (as at time of writing).³⁵

According to research undertaken for the Immigrant Council of Ireland (ICI), the status of children is presumed to be the same as their parents (Mannion, 2016). This research further observed that permissions (in the form of Stamps) issued to minors once they reach the age of 16 vary. This is likely due to the fact that these decisions are at the discretion of the Minister and that there are no publicly available or confirmed guidelines to guide immigration officers. Some of the research participants were issued Stamp 2 permissions (a Stamp for international students, which is not reckonable for the purposes of naturalisation). This is despite the child's principal reason for residency in Ireland being related to family reunification, where the adult 'sponsor' (or person the child is a dependant of) was, for example, in Ireland for work purposes or with a Stamp 4 permission (Mannion, 2016). Stamp 4 is a high-level immigration status that generally allows the holder access to the labour market and a pathway to long-term residence or citizenship (see Table 2 below).

Table 2 Immigration Stamps in Ireland³⁶

Stamp	Some Characteristics	Reckonable for citizenship or long term residence
0	<ul style="list-style-type: none">- temporary- person is ordinarily financially self-sufficient or sponsored	No
1 (1A/1G)	<ul style="list-style-type: none">- employment permissions	Yes (except 1A)

31 Immigration Act 2004, s 9(2); s 5(1).

32 Immigration Act 2004 s 5(2).

33 Immigration Act 2004, s 9(8).

34 Employment Permits (Amendment) Act 2014, section 35(b).

35 Action 14 in Migrant Integration Strategy stated 'Arrangements to enable registration of non-EEA migrants aged under 16 years will be finalised as a matter of urgency' with a timeframe of 2018. However the Strategy progress report states INIS reported this has been delayed to 2022: 'INIS will introduce registration for minors in 2022, when responsibility for registration of non-EEA nationals is fully transferred from the Gardaí to INIS. This will ensure that minors do not have to present to Garda stations to register.' See: Government of Ireland, 'Migrant Integration Strategy 2017-2020 – Progress Report'.

36 For more information, see: INIS, 'Permission, stamps & conditions', <http://www.inis.gov.ie/en/INIS/Pages/registration-stamps>.

2 (2A)	- study permissions	No
3	- no access to the labour market - typically issued to volunteers, ministers of religion, family of some employment permit holders	Yes
4	High level permission	Yes
5	Permission to stay in Ireland without condition as to time	Yes
6	Irish citizen with dual-citizenship (stamp on non-Irish passport)	N/A

Source: <http://www.inis.gov.ie/en/INIS/Pages/registration-stamps>

The Immigrant Council of Ireland reported that children in care and their care staff may not be aware of the obligation to register themselves/children with INIS/GNIB once they turn 16. (Mannion, 2016) For example, some children in care who would otherwise have the right to reside in the State based on their parent's status (for example, in the case of children taken into care whose parents are resident on Stamp 4 or other conditions), remained undocumented due to the fact that they did not know they were required to register. In some cases, young people have learned of this obligation to register with the GNIB after they have instructed a solicitor to apply for citizenship, thereby delaying their eligibility for naturalisation (Mannion, 2016). This may also affect separated children (see more in Section 5 below).

4.2 Fees

Minors (children under 18 years) are exempt from registration fees.

4.3 Proof of identity

Section 9 of the Immigration Act 2004 obliges persons registering to produce a passport or equivalent document unless they can provide a 'satisfactory explanation' for not being able to do so. It can be difficult to obtain a passport for a child who has never lived in their country of citizenship/nationality. It can also be difficult if the child has been in the care of Tusla and must rely on social worker support to renew or obtain a passport from a country with which the social worker may be unfamiliar.³⁷ Having to have a passport in order to register may not be practical and attempting to obtain one or provide evidence and a justification for not having one may be costly in terms of legal fees.

Some children may not be able to get a birth certificate from their country of origin due to administrative issues in the country of origin or due to a lack of birth registration system (see Section 6 on statelessness) thus making it difficult to get a passport. This will also cause problems when the person applies for naturalisation (see above).

37 On Specific Issues for Children in care, see: Immigrant Council of Ireland. 2018. Immigration Status in Ireland: What do I need to know?.

5. Separated children

'Separated children' is the term commonly used in Europe to describe children from outside the EU/EEA who travel to the European Union without their primary habitual caregiver.³⁸ Two terms – unaccompanied child seeking international protection and separated child seeking asylum – are used in Ireland and both refer exclusively to separated children seeking international protection.

Section 14 of the International Protection Act 2015 is entitled 'unaccompanied child seeking international protection' and provides for the referral to Tusla of persons seeking to make an application for international protection who have not attained the age of 18 years and are not accompanied by an adult who is taking responsibility for their care and protection.

The Tusla Social Work Team for Separated Children Seeking Asylum (SWTSCSA) uses the term 'separated child', which it defines as 'children under eighteen years of age who are outside their country of origin, who have applied for asylum and are separated from their parents or their legal/customary care giver'.³⁹ At the end of 2018, there were 67 separated children in the care of Tusla - The Child and Family Agency. Of these, 52% were in residential care, 33% were in supported lodgings and 15% were in foster care.⁴⁰

5.1 Separated Children and lack of capacity to apply for international protection in their own right

In Ireland, most separated children enter the international protection process. This happens whether an application for international protection is made before or after they reach 18. As stated above, only adults over 18 years can apply for international protection in their own right. Section 15(4) of the International Protection Act 2015 assigns the responsibility of making applications on behalf of separated children to Tusla, 'where it appears on the basis of information, including legal advice, available to it, that an application for international protection should be made on [their] behalf'.⁴¹ Nonetheless, some social workers may delay submitting applications on behalf of separated children (Arnold & Ní Raghallaigh, 2017; Quinn, et al., 2014). Furthermore, research has noted that there is no national policy or framework setting out Tusla's responsibilities in relation to separated children, including in relation to submitting international protection applications on their behalf (Mullally, 2011; Arnold, 2013; CRA, 2015; Arnold & Ní Raghallaigh, 2018).

