



**AN OIFIG UM CHOSAINN IDIRNÁISIÚNTA
INTERNATIONAL PROTECTION OFFICE**

IPO (SP) 05

INFORMATION NOTE

European Union (Subsidiary Protection) Regulations, 2017

This note is for information and guidance only. It does not purport to give a legal interpretation of these Regulations

1. WHAT ARE THESE REGULATIONS ABOUT?

- 1.1 The European Union (Subsidiary Protection) Regulations, 2017¹ (the 2017 Regulations) relating to the making of applications for subsidiary protection by certain classes of persons will come into operation on 2 October 2017. These Regulations are being introduced to take account of jurisprudence from the Court of Justice of the European Union (the CJEU) in Case C-429/15 E.D. v Minister for Justice and Equality ECLI:EU:C:2016:789 and the Court of Appeal in the same case E.D. v Minister for Justice and Equality (No.2) [2017] IECA 20.
- 1.2 The processing of applications under the 2017 Regulations will be undertaken by the International Protection Office (IPO).

2. TO WHOM DO THE 2017 REGULATIONS APPLY?

- 2.1 If you are a person who has been refused refugee status in the State since the introduction of the European Communities (Eligibility for Protection) Regulations 2006 (the 2006 Regulations)² on 10 October 2006 and you were subsequently invited to apply for subsidiary protection under the 2006 Regulations or the European Union (Subsidiary Protection) Regulations 2013 (the 2013 Regulations)³ and:
- a) you did not make an application because you believed that you were not entitled to do so on the basis that the 15 working day time limit had expired, or
 - b) you made a late application for subsidiary protection, which application was, on the basis that the 15 working day time limit had expired, not considered or investigated,

¹ S.I. No. 409 of 2017

² S.I. No. 518 of 2006

³ S.I. No. 426 of 2013

subject to the provisions of the 2017 Regulations, you are now eligible under those Regulations to apply for subsidiary protection.

3. DO I HAVE TO MEET ANY CONDITIONS TO APPLY UNDER THE 2017 REGULATIONS?

3.1 To avail of this process under the 2017 Regulations you must meet the following criteria:

- i. you must be present in the State on 2 October 2017.
- ii. you must apply in person at the International Protection Office.

3.2 If you have been granted refugee status or subsidiary protection in this State or in another EU Member State you are not eligible to apply under this process.

4. HOW CAN I APPLY FOR SUBSIDIARY PROTECTION UNDER THE 2017 REGULATIONS AND WHAT INFORMATION SHOULD I PROVIDE?

4.1 A request to be admitted to the subsidiary protection process under the 2017 Regulations must be in line with the following:

- i. The application **must be made in person** to the Chief International Protection Officer at the International Protection Office within 30 working days from 2 October 2017 (i.e. from 2 October 2017 up to and including 13 November 2017).
- ii. The application must be made on the **application form (IPO (SP) 01)** specified in Schedule 1 of the 2017 Regulations or a form to the like effect.
- iii. You must also submit a **statutory declaration (IPO (SP) 02)** in the form specified in Schedule 2 of the 2017 Regulations. The completed statutory declaration⁴ should, inter alia, state
 - the basis on which you are eligible to apply under the 2017 Regulations,
 - that you have not been granted refugee status or subsidiary protection in the State or any other EU Member State, and
 - that you were present in the State on 2 October, 2017.

4.2 If your application is accepted for processing in the IPO, it will be scheduled for interview in due course. When submitting your application form, you may provide any additional information to support your claim in line with the 2013 Regulations.

⁴ Note: the Statutory Declaration must be declared before a Notary Public, a Commissioner for Oaths, a Peace Commissioner or a person authorised by law to take and receive Statutory Declarations.

5. WHERE CAN I OBTAIN THE APPLICATION FORM AND OTHER ACCOMPANYING DOCUMENTS?

- 5.1 The application form (**IPO (SP) 01**), accompanying statutory declaration (**IPO (SP) 02**) and other information can be obtained by calling in person to the International Protection Office or by contacting the IPO by telephone. In the latter case, the information will be sent to you by post. When you call personally to the IPO or if you contact the IPO by telephone, you will be asked to provide certain information to verify your identity and to confirm that you have been refused refugee status in the State, since the introduction of the 2006 Regulations.

6. TO WHERE DO I RETURN MY APPLICATION FORM?

- 6.1 The completed application form and other accompanying documentation **must be returned in person from 2 October 2017 up to and including 13 November 2017** to the International Protection Office.

