

APPROVED



**AN ARD-CHÚIRT
THE HIGH COURT**

[2026] IEHC 606

[Record No. 2026/834 JR]

BETWEEN

NK

APPLICANT

AND

**THE MINISTER FOR JUSTICE, HOME AFFAIRS AND MIGRATION
INTERNATIONAL PROTECTION ACCOMMODATION SERVICE,
THE MINISTER FOR CHILDREN, EQUALITY, DISABILITY, INTEGRATION
AND YOUTH**

RESPONDENTS

JUDGMENT of Mr. Justice Conleth Bradley delivered on the 1st day of September 2026

INTRODUCTION

Preliminary

1. This is an application for leave to apply for judicial review which is made on notice to the Respondents.
2. The central focus of the Applicant's challenge concerns the decision of the International Protection Accommodation Service ("the IPAS"), which is a unit of the Department of Justice, Home Affairs and Migration ("the Department"), to transfer her from one IPAS-provided accommodation centre to another in the circumstances where it is accepted that a final decision has been made refusing her international protection in the State. That latter decision has not been challenged and therefore enjoys the presumption of validity.
3. The current status of the Applicant is a central consideration in this application for judicial review.
4. The Reception Conditions Regulations (S.I. 2030/2018) ("the 2018 Regulations") transpose the Reception Conditions Directive 2013/33 (26th June 2013) (recast) ("the 2013 Directive"), laying down standards for the reception of applicants for international protection. Together, they define the term 'recipient' and only a 'recipient', as so defined, is entitled to receive material reception conditions. This is also referred to in the International Protection Act ("the 2015 Act").
5. Regulation 2(1) of the 2018 Regulations includes a 'recipient' as a person who has given an indication that they wish to apply for international protection provided they make that application within 30 days and who is an applicant within the meaning of the 2015 Act.
6. Section 2(1) of the 2015 Act defines an 'applicant' as "*a person who—(a) has made an application for international protection in accordance with section 15, or on whose behalf such an application has been made or is deemed to have been made, and (b) has not ceased, under subsection (2), to be an applicant.*"

7. Section 2(2) of the 2015 Act further provides that a person shall cease to be an ‘applicant’ on the date on which (a) the Minister refuses under s. 47 [of the 2015 Act] to grant that person international protection (refugee status or subsidiary protection), (b) the date on which the person is given a permission to reside in the State, or (c) the person is transferred from the State in accordance with the Dublin Regulation.
8. The Applicant in this judicial review challenge is no longer an ‘applicant’ within the meaning of the 2013 Directive, the 2018 Regulations or the 2015 Act.

Applicable threshold

9. The applicable threshold for leave to seek judicial review under O. 84 of the Rules of the Superior Courts 1986 (as amended) (“the RSC 1986”) in this challenge is that referred to in *G v The DPP* [1994] 1 I.R. 374 and is the standard of ‘arguability’.
10. This threshold was restated by the Supreme Court in *O’Doherty v The Minister for Health* [2022] IESC 32; [2023] I.R. 488 (“*O’Doherty*”) by O’Donnell C.J., at para. 39 of his judgment, as follows:

“The threshold is a familiar one in the law. It is, in essence, the same test which arises when proceedings are sought to be struck out on the grounds that they are bound to fail, or the test that is normally required in order to seek an interlocutory injunction. It must be a case that has a prospect of success (otherwise it would not be an arguable case) but does not require more than that. While, inevitably, individual judges may differ on the application of the test in individual cases at the margins, the test itself is clear. This test – it must be stressed – is solely one of arguability: it is emphatically not a test framed by reference to whether a case enjoys a reasonable prospect of success, still less a likelihood of success. Any such language obscures the nature of the test and may on occasion lead to misunderstanding, appeal and consequent delay.”

11. Similar observations were made by the Supreme Court in *Esmé v Minister for Justice and Law Reform* [2015] IESC 26, *Burke v Minister of Education* [2022]

IESC 1; [2023] 2 I.R. 1 and by the Court of Appeal in *Sutton v The DPP & Ors* [2024] IECA 303.

12. The threshold of arguability applies irrespective of whether the application for leave is made *ex parte* or is made on notice to a putative respondent or notice party. This leave application was made on notice to the Respondents.
13. At the end of the hearing of the leave application, there was a brief exchange between counsel as to whether the threshold was in fact that of ‘substantial grounds’ as prescribed in s. 5 of the Illegal Immigrants (Trafficking) Act 2000, as amended (“the 2000 Act”). I am satisfied, however, that the applicable threshold is that of ‘arguability’ having regard to the decision of the IPAS which is the central focus of challenge and the grounds which are set out in the Statement of Grounds.
14. In terms of the interlocutory relief sought by the Applicant, which was impacted upon by recent correspondence on behalf of the Respondents, it was agreed by the parties that the applicable test was that set out by the Supreme Court in *Okunade v Minister for Justice* [2012] IESC 49; [2012] 3 I.R. 152 (“*Okunade*”).

BACKGROUND

Decision dated 12th May 2025

15. The Applicant is an Algerian national.
16. On 12th May 2025, the Department wrote to the Applicant in the context of her application for international protection.
17. The letter of 12th May 2025 addressed a number of matters.
18. It informed the Applicant that the International Protection Appeals Tribunal (“the IPAT”) had affirmed the recommendation of the International Protection Office (“the IPO”) that she would not be granted either a refugee declaration or a subsidiary protection declaration.

