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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

25 June 2013

Case document No. 6

European Confederation of Police (EUROCOP) v. Ireland
Complaint No. 83/2012

**REPLIES FROM THE GOVERNMENT
TO THE LIST OF QUERIES**

Registered at the Secretariat on 21 June 2013

Queries

1. Please describe the concrete steps, which need to be taken by an association representing the members of the Gardaí, wishing to bargain for a pay rise on behalf of its members.
2. Please describe the relationship between the bargaining process and the dispute resolution process under “the scheme”, on the one hand, and the G.I.B., on the other hand.
3. Please indicate whether matters relating to the pay of the Gardaí members have been referred to the Labour Relations Commission and / or Court during the past years, if so, please indicate also how frequent this has been.
4. Please provide examples of situations under “the scheme” where a solution to a labour dispute concerning members of the Gardaí has:
 - a. Been found;
 - b. Not been found;
 - c. Been fully implemented, and if so, in which time; and
 - d. Not been fully implemented.
5. The Government maintains that the length of the existing dispute resolution processes has remained reasonable, as a solutions may even be found within three months. Please provide information on the average durations of dispute resolution processes concerning the police. Also provide information on such processes that have not been resolved within average time.

Responses

*Please note that, save where otherwise indicated, capitalised terms in the responses to these queries have the same meaning as in the Respondent's Observations of 27 September 2012 ("**the Respondent's Observations**").*

- 1. Please describe the concrete steps, which need to be taken by an association representing the members of the Gardaí, wishing to bargain for a pay rise on behalf of its members.**

The Garda Conciliation and Arbitration Scheme ("**the Scheme**") (copy attached at **Appendix 1**) sets out the procedures for dealing with claims including claims for pay.

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 before the sub-committee.

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

A report, known as an "**Agreed Report**", which records agreement or disagreement is then drawn up.

Notwithstanding the above, successive Public Service Pay Agreements which provided for pay and productivity measures in all areas of the public service, including the Garda Síochána, have been in existence for over the last three decades.

In more recent times these have all contained provisions that cost increasing claims, including wage increases, would not be made by the staff side during the lifetime of those agreements. In the same manner, the Public Service Agreement 2010 – 2014 ("**the Croke Park Agreement**") provides that "no cost-increasing claims by trade unions or employees for improvements in pay or conditions of employment will be made or processed during the currency of the Agreement".

2. Please describe the relationship between the bargaining process and the dispute resolution process under “the scheme”, on the one hand, and the G.I.B., on the other hand.

There is no relationship between the Scheme and the Garda Implementation Body (“**the GIB**”). Details of the Scheme are attached in Appendix 1. As noted, the Scheme provides a longstanding mechanism for determining claims and proposals relating to conditions of services.

By contrast, the GIB was established specifically to oversee the implementation by the parties of the provisions of the Croke Parke Agreement in An Garda Síochána.

Garda Implementation Body - Overview

The Croke Park Agreement is an agreement between the Government and the Public Services Committee of the Irish Congress of Trade Unions (ICTU) and other associations representing public service staff.

The key objectives of the Agreement are to facilitate:

- Significant reductions in the number of people working in the public service to achieve substantial savings in the Exchequer pay bill;

- Large scale redeployment of public servants within and across sectors, to protect frontline service delivery as staff numbers fall; and reconfiguration of the design and delivery of public services to deliver greater efficiencies, increased productivity and improvements in services, in particular through the greater use of shared services and online services.

An implementation body for each sector—including An Garda Síochána —was established to drive and monitor implementation of the Agreement and to report to Government annually on progress including the sustainable savings achieved.

The Chair of the GIB is a member of the National Implementation Body and indeed is also the chair of that body. The GIB comprises two members from each of the Garda Representative Associations and two each from Garda Management and the Department of Justice and Equality.

The parties to the Croke Park Agreement were required to develop and implement an action plan for the Garda sector under the Agreement. The

progress of each point in the action plan identified under the Croke Park Agreement for An Garda Síochána was discussed at every meeting. Meetings were held at least every two months.

