08/10/2014 RAP/RCha/IRL/11(2014)

EUROPEAN SOCIAL CHARTER

11th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF IRELAND

(Articles 2, 4, 5, 6, 22, 26, 28 and 29)

for the period 01/01/2009 – 31/12/2012)

Report registered by the Secretariat on 8 October 2014

CYCLE 2014

Article 2 – Right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. *to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;*
2. *to provide for public holidays with pay;*
3. *to provide for a minimum of four weeks' annual holiday with pay;*
4. *to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;*
5. *to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;*
6. *to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;*
7. *to ensure that workers performing night work benefit from measures which take account of the special nature of the work.*

Appendix to Article 2§6

Parties may provide that this provision shall not apply:
a. to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;
b. where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

Please note that the Law Reform Commission has been engaged in a re-statement of a significant body of legislation, including employment legislation. These re-statements have not be certified by the Attorney General, but are a useful source of information on amendments to Principal Acts, including amendments made by secondary legislation.

Information Submitted
Paragraph 1 – Reasonable daily and weekly working hours
General

Please see material provided in previous Reports.

(A) The following legislative amendments were introduced by Statutory Instrument during the reporting period:

S.I. No. 36/2012 — European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2012.

S.I. No. 553/2010 — European Communities (Organisation of Working Time) (Activities of Doctors in Training) (Amendment) Regulations 2010.

S.I. No. 478/2009 — Organisation of Working Time (Exemption of Civil Protection Services) (Amendment) Regulations 2009

(B) Updated website links from previous report:

Workplace Relations Commission

Note: The current website replaces the separate websites of the National Employment Rights Authority, the Employment Appeals Tribunal, the Equality Tribunal and the Labour Court.

http://www.workplacerelations.ie/en

Irish Statute Book

http://www.irishstatutebook.ie/home.html

Links to Protection of Employees (Part-Time Work) Act 2001 and information booklet.

http://www.irishstatutebook.ie/2003/en/act/pub/0029/print.html

http://www.workplacerelations.ie/en/Publications_Forms/Guide_to_Protection_of_Employees_Part-time_Work_Act.pdf

Links to Protection of Employees (Fixed-Term Work) Act 2003 and information booklet.

http://www.irishstatutebook.ie/2003/en/act/pub/0029/print.html

http://www.workplacerelations.ie/en/Publications_Forms/Guide_-_Protection_of_Employees_Fixed-term_Work_Act.pdf

Links to Organisation of Working Time Act 1997 and information booklet.

http://www.irishstatutebook.ie/1997/en/act/pub/0020/print.html

http://www.workplacerelations.ie/en/Publications_Forms/Guide_to_the_OWT_Act_-_Holidays_Public_Holidays.pdf

Health and Safety Policy legislation and publications

http://www.djei.ie/employment/osh/publications.htm

Chemicals Policy Unit legislation and publications

http://www.djei.ie/employment/chemicalspolicy/publications.htm

Guide to Labour Law

http://www.employmentrights.ie/en/Publications_Forms/Guide_to_Labour_Law.pdf

Redundancy Payments Act 1967 (Restated)

http://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/EN_ACT_1967_0021.PDF

Unfair Dismissals Act 1977 (Restated)

http://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/EN_ACT_1977_0010.PDF

Guide to the Redundancy Payments Scheme

http://www.welfare.ie/en/downloads/guide_redundancy_payments.pdf

There have been no Social Partnership Agreements at national level since the 2006 agreement *Towards 2016* and the 2008 *Towards 2016 review and transitional agreement 2008-2009.*

There have been agreements between the Government and unions representing the majority of public-sector employees, namely the *Croke Park Agreement* and the *Haddington Road Agreement.*

In 2010 the Public Service or *Croke Park Agreement* covering the period 2010-2014 was reached with the Public Services Committee of ICTU as well as the representative Garda and Defence Force Associations. The Agreement is available at http://implementationbody.gov.ie/

The Croke Park Agreement was a commitment by public servants and their managers to work together to change the way in which the Public Service does its business so that both its cost and the number of people working in the Public Service could fall significantly, while continuing to meet the need for services and improve the experience of service users.

Contingent on delivery of the savings and compliance with the Agreement, the Government gave certain commitments to serving public servants:

- no further reductions in their pay rates, other than those applied in 2009 and 2010;
- no compulsory redundancies (where they do not currently apply) as long as public servants are flexible about redeployment;
- an extension of the period within which the January 2010 pay reductions are disregarded for the purposes of calculating pensions, now to February 2012;
- a review of the position on public service pay in the Spring of each year of the Agreement.

The changes proposed by public service management to achieve efficiencies and savings in each sector under the Croke Park Agreement were set out in the form of action plans. Action Plans were prepared by the Civil Service, State Agency, Local Government, Education and Justice sectors.

The Haddington Road Agreement was negotiated in May 2013 and resulted in further changes to pay and productivity in the public sector, an increase in the working week, freezes in the payment of increments and pay cuts on those earning over €65,000. A copy of the agreement is available at http://www.per.gov.ie/haddington-road-agreement/

Paragraph 1 – Reasonable daily and weekly working hours

Information Submitted

Please see material provided in previous Reports.

The *European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2012* (S.I. No. 36 of 2012) revoked and replaced S.I. No 2 of 2005 which transposed into Irish law Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.

S.I. No 553 of 2010 amended the *European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations 2004* (S.I. No. 494 of 2000). S.I. No 553 of 2010 provided for exemptions permitted under Directive 2000/34/EC in relation to daily rest, breaks and weekly rest and also for exemptions to be made by collective agreement.

S.I. No 478 of 2009 amended the Schedule to the *Organisation of Working Time (Exemption of Civil Protection Services) Regulations 1998* (S.I. No. 52 of 1998) to reflect changes to the name and structure of the Irish Coast Guard.

The number of NERA Inspectors at end 2013 was 58.

Paragraph 2 – Public holidays with pay

Please see material provided in previous Reports. There have been no legislative changes in the reporting period.

Paragraph 3 – Annual holiday with pay

Please see material provided in previous Reports.

There are currently 12,954 serving Gardaí (31 May 2014) and 9,500 Defence Force (Army, Air Corp and Naval Service) personnel (2014). At end quarter 1 2013, the strength of the labour force was 2,127,700.

Paragraph 4 - Elimination of risks for workers in dangerous or unhealthy occupations

Please describe the general legal framework. Please specify the nature of,

reasons for and extent of any reforms.

The Health and Safety Authority (HSA), is the national statutory body with responsibility for the administration and enforcement of occupational safety and health law, promoting and encouraging accident prevention, and providing information and advice to all companies, organisations and individuals – See www.hsa.ie for more information on the HSA.

The Safety, Health and Welfare at Work Act, 2005 is, as stated previously, the principal Act governing occupational safety and health matters in Ireland. The primary focus of the 2005 Act is on the prevention of workplace accidents, illnesses and dangerous occurrences and it also provides for significant fines and penalties aimed at deterring the minority who continue to flout safety and health laws.

The definition of "place of work" in the Act covers any place at which work is being carried on, either occasionally or otherwise, and is important as regards the application of the duties falling on employers and the enforcement of the provisions of the Act. Essentially, therefore, Irish occupational health and safety legislation applies equally to all persons in a place of work at which work is being carried on, in Ireland.

All categories of persons are included in the scope of occupational health and safety legislation. However, in line with the permitted exemptions in the Framework Directive, the provisions of health and safety laws apply to prisons and places of detention, except when they are not compatible with safe custody, good order and security.

Health and safety laws also apply to members of the Defence Forces except when on active service, including at sea or in aid to the Irish Police Force (Garda Siochana) or in training related thereto.

In practice, a high level of protection is given to members of the Defence Forces on active service, including appropriate protective equipment but inevitably they must continue to serve when dangerous situations arise during active service. The Defence Forces also apply a high level of protection when workers of the Defence Forces are at work but not on active service.

Ireland's position remains that it is best to tackle occupational safety and health

problems by a process of hazard identification, risk assessment and consequently risk management rather than compensate workers either financially or with extra leave for undertaking dangerous work. This is based on the General Principles of Prevention, as set down in EU Directive 89/391/EC on the introduction of measures to encourage improvements in the safety and health of workers at work and in Schedule 3 of the Safety, Health and Welfare at Work Act 2005.

The Safety, Health and Welfare at Work (General Application) Regulations 2007 are detailed regulations made under the 2005 Act and contain in one text virtually all of the specific safety and health laws which apply generally to all employments. They replaced a wide range of earlier regulations as well as re-transposing a number of EU Directives on occupational safety.

In addition, Ireland continues to introduce sector specific regulations, Codes of Practice, guidance etc. for sectors that have been identified by the HSA as high-risk in relation to occupational health and safety e.g. construction, agriculture, quarrying.

The introduction of such sector specific legislation has helped focus both employers and employees on their responsibilities in respect to occupational health and safety with a view to reducing the levels of fatalities and accidents.

The Chemicals Acts 2008 & 2010 are the legislative basis for enforcement of a number of EU Chemicals Regulations including REACH - the EU REACH Regulation ("Registration, Evaluation, Authorisation and Restriction of Chemicals"), which is the principal legislative instrument governing the use of chemicals by industry. It is also of direct interest to workers, consumers and environmental interests. Its effects have been positive in improving workplace health and safety. The Chemicals Acts 2008 - 2010 are available to download at the following link - Chemicals Policy Unit Legislation.

2011 – 2013 Occupational Health and Safety Legislative Developments

Occupational health and safety legislation introduced since the last reporting period (end 2010) is available to view and download here

2011 – 2013 Occupational Health and Safety Codes of Practice and Guidance

for high-risk sectors

The HSA identifies high-risk sectors in its Annual Programmes of Work and carries out targeted inspection and media campaigns as well as developing Codes of Practice and information sheets and guidance for high-risk sectors. Clicking on the bullet points below links to various measures/guidance etc. on the HSA's website (www.hsa.ie).

- **Agriculture**
- **Construction**
- **Mines & Quarries**

Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Under the Safety, Health and Welfare at Work Act 2005, the HSA is required to prepare and submit to the Minister for his/her approval, Strategy Statements specifying its key objectives, outputs and related strategies for the coming 3 years. Copies of its recent Strategy Statements (including its latest one for 2013-2015) are available here.

Similarly, under the 2005 Act the HSA is required to prepare and submit to the Minister its Annual Programme of Work which outlines its priorities for the coming year. Copies of its recent Programmes of Work are available here.

In its Programmes of Work, the HSA also identifies high-risk and dangerous sectors for special focus. In both 2011, 2012 and 2013, construction and agriculture continued to receive strong attention. The HSA's 2014 Programme of Work continues to focus on the agriculture sector under its 'Key themes'.

Of the 148 workplace fatalities reported to the HSA from 2011 to end 2013, the highest number – 59 (40%) have occurred in the agriculture sector. The next highest sector in terms of fatalities reported was the construction sector with 26 (17.56%).

In both 2012 & 2013, the highest number of workplace inspections and investigations were carried out in the agriculture and construction sectors as these sectors are viewed by the HSA as the most inherently dangerous. Again in 2014, the highest

number of inspections will be carried out in these sectors.

