



ESC Rights Initiative

Implementation of Economic, Social, and Cultural Rights in Ireland: Key Issues in Employment

“The first of human rights, is individual freedom, freedom of private ownership, freedom of thought, freedom of labour.”¹

Freedom of and in labour was one of the original elements of the struggle for human rights, and it remains a central objective. The individual right to work entails elements of human dignity and sustainability, as well as an important path to economic growth and a way to contribute to society through our productivity, whatever the society’s economic model is. Internationally, labour rights are set down in numerous conventions of the International Labour Organisation, as well as in human rights law through the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The obligation of the state in this context is not to provide work to everyone directly, but to ensure that everyone has the right to freely seek and choose their employment, and that the conditions of work are satisfactory. While the Irish Constitution does make some reference to labour and employment issues, the national legislation on some important aspects of labour rights remains quite vague, and they are relegated beneath the aims of economic competition and efficiency.

The right to work – the general and quantitative perspective

ICESCR Part I Article 6: “the right to work, which included the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right”.

Part II Article 6: “shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”.

The economic downturn in 2008 was the cause of the increase of unemployment in Ireland. It reached a high in 2012 with an overall unemployment rate standing at 15 per cent, with a long-term unemployment rate at 9.2 per cent. While the government commenced the 2012 Action Plan for Jobs which allocated €1.08 billion to support jobseekers, the unemployment rate remained high for several years. In 2017, the unemployment rate fell to 6.6 per cent in February, from 7.1 per cent in January 2017 and at 8.4 per cent in the same month of the previous year.

The right in work - the individual and qualitative perspective

¹ Jean Jaurès – Rallumer tous les soleils.



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Article 7 ICESCR: “the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular: (remuneration, safe and healthy working conditions, equal opportunities, rest and leisure)”

In Ireland the level of low-paid jobs in different sectors is unusually high. The inadequate standards of living for workers are due to a low National Minimum Wage and some taxation measures, which disproportionately affect the poorest in society. One factor is the general de-institutionalization of the employment relationship; and this goes hand in hand with a polarization of job quality. In the hospitality sector for example, workers are forced to be increasingly flexible towards low pay and casual work. While in the construction sector self-employment appears compulsory. The mobility of the workers in ICT and financial services is enforced. Issues identified by the Irish Human Rights and Equality Commission in its report published in April 2015 related to “zero hours” contracts, the employment of persons with disabilities, and forced labour and trafficking. One clear answer to the problems associated with underpaid jobs is the elevation of Ireland’s National Minimum Wage, which is essential to fairer remuneration for workers to ensure “a decent living for themselves and their families”.

The right in work – the collective perspective

Part I Article 8 “The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.”

Collective rights represent an important notion in the field of employment rights. Those rights are usually embodied by trade unions composed of workers and union leaders, set up by the Trade Union Act 1941, and mandated to support workers and negotiate in their interests. The right to join a trade union is guaranteed by the Constitution. The state has not consistently facilitated or encouraged unions. Over the years, union membership has decreased dramatically. From a level of 38.7% in 1999, membership numbers dropped steadily to a figure of 27.4% in 2014. Since independence, Ireland has remained one of the few western countries where collective bargaining rights were not fully protected and compulsory for employers to respect. While the Industrial Relations (Amendment) Act 2015 did go some way towards addressing this gap, the definition of collective bargaining as ‘voluntary engagements’ between employers and unions falls short of the definitions proposed by the Irish Labour Court and the International Labour Organisation. This effectively means that recognition of collective bargaining rights is still not compulsory, and that Ireland continues to fail to meet international standards.

This document was produced by students of module LW646 Economic, Social & Cultural Rights, at the Department of Law, Maynooth University – views of the authors do not necessarily represent the view of the ESC Rights Initiative.