



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

Pre-Legislative Scrutiny of the General Scheme of the Irish Nationality and Citizenship (Amendment) Bill 2026

Irish Human Rights and Equality Commission

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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Executive Summary

The new provisions in the General Scheme of the Irish Nationality and Citizenship (Amendment) Bill 2026 give rise to human rights and equality issues including with regard to the right to non-discrimination, fair procedures, legal certainty, and disproportionate impacts on certain groups, including structurally vulnerable groups.

The extension of the period of reckonable residence in Head 5 adds to an already onerous and lengthy process. It will affect categories of vulnerable people who lack the passport, citizenship and/or protection of their countries of origin including beneficiaries of international protection, unaccompanied minors, victims of trafficking and stateless persons. It will also affect persons lawfully resident in Ireland by way of other forms of immigration permission that count towards reckonable residence such as those who hold ‘critical skills’ work permits.

The additional conditions to qualify for citizenship in Head 5 – i.e. - sufficient means test (to be read in conjunction with Head 7), non-commission of certain immigration offences, language proficiency and civics test - will likely have a disproportionate impact on certain groups and some could be discriminatory.

Head 6 introduces changes to the requirements for naturalisation of non-EEA spouses and civil partners of Irish citizens which may impact on Irish citizens’ right to private and family life.

Head 8 provides that the condition of good character including in relation to minors over 14 cannot be waived in any circumstances. It should be considered whether this is compliant with the rights of the child.

The amendments in Head 9 that provide that residence is not reckonable residence for the purposes of naturalisation if it is on the basis of permission under the Temporary Protection Directive 2001/55/EC may amount to discrimination on the grounds of nationality or national origin.

Head 10 proposes to add ‘in the interests of public policy, public order or national security’ as a ground to revoke citizenship but does not define these terms. This raises concerns regarding the principle of legal certainty which requires that the law is clear, precise and foreseeable.

Head 10 also proposes to remove the Committee of Inquiry completely from consideration of the procedures to be established for an inquiry into a decision to revoke citizenship. It is not clear if this would comply with the Supreme Court’s requirement for fair procedures and adequate safeguards in the revocation process and raises further questions as to the independence of the Committee of Inquiry in the performance of its functions.

Introduction

The Irish Human Rights and Equality Commission (the Commission) is Ireland’s independent National Human Rights Institution and National Equality Body.¹ We protect and promote human rights and equality in Ireland.²

We are also the Independent Monitoring Mechanism for Ireland under the United Nations Convention on the Rights of Persons with Disabilities³ and the Independent National Rapporteur on the Trafficking of Human Beings,⁴ and we will be assigned the role of the Co-ordinator of the National Preventive Mechanism under the Optional Protocol to the Convention against Torture,⁵ pending ratification. Alongside Northern Ireland’s human rights and equality bodies, we have a mandate to consider and report on human rights and equality issues with an island of Ireland dimension.⁶ We also have legal powers under the Gender Pay Gap Information Act 2021,⁷ and an imminent fundamental rights role in relation to the EU Artificial Intelligence Act.⁸

We are making this submission under our statutory mandate to examine any legislative proposal and ‘report its views on any implications for human rights or equality, either of its own volition or on being so requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications for human rights or equality.’⁹

We reserve the right to comment further during the passage of the legislation, as appropriate.

The General Scheme of the Irish Nationality and Citizenship (Amendment) Bill 2026 legislation, purports to amend the Irish Nationality and Citizenship Act 1956 (‘the 1956 Act’)

¹ Established under the [Irish Human Rights and Equality Commission Act 2014](#).

² See our Strategy Statement 2025–2027: IHREC, [Strategy Statement 2025-2027](#) (2025).

³ Section 103 of the [Assisted Decision-Making \(Capacity\) \(Amendment\) Act 2022](#).

⁴ IHREC, [Commission Takes on New Role as Ireland’s National Rapporteur on the Trafficking of Human Beings](#) (2020).

⁵ To be provided under the Inspection of Places of Detention Bill, when enacted.

⁶ Belfast / Good Friday Agreement. ⁶Belfast / Good Friday Agreement. Following the UK’s withdrawal from the EU, we also comprise the Article 2(1) Working Group of the Dedicated Mechanism, along with the NIHRC and the Equality Commission for Northern Ireland (ECNI).

⁷ Gender Pay Gap Information Act 2021.

⁸ Article 77 of the [European Union Artificial Intelligence Act](#). Department of Enterprise, Trade and Employment, [Calleary announces key milestone in the implementation of the EU regulation on AI](#) (31 October 2024).

