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Glossary of Terms: Irish Asylum Law

Liam Thornton

Asylum Seeker, a person who seeks **refugee status**, **subsidiary protection** or **leave to remain**. The veracity of the individual's claim has yet to be tested through the **status determination process**.

Refugee is a person who flees her country of origin and who fears persecution on the basis of her race, religion, nationality, political opinion or membership of a social group (i.e. sexuality or gender).

Subsidiary Protection, under European Union and Irish law, an asylum seeker is entitled to subsidiary protection if she does not fall into the definition of **refugee**, but can prove: she will face the death penalty in her home country, and/or will be subjected to torture, inhuman or degrading treatment or individualised risk of harm during a time of war/emergency in her own country.

Leave to Remain, may be granted to those who are not found to be in need of refugee or subsidiary protection. However, the Minister for Justice, at his discretion, permits the person to remain in the State. Sometimes known as **Humanitarian Leave to Remain**

Status determination process, refers to the mechanisms established under the Refugee Act 1996 and the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013). For those claiming **refugee status**, their claim is first assessed by the **Office of the Refugee Applications Commissioner (ORAC)**. If their claim is not accepted, an asylum seeker can appeal to the **Refugee Appeals Tribunal (RAT)**. If an asylum seeker's **refugee** claim is not accepted by **RAT**, only then can she apply for subsidiary protection. Since 14 November 2013, **ORAC** are responsible for considering a **subsidiary protection** application. Previously, the Department of Justice and Equality determined whether an individual was entitled to **subsidiary protection**. If an **asylum seeker** is found not to be in a **refugee** or in need of **subsidiary protection**, she can then apply to the Department of Justice and Equality for **leave to remain**. If this is not granted, the person is no longer an asylum seeker and the Department of Justice and Equality can issue a **deportation order**.

Office of the Refugee Application Commissions (ORAC), the body responsible for hearing **refugee** claims at first instance. ORAC is now also responsible for determining whether an individual is entitled to **subsidiary protection**.

Refugee Appeals Tribunal (RAT), is the body responsible for hearing appeals from ORAC's determinations on **refugee** status only.

Judicial review, can be utilised where an **asylum seeker** feels that the decision on her **refugee** or **subsidiary protection** or **leave to remain** claim was not reached in accordance

with natural justice, or their was some procedural deficiency with how the claim was heard or handled.

Deportation Order, issued where a person has exhausted the **status determination process** at the discretion of the Minister for Justice and Equality.

Direct Provision, is the system utilised whereby **asylum seekers** are provided with bed and board accommodation, along with €19.10 per week per adult and €19.60 per week per child (**direct provision allowance**). **Asylum seekers** are not entitled to any other form of social welfare payment, other than Exceptional Needs or Urgent Needs Payments. The accommodation system is administered by the **Reception and Integration Agency (RIA)**. The Department of Social Protection is responsible for providing **direct provision allowance**.

Reception & Integration Agency (RIA), is the non statutory agency, under the aegis of the Department of Justice and Equality responsible for the board and accommodation element of the direct provision system.

Dispersal, asylum seekers are dispersed to direct provision accommodation centres around the State. There is no right for an asylum seekers preference to be taken into account.

Irregular migrant, is a person who does not have permission to remain in the State. This individual can be deported from the State. Sometimes such an individual is called an **undocumented migrant**. Either phrase is used in preference to the phrase **illegal immigrant**.

Economic migrant, a phrase sometimes used in debates on asylum, arguing that the majority of asylum seekers do not meet the legal definition of refugee or subsidiary protection, sometimes called **illegal asylum seekers** or **bogus asylum seekers**.

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About the author: [Dr Liam Thornton](#) is a lecturer in law and director of clinical legal education in UCD Sutherland School of Law. Liam researches and publishes in the fields of migration law and social security law.