

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

21 June 2012

Case Document No.1

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

COMPLAINT

Registered at the Secretariat on 7 June 2012



European Confederation of Police

EURO COP – 617, rue de Neudorf – L-2220 Luxembourg

☎ +352/43 49 61-1 📠 +352/43 49 61-33

contact@eurocop-police.org

www.eurocop.org

Secretariat of the European Social Charter
Directorate General of Human Rights – DG II
Council of Europe
F-67075 Strasbourg CEDEX France

Luxembourg 7 June 2012

Collective Complaint

The European Confederation of Police against Ireland

Complaint

The collective complaint launched by the European Confederation of Police against Ireland deals with the fact that police representative associations in Ireland do not have full trade union rights including the right to join an umbrella organisation.

Summary

The European Confederation of Police launches a collective complaint against Ireland to grant full trade union rights for police representative associations in Ireland and more specifically the organisation Association of Garda Sergeants and Inspectors, (AGSI).

Police associations in Ireland are not allowed to join an umbrella organisation such as ICTU (Irish Congress of Trade Unions, the Irish umbrella organisation to which trade unions in Ireland affiliate). This means that the police representative associations are kept out of the overall national negotiations that ICTU conduct on behalf of their members, such as those on salaries in the public service.

Articles violated are articles 5, 6 and 21 of the European Social Charter (ESC).



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Admissibility

Ireland ratified the Revised European Social Charter on 4 November 2000, and the Revised European Social Charter entered into force in respect of Ireland on January 1, 2001. Ireland also ratified the Additional Protocol to the European Social Charter providing for a system of collective complaints on 4 November 2000.

The European Confederation of Police is a European non-governmental organisation which has consultative status with the Council of Europe. It is included in the list established by the Governmental Committee of international non-governmental organisations entitled to lodge complaints under the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.

The European Confederation of Police, EuroCOP, is an umbrella organisation for 35 police unions and staff organisations in Europe based in Luxembourg. It represents the interests of over half a million police officers in 27 European countries, dealing with issues which range from police cooperation across borders to a safer working environment for police officers on the street.

The Complaint

Background Ireland:

The Irish police operate under the so called “Garda Síochána Act 2005”. According to this act the Irish representative associations for the police are operating as professional associations but have never been allowed to become trade unions (“trade union status”).

From the Garda Act:

“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.”

<http://www.irishstatutebook.ie/2005/en/act/pub/0020/sec0018.html#sec18>

However:“(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.”

All public service employees including the police are part of a “Conciliation and Arbitration Scheme”, where the police (including ranks of chief superintendent, superintendent, inspector, sergeant and



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Garda) have their own scheme, which is used to solve “day-to-day” matters such as allowances, accommodation, standards and promotion protocols for the Garda. However, this system is not working as it should as decisions get postponed perpetually or issues are never resolved, or simply the interior minister refuses to accept the negotiated agreement. The negotiation body chairman is an employee of the department of justice and therefore is perceived not to be independent in the broad sense. (Paragraph 31 of the Conciliation Scheme)

http://www.inis.gov.ie/en/JELR/Pages/Conciliation_and_arbitration

Another scheme exists called The “LRC process”(Labour Relations Commission), which according to AGSI is a fairer and more independent system.

In this process, a professional external chairman assists employers and their employees to resolve disputes when their efforts to do so have not succeeded. The process can be described as a facilitated search for agreement between disputing parties.

The LRC assigns a mediator, known as an Industrial Relations Officer, who acts as an independent, impartial chairperson in discussions and negotiations between the negotiating teams that represent the employer and the employees.

The LRC service is available to all employees except those specifically excluded by law, namely the army, police and prison services.

http://www.lrc.ie/ViewDoc.asp?fn=/documents/work/conciliation_service.htm

Presently the police associations in Ireland do not have access to Labour Court or the Labour Relations Commission.

The police associations are not allowed to join an umbrella organisation such as ICTU (Irish Congress Trade Unions, the Irish umbrella organisation to which trade unions in Ireland affiliate). This means that the police organisations are kept out of the overall negotiations that ICTU conduct on behalf of their members, such as those on salaries.

However, police associations have been given the right to join the European Confederation of Police (EuroCOP).



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Violation of the European Social Charter

Articles violated are article 5, 6 and 21 of the European Social Charter (ESC).

Aim of Collective Complaint:

Trade union status for police representative organisations. This includes:

a. Right to affiliate to national umbrella organisation (ICTU).

Arguments:

- i. Right to organise, Article 5 ESC.
- ii. The aim is **not to form** a police union, since a body representing the police already exists i.e. AGSI.
- iii. The original legislation (the Garda Síochána Act 1924) prevented trade union membership for the Police but almost 90 years on the question must be considered as to whether this is still relevant.

b. Right to fair pay agreement discussions

At present police associations are part of the Conciliation Scheme when it comes to settling day-to-day matters. This Scheme has not been satisfactory since cases take too long to be solved or aren't solved at all. Another factor is that the negotiations are chaired by an "independent" person, who however is an employee of the department of justice. In AGSI's view, in order for negotiations mechanisms to be successful, fair and transparent, there must be parity in the bargaining strength of both parties. Clearly the arrangements which apply under the current Conciliation processes fail to meet these basic criteria.

The "LRC process" (Labour Relations Commission) would be a fairer and more independent system, according to AGSI.

Arguments:

- i. Right to collective bargaining, Article 6 ESC
- ii. ILO paper, "Collective Bargaining Negotiations", 1996
(<http://www.ilo.org/public/english/dialogue/actemp/downloads/publications/srscbarg.pdf>)
- iii. Right to information and consultation, Article 21 ESC

c. Access to labour court Arguments:

- i. Right to collective bargaining, Article 6 ESC



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d. Right to collective action Arguments:

- i. Right to collective action, Article 6.4 ESC.
- ii. At present many European countries permit their Police organisations to have Trade Union rights including the right to strike. This has been shown not to cause any adverse effects on the public including public safety.

Attached documents:

1. AGSI Authorization for EuroCOP to lodge this complaint on its behalf.
2. Scheme to provide Conciliation and Arbitration machinery for members of the Garda Síochána of the ranks of chief superintendent, superintendent, inspector, sergeant and Garda. (2010)
http://www.inis.gov.ie/en/JELR/Pages/Conciliation_and_arbitration
3. Garda Síochána Act 2005
<http://www.irishstatutebook.ie/2005/en/act/pub/0020/sec0018.html#se c18>
4. ILO paper, "Collective Bargaining Negotiations", 1996
<http://www.ilo.org/public/english/dialogue/actemp/downloads/publications/srscbarg.pdf>
5. Explanation of LRC Process
http://www.lrc.ie/ViewDoc.asp?fn=/documents/work/conciliation_service.htm
6. List of Trade Union rights of Police and their Unions in Europe