

IMMIGRATION CONTROL PLATFORM

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A.G.M.

The AGM of Immigration Control Platform was held in Dublin on Saturday 18th September 2010. The Executive Committee for the following year was elected. The following motions were passed:-

1. To ask the Department of Justice for the list of individuals / firms controlled by legally resident immigrants which received funding to establish business in 2009 and the amount received in each case.
2. To ask the Department of Justice the names of NGO's (both national and regional) which support the integration of legally resident immigrants and the amount allocated to each organisation.
3. To call on the Department of Justice to deport failed asylum seekers who are in the state manifestly illegally.
4. The cost of maintaining asylum seekers to be taken into account when the Government is reaching the promised 0.7% of GDP in respect of development aid.
5. That members be advised of AGM and other events by email and thus save postal expense.
6. ICP calls on the government to prioritise the passing of the Immigration Residence and Protection Bill and to allow no further softening of its control provisions.

The New Government

On the eve of the election the following was sent as a press release and to the headquarters of the Labour Party and Fine Gael.

Immigration Control Platform calls on the Fine Gael and Labour parties to commit themselves to the following in the next administration:

1. To pass the Immigration, Residence and Protection Bill, without any dilution of its control measures, as a matter of urgency. It is a disgrace that this has been through the hands of Michael McDowell, Brian Lenihan and Dermot Ahern and still not been passed. Both advocates for asylum seekers and immigrants and those of us whose interest is control want this finalised. It was intended that the single procedure would stop the enormous and expensive timescales

involved and also that the bill would facilitate deportations. Apart from the principle of control, in these times of economic difficulty, the money wasted in this area is badly needed elsewhere.

2. In any referendum on Children's Rights, there must be no return to a wording which will cause difficulties for deportations, as was the case with the wording proposed by the Oireachtas Committee. Enda Kenny has made worrying remarks in this regard.

3. There must be an absolute rejection of the campaign of the Migrant Rights Centre for an amnesty aka "regularisation" for illegals. Apart from the outrage and moral hazard involved, it would be a treasonable act in the present economic circumstances. The Migrant Rights Centre is dishonestly claiming that by removing such people from the black economy, there would be an economic advantage to the state. On the contrary, these people (estimated at 30,000) are not living on fresh air. They can only be putting bread on the table by one of two means; either they are working in a job which should be filled by an Irish person or a legal immigrant on the dole or they are surviving on some discretionary social welfare payment which is costing our cash-strapped state.

These are the policies we will be urging on the new government together with further policies e.g. one of caution in relation to bringing in foreign students. As ICP has frequently highlighted, except to a very cautious degree, this is a dangerous policy driven by short-term concerns. These students are to a very large degree:- 1. Not genuine students at all, but using the system to come to the west and to work. 2. Students who must compete for jobs with Irish people to fund their education. 3. People who, after graduation, wish to and are allowed to stay on to seek employment, again competing with Irish students and workers.

Towards the end of March the new Minister for Education Ruairí Quinn announced an ambitious plan to boost foreign student levels. It has been claimed that efforts to promote Ireland to foreign students have been "hampered by visa issues and a lack of coordination between government departments and agencies". Quinn promised to "make sure the relevant departments and agencies are working together". Unfortunately this translates as putting pressure to be less cautious in issuing visas even though this is an area of great visa abuse.

It should also be noted that "students" or genuine students who have finished their course are prominent among those suspected of sham marriages in an effort to remain. It has been acknowledged that the most effective way to deal with this is through caution at the visa issuing stage.

The EU and Immigration

Up to recent years one would not have said that the EU impinged too much on questions relating to immigration from third countries (i.e. non-EU countries). This has changed. Note the following from Migration News Sheet, April 2011. "For some time already, Member States have watched with apprehension at how their margin of manoeuvre in limiting the right of entry of third-country nationals was being slowly reduced by the ECJ, each time when there was a strong tie with a family member with the nationality of a Member State".

Two recent examples are:- 1. The ruling of the ECJ that the parents of EU citizen children who are dependent on them must be allowed to reside in the EU member state. 2. An ECJ ruling which has made it difficult to prevent “sham marriages”.

A recent very worrying report was that Judge John Cooke was referring a matter to the ECJ regarding the accelerated procedure for dealing with asylum cases from certain countries, particularly Nigeria. Ireland had a derogation under the Amsterdam Treaty from EU rules on asylum and immigration, although we made a declaration (non-binding) of our intention to opt in to as many directives as possible. We appear to have opted in to almost all of them. This was extremely foolish. Common sense tells you, you should not tie your hands in this way when there can be unforeseen consequences. This is the story as reported by the Irish Times on April 5th.