19. The letter further informed the Applicant that pursuant to s. 47(5) of the 2015 Act, the Minister for Justice, Home Affairs and Migration (“the Minister”) was refusing to give the Applicant a refugee or subsidiary protection declaration.
20. In relation to the issue of permission to remain, the letter stated that the Applicant had been previously informed by the IPO that the Minister had decided to refuse her permission to remain in the State under s. 49 of the 2015 Act. The letter stated that this decision had been reviewed because the Applicant had submitted further information under s. 49(7) of the 2015 Act. It informed the Applicant that the Minister had decided, pursuant to s. 49(4)(b) of the 2015 Act, to refuse her permission to remain in the State and a statement of the reasons for that decision was enclosed with the letter dated 12th May 2025.
21. Under the subheading “current status”, the letter of 12th May 2025 explained to the Applicant that she now ceased to be an “*applicant under the 2015 Act*” and, as such, the permission she had been given previously to remain in the State, while her application was being examined, had expired.
22. Under the subheading “Temporary Residence Certificate” (“the TRC”), the letter dated 12th May 2025 stated that, if the Applicant had a TRC, it was no longer valid and she must return it to the Minister immediately. The letter stated that it could be handed in to the public offices of the Immigration Service Delivery (“the ISD”), at Burgh Quay, Dublin 2 or to her local Immigration Registration Office and that her local Garda station would be able to provide her with the contact details and address of the closest Immigration Registration Office.
23. It was further stated that if the Applicant had been granted permission to access the labour market as an applicant for international protection, it was no longer valid and her original permission letter must be returned to the Minister immediately. Again, the letter stated that it could be handed into the public offices of the Immigration Service Delivery at Burgh Quay, Dublin 2 or by post to the Labour Market Access Unit, PO Box 2931, Freepost, FDN 5264, Dublin 2.
24. The letter then addressed the “next steps” and stated that, if the Applicant had been granted another residence permission, or if she had applied for another residence

permission and was awaiting a decision on her application, the paragraphs which followed in the correspondence dated 12th May 2025 may not apply to her at this time. The letter stated that, similarly, if she had already made a successful application to voluntarily return to her country of origin, which in this case was Algeria, that part of the letter may not be relevant. In bold type, the letter stated “[y]ou no longer have permission to remain in the State and you must now return voluntarily to your country of origin or be deported”.

25. In relation to the issue of “voluntary return”, the letter stated that under s. 48 of the 2015 Act the Applicant had the option of returning voluntarily to her country of origin. It stated that if she wished to avail of this option, she must notify the Minister, within five days of the date of the letter, of her intention to return on a voluntary basis. It was stated that if she availed of the option to leave voluntarily, she was not required to leave the State within the next five days. The letter stated that if the Applicant decided to voluntarily return to her country of origin, she may be eligible for tailored return assistance from the Voluntary Returns Unit of the Immigration Service Delivery (“the ISD”) which may assist with travel documents, flights, and travel arrangements and may also provide reintegration financial support, subject to eligibility. A contact email address was given and reference was made to a QR code.
26. The letter dated 12th May 2025 then addressed the issue of “deportation.”
27. It stated that if the Applicant did not return voluntarily to her country of origin or if she did not let the Minister know within the required timeframe that she had decided to return voluntarily, the Minister would make a deportation order in respect of the Applicant under s. 51 of the 2015 Act. The letter stated that once a deportation order was made and served, it would require the Applicant to leave the State and remain out of the State indefinitely.
28. The last paragraph of the letter stated that if the Applicant changed address she must notify the Minister. It stated that failure to do so would be considered a failure to comply with the laws of the State. The letter informed the Applicant that she could update her address record by writing to the Acknowledgements Unit, Repatriation Division, Immigration Service Delivery (ISD), 13-14 Burgh Quay,

Dublin 2 or by way of email (and an e-mail address was provided) quoting the Applicant's unique personal ID number which was noted earlier in the first page of the letter dated 12th May 2025.

Deportation Order

29. By letter dated 18th June 2025, the Repatriation Division of the Department wrote to the Applicant and stated that consequent upon the refusal to give her a refugee declaration, a subsidiary protection declaration and permission to remain in the State pursuant to s. 47 and s. 49(4) of the 2015 Act, the Minister had now made a deportation order in respect of the Applicant under s. 51 of the 2015 Act and the deportation order dated 11th June 2025 was enclosed.
30. The letter stated that, in making the deportation order, the Minister had satisfied himself that the provisions of s. 50 (prohibition on refoulment) of the 2015 Act were complied with in the Applicant's case and the Minister was also satisfied that s. 48(5) (option to voluntarily return to the country of origin) of the 2015 Act did not apply. The letter stated, in bold type, that the deportation order required the Applicant to leave the State and to remain out of the State thereafter and that she was obliged to leave the State by 18th July 2025. The Applicant was requested to advise the Repatriation Division of travel arrangements in order to comply with the deportation order.
31. The letter further stated that if she did not leave the State by 18th July 2025, the Applicant was liable to be deported and the following requirements and the provisions of s. 3(9)(a)(i) of the Immigration Act 1999 (as amended) ("the 1999 Act") must be observed:-
- "...You are required to present yourself to the Member in Charge, Booth No. 20, Garda National Immigration Bureau, 13 to 14 Burgh Quay, Dublin 2 on 29th July 2025 at 14:30 pm to make arrangements for your removal from the State..."*
32. The letter also referred to the requirement to produce travel documents including passports and that the Applicant was required to reside at the address given in her

removal from the State. The letter *inter alia* stated that failure to leave the State by 18th July 2025 constituted a failure to comply with the provisions of the deportation order and an immigration officer and member of An Garda Síochána could arrest and detain the Applicant without warrant in accordance with s. 5(1) of the 1999 Act. The letter also referred to other matters including a change of personal circumstances which could warrant a review by the Minister of the decision to make a deportation order and stated that the Applicant could make submissions pursuant to s. 3(11) of the 1999 Act.

DECISIONS NOT CHALLENGED

33. It is common case that neither the notification of the deportation order dated 18th June 2025 or the deportation order dated 11th June 2025 or the matters referred to the letter of 12th May 2025 have been the subject of any challenge by the Applicant. These decisions therefore enjoy the presumption of validity.
34. In joint cases *DPP v Carter & DPP v Kenny* [2015] IESC 20; [2015] 3 I.R. 58 O'Donnell J. (as he then was) described the presumption of validity at para. 31 of his judgment as “...a general and important principle that orders made by bodies having jurisdiction to do so “bear no stamp of invalidity on their face” and may be perfectly effective as a matter of law unless and until quashed by a court of competent jurisdiction. (See *Smith v East Elloe Rural District Council & Ors* [1956] A.C. 736). Thus, for example in *Re Comhaltas Ceoltóirí Éireann* (unreported; 5th December 1977), it was held by Finlay P. that a planning permission was required to be treated as valid by a District Court hearing a licensing application, and that the Court was not entitled to entertain what would amount to a collateral challenge to it. As it was put in *Wade, Administrative Law* (Forsyth (ed.)) (Oxford; Oxford University Press; 2000; 8th edition), p. 287, “The court will take an administrative act or order as invalid only if the right remedy is sought by the right person in the right proceedings””.
35. In *R (Majera) v Secretary of State for the Home Department* [2021] UKSC 46, [2022] AC 461, [2021] 4 All ER 751, [2021] 1 WLR 5318 (“*Majera*”), the President of the UK Supreme Court, Lord Reed, at paras. 28 and 29 of his judgment, also referred *inter alia* to the following observation by Lord Radcliffe in *Smith v East*

Elloe Rural District Council [1956] A.C. 736, 769–770 that “...An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity upon its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders.”

