



03/08/2023

RAP/RCha/IRL/20(2023)

EUROPEAN SOCIAL CHARTER

Response by the Government of Ireland to
comments submitted by
the Irish Human Rights and Equality Commission
concerning the 20th National Report on the
implementation of the European Social Charter

Follow-up to Collective Complaints

Comments registered by the Secretariat
on 3 August 2023

REPORT FOR FINDINGS 2023

Replying observations of Ireland to IHREC's comments on Ireland's 20th National Report under the Revised European Social Charter

3rd August 2023



This is Ireland’s response to the comments submitted to the European Committee of Social Rights by the Irish Human Rights and Equality Commission (IHREC) on Ireland’s 20th National Report on the implementation of the European Social Charter.

Table of Contents

Collective Complaint 83/2012: European Confederation of Police (EuroCOP) v. Ireland ...	3
Collective Complaint 100/2013: European Roma Rights Centre (ERRC) v. Ireland	4
Collective Complaint 110/2014: International Federation for Human Rights (FIDH) v. Ireland	8
Collective Complaint 112/2014: European Organisation of Military Associations (EUROMIL) v. Ireland	10
Collective Complaint 132/2016: University Women of Europe (UWE) v. Ireland	12

Collective Complaint 83/2012: European Confederation of Police (EuroCOP) v. Ireland

Response

In relation to IHREC's view that Ireland is not in conformity with Article 6.4 of the Charter in relation to the prohibition on An Garda Síochána's right to strike, Ireland has no additional material to add at this time as there has been no change in policy.

The material provided in our 19th and 20th National Reports still stands.

As previously stated, industrial relations legislation in Ireland does not extend to the granting of, or the abolition of, a right to strike to any workers or groups of workers.

The unique position of the Garda Síochána is such that the withdrawing of labour in any strike action is likely to impact on policing, the security of the State or the maintenance of public authority. It is recognised that this places a particular obligation to ensure that the dispute resolution processes in place for the Garda Síochána are robust and effective, and that the members of the Garda Síochána are not disadvantaged as a result.

As previously outlined, Ireland's view is that procedures that have been instituted demonstrate that police representative associations are provided with a means to effectively represent their members in all industrial relations matters.

Collective Complaint 100/2013: European Roma Rights Centre (ERRC) v. Ireland

Response

Funding

Funding for Traveller-specific accommodation continues to increase with combined capital and current funding of €27 million being provided for Traveller-specific accommodation for 2023. The Department continues to work with local authorities to ensure that full use is made of the increasing level of funding available.

Capital funding for Traveller-specific accommodation was fully drawn-down by local authorities for 3 consecutive years, €21.1 million in 2022, €15.5m in 2021 and €14.5 million in 2020.

Accommodation for Travellers is provided across a range of options, including standard local authority housing, which is financed from the Department's capital allocations for social housing, and Traveller-specific accommodation, which is also funded by means of 100% capital funding from the Department. Accommodation is also provided through private housing assisted by the local authority or voluntary organisations accommodation.

Travellers can opt for any form of accommodation and local authority Traveller Accommodation Programmes are intended to reflect these preferences. The Assessment of Housing Needs carried out by local authorities' points to a general preference among Travellers for standard housing. The results of the [2022 Social Housing Needs Assessment](#) revealed that 1.6% of households had a requirement for accommodation where the household member is a Traveller.

During 2022, a Pilot Caravan Loan Scheme was expanded on a nationwide basis to end 2022 to provide 100% funding to local authorities for the provision of preferential rate loans to members of the Traveller community for the purchase of caravans. The pilot scheme provides Travellers with improved standards of accommodation and access to credit at a significantly discounted rate. The nationwide pilot caravan loan

scheme rolled out in 2022 and continued in 2023, increased the loan limits available by 33% on the 2021 scheme.

Local authorities have reported as part of the annual estimate a total of 110 Traveller Families staying on unauthorised sites without access to services and not *'thousands of Travellers not having access to electricity, running water or sanitation'* as stated by IHREC.

The condition of Traveller Accommodation remains a key priority with 100% capital funding available to local authorities for the refurbishment of halting sites and group housing schemes.

Legislation

The Housing (Traveller Accommodation) Act, 1998, provides the legislative framework within which the accommodation needs of Travellers are met. The Act requires relevant local authorities, as the designated housing authorities, to prepare and adopt five-year Traveller Accommodation Programmes (TAPs) to meet the existing and projected accommodation needs of Travellers in their areas. The current TAP programme is 2019 to 2024.