Few separated children living in Ireland have an immigration status. This is due to the practice of deferring applications until separated children are, or are approaching, 18 and also to the fact that alternative immigration permissions are rarely applied for (Groarke & Arnold, 2018). The main alternative available is permission to remain (at the discretion of the Minister).

In the 2016 ICI study referenced previously, social workers in Dublin and Cork reported that internal guidance⁴² within Tusla instructed them that the immigration status of separated young people should not be addressed until they reach the age of 18 in order to avoid a negative decision:

They stated that this advice was being relied upon to the detriment of children and young people. It results in young people turning 18 without steps being taken to secure their immigration status, leaving them in many situations to navigate the system without the support and assistance of social workers or other advocates. (Mannion, 2016, p.138)

When interviewed for a 2018 European Migration Network (EMN) Ireland study, 'Approaches to Unaccompanied Minors following Status Determination in Ireland', Tusla's SWTSCSA stated that they had

38 The Separated Children in Europe Programme (SCEP) defines separated children as children 'under 18 years of age, outside their country of origin and separated from both parents, or their previous legal, or customary primary caregiver' (SCEP, 2019).

39 Tusla, 'Separated Children Seeking Asylum', <https://www.tusla.ie/services/alternative-care/separated-children/>.

40 Tusla – The Child and Family Agency, Annual Review on the Adequacy of Child Care and Family Support Services 2018, (Dublin: Tusla, 2019), available at https://www.tusla.ie/uploads/content/Review_of_Adequacy_Report_2018_Final_for_Publication_V2.pdf

41 International Protection Act 2015, section 15(4)

42 No further information is available on this guidance. Its origins and scope are unknown.

not applied for a residence permission or sought to register unaccompanied minors as the Team does not view registration as necessary or in the minor's best interests. Negative decisions, they believed, may lead to absconding or other detrimental behaviour. Instead, they reported that they rely on the fact that the child is under the care and protection of the Child Care Act 1991, as amended (Groarke & Arnold, 2018). This is despite the fact that all persons aged 16 and older residing in Ireland, who are not in the asylum process, are required to register with INIS and that the 1991 Act provides no protection in relation to a child's immigration status in the State.

This practice is confounding given that there is a clear position as expressed by INIS representatives that if Tusla brought the case of a separated child to them, they would in all likelihood issue a form of permission to remain in the State. This was articulated in three reports published by EMN Ireland. On each occasion (2009, 2014, 2018) INIS stated this position. For example,

INIS indicated that if Tusla had reason to bring an unaccompanied minor aged 16 or over in its care to the attention of INIS, because he or she was in need of a residence permit, he or she would generally be given Stamp 4 permission... (Quinn et al., 2014, p.xi).

However, there is no guarantee that INIS will provide a residence permit as each decision is at the discretion of the Minister.

The literature (discussed below) has recognised that decisions taken by social workers to delay international protection applications are also motivated by a desire not to put children through an adversarial process. However, the social work participants in the ICI study noted that children were distressed anyway as they were anxious about their status and the fact that no one was assisting them to resolve it (Mannion, 2016).

The child's capability to plan pathways to adulthood is reliant upon the child's migration status (Mannion, 2016; Sirriyeh & Ní Raghallaigh, 2018). Legal practitioners have expressed the view that this lack of status impacts negatively on the child's sense of security and that the long-term exposure to this stress and uncertainty may cause mental health difficulties (Mannion, 2016). The lack of status ultimately may lead to variation in the level of access of services, particularly once the child reaches 18 (Quinn et al., 2014; Mannion, 2016; Sirriyeh & Ní Raghallaigh, 2018; Horgan et al., 2011; Mullally, 2011; Groarke & Arnold, 2018). The EMN study highlighted that the practice of delaying applications for international protection may negatively impact on the enjoyment of rights, such as access to employment, family reunification, citizenship, and access to mainstream services and supports (Groarke & Arnold, 2018).

In 2009, the OCO raised concerns about the delays that are inherent in the asylum process generally (Charles, 2009). At the time of writing, the average wait time for an interview alone is over one year (O'Neill, 2019). However, separated children are priority applicants.⁴³ According to the Minister for Justice and Equality in answer to a Parliamentary Question in 2018, 'prioritised cases can expect to be scheduled more quickly for interview'.⁴⁴ Therefore, if separated children were facilitated to apply at an earlier point, according to the Minister and the IPO, their interviews would be scheduled quickly.

Ultimately any delays will push separated children's eligibility for citizenship by naturalisation further down the line.

Deportation

While fear of deportation is one felt by children and social workers/parents/guardians alike, in the 2018 EMN study INIS stated that despite the fact that no legislative prohibition exists for the deportation of unaccompanied minors, such deportations do not normally take place in practice (Groarke & Arnold, 2018).