36. Lord Reed further observed that it was a judicial pronouncement in the form of a court order (rather than the reasons given in a judgment) which had the legal effect of determining that an act or regulation was unlawful. He added that in *Smith v East Elloe RDC*, Lord Radcliffe’s observations (as just referred to) had been made in the context of an argument being put forward in that case - that an ouster clause preventing a CPO from being challenged after the expiry of a time limit, should only apply to orders made in good faith, since an order made in bad faith was a nullity and therefore had no legal existence – was one which was described as “*in reality a play on the meaning of the word nullity*”.
37. Lord Reed stated, at para. 29 of his judgment in *Majera* that, “[a]ccordingly, if an unlawful administrative act or decision is not challenged before a court of competent jurisdiction, or if permission to bring an application for judicial review is refused, the act or decision will remain in effect. Equally, even if an unlawful act or decision is challenged before a court of competent jurisdiction, the court may decline to grant relief in the exercise of its discretion, or for a reason unrelated to the validity of the act or decision, such as a lack of standing (as in *Durayappah v Fernando* [1967] 2 AC 337) or an ouster clause (as in *Smith v East Elloe*). In that event, the act or decision will again remain in effect. An unlawful act or decision cannot therefore be described as void independently of, or prior to, the court’s intervention.”
38. The context of the Applicant’s challenge in this case is a significant factor to be considered; no challenge has been made to the notification of the deportation order dated 18th June 2025 or to the deportation order dated 11th June 2025, or to any of the decisions referred to the letter of 12th May 2025; these decisions all remain in effect and valid.

Immediate context for this application

39. The central issue in this application for judicial review and the immediate context in which the challenge is taken relates to the decision of the IPAS dated 3rd June 2026 to transfer the Applicant from one IPAS-provided accommodation centre to another in circumstances where, as just outlined, a final decision had been made refusing the Applicant international protection in the State which has not been the subject of any challenge.

40. The letter dated 3rd June 2026 from the IPAS stated as follows:-

*“IPAS provides accommodation to [a]pplicants who are in the [i]nternational [p]rotection process in accordance with the Reception Conditions Regulations 2018. As you have received a final negative decision for your application, you will now be provided with temporary alternative accommodation at:- **IBIS HOTEL, RED COW ROUNDABOUT, MONASTERY ROAD, DUBLIN 22, D22 F903.***

You will no longer be accommodated at Kilmacoo, Athlone from Wednesday, 10/06/2026.

Please make your own way to your new accommodation on this date.

Please note that if you do not avail of this offer of temporary alternative accommodation, you are required to inform the Repatriation Unit of Immigration Service Delivery of your new address as outlined in your decision letter from the Department of Justice.

IPAS appreciates your cooperation in this matter.

Kind regards,

International Protection Accommodation Services

Date: 03/06/2026”

41. The Applicant submits that the terms of this letter represented a failure to comply with constitutional justice (fair procedures) and failed to engage with her circumstances, *i.e.* factors such as the completion of her studies and in stating, for example, that she would no longer be accommodated by 10th June 2026. The Applicant also contends that there was a lack of reasons furnished in this letter which compounds its alleged unlawfulness.
42. By letter dated 9th June 2026, the Applicant's solicitors wrote to the IPAS and referred to the letter dated 3rd June 2026 and *inter alia* stated as follows:-

“...Our client is currently a fourth-year student on the BSc (Hons) General Nursing Programme in the Technical University of the Shannon (TUS). If our client is relocated to Dublin it will cause significant difficulties given she is a nursing student and regularly is required to attend college along with her placement and University requirements and may have dire consequences on her successfully completing her degree.

She is currently completing a mandatory placement with her degree, and it would not be viable commuting from Dublin to complete this, whilst studying and maintaining her attendance.

Given the significant urgency arising [from] [sic.] our client's particular circumstances, we are taking the exceptional step of contacting you directly to avoid the need for an urgent injunction application to be moved before the High Court. Counsel are currently drafting proceedings. In the event that should we not receive by return an undertaking that our client's proposed eviction will not proceed on 10th June 2026, [we] [sic.] will appear before the High Court to seek an injunction.

We ask, given the urgency, that the International Protection Accommodation Service (IPAS) confirms their position by 16:00 hours today, 9th June 2026. To avoid the unnecessary and avoidable costs of the intended urgent proceedings, we would be most grateful if your office will provide an undertaking or a short undertaking that our client will not be removed from the accommodation. An undertaking would be in ease of all parties to have some of the urgency removed

from the matter. Should the need for an injunction arise we will fix you with the costs of any injunction proceedings on foot of this correspondence...

