

JUSTICE FOR THE UNDOCUMENTED (JFU) CAMPAIGN

Proposal for the introduction of a Regularisation Scheme



Summary

Over the past decade and a half, inward migration to Ireland occurred in the absence of a coherent legal framework. This has contributed significantly to the emergence of irregular migration. MRCI has been working with undocumented migrants since 2001 and estimates the undocumented population in Ireland to be between 20,000 and 26,000 men, women and children. Successive governments have done little to address the situation of undocumented migrants. This is increasingly worrying in a diverse Ireland where undocumented migrants and their families make a valuable contribution to the economy and our communities. **Undocumented men, women and children in Ireland have the same struggles, hopes and dreams as undocumented Irish in the United States.** Many are here long term, working, paying taxes and rearing families. The improving economy and the significant length of time undocumented migrants have lived here make this an opportune time for comprehensive solution. The Justice for the Undocumented (JFU) campaign group, set up in 2010 by the MRCI and a number of undocumented migrants, now has over 1000 members. JFU is calling on the Minister for Justice to introduce a once-off, time-bound regularisation scheme with transparent criteria in the lifetime of the current government.

Introduction

The Migrant Rights Centre Ireland (MRCI) has been working with undocumented migrants and their families since its establishment in 2001 and has been proactive in developing pragmatic, sustainable and well-researched policy solutions. Initially focusing on persons who had fallen out of the Employment Permit System, MRCI advocated for a 'bridging visa' to allow workers regularise their status on a case-by-case basis. This was implemented by INIS in 2009 as the *Undocumented Workers Scheme* and now takes the form of the *Activation Scheme*.¹

In response to growing numbers of undocumented persons accessing our services², MRCI developed a regularisation scheme proposal (2010) and established the Justice for the Undocumented (JFU) campaign group. JFU has been working to build political and public support for the introduction of a regularisation scheme through the production of credible evidence and research, political engagement and supporting undocumented migrants and their families to share their stories.

¹ Introduced by DJEI Oct 2014, this is a procedural safeguard to deal with people who fall out of the system through no fault of their own

² From May 2009 to October 2014, MRCI's Drop In Centre provided info and support to 2,644 undocumented migrants from 96 different countries, all living here on average 8 years.

The number of undocumented migrants in Ireland

While it is not possible to categorically state the number of undocumented migrants in Ireland, it is possible to make a well informed estimate³ which is essential to the planning of any policy response. MRCI estimates that a regularisation scheme could afford between 20,000 and 26,000⁴ undocumented migrants a route back into the Irish immigration system. Undocumented migrants in Ireland can be broadly described under the following categories.

- **Visa 'over-stayers'** including tourists, people from non-visa required countries, student visa holders and others.
- **Migrants with unenforced deportation orders** and who are not in a position to leave the state.
- **Children of undocumented migrants.** We estimate there are between 2000-5000 children of undocumented migrants in Ireland

The lives of undocumented migrants in Ireland

In our experience, undocumented migrants often live in the shadows under tremendous stress and fear of deportation. They encounter significant problems in accessing basic and essential services, such as health and education. They remain effectively cut off from visiting their extended families, just like the Irish undocumented in the US. They fear the authorities, in particular the Gardaí, and are reluctant to report crimes such as domestic violence, theft and racist incidents for fear of detection. Undocumented workers are far more likely to experience poor working conditions and workplace exploitation. MRCI is particularly concerned about the vulnerable situation of the children of undocumented migrants, many of whom have gone to school here yet face very uncertain futures.

Some key findings from *Ireland is Home: a current analysis of the situation of undocumented migrants in Ireland* [Dec 2014]

- 81% have been living in Ireland for five years or longer
- 1 in 5 living in Ireland over a decade
- 87% of people are working - 65.5% in their current job for over two years
- 70% of respondents work over 30 hours per week
- 47% of people surveyed have paid income tax or PRSI at some point
- Just under a third (28%) of people surveyed have children under 18 living in Ireland
- 92% are not in a formal legal process to regularise their situations

³ Informed by MRCI's case management system, available statistics from the Irish Naturalisation and Immigration Service and up-to-date international data on irregular migration

⁴ See appendix attached for detailed explanation of figures

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MRCI believes this situation can best be addressed through the introduction of policy measures allowing for the administration of a once-off, time-bound regularisation scheme. Such a scheme would give undocumented migrants a window of opportunity to come forward, pay a fee and regularise their situation. It is important to note that this is not an amnesty, as strict criteria apply. A scheme like this can be introduced as part of a policy package; it would not require legislation.

Criteria for entry to Regularisation Scheme

The scheme's conditions would apply to all categories of undocumented people allowing for a long-term, comprehensive, cost-effective and efficient response. The proposed regularisation would be a once-off, time-bound scheme designed around **three essential criteria**:

1. Length of time in the state

Persons resident in Ireland for 4 years would be eligible to register for the scheme (3 years with children). A 2-year probationary period would apply.

2. Criminal bar

Similar to other programmes, this scheme would exclude all persons with a serious criminal conviction.⁵

3. Probationary period.

Undocumented people have a window of time to register for the scheme and pay a fee. They are temporarily regularised and enter a 2-year probationary period (much like the recently administered 2004 Student Probationary Extension Scheme). This gives the Department an opportunity to administer the scheme. During the probationary period applicants are:

- Issued with a temporary status/visa
- Have the right to work without a work permit
- Have the right to travel (to a maximum of three months of the year)

On exiting the scheme, the person is granted residency and can earn their way to citizenship.

Income from the Scheme

This is an income-generating scheme. A one-off fee from applicants would bring in over €11.5 million. It would generate an annual income in excess of €7.5 million⁶ through direct taxation. Ongoing immigration registration

fees would generate an annual income of €5 million. Finally, income brought in through employer PRSI contributions will generate €20 million per year. **In total, this scheme has the potential to generate €185 million over five years.** This offsets any resource implications for the introduction of such a scheme and contributes significantly to the tax purse.

Additional Benefits of the Scheme

✓ Communities and social cohesion

It is difficult to overestimate the impact of a regularisation scheme in aiding social cohesion and addressing barriers to integration.

✓ Security

Regularisation enables the Government to quantify its undocumented population, which allows for greater security within the state. It also deals with rather than rewards 'illegality'.

✓ Keep in step with international practice

Many of our EU partners recognise regularisation policies as a necessary part of managing migration. There have been over 40 regularisations across the EU over the past 10 years.

✓ Humanitarian response

A scheme such as this provides a humanitarian response for undocumented individuals, families and children to escape the constant fear, stress, poverty and isolation associated with living undocumented.



To date, over 40 organisations across civil society and the business sector, along with county and city councils, have endorsed JFU's regularisation proposal.

⁵ This can be defined as an offence punishable by a maximum term of imprisonment greater than 5 years or a custodial sentence of 12 months or more.

⁶ Based on analysis of National Household Budget Survey as per Nevin Economic Research Institute report