

– Ireland and the European Social Charter –

Signatures, ratifications and accepted provisions

Ireland ratified the European Social Charter on 07/10/1964 and the Revised European Social Charter on 04/11/2000, accepting 92 of the 98 paragraphs of the Revised Charter.

Ireland ratified the Additional Protocol providing for a system of collective complaints procedure on 04/11/2000. It has not yet made a declaration enabling national NGOs to submit collective complaints.

Charter in domestic law

Ireland is a dualist state.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2	
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1	
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3	
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22	
23	24	25	26.1	26.2	27.1 ¹	27.2	27.3	28	29	30	31.1	
31.2	31.3							Grey =Accepted provisions				

¹ Sub-paragraph c not accepted.

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Ireland](#) in 2005, 2012 and 2016. The Committee considers that acceptance of 2 provisions is possible (Article 8§3 - Time off for nursing mothers and Article 27 1c - Child care facilities for workers with family responsibilities).

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ¹

I. Collective complaints procedure ²

Collective complaints (under examination)

European Organisation of Military Associations (EUROMIL) v. Ireland (Complaint No. 164/2018)
The Committee [declared the complaint admissible](#) on 16 October 2018.

University Women of Europe (UWE) v. Ireland (Complaint No. 132/2016)
The Committee [declared the complaint admissible](#) on 4 July 2017.

Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

a. Inadmissibility

/

b. No violation

Irish Congress of Trade Unions v. Ireland (Complaint No. 123/2016)

- No violation of Article 6§2 (the right to bargain collectively - negotiation procedures)
[Decision on the merits of 12 September 2018](#)

Follow up:

- [Resolution CM/ResChS\(2018\)11](#) of the Committee of Ministers of 12 December 2018

Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland (Complaint No. 89/2013)

- No violation of Article 7§10 (the right of children and young persons to protection)
[Decision on the merits of 12 September 2014](#).

Follow up:

- [Resolution Res/CM ChS \(2015\)1](#) on 18 February 2015 of the Committee of Ministers.

International Federation of Human Rights (FIDH) v. Ireland (Complaint No. 42/2007)

- No violation of Articles 23 (the right of elderly persons to social protection) and 12§4 (the right to social security) in conjunction with Article E (non-discrimination).

[Decision on the merits of 3 June 2008](#).

Follow up:

- [Resolution ResChS\(2008\)9](#) of the Committee of Ministers on 4 September 2008

2. Complaints where the Committee has found a violation which has been remedied

Association for the Protection of All Children (APPROACH) Ltd v. Ireland (Complaint No. 93/2013)

- Violation of Article 17§1 (the right of children and young persons to social, legal and economic protection)

[Decision on the merits of 2 December 2014](#).

Follow up:

- [Resolution Res/CM ChS \(2015\)9 on 17 June 2015](#) of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (6 December 2018).

¹ The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

² Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

World Organisation against Torture (OMCT) v. Ireland (No. 18/2003)

- Violation of Article 17 (the right of children and young persons to social, legal and economic protection)
- [Decision on the merits of 7 December 2004.](#)

Follow up:

- [Resolution ResChS\(2005\)9 on 8 June 2005](#) of the Committee of Ministers.

3. Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

European Organisation of Military Associations (EUROMIL) v. Ireland (Complaint No. 112/2014)

- Violation of Article 5 (the right to organise)
- Violation of Article 6§2 (the right to bargain collectively - negotiation procedures)

[Decision on the merits of 12 September 2017.](#)

Follow up:

- [Resolution CM/ResChS\(2018\)2 on 10 April 2018](#) of the Committee of Ministers.

4. Complaints where the Committee has found a violation and where progress has been made but which has not yet been remedied

European Roma Rights Centre (ERRC) v. Ireland (Complaint No. 100/2013)

- Violation of Article 16 (the right of the family to social, legal and economic protection);
- No violation of Article E (non-discrimination) read in conjunction with Article 16 (the right of the family to social, legal and economic protection), or 17 (the right of children and young persons to social, legal and economic protection) or 30 (the right to protection against poverty and social exclusion);
- No violation of Article 17 (the right of children and young persons to social, legal and economic protection);
- No violation of Article 30 (the right to protection against poverty and social exclusion).

