

Speech by Minister for Justice, Helen McEntee TD - Deportation Moratorium (COVID-19) Bill 2020

From [Department of Justice](#)

By: [Minister for Justice](#); [Helen McEntee](#)

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Cathaoirleach, I welcome the opportunity to respond to the Deportation Moratorium (COVID-19) Bill 2020 as proposed by Senators Alice Mary Higgins, Lynn Ruane, Eileen Flynn and Frances Black. The overall aim of this Bill – that compassion is shown to those issued with Deportation Orders for the duration of the pandemic – is well intended. Indeed, the need to show compassion during this extraordinary time is one we all share, across government and opposition.

The government has tabled a reasoned amendment in response to the Bill which outlines the pragmatic and compassionate approach that is being taken by the Department of Justice and the Garda National Immigration Bureau since the onset of COVID-19.

As Minister for Justice, I want to tell the House that I have addressed the concerns reflected in the Senators' Bill on an administrative basis and will continue to do so. I hope to provide reassurance to those who may be personally affected by what we are discussing here today, and who may be watching our proceedings. I will speak in more detail on that shortly. But it is perhaps important that I first outline the considerations which are taken into account as part of the permission to remain process.

Each case is examined in detail on its individual merits, considering all factors, such as humanitarian factors and employment. Private and family rights are also fully considered in accordance with the European Convention on Human Rights.

For those who are in the international protection process, our objective is to have decisions made on their applications and permission to remain considerations as soon as possible. This ensures that those who are found to be in need of our protection can receive it quickly and begin rebuilding their lives here with a sense of safety and security.

For those found not to be in need of international protection, a full consideration of all aspects of their case is considered before a Deportation Order is made.

When a person receives a letter informing them of their negative international protection decision and informing them that they no longer have permission to remain in the State, they are required to confirm within 5 days if they will accept the option of voluntary return, for which the department will provide assistance. To be clear, the person is not required to remove themselves from the State within 5 days – they are required to confirm within 5 days if they will accept the option of voluntary return, for which the department will provide assistance.

The Catherine Day Advisory Group on the Provision of Supports, including Accommodation, to Persons in the International Protection Process has recommended that the 5-day period for deciding whether to accept voluntary return should be extended to 30 days and children and students be allowed to finish the school year before departure. This, along with other recommendations, is being actively examined by my department.

The concept of voluntary return is actively encouraged prior to a Deportation Order being made, as demonstrated by the letter which an applicant receives at this point in the process. The time taken for relevant voluntary return arrangements to be made will also take into account all factors, including COVID-19 restrictions and limitations to travel this has created.

If a Deportation Order is subsequently made, it can be amended or revoked by making a request to the Minister for Justice. I encourage people to be as detailed as possible in their representations to me and my department so that fully informed decisions can be taken at the appropriate time.

It is also worth emphasising that the process whereby those who have been served with Deportation Orders are required to periodically register with the authorities does not mean that a Deportation itself is imminent. This is only to keep the State authorities up to date and informed of the status of those who have been served with Deportation Orders.

With that said, Cathairleach, I welcome the opportunity to outline to the House today the compassionate and pragmatic approach being taken as we deal with the extraordinary circumstances of the pandemic. This approach is reflected in the fact that there have only been four deportations since March 2020, and that three of these applied to Deportation Orders which were issued before March.

No deportations have occurred since March in respect of persons who were unsuccessful in their application for International Protection in the State. I believe the low number of deportations since March reflects the discretionary approach which I am applying on administrative basis is working effectively.

During the Level 5 COVID-19 restrictions, I also asked my officials to review the issuing of these letters and no refusal letters, or letters enclosing a deportation order, have issued to anyone in the International Protection process since. To those who may have received Deportation Orders since the start of the pandemic but before this review, rest assured that we will continue our pragmatic approach throughout COVID-19.

I am also conscious that we are about to embark on a vaccination programme for COVID-19. I strongly urge anyone in this country, regardless of their current status, to come forward to receive a vaccine when it is made available to them. I can give a commitment here today no information gathered as part of that process will be passed to the immigration authorities.

And it is worth stressing again, Cathoirleach, that we will continue the pragmatic compassionate approach shown by the Department of Justice and the Garda National Immigration Bureau since the onset of the pandemic.