Number of Workplace Investigations & Inspections

	2012	**2012**	**2013**
Agriculture	3,222	3,341	2,820
Construction	4,409	3,932	3,599
All Other Sectors	7,709	6,562	5,786
TOTAL	**15,340**	**13,835**	**12,205**

Agriculture

Partnership is central to the HSA's approach to improving farm safety and has been since 2002. This approach has involved the major stakeholders in the task of improving farm safety through the HSA's Farm Safety Partnership Advisory Committee (FSPAC) - a sub-committee of the HSA Board. This approach achieves broad based actions by the primary stakeholders to assist in developing and sustaining a safety and health culture within the sector, similar to that which worked very well in the Irish construction sector.

The FSPAC developed its "Farm Safety Action Plan - 2009 to 2012" which set ambitious health and safety targets and identified specific activities to achieve these targets and much was achieved during the course of this plan. A new Action Plan 2013 – 2015 has been developed and is available to view here.

Construction Safety Partnership (CSP)

This partnership is an alliance of the principal stakeholders in the construction industry; Employers, Unions, Professional Bodies, Government Departments and Statutory Bodies, whose goal is to work together to further improve the safety and health performance of this high-risk sector. See www.csponline.ie for more details.

The CSP since its inception has developed a number of initiatives which complement the work of the HSA including -

- ***Safety Representative Facilitation Project -*** This has been a flagship element of the CSP since the partnership began over a decade ago. The aim of the Project is to promote co-operation between employers and workers and to spread the message that consultation with workers' Safety Representatives (SRs) is not alone a legal requirement for managers (Sections 25 & 26 of the Safety, Health and Welfare at Work Act 2005) but can be used to positive advantage by site managers who are trying to encourage employee engagement with safe working practices. Over **1,800 Safety representatives** have been trained in the 10 years since the project's inception.

- **Safety Management Pack (SMP20)** - The aim of the pack, introduced in 2010 and supplemented by an online e-learning training tool in 2011, is to assist small contractors in establishing and maintaining an effective safety management system. The pack gives details of statutory health and safety duties and provides guidance and tools to enable compliance with these duties.

- **FÁS Safe Pass and FÁS Construction Skills Certification Scheme** – Safety awareness and competency were identified by the Construction Safety Partnership as vital elements in worker skills that had to be developed, before safety performance could be improved. For this reason the CSP were at the forefront of on-going developments relating to the Construction Skills Certification Scheme and Safe Pass in the first CSP Plan 2000-2003. Since then, the CSP has continued to support these two programmes which contribute to safety improvements in the industry.

Memoranda of Understanding (MOUs)

To facilitate co-operation and interaction with other State agencies and as part of the drive towards the Irish Government's Better Regulation agenda, the HSA, in 2013 had in place in excess of 20 Memoranda of Understanding with other regulatory bodies servicing the same stakeholders and which are reviewed annually and extended where possible.

These include a revised bilateral collaboration agreement which was formally concluded with Teagasc, the Irish Agriculture and Food Development Authority, in December 2013. This is a joint work plan between the two bodies for the period 2013-2015.

Please provide pertinent figures, statistics or any other relevant information, if appropriate.

In conjunction with its Annual Report, the HSA produces an annual Summary of Statistics which presents the most frequently sought information and statistics on occupational injury, illness and workplace fatalities in Ireland.

The HSA's Annual and Statistical Reports for the reference period are available here.

Paragraph 5 – Weekly rest period

Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.

The Organisation of Working Time Act 1997 provides for a weekly rest period of 24 hours preceded by a daily rest period of 11 hours, i.e. 35 hours of continuous rest (Section 13). In lieu of granting this rest period in any period of 7 days, the employer may grant two rest periods of 24 hours each in the next following period of 7 days. If these two periods are granted consecutively they shall be preceded by the daily rest period of 11 hours. If they are not consecutive they shall each be preceded by an 11 hours rest period. Article 16(a) of the Working Time Directive states that Member States may lay down a reference period not longer than 14 days for applying Article 5 (weekly rest periods). Section 2(2) of the Organisation of Working Time Act 1997 provides that "*A word or expression that is used in this Act and is also used in the Council Directive has, unless the contrary intention appears, the meaning in this Act that it has in the Council Directive*".

Paragraph 6 – Information on employment contract

Please see material provided in previous reports. There have been no changes during the reporting period.

Paragraph 7 – Night work

The Committee asks for information on any provisions made for consultation with worker representatives prior to the introduction of night work on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work.

The Safety, Health and Welfare at Work (Night Work and Shift Work) Regulations 2000 were revoked and replaced and the provisions incorporated into the provisions of the Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299 of 2007) Chapter 3, Part 6 Regulations 153 to 157. The Health and Safety Authority (HSA) has produced a Guidance Document in connection with these provisions, this is available on the HSA website.

In particular, regulation 157 states:

157. *(1) An employer,*

(a) before employing a person as a night worker, and

(b) at regular intervals during the period that that person is employed as a night worker,

shall make available to that person, free of charge, an assessment by a registered medical practitioner, or a person under the practitioner's supervision, in relation to any adverse effects of that night work on the night worker's health.

(2) In discharging the duty under paragraph (1) the employer—

(a) may take into account any entitlement to an assessment referred to in that paragraph that is provided by the State, and

(b) shall facilitate the night worker's attendance at the assessment if so required.

(3) The person who performs an assessment referred to in paragraph (1) shall—

(a) endeavour to detect if the health of the employee concerned is being or will be adversely affected by the fact that the employee performs or will perform night work, and

(b) on the completion of the assessment, inform the employer and employee concerned—

(i) of the opinion of the person who performs the assessment as to whether the employee is fit or unfit to perform the night work concerned, and

(ii) if that opinion is that the employee is unfit to perform that night work by reason only of the particular conditions under which that work is performed, suggesting changes in those conditions that could be made so that the employee could be considered fit to perform that night work.

(4) Neither a registered medical practitioner nor a person acting under his or her supervision shall disclose—

(a) the clinical details of the assessment referred to in paragraph (1) to any person other than the employee concerned or a person designated under section 63 of the Act, or

(b) the opinion of the registered medical practitioner of such an assessment to any person other than the employee and employer concerned.

(5) If a night worker—

(a) becomes ill or otherwise exhibits symptoms of ill-health, and

(b) that illness is or those symptoms are recognised as being connected with the fact that the night worker performs night work,

the employer, whenever possible, shall assign duties to the employee that do not involve performing any night work and to which the employee is suited.

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Appendix to Article 4§4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

Appendix to Article 4§5

It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exception being those persons not so covered.]

Information submitted

Please see material in earlier Reports.

Developments since last Report

Article 4§1

National Minimum Wage

There were two amendments to the NMW rates in 2011 as follows:-

On 1st February the minimum hourly rate of pay for an experienced adult worker was reduced from €8.65 to €7.65 – all other sub-minima rates were also reduced on a pro rata basis.

On 1st July the reduction in the rate was reversed and the hourly rate for an experienced adult worker reverted to €8.65 – the reductions to all sub-minima rates were also reversed.

The table below illustrates:-

Employee	**Hourly Rate of Pay from 1st February 2011**	**Hourly Rate of Pay from 1st July 2011**
Experienced Adult Worker	€7.65	€8.65
Under age 18	€5.36	€6.06
In first Year from date of first employment over age 18,whether or not the employee changes employer during the year	€6.12	€6.92

In second Year from date of first employment over age 18, whether or not the employee changes employer during the year	€6.89	€7.79
In a course of training or study over age 18, undertaken in normal working hours 1st one third period 2nd one third period 3rd one third period NB. Each one third period must be at least 1 month and no longer than 12 months	€5.74 €6.12 €6.89	€6.49 €6.92 €7.79

The table below illustrates the numbers of employees at or below the experienced adult NMW rate in terms of the total number of persons in employment between 2009 and 2012. Source – the Irish Central Statistics Office (www.cso.ie)

Reference Period	Employees at or below experienced adult NMW rate	Total Employees	% of Employees at or below experienced adult NMW rate
Q1 2009	47,400	1,630,100	2.9
Q2 2009	47,800	1,608,000	3
Q3 2009	51,300	1,589,900	3.2
Q4 2009	48,800	1,563,700	3.1
Q1 2010	51,800	1,551,600	3.3
Q2 2010	59,300	1,550,400	3.8
Q3 2010	60,200	1,544,900	3.9
Q4 2010	59,800	1,524,000	3.9
Q1 2011	30,584	1,504,800	2
Q2 2011	40,526	1,522,400	2.7
Q3 2011	51,551	1,516,400	3.4
Q4 2011	58,303	1,523,200	3.8
Q1 2012	52,245	1,496,100	3.5

Q2 2012	57,680	1,493,700	3.9
Q3 2012	60,696	1,529,700	4
Q4 2012	70,197	1,525,100	4.6

In its conclusions on Ireland's last Report on Article 4, the Committee of Social Rights asked that Ireland's next Report contain information on gross and net minimum and average wages net of taxes and social security contributions for the case of a single worker. Those statistics are contained in the tables below. They first table is extracted from the OECD Taxing Wages 2013 Report. The figures indicate that in 2012 Ireland's average gross and net wage earnings for a single worker with no children was 2.3% and 12.3% respectively higher that the OECD average in terms of purchasing power parity. The full Report can be read at the following link.

http://www.oecd-ilibrary.org/taxation/taxing-wages-2013_tax_wages-2013-en

Table II.9. **Annual average gross and net wage earnings, single individual no children, 2000-12**

