



## Crosscare Migrant Project

# Opening statement to the Joint Committee on Foreign Affairs and Trade

Thursday 29<sup>th</sup> November 2018

## **Introduction**

Good morning and thank you for meeting with us today. Crosscare Migrant Project is funded by the Emigrant Support Programme in the Department of Foreign Affairs and Trade and provides an information and advocacy service that support Irish citizens who are leaving and returning home.

Over 105,000 Irish emigrants have returned home since 2014 and various barriers have been identified to their transition. We have both practical experience and evidential research that documents some of these these. In May, we published a report titled 'A Hundred Thousand Welcomes?' outlining the issues with access to social protection for returning emigrants. In March we made a submission to the Department of Justice and Equality on access to residency permission for returning Irish emigrant families with non-EEA members.

Today, we will present on these two key areas. I will start with access to social protection, and my colleague Richard King will discuss residency permission for non-EU family members.

## **Access to Social Protection**

One of the main barriers we have identified for returning emigrants who are in vulnerable situations is the issue of access to social protection for those who need assistance and support on return. Central to this is the HRC – the Habitual Residence Condition which is one of the biggest concerns for returning emigrants.

Our service provides an information and advocacy service to enable people emigrating and returning, especially individuals in vulnerable circumstances, to make informed choices and access their rights. Following several years of issues with the HRC, we successfully advocated for changes to the HRC guidelines which adopted specific recognition of returning migrants in 2010. The situation improved markedly for a period of over 8 years, however, a decade later it has become evident that issues with the HRC are again adversely affecting people returning to live in Ireland today.

Over the past few years, we have noted a growing trend for some returning emigrants who have been denied access to social welfare payments in Ireland. Most of these cases were refused based on HRC where returning emigrants are assessed on their evidence of 'resuming their residence' in Ireland.<sup>1</sup>

Our report, 'A Hundred Thousand Welcomes?' outlines the need to address the inconsistencies in decision-making and indeed, the comprehension of the HRC by returned emigrants, with the help of the recommendations to the DEASP. These are outlined in the document circulated to the members for this meeting.

In the majority of the cases we deal with, the individuals are experiencing very vulnerable situations such as homelessness or risk of homelessness, with no income or support networks. Additionally some have children or further health and social care support needs.

In 2017, we dealt with 280 queries and worked directly on 18 cases of HRC based disallowed claims. We submitted 12 cases to the Social Welfare Appeals Office and every case was successfully overturned. Two-thirds of these cases came from dual citizens who were either born in Ireland to non-Irish parents or who naturalised as adults, some of whom were forced to return in crisis from conflict zone areas such as Libya and Sudan on the advice of Irish consular authorities. Cases on average took from between 5 to 9 months and this long delay and stress had a significant adverse impact on the welfare of these individuals and families.

Respondents to our online survey told us that they felt the process was 'intimidating', 'demeaning', 'humiliating', and were made to feel guilty. Irish emigrant support organisations abroad expressed the misconceptions among Irish emigrants about their rights and entitlements. They perceive the lack of information and misconceptions on HRC to be actively deterring emigrants from returning to Ireland on the presumption that they may not be able to access a safety-net of income whilst they are re-establishing employment in Ireland.

I will now hand over to Richard King.

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<sup>1</sup> 2010 amendment to operational guidelines on HRC: "A person who had previously been habitually resident in the State and who moved to live and work in another country and then resumes his/her long-term residence in the State may be regarded as being habitually resident immediately on his/her return to the State".

(Richard King)

### **Returning emigrant families with non-EEA members**

The majority of returned emigrants in our survey stated their reason to return to Ireland was to be closer to family and support networks above career or quality of life. Many had left Ireland after college in their 20s and 30s, met partners, started families, and now wish to return to Ireland to be close to their family and raise their children in Ireland. Some of these couples and families are Irish citizens with non-EEA spouses, partners and dependents who will be required to apply for permission to reside and work in Ireland.

This process has been proving difficult and to some extent a deterrent for some families wishing to return. We have noted an increase from 2015 of queries from returning emigrants seeking information on family member visas and residency permission during this period.

People from visa-required countries, such as India, must go through the visa process. This takes about 6 months. People from non-visa required countries like Australia can enter immediately. Spouses and civil partners can usually register immediately on arrival and are granted permission to live and work or be self-employed. Issues arise mainly for De Facto partners, as they must make an application to the Irish Naturalisation & Immigration Service (INIS). This application takes at least 6 months. During this period they cannot work.

This causes significant problems for people who are reliant on the income of both partners, or even just the non-EU family member, and is increasingly being stated as a barrier to returning home. In some cases, people have informed us that they will not return at all until this is removed.

Two comments from people who contacted us directly:

From a woman hoping to return from New Zealand: "I'm not going to take the risk, we'll just wait until there's a pre-clearance system"

From a woman planning a return from Australia, hoping to come home to give birth: "We don't have the savings to be able to have no one working for 6 months"

These are simply very practical concerns that cause real worry and concern, and in some cases are a complete impediment to returning to Ireland.

Solutions to this issue are:

In the immediate term:

1. Set up a system of 'interim registration permission' whereby the non-EU De Facto partner can get temporary permission to work while the decision on their main application is pending. A similar system already exists for partners of EU citizens moving to Ireland that can be adapted.

*and*

2. Develop a specific section on the INIS website with information for returning emigrants on all options for returning with non-EEA family members.

In the longer-term:

3. Develop a pre-clearance system so that anyone coming to Ireland with an Irish returning emigrant de facto partner can apply in advance. This will formalise the system and allow for informed pre-return decision making as well as security on return.

In conclusion, our recommendations on both issues seek to provide security for emigrants to resettle in Ireland without significant financial and emotional risk. This will help to ensure that Irish emigrants are not deterred from returning to Ireland if they so wish and allow them to benefit from a life close to family and friends, and raise their children in Ireland. These are also included in the document circulated to members.

We thank the Committee for their interest in matters impacting on returning emigrants today and we ask that the members consider the issues raised and support the recommendations to ensure that returning emigrants are no longer placed at a disadvantage solely due to the fact they have spent time abroad.