

– Ireland and the European Social Charter –

Ratifications

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.

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.

Charter in domestic law

Ireland is a dualist state.

Reports

Between 1966 and 2015, Ireland has submitted 21 reports on the application of the Charter and 10 reports on the application of the Revised Charter. The 11th Report, submitted on 8/10/2014, concerns the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

The conclusions in respect of these provisions were published in January 2015.

The 12th report, submitted 08/12/2014, concerns the follow-up given to the decisions of the European Committee Social Rights relating to collective complaints lodged against Ireland, as well as the information required by the Committee in the framework of Conclusions 2013 (Articles 3, 11, 12, 13, 14, 23 and 30, relating to Thematic group "Health, social security and social protection"), in the event of non-conformity for lack of information.

Conclusions in respect of these matters will be published in January 2016.

* [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.

Situation of Ireland with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter¹

Employment

- ▶ 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 Employees (Provision of Information and Consultation) Act 2006, the Transnational Information and Consultation of Employees Act 1996, the 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 for access to facilities for the execution of workers' representatives' functions.
- ▶ The Protection of Employment Act of 2007 introduced additional protection for employees in collective redundancy situations.

Health/Education

- ▶ 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.
- ▶ 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.

Non-discrimination (Employment)

- ▶ Employment Equality Act 2004 strengthens protection against discrimination in employment.

Non-discrimination (Birth)

- ▶ 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).

Non-discrimination (Disability)

- ▶ 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.

Sexual and Moral Harassment

- ▶ A revised Code of Practice on Sexual Harassment and Harassment at Work was published by the Equality Authority in 2012, the Code is admissible in any employment dispute in which it appears relevant, and contains a list of forms of behaviour which may be regarded as acts of sexual harassment.

Movement of persons

- ▶ 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).

¹ « 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 » (Article 2 of the Rules of the Committee).

Cases of non-compliance

Thematic group 1 "Employment, training and equal opportunities"

► *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 preclude damages from making good the loss suffered and from being sufficiently dissuasive;
- army officers can not 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.

[\(Conclusions 2012\)](#)

► *Article 154 - Right to work - Vocational guidance, training and rehabilitation (Article 9 and Article 10§§1 and 3)*

- access to vocational guidance for nationals of the other States Parties which are not members of the European Union is not guaranteed
- there is indirect discrimination of nationals of other States Parties residing or working lawfully in the country due to the length of residence condition for access to continuing vocational training.

[\(Conclusions 2012\)](#)

► *Article 9- Right to vocational guidance*

Access to vocational guidance for nationals of the other States Parties which are not members of the European Union is not guaranteed

[\(Conclusions 2012\)](#)

► *Article 10§1 Promotion of technical and vocational training; access to higher technical and university education*

Indirect discrimination of nationals of other states party due to the length of residence requirements

[\(Conclusions 2012\)](#)

► *Article 10§3 - Vocational training and retraining of adult workers*

Indirect discrimination of nationals of other states party residing or working lawfully in the country due to the length of residence condition for access to continuing education

[\(Conclusions 2012\)](#)

► *Article 10§5 – Right to vocational training - Full use of facilities available*

Equal treatment for nationals of other States Parties is not guaranteed with respect to fees and financial assistance for training.

[\(Conclusions 2012\)](#)

► *Article 18§2 - Right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes*

The fees for work permits are excessive.

[\(Conclusions 2012\)](#)

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

Legislation permits the exclusion of employees from protection against dismissal for one year during the probationary period and employees having reached the normal retiring age are excluded from the protection of the Unfair Dismissals legislation which goes beyond what is permitted by the Appendix to the Charter.

[\(Conclusions 2012\)](#)

Thematic group 2: "Health, social security and social protection"

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

It has not been established that the public authorities promote the progressive institution of occupational health services.

[\(Conclusions 2013\)](#)

► *Article 11§3- Prevention of diseases and accidents - Right to protection of health*

- it has not been established that adequate measures are in place to prevent the risks arising from asbestos
- it has not been established that adequate measures are in place to prevent and reduce accidents.

[\(Conclusions 2013\)](#)

► *Article 12§1 – Right to social security - Existence of a social security system*

- Minimum levels of sickness, unemployment, survivor's, employment injury and invalidity benefits are inadequate.