In US dollars using PPP

	2000		2004		2005		2006		2007		2008		2009		2010		2011		2012	
	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net
Australia	31 408	23 054	36 871	28 064	37 866	28 695	39 097	29 722	40 129	30 755	40 783	31 587	43 307	33 754	43 612	33 894	44 894	34 895	48 199	37 169
Austria	33 026	22 800	37 684	25 164	38 385	25 704	40 985	27 280	41 761	27 631	43 705	28 730	44 566	29 954	45 570	30 500	46 891	31 159	48 187	31 807
Belgium	35 516	20 242	39 824	23 133	40 766	23 648	42 617	24 751	43 591	25 254	46 592	26 795	48 838	28 184	50 263	28 792	51 507	29 448	53 047	30 356
Canada	29 849	22 272	31 642	24 078	32 807	24 952	33 638	25 607	34 301	26 345	34 988	26 782	35 730	27 657	36 680	28 435	37 109	28 710	38 291	29 644
Chile	9 717	9 037	10 117	9 408	10 363	9 638	9 869	9 178	10 392	9 665	11 566	10 756	11 885	11 053	13 783	12 818	14 431	13 421	15 666	14 569
Czech Republic	11 323	8 776	14 630	11 156	15 301	11 623	16 621	12 896	17 978	13 863	19 117	14 598	20 168	15 673	20 172	15 643	21 224	16 324	21 793	16 817
Denmark	33 499	18 699	37 660	22 207	37 287	22 029	39 696	23 424	42 063	24 765	44 844	26 502	46 600	28 181	48 083	29 666	49 187	30 285	49 887	30 653
Estonia	8 636	6 741	11 775	9 201	12 559	10 073	14 316	11 634	16 109	13 097	18 302	15 032	17 998	14 657	18 259	14 702	19 157	15 381	19 866	15 913
Finland	27 176	17 873	32 212	22 186	33 552	23 042	35 269	24 481	37 803	26 306	40 727	28 362	42 332	29 942	42 578	30 050	42 562	30 107	44 148	31 169
France	28 465	20 163	31 498	22 481	33 055	23 512	34 709	25 132	36 297	26 220	38 062	27 487	39 427	28 448	40 205	29 002	41 502	29 897	42 494	30 460
Germany	35 576	20 207	42 495	24 529	44 643	25 797	46 695	26 842	48 516	28 027	51 007	29 588	50 512	29 607	52 300	31 692	54 378	32 702	56 058	33 683
Greece	23 148	18 048	31 154	23 365	30 673	23 078	34 000	25 135	32 534	24 246	32 560	24 588	32 892	24 999	31 050	24 196	30 055	22 251	28 846	21 529
Hungary	10 069	6 471	13 421	8 804	14 121	9 369	15 434	9 995	16 417	10 046	18 049	11 144	19 297	12 011	19 472	13 360	20 293	13 171	20 875	13 566
Iceland	32 167	23 984	38 197	27 490	41 785	30 019	42 830	30 920	44 877	32 837	46 397	33 754	40 384	29 788	38 628	27 967	40 276	28 846	42 761	30 183
Ireland	22 880	18 227	27 795	23 376	28 670	24 298	30 377	25 913	32 536	28 025	34 208	29 438	35 453	29 550	37 887	31 122	38 572	31 690	39 042	32 019
Israel	26 689	19 871	27 417	21 694	26 964	21 397	26 431	21 301	29 174	23 222	28 945	23 719	28 110	23 440	28 235	23 806	28 957	24 419	29 531	24 968
Italy	26 373	18 713	27 181	19 430	28 212	20 310	30 252	21 555	31 585	22 366	34 030	23 981	34 988	24 589	35 301	24 631	36 197	25 069	36 563	25 303
Japan	32 152	26 696	36 687	29 998	38 431	31 322	39 877	32 125	41 495	33 133	42 654	34 021	41 892	33 495	42 863	34 021	45 159	35 662	46 086	36 307
Korea	26 601	24 220	33 841	30 538	36 557	32 944	39 359	35 180	42 102	37 023	42 837	37 635	42 715	37 722	44 835	39 324	44 866	39 265	47 242	41 117
Luxembourg	38 172	27 229	43 974	32 968	44 142	32 714	47 553	34 916	48 951	35 392	51 902	37 683	52 820	38 958	53 179	38 944	54 575	39 116	54 211	39 112
Mexico	7 783	7 614	9 061	8 591	9 734	9 287	10 194	9 688	10 468	9 840	10 885	10 325	10 971	10 376	11 017	10 399	11 121	10 096	11 262	10 195
Netherlands	35 740	23 725	41 690	28 119	43 185	29 145	46 944	31 691	48 981	33 076	51 222	34 401	52 491	35 802	53 177	36 343	54 449	37 230	55 640	37 868
New Zealand	24 226	19 534	25 565	20 525	25 771	20 609	27 476	21 860	28 563	22 543	29 866	23 740	31 554	25 851	31 643	26 267	32 246	27 129	33 528	28 034
Norway	32 687	22 653	40 739	28 481	42 545	30 197	45 716	32 416	47 961	33 792	50 687	35 684	50 624	35 807	52 132	36 867	54 099	38 181	55 350	39 080
Poland	12 526	9 043	14 505	10 432	14 921	10 687	15 854	11 303	17 520	12 652	18 158	13 611	18 603	14 066	19 507	14 735	20 004	15 093	20 591	15 521
Portugal	15 609	12 105	19 130	14 820	20 519	16 049	23 419	18 106	23 564	18 276	24 000	18 727	24 519	19 256	26 006	20 233	25 594	19 637	25 341	19 838
Slovak Republic	9 603	7 705	11 062	8 650	12 114	9 477	13 348	10 394	14 654	11 384	16 559	12 781	17 593	13 829	17 829	13 968	18 067	13 947	18 511	14 290
Slovenia	16 727	10 780	20 362	13 116	21 225	13 857	22 489	14 653	23 240	15 605	24 858	16 642	24 812	16 639	25 937	17 303	26 962	17 953	26 793	17 934
Spain	23 592	18 910	26 403	21 100	26 953	21 483	28 742	22 855	30 184	23 969	32 288	26 058	33 873	27 167	34 375	26 905	35 551	27 715	36 162	27 526
Sweden	28 854	19 123	33 578	22 994	33 640	23 149	35 697	24 672	37 906	27 446	40 175	29 361	40 412	30 148	40 610	30 551	42 115	31 651	43 685	32 813
Switzerland	39 381	32 563	44 925	37 328	45 686	37 954	48 617	40 407	52 047	43 119	53 651	44 740	54 987	45 800	56 468	46 958	59 394	49 307	61 048	50 945
Turkey[1]	19 608	13 974	17 188	11 954	18 946	13 167	18 442	12 843	19 946	13 878	21 431	15 498	20 399	14 877	22 703	16 437	24 881	17 907	25 395	18 298
United Kingdom	39 167	29 059	46 342	33 908	47 682	34 879	50 077	36 612	51 467	37 565	51 290	38 168	50 626	37 849	51 397	38 347	51 515	38 510	52 720	39 572
United States	33 129	24 877	36 739	27 785	37 637	28 502	39 377	29 765	42 064	31 615	43 196	33 235	44 295	33 966	45 665	34 807	46 671	36 048	47 650	36 819
OECD Average	25 326	18 382	29 217	21 384	30 197	22 135	31 942	23 390	33 446	24 499	34 987	25 740	35 461	26 268	36 218	26 844	37 190	27 418	38 131	28 091

1. Turkey wage figures are based on the old definition of average worker (ISIC D, Rev. 3).

StatLink http://dx.doi.org/10.1787/888932785947

Tax and Social Security Contributions for Single Person on NMW adult hourly rate

Year		2009	2010	2011	2012
Gross Income*		€ 17,542.20	€ 17,542.20	€ 16,684.20	€ 17,542.20
NET INCOME – after all income tax, levies and Social Insurance has been deducted		€ 17,104.67	€ 17,054.39	€ 16,160.66	€ 16,786.80

***Gross Income calculated as nmw adult hourly rate x 52 x 39hrs – rate is €8.65 apart from 1st Feb 2011 to 30th June 2011 when it as €7.65.**

Joint Labour Committees

Joint Labour Committees (JLCs) are bodies established under the Industrial Relations Act 1946 to provide machinery for fixing statutory minimum rates of pay and conditions of employment. The function of the JLC is to draw up proposals for fixing minimum rates of pay and conditions of employment for the workers involved. When proposals submitted by a JLC are confirmed by the Labour Court and the Minister for Jobs, Enterprise & Innovation, through the making of an Employment Regulation Order (ERO) they become statutory minimum pay and conditions of employment for the workers concerned. Employers are then bound under penalty to pay wage rates and provide conditions of employment not less favourable than those prescribed.

In July 2011, the High Court found that the Employment Regulation Order (ERO) wage setting mechanism was unconstitutional. As a consequence, the Employment Regulation Orders (EROs) that were in place up to then ceased to have statutory effect from that date. Contractual entitlements which workers enjoyed prior to 7th July 2011 remained protected by law unless changed by agreement with employers. The terms of the National Minimum Wage Act 2000 applied to new entrants to those sectors concerned after July 7th 2011.

The Industrial Relations (Amendment) Act 2012 was enacted on 24 July 2012 and commenced on 1 August 2012. The main purpose of the Act is to reform the statutory wage setting mechanisms, including the Joint Labour Committee system. The Act provides for a radical overhaul of the system so as to make it fairer and more responsive to changing economic circumstances and labour market conditions.

In addition, the Act provides for the more comprehensive measures required to strengthen the legal framework for the Employment Regulation Orders and Registered Employment Agreement sectoral wage setting mechanisms, under the Industrial Relations Acts 1946 to 2004.

The Act also provided for a Review of each of the existing Joint Labour Committees (JLCs). That Review was commissioned by the Labour Court and it assisted in its deliberations as to whether any JLC should be abolished, maintained in its current form, amalgamated with another JLC or its establishment order amended.

The Labour Court submitted its report of the Review and recommendations in relation to the 10 existing JLCs and these were accepted by the Minister in October 2013.

Links to the Report and the Next Steps required to implement its Recommendations are below.

http://www.djei.ie/publications/employment/2013/Review_Joint_Labour_Committees_2013.pdf

http://www.djei.ie/publications/employment/2013/JLC_Next_Steps.pdf

Registered Employment Agreements

A Registered Employment Agreement (REA) is a collective agreement made either (i) between a trade union or unions and an individual employer or employers' organisation or (ii) by a registered Joint Industrial Council, which relates to the pay or conditions of employment of any class, type or group of workers and has been registered with the Labour Court and, arising from the enactment of the Industrial Relations (Amendment) Act 2012, subsequently confirmed by Ministerial Order.

The effect of the Order is to make the provisions of an REA binding, not only on the trade unions and employers involved in its negotiations but on others who were not parties to its negotiations, but are in categories covered by the agreement.

Supreme Court ruling on REAs

In the judgment delivered on 9 May 2013 in McGowan and others – v – the Labour Court, Ireland and the Attorney General, the Supreme Court held that Part III of the Industrial Relations Act 1946 was invalid having regard to Article 15.2.1 of the Constitution. That Article provides that the exclusive power to make laws is vested in the Oireachtas (Ireland's parliament). The Supreme Court took the view that REAs are instruments having the status of laws made by private individuals. While the Constitution allows for the limited delegation of law making functions, the provisions of the 1946 Act went beyond what is permissible under the Constitution.

The effect of this decision is to invalidate the registration of employment agreements previously registered under Part III of the 1946 Act.

In June 2013, the Minister for Jobs, Enterprise and Innovation announced that he intends to bring forward, as soon as possible, legislation to address the Supreme Court ruling that struck down Registered Employment Agreements

Article 4§2

rted premia paid for overtime working are not the subject of statutory regulation but are determined through negotiation and agreement between the parties at the level at which

basic pay and conditions of employment are normally settled. The exceptions are those industries/activities, which were covered by Employment Regulation Orders (EROs) or a small number of sector-wide Registered Employment Agreements (REAs), which set down premium rates for overtime working. Most collective agreements contain provisions in relation to remuneration for overtime working.

ticle 4.1 in relation to the wage setting mechanisms around EROs and REAs being found to be unconstitutional. As a consequence no EROs have been registered since July 2011 and all REAs were declared invalid by the Supreme Court in May 2013.

above regarding the Review of the Joint Labour Committee System. When the Ministerial Orders to implement the recommendations in the Review are made, it will be a matter for each JLC to decide what terms and conditions it provides for in proposals for Employment Regulation Orders in their particular Sectors, including providing for overtime payments.

The Industrial Relations (Amendment) Act 2012, referred to in response to Article 4.1, provides for a package of reforms to the statutory wage setting mechanisms. Along with its provisions, the Minister for Jobs, Enterprise and Innovation introduced further supplementary provisions to assist in that reform agenda. One such provision was to request the Labour Relations Commission to prepare a Code of Practice to address the standardisation of benefits in the nature of pay (specifically overtime and the conditions under which it becomes payable) across sectors that will be covered by JLCs in the future.

Statistics regarding remuneration for overtime are gathered by the Irish Central Statistics Office – www.cso.ie the most recently published data can be found here http://www.cso.ie/en/media/csoie/releasespublications/documents/earnings/2013/earnlabcosts_q22013.pdf

Article 4§3

Increase in statutory limits to compensation

To provide for greater redress in situations of low-paid employment, in 2011 the maximum compensation that may be awarded by the Equality Tribunal in employment equality cases was adjusted to 2 years' remuneration or €40,000, whichever is greater. (Amendment of Section 82 of the Employment Equality Act 1998 by section 25(1) of the Civil Law (Miscellaneous Provisions) Act 2011).