- 6.2 The address is as follows:

**International Protection Office,
Irish Naturalisation and Immigration Service,
79-83 Lower Mount Street,
Dublin 2. D02 ND99**

Telephone: +353 1 602 8008 (Customer Service Centre)

Fax: + 353 1 602 8122

Email: info@ipo.gov.ie

7. WHAT WILL HAPPEN AT THE IPO?

- 7.1 When you attend at the IPO with your completed documentation to make an application for subsidiary protection, subject to the provisions of the 2017 Regulations, staff will register your application after certain verification checks including your eligibility to apply and a confirmation check that you have been previously refused refugee status in the State.
- 7.2 Please bring any information you may have about your previous application for refugee status (including date of application, date of decision, reference numbers etc.) with you.
- 7.3 As part of the verification process you will also be asked to give your fingerprints.

8. WHO WILL PROCESS MY APPLICATION FOR SUBSIDIARY PROTECTION?

- 8.1 Provided that you meet the conditions for its acceptance under the 2017 Regulations, your application will be processed by an International Protection Officer in the International Protection Office under the European Union (Subsidiary Protection) Regulations 2013.

8.2 **The IPO will contact you in due course about arrangements for your subsidiary protection interview, once your application has been accepted, so there is no need for you to contact the IPO, directly or indirectly, about the matter.**

9. LEGAL ADVICE

9.1 It is recommended that you obtain legal advice as to whether you are eligible to apply under the 2017 Regulations.

10. QUERIES

10.1 If you have any queries regarding this application process please contact the International Protection Office - contact details above.

11. INFORMATION ON SUBSIDIARY PROTECTION

11.1 Information on subsidiary protection is at the **Annex** to this Information Note.

INFORMATION ON SUBSIDIARY PROTECTION

1. Purpose of the 2013 Regulations.

- 1.1 The European Union (Subsidiary Protection) Regulations 2013 provide for a system for the investigation and determination of applications for subsidiary protection made in the State on or after 14 November 2013.

2. What is subsidiary protection?

- 2.1 Subsidiary protection is protection to be granted to a person in respect of whom substantial grounds have been shown for believing that the person concerned, 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 who is not excluded from being eligible for subsidiary protection.

2.2 Serious harm means –

- (a) death penalty or execution; or
- (b) torture or inhuman or degrading treatment or punishment of a person in his or her country of origin; or
- (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict.

- 2.3 If you qualify for subsidiary protection you will be allowed to stay in the State and you will qualify for certain rights and entitlements. These rights and entitlements are set out in the 2013 Regulations.

3. Who is eligible for subsidiary protection?

- 3.1 Provided you are in the State when you make your application, you are eligible for subsidiary protection in accordance with the 2013 Regulations if:

- (a) you are not a national of a Member State of the European Union,
- (b) you have been refused a declaration as a refugee in Ireland,
- (c) substantial grounds have been shown for believing that, if returned to your country of origin, you would face a real risk of suffering serious harm and you are unable or, owing to such risk, unwilling to avail yourself of the protection of that country, and
- (d) you are not excluded from being eligible.

3.2 You will be excluded from eligibility for subsidiary protection in accordance with the 2013 Regulations if there are serious reasons for considering that you –

- (a) have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) have committed a serious crime;
- (c) have been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations, or
- (d) constitute a danger to the community or to the security of the State.

3.3 You will also be excluded from eligibility for subsidiary protection if:

- (i) there are serious reasons for considering that you have instigated or otherwise participated in the commission of a crime or an act referred to at paragraph 3.2 (a) to (d),
- (ii) you have left your country of origin solely in order to avoid sanctions resulting from a crime or crimes (but not consisting of a crime or conduct listed at paragraph 3.2 (a) to (d)) committed prior to your admission to the State where such crimes would be punishable by imprisonment had they been committed in the State.

4. Who can apply for subsidiary protection in the State?

4.1 Subject to the 2013 Regulations, an application for subsidiary protection can be made by a person

- (i) who is in the State, and
- (ii) who has been refused a declaration as a refugee in Ireland.

5. How will my application for subsidiary protection be investigated by the International Protection Office?

5.1 Your application for subsidiary protection will be investigated and determined by an International Protection Officer in accordance with the 2013 Regulations.