Accommodation for Travellers provided for under the Act is in addition to the range of social Housing supports which are also available to Traveller households.

In 2018, the Traveller Accommodation Expert Group was established to review the Traveller Accommodation Act, 1998, and other legislation that impacts on the provision and delivery of accommodation for Travellers.

A Programme Board was established to oversee the implementation of recommendations of the Expert Group and a work programme is underway.

The Department publishes [updates on its website](#) on progress by the Programme Board and the most recent report is for April 2023. The Programme Board selected 24 out of the 32 recommendations for inclusion in the ongoing work programme, grouped

into 11 separate projects. To date, 10 of these 24 recommendations have been completed.

The Government's Housing for All Strategy (published in September 2021), which provides a new housing plan for Ireland to 2030, contains a specific policy objective to increase and improve accommodation for the Traveller community.

The dedicated legislative framework in place for the planning and provision of Traveller Accommodation, supported by capital funding specifically for the accommodation of Travellers, in addition to the full range of social housing supports available, demonstrates the ongoing commitment to the delivery of quality accommodation to Travellers.

Data

Traveller applicants can express a preference for any form of accommodation through the assessment of needs process when applying for social housing. The results of the Assessment of Housing Needs carried out by local authorities' points to a general preference among Travellers for standard housing.

[Regulation S.I. 73 of 2022](#), allowing for the inclusion of a Traveller identifier on the statutory Social Housing Support application form, came into operation on 14 March 2022. This allows the specific accommodation requirements of applicants, who chose to identify as Travellers, to be recorded vis-à-vis requiring Traveller specific accommodation, mainstream social housing or any other social housing option, and will allow progress in meeting their housing needs to be monitored effectively.

In the 2022 Social Housing Needs Assessment, a Traveller Identifier was introduced in 2022 with 124 households identified as Irish Travellers. The preferred housing option for households that identified as Travellers in 2022 shows that 96 (77.4%) of the 124 households that identified as Travellers require mainstream local authority or [Approved Housing Body](#) (AHB) housing. An additional four Traveller households or 3.2% are recorded as preferring halting site accommodation or a caravan bay, while the same number have requested Traveller group housing and private rented

accommodation. The remaining 16 (12.9%) did not specify any particular housing option.

As this new identifier question has been in effect since March 2022, it may take at least two years to begin accurately estimating the number of Traveller households on housing waiting lists, as local authorities carry out an estimate each year but are not required to review households already reviewed in the previous year.

This new identifier will be monitored as an important indicator in assisting with the provision of housing for Travellers.

Evictions

The Programme Board agreed on the establishment of a sub-group to develop guidance on eviction procedure to issue to local authorities. A sub-group of the Board is now established with one representative from the Traveller organisations, one representative from the local government sector and one representative from the Department of Housing, Local Government and Heritage and work will advance on establishing guidance.

Collective Complaint 110/2014: International Federation for Human Rights (FIDH) v. Ireland

Response

Regeneration Programme

The Department of Housing, Local Government and Heritage carries out ongoing engagement with all relevant local authorities on a regular basis regarding progressing the National Regeneration Programme and addressing the issues raised in this Complaint.

There continues to be ongoing engagement with Dublin City Council with regards to the regeneration of the inner-city flat complexes mentioned and that engagement is at a senior level within both organisations.

- a) Dolphin House - continuous engagement at a very senior level and it is anticipated that progress will be forthcoming soon.
- b) Pearse House - continuous engagement at a very senior level and it is anticipated that progress will be forthcoming soon.
- c) O'Devaney Gardens – there has been completion of a social housing programme and work has started on a new very large development.
- d) Constitution Hill – Stage 2 approval was awarded and project is progressing.

As the Limerick Regeneration Framework Implementation Plan ten-year period concludes in 2023, Limerick City and County Council is currently working with KPMG and their sub consultants O'Mahony Pike Architects and Tobin Engineers, on a Status Update for Limerick Regeneration.

The resulting report on the Status Update will assess the current position and provide strategic masterplan options, targets and recommendations for the post 2023 period, out to 2030. The process is well advanced and the Department is advised that the report will be completed shortly.