Reform of equality and human rights and employment rights infrastructures

Government proposals to establish a new Irish Human Rights and Equality Commission were announced in 2011. The existing Human Rights Commission and the Equality Authority will merge into the new body in order to enhance the protection of human rights and the promotion of equality. The Commission will have enhanced powers and be accountable to the Oireachtas (Parliament). The preparation of legislation to give effect to this decision is at an advanced stage. Pending establishment of the new Irish Human Rights and Equality Commission, the Human Rights Commission and the Equality Authority continue in operation. Commissioners-designate, selected through an open procedure independent of Government, have been appointed initially to these bodies to ensure that the two organisations can begin operating as a cohesive whole.

Under Government proposals, announced in 2011, to reform the infrastructure for asserting employment rights and for seeking redress in cases of discrimination, the existing employment rights and industrial relations bodies are being merged to form a unified Workplace Relations Commission. The new body will take on the functions of the Equality Tribunal, the Labour Relations Commission, the National Employment Rights Authority, the Employment Appeals Tribunal and some of the functions of the Labour Court. The preparation of legislation to give effect to this decision is at an advanced stage.

Also, please see material on changes to the law relating to employment regulation orders (EROs), registered employment agreements (REAs) and the Joint Labour Committees (JLCs) under Art 4.1

Gender Pay Review Template

Between 2011 and 2012, the Irish Business and Employers Confederation (IBEC) was funded by the Equality Authority's Equality Mainstreaming Unit (a programme jointly funded between 2007-2013 by the Authority and the European Social Fund) to research, produce and test a Gender Pay Review Template for equal pay audits. The template includes guidance on job evaluation methodologies, competency profiles and performance management ratings, sample pay analysis, job and person profiles. The template has now been tested in collaboration with a number of medical manufacturing companies. While the primary focus of the template is on gender, it can also be examined under a range of equality lenses to ascertain whether a gap exists, to investigate the causes of any pay gaps and in planning to address and close any gaps that are identified as discriminatory. The template is seen as the most effective way of establishing whether an organisation is providing equal pay providing for a more equitable workplace. It has the potential to highlight any discriminatory issues that may arise.

Statistical overview

Statistics collated by the Central Statistics Office (CSO) and the European Commission facilitate a monitoring of the extent of gender segregation at a horizontal level and at sectoral level in the Irish labour market.

Statistics show that there has been a narrowing of the gender pay gap in Ireland in recent years. Originally estimated at 21.7% in 2003, the European Commission, in its annual Report 'Progress on equality between women and men in 2012' records a gender pay gap figure for Ireland of 13.9% in 2011. This figure is lower than the EU-27 average at 16.2%. However, the same publication reports gender segregation in occupations at 26.3% in Ireland, which is slightly above the EU-27 average of 24.5%, and gender segregation in economic sectors at 20.7% in Ireland, which is also slightly above the EU-27 average at 18.7%. The complexity of the gender pay gap is reinforced in noting that the EU countries with the lowest gender pay gap are also those with the lowest female attachment to the labour market.

Women in Ireland are over-represented in part-time employment, accounting for almost 68% of all those employed on a part-time basis. The national minimum wage is therefore likely to have an impact for women in Ireland and may be considered to be a contributory factor in the reduction of the gender pay gap. The National Employment Rights Authority (NERA) undertakes inspections under the National Minimum Wage Act 2000. In 2012, NERA concluded 1,316 inspections under the National Minimum Wage Act and reports compliance in 51% of cases. Unpaid wages of €323,176 were recovered. NERA also provides a Workplace Relations Customer Support Unit.

In Ireland, the prevalence of individualised pay bargaining in the private sector, coupled with strict confidentiality clauses, is likely to be a factor in the continuing gender pay gap. This contrasts with public sector employment which is characterised by collective wage agreements and transparent salary scales which are less likely to lead to an unexplained gender pay gap among employees.

The latest employment reports from the CSO for the first quarter of 2013 show over 35% of the female work force was in part-time employment, as compared with 15% of males. The approximate figures for long term unemployment is 125,000 males compared with 55,000 females - a ratio of more than two to one in this category. In this period, sectors such as agriculture, construction, transport and information and communication predominantly employ males, whereas the education, health and care sectors are predominated by females (see Table 1 below). Looking at persons in employment classified by gender and by level of responsibility within the organisation/occupation, males predominate in the skilled trades, and as process, plant and machine operatives, whereas women predominate in administrative and secretarial grades, and in caring, leisure and other service grades (see Table 2 below).

The reconciliation of work and family life is a prerequisite for fostering the advancement of women in the labour market. A report published by the National Women's Council of Ireland (NWCI) in 2009 'Who Cares? Challenging the Myths about Gender and Care in Ireland' shows that women in Ireland are still responsible for more than 80% of the tasks of family life, e.g. childcare, eldercare, cooking, cleaning, etc. The amount of time which women spend away from the labour market on caring duties can also be regarded as a significant contributing factor in the persisting gender pay gap.

Addressing gender segregation in the Irish labour market

The European Union, of which Ireland is a Member, actively promotes reducing the gender pay gap, including in its main policy document for promoting gender equality, the 'Strategy for equality between women and men 2010-2015'. This Strategy has as one of its key priorities 'Equal pay for equal work and work of equal value'. The annual 'European Equal Pay Day', which celebrated its third year in February 2013, has also helped to raise awareness of the issue within Member States, including in Ireland. In 2011, Member States adopted the revised 'European Pact for Gender Equality 2011-2020' which encourages Member States to take measures to tackle the gender pay gap. Ireland continues to actively engage with our EU partners on this issue.

Table 1: gender breakdown of employment by sector.

Sector	**Male**	***%***	**Female**	***%***	Total
Construction	90,700	*94.09*	5,700	*5.91*	96,400
Agriculture, forestry and fishing	85,500	*88.88*	10,700	*11.12*	96,200
Transportation and storage	73,300	*82.55*	15,500	*17.45*	88,800
Information and communication	54,200	*70.12*	23,100	*29.88*	77,300
Professional, scientific and technical activities	62,000	*59.73*	41,800	*40.27*	103,800
Public administration and defence, social security.	50,900	*53.47*	44,300	*46.53*	95,200
Wholesale, retail, repair of motors vehicles	143,100	*52.21*	131,000	*47.79*	274,100
Administrative and support services	30,400	*51.09*	29,100	*48.91*	59,500
Financial, insurance and real estate activities	48,600	*48.79*	51,000	*51.21*	99,600
Accommodation and food service activities	57,200	*47.55*	63,100	*52.45*	120,300
Education	37,800	*25.63*	109,700	*74.37*	147,500
Health and social work	48,800	*19.72*	198,700	*80.28*	247,500
TOTAL	988,000	*53.7*	854,000	*46.3*	1,845,600

Source: Quarterly National Household Survey Quarter 1 2013 (page 10).

Table 2: gender breakdown of employment by level of responsibility.

Level of Responsibility	**Male**	***%***	**Female**	***%***	**Total**
Skilled trades	246,200	*91.46*	23,000	*8.54*	269,200
Process, plant and machine operatives	121,500	*82.00*	25,100	*18.00*	146,600
Management	103,800	*69.29*	46,000	*30.71*	149,800

Associate professional and technical	129,600	*60.59*	84,300	*39.41*	213,900
Elementary	119,600	*60.00*	80,600	*40.00*	200,200
Professionals	146,400	*41.32*	207,900	*58.68*	354,300
Sales and customer service	56,700	*35.00*	105,300	*65.00*	162,000
Administrative and secretarial	42,500	*21.06*	159.30	*78.94*	201,800
Caring, leisure and other services	22,700	*15.86*	120,400	*84.14*	143,100

Source: Quarterly National Household Survey Quarter 1 2013 (page 14).

Specific questions posed by the ECSR in their Conclusions

Article 4§4

Please refer to material provided in previous reports. The situation remains unchanged.

Article 4§5

Please refer to material provided in previous reports.

The Payment of Wages Act 1991 was the subject of minor amendments made by the Education and Training Boards Act 2013 and the Local Government Reform Act 2014. These changes reflected (i) the change of name of Vocational Educational Committees (VECs) to Education and Training Boards and that (ii) the Local Government Act 2001 (which amended the Local Government Act 1946) was subsequently amended by the Local Government Reform Act 2014.

Article 5 – The Right to Organise
With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Information submitted
Reply to Questions 1, 2 and 3 above :-

Please see earlier Reports setting out the legal framework, in particular, our last report under Article 5 as part of Ireland's Seventh Report under the Revised European Social Charter. Please also see our response under Article 6 as part of the Seventh Report and as part of this 11th Report.

Developments since Ireland's last report

In 2010, the Irish Congress of Trade Unions (and IMPACT acting on behalf of their airline pilot members in Ryanair) submitted a complaint to the Committee on Freedom of Association of the International Labour Organisation that Ireland was not in conformity with the provisions of ILO Convention No. 98 - Right to Organise and Collective Bargaining Convention, 1949.

The complaint involved allegations of anti-union discrimination and the refusal to engage in good faith collective bargaining on the part of Ryanair, as well as the failure of labour legislation to provide adequate protection against acts of anti-union discrimination and promote collective bargaining.

The ICTU complaint arises as a result of the 2007 Supreme Court decision in the Ryanair case.

The ILO Committee on Freedom of Association considered the submissions during the March session in 2012 of the ILO Governing Body. The Committee's findings were

a) As the information available to the ILO Committee is insufficient to determine whether the alleged offer by Ryanair of conditional benefits to employees provided that the company would not be required to enter into a collective bargaining relationship with the union, the Committee requests the Government to ensure that the protection available against anti-union discrimination would adequately cover such acts, including through a thorough review of the protective

measures with the social partners concerned.

b) The Committee requests the Government to carry out an independent inquiry without delay into the alleged acts of employer interference in order to establish the facts of this specific case and, if necessary, to take the necessary measures to ensure full respects of the principles of freedom of association.

c) Noting the commitment on collective bargaining in the Programme for Government, the Committee invites the Government, in full consultation with the social partners, to review the existing framework and consider any appropriate measures, including legislative, so as to ensure respect for the freedom of association and collective bargaining principles set out in its conclusions, including through the review of the mechanisms available with a view to promoting machinery for voluntary negotiation between employers' and workers' organisations for the determination of terms and conditions of employment.

The Government accepted recommendations (a) and (c) and these are being addressed in the context of the commitment in the Programme for Government to reform the current law on employees' right to engage in collective bargaining (the Industrial Relations (Amendment) Act 2001), so as to ensure compliance by the State with recent judgements of the European Court of Human Rights. *(See below and Input to Article 6 for more detail on this).*

As regards the Committee's recommendation at b) for an independent enquiry, the Ryanair case had been litigated to a conclusion. In light of the judgment of the Supreme Court, it was open to the parties to resume the hearing before the Labour Court or, indeed, to make fresh complaints to the Labour Court. However, it would be constitutionally inappropriate for the Government to reopen matters by seeking to establish facts that were not established before the courts and *a fortiori* to take measures that the courts did not take.

In addition, the power of the Government to undertake an inquiry is contained in section 38(2) of the Industrial Relations Act 1990, which allows the relevant Minister to request the Labour Relations Commission or the Labour Court or another person or body to conduct an inquiry where the Minister is of the opinion that a particular trade dispute is a dispute of special importance. However, in this case, the Supreme Court has determined that it had not been established that there was a trade dispute. This precludes the Minister from requesting an inquiry under section 38(2) of the 1990 Act. Accordingly, this recommendation was not accepted.