5.2 Under the procedures for the processing of applications for subsidiary protection, you will be required to attend for an interview in relation to your application. The purpose of the interview is to establish the full details of your claim for subsidiary protection.

5.3 An applicant must attend for an interview at the International Protection Office on the date and time fixed for the interview. Where an applicant does not attend for their scheduled interview his or her application may be deemed to be withdrawn.

5.4 An applicant may make representations in writing (including the submission of relevant documentation to support a claim) to the Chief International Protection Officer at the International Protection Office in relation to any matter relevant to the investigation and the Chief International Protection Officer/ International Protection Office shall take account of any representations that are made before or during an interview under the 2013 Regulations. Representations may also be made by the United Nations High Commissioner for Refugees and by any other person concerned.

5.5 Whenever necessary for the purpose of ensuring appropriate communication during an interview, an interpreter will be provided by the International Protection Office.

6. Outline of processing arrangements

6.1 The following is an outline of the processing arrangements for subsidiary protection applications.

- (i) The Chief International Protection Officer/International Protection Office will arrange for you to be interviewed in connection with your application.
- (ii) Following the interview, a written report will be prepared on the results of the investigation of your application and a recommendation made by the International Protection Officer to the Minister for Justice and Equality as to whether you are a person who is eligible for subsidiary protection.
- (iii) In the event of a negative recommendation, you will be entitled to appeal the recommendation to the International Protection Appeals Tribunal (“the Tribunal”) within 15 working days from the sending of the notice of the International Protection Officer’s negative recommendation. The Tribunal will hold an oral hearing where the applicant requests this in his/her notice of appeal; otherwise, the appeal may be determined without an oral hearing.
- (iv) Based on the recommendation of the International Protection Officer or the decision of the Tribunal, the Minister in accordance with the 2013 Regulations shall give or not give a subsidiary protection declaration to you as appropriate.

6.2 In the event of your application for subsidiary protection being refused by the Minister, you will be sent a notice in writing stating that:

- (a) your application for subsidiary protection has been refused;
- (b) the period of your entitlement to remain in the State has expired;
- (c) the Minister proposes to make a deportation order under section 3 of the Immigration Act 1999 requiring that you leave the State; and
- (d) you have the option of making representations to the Minister within 15 working days setting out why you should be allowed remain in the State.

7. Other information

- 7.1 You have the right to consult a solicitor and can avail of the services of the Legal Aid Board (LAB) in connection with your application for subsidiary protection. The LAB is an independent body established to provide a confidential legal service to persons applying for protection in Ireland. The LAB will provide legal advice and assistance in support of your application. Alternatively, you may seek the services of a private solicitor at your own expense. You are also entitled to consult the United Nations High Commissioner for Refugees.
- 7.2 You have permission to remain in the State until a final decision in relation to your application for subsidiary protection has been made. The Minister will provide applicants with a letter to this effect.
- 7.3 The 2013 Regulations should be consulted for other procedural matters not dealt with in this Information Note and for details of the rights and entitlements of a person eligible for subsidiary protection and in relation to whom a subsidiary protection declaration is in force.

International Protection Office

22 September 2017

SOME CONTACT DETAILS

International Protection Office

Irish Naturalisation and Immigration Service,
79-83 Lower Mount Street,
Dublin 2.
D02 ND99

Telephone: +353 1 602 8000
Fax: + 353 1 602 8122
Email: info@ipo.gov.ie
Website: www.ipo.gov.ie

International Protection Appeals Tribunal

6/7 Hanover Street,
Dublin 2.
D02 W320

Telephone: +353 1 474 8400
Lo-Call: 1890 210 458
Fax: +353 1 474 8410
Email: info@protectionappeals.ie
Website: www.protectionappeals.ie

Legal Aid Board (Smithfield)

48/49 North Brunswick Street,
Georges Lane,
Dublin 7.
D07 PE0C

Telephone: (01) 646 9600
Fax: (01) 671 0200
Email: lawcentresmithfield@legalaidboard.ie

International Organisation for Migration

116 Lower Baggot Street,
Dublin 2.
D02 R252

Freephone: 1800 406 406
Telephone: +353 1 676 0655
Email: iomdublin@iom.int
Website: www.ireland.iom.int/

United Nations High Commissioner for Refugees

102 Pembroke Road,
Ballsbridge,
Dublin 4.
D04 E7N6

Telephone: 01 631 4510
Website: www.unhcr.org