We look forward to your prompt response... ”

43. A similar letter was sent to the IPAS on 9th June 2026 which requested that it allow the Applicant to stay at her accommodation at Kilmacoo, Athlone until she completed her education in what was described as a highly sought-after sector within the State.
44. On 10th June 2026, the High Court (Gearty J.) refused an *ex parte* interim injunction application which sought to stay the implementation of the decision of the IPAS dated 3rd June 2026. Gearty J. adjourned the application for leave to seek judicial review and the application for an injunction/stay to 15th June 2026 at 2:00pm and directed that the Respondents be put on notice of the leave and injunction applications.
45. It appears from the Affidavit dated 15th June 2026 of Daniel Drennan, Assistant Principal Officer in the Department of Justice, Home Affairs and Migration in the International Protection Office, that the Applicant was transferred to accommodation at the Ibis hotel, Red Cow Roundabout on 11th June 2026.
46. In their response to the Applicant’s application, the position of the Respondents is that a final decision had been issued by the Minister refusing the Applicant international protection on 12th May 2025 and therefore the Applicant is no longer an “applicant” within the meaning of the 2018 Regulations.
47. It is further submitted that as the Applicant is no longer an international protection applicant, she is not entitled to a labour market access permission under Regulation 11 of the 2018 Regulations.
48. As referred to earlier in this judgment, Regulation 2(1) of the 2018 Regulations defines an ‘applicant’ as, including subject to paragraph (2), “*an applicant under the Act of 2015.*”

49. Recipient is defined in Regulation 2(1) of the 2018 Regulations as subject to paragraphs (2) and (3) as meaning (a) person who (i) has given, or is deemed under paragraph (5) to have given, an indication referred to in paragraph (a), (b) or (c) of s. 13(1) of the Act 2015 and (ii) has not ceased under paragraph (4) to be a recipient, and (b) an applicant.”
50. The ‘labour market access permission’ provisions are set out in Regulation 11 of the 2018 Regulations.
51. Regulation 11(1) provides:- *“Save as may be provided under any other enactment or rule of law, an applicant shall not seek, enter or be in employment or self-employment except in accordance with (a) a labour market access permission granted or renewed by the Minister under this Regulation (in this Regulation referred to as a “permission”) that is valid, and (b) this Regulation and, where applicable, Regulation 16.”*
52. Regulation 11(11) of the 2018 Regulations provides *“[a]n applicant who holds a permission shall be entitled to avail of vocational training—(a) subject to subparagraph (b), in the like manner and to the like extent in all respects as an Irish citizen, and (b) in the case of vocational training relating to an employment contract, to the extent to which the training relates to an occupation in which the applicant may, by virtue of the permission, be employed or self-employed.”*
53. Further, an ‘applicant’ is defined in Article 2(b) of the 2013 Directive as meaning *“...a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken.”*
54. Article 3(1) of the 2013 Directive defines its scope as follows: *“This Directive shall apply to all third-country nationals and stateless persons who make an application for international protection in the territory, including at the border, in the territorial waters or in the transit zones of a Member State, as long as they are allowed to remain in the territory as applicants, as well as to family members, if they are covered by such application for international protection according to national law.”*

55. On 10th June 2026, the Applicant's solicitors wrote to the Chief State Solicitor's Office and to the IPAS. The letter stated that they had been contacted by the Applicant and by the Centre Manager of the subject accommodation who had informed them that *"...IPAS is presently directing our client to vacate her accommodation at Kilmacoo Apartments, Kilmacoo Avenue, Athlone, County Westmeath. We are further informed that our client has been told that her place will be available to her should IPAS decide that she may return. We are deeply concerned that IPAS is taking this position in circumstances where, to our knowledge, the Chief State Solicitor's Office has not yet had the opportunity to consider the proceedings served upon it today and to furnish instructions to IPAS in respect of same. We respectfully submit that it would be wholly inappropriate for IPAS to proceed to direct our client to vacate her accommodation in the absence of any such instructions from the Chief State Solicitor's Office. We recognise that the Chief State Solicitor's Office may not yet have the opportunity to review the proceedings and formulate its position. In those circumstances, we respectfully request that IPAS permit our client to remain at Kilmacoo Apartments for the remainder of today, 10th June 2026 and that no steps be taken to require her to vacate her accommodation pending receipt of the Chief State Solicitor's Office instructions and position in this matter. We look forward to your urgent confirmation that our client will not be required to vacate her accommodation today..."*

56. On 11th June 2026, the Applicant's solicitors wrote to the Chief State Solicitor's Office and to the IPAS and stated *inter alia* as follows:- *"...We are instructed that our client, [Ms. NK] has now vacated her accommodation at Kilmacoo Apartments, Kilmacoo Avenue, Athlone, County Westmeath. We wish to place on record that our client's departure was not voluntary. It is our understanding that IPAS directed the accommodation centre to require client to leave, and that our client was informed that the Gardaí would be called if she refused to comply. In those circumstances, our client had no meaningful choice but to vacate the premises.*

We note that this matter is now listed before the High Court on Monday, [15]th June 2026. In those circumstances, we respectfully request that IPAS take all necessary steps to ensure that our client's room and bed space at Kilmacoo Apartments is

preserved and kept available to her until that date. We further request that, at the hearing on Monday, both IPAS and the Chief State Solicitor's Office set out their respective positions with regard to our client's accommodation and the reliefs sought in these proceedings. We look forward to your urgent confirmation this regard."

57. Section 3 of the 1999 Act provides for the making of deportation orders and s. 3(11) of 1999 Act provides that the Minister "*may by order amend or revoke an order made under this section including an order under this subsection.*"
58. As referred to earlier, in the correspondence dated 18th June 2025, the Applicant had been informed that if she considered that her personal circumstances had changed to such an extent as to warrant a review by the Minister of the decision to make the deportation order, it was open to her to make submissions pursuant to s. 3(11) of the 1999 Act seeking its revocation.
59. On the Applicant's instructions, representations dated 3rd July 2025 had been made on her behalf by her solicitor to the Minister pursuant to s. 3(11) of the 1999 Act seeking the revocation of the deportation order dated 11th June 2025.
60. The representations under the sub-heading "*New and changed circumstances*" *inter alia* stated that the Applicant had resided in the State for over three years, that she was in the third year of a General Nursing Degree and that she was employed as a carer. The letter of representation also enclosed references from the President of the Technological University of the Shannon: Midlands Midwest.
61. Under the sub-heading '*New evidence*', the representations *inter alia* stated that the Applicant had recently obtained medical evidence and reports from Algeria, which she had not been able to provide earlier as she had fled from her family and could not call on anyone to obtain the documents for her from Algeria. The letter stated that the Applicant had instructed that her father had filed a missing report and that this was enclosed together with a medical report. It was stated that further translations would be submitted upon receipt.