With regard to the Defence Forces, there have been no legislative policy or other developments that have taken place during the three year period from 01 January 2010 to 31 December 2012 that have altered or in any way diluted the rights to organise as currently enjoyed by the Representative Associations for the Defence

Forces. These rights are provided under the long established (since 1998) Conciliation & Arbitration Scheme and devised in accordance with Defence Force Regulations (S.6) made pursuant to the Defence (Amendment) Act 1990. Parallel discussions and access to information has also continued to be guaranteed by the Department of Public Expenditure & Reform in order that the Defence Forces Representative Associations can continue to be briefed about developments where they relate to Public Service policy issues affecting their members at the same time as all other Public Sector Associations or Irish Congress of Trade Unions affiliated members.

With regard to the Police:

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Ireland has a single national police force - An Garda Síochána (Guardians of the Peace). It is also the security and intelligence force for the country. The primary legislation governing its functions, objectives, organisation and structure is the Garda Síochána Act of 2005 (as amended)

Section 18 of the Garda Síochána Act 2005 continues in force the provisions for the establishment of representative associations for members of the Irish police force (An Garda Síochána). Section 18 is copied out below for information.

The Garda Síochána (Associations) Regulations 1978 (as amended) establish the associations representing members at certain ranks in matters affecting their welfare and efficiency.

The Garda Síochána Act provides that it shall not be lawful for a member of the Garda Síochána to be or to become a member of a trade union or of any association **other than an association established under the Act**. The Act also makes it an offence for a person to cause dissatisfaction or to induce any member of the Garda Síochána to withhold his or her services. These restrictions are confirmed in the Industrial Relations Act, 1990.

Garda associations have been authorised to affiliate with the ICPSA, that is, the Irish Congress of Professional Service Associations. They have also been authorised to affiliate to international police organisations.

Representative associations.

18.— (1) For the purpose of representing members of the Garda Síochána in all matters affecting their welfare and efficiency (including pay, pensions and conditions of service), there may be established, in accordance with the regulations, one or more than one association for all or any one or more of the ranks of the Garda Síochána below the rank of Assistant Garda Commissioner.

(2) An association established under *subsection (1)* must be independent of and not associated with any body or person

outside the Garda Síochána, but it may employ persons who are not members of the Garda Síochána.

(3) A member of the Garda Síochána shall not be or become a member of any trade union or association (other than an association established under this section or section 13 of the Garda Síochána Act 1924) any object of which is to control or influence the pay, pensions or conditions of service of the Garda Síochána.

(4) If any question arises whether any body or association is a trade union or association referred to in *subsection (3)*, the question shall be determined by the Minister whose determination shall be final.

(5) The Minister—

(*a*) may, notwithstanding *subsection (2)*, authorise an association established under this section to be associated with a person or body outside the Garda Síochána in such cases and in such manner and subject to such conditions or restrictions as he or she may specify, and

(*b*) may vary or withdraw any such authorisation.

(6) An association established under this section for the purpose of representing members of the Garda Síochána holding the rank of Garda may include persons admitted, in accordance with the regulations, to training for membership in the Garda Síochána.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

A number of **representative associations** have been established under The Garda Síochána (Associations) Regulations 1978 (as amended).

The Garda Representative Association (GRA) represents the interests of members at the rank of Garda.

The **Association of Garda Sergeants and Inspectors (AGSI)** represents the interests of members holding the ranks of Sergeant or Inspector.

The Association of Superintendents represents members at the rank of Superintendent.

The Association of Chief Superintendents represents members at the rank of Chief

Superintendent.

A **conciliation and arbitration scheme** is in place which enables the Minister for Justice and Equality, the Minister for Finance and the Commissioner of the Garda Síochána on the one part, and the Association of Chief Superintendents, the Association of Garda Superintendents, AGSI and the GRA on the other part, to provide means acceptable to the Government and to these representative bodies for the determination of claims and proposals relating to conditions of service of members of the ranks they represent and to secure the fullest co-operation between the State, as employer, and the members, as employees, for the better discharge of the functions of the Garda Síochána.

Claims lodged by the representative associations will be transmitted by the secretary of the staff side to the secretary of the official side. Where a claim, if conceded, would involve extra expenditure, an estimate of the annual cost of conceding the claim will be given, indicating the estimated ultimate annual cost where this differs from the estimated immediate annual cost.

Claims will be formally presented, and the official side's response given. Where a claim is referred to a sub-committee of a council, presentation and/or response may, subject to the agreement of the official and staff sides, take place at the sub-committee.

Claims will be fully discussed in Council or sub-committee with a view to seeking agreement through negotiation.

An Agreed Report recording agreement or disagreement is drawn up.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Funding is provided on an annual basis to the Garda associations from monies provided by Parliament to the Garda Síochána through the Department of Justice and Equality. This funding is provided in either direct grant aid form as a contribution towards office expenses or by means of the payment of salary costs for two members of the Garda Síochána who are on full time secondment to each of the GRA and AGSI (four members in total).

Details of the level of membership in any of the Associations are not available as this information is confidential between the members in question and the relevant Association. The total strength at each rank as of 30th September 2013 is as follows:-

Rank	Number in Rank
Chief Superintendent	44
Superintendent	151
Inspector	273
Sergeant	1,874
Garda	10,807

Article 6 – The right of workers to bargain collectively
With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake
1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes; and recognise
4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Information to be submitted

1) Please describe the general legal framework applicable to the private as well as the public sector.
Please specify the nature of, reasons for and extent of any reforms.
2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Article 6.1

Please refer to Ireland's previous Reports under Article 6. The situation remains unchanged.

Article 6.2

See Ireland's previous Reports on Article 5 and 6. Please also refer to Ireland's input to Article 5 for this 11th Report.

Developments since Ireland's last Report

Collective Bargaining

In its Current Programme for Government, the Government committed to reforming the current law on employees' right to engage in collective bargaining (the Industrial Relations (Amendment) Act 2001), so as to ensure compliance by the State with recent judgments of the European Court of Human Rights.

With this in mind, in late 2012, the Minister for Jobs, Enterprise and Innovation wrote to relevant stakeholders inviting their observations on the matter. Submissions were received and follow up meetings took place between Departmental officials and stakeholders in 2013.

Government approval was obtained in May 2014 to develop legislative proposals which will reconcile Ireland's constitutional, social and economic traditions, and international obligations, whilst at the same time ensuring continued success in building Ireland's domestic jobs-base and in attracting overseas investment into the economy. The Bill is currently being drafted with the expectation that the new legislation will be in place by the end of 2014.

Article 6.3

Public Service Stability Agreement 2013 – 2016

The Public Service Stability Agreement 2013 – 2016 (Haddington Road Agreement (HRA)), an extension of the Croke Park Agreement which was referred to in Ireland's input to the Seventh Report on Article 6 was concluded in 2013. The HRA is a collective agreement between public service employers and trade unions, which covers the pay and working conditions of public servants, staff in non-commercial semi-state companies, and certain community and voluntary sector workers. It runs from 1st July 2013 until 30th June 2016. The Agreement can be downloaded from the link below.
http://per.gov.ie/wp-content/uploads/Haddington-Road-Agreement.pdf

Article 6.4

Situation unchanged since Ireland last reported on Article 6.

Appendix to Article 6.4

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Please refer to Ireland's previous Reports under Article 6. The situation remains unchanged.

Article 21 - The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

Appendix to Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.

3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.

4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

Please refer to Ireland's previous Reports and input under Article 22 of this Report.

Employees (Provision of Information and Consultation) Act 2006

The Employees (Provision of Information and Consultation) Act 2006 transposes EU Directive 2002/14/EC. The purpose of the Act, which came into operation from 24 July 2006, is to provide for the establishment of a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings with at least 50 employees. The Act applies to:

• Undertakings with at least 150 employees from 4 September 2006

• Undertakings with at least 100 employees from 23 March 2007

• Undertakings with at least 50 employees from 23 March 2008

A copy of the Commencement Order (S.I. 382 of 2006) (PDF) and Regulations (S.I. 383 of 2006) (PDF) are available online.

An Explanatory Guide provides general guidance on the Act to employees and employers in non – legal language. The Guide complements S.I. No 132 of 2008 Industrial Relations Act 1990 (Code Of Practice On Information And Consultation) (Declaration) Order 2008, which provides employers and employees with user-friendly and practical information on the provisions of the Act.

Worker Participation (State Enterprises) Acts 1977 and 1988

The purpose of the Worker Participation (State Enterprises) Act, 1977 – No.6 of 1977, is to provide board level participation of workers in certain enterprises through the election of employees for appointment to the board of directors.

The purpose of the Worker Participation (State Enterprises) Act, 1988 – No.13 of 1988, is to facilitate the introduction of sub-board participative arrangements in a broad range of State enterprises, by agreement between the enterprise and the employee interests. A number of associated statutory instruments can be accessed on the Irish Statute website.

European Works Councils (Transnational Information and Consultation of Employees)

The Transnational Information and Consultation of Employees Act 1996, No. 20 of 1996, transposes EU Directive 94/45/EC into Irish law. The Act provides for the establishment of a European Works Council or a procedure in community-scale undertakings and community-scale groups of undertakings for the purposes of informing and consulting employees. Community-scale undertakings are large multi-nationals with at least 1,000 employees across the member states and with at least 150 employees in each of at least two Member States.

EU Directive 94/45/EC was extended to the UK by EU Directive 97/74/EC (transposed into Irish law by S.I No. 386 of 1999) and was adapted by reason of the accession of Romania and Bulgaria to the European Community by EU Directive 2006/109/EC, transposed by S.I No. 599 of 2007.

Transposition of Directive 2009/38/EC
Directive 2009/38/EC of the European Parliament and of the Council on the Establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees has been transposed into Irish law by the European Communities (Transnational Information and Consultation of Employees Act 1996) (Amendment) Regulations 2011 (S.I. No. 380 of 2011). The Regulations were signed into effect on 13 July 2011. Directive 2009/38/EC revises Directive 94/45/EC and repeals the other two Directives referred to above. The Regulations took effect from 13 July 2011.

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Information on aspects of the 2011 Regulations

Regulation 9 introduces a new obligation to notify "the competent European employees' and employers' organisations" about the composition of the Special Negotiating Body (SNB) and the commencement of negotiations. These organisations referred to should be understood to mean the European social partners' organisations that are consulted by the European Commission under Article 154 of the EU Treaty. The Commission publishes and regularly updates a list of such European Social Partners' organizations, which is available on its website at http://ec.europa.eu/social/main.jsp?catId=522&langId=en. In order to secure an effective and simple way to implement this new obligation, the European Trade Union Confederation (ETUC) and EU employers' representative body BusinessEurope have provided single contact email addresses to which this information can be sent – these are, respectively, ewc@etuc.org (or website www.ewc-etuc.org) and ewc@businesseurope.eu. Once they have received information regarding SNBs/negotiations, both bodies are responsible for disseminating the information to the other relevant organizations concerned.

The reference in **Regulation 10** to 'representatives of competent recognised Community-level trade union organisations' should be understood to mean those employee representative organizations consulted by the Commission under Article 154 of the EU Treaty – see above for link to published list.