[Decision on the merits on 1 December 2015.](#)

Follow up:

- [Resolution CM/ResChS\(2016\)4 on 5 October 2016](#) of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (6 December 2018)

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

- Violation of Article 5 (the right to organise);
- Violation of Article 6§§2-4 (the right to bargain collectively - negotiation procedures);

[Decision on the admissibility and the merits of 2 December 2013.](#)

Follow up:

- [Resolution Res/CM ChS \(2014\) 12 on 8 October 2014](#) of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (December 2018)

5. Complaints where the Committee has found a violation which has not yet been remedied

International Federation for Human Rights (FIDH) v. Ireland (Complaint No. 110/2014)

- Violation of Article 16 (the right of the family to social, legal and economic protection);
- No violation of Article E (non-discrimination) read in conjunction with Article 16;
- No violation of Article 11 (the right to protection of health);
- No violation of Article 17 (the right of children and young persons to social, legal and economic protection);
- No violation of Article 30 (the right to protection against poverty and social exclusion).

[Decision on the merits of 12 May 2017.](#)

Follow up:

- [Resolution CM/ResChS\(2018\)1 of the Committee of Ministers on 31 January 2018](#)

II. Reporting system³

Reports submitted by Ireland

Between 1966 and 2019, Ireland has submitted 21 reports on the application of the 1961 Charter and 16 reports on the application of the Revised Charter.

The [15th report](#), submitted on 31/10/2017, concerns the follow-up given to the relevant decisions of the Committee in the framework of the collective complaints procedure.

The assessments of the Committee on the follow up to decisions in complaints were published in January 2019.

The [16th report](#), which was submitted on 31/10/2018, should concern the accepted provisions relating to thematic group 4 "Children, families, migrants", namely:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

Conclusions with respect to these provisions will be published in January 2020.

³ Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ⁴

Thematic group 1 « Employment, training and equal opportunities » - Conclusions 2016

► *Article 152 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- The upper limits on the amount of compensation that may be awarded in discrimination cases (with the exception of gender discrimination cases) may in certain situations preclude damages from making good the loss suffered and from being sufficiently dissuasive;
- It has not been established that foreign workers have access to employment in the public service with no discrimination;
- Army officers cannot seek early termination of their commission unless they repay to the state at least part of the cost of their education and training, and the decision to grant early retirement is left to the discretion of the Minister of Defence, which could lead to a period of service which would be too long to be regarded as compatible with the freedom to choose and leave an occupation.

► *Article 153 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

It has not been established that persons with disabilities have effective access to technical aids, communication, transport, housing as well as to culture and leisure activities.

► *Article 182 - Right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes*

The fees to obtain work permits are excessive.

► *Article 24- Right to protection in case of dismissal*

Employees undergoing probation or training for one year or apprentices during the first six months are excluded from protection against termination of employment, which is not reasonably justified.

Thematic group 2 « Health, social security and social protection » - Conclusions 2017

► *Article 352 Right to safe and healthy working conditions - Safety and health regulations*

It has not been established that the levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces are in line with the level set by international reference standards.

► *Article 353 Right to safe and healthy working conditions - Enforcement of safety and health regulations*
Measures taken to reduce the number of fatal accidents at work are insufficient.

► *Article 354 Right to safe and healthy working conditions - Occupational health services*

During the reference period there was no strategy to develop occupational health services for all workers.

► *Article 1151- Prevention of diseases and accidents - Removal of the causes of ill-health*

It has not been established that the right of access to healthcare is guaranteed in practice.

► *Article 1153- Prevention of diseases and accidents - Right to protection of health*

It has not been established that adequate measures are in place to prevent accidents.

► *Article 1251 – Right to social security - Existence of a social security system*

- The minimum amount of sickness benefits is inadequate;
- The minimum amount of work injury and occupational diseases benefits is inadequate;
- The level of unemployment assistance for persons aged below 25 years is inadequate.

► *Article 1252 - Right to social security - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

Ireland gives full effect to only five Parts of the European Code of Social Security.

⁴ Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 12§3 - Right to social security - Development of the social security system*

The situation is not in conformity on account of the restrictions introduced in terms of the social security system during the reference period, as well as the fact that some of these restrictions were maintained even after the economic situation had improved.

► *Article 12§4 - Right to social security - Social security of persons moving between states*

- Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- Nationals of States Parties not covered by EU regulations or not bound by an agreement concluded with Ireland have no possibility of accumulating insurance or employment periods completed in other countries.

► *Article 13§1 - Right to social and medical assistance - Adequate assistance for every person in need*

The level of social assistance provided to a single person without resources is not adequate.

► *Article 14§1 - Right to benefit from social services - Promotion or provision of social services*

- It has not been established that there is an effective and equal access to social services;
- It has not been established that the quality of social welfare services meets users' needs.