⁹ <https://www.irishstatutebook.ie/eli/2014/act/25/section/10/enacted/en/html#sec10>

and, if enacted as proposed, would herald significant changes to Ireland's current citizenship and naturalisation framework. The proposals include increasing the required reckonable residence from five to eight years, a requirement for economic self-sufficiency, introduction of language proficiency and civics tests, the exclusion of residence under Temporary Protection from reckonable residence, and increased grounds for revocation of citizenship.

The press release of the Department of Justice, Home Affairs and Migration states that the General Scheme reflects the Government's policy that Irish citizenship by naturalisation is an earned privilege and the culmination of sustained lawful residence, economic self-sufficiency, social integration, civic participation and compliance with immigration law, rather than merely the passage of time. It is also intended that the new legislation will ensure Ireland's naturalisation legislation is more closely aligned with that of other European countries. The press release also details how some EU countries require residence periods of between 7 to 10 years, economic self-sufficiency, language proficiency and civic integration tests.¹⁰

However, the proposed changes have drawn criticism from civil society organisations who have pointed out that no research or evidence has been presented by the Department for these proposed changes and have warned that the new rules risk creating permanent social exclusion and will destroy a crucial route to integration.¹¹

The Commission has previously raised concerns about the legislative framework on citizenship and recommended the State eliminate the significant delays in the existing citizenship application process,¹² as well as noting the impact on children's rights and the State's obligations under Article 7 of the UN Convention on the Rights of the Child.¹³ IHREC has also raised human rights and equality concerns regarding the process of revocation of citizenship

¹⁰ Department of Justice, Home Affairs and Migration [Press Release](#), 9 September 2026.

¹¹ Joint statement by Doras, Immigrant Council of Ireland, Irish Council for Civil Liberties, Irish Refugee Council, Migrant Rights Centre Ireland, Nasc, AkiDwA and the Migrant and Refugee Rights Centre. Doras.org, 7 September 2026.

¹² [Ireland and the International Covenant on Civil and Political Rights, Submission to the Human Rights Committee on Ireland's fifth periodic report, Irish Human Rights and Equality Commission, June 2022, p.75.](#)

¹³ Submission to the UN Committee on the Rights of the Child on the List of Issues Prior to Reporting for the fourth periodic examination of Ireland, Irish Human Rights and Equality Commission, July 2020, p.12. Article 7 includes the right to have a nationality.

including that any decision to revoke citizenship must be subject to procedural safeguards and a proportionality assessment.¹⁴

The Commission has concerns that the new provisions give rise to human rights and equality issues including with regard to the right to non-discrimination, fair procedures, legal certainty, and disproportionate impacts on certain groups, including structurally vulnerable groups.

In general, while there is not a standalone right to citizenship under the Irish constitution, access to a fair process of application for citizenship and a fair process for the revocation of citizenship engages a number of principles and standards of human rights and equality law, including constitutional protections in relation to fair procedures and the right to freedom from discrimination.

The proposed legislation would introduce significant additional restrictions on or barriers to the rights of persons applying for citizenship or potentially subject to revocation of citizenship. In that respect, the State may be required to justify the legitimate purpose, proportionality and necessity of the proposed measures.

Particular considerations may arise for those persons who may be eligible to apply for citizenship who are already currently legally resident in the State and who may enjoy rights to family and private life under Irish, European and international law.

¹⁴ [Ireland and the International Covenant on Civil and Political Rights, Submission to the Human Rights Committee on Ireland's fifth periodic report, Irish Human Rights and Equality Commission, June 2022, p.75.](#)

Relevant Human Rights and Equality Standards

International Covenant on Civil and Political Rights (ICCPR)

Article 2(1)¹⁵ ICCPR affords protections to all covenant rights of individuals against discrimination, explicitly including non-citizens, refugees and those under temporary protection, while Article 2(3)¹⁶ guarantees an effective remedy if those rights are violated. Article 26¹⁷ protects individuals against all discrimination and ensures equality before the law and prohibits arbitrary distinctions based on ‘immigration status’ or ‘other status’.

European Convention on Human Rights

Article 8 protects the individual’s right to respect for private and family life. While Article 8 does not guarantee a right to nationality, an arbitrary or disproportionate denial of citizenship can directly impact a person’s “private life”.¹⁸ Article 14¹⁹ strictly prohibits discrimination based on sex, race, national origin, or ‘other status’ (which includes immigration and temporary status), however it is an ancillary provision that requires another Convention right to be invoked, in this case most likely Article 8.