National Refurbishment Timetable & Statistic

With regard to IHRECS view that the situation has not been brought into conformity with Article 16 of the Charter due to the ongoing absence of complete statistics on the condition of local authority housing, and lack of a national timetable for the refurbishment of existing housing stock, the response as provided in Ireland's 20th National Report still stands.

As previously stated, the Department of Housing, Local Government and Heritage has been engaging with the local authority sector to ensure that full and standardised stock condition surveys are completed on the entire local authority housing stock over the next 4 to 5 years.

A national standardised stock condition survey template has been agreed by the Local Government Management Agency (LGMA) and the procurement of a centrally hosted asset management system to capture the results of the surveys and inform future work programmes is being advanced.

Collective Complaint 112/2014: European Organisation of Military Associations (EUROMIL) v. Ireland

Response

By law, (the Defence Act as amended), the Permanent Defence Force Representative Associations - the Representative Association of Commissioned Officers (RACO) and Permanent Defence Forces Other Ranks Representative Association (PDFORRA) - are prohibited from being associated, or affiliated with, any trade unions or any other body without the consent of the Minister for Defence.

To compensate for the historic limitations for the Defence Forces in terms of Representation, there are a range of statutory redress mechanisms available to serving members, including a redress of wrongs process, a Defence Forces Ombudsman, and a Conciliation and Arbitration scheme.

Ireland is not unique in imposing limitations on rights of association for military personnel, for example:

- The UK Armed Forces do not have representative associations and do not have a right to strike.
- France and Spain allows representation for members of the Armed Forces but does not allow full trade union status. They do not have a right to strike.
- The Belgian and Danish Armed Forces have full trade union status but do not have the right to strike.
- Armed Forces in Sweden have full trade union status. They have the right to strike but this right is curtailed in times of crisis.

Defence management (civil and military) have previously engaged in discussions with the Permanent Defence Force Representative Associations and the Irish Congress of Trade Unions (ICTU) regarding the practicalities of an association with ICTU. Additionally, the [Report of the Commission on the Defence Forces](#) (CoDF) recommended that the Representative Associations should be facilitated if they wish to pursue associate membership of ICTU.

As provided for in the Defence Acts, the Minister for Defence conveyed (in May 2022), in the context of the legal proceedings taken by PDFORRA, an offer of temporary conditional consent to that Association to seek temporary associate membership with ICTU, solely for the purpose of the forthcoming pay negotiations, until the relevant legislative provision is put in place.

The recent Report of the CoDF also made recommendations in this regard, and this recommendation was progressed with the Minister's consent for temporary associate membership in May 2022.

The Report noted the complex nature of the issue, as well as the requirement for a range of matters to be resolved before the Government could facilitate this in the longer term. Legal advice will need to be considered, regarding these issues, as will legislative amendments.

PDFORRA and RACO have therefore been provided with temporary conditional consent for associate membership of ICTU, for the purpose of central public pay negotiations . This consent is subject to a number of conditions, lack of compliance with which will result in revocation of this consent.

The Department of Defence continues to work on a legislative solution to ensure a longer-term facilitation of this by Government to ensure that, ultimately, the State's ability to control and direct its Armed Forces remains absolute and that any eventual solution retains that certainty.

Collective Complaint 132/2016: University Women of Europe (UWE) v. Ireland

Response

Gender pay gap reporting (Articles 4(3) and 20.c)

The impact of the coming into force in Ireland in 2022 of mandatory gender pay gap reporting for large employers (250+ employees), is not yet reflected in the Eurostat unadjusted gender pay gap indicator, which includes data for Ireland up to 2020.

This reporting obligation currently covers an estimated 0.2% of enterprises and 32.5% of persons engaged in the business economy. The Government has announced its intention to extend mandatory reporting to medium enterprises, extending in 2024 to employers having more than 150 employees, and in 2025 to employers having more than 50 employees^[1], by which time it will cover an estimated 1.4% of enterprises and 52.3% of persons engaged^[2]. (Based on 2018 figures which are the latest available).

It is not currently planned to further extend mandatory gender pay gap reporting to small enterprises (6.7% of enterprises and 22.0% of persons engaged) or to micro enterprises (91.9% of enterprises and 25.7% of persons engaged) having regard to privacy issues.

