

**Northern Ireland Affairs Committee inquiry into Citizenship and Passport Processes in Northern Ireland April 2021**

**Additional evidence – Emma DeSouza**

Following previous written and oral evidence I wish to present to the Committee more information on the cohort of those impacted and the effect of the current legislation.

**The Cohort**

The decision to make recommendations on amendments to domestic UK citizenship legislation will effectively determine whether individuals born in Northern Ireland can have British citizenship imposed upon them, contrary to the express provisions of the Good Friday Agreement.

This effects the question of identity and citizenship of approximately half the population of Northern Ireland. Recent figures show that 831,799 Irish passports have been issued to the people of Northern Ireland in the period between 2010-19<sup>i</sup> alone. There are hundreds of thousands of Irish citizens in Northern Ireland who should, under the remit of the Good Friday Agreement, be entitled to be accepted as Irish by the British government. It has yet to be established, by the government, as to how an Irish citizen in Northern Ireland can “be accepted as” Irish when considered and treated as automatically British.

It could be further argued that the cohort impacted by the British Nationality Act 1981 and any subsequent failures to give effect in UK citizenship legislation are in fact all the people of Northern Ireland, as a failure to give legal meaning to the right to be accepted as Irish or British or both and to continue to avail of Irish and/or British citizenship legislation may put at risk the future generations of those who identify as British in the event of constitutional change.

**Impact of current legislation**

As stated in the previous submission the British Nationality Act 1981 has not been amended to incorporate the birthright provisions of the Good Friday Agreement into domestic UK law. As a result, NI-born Irish citizens must go through a prohibitive process to ‘be accepted as’ Irish-only. NI-born British citizens do not have to go through a similar process to have their birthright under the Good Friday Agreement accepted, as Irish legislation was amended to incorporate such a choice.

It is oppressive and discriminatory to require a person of Northern Ireland (as outlined in Annex 2 of the Good Friday Agreement) to pay any money, never mind a substantial fee of £372 to be accepted for who they already are, it presents a material distinction between an Irish citizen and the position of a British citizen in Northern Ireland amounting to a breach of Article 8 and Article 8 taken in conjunction with Article 14<sup>ii</sup> of the ECHR.

In its submission to the committee inquiry the British government states, “the UK’s nationality legislation allows for the renunciation of British citizenship in certain circumstances, which – although the Government would not encourage them to do so – a person of Northern Ireland who

holds Irish citizenship could avail themselves of should they want to align their citizenship with their choice of identity.”

This attempts to give the illusion of choice but how else can an Irish citizen in Northern Ireland “be accepted as” Irish under the terms of Article 1(vi) by any other means than renunciation? It is a discriminatory requirement that ignores the duty placed on the British government to accept the people of Northern Ireland as Irish or British or both.

Further, renunciation of British citizenship has been consistently put forward by the British government as a workaround to recognising GFA-mandated rights. In the case of *DeSouza* the position of the British government was that renunciation of British citizenship was GFA-compliant and a viable solution.

Brexit will create real difficulties in adhering to the parity of esteem principle of the Good Friday Agreement. It is essential to ensure that the citizenship and identity provisions of the Good Friday Agreement are upheld in all relevant areas and that all the people of Northern Ireland can have full confidence in them.

### **Another example of a problem arising**

A further example of the implications of Brexit and the treatment of all persons in Northern Ireland as British is in relation to future access to the EHIC card for Irish citizens from Northern Ireland under the UK-EU Trade and Cooperation Agreement (TCA).

Unless a person of Northern Ireland has renounced their British citizenship they must apply for a ‘UK Global Health Insurance Card’<sup>iii</sup> instead of the EHIC available for other EU citizens (including Irish citizens not born in NI). This will be offset in practical terms if the ‘GHIC’ card proves to afford equal treatment but will be problematic if there is reduced access to healthcare when compared to the EHIC.

### **Naturalisation processes**

The committee received evidence from Lord Hay on naturalisation processes in Northern Ireland. It must be said that the issues raised by Lord Hay are not related to the Good Friday Agreement, as Article 1 (vi) of the Good Friday Agreement does not apply to such an individual. Further, one cannot simply avail of an Irish passport by residing in Northern Ireland. Those who fall under the Good Friday Agreement can but those who fall outside of the remit of Article 1 (vi) in the same manner as Lord Hay does must go through Ireland’s naturalisation process which is more restrictive than the UK’s in Northern Ireland. As such it is wrong to suggest that access to Irish passports is a kind of free-for-all in Northern Ireland, British and Irish naturalisation processes are both onerous, bureaucratic, and costly.

If the committee is to give consideration to recommending a more inclusive route to British naturalisation it should do so in full recognition that such a recommendation would fall outside the scope of the Good Friday Agreement. Further, consideration should be given to extending such a proposal across the UK to all eligible cohorts as excluding ethnic minorities and migrant groups, who have long campaigned for changes to British naturalisation processes could be considered discriminatory.

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<sup>i</sup> [Do more than 700,000 born in Northern Ireland have an Irish passport? – FactCheckNI](#)

<sup>ii</sup> [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>iii</sup> [Apply for a UK Global Health Insurance Card \(GHIC\) - GOV.UK \(www.gov.uk\)](#)