43 See: International Protection Office and UNHCR Ireland (2017) 'Prioritisation of applicants for international protection under the International Protection Act 2015', http://www.ipo.gov.ie/en/IPO/Prioritisation_of_International_Protection_Applications_IPO_UNHCR_Notice_2017.pdf/Files/Prioritisation_of_International_Protection_Applications_IPO_UNHCR_Notice_2017.pdf.

44 PQs 274 – 276, 30 January 2018, <http://www.justice.ie/en/JELR/Pages/PQ-30-01-2018-274>.

6. Statelessness

According to the UN Refugee Agency (UNHCR), statelessness occurs when an individual is ‘not considered a national by any state under the operation of its law’.⁴⁵ For example, statelessness can arise from the following circumstances.

- Borders move/are renegotiated when States break-up or through State succession.⁴⁶ This occurred, for example, in the aftermath of the dissolution of the Soviet Union in 1991.⁴⁷
- During state-building, for example, post-colonial State-formation in Africa and Asia has left large groups of peoples without citizenship. For instance, Muslim residents (Rohingya) in Myanmar have been excluded from citizenship in the only countries they have lived for generations.
- There is conflict that results in persons being unable to prove their identity due to loss of documents or lack of State infrastructure to produce or verify such documents (UNHCR, 2015).
- Prolonged residence abroad resulting in a loss of citizenship (UNHCR Ireland, 2014).

Children are affected, in particular, by the following scenarios:

- Conflict of laws, that is, where the nationality laws of two States conflict. Typically this arises where one State’s citizenship laws are based on place of birth and another’s are based on parent’s citizenship. A child may become stateless where they are born in a country where citizenship is based on a parent’s right to citizenship but whose parents come from a State where nationality laws are based on place of birth.
- Children who are found within some States with no identity and no parent(s) may not be accorded nationality. This is not the case in Ireland. Foundlings (new-borns) may access citizenship under section 10 of the Irish Nationality and Citizenship Act 1956.⁴⁸
- Failure or inability to register children at birth. Not having access to a birth certificate increases the risk of statelessness (UNHCR, 2015). Children in some States may not be able to have their birth registered due to family planning laws, such as in China where a percentage of the population was subject to the one-child policy (which has since increased).
- Discrimination against women. Some States only allow men to pass their citizenship onto their children. UNHCR highlighted the risk of statelessness for children born to women from these countries who marry non-nationals (UNHCR Ireland, 2014).

Without proof of citizenship, individuals may be excluded from getting social security numbers which may result in the denial of access to employment, housing, education, health care and pensions. Individuals without nationality documents may be excluded from owning a home, opening a bank account, registering a marriage or registering a birth.

Stateless persons may fall within the definition of refugee if the discrimination or harm they experience amounts to persecution. For example, refugee cases have arisen where children born in contravention of China’s former one-child policy who would be deprived of nationality, education, healthcare or economically disadvantaged at present and into the future.⁴⁹

45 1954 Convention relating to the Status of Stateless Persons, Article 1.

46 State succession is where one State is transferred to another or where two or more States unite to form one new State.

47 European Network on Statelessness, ‘Issues’, www.statelessness.eu. Last accessed 26 May 2019.

48 Every deserted infant first found in the State shall, unless the contrary is proved, be deemed to have been born in Ireland. Irish Nationality and Citizenship Act 1956, as amended.

49 See: *Cheung v. Canada (Minister of Employment and Immigration)*, [1993] 2 F.C. 314, Canada: Federal Court of Appeal, 1 April 1993; *Chen Shi Hai v. The Minister for Immigration and Multicultural Affairs*, [2000] HCA 19.

6.1 International and Irish law

In international law statelessness is governed by the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Ireland has ratified both Conventions.

Travel documents

The 1954 Convention relating to the Status of Stateless Persons provides a number of solutions to the issue of statelessness. It provides that persons who are recognised as stateless should be issued with an identity and travel document by the host State.⁵⁰ In Ireland, stateless persons may apply for travel documents.

Naturalisation

The 1954 Convention also provides that the host State should facilitate the assimilation and naturalisation of stateless persons, including by expediting naturalisation applications and waiving application fees.⁵¹ In Ireland, the Minister ('in his absolute discretion') may grant citizenship to a refugee or a stateless person following an application for naturalisation although not all conditions are complied with.⁵² Application fees and two of the five years required residence are waived for stateless persons in Ireland.

There is nevertheless no statelessness procedure in Ireland (see 6.2 below).

The 1961 Convention on the Reduction of Statelessness provides the following solutions most relevant for children (e.g.) (UNHCR, 2012):

- Persons born in a host State's territory who would otherwise be stateless should be granted the nationality of the host State.⁵³ This is provided for in section 6(3) of the Irish Nationality and Citizenship Act, as amended: 'A person born in the island of Ireland is an Irish citizen from birth if he or she is not entitled to citizenship of any other country'.
- Provision of nationality to foundlings.⁵⁴ This is provided for in the 1956 Act as well, under section 10 (see Section 2 above).
- Birth on a ship or aircraft is deemed to have occurred in the territory of the State whose flag the ship carries or the State where the aircraft is registered.⁵⁵