Nevertheless, provisional figures published by Eurostat in May 2023¹ indicate that the unadjusted Gender Pay Gap in hourly pay in Ireland (as measured according to the common Eurostat definition and covering the sectors of industry, construction and services (except public administration, defence and compulsory social security)) has

^[1] Press release, <https://www.gov.ie/en/press-release/aa331-minister-ogorman-announces-introduction-of-gender-pay-gap-reporting-in-2022/>

^[2] CSO Business Demography 2018, Persons Engaged by Size Class and Year, accessible at <https://www.cso.ie/en/releasesandpublications/er/bd/businessdemography2018/>. Data relating to the 2019 & 2020 Business Demography is currently under review by the CSO and will be revised, with the revised estimates expected to be published in quarter 3 of 2023.

¹ Gender pay gap in unadjusted form, updated 17/05/2023, Eurostat, accessible at <https://ec.europa.eu/eurostat/databrowser/view/tesem180/default/table?lang=en>, metadata available at https://ec.europa.eu/eurostat/cache/metadata/en/earn_grpgg2_esms.htm

continued to narrow, from 11.3% in 2018 to 10.8% in 2019 and 9.9% in 2020, a reduction of 1.4 percentage points. For public administration, defence and compulsory social security, where the gender pay gap has tended to be narrower, the gender pay gap in 2018, the most recent date for which has been calculated², was 10.8% in comparison with 11.3% across other sectors. Updated figures in respect of Ireland for the period to 2022 are expected to be published by Eurostat in March 2024.

At present, organisations are asked to publish their report on their website or some other public forum. Plans are in place to develop a centralised online reporting database for future reporting cycles, where the information can be analysed and that will provide easier access to these reports and easier comparison of employers' gender pay gap metrics across sectors and over time. The specification of this system is at an early stage of development and a delivery date is not yet announced.

The Department of Children, Equality, Disability, Integration and Youth is conducting an analysis of a representative sample of the Gender Pay Gap reports published in December 2022 to assess key trends in the quantitative and qualitative data, and to provide a preliminary analysis of the quality of the reports. The report of this analysis is expected to be published later in 2023.

The provisions for gender pay gap reporting will also be reviewed in preparation for transposition into national law by 7th June 2026 of EU Directive 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms. The Directive introduces gender pay gap reporting at EU level for employers having 150 or more workers by June 2027, expanding to employers having 100 or more workers by June 2031.

² Gender pay gap in unadjusted from by NACE Rev.2 activity – structure of earnings survey methodology, Eurostat, accessible at https://ec.europa.eu/eurostat/databrowser/view/EARN_GR_GPGR2_custom_6983520/default/table?lang=en

Indicators for assessing compliance with the Charter (Article 20.c)

The observations from IHREC are noted in regard to specific groups of women being disproportionately affected by gender pay gaps, referring in particular to minority ethnic women, Traveller women, women with disabilities and non-Irish women. IHREC has suggested that employers may disaggregate pay data across multiple equality grounds, and that the State applies an intersectional lens to pay gap reporting.

Gender pay gap data is currently compiled and published in respect of the economy as a whole by the Central Statistics Office (CSO), and by relevant individual employers in respect of their own organisations. In line with EU statistical obligations, the CSO collects and submits pay and hours worked data to Eurostat in order that analyses of this data may be produced for the EU disaggregated by sex and age of the employee.

The development of capacity for further disaggregation of national data on the gender pay gap by other equality characteristics, such as ethnicity, disability etc. is being considered in the context of the development of national policy on equality data and of successors to equality policy statements on the disability, gender and Traveller community grounds, and on migrant integration, where it is intended to include a greater focus on measurable outcomes.

The development of a National Equality Data Strategy that will put in place a strategic approach to improving the collection, disaggregation and use of equality data was announced on 21 March 2022, to mark the International Day against Racism by the Minister for Children, Equality, Disability, Integration and Youth.

A working group, led by the Central Statistics Office and the Department of Children, Equality, Disability, Integration and Youth, that brings together a range of stakeholders from across Government, including IHREC as well as civil society and research bodies, has developed and consulted widely on a draft strategy. It is expected the Strategy will be finalised and published in 2023.

At the level of an individual organisation, employers subject to mandatory gender pay gap reporting are obliged in their reports to include an analysis of the reasons behind

the reported gender pay gaps, as well as measures that are or will be taken by the employer to address the gap.

The statistical relevance of further disaggregation of organisation-level pay data by grounds such as disability, ethnicity, membership of the Traveller community, as well as any implications for the privacy of individual employees, will be considered in reviewing the existing provisions for mandatory gender pay gap reporting in preparation for transposition into national law of EU Directive 2023/970.