¹⁵ [ICCPR Article 2\(1\)](#): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

¹⁶ [ICCPR Article 2\(3\)](#): Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

¹⁷ [ICCPR Article 26](#): All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

¹⁸ *Usmanov v Russia* [App no 43936/18 \(ECtHR, 22 December 2020\)](#).

¹⁹ Article 14 ECHR: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Constitutional Principles and Natural Justice

Equality before the law is enshrined in Article 40.1 of the Constitution of Ireland and is used to determine if a legal distinction made by the State is proportionate and based on legitimate reasons. Article 40.3 requires of the State to respect, defend, and vindicate the personal rights of the citizen and was invoked in the citizenship revocation case before the Supreme Court (*Damache*)²⁰. Article 40.3 has also been invoked to ensure that laws in the State are transparent and predictable,²¹ and that principles of fair procedures apply to revocation procedures.

EU law

While it is for each Member State, having due regard to international law, to lay down the conditions for acquisition and loss of nationality, the fact that a matter falls within the competence of the Member States does not alter the fact that, in situations covered by EU law, the national rules concerned must have due regard to the latter.²² Article 20 of the Treaty on the Functioning of the European Union (TFEU) confers on every individual who is a national of a Member State citizenship of the Union, which is destined to be the fundamental status of nationals of the Member States.²³ Accordingly, the situation of citizens of the Union who are nationals of one Member State only and who, by losing that nationality, are faced with losing the status conferred in Article 20 TFEU and the rights attaching thereto falls, by reason of its nature and its consequences, within the ambit of EU law. Thus, the Member States must, in exercising their competence in the field of nationality, have due regard to EU law and, in particular, the principle of proportionality, which includes regard to fundamental rights arising under the Charter of Fundamental Rights and Freedoms of the European Union, when revoking citizenship.²⁴

²⁰ *Damache v Minister for Justice and Ors* [2021] IESC 6.

²¹ *King v Attorney General* ([1981] IR 233)

²² Judgments of 2 March 2010, Rottmann, [C-135/08](#), [EU:C:2010:104](#), paragraphs 39 and 41, and of 5 September 2023, Udlændinge- og Integrationsministeriet (Loss of Danish nationality), [C-689/21](#), [EU:C:2023:626](#), paragraph 28).

²³ Judgments of 20 September 2001, Grzelczyk, [C-184/99](#), [EU:C:2001:458](#), paragraph 31, and of 5 September 2023, Udlændinge- og Integrationsministeriet (Loss of Danish nationality), [C-689/21](#), [EU:C:2023:626](#), paragraph 29).

²⁴ Judgments of 2 March 2010, Rottmann, [C-135/08](#), [EU:C:2010:104](#), paragraphs 42 and 45, and of 5 September 2023, Udlændinge- og Integrationsministeriet (Loss of Danish nationality), [C-689/21](#), [EU:C:2023:626](#), paragraph 30 and of 12 March 2019, C-221/17 Tjebbes, [EU:C:2019:189](#), paragraph 32.

In that context, it is legitimate for a Member State to wish to protect the special relationship of solidarity and good faith between it and its nationals and also the reciprocity of rights and duties, which form the bedrock of the bond of ²⁵nationality.

²⁵ Judgments of 2 March 2010, Rottmann, [C-135/08](#), [EU:C:2010:104](#), paragraph 51, and of 5 September 2023, Udlændinge- og Integrationsministeriet (Loss of Danish nationality), [C-689/21](#), [EU:C:2023:626](#), paragraph 31).

Specific Observations

Head 5 – Amendment to Section 15 of the Irish Nationality and Citizenship Act 1956 (‘the 1956 Act’) – Conditions for issue of certificate

Extension of Period of Reckonable Residence

Head 5 provides for a new Section 15(1)(c)²⁶ that increases the length of reckonable residence required for naturalisation from a total of 5 to 8 years, not inclusive of any delays in processing time for applications which were recently approximated at between 12 to 18 months depending on complexity.²⁷

Prospective citizens may have to wait nine to nine and a half years for approval, if they are successful on their first application. This extension of the period of reckonable residence adds to an already onerous and lengthy process which includes the declaration of fidelity to the nation and loyalty to the State and delays the taking of the Oath of Allegiance by three years.

This provision will affect categories of vulnerable people who lack the passport, citizenship and/or protection of their countries of origin. These include but are not limited to beneficiaries of international protection, unaccompanied minors, victims of trafficking and stateless persons.

It will also affect persons lawfully resident in Ireland by way of other forms of immigration permission that count towards reckonable residence such as persons on various categories of work permit.