In **Regulation 18**, the reference to 'national employee representation bodies' should be understood as meaning any individual or body elected or appointed to represent employees' interests in an information and consultation arrangement that was not established solely for the purpose of dealing with transnational issues. This includes in particular employees' representatives elected or appointed under the Employees (Provision of Information and Consultation) Act 2006 and the information and consultation provisions of the Protection of Employment Acts 1977 to 2007 and the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003.

Cross - Border Mergers Regulations – employee participation
The European Communities (Cross - Border Mergers) Regulations 2008 (S.I No. 157 of 2008) contain employee participation aspects of EU Directive 2005/56/EC. This Directive aims to facilitate cross-border mergers between limited liability companies in the European Union. The intention is to reduce the cost of such operations, to guarantee their legal certainty and to offer this option to the maximum number of companies.

Protection of Employment Act 1977 – Collective Redundancies
Under the Protection of Employment Acts 1977, there are a number of provisions regarding an information and consultation process with employees and their representatives and regarding the provision of information to the Minister for Jobs, Enterprise and Innovation that must be complied with prior to collective redundancies being implemented. A collective redundancy situation occurs where an employer of between 21 and 49 employees makes at least 5 employees redundant. Other thresholds apply to larger employers. The Protection of Employment Act 1977 implemented Council Directive 75/129/EEC. This Directive was replaced by Council Directive 98/59/EC.

Sections 9 and 10 of the Protection of Employment Act 1977 (as amended) make it mandatory on employers proposing a collective redundancy to engage in an information and consultation process with employees' representatives and to provide certain information relating to the proposed redundancies. An employer is prohibited from issuing any notice of redundancy during the mandatory 30-day employee information and consultation period.

Pursuant to section 11 of the Protection of Employment Act 1977 (as amended), an employer found guilty of failing comply with section 9 (obligation to consult) or section 10 (obligation to supply certain information) may be subject to a fine not exceeding €5,000.

Regulation 6 of the European Communities (Protection of Employment) Regulations 2000 SI No. 488 of 2000 provides a remedy for employees whose employer has not complied with sections 9 and 10 of the Protection of Employment Act 1977, whereby they may refer complaints to a rights commissionerhttp://www.irishstatutebook.ie/2000/en/si/0488.html).

Section 12 of the Protection of Employment Act 1977 (as amended) requires employers to notify the Minister for Jobs, Enterprise and Innovation in writing of the proposals at least 30 days before the first dismissal takes effect. However, this requirement applies in the event of a business being terminated following bankruptcy or winding-up proceedings or for any other reason as a result of a decision of a court, only if the Minister requests the notification.

Pursuant to section 13 of the Act, an employer convicted of contravening section 12 may be subjected to a fine not exceeding €5,000.

Pursuant to section 14 of the Act, an employer who effects redundancies before the expiry of the 30-day period required under section 12 shall be liable on conviction on indictment to a fine not exceeding €250,000. However, section 14 does not apply following a business being terminated following bankruptcy or winding-up proceedings or for any other reason as a result of a decision of a court.

Transfers of Undertakings

The European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 – S.I. No. 131 of 2003 http://www.irishstatutebook.ie/2003/en/si/0131.html implement the mandatory provisions of EU Council Directive 2001/23/EC, which is aimed at safeguarding the rights of employees in the event of a transfer of an undertaking, business or part of a business to another employer as a result of a legal transfer (including the assignment or forfeiture of a lease) or merger.

The 2003 Regulations provide that both the outgoing and incoming employers are obliged to inform their respective employees' representatives of, inter alia, the date or proposed date of the transfer, the reasons for the transfer and the legal, social and economic implications of the transfer for the employees. Where there are no representatives, employers must arrange for the employees to choose representatives for this purpose. Section 21 of the Employees (Provision of Information and Consultation) Act 2006 transposed a further provision of the EU Transfer of Undertakings Directive relating to the information to be provided by the original employer to the new employer.

Protection of Employees (Temporary Agency Work) Act 2012

The Protection of Employees (Temporary Agency Work) Act 2012 gave effect to Directive 2008/104/EC on temporary agency work. The Protection of Employees (Temporary Agency Work) Act 2012 amended the Transnational Information and Consultation of Employees Act 1996, the Employees (Provision of Information and Consultation) Act 2006, European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003, and a number of other Regulations to provide that temporary agency workers are employees for the purposes of those Acts/Regulations.

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a. to the determination and the improvement of the working conditions, work organisation and working environment;
b. to the protection of health and safety within the undertaking;
c. to the organisation of social and socio-cultural services and facilities within the undertaking;
d. to the supervision of the observance of regulations on these matters.

Appendix to Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3.

Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

Appendix to Article 22

1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.
2. The terms "social and socio-cultural services and facilities" are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children's holiday camps, etc.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
3) Please provide pertinent figures, statistics or any other relevant information on employees who are not covered by Article 22, the proportion of the workforce who is excluded and the thresholds below which employers are exempt from these obligations.

's earlier Reports on Article 22.

eland last Reported.

ight of workers to information and consultation within an undertaking, provisions of the following legislation is relevant:-

The European Communities (Transnational Information and Consultation of Employees Act 1996) (Amendment) Regulations 2011 (S.I. No. 380 of 2011) - **http://www.irishstatutebook.ie/pdf/2011/en.si.2011.0380.pdf** gives effect to EU Directive 2009/38/EC which revised Directive 94/45/EC.

Directive 2009/38/EC introduces a number of amendments to the initial 1994 Directive including:

- New or amended definitions of 'information', 'consultation' and 'transnational';
- Defining the competences of European Works Councils (EWCs) and transnational information and consultation arrangements more clearly and linking the national and European levels of information and consultation;
- Revising the fall-back rules (subsidiary requirements) applying in the absence of agreement;
- Strengthening the coordination between transnational information and consultation arrangements and national level information and consultation processes;
- Providing for the training of employee representatives on EWC's, and introducing a duty for them to report back to workers;
- New requirements in relation to Special Negotiation Bodies (SNB's), including a different method of apportioning seats on the SNB, the requirement to notify EU Social Partner organisations of the composition of the SNB and the commencement of negotiations and the provision of training to its members;
- Providing for the adaptation of existing agreements in cases where the structure of the undertaking or group of undertakings changes significantly, for example due to a merger. This adaptation is carried out pursuant to the provisions of the applicable agreement(s) or, by default and where employees so request, in accordance with the negotiation procedures for a new agreement in which the members of the existing EWC's are to be associated. These EWC's will continue to operate, possibly with adaptations, until a new agreement is reached, through the establishment of a new SNB [Article 13].

Question 1

Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms

This response is specifically concerned with 'measures enabling workers or their

representatives' to contribute to the protection of health and safety within the undertaking.

The modernisation of Irish health and safety legislation in 2005 resulted in the Safety, Health and Welfare at Work Act, 2005 which is currently the principal Act governing occupational safety and health matters, whose primary focus is on the prevention of workplace accidents, illnesses and dangerous occurrences. Emanating from a review of Irish occupational health and safety legislation, it consolidated Irish safety, health and welfare primary legislation into one statute, which also includes provisions of the Framework Directive 89/391 on safety and health and It is available to download at

http://www.irishstatutebook.ie/2005/en/act/pub/0010/index.html.

1. **Tripartite nature of Board of Health and Safety Authority**

In the context of Ireland's response on this Article, it is important to emphasise the tripartite nature of the Board of the Health and Safety Authority, which is the Irish State body responsible for the administration and enforcement of occupational health and safety in Ireland. As provided for in the 2005 Act, employers' and workers' organisations, representing the Social Partners (Employers and Trade Unions at national level) are represented on the tripartite Board (3 members each) – which Board determines the policies and activities of the HSA.

The Board of the Health and Safety Authority sets overall direction and policy, including recommendations for legislation and codes of practice to be made to the Minister. Members of the Board also serve on its Legislation and Guidance Subcommittee, Finance Subcommittee, Audit Subcommittee, as well as the Strategic Review and Implementation Subcommittee of the Board.

2. **Appointment of safety representatives under the 2005 Act**

The 2005 Act provides for consultation between employers and employees to help

ensure co-operation to prevent accidents and ill-health. Under section 25, employees are entitled to select a safety representative to represent them on safety and health matters in consultations with their employer.

The safety representative may, inter alia: -

- inspect the place of work (after giving reasonable notice to the employer) and is entitled to investigate accidents and dangerous occurrence provided that he/she does not interfere with the performance of any statutory obligation.

- make representations to the employer on any matter of safety, health and welfare at the workplace and also to health and safety inspectors and to receive advice and information from them. Safety representatives in the one undertaking can consult and liaise with each other.

Employers are obliged to consider any representations made by the safety representative and, so far as is reasonably practicably, to take any necessary and appropriate action in response. The employer must give reasonable time off to the safety representative, without loss of pay, both to train as a safety representative and to carry out the function. The employer also has a duty to tell the safety representative when an inspector from the Health and Safety Authority arrives to carry out an inspection under the 2005 Act.

3. Consultation and participation of employees, safety committees etc.

Section 26 of the 2005 Act also sets out the arrangements for consultation on a range of safety and health issues at the workplace. Where a safety committee exists in a workplace, it can be used for this consultation process. These are key provisions of the 2005 Act and a central part of the preventive system of promoting safety and health at work.

Section 26 requires employers to consult with their employees and their safety representatives in advance and in good time regarding, inter alia: -

- any measure which may substantially affect the safety, health and welfare of those employees
- the identification of hazards and risks
- the preparation of safety statements
- the planning and organisation of training.

Under this provision, employees have a right to make representations to and consult their employer on matters of safety, health and welfare.

The employer is obliged to consider any representations made by the employees on safety, health and welfare and to take any appropriate or necessary action, so far as is reasonably practicable. Employees involved in consultation arrangements must be given time off, without loss of pay, for training and to carry out their functions.

In an undertaking, where there is joint decision making involving the employer and the employees, this must include consultation on safety, health and welfare.

As in the case of Section 25 relating to the appointment of safety representatives, this section recognises that if adequate safety and health standards are to be implemented in undertakings, there is a critical need for dialogue and co-operation between the employer and the employees, whose practical experience can be invaluable as regards protection from and prevention of accidents and ill health at work.

4. Protection of employees against penalisation by employers

Allied to the effective exercise of the Article 22 provisions, section 27 of the 2005 Act prohibits an employer from penalising an employee for:-

- acting in accordance with or performing any duty or exercising any right under health and safety laws or
- making a complaint or a representation about safety and health to the safety representative or to the employer or to an inspector of the HSA.

The section also prohibits an employer from penalising an employee for -

- giving evidence in health and safety cases,
- being a safety representative or
- being an employee who has duties to carry out in an emergency or
- being a competent person.

Penalisation is defined as including any act or omission by an employer or a person acting on behalf of an employer that affects, to his or her detriment, an employee with respect to any term or condition of his or her employment. It includes:-

- suspension,
- lay off or dismissal,
- demotion or loss of opportunities for promotion.

It covers -

- transfer or a change of location,
- reduction in wages or change in working hours,
- imposition of any discipline, reprimand or other penalty and includes also coercion or intimidation.

The dismissal of an employee qualifies as a dismissal under relevant Irish unfair dismissal legislation if it results from penalisation under this section of the Act.

This section, and related sections, was included in the 2005 Act so as to support employees who genuinely felt that it was important to act on a safety issue, including if acting as a competent person or a safety representative. During the passage of the legislation it was considered that very few employees would need to have recourse to these provisions, which on the other hand, sends a strong message about the seriousness with which safety and health must be dealt with. This had been the experience with similar provisions in the UK.