62. By email dated 4th July 2025, the Department acknowledged receipt of the Applicant's request for revocation under s. 3(11) of the 1999 Act.
63. In the Applicant's amended Statement of Grounds (as in the initial Statement of Grounds), the Applicant stated that she was currently awaiting the Minister's decision on her s. 3(11) application and also added at para. 18 that "...[t]he Applicant further contends that, pending the Minister's decision on her application under section 3(11), she remains in [an] 'active immigration process'". The Respondents take issue with this reference to being in an 'active immigration process'. They submit that the process has in fact concluded and the Applicant is no longer "an applicant."
64. In the Affidavit of the Applicant's solicitor, Mr Khan, sworn on 18th June 2026, he exhibits the following email received on Thursday, 18th June, 2026 from the Repatriation Division of the Department:

"...I am directed by Minister for Justice, Home Affairs and Migration to correspond with you in relation to your client's position in the State. Please be advised that your client became the subject of a deportation order issued under cover of 18th June 2025, she was obliged to leave the State by 18th July 2025. An application pursuant to section 3 (11) of the Immigration Act 1999 (as amended) seeking to revoke the deportation order was made on behalf of your client in July 2025, slightly less than a year ago.

I wish to assure you that your client's case is currently under consideration by the Minister, [it] is the intention to issue a decision on the s.3(11) application before the end of July. Moreover, as the application is currently under active consideration, no further unsolicited representation will be accepted by the Minister in your client's case..."

65. The point is made on behalf of the Respondents that the observation that the Applicants 's. 3(11)' application remains under "active consideration" is not synonymous with the contention that the Applicant "remains in an 'active immigration process'".

THE APPLICANT'S GROUNDS OF CHALLENGE

66. The Applicant's grounds for judicial review in her amended Statement of Grounds are categorised in the legal submissions on behalf of the Respondents.
67. Having regard to each of these grounds of challenge, for the following reasons, I do not consider that the Applicant has set out any arguable case as to why the Minister was not entitled to exercise his powers to transfer the Applicant from one IPAS accommodation to another, for operational reasons.
68. In addition to addressing each of the Applicant's Statement of Grounds (as set out below), I have, in summary, had regard *inter alia* to the following matters: the decisions made in the international protection process invoked by the Applicant were concluded over a year earlier; the relevant decisions made, as part of that process, were unchallenged and remain valid and effective; the deportation order dated 11th June 2025, for example, remains in force; the application under s. 3(11) of the 1999 Act does not have a suspensory effect on this deportation order; the impugned accommodation transfer was consequential upon those decisions; the Applicant no longer enjoys 'applicant/recipient' status insofar as the material reception conditions are concerned.

Grounds (No.1) and (No.5)

69. It is convenient to address the first and fifth grounds of challenge relied on by the Applicant together.
70. The first ground of challenge relates to the legality of the transfer decision while the s. 3(11) application seeking to revoke the deportation order dated 11th June 2025 (notified on 18th June 2025) was pending and relates to the grounds set out at paras. (f) 29, 35, 36, 37 and 38 of the Applicant's amended Statement of Grounds.
71. The relief sought at d(vi) of the amended Statement of Grounds, and the fifth ground relied upon, also seeks an order of mandamus in relation to the s. 3(11) revocation.

72. As set out earlier in this judgment, the Applicant had been provided with IPAS accommodation for a defined time period.
73. Section 2(2) of the 2015 Act provides that a person shall cease to be an applicant on the date on which (a) the Minister refuses under s. 47 to grant that person international protection (*i.e.* refugee status or subsidiary protection), (b) in which the person is given a permission to reside in the State, or (c) the person is transferred from the State in accordance with the Dublin Regulation.
74. The Applicant is no longer an applicant for international protection as so defined.
75. Further, during the leave hearing it was correctly accepted by senior counsel on behalf of the Applicant that the application for the revocation of the deportation order pursuant to s. 3(11) of the 1999 Act does not have a suspensive effect in relation to that deportation order: see *CRA v Minister for Justice* [2007] IEHC 19; [2007] 3 I.R. 603, *ADS (Ghana) v Minister for Justice* [2012] IEHC 73, *PNS (Cameroon) v Minister for Justice* [2018] IEHC 504 and *GT v Minister for Justice* [2025] IEHC 154.
76. It was also observed on behalf of the Applicant that she was in a ‘*precarious position.*’
77. Accordingly, the Minister was entitled to take any appropriate steps towards effecting the deportation order against the Applicant notwithstanding the fact that an application for the revocation of the deportation order had been made pursuant to s. 3(11) of the 1999 Act. The context of this application for judicial review – and the precarious position of the Applicant – is that the Applicant is subject to being deported from the State notwithstanding her challenge which focuses on her temporary accommodation status in the State.
78. Further, I do not accept that the email of 18th June 2026 which stated that the application made pursuant to s. 3(11) of the 1999 Act was under consideration by the Minister and that it was the Minister’s intention to issue a decision before the end of July 2026 means that the Applicant had an arguable case for seeking an order of *mandamus*.

79. The email from the official in the Repatriation Division of the Department indicated that it was the Minister's stated intention to issue a decision on the s. 3(11) application before the end of July. It is noted that reference is made to 'active consideration' in that it was stated that, as the application was currently under active consideration, no further unsolicited representation would be accepted by the Minister in the Applicant's case. There is, therefore, no basis for stating that an order of *mandamus* is arguable in this application for judicial review:- see *MJ and AA v The Minister for Justice* [2026] IEHC 51 para 149 *et seq.*

Ground No. 2

80. At paras. 32, 33 and 34 of the amended Statement of Grounds, the Applicant seeks to argue that, in the letter dated 3rd June 2026, the Respondents failed to give adequate, intelligible and legally sufficient reasons for the decision.
81. I have, earlier in this judgment, set out the terms of the letter dated 3rd June 2026 when the IPAS informed the Applicant that because she received the final negative decision on her application for international protection, she would now be provided with temporary alternative accommodation at the IBIS Hotel, Red Cow Roundabout, Monastery Road, Dublin 22 and would no longer be accommodated at Kilmacoo, Athlone from Wednesday, 10 June 2026.
82. Since the seminal decision in *O'Keeffe v An Bord Pleanála* [1993] 1 I.R. 39 (see also *O'Neill v An Bord Pleanála* [2009] IEHC 202), the adequacy of a decision-maker's reasons falls to be considered in light of the documents and evidence before the decision-maker and from the standpoint of an intelligent person who has participated in the relevant proceedings. The *O'Keeffe* decision is an authority on 'reasons' in addition to 'reasonableness'.
83. In *Connelly v An Bord Pleanála* [2018] IESC 31, [2021] 2 I.R. 758, [2018] 2 ILRM 45 ("*Connelly*"), Clarke C.J. referred to two separate but closely related requirements regarding the adequacy of any reasons: first, any person affected by a decision is entitled to know in general terms why the decision was made (this derives from the principle of fairness and transparency); second, a person is entitled to be given sufficient information to consider whether or not they can or should seek

to avail of any appeal or to bring a judicial review challenge to the decision (in this regard, a court is entitled to engage properly in an appeal or a review by being able to scrutinise the reasons).