It could be argued that people already in the State and accruing reckonable residence have a legitimate expectation that they should have the right to apply for a certificate of naturalisation where they have complied with the conditions under the law as it currently stands and it may be unfair for the State to resile from the expectations raised with respect to

²⁶ (c) *has had a period of two year's continuous residence in the State immediately before the date of the application and, during the ten years immediately preceding that period, has had a total residence in the State amounting to six years.*

²⁷ [See comments from Minister Colm Brophy, January 2026](#)

these people now. It may also be argued that, in line with the principles of equality law, this principle of fairness and legitimate expectation should apply to all categories of persons legally resident in the State regardless of the category of legal residency under which that reckonable residence is acquired.

Additional Conditions

Head 5 increases the number of conditions to qualify for citizenship from five to ten.²⁸ On top of the extended period of reckonable residence from five to eight years, Head 5 introduces requirements for sufficient resources, language proficiency, civics knowledge, and stipulates offences for which citizenship can be denied.

‘Sufficient means’ test

Head 5 introduces section 15(1)(f) requiring applicants to have ‘sufficient resources for himself or herself not to become an unreasonable burden on the State’. A new section 15(3) sets out the elements required to satisfy the ‘sufficient resources’ condition. These include that applicants must have a minimum level of income prescribed by the Minister and must not be in receipt of ‘prescribed social welfare payment or a prescribed housing support’ at the time of the application or at any time during the application process and during the 2 years preceding the application.²⁹

The new section 15F, set out in Head 7, makes provision for the Minister to prescribe by way of regulations the minimum level of income, the relevant social welfare payments and housing supports.

In prescribing the minimum level of income the Minister must take a number of criteria into account including the average cost of living in the State, the economic and social-well-being of the State, and a broad ‘such other matters as the Minister considers appropriate’ criterion.

²⁸ The current law provides that applicants must be of full age, of good character, 5 years residence in the State, intend to continue to reside in the State after naturalisation, have made a declaration of fidelity to and undertake to observe the laws of the State – Section 15(1)(a)-(e) of the 1956 Act.

²⁹ Applicants must also not owe any debt to the Revenue Commissioners, the Department of Social Protection or have an outstanding court fine – Head 5(3). Note that Head 5 also includes a provision that allows the Minister to grant an application for naturalisation where an applicant has been in receipt of social welfare or housing support for a period of not more than 6 months.

This allows the Minister a wide degree of latitude. The same applies to the minimum income provisions – disabled people, single parent families and people over 66 years old face barriers in accessing the labour market, for example. If the Minister does not take this into account, it is possible that the regulations could become indirectly discriminatory.

The Minister, with the consent of the Minister for Social Protection, must prescribe the social welfare payments in question. Disability allowance, maternity/paternity benefit and State pension are all forms of social welfare payment, as are child benefit, one-parent family benefit and carer's allowance/benefit. The Commission has concerns that if these payments were to be prescribed, the regulations could be discriminatory on the grounds of disability, family and civil status grounds. However, without seeing a final list of prescribed social welfare payments, it is not possible to assess the legality of these provisions.

In relation to prescribed housing supports, the Minister is required, with the consent of the Minister for Housing, Local Government and Heritage, to prescribe a social housing support under section 19 of the Housing (Miscellaneous Provisions) Act 2009 or classes of same; accommodation provided under section 10 of the Housing Act 1988 or classes of same, any housing support provided in conjunction with or by the Department of Justice, Home Affairs and Migration, and charitable housing supports. These supports could potentially preclude persons in receipt of housing assistance payment, emergency homeless accommodation, and accommodation provided to victims of trafficking and domestic violence, if the support has been received in the two years before, at or during their application for naturalisation. It could also have a disproportionate impact on certain groups such as disabled people, single parent families, and victims of domestic violence.³⁰ However, without seeing a final list of prescribed housing supports, it is not possible to assess the legality of these provisions.

Offences

Head 5 sets out the new section 15(1)(g) that the applicant 'has not committed any offences listed in the first schedule to this Act at any point before or after an application for

³⁰ It is noted that the new section 15(f)(5) provides that in making these regulations the Minister shall have regard to the nature and purpose of the support in question, the extent to which the receipt of such a support is indicative of an absence of sufficient resources, whether a housing support is long-term, the objectives of promoting self-sufficiency of an applicant and ensuring the sustainable use of the resources of the State, and such other matters as the Minister considers appropriate.

naturalisation.’ The Explanatory Note to the General Scheme states that the purpose of paragraph (g) is ‘to discourage abuse of immigration and naturalisation processes.’ Schedule 1 sets out the applicable offences which include offences listed under the Immigration Act 1999, the Immigration Act 2004, the International Protection Act 2015, the Free Movement of Persons Regulation, the Withdrawal Agreement (Citizens’ Rights) Regulation 2020 and the International Protection Act 2026 – all are immigration-related offences.