6.2 Practice in Ireland

Despite the above provisions, Ireland does not have a formal stateless determination procedure. INIS deals with stateless applications in an ad hoc and, according to ICI, unsatisfactory way (Cosgrave, 2016). One issue that arises in Ireland is the fact that stateless persons often end up in the asylum procedure. UNHCR Ireland noted that this may be due to the fact that potential applicants are not aware of any informal statelessness procedure (UNHCR Ireland, 2014). UNHCR Ireland and INIS agreed an ad hoc procedure whereby if UNHCR identifies a person who is potentially stateless, they will refer that individual to INIS. INIS may then issue a declaration of statelessness. A stateless person may then apply for permission to remain on that basis. The type of problems caused by the lack of a formal procedure in this area can be seen in a case described by the ICI. In this case, a stateless unaccompanied minor was granted temporary residence permission for one year, after four years cooperating with efforts to deport him. This temporary residence permission was then renewed twice for periods of three years. In 2015, when he was an adult, he was granted Irish citizenship unrelated to his statelessness. The same representations regarding statelessness had to be made at each renewal and for the citizenship application. He was never issued a declaration of statelessness. He was therefore required to pay the €950 citizenship application fee (Cosgrave, 2016).

50 1954 Convention relating to the Status of Stateless Persons, Articles 27 and 28.

51 1954 Convention relating to the Status of Stateless Persons, Article 32.

52 Section 16 of the Irish Nationality and Citizenship Act 1956, as amended.

53 1954 Convention relating to the Status of Stateless Persons, Article 1.

54 1954 Convention relating to the Status of Stateless Persons, Article 2.

55 1954 Convention relating to the Status of Stateless Persons, Article 3.

Citizenship

According to INIS, 12 persons have been granted citizenship who were categorised as 'stateless' between 2011 and 2017.⁵⁶ As stated above, two of the five years required to be eligible to apply for citizenship are waived for stateless persons.

7. Accompanied children who come through the asylum process

Accompanied children with parents in the protection process typically reside in Direct Provision with their families. Delays in determining their protection application and/or granting an immigration permission will mean longer stays in Direct Provision and delays in accruing reckonable years for the purposes of pursuing naturalisation.

As with separated children, the residence of children in Ireland whose parents are asylum seekers is not reckonable for naturalisation or long-term residence. The clock starts once granted some form of reckonable residence. Ordinarily, those coming through the asylum process will be granted Stamp 4 permission on the basis of a grant of international protection status or permission to remain. Persons granted refugee protection will be eligible to apply for citizenship after three rather than five years reckonable residence in Ireland.

Children who came through the asylum process who do not have a parent who is an Irish citizen/entitled to Irish citizenship may typically access citizenship in the following ways:

- If not born in Ireland, the parent must first be naturalised (by applying for naturalisation using form 9).
- If born in the State, and not entitled to Irish citizenship at the time of birth but have, along with their parent/legal guardian, since accumulated 3 or 5 years' reckonable residence (Form 11).
- Where they apply in their own right once they turn 18 (Form 8).

As stated above, children, accompanied or separated, do not have an independent right to apply for international protection in Ireland.⁵⁷ Adults who make an application for international protection are 'deemed to also have made an application for international protection on behalf of his or her dependent child where the child is not an Irish citizen...'.⁵⁸ This may result in children's individual needs receiving inadequate consideration in family protection claims. Research has highlighted that decisions focus on the head of household application and do not go into sufficient detail on the child's specific protection needs (Arnold, 2018; Cosgrave & Thornton, 2015).

7.1 Delays in the protection determination process

Despite the introduction of the single application procedure for international protection and permission to remain in the International Protection Act 2015, backlogs in the processing of applications have persisted in Ireland. The number of applications on hand at the International Protection Office (IPO) at the end of 2018 was 5,693, an increase of almost 500 on the end of 2017 figure of 5,183. Recent information indicates that the current median processing time for new applications received under the 2015 Act currently stands at 15 months (O'Neill, 2019).

Moreover, there was a significant increase in the number of people seeking international protection in recent years (IPO 2018; IPO 2019). Additional resources have recently been assigned to the IPO, with a view to meeting their target to reduce average processing times to 9 months for a first instance decision by the end of 2019 (O'Neill, 2019). Just as it was in 2015, the length of time protection applicants have to wait for a final decision on their claim remains the key factor affecting applicants' experiences of living in Direct

56 2011: 3; 2012: 0; 2013: 1; 2014: 2; 2015: 6; 2016: 0; 2017: 0 (McGinnity et al. 2018).

57 International Protection Act 2015, section 15(1)(a),(b).

58 International Protection Act 2015, section 15(3).

Provision accommodation, including those of children. Prolonged periods spent in the system may affect integration prospects, such as future employability, access to third-level education, family reunification, access to mainstream services, and on children's mental health and well-being (Groarke & Arnold, 2018). More than a quarter of those living in Direct Provision have been there for over three years.⁵⁹

A 2017 University College Cork (UCC) study, commissioned by the Department of Children and Youth Affairs (DCYA), presented the views of children living in Direct Provision accommodation (DCYA, 2017). In this study, a number of children mentioned that they had lived in the centres since they were born. 'Papers' was a theme at every consultation undertaken for the study. The children were aware of the delays and aware of the impact it will have on them, causing uncertainty and inability to plan for the future (DCYA, 2017).

8. Undocumented children

Children may be undocumented if their parents are undocumented as a result of, for example, being made redundant on a work permit, reaching the end of the maximum period a non-EEA national can reside in Ireland for education reasons, or evading immigration control/deportation for legitimate family, private life or humanitarian reasons. The State has taken steps to address the above situations. These include introducing a Reactivation Employment Permit and providing a pathway for 'timed-out students' affected by the change in policy to limit periods of stay for study reasons.