84. In stating this general approach, Clarke C.J. emphasised that its application would vary greatly from case to case depending on their facts and circumstances.
85. The facts of *Connelly*, for example, concerned a challenge to an environmental/planning decision which involved EU law.
86. Clarke C.J. held that the failure to participate in that permission or consent process did not necessarily exclude a person from having standing to challenge a decision (see *Grace & Anor v An Bord Pleanála* [2017] IESC 10).
87. In terms of the general requirement to give reasons, Clarke C.J., at para. 6.17 of his judgment, distinguished between the circumstances of ‘participation’ and ‘non-participation’ in a process: where a person had participated in a process, then it may be open to a decision-maker to simply point to information (in the documentation which formed part of the process) which would be obvious to such a participant for the purpose of explaining a decision; in contrast, where a person had not participated in the decision-making process, and where the same information may not be necessarily obvious or available, such circumstances would require the furnishing of reasons (see also *Shirwin v An Bord Pleanála* [2024] IESC 13 (judgment of the Supreme Court, Woulfe J., at paras. 127 and 128)).
88. In a number of recent judgments from the Planning and Environment Division of the High Court, Humphreys J. has referred to the applicable principles in relation to the duty to give reasons. For example, by way of summary, in *Hession v An Coimisiún Pleanála* [2026] IEHC 355, beginning at para. 60, Humphreys J. identified the following points (by reference to established case law in the judgment delivered) as the key elements to the law relating to reasons:-
 - (i) The applicable standard is the obligation to provide the main reasons on the main issues;

- (ii) A decision-maker (or decision-taker) is not required to give “reasons for the reasons”;
- (iii) Certain issues are to be viewed objectively as main reasons given the nature of the process or decision at issue;
- (iv) It is a matter for the decision-taker in the first instance to decide whether submissions made raise relevant issues as part of a process;
- (v) There is no obligation to provide a discursive, narrative consideration or to ‘engage with’ submissions in such a sense, or to provide an issue- by- issue or submission-by-submission response;
- (vi) Reasons may be found anywhere, not necessarily in the decision itself. In a local government and planning context, for example, reasons may be found in an inspector’s report and no additional requirement for reasons is required when adopting a reasoned report (such as that of a chief executive or an inspector);
- (vii) Reasons may be implicit from the context. It can, for example, be implicit that matters submitted were held not to be outweighing when placed against factors supporting the conclusion arrived at;
- (viii) Consistent with the principle that there do not need to be ‘reasons for the reasons’, a decision-maker does not need to give reasons for not changing their mind from an already-articulated position absent a significant change in circumstances or a significant new point or for not making an exception to a clear policy for which reasons have been previously articulated, unless there is a significant change in circumstances or the unusual case of a new point being made of such significance that it needs to be expressly addressed. That principle in turn reflects an even broader principle that a re-iteration of a previous position or decision is not a new decision for the purposes of judicial review and does not re-start the clock for the purposes of bringing a challenge;

- (ix) There is no obligation to give reasons for not changing the *status quo*;
- (x) There is no obligation to state reasons for what is obvious;
- (xi) There is no obligation to give reasons for rejecting a legally incorrect point;
- (xii) A decision should not be quashed for lack of reasons if nobody could be in any real doubt as to what the reasons were;
- (xiii) If some reasons are good and others are bad, the decision may be severable if good reasons are stand-alone;
- (xiv) Reason are not severable if there is a certain link between the reasons;
- (xv) Reasons should not be created *ex post facto*.

89. In this case, the Applicant, Ms. NK, was a participant in the international protection application system and was informed of the various decisions which had been taken as part of that process and which are set out earlier in this judgment.

90. The Applicant was, in my view, engaged and a full participant in that process. She had been informed of the detail of the substance of her international protection application and the letter of 3rd June 2026 referred to the fact that, as she had now received the final negative decision on her application, she would be provided with temporary alternative accommodation at the IBIS Hotel, Red Cow Roundabout, Monastery Road, Dublin 22. The letter also stated that she would no longer be accommodated at Kilmacoo, Athlone from Wednesday, 10th June 2026. In my view, the letter was clear, and particularly so, in the context of a person who had participated in the process. In my view, the requirement to give reasons was satisfied.

Ground (No.3)

91. The Respondents grouped the grounds at paras. (f)(39 to 51) of the amended Statement of Grounds as the Applicant's educational circumstances.

