

Summary: The Subsidiary Protection application is an application to the Minister for Justice and Equality requesting permission to remain in the State on protection grounds – that is the Applicant fears he/she will be subject to serious harm if returned to their Country of Origin.

As of October 2006, applicants who are seeking asylum in Ireland who do not meet the legal definition of a refugee have the opportunity to apply for a second type of protection called “Subsidiary Protection”. This entitlement stems from a recent piece of European Union asylum legislation, the Qualification Directive. The Subsidiary Protection application is an application to the Minister of Justice and Equality requesting permission to remain in the State on protection grounds – that is the Applicant fears he/she will be subject to serious harm if returned to their Country of Origin.

An applicant can make such an application once they have been issued with a Notification of Intention to Deport pursuant to Section 3 of the Immigration Act 1999 or a “Section 3” letter.

The rights to Subsidiary Protection are regulated by Council Directive 2004/83/EC of 29 April 2004, otherwise known as the Qualifications Directive. The Directive’s definition of a ‘person eligible for subsidiary protection’ is stated in Article 2(e) as:

“a third country national or stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) do not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country”

Article 15 of Council Directive 2004/83/EC defines serious harm as follows;

Death or execution

Torture, Inhumane or Degrading Treatment or Punishment

Serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict

If approved under this heading, the applicant will be granted permission to remain in the State for a three year period initially. On the basis that the situation in their country of origin continues, this permission should be renewed. The subsidiary protection application will also qualify for certain rights and entitlements similar to those of a refugee; Right to Family Reunification, Employment, Health and Social Welfare Services, Education and Travel.

We have made a number of successful applications for Subsidiary Protection on behalf of clients from war torn countries such as Somalia, Iraq and Afghanistan. We make substantive submissions relating to the dangers faced by our clients should they be returned, and all submissions are fully supported with Country of Origin Information.