Women's representation on corporate boards (Article 20.d)

The statistics quoted by IHREC represent significant and fast-paced progress since 2019 towards achieving greater gender balance in the boards and senior executive of large publicly listed Irish companies, which has seen the representation of female directors in these companies double to 32% in 2022.

This reflects the positive impact on the sector of the ambitious voluntary targets set by the Balance for Better Business Review Group³ not only at board level but for the leadership pipeline, and initiatives such as the Enterprise Ireland Level Project Action Planning Toolkit and Project Consultancy Grant scheme⁴, aimed at helping Enterprise Ireland client businesses develop gender balanced leadership teams.

The Government will continue to support this initiative and to explore all available options in transposing EU Directive 2022/2381 on improving the gender balance among directors of listed companies and related measures, which includes both quotas and alternatives which are equally effective as to outcome.

Promotion of policy and other measures (Articles 20.c and 20.d)

Embedding gender equality in decision-making was one of 6 high-level objectives of the National Strategy for Women and Girls 2017-2020 which has provided a whole-of-

³ <https://www.betterbalance.ie/fifth-report-november-2022/>

⁴ <https://www.levelproject.ie/>

Government framework through which women's empowerment continues to be advanced.

While initially due to conclude in 2020, the Strategy was extended to 2021 in recognition of the impact of the Covid-19 pandemic on its implementation. Progress reports in respect of activity under the National Strategy for Women and Girls will be completed this year. Preparatory work has begun on stakeholder consultations with a view to developing the successor to the National Strategy for Women and Girls, in line with a commitment in the Programme for Government 2020.

In July 2023, a report was published of a study commissioned by the Department of Children, Equality, Diversity, Integration and Youth to evaluate the processes for implementation of three equality strategies, including the National Strategy for Women and Girls. Its recommendations, and those of the Citizens Assembly on Gender Equality and of the Joint Oireachtas Committee on Gender Equality will also inform the development of the successor strategy.

The increasing presence of women is a noticeable feature of the Irish labour market since 2019. This is a period in which family leaves have expanded and a new National Childcare Scheme has been introduced, with greater emphasis on supports for working parents and on facilitating greater sharing of caring roles between women and men.

It is acknowledged that the labour market activation rate of women is still approximately 10 percentage points lower than the activation rate of men. A similar gap exists between the employment rates. For both women and men, the employment rate dipped in 2020 coinciding with the start of the COVID-19 pandemic, but showed recovery in 2021.

The proportion of inactive women who are inactive in the labour market due to caring responsibilities has reduced from 56.5% in 2016 to 51.1% in 2019, and was 44.7% in 2020. The share of women of working age who are active increased slightly between 2017 and 2019, from 66.6% to 67.4% and was 69.9% in 2021.

However, by Quarter 1 2023, the employment rate for females, at 69.2%, was at its highest level since records began in 1998. The gains observed are concentrated amongst women with higher levels of education.

Since Q2 2019, the sectors which have seen the largest percentage increases in female employment are Construction (+38%), Information and Communication (+38%), Education (+25%) and Professional, Scientific and Technical Activities (+24%). This corresponds to sectors which have seen the greatest overall percentage increases in employment: Information and Communication (+39%), Professional, Scientific and Technical Activities (+21%), Education (+19%). The sectors which employ the greatest number of females remain since Q2 2019: Human Health and Social Work, Education and Wholesale and Retail trade.

National Living wage

In 2022, the Government also announced the introduction of a national living wage for employees. This will be set at 60% of hourly median wages in line with the recommendations of the Low Pay Commission (LPC). It will be introduced over a four-year period and will be in place by 2026, at which point it will replace the National Minimum Wage.

Once the national living wage has come into effect in 2026, subject to an assessment of the impact of the change, the LPC will advise on the practicalities of gradually increasing the targeted threshold rate towards 66% of the hourly median wage.

To inform its deliberations and recommendations on the progression to a Living Wage, in 2022, the LPC commissioned research from Maynooth University to examine the design of a living wage. This research considered the policy, social, and economic implications of moving to a living wage.

In considering the effect that moving to a living wage would have on the gender pay gap, the authors of this research report found that the move to a living wage would have “small but non-negligible effects” and that the forecasted effect on the male/female wage gap is “modest”.