Asylum case to be referred to Europe

The High Court has said it will refer an important asylum case to Europe’s highest court in a decision that could delay more than 500 judicial review cases on asylum before the court.

The case centres on whether the State’s practice of prioritising asylum applications from Nigerian nationals is legal and whether the refugee appeals tribunal provides an effective right of appeal.

Judge John Cooke issued a ruling in the case H.I.D. VB.A v Minister for Justice last month, which found the State’s prioritisation of Nigerian asylum claims and its appeals mechanism for asylum decisions were legal.

But he said yesterday he wanted to consult the European Court of Justice on the issues. **He said the High Court would ask for an accelerated procedure at the Luxembourg court but warned that judicial review cases related to the case would have to be parked.**

The judge said there were 1,200 judicial review cases pending in the High Court.

It is understood about 560 judicial review cases relate to the issues under dispute in the H.I.D. VB.A case.

An accelerated procedure at the Luxembourg court could take up to a year to conclude, leaving many judicial review cases in limbo until then. (Our emphasis).

ID-on-demand ruled unconstitutional

A serious setback for immigration control occurred recently when a provision of the Immigration Act forcing non-Irish nationals to produce ID on demand to a Garda or face a criminal conviction was ruled “unconstitutional” by the High Court.

Immigrant groups welcomed the landmark judgment, which they said would help fight the battle against what they described as “racial profiling” by the Garda and immigration authorities.

The president of the High Court, Mr Justice Nicholas Kearns, upheld a challenge by a west African woman to the constitutionality of section 12 of the Immigration Act, 2004, which requires production of identity documents on demand by Gardaí, and stipulates that failure to do so without “satisfactory explanation” is a criminal offence.

While section 12 was designed as an immigration control mechanism, “its vagueness is such as to fail basic requirements for the creation of a criminal offence”, the judge found.

The State had argued section 12 was a core part of laws for control and regulation of the entry of foreign nationals into the State and their obligations while here.

The facts of this case “illustrate all too clearly” the serious problems faced in trying to control and deal with undocumented persons here, Mr Justice Kearns said. There was a “manifest need”

for effective measures to regulate the entry into the State of undocumented non-Irish nationals, he said.

Happily, the judge remarked that UK legislation dealing with these situations met the concerns he had outlined. **[ICP comment: this seems to imply that a speedy amendment to Section 12 of the Act would solve the problem, and we will be requesting this. One would worry however, as legislation in the area has been going at a snail's pace].**

The circumstances of the woman who brought this case were particularly outrageous.

Ms Dokie (40), who claims she is from Liberia and that her passport was destroyed in a fire in 1989, was charged under section 12 after her arrest at Dublin airport in April 2008 when she, her daughter and two boys arrived on a flight from Nigeria and tried to enter the State without passports.

She claimed she met the boys at Lagos airport the previous day and, at the request of their father, agreed to take them to Ireland. She claimed the boys were with an agent who had arranged her travel. She initially claimed the boys were her children but later admitted they were not and she had no passports. The children were placed in the care of HSE.

The DPP had alleged there was no evidence to prove Ms. Dokie was who she claimed to be. A birth certificate she provided had been analysed and proved not to be authentic: it was alleged.

Ms Dokie, on bail since July 2008, has applied for refugee status and lives with her daughter at a residence for asylum seekers in Monaghan. She claims her Nigerian husband died and one of her five children died as a result of circumcision.

Suspension of Removals to Greece

Ireland has joined several EU countries in suspending removals to Greece under the Dublin 2 agreement. Previously if it was proven that an asylum seeker had arrived in Greece we could return them there as being the first EU country they had reached. Because of claims that Greek provision for asylum seekers and for assessing their applications is way below accepted norms, this is no longer being done. It currently applies to about 40 cases.

Reporting illegal working

The Department of Social Welfare makes it very easy for the public to report suspected welfare fraud. There is far less clarity in helping the public to report suspected illegal working. We have a section on our home page informing people of how to report to NERA (National Employment Rights Authority) by emailing inspection@employmentrights.ie The Minister some time ago in the Dáil clearly said that the public could report these matters to NERA, anonymously if they wished.

Nevertheless, there still appears to be a grey area as regards whether a matter should be reported to NERA or the GNIB. This should have been clarified in the Employment Law Compliance Bill which brought work permits under the brief of NERA. However, this lapsed with the end of the last government and, worryingly, does not appear on the current government legislation programme.

The pace of legislation, particularly in the area of immigration control is heartbreakingly slow.