IHREC previously highlighted that certain immigration offences could disproportionately affect vulnerable groups and could potentially criminalise behaviour linked to disability, trauma or coercion.³¹ For example, section 32(6) of the International Protection Act 2026 requires international protection applicants (‘IPAs’) to give An Garda Síochána access to their personal electronic devices. If an IPA refuses, they are guilty of an offence. There is no exemption for children or disabled people, despite recommendations from IHREC to include one.

Under the General Scheme, then, if disabled or child IPAs refuse to give An Garda Síochána access to their personal electronic devices and are subsequently charged with and found guilty of an offence, it could result in their being refused citizenship some ten years later.³² Deeming someone ineligible on these grounds would appear to be disproportionate having regard to the nature of the offence.

Language Test

Head 5 sets out the new section 15(1)(h) that introduces the requirement to have proficiency in the Irish language, the English language, or Irish sign language to such a standard as may be prescribed by the Minister. It is impossible to accurately assess the lawfulness of the provision without the detail of the regulations the Minister intends to prescribe. However, it is likely that this requirement will have a disproportionate, negative effect on people with intellectual or learning difficulties.

It is noted that Head 8 of the General Scheme provides for the Minister to waive this requirement in his absolute discretion in certain circumstances as prescribed, and the

³¹ [IHREC, Recommended Amendments to the International Protection Bill 2026 \(February 2026\)](#), pps 18-19.

³² Since the AGS request to access PED would be at point of entry to State or soon after.

explanatory note states that this is to ensure that this requirement does not unduly discriminate against vulnerable applicants. However, it is not clear exactly what the circumstances will be that will allow for such a waiver. The Minister should consider whether it is preferable to set out an express exemption in the primary legislation for those with intellectual or learning disabilities to avoid what could amount to unlawful indirect discrimination.

Civics Test

Head 5 sets out the new section 15(1)(i) that introduces a new civics test requiring applicants to demonstrate a sufficient understanding of Irish civics, society and politics to a such a standard as may be prescribed by the Minister. It is impossible to accurately assess the lawfulness of the provision without the detail of the regulations the Minister intends to prescribe. However, it is likely that this will have a disproportionate, negative effect on people with intellectual or learning disabilities, and children.

It is noted that Head 8 of the General Scheme provides for the Minister to waive this requirement in his absolute discretion in certain circumstances as prescribed, and the explanatory note states that this is to ensure that this requirement does not unduly discriminate against vulnerable applicants. However, it is not clear exactly what the circumstances will be that will allow for such a waiver. The Minister should consider whether it is preferable to set out an express exemption in primary legislation for those with intellectual or learning disabilities and children to avoid what could amount to unlawful indirect discrimination.

Head 6 – Amendment of Section 15A of the 1956 Act – Naturalisation of spouses and civil partners of Irish citizens

Head 6 introduces changes to the requirements for naturalisation of non-EEA spouses and civil partners of Irish citizens, increasing the time required to be spent married/in a civil partnership from 3 years to 5. It also increases time to be spent living continuously in the State immediately prior to application under section 15A(1)(e) from 1 year to 2 and increases time to be spent in State from 2 years to 3. It also adds three extra criteria to be satisfied with sub-subsections (i), (j) and (k), respectively, has not committed any offences under first

schedule; has demonstrated proficiency in Irish, English or ISL³³; and ‘has demonstrated an understanding of Irish civics to such a standard and verified in such a manner as may be prescribed by the Minister’.

The Explanatory Note sets out that these amendments aim to establish a proportionate timeline that encourages steady economic and social integration before naturalisation and to deter ‘marriages of convenience’. However, it is possible that these amendments may impact on Irish citizens’ right to private and family life.

It could also be argued that spouses and civil partners of Irish citizens already in the State and accruing reckonable residence have a legitimate expectation that they should have the right to apply for a certificate of naturalisation where they have complied with the conditions under the law as it currently stands and it may be unfair for the State to resile from the expectations raised with respect to these people now.

Head 7 – Insertion of new Section 15F of the 1956 Act – Self-Sufficiency requirements

Please see discussion of this provision under Head 5 and in relation to the ‘sufficient means’ test.

