

CONSULTATION – Citizenship and Passport Processes in Northern Ireland

The Committee would welcome the submission of written evidence that addresses:

1 the interaction between UK nationality law and Articles 1 (v) and (vi) of the Belfast/Good Friday Agreement, and any engagement with the ECHR

2 whether the Government should consider implementing changes to citizenship rules and requirements to better incorporate the birthright commitments of the Agreement into UK law

3 whether the Government should allow Northern Ireland residents born in the Republic of Ireland to apply for a British passport given that Northern Ireland residents can currently apply for an Irish passport

Introduction

The 1998 Belfast Agreement has been credited with - and accused of - many things. In the almost 23 years since its signing, it has been invoked to support all manner of causes, many of which bear no relation to the facts.

This is quite clearly the case with regard to the Northern Ireland Protocol which in spite of the fact it places a border in the Irish Sea, we are assured is designed to protect the Belfast agreement and the peace process. The reality of course is the polar opposite, because the Protocol does violence to the Belfast Agreement, has destabilised politics in Northern Ireland and been the focus of unanimous opposition from Unionism, including from Lord Trimble and Lord Empey who negotiated the Belfast Agreement. When they are telling you that there is a problem, it would be prudent to listen.

One thing the Belfast Agreement most certainly did not do, was to amend in any way the Constitutional status of Northern Ireland. The sovereignty of the United Kingdom over Northern Ireland was not affected in any way by the Agreement. The rights and entitlements of the people of Northern Ireland as full and equal British citizens were also unaffected.

The Ulster Unionist Party strongly rejects any suggestion that the Belfast Agreement somehow makes Northern Ireland and its people a place apart within the United Kingdom. Quite simply, if it had, we would never have supported it.

1 the interaction between UK nationality law and Articles 1 (v) and (vi) of the Belfast/Good Friday Agreement, and any engagement with the ECHR

The majority of people in Northern Ireland have consistently demonstrated their desire to maintain the Union with Great Britain.

As a matter of law, everyone born in Northern Ireland is automatically entitled to all the rights, privileges and protections of their fellow citizens in the rest of the United Kingdom. We would be very concerned about anything that undermined this fundamental principle.

The Belfast Agreement recognises this in the section Headed Constitutional Issues, which states

(iii) the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union and, accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;

Any change to this situation would be resisted by unionists as a threat to their own birthright as British citizens.

They have to be British citizens, because otherwise they would not be entitled to the rights and benefits that flow from that. Having automatic British citizenship merely respects and reflects the political and legality reality of the fact that they were born in the United Kingdom.

If people born here do not wish to be citizens of the United Kingdom and wish to take on the citizenship of another State, they have the option of formally renouncing British citizenship. This is not an unreasonable position to take and preserves the rights of the people of Northern Ireland who do wish to retain the British citizenship they attained at birth.

In spite of the efforts of the EU and the Republic of Ireland, Northern Ireland is still part of the United Kingdom and not some kind of EU Protectorate, or the subject of Joint Authority.

The Question posed refers to Articles 1 (v) and (vi), but these should not be viewed in isolation and really need to take account of (iii) as outlined above.

If we now turn to looking at Article (v), it is clear that it refers to identity and it needs to be acknowledged that identity is not the same as nationality or citizenship.

*(v) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their **identities** and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the **identity**, ethos, and aspirations of both communities;*

Birthright is mentioned in Article (vi), but has no legal definition in UK law, and in any case, the Agreement refers to identity once again, not citizenship.

(vi) recognise the birthright of all the people of Northern Ireland **to identify themselves and be accepted as Irish or British, or both**, as they may so choose, accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

It is our contention that the Belfast Agreement cannot and should not be used to overrule UK domestic nationality legislation.

If the authors of the Belfast Agreement had intended to give automatic rights of Irish citizenship to those who identify as Irish living in Northern Ireland, then they would have said so in those terms. They did not.

It is clear that certain elements are being mischievous in their attempts to conflate legal nationality with national identity and in the process seek to unpick more of the Belfast Agreement, whilst claiming to be acting in accordance with the Belfast Agreement.

As we can see from the current situation with the NI Protocol, and the imposition of an Irish Sea border, when you set out to breach both the letter and spirit of the Belfast Agreement you are inviting problems on yourself. The Agreement was a carefully constructed and finely balanced compromise between the Unionist and Nationalist communities of Northern Ireland. As the furore from the Unionist community has demonstrated to all but the most stubborn proponent of it, the one-sided Protocol damages the Agreement, destabilises relationships and threatens peace.

2 whether the Government should consider implementing changes to citizenship rules and requirements to better incorporate the birthright commitments of the Agreement into UK law

The short answer is, NO.

As discussed above, the 'birthright commitments' relate to identity not nationality. Once this is accepted then common sense can be restored.

We must not allow political rhetoric to triumph over legal certainty however much that might be the aim of Irish nationalism and those who are committed to weakening Northern Ireland's place within the United Kingdom.

As stated in the answer to Question1, we must resist those elements who are attempting to conflate legal nationality with national identity and in the process seek to unpick more of the Belfast Agreement in the name of the Belfast Agreement, and - perhaps maybe even inadvertently - damage that Agreement in the process.

As with the Protocol, when it comes to citizenship rules, the Ulster Unionist Party would oppose any measure that treats the people of Northern Ireland differently to our fellow citizens in the rest of the United Kingdom.

3 whether the Government should allow Northern Ireland residents born in the Republic of Ireland to apply for a British passport given that Northern Ireland residents can currently apply for an Irish passport

This is a matter wider UK immigration and nationality considerations and it seems a very peculiar proposal.

The question to ask is why Irish citizens would wish to apply for a British passport given that under the Common Travel Area they already have the right to live and work in the UK anyway.

In any case, it makes no sense to single out Northern Ireland for separate treatment from the rest of the UK in this respect and treat us once again as a place apart. If any change was to be applied - after due thought and a full assessment on a UK wide basis, then that would be a different scenario.

As things stand presently, it is very much a matter for the Republic of Ireland if it wishes to hand out Irish passports to any resident of Northern Ireland, but this move is clearly motivated by very obvious historic and political concerns, which was evident in the old Articles 2 and 3 of the Irish Constitution with regard to the 'national territory.'

We have already seen the outcry from some quarters at the UK Government offering British citizenship to every citizen born in Northern Ireland, so it would be very interesting to see quite what the reaction would be if the UK was to tell those people born in the Republic but resident in Northern Ireland, that they were now also regarded British and entitled to UK passports as a result.

It has already proved problematic enough to say to people born within your own borders that they are a citizen, but it would be quite another to say to citizens of a foreign state that by virtue of residency within your borders, they have now somehow acquired the right to citizenship whether they want it or not.

In effect this proposal would be the UK saying to the entire island that everyone on it, as long as they move to Northern Ireland, will now be effectively regarded as British citizens, whether they are originally from Coleraine or Cork.

Perhaps a simpler way to proceed would be to offer UK passports to everyone in the Republic, and pretend the War of Independence - and indeed the past 100 years of Independence for the Republic - never happened.

The Ulster Unionist Party is not convinced that such a bold proposal would meet with universal acclaim, but the Committee may wish to give the matter some consideration.

ENDS

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