The Garda Implementation Body has not met since the commencement of the discussions on an extension of the Public Service Agreement 2010 – 2014 (the Croke Park Agreement) which began in Early 2013. These talks were facilitated by the Labour Relations Commission and concluded with the Haddington Road Agreement in May 2013. The measures agreed are being put to a ballot of members of An Garda Síochána and other public sector workers. The outcome of all ballots is expected in the near future. meetings of the GIB have been postponed pending the outcome.

For the avoidance of doubt, it is not part of the GIB's role to adjudicate upon disputes.

3. Please indicate whether matters relating to the pay of the Gardai members have been referred to the Labour Relations Commission and / or Court during the past years, if so, please indicate also how frequent this has been.

See the response to Question 1 above.

At a sectoral level, the Garda Conciliation and Arbitration Scheme provides the framework for the resolution of industrial relations issues between Garda management, the Department of Justice and Equality and the Department of Public Expenditure and Reform on the one hand and representatives of the Garda associations on the other hand. As discussed in the Respondent's Observations, the Scheme covers industrial relations issues such as pay, allowances, terms and conditions and other matters. The Scheme, which is similar to schemes operating elsewhere in the public service, provides for a Conciliation Council, an Arbitration Board and an Adjudicator, and covers all ranks of An Garda Síochána up to and including the rank of Chief Superintendent.

Notwithstanding the above, the recent negotiations on the new Public Service Agreement (the Haddington Road Agreement, copied at **Appendix 2** and which will replace the Croke Park Agreement) were facilitated by the Labour Relations Commission and were open to all Public Sector Unions and Associations, including the Garda Representative Associations.

3. Please provide examples of situations under “the scheme” where a solution to a labour dispute concerning members of the Gardaí has:

- a. **Been found;**
- b. **Not been found;**
- c. **Been fully implemented, and if so, in which time; and**
- d. **Not been fully implemented.**

The following list gives an example of the types of claims made before the Conciliation and Arbitration Council pursuant to the Scheme in the last few years. It is noteworthy that none of these claims are for pay increases but rather for allowances or changes in workplace conditions. Where a claim is agreed, it is implemented in full and as soon as practicable. If it is disagreed, it is not implemented at all. Disagreed claims may, if appropriate, be taken to arbitration and adjudication. None of the claims on this list that is described as “disagreed” has proceeded to arbitration or adjudication as the business case to do so has not yet been submitted by the staff side.

Association	Claim	Date lodged	Date formally concluded	Decision
GRA/AGSI	Work Sharing in An Garda Síochána	06/11/2006	23/09/2010	Agreed
AGSI	Clarification on A/R 646 - payment of an allowance to members of Inspector rank whilst fulfilling the role of District Officer.	07/11/2006	25/06/2007	Agreed
AGSI	Claim by AGSI for a facility whereby members who reach thirty (30) years service be given the option of being paid all of the gratuity whether they are remaining in service or retiring.	02/06/2005	19/02/2010	Disagreed
AGSI	claim that an expert allowance to be paid to members of sergeant and inspector rank	11/10/2007	26/03/2009	Disagreed

	carrying out the duties of forensic road collision investigators			
AGSI	Claim for an allowance in the nature of pay for members employed as Crime Prevention Officers	11/10/2007	08/12/2008	Disagreed
AGSI	claims that overtime paid to members of Inspector rank be calculated on the same basis in which overtime is paid to members of Garda and Sergeant rank.	28/02/2008	26/03/2009	Disagreed
GRA	Claim for a professional allowance for members of the Emergency Response Unit.(E.R.U.)	07/04/2008	23/09/2010	Disagreed
AGSI	Claim to increase the Sergeants Instructors Allowance	05/06/2008	26/03/2009	Disagreed
AGSI	claims that The Ministerial Pool Allowance be extended to cover sergeants in the Details/Ministerial Section within the Ministerial VIP Section of Liaison & Protection at Garda Headquarters.	22/02/2011	23/09/2010	Disagreed
All	Application of the terms of the Public Service Agreement	08/04/2010	30/09/2010	Agreed