There is no clear pathway for undocumented persons to regularise their situations. Where children families are not eligible to apply for permission under another administrative scheme, parents/guardians/ persons acting in loco parentis may apply on behalf of children for permission to remain at the discretion of the Minister. A number of organisations, including the ICI, the Migrant Rights Centre Ireland and Nasc have noted that letters of application for regularisation should include evidence of a child's residence in Ireland, school attendance, family and other relevant matters. They argue that the absence of a clear legal pathway to regularisation is a significant barrier to children formalising their residence and thus starting to accrue years for the purposes of naturalisation (Mannion et al., 2018).

The Migrant Rights Centre Ireland has long advocated for a formal process for the regularisation of undocumented persons, including children, in line with the recommendations of the UN Committee on the Rights of the Child. In its review of Ireland's implementation of the Convention on the Rights of the Child, the Committee specifically recommended that the 'said legal framework includes clear and accessible formal procedures for conferring immigration status on children and their families who are in irregular migration situations' (Committee on the Rights of the Child, 2016).

9. Next steps

At present, for persons who do not otherwise have an entitlement to Irish citizenship by birth or associations, it is not possible to access a pathway to citizenship without already having an immigration permission.

Children are at an increased risk of delays in securing access to citizenship and its attendant rights. This is because children:

- cannot apply for international protection independently;
- cannot register with INIS before they turn 16;
- are not always registered/aware that they need to register once they do turn 16; and
- ordinarily derive their status from their parents/guardians.

⁵⁹ 23 July 2019, Minister for Justice and Equality, PQ [33768/19].

These factors also increase the risk that children may become undocumented or remain stateless.

The following proposed measures would help children who are trying to access naturalisation processes and Irish citizenship.

9.1 Separated Children Seeking Asylum

For separated children, the policy position of INIS and the practice position of the SWTSCSA, or Tusla, appear contradictory and unclear. This requires attention. Decision-making in relation to applications for residency or asylum by Tusla requires greater transparency and clarity. It should form part of the care planning process for each separated child and the child's views should be sought directly and given due weight in relation to this decision. All children should be afforded the opportunity to consult with a legal professional in order to inform their views on what immigration application should be made and when. It may therefore be advisable for INIS and Tusla to come together to develop a case management procedure and to provide a road map for social workers and young people so that they know what to expect.

Widening the definition of separated children as used by Tusla and the definition of unaccompanied minor as used by the Minister for Justice and Equality to include children who are not seeking international protection might encourage the SWTSCSA to explore other options by widening their current remit beyond separated children seeking asylum.

9.2 Stateless children

As stated above, stateless children born in Ireland may be eligible for citizenship under the Citizenship Acts. In addition, the Minister may waive two years of the residence condition in the case of stateless persons. There is also an ad hoc procedure available to stateless persons to request residence permission based on their statelessness. However, these procedures are unclear, are not established in law or policy and therefore cannot be relied upon with any degree of certainty. A statelessness procedure, like that available in France,⁶⁰ should be established to provide clarity to applicants and to ensure persons who are stateless do not unnecessarily (depending on their own circumstances) end up in the international protection system. The lack of a statelessness procedure should nevertheless not deter families, social workers or legal representatives from exploring existing options in relation to applying for a declaration of statelessness.

9.3 Children seeking international protection

Children in the international protection system should benefit from reasoned decisions on their protection or humanitarian needs in their own right, not based on or derived from the circumstances, evidence and testimony of their parents. In terms of international protection, the threshold for establishing a child was the victim of persecution or serious harm is lower than the standard applied for adults. There is a long list of child-specific forms of persecution that do not apply in the case of adults and they should be given due consideration (UNHCR, 2009).

9.4 Undocumented children

Presently, no regularisation scheme exists to assist children of undocumented parents.⁶¹ The Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018 (see below) would go some way to address a number of the issues in relation to undocumented children born in Ireland. These children are outside of the formal immigration system and are therefore not on a path to citizenship. NGOs working in this space recommend adopting a scheme to regularise undocumented children (and their families).

60 There is a dedicated procedure for statelessness in France. When submitting an application, they are classified according to the country where the person was born. Statelessness can be the consequence of: conflict of different nationality laws; gaps in nationality laws, often based on discrimination; lack of, or insufficiencies in, civil status registries in some countries; transfer of territories or denial or deprivation of nationality. See: UNHCR, 'Statelessness in France', <https://www.unhcr.org/ibelong/statelessness-in-france/>

61 The Supreme Court in *Luximon v Minister for Justice and Equality* and *Balchard v Minister for Justice and Equality* held that the Minister when considering applications for permission to remain under section 4(7) of the Immigration Act 2004, must take into account the applicant's rights to family and private life in accordance with Article 8 of the European Court of Human Rights. The decision in *Luximon* may be of assistance to those who are applying for an immigration permission who might otherwise become undocumented.

9.5 Legal aid

Another means of mitigating the above and reducing potential delays, is to facilitate access for children to legal aid. Presently legal aid is only available for persons applying for international protection, who are mainly adults. While some charities in Ireland provide free legal information and services, there remains a need for more resources to be available for children who require immigration advice not linked to international protection. In addition, many, in particular children in care, are not aware that they may require legal advice.