[\(Conclusions 2013\)](#)

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

The right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

[\(Conclusions 2013\)](#)

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

It is not established that foreign nationals without resources, legally residing in Ireland, have adequate access to healthcare.

[\(Conclusions 2013\)](#)

► *Article 13§4 - Right to social and medical assistance- Specific emergency assistance for non-residents*

It does not find it established that all foreign nationals, legally or irregularly present in Ireland, have adequate access to emergency medical assistance.

[\(Conclusions 2013\)](#)

► *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 welfare services and the quality of social welfare services meets users' needs.

[\(Conclusions 2013\)](#)

► *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 quality of social services delivered by non state providers meets users' needs.

[\(Conclusions 2013\)](#)

Thematic group 3: "Labour rights"

► *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.

(Conclusions 2014)

► *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. (Conclusions 2014)

► *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. (Conclusions 2014)

► *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. (Conclusions 2014)

► *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 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. (Conclusions 2014)

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

1. the safeguards preventing workers from waiving their right to limits to wage deductions are inadequate;
2. after authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

(Conclusions 2014)

► *Article 5 – Right to organise*

1. certain closed shop practices are authorised by law;
2. the national legislation does not protect all workers against dismissal on grounds of membership of a trade union or involvement in trade union activities;
3. police representative associations are prohibited from joining national employees' organisations.

(Conclusions 2014)

► *Article 6§2 – Negotiation Procedures*

The legislation and practice fail to ensure the sufficient access of police representative associations into pay agreement discussions. (Conclusions 2014)

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

1. 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;
2. under the Unfair Dismissals Act, an employer may dismiss all employees for taking part in a strike;
3. the absolute prohibition of the right to strike of police forces goes beyond the conditions established by Article G of the Charter.

(Conclusions 2014)

Thematic group 4: "Children, families and migrants"

► *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.

([Conclusions 2011](#))

► *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.²

([Conclusions 2011](#))

► *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

([Conclusions 2011](#))

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

1. The minimum net wage is manifestly inadequate;
2. The rate paid to young workers between 16 and 18 years is too low; and

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

3. Young persons working for close relatives are not covered by the Minimum Wage Act.
([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

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

The amount of maternity benefit is manifestly too low

([Conclusions 2011](#))

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

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

([Conclusions 2011](#))

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

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

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *Article 19§8 and 19§10 – Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation; - Equal treatment for the self-employed*

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

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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

([Conclusions 2011](#))

The European Committee of Social Rights 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§1- Conclusions 2012
- Article 1§3- Conclusions 2012
- Article 15§3 – Conclusions 2012
- Article 18§1 – Conclusions 2012
- Article 18§3 – Conclusions 2012
- Article 25 – Conclusions 2012

Thematic group 2 “Health, social security and social protection”

- ▶ Article 3§1 –Conclusions 2013
- ▶ Article 3§2- Conclusions 2013
- ▶ Article 3§3- Conclusions 2013
- ▶ Article 11§1- Conclusions 2013
- ▶ Article 11§2- Conclusions 2013
- ▶ Article 12§3- Conclusions 2013
- ▶ Article 23- Conclusions 2013

Thematic group 3: “Labour rights”

- ▶ Article 22 – Conclusions 2010

Thematic group 4: “Children, families and migrants”

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

Collective Complaints and State of Procedure in Ireland³

Collective complaints (under examination)

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

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

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

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

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

Collective complaints (proceedings completed)

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

International Federation for Human Rights v. Ireland (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)

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

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

Decision on the merits of 2/12/2013

- Violation of Articles 5 (the right to organise), 6§2 and 6§4 (the right to bargain collectively) of the Charter

Resolution Res/CM ChS (2014) 12 of 8/10/2014

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

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

Decision on the merits of 8/12/ 2004.

- Violation of Article 17 (children's right to social, economic and legal protection), Resolution ResChS(2005)9 of 8/06/2005

³ The caselaw of the Committee relative to collective complaints may be consulted on the European Social Charter website on the [Collective Complaint webpage](#). Searches on complaints may also be carried out in the [European Committee of Social Rights Caselaw database](#).