	2010 - 2014 incorporating the Garda Transformation Agenda to Garda ranks within the Conciliation and Arbitration Scheme.			
AGSI	AGSI hereby claims that an internal appeals process in relation to cautions administered under Regulation 10 of the Garda Síochána (Discipline) Regulations 2007 should be provided	05/10/2011	Resolved without decision	Overall review of the 2007 Discipline Regulations to be carried out, and views of staff side to be considered
AGSI	AGSI hereby seeks to have a policy implemented to provide for all permanent or temporary appointments within Garda Divisions to be advertised and managed through HRM and that all applicants are sent simultaneous written notification of the result. This will help maintain a common policy in making appointments and also ensure that relevant legislation governing appointments is being adhered to.	05/10/2011	Adjourned 23/03/2012	The staff side agreed that a lot of progress had been made.

AGSI	AGSI hereby requests the Minister to urgently fill all vacant Sergeant and Inspector positions in An Garda Síochána generally and most specifically those currently on a list for promotion to Sergeant and Inspector	05/10/2011	Adjourned 23/03/2012	Promotions made throughout AGS
AGSI	AGSI hereby claims that members who joined the Garda from 1989 onwards (under Walsh Report) be credited with the first 15 months of service as they were employed by the Dept. of Justice, Equality and Defence at that time.	05/10/2011	Adjourned 23/03/2012	They agreed to submit a business case, and the official side will consider the claim and revert back to Council (not received to date)
GRA	Revised pay rates for new recruits	04/11/2011	Resolved without agreement/decision	Govt. Decision
AGSI	claims that the divisor used to determine the daily pay of An Garda Síochána remains unchanged at 365 (The Divisor is a number which is divided into the annual pay rate to get a daily rate. It is determined, by central Government, to be 365.26 which is the	01/12/2011	Resolved without agreement/decision	Divisor reverted back, then introduced by Directive in July 2012

	average number of days in a year over a period including a leap year) In Garda payroll software it had been incorrectly programmed at 365.)			
AGSI	Claims that the changes announced in the budget regarding closing of garda station and the reduction in opening hours of some garda stations must be discussed and agreed at Conciliation prior to implementation	07/12/2011	Resolved with agreement/decision	Commissioner's Police Plan
Official Side	New Sick Leave Proposals	18/05/2012	Removed from agenda by agreement, until the outcome of a similar issue raised by other public service representative bodies in the Labour Court	Official side will place issue on future agenda
Official Side	Elimination of certain allowances in the Garda Síochána	31/10/2012	For presentation by the Official Side	n/a
Official Side	Revised Action Plan under the Croke Park Agreement	13/11/2012	For presentation by the Official Side	n/a

5. The Government maintains that the length of the existing dispute resolution processes has remained reasonable, as a solutions may even be found within three months. Please provide information on the average durations of dispute resolution processes concerning the police. Also provide information on such processes that have not been resolved within average time.

Claims lodged for Conciliation and Arbitration under the Scheme are not regarded as disputes; they are items for consideration which may be agreed or disagreed. The length of time involved in processing the claim varies but the length of time involved is not indicative of how the discussions evolve.

Claims may be lodged by both the official side and the staff side. A claim may be lodged on the agenda to be dealt with at a later date, i.e. where it is likely that something may change in the future and one of the parties want the claim to be ready to progress when this change occurs. A claim may be lodged by the staff side and the official side may ask for a business case to be prepared by the staff side for consideration. The business case has to be considered and discussed at meetings; further information may be requested by both sides; and the claim may have to be independently costed.

Most claims will take longer than three months. However, the length of time has not created problems for either side to date. It is also important to note that in certain circumstances a claim can be processed in a very short timeframe such as, where, for example, a circular, issued by Central Government on the rates of travel and subsistence, needs to be implemented. This expedited processing of a claim will happen only with the agreement of the parties.

