Minister Helen Mc Entee
BY EMAIL: 12/07/2024

Dear Minister McEntee,

The Immigrant Council of Ireland Independent Law Centre is an independent human rights organisation that promotes access to justice for migrants and their families, including Irish citizens, living in Ireland. More than 5,000 individuals are directly supported through our information, support and legal services each year. With over 20 years' experience as a frontline service provider across the broad spectrum of migration, residence and citizenship related applications, the organisation has significant insight regarding the issues affecting migrants and their families in the immigration system, including Irish citizenship applications. It is with this expertise that we write to you to express our great concern at the proposed amendments to the Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Bill 2024, which was published last month and has been amended at Committee Stage.

Currently, as you are aware, the Minister for Justice is empowered to revoke Irish citizenship granted by naturalisation in accordance with the provisions of section 19 of the Irish Nationality and Citizenship Act 1956 (as amended), however the power is currently inoperable. In October 2020, the Irish Supreme Court ruled in *Damache v Minister for Justice* [2020] ISEC 63 that the current revocation procedure under section 19 is unconstitutional. The Supreme Court noted that an individual facing the prospect of revocation of a certificate of naturalisation must be entitled to a process which provides minimum procedural safeguards including an independent and impartial decision-maker.

When first published the 2024 Bill contained no provisions regarding section 19 of the 1956 Act. However, the draft legislation now provides for an amended procedure to be adopted by the Minister for Justice in scenarios where it is intended to revoke Irish citizenship granted by way of naturalisation. The procedure is set out at Part 3, Amendment of the Irish Nationality and Citizenship Act 1956.

Immediately on publication of the draft provisions, the Irish Human Rights and Equality Commission expressed concerns regarding the haste at which the draft provisions have been brought forward and we share the view that there has not been sufficient time for appropriate pre-legislative scrutiny to ensure the appropriate safeguards are in place in the proposed revocation procedure. In addition to the several concerns already raised by the Commission, and in our capacity as the national contact point for the European Network on Statelessness, we are deeply concerned with the lack of safeguards in the current draft legislation to protect against statelessness.

The Statelessness Index, published each year by the European Network on Statelessness takes account of whether there are protections and safeguards in situations of deprivation of nationality and the report on Ireland notes that there are no such protections in Irish law.

Independent Law Centre
7 Red Cow Lane, Dublin 7, Ireland D07 XN29
W: www.immigrantcouncil.ie

Immigration Helpline
T: +353 1 674 0200

Administration
T: +353 1 674 0202
E: admin@immigrantcouncil.ie

Immigrant Council of Ireland CLG | Registered Company No. 412824
Registered Charity No. 20061982 | CHY (Revenue) No. 16908
Registered Office: 7 Red Cow Lane, Dublin 7

Stateless people have no nationality, either through legal gaps or through discriminatory state practices. It is estimated there are half a million stateless people across Europe. Stateless people are often denied basic fundamental rights such as the right to vote, apply for citizenship, and access public services. Irish law does not provide a definition for stateless people, there is no established process for determining statelessness, and there are no official numbers on stateless people living in Ireland.

We draw attention to the report of UNHCR Ireland, Mapping Statelessness in Ireland (2022), which asserts that the absence of co-ordinated policy and guidance on this issue hampers the identification and protection of stateless persons. The UNHCR recommends that laws relating to revocation of citizenship should be amended to ensure that there is a safeguard against statelessness in individual cases. The proposed legislative amendments do not meet this standard.

The failure to protect against statelessness in a procedure that is specifically designed to deprive a person of Irish nationality highlights Ireland's continuing failure to address the issue of statelessness. The Immigrant Council of Ireland has made repeated recommendations that Ireland, as a party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, introduce a stateless determination procedure. It is essential that the legislature now considers the proposed revocation procedure appropriately with regard to our international obligations and the right to a nationality.

Ireland's failure to set out a clear procedure to determine statelessness, has been addressed by UN Treaty Bodies (UN CERD), and other international organisations and international NGOS.

We recognise that it is necessary to bring forward amending legislation to address the findings of the Supreme Court with regard to the existing section 19 revocation procedure. However, we share the Commissions view that the proposed amendments to the 2024 Bill should be removed and not enacted in haste. It is essential that any amended procedure is robust and ensures appropriate safeguards, including to prevent statelessness. We kindly request the Minister and members of the Justice Committee to give the matter serious and thoughtful consideration.

Yours Sincerely,

Brian Killoran

CEO, Immigrant Council of Ireland

Working for equality

Directors: Dr Roja Fazaeli, Amina Moustafa, Hugh Quigley, Naghmeh Reilly, Rose Wall, Karen Hernandez, Philippa Cottle, Diego Castillo Goncalves
Chief Executive Officer: Brian Killoran
Company Secretary: Francis Njúgúna
Managing Solicitor: Catharine Cosgrave

Independent Law Centre
7 Red Cow Lane, Dublin 7, Ireland D07 XN29
W: www.immigrantcouncil.ie

Immigration Helpline
T: +353 1 674 0200

Administration
T: +353 1 674 0202
E: admin@immigrantcouncil.ie

Immigrant Council of Ireland CLG | Registered Company No. 412824
Registered Charity No. 20061982 | CHY (Revenue) No. 16908
Registered Office: 7 Red Cow Lane, Dublin 7