

Oireachtas Committee on Implementation of the Good Friday Agreement

Thursday, 16 November 2023

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I want to thank you for the invitation to speak about our concerns regarding the Illegal Immigration Act, including its impact on the Good Friday Agreement.

Amnesty International deeply regrets the passage of the Illegal Immigration Act and its consequences for asylum seekers and victims of human trafficking. We consider that the Act is not compliant with international human rights law.

The Act received Royal Assent in July. It changed UK law so that those who arrive in the UK irregularly will be detained and then removed, either to their home country or a third country, and significantly constrains the scope for an affected person to challenge such action.

During its rushed passage through parliament, Amnesty International repeatedly advised parliamentarians that the proposals were incompatible with the European Convention on Human Rights, the United Nations Refugee Convention and other international standards.

Indeed, the Act is designed for the UK to shirk its international responsibilities under the Refugee Convention. It risks, and perhaps seeks, conflict over the European Convention on Human Rights and the European Court.

We are not alone in this determination of non-compliance. There is widespread agreement on this point among human rights and refugee organisations, including the UN High Commission on Refugees.

In September, the Northern Ireland Human Rights Commission issued a legal challenge regarding the Act against the UK Home Secretary and the Secretary of State for Northern Ireland and has been granted leave by the High Court in Belfast for a hearing due to commence on 29 January 2024.

This analysis and legal challenge are directly relevant to the remit of this Committee, given the potential breach of the Good Friday Agreement and the 'non-diminution' commitment in the Windsor Framework.

We note that the Commission, like Amnesty International, had advised the UK Government that the legislation was incompatible with its international human rights obligations. With respect to people in Northern Ireland, as members will know, under Article 2 of the Windsor Framework, the UK Government is required to ensure that there is no diminution of certain human rights and equality protections contained within the Good Friday Agreement resulting from the UK's withdrawal from the European Union.

The Act effectively makes it impossible for people who arrive in the UK irregularly to seek asylum, even though safe and legal routes are almost non-existent. The Act introduces sweeping new detention powers, with very limited judicial oversight, and would remove vulnerable people seeking refuge to a third country without a guarantee of them being able to access protection.

Amnesty believes that the Act is in breach of the UK's domestic and international human rights obligations – specifically 1951 Refugee Convention and the European Convention on Human Rights (ECHR). As noted, the NIHRC also believes that there is also a breach under Article 2(1) of the

Windsor Framework with the Act falling short of the minimum standards required by EU law, as specified under a number of EU Directives, and which should still be available to people in Northern Ireland.

It is clearly the view of the NIHRC that the Act represents a diminution in those rights, contrary to the Windsor Framework.

The Good Friday Agreement also commits to ensuring the equivalence of rights on the island of Ireland. The Act increases divergence of rights on the island and may have potentially serious implications for those crossing the border, as has been identified by our friends in the Committee on the Administration of Justice and the North West Migrants Forum.

In short, the Illegal Migration Act reduces the human rights protections available to people in all parts of the UK.

With respect to people in Northern Ireland, rights available under the ECHR, and additional rights which were available while we remained part of the EU, have been undermined or removed. The Windsor Framework guarantees those rights must be protected for the UK to continue to uphold the Good Friday Agreement.

The Illegal Migration Act is just one of a number of threats which the current UK Government poses to the human rights of people in Northern Ireland. The continued threat to tamper with the Human Rights Act, the UK's compliance with the ECHR or even its withdrawal from the Convention, remain significant threats to our rights and therefore to the integrity of the Good Friday Agreement.