► *Article 14§2 - Right to benefit from social services - Public participation in the establishment and maintenance of social services*

It has not been established that the government is taking the steps necessary to foster user participation in the management of social services.

► *Article 30 - Right to be protected against poverty and social exclusion*

There is no adequate overall and coordinated approach to combating poverty and social exclusion.

Thematic group 3 « Labour rights » - Conclusions 2014

According to the applicable rules, Conclusions 2018 only refer to the information submitted by the Irish Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2014.

► *Article 2§1 – Right to just conditions of work - Reasonable working time*

Legislation on working hours permits a 72 hour working week in the merchant shipping sector.

► *Article 2§4 - Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations*

It has not been established that workers exposed to occupational health risks, despite the existing risk elimination policy, are entitled to appropriate compensation measures.

► *Article 2§5 - Right to just conditions of work – weekly rest period*

There are inadequate safeguards to prevent workers from working for more than twelve consecutive days without a rest period.

► *Article 4§1 - Right to a fair remuneration - Decent remuneration*

The reduced national minimum wage applicable to adult workers on their first employment or following a course of studies is not sufficient to ensure a decent standard of living.

► *Article 4§2 - Right to a fair remuneration – Increased remuneration for overtime work*

It has not been established that the right to an increased remuneration for overtime work is guaranteed to all workers (Conclusions 2016 and 2014).

► *Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment*

The periods of notice applicable to employees and civil servants are inadequate.

► *Article 4§5 – Right to a fair remuneration - Limits to deduction from wages*

- The safeguards preventing workers from waiving their right to limits to wage deductions are inadequate;

- After authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

► *Article 5 – Right to organise*

- Certain closed shop practices are authorised by law;
- The national legislation does not protect all workers against dismissal on grounds of membership of a trade union or involvement in trade union activities;
- Police representative associations are prohibited from joining national employees' organisations.

► *Article 6§2 – Negotiation Procedures*

The legislation and practice fail to ensure the sufficient access of police representative associations into pay agreement discussions.

► *Article 6§4 – Right to bargain collectively*

- Only authorised trade unions, which are trade unions holding a negotiation licence, their officials and members are granted immunity from civil liability in the event of a strike;
- Under the Unfair Dismissals Act, an employer may dismiss all employees for taking part in a strike;
- The absolute prohibition of the right to strike of police forces goes beyond the conditions established by Article G of the Charter.

Thematic group 4 « Children, families and migrants » - Conclusions 2011

According to the applicable rules, Conclusions 2015 only refer to the information submitted by the Irish Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure. However, there were no decisions concerned in 2015. For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2011.

► *Article 7§1 – Right of children and young persons to protection - Prohibition of employment under the age of 15*

Children employed by a close relative are not afforded the protection required by this provision of the Revised Charter.

► *Article 7§3 – Right of children and young persons to protection - Prohibition of employment of children subject to compulsory schooling*

The mandatory rest period during school holidays for children still subject to compulsory education is not sufficient to ensure that they may benefit from such education and children employed by a close relative are not afforded the protection required.⁵

► *Article 7§4 - Right of children and young persons to protection - Working time*

The Committee is unable to assess whether the working hours of the great majority of persons under 18 are limited in accordance with the needs of their development.

► *Article 7§5 – Right of children and young persons to protection - Fair pay*

- The minimum net wage is manifestly inadequate;
- The rate paid to young workers between 16 and 18 years is too low;
- Young persons working for close relatives are not covered by the Minimum Wage Act.

► *Article 7§8- Right of children and young persons to protection - Prohibition of night work*

The Committee is unable to assess whether children employed by a close relative are prohibited from performing night work.

► *Article 8§1 – Right of employed women to protection of maternity - Maternity leave*

The amount of maternity benefit is manifestly too low.

► *Article 8§2 – Right of employed women to protection of maternity - Illegality of dismissal*

⁵ RecChS(2001)2 adopted by the Committee of Ministers on 7 February 2001.

- It has not been established that there is adequate protection against unlawful dismissals during pregnancy or maternity leave;
- It has not been established that reinstatement or adequate compensation is provided for in cases of unlawful dismissal during pregnancy or maternity leave.

► *Article 17§1 - Right of children and young persons to social, legal and economic protection – Assistance, education and training*

- Young prisoners are not always separated from adults;
- The age of criminal responsibility is too low for some offences;
- Corporal punishment of children is not explicitly prohibited in the home.

► *Article 19§6 - Right of migrant workers and their families to protection and assistance- Family reunion*

It has not been established that migrant workers receiving social benefits are not precluded from the right of family reunion.