9.6 Getting on a path to naturalisation

The earlier a child's status is resolved, the earlier they will (ordinarily) be eligible to apply for citizenship by naturalisation. However, it is important that children are granted reckonable permissions, such as permission on the basis of Stamp 4. While children are residing in Ireland with such permission, they will accrue reckonable years in Ireland. This allows them greater access to social and educational supports not available to persons seeking international protection due to the restrictions on satisfying the Habitual Residence Condition (HRC) (time spent in the protection process in Ireland cannot be calculated for the purposes of the HRC). Presently, only children over the age of 16 are required and facilitated to register for immigration permission. However, as discussed, children, and particularly separated children, are not always registered.

In addition, the introduction of individual statuses for children, not derived from the status of parents, would be a welcome reform. There are some examples of this in other countries. In Germany, there is a permission for 'well-integrated' young people aged between 15 and 21 years. The required conditions of eligibility include 6 years residence in the State, school attendance over 6 years or achieving a vocational or school-leaving qualification and favourable prospects for integration. In Canada, children of parents with no status may apply for permanent residence on humanitarian and compassionate grounds (Mannion, 2016).

As outlined above, it is important that greater clarity is provided as to the obligation to register separated children in the care of the State once they turn 16. All relevant stakeholders and actors should be consulted in relation to necessary changes to ensure that children are fully safeguarded. This consultation should include the children themselves, Tusla, INIS, GNIB, NGOs, and legal professionals.

In summary, children should be regularised at the earliest possible point to ensure eligibility for citizenship from an earlier age. For asylum seeking children, this will of course potentially reduce time spent in the asylum process and in Direct Provision accommodation, reducing the impact of periods of social isolation and poverty. Ultimately children will have greater access to education, employment and family reunification.

The following could be explored by the relevant stakeholders in this regard:

- Guidance for social workers on submitting international protection applications and exploring alternative immigration permissions for separated children in the care of the state.
- Guidelines for legal practitioners in ensuring the voice of the child are heard in family asylum and other applications.
- Legal aid for child migrants who have humanitarian needs other than protection needs, including undocumented children.

9.7 Law reform and children born in Ireland

While the Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018 lapsed with the dissolution of the Dail in January 2020, the aim of the Bill was to reform Irish citizenship law as it applies to children born in Ireland in a number of important ways. In the first instance, section 15(1)(c) of the Citizenship Acts would have been amended to lower the period of reckonable residence required to be eligible for naturalisation from a minimum of 5 years to a minimum of 3 years.

Secondly, the present Section 15(3) would no longer apply to Irish born children if the legislation had been enacted. Section 15(3) presently provides that the applicant in the case of an application for naturalisation of a child is the parent, guardian or person acting in loco parentis.

Finally, the Bill sought to amend section 16A which presently states that the parent/guardian/person acting in loco parentis must satisfy the residence condition, meaning they must show they have the required period of reckonable residence. The reforms proposed in the Bill would mean that only the child would have to satisfy the residence condition, not their parent/guardian/person acting in loco parentis. In addition, the period of residence would not need to be reckonable. Effectively, this would mean that children born in Ireland to parents in the asylum process, who are stateless or undocumented, would have been eligible to apply for citizenship after three years residence.

The Bill would therefore have particularly benefitted children who are born in Ireland to persons still in the process of seeking international protection, stateless children and undocumented children. It would also impact children of parents with non-reckonable residency in the State, such as non-EEA students. It would not assist children born outside Ireland. It is worth noting, however, that undocumented children born in the state may be reluctant to make themselves known to protect their families from unwanted attention from the authorities. If legislation along the lines of the 2018 Bill is enacted at some point in the future, guidance or policy on how to allay these concerns and ensure undocumented children could benefit from the provisions would be required.

References

Legislation

1954 Convention relating to the Status of Stateless Persons
1961 Convention on the Reduction of Statelessness
Convention on the Rights of the Child 1989
International Covenant on Civil and Political Rights
Convention on the Elimination of All Forms of Racial Discrimination
Convention on the Elimination of All Forms of Discrimination Against Women

Irish legislation

Irish Nationality and Citizenship Act 1956
Immigration Act 2004
International Protection Act 2015
Employment Permits (Amendment) Act 2014

Judgments

AA (Algeria) v. Minister for Justice and Equality [2016] IEHC 416
AMA v Minister for Justice and Equality [2016] IEHC 466
Case C-200/02 Kunqian Catherine Zhu and Man Lavette Chen v Secretary of State for the Home Department 2004 ECJ: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62002CJ0200&from=EN>
Case C-34/09 - Gerardo Ruiz Zambrano v Office National de l'Emploi.
Cheung v. Canada (Minister of Employment and Immigration), [1993] 2 F.C. 314, Canada: Federal Court of Appeal, 1 April 1993
Chen Shi Hai v. The Minister for Immigration and Multicultural Affairs , [2000] HCA 19
D v Refugee Appeals Tribunal [2009] IEHC 326, [2010] 1 IR 213
Hussain v Minister for justice and Equality [2013] 3 I.R. 257
Iurescu (a minor) v The Minister for Justice and Equality & ors [2019] IEHC 535
JO (Nigeria) v Minister for Justice and Equality unreported [2016] IEHC
LGH v Minister for Justice, Equality and Law Reform [2009] IEHC 78
Luximon v Minister for Justice; Balchard v Minister for Justice [2018] IESC 24
MAD v Minister for Justice and Equality [2015] IEHC 446
Mallak v Minister for Justice, Equality and Law Reform [2012] IESC 59

Mishra v Minister for Justice [1996] 1 IR 189

N.A. (Somalia) & anor v Minister for Justice and Equality & ors

SH v Minister for Justice and Equality [2017] IEHC 41

Tabi v Minister for Justice, Equality and Law Reform [2010] IEHC 109

T(D) v Refugee Appeals Tribunal & Minister for Justice (No 2) [2012] IEHC 562

U.M. (Afghanistan) (a minor) v Minister for Foreign Affairs and Trade & Anor [2017] IEHC 741

V (NH) (Bangladesh) v Minister for Justice & Ors [2013] IEHC 535

Secondary sources

Arnold, S. 2012. State Sanctioned Child Poverty and Exclusion. The case of children in state accommodation for asylum seekers; Dublin: Irish Refugee Council.