Head 8 – Amendment of Section 16 of the 1956 Act – Power to dispense with conditions of naturalisation in certain cases

Head 8 provides for the Minister to waive the requirements in relation to language proficiency and knowledge of Irish civics under section 15(1)(h) and (i) in his absolute discretion in certain circumstances as prescribed. The explanatory note states that this is to ensure that this requirement does not unduly discriminate against vulnerable applicants. As noted above, it is not clear exactly what the circumstances will be that will allow for such a waiver. The Minister should consider whether it is preferable to set out an express exemption in primary legislation for those who might be disproportionately and negatively impacted by such requirements to avoid what could amount to unlawful indirect discrimination.

³³ Note that Head 8 provides that the Minister may waive these requirements in his absolute discretion.

Under the present law, minors over 14 years must satisfy the good character requirement to be granted a certificate of naturalisation,³⁴ but the Minister may waive this requirement at his absolute discretion. Head 8 provides that the condition of good character including in relation to minors over 14 cannot be waived in any circumstances. It should be considered whether this is compliant with the rights of the child.

Head 9 – Amendment of Section 16A of the 1956 Act – Calculation of period of residence in relation to application for naturalisation

Temporary Protection (TP) is not Reckonable Residence

Head 9 amends section 16A of the 1956 Act by inserting new provisions that set out that residence is not reckonable residence for the purposes of naturalisation if it is on the basis of permission under the Temporary Protection Directive 2001/55/EC.³⁵ It is noted that it would appear that permission under Temporary Protection is currently reckonable residence as it is not included in the 1956 Act as non-reckonable and there is no power to the Minister to determine same.

Ukrainian nationals fleeing war have been living in Ireland under TP since March 2022 and are the only people to have been granted TP in the EU and the State. As a result, this provision can and will only affect Ukrainians resident in the State under TP. Were it not for the General Scheme's provisions, the first tranche of Ukrainian people to be admitted to Ireland under TP would be entitled to Irish citizenship in March 2027.

The provisions permanently exclude Beneficiaries of Temporary Protection (BOTPs) from ever being eligible for citizenship so long as they are resident in the State under TP. The provision disproportionately affects Ukrainians and appears to discriminate against them on the grounds of nationality. This may amount to *de facto* legislative discrimination against a

³⁴ This requirement only applies to minors under 14 at the date of their application if they have been charged with or convicted of certain serious offences -Section 15B(1)(b) and Section 15B(2) of the Irish Nationality and Citizenship Act 1956.

³⁵ This applies whether TP is granted under the International Protection Act 2015 or the International Protection Act 2026 – Head 9 new section 16A(e) and (f).

minority group and may amount to discrimination on the grounds of nationality or national origin.³⁶

The Commission has concerns that the amended section 16A may violate the express Constitutional protection for equality before the law set out under Article 40.1 of the Constitution,³⁷ the rights to respect for private life and non-discrimination under the ECHR,³⁸ as well as protections of equality and participation arising out of Article 26 ICCPR.³⁹

Head 10 – Amendment of Section 19 of the 1956 Act – Revocation of Certificates of Naturalisation

Revocation of Citizenship

This is the only provision in the General Scheme that relates to Irish citizens, and it raises two distinct issues: (i) a new public policy, public order or national security ground and, (ii) the removal of the requirement to consult with the Committee of Inquiry in relation to the procedures relating to an inquiry.

³⁶ It is noted that the Minister of State for Migration recently announced the commencement of a new immigration permission scheme for people with Temporary Protection status. People who are accepted into the new Temporary Protection Transition scheme will be granted permission for up to two years, renewable for periods of two years thereafter. Time on this permission will contribute towards naturalisation. To be eligible applicants must earn a stated minimum level of income and not be living in State supported accommodation. <https://www.gov.ie/en/department-of-justice-home-affairs-and-migration/press-releases/minister-colum-brophy-launches-new-immigration-permission-scheme-for-people-with-temporary-protection-status/>

³⁷ 'All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.' Article 40.1 has been held to apply to non-citizens including in the asylum seeker 'right to work' case *NHV-v- Minister for Justice and Equality and ors [2017] IESC 35* in which the Commission appeared as *amicus curiae*.

³⁸ Article 8 does not guarantee a right to acquire a particular nationality or citizenship, but an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual (*Slivenko and Others v. Latvia* (dec.) [GC], 2002, § 77; *Genovese v. Malta*, 2011, § 30). However, note that the ECtHR has found, in certain circumstances, no violation of the Convention in respect of different waiting periods for family reunification - in *M.T. and Others v Sweden* (22105/16) the Court found that the Government had shown that the differential treatment of the applicants was reasonably and objectively justified by the need to ensure the effective implementation of immigration control and to protect the "economic well-being of the country", and that the effect of the differential treatment was not disproportionate to the legitimate aim pursued. As such, there was no violation of Article 14 taken in conjunction with Article 8 of the Convention.