The Bill would, Cathoirleach, by implication, prevent those who wish to consent to voluntary return from doing so. I cannot imagine that this was the intended purpose as it would neither be in the State's nor the individual's interest to suspend such returns. The current practice, on the other hand, already allows for discretion and flexibility.

While I as Minister for Justice and An Garda Síochána must have the discretion to remove those who may be a threat to national security and whose presence in Ireland would be contrary to the public interest, that discretion is used in the rarest of circumstances – and only when absolutely necessary. Such cases arise where there are valid reasons in the interests of public security and the common good.

I will now move to the proposal in the Bill to suspend leave to land. Leave to land may be refused for a number of reasons which are crucial to maintaining the integrity of the immigration system and protecting the fundamental interests of the State concerning public order, public security and the integrity of the immigration system.

While the Bill provides that persons who are refused leave to land cannot be returned until 3 months after the expiration of the 'emergency period' it does not elaborate on what is to happen to these persons prior to removal and while the suspension is in effect. The State would not be in a position to pursue such persons as there would be no prospect of returning them in the immediate future under the proposed amendment in the Bill. This would have the net effect that persons who would not normally be admitted into the country for very valid reasons, would have to be allowed to proceed out of the port of entry without being detained or removed.

It is also important to recognise that it is essential that the State can maintain its duty to protect its internal borders – both from a domestic and EU perspective. This is the case for all sovereign States, and in this regard applies to the integrity of our immigration policy and practice. We also have obligations to uphold as part of the Common Travel Area with the United Kingdom.

Cathoirleach, the Department of Justice is currently considering a number of policy changes which I am sure Senators will welcome and I which I will briefly outline.

I have already mentioned the Catherine Day Advisory Group on the Provision of Supports, including Accommodation, to Persons in the International Protection Process and one of its recommendations. However, other recommendations from Catherine Day's group which are relevant to the work of the Department of Justice, are being actively considered by a Programme Board established for this purpose.

I am also currently considering a scheme to regularise the position of undocumented migrants and their dependents, which is a fulfilment of a Programme for Government commitment. My intention is that the scheme will allow for long-term undocumented persons to apply for an immigration permission from my department.

As I outlined to the House last week, my department's information from the Migrant Rights Centre is that this could be relevant to about 17,000 people, which could also include up to 3,000 young people or children. I have received a report in my department on a potential approach to such a scheme and based on its recommendations, we will set the process in train for a pathway to legal residency, and ultimately to the privilege of citizenship, for the undocumented.

Without pre-empting the report, the most straightforward option is to adopt a programme which would apply under the Minister for Justice's executive power. This approach has been taken in the past, for example, under a special scheme for non-European Economic Area nationals who held a student permission in the State.

As I am sure the House will acknowledge, and as I have already referenced, the executive power of the Minister for Justice regarding immigration matters is required for a number of reasons – and this potentially includes our planned scheme to regularise the status of many undocumented here in Ireland.

We are all aware of the huge efforts to regularise the status of undocumented Irish immigrants in other countries, particularly the United States. As a country, we have asked for generosity, and have received such generosity, for many years from other countries which welcomed Irish people to their shore. I believe it is our moral duty to treat those from elsewhere who seek to make Ireland their home with the same generosity and understanding others have shown to us.

It is therefore my hope that our undocumented scheme will be as broad as possible to cover every eligible undocumented person and their family members living in the country. It is my intention to be in a position to outline precise details in the coming weeks.

In conclusion, Cathaoirleach, while I consider that good and humane motivations are evident in this Bill, I believe the administrative approach I am already taking is achieving the compassionate outcome desired by the Senators. However, for the reasons I have outlined, this Bill would have other consequences. It is for all of these reasons that I consider that Seanad Eireann should decline to give the Bill a second reading.

But I hope that, irrespective of whatever differences there are here today, a united message goes out from this House to those who find themselves in uncertain and difficult circumstances during COVID-19. That message, Cathaoirleach, is that you will be treated with compassion here in Ireland.

The government, and I as Minister for Justice, are clear that our compassionate and pragmatic approach will continue throughout the pandemic.