



25/01/2022

RAP/RCha/IRL/19 (2022)

EUROPEAN SOCIAL CHARTER

Comments by the Irish Congress of Trade Unions (ICTU)
on the 19th National Report on the implementation of the
European Social Charter

submitted by

THE GOVERNMENT OF IRELAND

Report registered by the Secretariat
on 25 January 2022

CYCLE 2022

Irish Congress of Trade Unions (ICTU) comments on Ireland's 2021 National Report on the implementation of the revised European Social Charter.

Article 5 – The Right to Organise.

Congress does not share the Department's view, as stated, in relation to the terms of the 2015 Industrial Relations (Amendment) Act.

We form this view particularly given the provisions as set out in Section 30 of the amended Act which affords the opportunity to workers to make a claim relating to an improvement in their terms and conditions only 'where in circumstances of the totality of the remuneration and conditions of employment of comparable workers in similar employments, represented by a trade union or not and taking into account the comparability of skills, responsibilities, physical and mental effort required to perform the work in which the workers are engaged'. In making its decision on comparability 'the Labour Court must also take into account the terms of any Collective Agreements in force and have due regard to all evidence presented by the parties whether by way of collective agreement or not'.

It is a matter of record by way of Labour Court user statistics, and the very low user take up, that this particular provision of the Act is no longer operable or utilised. It is, in our view, therefore, not inaccurate to assert that workers in Ireland have a 'clear and balanced' mechanism whereby they can achieve improvements to their terms and conditions. It is further misrepresenting the effect of this legislation relating to enterprise bargaining to suggest the it is an 'effective framework that allows a trade union to have the remuneration and terms and conditions of its member in that employment assessed against relevant comparators and determined by the Labour Court' when in reality this is simply not the case'.

We believe it is remiss not to apprise the reviewer that in Ireland workers have no collective bargaining rights with employers nor does current legislation confer any such collective rights of representation to workers by the trade union of their choice.

In this regard it is worth noting that on foot of a Government decision last year to establish a High Level Review Group on these subjects, these issues are now being examined.

False/Bogus Self- Employment (p44)

Congress has been engaged over a number of decades with various Government agencies with a view to addressing this issue. To date a satisfactory outcome has not been achieved.

However, it is worth noting that in December 2021 following the publication of the EU Draft Directive on 'Platform Work' the Department of Enterprise and Employment has agreed to establish a Working Group with a view to exploring possible remedies within the context of this draft directive.