³⁹ ICCPR Article 26: 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protections against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

New grounds for revoking citizenship

Currently, under section 19 of the 1956 Act the Minister may only revoke a certificate of naturalisation on certain grounds including where citizenship has been obtained fraudulently, the person has failed in their duty of fidelity to the State, and the person acquired another citizenship.⁴⁰ Head 10 adds a new criterion (f) to the list that allows the Minister to revoke a certificate of naturalisation where ‘it is in the interest of public policy, public order or national security.’ Under the law at present, reasons for revocation do not have to be specified where to do so would be contrary to the interests of national security.⁴¹ However, ‘national security’ is not currently a ground on which a decision to revoke can be made in the first place.

There is no proposed statutory definition of public policy, public order or national security in the General Scheme and the wording would grant wide discretion to the Minister in determining these factors.

The explanatory note reinforces this intention and notes that:

Subhead 1(b) includes an additional distinct ground to provide the Minister with the explicit power to revoke citizenship specifically because someone is a threat to national security. Having regard to the backdrop of a changed EU and international security landscape and a more complex threat environment we consider that broad wording better lends itself to the variety of circumstances (albeit relatively rare) that may arise for consideration by the Minister (emphasis added).

The explanatory note does not refer to the inclusion of ‘public policy’ or ‘public order’ in the new provision nor provide any context or justification for same.

The Commission has previously commented on proposals to allow national security considerations to impact on the process regarding revocation of citizenship. In July 2024, the (then) Minister for Justice Helen McEntee published draft legislation providing for a process for the revocation of citizenship in the *Courts (Miscellaneous Provisions) Bill 2024*. This

⁴⁰ Revocation may also occur where the person is ordinarily resident outside of the State (or island of Ireland) for a continuous period of 7 years and without reasonable excuse has not during that period registered annually an intention to retain Irish citizenship, and where the person is a citizen of a country at war with Ireland - Section 19(1)(a) –(e).

⁴¹ Irish Nationality and Citizenship Act 1956, Section 19(1P) inserted by Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous provisions) Act 2024.

purported or intended to give effect to the Supreme Court decision in the case of *Damache v Minister for Justice and Ors*⁴² which held that certain provisions of the naturalisation process as set out in Section 19 of the 1956 Act at that time were unconstitutional. In its decision, the Supreme Court pointed to the drastic consequences that follow from a revocation of a Certificate of Naturalisation and warned that the revocation process under Section 19 does not provide the minimum procedural safeguards, including a process that involves an independent and impartial decision-maker, required to meet the high standards of natural justice applicable to someone facing such a severe circumstance as revocation of their certificate of naturalisation.

In 2024 correspondence to the Minister for Justice in relation to the draft legislation, the Commission raised concerns regarding proposed provisions that would allow the Minister for Justice not to give reasons for the revocation of naturalisation where either the Minister or the proposed Committee of Inquiry considered that giving reasons would be ‘contrary to the interests of national security’.⁴³ The Commission highlighted concerns regarding the breadth of discretion given to the Minister and the Committee to withhold reasons for their decisions, making it impossible for the naturalised citizen facing revocation to answer or to counter the case against them. The Commission noted that this does not sit well with the rationale of the Supreme Court in *AP v. Minister for Justice* [2019 (IESC) 47]4, regarding the right – even in national security cases - for a person to know the reason for the Minister’s decision to the minimum extent necessary to protect national security.⁴⁴

It is noted that the 1956 Act was ultimately amended to provide that reasons for revocation do not have to be specified where to do so would be contrary to the interests of national

⁴² [2020] IESC 63

⁴³ By letter dated 16 July 2024, the Commission wrote: “Under proposed section 1L, the Committee has no right to review the national security evidence that has grounded the Minister’s decision to revoke citizenship. The Bill does not require the Minister to provide the evidence of a national security threat grounding their decision to the Committee. Nor, indeed, does the Bill give the Committee the right to seek and obtain this evidence. In short, under this Bill, the Minister of the day is within their legal entitlements to tell the Committee they have information about a national security threat, without the requirement to give that evidence to the Committee, for it to be tested.”

⁴⁴ IHREC letter to the Minister for Justice dated [16 July 2024](#).

security.⁴⁵ However, ‘national security’ was still not a ground on which a decision to revoke could be made in the first place.