92. In terms of the submission made on behalf of the Applicant, I do not consider that the decision of the Supreme Court in *Luximon v Minister for Justice and Equality* [2018] IESC 24, [2018] 2 I.R. 542 (“*Luximon*”) in any way supports the Applicant’s arguments and the facts and circumstances in *Luximon* are different and distinguishable to Ms. NK’s case.
93. The decision in *Luximon*, for example, concerned persons who had lawfully entered and remained in the State on foot of the terms of an administrative scheme (which applied at the time) under which visas could be obtained by non-EEA citizens for the purpose of taking up an educational course, with permission to take up limited employment. The scheme had operated for many years but in 2011 new time limits were introduced with the result that a number of persons, who by that time had settled in the State, had lost the right to remain. The Supreme Court considered the provisions of s. 4(7) of the Immigration Act 2004 (as amended) and held, having regard to that particular context, the Minister for Justice was obliged to consider any rights of such persons under Article 8 of the European Convention on Human Rights (“the ECHR”) in deciding whether or not to grant further leave to remain. MacMenamin J. had observed, at p. 74 of the reported decision, that the families had legally entered the State and that such rights as may have arisen were acquired during their lawful residence in the State. He stated that their long-term residence, although conditional, required that consideration should have been given to their Article 8 rights in the s. 4(7) consideration for variation or renewal of their entitlements and that they could not be described as ‘visitors’ or short-term entrants to the State, or persons had no entitlement to be in the State. (A new Special Scheme was introduced in the wake of the Supreme Court’s decision in *Luximon* which intended to make provision for further residence permission for people who had previously resided in the State on the basis of a student permission granted between 2005 and 2010 (*i.e.* before the 2011 changes) subject to the proviso that applications had to be made before 20th January 2019: see the summary of the new scheme and the decision in *Luximon* in the judgment of the Supreme Court in *Rana and Ali v The Minister for Justice* [2024] IESC 46, at paras. 11 and 12 per O’Malley J.).
94. In the circumstances, the context and facts applicable in *Luximon* are completely distinguishable from Ms. NK’s case as set out above.

Ground No.(4)

95. The grounds at paras. f (52, 53 and 54) of the Applicant's Statement of Grounds were characterised by the Respondents as whether there had been any unlawful or disproportionate interference with the Applicant's rights, dependency, etc., which they further understood to refer to asserted private rights pursuant to Article 8 of the ECHR as given effect to in Irish law by the European Convention on Human Rights Act 2003, as amended ("the ECHR Act 2003").
96. As stated, the letter of 12th May 2025 from the Department set out the various decisions dealing with the Applicants' international protection status application, all of which remain unchallenged and which culminated in the notification on 18th June 2025 of the deportation order, dated 11th June 2025, which are also unchallenged.
97. As part of this earlier suite of unchallenged decisions, the Applicant's private life rights in the State were considered in the s. 49(3) report and s. 49(7) review carried out under the 2015 Act.
98. The decision to transfer the Applicant as between IPAS-provided accommodation is a consequential and proportionate administrative decision which follows from this process and which demonstrably has a much lesser impact on the Applicant's private life than compared, for example, to the various unchallenged decisions referred to in the letter dated 12th May 2025 and the notification on 18th June 2025 of the deportation order dated 11th June 2025.
99. In *MK(Albania) v Minister for Justice and Equality* [2022] IESC 48; [2024] 2 I.R. 113, a majority of the Supreme Court (O'Donnell C.J., O'Malley J. and Hogan J.; MacMenamin J. and Baker J. dissenting) dismissed the appellant's appeal against the High Court judgment refusing to quash the Minister's refusal to grant permission to remain and the subsequent deportation order.
100. In his judgment, at para. 8, O'Donnell C.J. *inter alia* observed that "...it is in the nature of any decision which refuses leave to remain in the country and renders future residence unlawful and perhaps, even more clearly, where the decision is one

for forced removal, that such a decision is normally likely to have an impact of such gravity on an individual who has been living lawfully in Ireland for any appreciable time to engage the operation of Article 8. This is so even if that residence is precarious on the basis of a permission that is necessarily temporary and limited and where the decision to refuse leave to remain, or indeed to deport, is no more than the enforcement and application of the limitation of that permission or its termination in accordance with its terms.”

101. In carrying out a balancing exercise at para. 26 of his judgment, O'Donnell C.J. observed that “...where that residence is precarious, then the State's interest prevails, and will always justify the interference with private life that a refusal of leave to remain in the country, or indeed, deportation, necessarily involves, unless, adopting the language of MacEochaidh J., there is something more. The case law establishes the type of thing which may be something more, and which may have the capacity to tip the balance. This may be because of circumstances relating to the health of the individual, whether physical or mental, or the impact upon the individual by reason of their sexual identity, or orientation, or perhaps because of the manner in which they came to the country and their awareness or lack of it of the precarious nature of their residence, or the depth, length and intensity of the relationships they have established, and the particular circumstances of the persons involved in the nature of those relationships. I would not like to try to set out a definitive list of such circumstances. It is sufficient that without something more, that the State interest in maintaining the integrity of the immigration system will justify interference with private life when all that can be asserted is that a life has been lived in a country where that residence is and is known to be precarious...”
102. In addition, it can be observed that each of the Applicant's grounds of challenge in this application for judicial review are made in the context of underlying decisions in the formal international application process which have not been challenged and which led to the consequential decision to transfer the Applicant as between IPAS provided accommodation.
103. There is, in my view, no basis for contending that there has been a contravention by the Respondents of any requirement to perform their functions in a manner compatible with the State's obligations under the Conventions provisions including

inter alia Article 8 of the ECHR or the Convention provisions as defined in the 2003 Act.

104. Accordingly, I do not consider that the Applicant has established arguable grounds upon which leave to apply for judicial review should be granted.

Application for a stay/interim injunction

105. At para.(d)(ii) of the amended Statement of Grounds, the Applicant seeks an Order pursuant to O.84, r.20(8)(b) of the RSC 1986, staying the operation of the decision to transfer the Applicant's accommodation to the IBIS Hotel; at para. (d)(iii) of the Applicant's amended Statement of Grounds, the Applicant also seeks an interim injunction restraining the Respondents, their servants or agents and any person acting in concert with them from removing, evicting, transferring and/or relocating the Applicant from her current accommodation at Kilmacoo Apartments, Kilmacoo Avenue, Athlone, County Westmeath and/or from requiring the Applicant to vacate the said premises, until the first return date.
106. As the facts outlined earlier in this judgment set out, on 11th June 2026, the Applicant's solicitors wrote to the Chief State Solicitor's Office and to the IPAS and *inter alia* stated they were instructed that by that date, the Applicant had involuntarily vacated her accommodation at Kilmacoo Apartments, Kilmacoo Avenue, Athlone, County Westmeath. The letter added that as the matter was now listed before the High Court on Monday, 15th June 2026, the Applicant's solicitor requested that the IPAS take all necessary steps to ensure that the Applicant's room and bed space at Kilmacoo Apartments be preserved and kept available to her until that date.
107. Previously on 10th June 2026, Gearty J. had refused an *ex parte* interim injunction application which sought to stay the implementation of the decision of the IPAS dated 3rd June 2026. Gearty J. adjourned the application for leave to seek judicial review and the application for a injunction/stay to 15th June 2026 and directed that the Respondents be put on notice of the leave and injunction application.