► *Article 19§8 – Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation;*

Migrant workers have no right of appeal against a deportation order.

► *Article 19§10 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

The Committee concludes that the situation in Ireland is not in conformity with Article 19§10 of the Charter on the same grounds on which it is not in conformity with paragraphs 6, 8 and 12 of the same Article.

► *Article 19§12 – Right of migrant workers and their families to protection and assistance - Teaching mother tongue of migrant*

It has not been established that Ireland promotes and facilitates the teaching of the migrant worker's mother tongue to the children of migrant workers.

► *Article 27§1 - Right of workers with family responsibilities to equal opportunity and treatment - Participation in working life*

Periods of parental leave are not taken into account in the calculation of pension.

The Committee has been unable to assess compliance with the following rights and has invited the Irish Government to provide more information in the next report in respect of the following provisions:

Thematic group 1 « Employment, training and equal opportunities »

- ▶ Article 1§4 - Conclusions 2016
- ▶ Article 10§1 - Conclusions 2016
- ▶ Article 10§3 - Conclusions 2016
- ▶ Article 10§5 - Conclusions 2016
- ▶ Article 15§1 - Conclusions 2016

Thematic group 2 « Health, social security and social protection »

- ▶ Article 23 - Conclusions 2017

Thematic group 3 « Labour rights »

- ▶ Article 22 - Conclusions 2014

According to the applicable rules, Conclusions 2018 only refer to the information submitted by the Irish Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

Thematic group 4 « Children, families and migrants »

- ▶ Article 7§2 - Conclusions 2011
- ▶ Article 7§7 - Conclusions 2011
- ▶ Article 17§2 - Conclusions 2011
- ▶ Article 19§4 - Conclusions 2011
- ▶ Article 27§3 - Conclusions 2011

III. Examples of progress achieved in the implementation of the rights under the Charter (non-exhaustive list)

Thematic group 1 « Employment, training and equal opportunities »

- ▶ Employment Equality Act 2004 strengthens protection against discrimination in employment.
- ▶ Equal Status Act 2000 and the Disability Act 2005 together provide a general legal framework on social integration of persons with disabilities and their judicial protection in case of discrimination.

Thematic group 2 « Health, social security and social protection »

- ▶ The online risk assessment tool, BeSMART, which supports and assists small business to deal with health and safety in their workplaces, was further developed in the period 2013-2015. It caters for more than 250 different business types. In 2015, the number of BeSMART users increased by 6,896 users to bring the total users to 30,278 by year end. In addition, the HSA launched two new modules for the high risk construction and agribusiness sectors.
- ▶ The Safety, Health and Welfare at Work (General Application) Regulations 2007, provide that night-workers shall have available a medical practitioner before and at regular intervals during employment as a night worker, to assess in relation to any adverse effects of that night work.
- ▶ Extension of voluntary social insurance coverage (as regards the contributory old-age state pensions and the maternity/paternity benefits), in 2014, to certain spouses and civil partners of people who are self-employed.
- ▶ Introduction in 2012 of a new Partial Capacity Benefit scheme, which allows people with disabilities who can work to avail of employment opportunities while continuing to receive an income support payment.

Thematic group 3 « Labour rights »

- ▶ Introduction of a statutory minimum wage (2000 Act on the National Minimum Wage).
- ▶ Repeal of section 9 of the 1939 Offences Against the State Act, which allows the prosecution of public service officials and employees for taking strike action.
- ▶ The Employees (Provision of Information and Consultation) Act 2006, the Transnational Information and Consultation of Employees Act 1996, European Communities (European Public Limited-Liability Company) (Employee Involvement) Regulations 2006, the European Communities (European Cooperative Society) (Employee Involvement) Regulations 2007 and the European Communities (Cross-Border Mergers) Regulations 2008 provide, inter alia, protection for workers' representatives against reprisal or victimisation.
- ▶ The Protection of Employment Act of 2007 introduced additional protection for employees in collective redundancy situations.

Thematic group 4 « Children, families and migrants »

- ▶ Elimination of discrimination against children born out of wedlock in respect of custody, and the right of ownership and succession (1987 Status of Children Act).
- ▶ The power of the Minister of the Interior to issue expulsion orders has been restricted in that he must take account of the age, family status, employment prospects and length of stay of the person concerned (1999 Immigration Act).
- ▶ The Protection of Young Persons (Employment) Act, 1996 sets out a broader definition of a child for the purpose of employment by including all persons under the age of 16 years or, if higher, still subject to compulsory education. The limits on working time for children aged 14 and 15 are set at 7 hours per day and 35 hours per week.