5. Joint safety and health agreements

Section 24 of the 2005 Act provides that trade unions and organisations representing employers may make agreements setting out practical guidance on safety, health and welfare and the requirements of health and safety laws. They can apply to the HSA for approval of an agreement or of its variation. However, to date no such agreement has ever been entered into.

While in the past, there were 2 study trips to Netherlands and Denmark to explore such models as there are models of this type operational in these jurisdictions. Some informal discussion did take place between the Social Partners during and following the trips but these never progressed further.

Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

The Health and Safety Authority (HSA) is the statutory body responsible for the administration and enforcement of occupational health and safety in Ireland. Its website –www.hsa.ie – contains important information both generally and specifically about workplace health and safety, including information for Safety Representatives and guidelines on the operation of safety committees (link below).

Protection against penalisation

Complaints by employees against penalisation by an employer under section 27 of the 2005 Act, may be referred by an employee in writing, within six months, to a Rights Commissioner of the Rights Commissioner Service, established by the Industrial Relations Act, 1969 and which is

part of the Labour Relations Commission, which operates under the Department of Jobs, Enterprise & Innovation. Its website –www.workplacerelations.ie

– contains important information both generally and specifically about workplace disputes resolution procedures etc. to the various Departmental fora.

The Rights Commissioner Service investigates disputes, grievances and claims that individuals or small groups of workers make under certain legislation, including the 2005 Act. Rights Commissioners are independent in the performance of their duties and provide a broad range of investigative functions under a wide variety of employment legislation.

In this specific instance, the Rights Commissioner, having given both parties an opportunity to be heard, must make a decision indicating that the complaint was or was not well founded, and requiring the employer, if the complaint is upheld, to take specific action and/or requiring the employer to pay fair compensation to the employee.

Decisions of the Rights Commissioner are appealable to the Labour Court, the body statutorily established to provide a free, comprehensive service for the resolution of disputes about industrial relations, equality, organisation of working time, national minimum wage, part-time work, fixed-term work, safety, health and welfare at work, information and consultation matters.

The table below sets out the number of complaints referred to the Rights Commissioner Service under the 'penalisation' provisions of the 2005 Act, and from there to the Labour Court, since the commencement of that legislation on 1 September 2005.

Cases referred to Labour Court under the Safety, Health & Welfare at Work Act 2005

2005	2006	2007	2008	2009	2010	2011	2012
0	0	13	14	23	16	25	21

Cases referred to Labour Relations Commission under the Safety, Health & Welfare at Work Act 2005

2005	2006	2007	2008	2009	2010	2011	2012
2	119	408	255	216	201	111	82

Please provide pertinent figures, statistics or any other relevant information on employees who are not covered by Article 22, the proportion of the workforce who is excluded and the thresholds below which employers are exempt from these obligations

All workplaces are covered by the Safety, Health and Welfare at Work Act 2005 and there is no threshold below which employers are exempt from health and safety obligations.

Useful/relevant websites are as follows:

A. On HSA website

1. **Safety Representatives and Safety Consultation Guidelines**

http://www.hsa.ie/eng/Publications_and_Forms/Publications/Safety_and_Health_Management/Guidelines_Safety_Representatives.pdf

2. **Frequently asked Questions about Safety Representatives and Consultation**

http://www.hsa.ie/eng/Topics/Managing_Health_and_Safety/Safety_Representatives_and_Consultation/

B. On Labour Relations Commission website – www.lrc.ie

Rights Commissioner Service

http://www.workplacerelations.ie/en/Workplace_Relations_Bodies/Rights_Commissioners/

C. On Social Partners websites

Employer's body IBEC training course

http://www.ibectraining.ie/IBEC/Training/IBECTAD.nsf/vPages/Training_courses~OHS_Development_Programmes~safety-representatives~0501?OpenDocument

ICTU – an association of trade unions

http://www.ictu.ie/download/pdf/key_rights_for_safety_reps_1.pdf

Article 26 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

1. *to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;*
2. *to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.*

Appendix to Article 26

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

Information submitted

Article 26§1

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Revision of the Code of Practice

The 2002 statutory Code of Practice on Harassment and Sexual Harassment at Work was replaced in 2012 by a revised Code of Practice prepared by the Equality Authority. The new code reflects amendments made to the Employment Equality Acts since 2002, including the current definitions for harassment, sexual harassment and reasonable accommodation for persons with disabilities introduced in the EU Framework Employment (2000/78/EC), Race (2000/43/EC) and Gender Equal Treatment (2002/73/EC) Directives and transposed into national law by the Equality Act 2004.

The revised Code has been given legal effect in the Statutory Instrument entitled Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012 (S.I. No. 208/2012), which is available at http://www.irishstatutebook.ie/2012/en/si/0208.html.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Through its own website and its network of stakeholders, including employer representative bodies, trades unions and civil society organisations, the Equality Authority has taken measures to publicise the revised code of practice on harassment and sexual harassment.

3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

Awareness-raising activities

Information on the code of practice has also been incorporated into the advice provided to the public by the Citizens Information Board. The Citizens Information Board is the statutory body which supports the provision of information, advice and advocacy on a broad range of public and social services through its voluntary network of Citizens Information Centres, the Citizens Information Phone Service and the Citizens Information website. The website

provides comprehensive information on public services and on the entitlements of citizens and residents in Ireland, gathered from various government departments and agencies. The site has been specially designed around the needs of users for those times in life when they need information about rights and how to apply for State services in Ireland, presented in an easy-to-understand way.

http://www.citizensinformation.ie/en/employment/equality_in_work/harassment_at_work.html

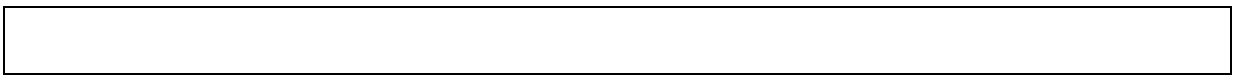
Complaints

The Equality Tribunal has a statutory obligation to publish all its decisions. The full texts of the decisions issued are published on a Database of Decisions on the Tribunal's website (*www.equalitytribunal.ie*), giving a comprehensive summary of the evidence and a cogently reasoned decision. Names of parties are excluded in particularly sensitive issues, for instance in cases involving harassment or sexual harassment and in certain cases involving disability or children. While all its decisions are published, as part of the Equality Tribunal's overall policy of seeking to ensure that its decisions are as accessible and as transparent as possible to the general public, it also publishes overviews of the legal issues arising in the decisions issued in a given year. Statistics on the number of decisions issued and mediated settlements (which are confidential to the parties involved) are included in its Annual Reports.

By way of illustration, the Equality Tribunal published 33 decisions issued in the period 1 January 2013 to 30 September 2013 in employment equality cases in which the complainant cited harassment (30 cases) or sexual harassment (3 cases). Over half of these complaints also cited discrimination on more than one ground. The complaints were upheld or part-upheld in 1 case involving sexual harassment and 6 cases involving harassment. The discriminatory grounds cited in harassment cases were race (2 cases), membership of the Traveller community (1 case), and multiple grounds (3 cases), including combinations of gender, family status, pregnancy, marital/civil status, sexual orientation and race.

The awards made in the cases which were upheld or part-upheld were as follows:

- €12,000 in compensation for the effects of the discriminatory treatment and victimisation (DEC-E2013-007: Jennifer Phelan –v- Carlie Healy t/a Teddy House Crèche)
- €5,000 in compensation for the distress caused by discriminatory conditions of employment (DEC-E2013-014: Zbigniew Debny –v- Gateway Transport Ltd)
- €7,500 to each of the complainants for the effects of harassment and sexual harassment (DEC-E2013-045: Mezei & Magyar -v- Eddie Rocket's)
- Arrears of remuneration (DEC-E2013-063: Ziolkowska –v- (1) Gallagher T/A Avenue Barbers and (2) Gallagher T/A Hair and Beauty)
- €29,756.00 in compensation for the discriminatory treatment suffered (DEC-E2013-070: Ms A. -v- A retail chain)
- €500 (DEC-E2013-099: Benny Whitehouse -v- C & M Construction Ltd)
- €20,000 (DEC-E2013-101: Virgiliu Mihalas -v- Noxtad Limited t/a Carlton Abbey Hotel)



Article 26§2

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Please refer to response to Article 26(1), question 1.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Please refer to response to Article 26(1), question 2.

3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

Please refer to response to Article 26(1), question 3.

<u>Specific questions posed by the ECSR in their Conclusions</u>

Extract from 2007 Conclusions

Article 26 – Right to dignity at work

Paragraph 1 – Sexual harassment

The Committee takes note of the information in the Irish report.
It notes that under Irish law, harassment is regarded as a form of discrimination when it is linked to employment conditions. Legal protection is provided by the Employment Equality Act 1998, as amended by the Equality Act 2004 (Section 23§1), which defines sexual harassment as “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, being conduct which has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for that person”. The law protects employees from acts of harassment by employers and colleagues but also by customers and visitors or any of their employers’ contacts in the workplace including suppliers, service

providers and volunteers. The law also applies beyond the workplace as it also covers conferences and other work–related activities outside the workplace.

The Code of Practice on Sexual Harassment and Harassment at Work published by the Equality Authority[1] contains a list of forms of behaviour which may be regarded as acts of sexual harassment such as acts of physical intimacy, requests for sexual favours or any other unwelcome conduct, words or gestures that can be regarded as sexually offensive or humiliating.

Employers' liability and means of redress
Under the Employment Equality Act, employers are required both to take all the necessary measures to bring a halt to acts of sexual harassment at work and to take preventive measures to avoid such situations.

The Committee also notes from another source[2] that employers can be held liable towards persons working for them who are not their employees (sub-contractors, self-employed persons, etc.) and have suffered sexual harassment on their business premises or from employees under their responsibility.

Employers' liability for workers, whether or not their employees, also applies in cases of sexual harassment suffered by persons not working for them, such as customers and visitors.

It is the Equality Authority's task to monitor the application of the aforementioned Act. Complaints of sexual harassment are made to the Office of the Director of Equality Investigations, who may refer the complaint to an Equality Officer or, with the parties' agreement, for mediation.

In cases of dismissal covered by the Employment Equality Act, victims may also refer the case to a Labour Court while in cases of harassment they may also refer the matter to a Circuit Court.

Complaints must be made within six months of the alleged incident or, under exceptional circumstances, within twelve months.

Damages
The Employment Equality Act authorises victims of harassment or discrimination to bring actions for damages against their employers in court or with the Equality Authority to obtain compensation for pecuniary and non-pecuniary damage suffered. Damages may amount to the equivalent of up to 104 weeks' wages.

The Committee asks for the next report to provide information on the relevant case-law.

Besides awarding damages, the courts may require that employees are reinstated in their jobs and that they are granted financial compensation for the consequences of the act of harassment. The Committee asks whether the courts may award additional compensation to employees if they do not wish to be reinstated. It would also like to know whether reinstatement is also possible when employees have been forced to resign because of the hostile atmosphere resulting from sexual harassment.

Burden of proof

[1] Code of Practice on Sexual Harassment and Harassment at Work, published by the Equality Authority, 2002
[2] *Ibid*.

Under the legislation regarding the burden of proof in gender discrimination cases (S.I. 337), the burden of proof is shifted, and shared between the employee and the employer or the presumed perpetrator of the harassment when this is not the employer. Complainants who consider themselves to be victims of harassment must establish a presumption that this did occur and defendants must prove that harassment did not take place.