Arnold, S. 2013. Implementing the Core Standards for guardians of separated children in Europe. Country Assessment: Ireland, Dublin: Irish Refugee Council.

Arnold, S. and M. Ní Raghallaigh. 2017. 'Unaccompanied minors in Ireland: current law, policy and practice', *Social Work and Society*, Vol. 15, No. 1.

Arnold, S. and Quinn, E. 2017. Family reunification of non-EU nationals in Ireland. European Migration Network Ireland. Dublin: Economic and Social Research Institute.

Arnold, S. Ryan, C. and Quinn, E. 2018. Ireland's Response to Recent Trends in International Protection Applications. European Migration Network Ireland. Dublin: ESRI.

Arnold, S. 2018. 'Child refugee and subsidiary protection appeals in Ireland' *Child and Family Law Quarterly*, 29:4.

Cambridge Dictionary. Date Accessed 29 July 2019: <https://dictionary.cambridge.org/dictionary/english/citizenship?q=Citizenship>

Carolan, M. 18 April 2018, 'Child born to non-EU parents refused Irish citizenship 'absurdly'', <https://www.irishtimes.com/news/crime-and-law/courts/high-court/child-born-to-non-eu-parents-refused-irish-citizenship-absurdly-1.3465983>.

Charles, K. (2009). Separated children living in Ireland: a report by the Ombudsman for Children's Office, Dublin: Ombudsman for Children's Office.

Children's Rights Alliance (CRA). 2015. Initial submission on the general scheme of the International Protection Bill 2015, Dublin: CRA.

Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Ireland, 29 January 2016, CRC/C/IRL/CO/3-4.

Cosgrave, C. 6 May 2016, 'Ireland's ad-hoc approach is failing stateless persons: Dublin seminar highlights shortfalls and need for formal procedures', https://www.statelessness.eu/blog/ireland-ad-hoc-approach-failing-stateless-persons-dublin-seminar-highlights-shortfalls-and?mc_cid=1b8a111b6c&mc_eid=b438d-50faa.

Cosgrave, C. and Thornton, L. 2015. 'Immigration and Asylum Law' in Children's Rights Alliance. Making rights real for children: A Children's Rights Audit of Irish Law. Dublin: Children's Rights Alliance.

Department of Children and Youth Affairs. 2017. Report of DCYA Consultations with children and young people living in Direct Provision. Available at: <https://static.rasset.ie/documents/news/report-of-dcya-consultations-with-children-and-young-people-living-in-direct-provision.pdf>. (accessed June 2019)

English Lexico dictionary, Oxford. Date accessed 29 July 2019: <https://www.lexico.com/en/definition/nationality>.

European Network on Statelessness. 2014. Preventing Childhood Statelessness in Europe, Issues, Gaps and Good Practice: <https://www.statelessness.eu/resources/preventing-childhood-statelessness-europe-issues-gaps-and-good-practices>.

Fanning, B and Veale, A. 2004. Child poverty as public policy: Direct provision and asylum seeker children in the Republic of Ireland. *International Journal of Phytoremediation* 21(1).

Groarke, S. and Arnold, S. (2018). Approaches to Unaccompanied Minors following Status Determination in Ireland, European Migration Network, Research Series No. 83. Dublin: The ESRI.

Government of Ireland, Budget 2019, Expenditure Report, available at <https://www.gov.ie/en/campaigns/0941370210-budget-2019/>.

Horgan, D., et al. 2011. 'A differentiated care system: its contribution to the vulnerabilities of separated migrant children in Ireland', *Children's European Citizenship*, Vol. 1, No. 1.

Huddleston, T. and M.P. Vink (2015). 'Full membership or equal rights? The link between naturalisation and integration policies for immigrants in 29 European states', *Comparative Migration Studies*, 3:8.

Immigrant Council of Ireland, 2018, INIS Consultation on the Immigration Registration of Foreign National Children, Dublin: ICI.

International Protection Office and UNHCR Ireland (2017) 'Prioritisation of applicants for international protection under the International Protection Act 2015', available at www.ipo.gov.ie

International Protection Office (IPO) - Monthly Statistical Reports, December 2018, available at www.ipo.gov.ie

International Protection Office (IPO) - Monthly Statistical Reports, February 2019, available at www.ipo.gov.ie.

Irish Naturalisation and Immigration Service (INIS). 2016. Policy document on non-EEA Family Reunification. Dublin: INIS.

Irish Times 26 October 2018 'Eric Zhi Ying Xue faces 'no imminent threat of deportation', says Simon Harris'.

The Irish Times. 22 March 2019. 'Asylum-seeker weekly allowance rises for adults and children' Available: <https://www.irishtimes.com/news/social-affairs/asylum-seeker-weekly-allowance-rises-for-adults-and-children-1.3837061>.

