

Minister McDowell  
Minister of Justice, Equality and Law Reform  
Department of Justice, Equality and Law Reform  
72 – 76 St. Stephens Green  
Dublin 2

**Re: recommendations of the Human Rights Commission on the residency policy for non-national parents of Irish citizen children.**

6<sup>th</sup> November 2003

Dear Minister,

We write again to you in relation to the plight of Irish citizen children and their non-national parents. In particular we call on you to adopt the recommendation of the Irish Human Rights Commission of 21<sup>st</sup> October 2003 to regularise the situation of the families of Irish citizen children who had lawfully applied for residency in Ireland prior to 19<sup>th</sup> February 2003 and to grant them residency.

As the Human Rights Commission noted in their statement, prior to the Supreme Court decision of January 2003, not only did the Department of Justice have a procedure whereby these families of Irish children could apply for residency, but many of those families who had been in the asylum procedure, abandoned their claims on advice that they could rely on their application for residency. Those families were advised, often by government officials as well as lawyers, and legitimately expected, that on the policy at that time, they would be able to remain and raise their Irish child in Ireland. They would have arranged their affairs on that basis and may have cut many links with their country of origin. Now many families who lawfully applied for residency are having their applications returned to them and are being told that they will not be processed any further.

This sudden change in policy, which is in effect giving retrospective effect to a court decision, is placing extra-ordinary uncertainty and hardship on those families who had lawfully applied for residency through the Department's own procedures. Rather than continue to maintain these families, and the Irish child citizens amongst them, in a state of uncertainty, the Human Rights Commission has called on you to allow these families to remain in Ireland. As the Commission points out, to grant these families residency would not affect the overall asylum process, as they are a closed group of families readily identifiable by the Department.

We unequivocally support that recommendation, and consider that it is the most fair, humane, and just decision, which you could reach. We note that in the United Kingdom recently over 50,000 asylum seekers who have had to wait over three years for their cases to be resolved, were granted residency to draw to an end their uncertainty. For families of Irish children, whether former asylum seekers or not, their limbo and uncertainty too should end. In this way the families, as well as their Irish children, would be treated fairly

and with dignity, not criminalized. We recall that all of these families lawfully applied for residency in line with the law and policy at the time of their application.

By positively resolving the situation of those families who had lawfully applied for residency under your Department's procedure, this would also allow your Department to focus on the urgent need to put in place a procedure for determining future applications of families of Irish citizens for residency. In this regard the Irish Human Rights Commission, has also made a number of recommendations, based on international human rights standards, as to the contents of that procedure, that we earnestly hope that you will adopt.

Yours sincerely,

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