Prevention

The Committee notes that the Code of Practice on Sexual Harassment and Harassment at Work cited above, which is published by the Equality Authority for use by employers, employees, employers' organisations and trade unions, takes the form of a set of recommendations (on prevention policies to be adopted by employers, the role of employers' and workers' representatives and the remedies available to victims in particular) intended to promote the development of specific policies to combat harassment. The Committee asks what other preventive measures have been introduced by the government and what steps have been taken to make the public more aware of the problem of sexual harassment.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Ireland is in conformity with Article 26§1 of the Revised Charter.

Information Submitted

(a) Information on case law relevant to sexual harassment

In respect of relevant caselaw in general, please see response to Article 26(1) at paragraph 3) above.

Recent findings of sexual harassment have been made by the Equality Tribunal in the following decisions:

- DEC-E2013-070 (Ms A v A retail chain). The employer was found liable for discrimination suffered by the employee and her constructive dismissal, by not taking reasonable and practicable steps to prevent her sexual harassment. Compensation of €29,756 was awarded, with payment of interest on this amount.
- DEC-E2013-045 (Two Complainants v A Restaurant). Compensation was awarded for the effects of the acts of harassment on the ground of sexual orientation and sexual harassment in the amount of €7,500 to each of the complainants.
- DEC-E2011-265 (A Complainant v. A Contract Logistics Company). The complainant was awarded €40,000 in compensation for sexual harassment by another employee at his employer's Christmas party, which was not adequately investigated or addressed by his employer.
- DEC-E2011-099 (Marshfield v. MSC Fire Products Limited t/a Omada Fire). The female complainant was awarded €10,000 compensation for distress suffered as a consequence of sexual harassment, on foot of a finding that her employer had failed to effectively communicate its harassment policy or to follow the procedures set down. The employer was ordered to introduce and

circulate a policy on harassment, with appropriate training for all senior management and staff in dealing with complaints of harassment.

- DEC-E2008-048 (A Construction Worker v. A Construction Company). The complainant was awarded €14,700 in compensation for lost earnings as a result of the discrimination (approx 10 weeks' remuneration), and compensation of €10,000 for sexual harassment and €25,000 for victimisation. The employer was also ordered to ensure its current policies relating to harassment and sexual harassment were in accordance with the Code of Practice on Sexual Harassment and Harassment.
- DEC-E2008-015 (A Female Employee v. A Recruitment Company). The Equality Tribunal found the complainant to have been dismissed due to having made a complaint of sexual harassment, and awarded compensation of €10,000 for discrimination and €15,000 for victimisation. The employer was ordered to introduce and circulate a policy the prevention of harassment and sexual harassment.

Cases heard before the Circuit Court are not routinely reported. However details are available of the following cases involving sexual harassment:

- In a reported case, *Atkinson v Carty & Others*[3], the claimant, employed as a legal accountant by a firm of solicitors, successfully took a complaint of sexual harassment to the Circuit Court under the Employment Equality Acts against her employers. The Court found the employer vicariously liable for the serious sexual harassment suffered by the claimant and awarded her €102,750 in respect of damages, and her legal costs.
- In its published Annual Report for 2003, the Equality Authority noted the outcome of a case involving serious sexual harassment which resulted in the payment of substantial compensation. The employee in this case, supported by the Equality Authority, opted to refer a complaint under the Employment Equality Acts to the Circuit Court, where there is no ceiling on the compensation that can be awarded. The case was resolved by the payment to her of a substantial sum, which was equivalent to 2.5 years' salary.

(b) Redress that may be awarded where employee does not wish to be reinstated

The redress that may be awarded in cases of discrimination in relation to employment, including matters involving sexual harassment and harassment, is set out in section 82 of the Employment Equality Act 1998. This provides that one or more of the options provided may be awarded by way of redress. An order for re-instatement does not preclude the making of an order for compensation, and vice-versa.

The Equality Tribunal is a forum of limited jurisdiction. It may award compensation in the case of a person who was employed to a maximum of two years' remuneration or €40,000, whichever is the greater, or in the case of a person who was not employed, to a maximum of €13,000. These maximum limits apply notwithstanding that conduct is found to constitute discrimination on more than one ground, or both discrimination

[3] Employment Law Report, Vol 16, No 1 (1-48) 2005

on one or more grounds and harassment or sexual harassment.

Alternatively, gender discrimination and sexual harassment cases may be brought before the Circuit Courts and in such cases no prior upper limit applies to the compensation that may be awarded by the Circuit Court.

The redress appropriate to award in light of the facts of a particular case is at the discretion of the equality officer or Judge concerned. Either party to a complaint may appeal the details or amount of redress awarded.

In case *Ms A v A retail chain* related above, the employee was found to have been constructively dismissed - forced to resign because of the hostile atmosphere resulting from sexual harassment. To date, no decisions involving a finding of sexual harassment have issued by the Equality Tribunal in which a complainant sought reinstatement having been either dismissed or constructively dismissed. In discriminatory dismissal or constructive dismissal cases where a complaint has been upheld and the complainant has expressed a preference for compensation rather than reinstatement, the Equality Officer has taken this into account in determining the redress to be awarded (e.g. Nolan v Quality Hotel Oranmore, DEC-E2012-110, an age discrimination case, Larigin v Conway DEC-E2010-080, discrimination on the race ground).

(c) Preventative measures

In a major national initiative, a new national Action Plan on Bullying was launched in the education sector in January 2013 and addresses all forms of identity-based bullying and harassment, and sexual harassment. The Plan was developed in partnership with all the education partners in Ireland and civil society groups representing the LGBT community, and has been identified as an example of best practice in Europe. New anti-bullying procedures are to be adopted and implemented by all 4,000 primary and post primary schools in the State by no later than the end of the second term of the 2013/14 school year and anti-bullying training is also being provided for parents.

http://www.education.ie/en/Publications/Education-Reports/Action-Plan-On-Bullying-2013.pdf

Paragraph 2 – Moral harassment

The Committee takes note of the information in the Irish report.

It notes that under Irish law, harassment is regarded as a form of discrimination when it is linked to employment conditions. Legal protection is provided by the Employment Equality Act 1998, as amended by the Equality Act 2004 (Section 32), which defines harassment in general as a form of discrimination in relation to conditions of employment on grounds of marital status, family status, sexual orientation, religion, age, disability, race or membership of the Traveller community.

The law protects employees from acts of harassment by employers and colleagues but also by customers and visitors or any of their employers' contacts in the workplace including suppliers, service providers and volunteers. The law also applies beyond the workplace as it also covers conferences and other work-related activities outside the workplace.

The Code of Practice on Sexual Harassment and Harassment at Work published by the Equality Authority contains a list of forms of behaviour that may be regarded as acts of non-sexual harassment such as verbal harassment (comments, jokes), written harassment (including faxes, text messages and e-mails), physical harassment (any form of assault), intimidation (gestures, threats), pressure and exclusion.

Considering that the legal protection provided in cases of non-sexual harassment is identical to that afforded against sexual harassment, the Committee refers to its conclusion under Article 26§1 of the Revised Charter.

As for the first paragraph, the Committee asks the next report to provide information on the following points:

– the relevant case-law on victim's compensation;

– whether the courts may award additional compensation to employees if they do not wish to be reinstated;

– what other preventive measures have been introduced by the government.

Conclusion

Pending receipt of the information requested under Article 26§1, the Committee concludes that the situation in Ireland is in conformity with Article 26§2 of the Revised Charter.

Information Submitted

Please refer to response in respect of paragraph 1.

(a) Information on caselaw relevant to harassment.

Harassment on the race ground has been considered in the following recent cases

- DEC-E2011-025 (Moodley v. Counter Product Marketing Ltd.). The Tribunal found that the complainant had been harassed and that while the employer had conducted an investigation and had attempted to reverse the effects of harassment, there were serious flaws in how this was carried out. The complainant was awarded €5,000 for the effects of the harassment on the ground of race and €10,000 for the effects of discrimination regarding access to promotion.
- DEC-E2011-016 (Chasi v. J & JI Security Ltd.). The complainant, who while working as a security guard was racially abused by his employer over a four-year period, was awarded €25,000 by way of compensation for the distress suffered by him as a result of this discrimination and harassment.
- DEC-E2010-116 (Mannering v. Limerick City Council). The complainant, a fire officer, was awarded €5000 in compensation for the harassment endured on race grounds which his employer did not take reasonable and practicable steps to prevent or remedy.

Harassment on the gender ground has been considered in recent case

- DEC-E2011-002 (Brenda Farrell -v- Irish Youth Promotions (in liquidation)). The complainant, employed as a telesales worker, was awarded €18,200 for the effects of discriminatory dismissal which is equivalent to a year's salary and €10,000 for the effects of harassment linked to her pregnancy.

Article 28 – Right of worker representatives to protection in the undertaking and facilities to be afforded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;

b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Appendix to Article 28

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice"

Information to be submitted

1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

See Ireland's previous Reports on Article 28.

Changes in legislation since Ireland last reported on Article 28 in relation to Questions 1-3 above concerning the right of workers' representatives to protection in the undertaking and facilities to be afforded to them are:

European Communities (Transnational Information and Consultation of Employees Act 1996) (Amendment) Regulations 2011 –

http://www.irishstatutebook.ie/2011/en/si/0380.html

Section 17 of the Transnational Information and Consultation of Employees Act 1996 (TICE) provides that employees' representatives who perform their functions in accordance with the Act shall not be dismissed or suffer any unfavourable change in their conditions of employment or any unfair treatment, including selection for redundancy, or suffer any other action prejudicial to their employment. Section 17 of TICE was amended in 2011 by the European Communities (Transnational Information and Consultation of Employees Act 1996) (Amendment) Regulations to provide that 'Without prejudice to the competence of other bodies or organisations in this respect, central management shall provide the members of the European Employees' Forum or European Works Council, as the case may be, with the means required to apply the rights arising from the Directive, to represent the collective

interests of employees of the Community-scale undertaking or Community-scale group of undertakings.

And

In so far as it is necessary for the exercise of their representative duties in a transnational setting, the members of the Special Negotiating Body, the European Employees' Forum or European Works Council, as the case may be, shall be provided with appropriate training by their employers without loss of wages.

Article 29 – Right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Appendix to Articles 28 and 29

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Scope of the provision as interpreted by the ECSR

Workers' representatives have the right to be informed and consulted in good time by employers planning to make collective redundancies. The collective redundancies referred to are redundancies affecting several workers within a period of time set by law and decided for reasons which have nothing to do with individual workers, but correspond to a reduction or change in the firm's activity.

Consultation procedures must take place in good time, before the redundancies. The purpose of the consultation procedure, which must cover at least the "ways and means" of avoiding collective redundancies or limiting their occurrence and support measures.

Consultation rights must be accompanied by guarantees that they can be exercised in practice

Please see earlier Reports. The Protection of Employment Act 1977 remains the main piece on legislation on this issue.

Developments since Ireland's last report

Part 2 of the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (No. 27 of 2007) provides additional protections for employees in collective redundancy situations wherein an employer proposes to effect a compulsory collective redundancy and engage other persons to perform, essentially, the same functions as the dismissed employees on terms and conditions of employment that are to be materially inferior to those of the dismissed employees. The duration of Part 2 of the Act was extended for a further 3 years in 2010 by Statutory Instrument No. 197 of 2010. Part 2 was also extended for a further 3 years in 2013 (S.I. No. 153/2013).