The fact that Head 10 of the 2026 General Scheme proposes to add the ground of ‘in the interests of public policy, public order or ‘national security’, is concerning, particularly as there is no corresponding definition of these terms or any reasons that qualify thereunder. Moreover, if these provisions are enacted, the Minister will be able to revoke citizenship citing reasons of ‘public policy’, ‘public order’ or ‘national security’ without having to justify or explain the decision if the Minister considers that it is in the interests of national security not to do so.

These issues raise concerns regarding the principle of legal certainty which requires that the law is clear, precise and foreseeable. In order to be foreseeable, the law must be sufficiently precise to allow someone to regulate their behaviour to comply with the law. It should be considered whether broad terms such as public policy, public order and national security, which could encompass a vast array of conduct and scenarios, meet this test.⁴⁶

Removal of Committee of Inquiry from Consultation Process

Under the law at present, where the Minister decides to revoke a certificate of naturalisation, the person may request that an inquiry be held into this decision. The Minister must then appoint a Committee of Inquiry to hold an inquiry into the revocation decision.⁴⁷ Under Section 19(1P) of the 1956 Act, the Minister may, in consultation with the Chairperson of the Committee of Inquiry, prescribe procedures for the inquiry, including the circumstances in which oral hearings may be held.

Head 10 removes the requirement for consultation with the chairperson of the Committee of Inquiry. The Explanatory Note states that this provides a ‘streamlined procedural track used to fast-track executive action.’

⁴⁵ Irish Nationality and Citizenship Act 1956, Section 19(1P) inserted by Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous provisions) Act 2024.

⁴⁶ Note also the rule of law principles of ‘legality’ and ‘legal certainty’ requiring law to be transparent, accountable and inclusive, and consistent in its application and foreseeable in its effects: [Venice Commission \(European Commission for Democracy Through Law\), The Updated Rule of Law Checklist, CDL-AD\(2025\)002, p.17.](#)

⁴⁷ Section 19(1F) and (1G) of the 1956 Act.

In 2024, the Commission raised concerns regarding the independence and autonomy of the Committee of Inquiry in correspondence to the then Minister for Justice in relation to the draft *Courts (Miscellaneous Provisions) Bill 2024*. The Commission noted that, notwithstanding the appointment of a retired judge to chair the Committee, the Minister, not the Committee, retains the final word on the procedures used.⁴⁸ In further correspondence, the Commission communicated concerns regarding the composition and independence of the Committee noting that the proposed legislation ultimately reserves for the Minister the decision as to the Committee's procedures, including the circumstances in which oral hearings may be held.⁴⁹ The Commission highlighted that the Supreme Court in *Damache* held that any process by which naturalisation could be revoked would have to comply with fair procedures and contain adequate safeguards for persons who are the subject of revocations.⁵⁰

Despite these warnings, the General Scheme proposes to remove the Committee of Inquiry completely from consideration of the procedures to be established for an inquiry thus removing one safeguard in the revocation process. It is not clear if this would comply with the Supreme Court's requirement for fair procedures and adequate safeguards in the revocation process and raises further questions as to the independence of the Committee of Inquiry in the performance of its functions. In the Commission's view, this will inevitably lead to litigation that challenges the new provision(s) as incompatible with the Supreme Court's decision in *Damache*.

⁴⁸ [IHREC letter to the Minister for Justice dated 17 July 2024](#).

⁴⁹ [IHREC letter to the Minister for Justice dated 16 July 2024](#).

⁵⁰ [IHREC letter to the Minister for Justice dated 10 July 2024](#).

Conclusion

The Commission finds that new provisions in the General Scheme of the Irish Nationality and Citizenship (Amendment) Bill 2026 give rise to human rights and equality issues including with regard to the right to non-discrimination, fair procedures, legal certainty, and disproportionate impacts on certain groups, including structurally vulnerable groups.

The Commission's concerns relate to Head 5 (reckonable residence and additional criteria), Head 6 (naturalisation of spouses and civil partner of Irish citizens), Head 7 (self-sufficiency requirements), Head 8 (Ministerial power to dispense with condition of naturalisation in certain cases), Head 9 (calculation of period of reckonable residence in the case of beneficiaries of Temporary Protection) and Head 10 (revocation of citizenship).

The Commission reserves the right to comment further during the passage of the legislation, as appropriate, and looks forward to engaging further with relevant bodies on this piece of legislation in line with the Commission's statutory mandate to examine any legislative proposal and report our views on any implications for human rights or equality.



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