108. The parties agreed that the applicable test for assessing the application for a stay/interlocutory injunction is that set out by the Supreme Court in its decision in *Okunade*.
109. In *Okunade* Clarke J. (as he then was) referred to a feature of judicial review proceedings which was rarely present in ‘*ordinary injunctive proceedings*’ and to the entitlement of those who were given statutory or other power and authority so as to conduct specified types of legally binding decision-making or action-taking, as an important part of the structure of a legal order based on the rule of law. Clarke J. referred to the entitlement of such persons or bodies to carry out their remit without undue interference as an important feature of any balancing exercise: *Okunade* [2012] 3 I.R. 152 at pp. 188-189.
110. At para. 104 of his judgment in *Okunade* Clarke J. set out the applicable principles.
111. Notwithstanding that the Applicant has failed to satisfy the first limb of the test in *Okunade*, in that I have determined that the Applicant has failed to establish an arguable case on the merits (and therefore the stay/injunction application stands refused), I shall nonetheless assume that arguable grounds have been established for purpose of assessing the second part of the test *i.e.* where the greatest risk of injustice would lie.
112. By analogy with the decision in *Okunade*, significant weight is to be attached to the implementation of decisions made in the immigration process which are *prima facie* valid. Accordingly, there is a high weight on the need to respect orders and decisions made in the immigration and asylum process unless and until they are found to be unlawful.
113. The default position is that an applicant will not be entitled to a stay or an injunction and the onus is on the person seeking the injunction to displace this default presumption.
114. On the facts of her case, I do not consider that the Applicant has established the necessary factors to displace the default scenario that *prima facie* valid measures

should be implemented pending the determination of a substantive judicial review application (see paras. 110 and 111 of *Okunade*).

115. In this regard, I consider that the decision to transfer the Applicant's accommodation to the IBIS Hotel in Dublin from the Kilmacoo Apartments in Westmeath in the circumstances set out in this case is a consequence of the orderly implementation of measures which are *prima facie* valid in the international protection application process as set out in the decisions outlined in the letter of 12th May 2025 which led to the notification of deportation dated 18th June 2025 and the deportation order dated 11th June 2025. These decisions enjoy the presumption of validity and have not been challenged.
116. In terms of the Applicant's previous accommodation in Westmeath, the Applicant emphasises the importance of this location to her current and ongoing education and to her employment in the care profession in which, it is stated, there is a large demand for such services. It is submitted that the Minister has failed to sufficiently consider these matters.
117. However, these issues cannot be decoupled from the Applicant's current status in the international protection process.
118. The Applicant is no longer an 'applicant' or 'recipient' as defined in law and is no longer entitled to receive the material reception conditions to which an 'applicant' or 'recipient' is entitled, and this is the case notwithstanding the Applicant's application for a revocation of the deportation order pursuant to s. 3(11) of the 1999 Act.
119. In addition, there is a public interest in the orderly operation of the scheme of international protection in which the various decisions and measures taken in relation to the Applicant have not in fact been challenged.
120. From the Applicant's perspective reference was made on her behalf to the '*precarious position*' in which she now finds herself in circumstances where the following is accepted: (a) the suite of decisions which were taken in the international protection application process and which led to the making of a deportation order have not been challenged and, therefore, enjoy the presumption

of validity; (b) the decision to transfer her accommodation is a consequence of those valid decisions; and (c) the application to revoke the deportation order under s. 3(11) of the 1999 Act has no suspensory effect on the deportation order process.

121. Further, this is not a case where damages are available and would be an adequate remedy. I do not consider that the question as to whether damages could be an adequate remedy arising from an undertaking as to damages, is applicable to the Applicant's circumstances. In addition, the issues arising in this application for judicial review do not involve a detailed investigation of fact nor do they raise complex questions of law.
122. In the circumstances, therefore, I refuse the application for a stay or injunction sought in relation to the decision made on 3rd June 2026 to transfer the Applicant from her previous accommodation in Westmeath to the IBIS Hotel, Red Cow Roundabout in County Dublin.

CONCLUSION

123. For the reasons set out above, I am satisfied that the Applicant has failed to demonstrate arguable grounds upon which leave to apply for judicial review should be granted.
124. The central difficulty facing the Applicant is that the decisions refusing international protection and permission to remain, together with the subsequent deportation order dated 11th June 2025 and notified on 18th June 2025, have not been challenged and continue to enjoy the presumption of validity. The Applicant accordingly ceased to be an applicant or recipient for the purposes of the statutory and EU law framework governing material reception conditions.
125. In those circumstances, the decision of the IPAS dated 3rd June 2026 to transfer the Applicant from one accommodation centre to another was a consequential administrative measure arising from an unchallenged and *prima facie* valid process. I am not satisfied that any of the grounds advanced disclose an arguable basis upon which that decision could be quashed, nor am I satisfied that there is any arguable entitlement to relief by way of mandamus in respect of the pending application under s. 3(11) of the Immigration Act 1999.

126. It follows that the application for leave to apply for judicial review must be refused.
127. Further, having regard to the principles identified by the Supreme Court in *Okunade*, notwithstanding that the Applicant has failed the first limb of the *Okunade* test in terms of not establishing an arguable case, I am also satisfied (assuming for this purpose only that arguability had been established) that the balance of justice does not favour the grant of an interlocutory injunction or stay. The application for such relief is, therefore, also refused.

PROPOSED ORDERS

128. I propose to make orders refusing the leave application and the application for a stay/injunction.
129. My provisional view is that as the Respondents have been entirely successful in opposing the Applicant's applications, they are entitled to their costs in accordance with the provisions of the Legal Services Regulation Act 2015.
130. If the parties wish to seek a different order, each should file written submissions limited to 1,500 words before the return date and the issue of costs can be addressed, together with any further ancillary or consequential matters which arise, at 10 am on Monday 28th September 2026.

CONLETH BRADLEY
31st August 2026