Mannion, K. 2016. *Child Migration Matters*. Dublin: Immigrant Council of Ireland.

Mannion, K. Coppari, P., Hurley, F. 2018. 'Ireland' in PICUM. Manual on regularisation for children, young people and families. Belgium: PICUM.

McGinnity, F; Fahey, E.; Quinn, E.; Arnold, S. Maître, B., O'Connell, P.J. (2018) Monitoring report on integration 2018. Dublin: ESRI; Department of Justice and Equality.

McMahon, B. Keynote speech delivered at Beyond McMahon – The future of asylum reception in Ireland conference, Centre for Criminal Justice & Human Rights, CCJHR, UCC (2018) Nasc, Irish Immigrant Support Centre and Centre for Criminal Justice & Human Rights, CCJHR, University College Cork, Cork, 25 April.

Mullally, S. 2011. 'Separated children in Ireland: responding to "terrible wrongs"', *International Journal of Refugee Law*, Vol. 23, No. 4.

Muižnieks, N. 2017. Report by the Commissioner for Human Rights following his visit to Ireland, from 22 to 25 November 2016, 29 March 2017, CommDH(2017)8, available at: <https://www.refworld.org/docid/594909c54.html>

- Murphy, C. 2013. 'Reconciling sovereign claims with individual rights? Access to citizenship after Mallak and Sulaimon' 49 Irish Jurist 193.
- Ní Raghallaigh, M. and L. Thornton. 2017. 'Vulnerable childhood, vulnerable adulthood: Direct Provision as aftercare for aged-out separated children seeking asylum in Ireland', *Critical Social Policy*, Vol. 37, No. 3.
- Ombudsman. 2019. *The Ombudsman and Direct Provision - Update for 2018 -A commentary by the Ombudsman*. Available at: <https://www.ombudsman.ie/downloads/Direct-Provision-2018.pdf>
- Ombudsman for Children's Office (OCO). 13 March 2019. 20 years later Direct Provision, a temporary solution, continues – Ombudsman for Children. Available at: <https://www.oco.ie/news/20-years-later-direct-provision-a-temporary-solution-continues-ombudsman-for-children/>
- O'Brien, S. 18 November 2018, 'Huge swing in favour of citizenship for all born in Ireland', <https://www.the-times.co.uk/edition/ireland/huge-swing-in-favour-of-citizenship-for-all-born-in-ireland-mcqqd2ttw>.
- O'Neill, E. 22 May 2019, Speaking Notes for the Oireachtas Joint Committee on Justice and Equality on Direct Provision and the International Protection Application Process Leinster House. Available at: https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/submissions/2019/2019-05-22_opening-statement-enda-o-neill-head-of-office-unhcr-ireland_en.pdf
- Phelan, S. 19 January 2019 'There have only ever been five revocations of Irish citizenship – it's a rare occurrence', *Irish Independence*, <https://www.independent.ie/irish-news/shane-phelan-there-have-only-ever-been-five-revocations-of-irish-citizenship-its-a-rare-occurrence-37727311.html>
- Quinn, E., C. Joyce, and E. Gusciute. 2014. *Policies and practices on unaccompanied minors in Ireland*, European Migration Network, Dublin: The ESRI.
- Separated Children in Europe Programme (SCEP). 2019. *Statement of Good Practice*, 5th ed. Leiden: Defence for Children the Netherlands.
- Shannon, G. 2018. *Eleventh Report of the Special Rapporteur on Child Protection A Report Submitted to the Oireachtas*.
- Sheridan, S. *Annual Report on Migration and Asylum 2017: Ireland*, European Migration Network, Research Series No. 83. Dublin: ESRI.
- Sirriyeh, A. and M. Ní Raghallaigh. 2018. 'Foster care, recognition and transitions to adulthood for unaccompanied asylum seeking young people in England and Ireland', *Children and Youth Services Review*, Vol. 92, pp. 89–97.
- Smyth, C. 2014. 'Children, direct provision and the European Convention on Human Rights' in S. Egan et al. (eds) *Ireland and the European Convention on Human Rights: 60 years and beyond*, Dublin: Bloomsbury.
- Thornton, L. 2007. 'Upon the Limits of Rights Regimes: Reception Conditions of Asylum Seekers in Ireland', *Refuge: Canadian Periodical on Refugee Studies*, 24:2, 86-100.
- Thornton, L. 2014. 'Direct Provision and the Rights of the Child in Ireland', *Irish Journal of Family Law*, 17:3, 68-88.
- Thornton, L. 2015. *Spotlight on Direct Provision in Children's Rights Alliance* (ed.), *Making Rights Real for Children: A Children's Rights Audit of Irish Law*. Dublin: CRA.
- Thornton, L. 29 November 2018, 'Why it's time for a new approach to Irish citizenship rights', <https://www.rte.ie/brainstorm/2018/1128/1013842-why-its-time-for-a-new-approach-to-irish-citizenship-rights/>
- UNHCR. 2009. *Guidelines on International Protection: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and 1967 Protocol relating to the Status of Refugees HCR/GIP/09/08 22 December 2009*.
- UNHCR. 2012. *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, Geneva/New York: UNHCR.

UNHCR. 2015. Statelessness in West Africa, www.unhcr.org

UNHCR Ireland. 2014. Scoping Paper: Statelessness in Ireland. Dublin: UNHCR Ireland.

Working Group on the Protection Process (2015). Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers: final report, available at www.justice.ie

