



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission

17 July 2024

Helen McEntee TD
Minister for Justice
51 St. Stephen's Green
Dublin 2
D02 HK52

By registered post and email: minister@justice.ie

17 July 2024

URGENT

Your Ref: DJE-MO-06803-2024

Our Ref: OOD024/INA

**Re: Revocation of Irish naturalised citizenship
Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous
Provisions) Bill 2024**

Dear Minister,

Many thanks for your email, received earlier today.

We hesitate in writing to you so soon again, but it is important to do so given the seriousness of the issues. Regrettably, the contents of your email do not provide us with any reassurance. Instead, it reaffirms our concerns that the enactment of these amending provisions at this haste, and without appropriate pre-legislative scrutiny, risks the introduction of a system that falls short of the standards required.

In that context it is important that I address some of the key points that you have made in your letter:

- We respectfully disagree with your assessment that these amendments will provide persons going through a revocation process with higher standards of protection and



safeguards, ensuring that the new procedure is robust and fair;

- Your assertion that section 19(1)(b)¹ of the Nationality and Citizenship Act 1956 (the ‘1956 Act’) is used only in serious cases of terrorism provides no reassurance, since the current wording of the provision allows any future minister much wider scope to invoke this provision and to revoke naturalised citizenship for significantly less serious issues. If your intent is to rely on this provision in cases of terrorism only, then this confirms the need for you to revisit section 19(1), since the current wording is unclear and open to wide interpretation, and sets a worryingly low threshold for revocation;
- We note your comment that, in practical terms, the only other ground used in section 19(1) is subsection (a), which relates to situations where the person procured their certificate of naturalisation on the basis of fraudulent activities. In other words, only two of the five grounds for revocation of citizenship set out in section 19(1) are actually relied upon – this further reinforces the need to revisit and amend this provision;
- Regarding your observation that this power has been used extremely sparingly, fewer than 10 times since 1956, we would respond that past use of these provisions is no indicator of future use. Again we would repeat that these provisions only have the power to negatively impact a discrete section of our society – i.e. our fellow Irish citizens, who are Irish by naturalisation;
- Your comments regarding methods of notification do not address the serious nature of our concerns in this context. We note your comment that your officials will make every effort to contact those who are subject to the revocation procedure through all the channels provided for in the Act, as may be applicable in the case of the person concerned. Respectfully, such a commitment only endures for as long as the Minister of the day adheres to it. If this is the underlying intention, then this further confirms the need to revisit and refine the proposed notification provisions. Otherwise, the kind of stark scenarios set out in our previous correspondence – whereby a naturalised Irish citizen could be stripped of their citizenship within 6 weeks and without their knowledge – could lawfully occur in the future;
- Our concerns regarding the independence and autonomy of the Committee of Inquiry are not assuaged by your response. The retired judge, who will chair such a Committee will be in the minority and, in any event, the proposed section 1P means

¹ “...that the person to whom [a certificate of naturalisation] was granted has, by any overt act, shown himself to have failed in his duty of fidelity to the nation and loyalty to the State”.



that the Minister, not the Committee, retains the final word on the procedures to be used, including the circumstances in which oral hearings are held;

- We note your comment that nothing in the proposed legislation suggests that the principles of the judgment in **AP v. Minister for Justice** will not be adhered to. Our concern is that there is nothing in the Bill that legislates to ensure compliance with this important legal duty. On the contrary, as it currently stands the Committee of Inquiry can be excluded from access to and knowledge of the information grounding the Minister's national security concerns. We note your comment that the Committee has an opportunity to consider whether to release this information as part of its procedure. With respect, the Committee cannot release what it does not have access to, as the Bill permits.

In summary therefore, the reassurances that you seek to provide are largely matters of policy and statements of intent as to how you would seek to use these powers. This does not, and cannot, bind future Ministers or future governments.

We are deeply disappointed that, notwithstanding the absence of any urgent reason to act on this issue prior to the summer recess, the Oireachtas has today passed what we regard as flawed legislation, where the period between publication of the relevant amendment and its passage into law is 8 days. This is legislation which would empower Ministers to use revocation in inappropriate or disproportionate circumstances. Furthermore, it contains procedural and substantive provisions that, in our view, are unlikely to withstand judicial scrutiny when tested against the high standards envisaged by the Supreme Court in *Damache*. In our view, further litigation of this nature is inevitable. Legislation of this nature does not engender confidence in our system of revocation – particularly for our fellow citizens who are Irish by naturalisation.

In line with our publications policy, this correspondence will be published on our website.

Yours sincerely,

Deirdre Malone,
Director.