

Global Forum News

Bulletin of the European & International Forum of the Irish Congress of Trade Unions

Brexit and Article 50

The text of Article 50 can be downloaded via this link:

<http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-European-union-and-comments/title-6-final-provisions/137-article-50.html>

It will be seen that once Article 50 is formally invoked, the clock starts ticking and the Member State concerned is out of the EU once agreement is reached or after two years.

The steps involved in the Brexit process are as follows:

1. Government formation.
2. Establishment of UK government negotiating position, and given there were no manifesto commitments beyond having a referendum, alignment with Conservative Party position.
3. Establishment of some element of cross-party consensus.
4. Establishment of a common position with the devolved Administrations in Belfast, Cardiff and Edinburgh.

Then, and only then, will the Article 50 button be pushed. The UK remains a full member up until the time the Article 50 button is pushed.

What is the Pillar of Social Rights?

This is an initiative announced by the President of the Commission, Jean-Claude

“This European Pillar of Social Rights should complement what we have already jointly achieved when it comes to the protection of workers in the EU”.

Juncker in his state of the Union address to parliament on 9th September. It aims to restore the concept of a European Social Model. There is a round of consultations which will take place in the latter half of this year. Congress will be engaging with this

consultative process both at national level and through the ETUC.

Regrettably, however, as things currently stand, when it comes to a clash between workers' rights and freedom to provide goods and services, workers' rights will always come out second best, as was seen in the recent infringement proceedings launched against Germany and France by the Commission for applying their national minimum wage legislation to international truck drivers.

The Five Presidents' Report:

On 22nd June 2012, the President of the European Council, Herman Van Rompuy, presented a report which identifies four building-blocks that need to be in place to deepen Economic and Monetary Union, namely an 'integrated framework' for financial, budgetary and economic policies respectively as well as adequate mechanisms for democratic legitimacy and accountability. This was followed at the December European Council meeting by a more detailed document (known as the '*Four Presidents Report*') with suggested timeframes for implementing a range of measures under each heading.

Following the Euro Summit in October 2014, further work was undertaken to produce what is referred to as the '*Five Presidents Report*', involving Jean-Claude Juncker, President of the Commission; Donald Tusk, President of the European Council; Jeroen Dijsselbloem, President of the Eurogroup; Mario Draghi, President of the European Central Bank and Martin Schulz, President of the European Parliament.

The '*Five Presidents Report*' sets out a series of steps to strengthen Economic, Financial, Fiscal and Political Union in the Euro Zone. A timeframe to complete EMU is set as 2025 at the latest. This involves steps to promote convergence in relation to employment and social outcomes and to prevent the emergence of imbalances through a more binding decision-making process at Euro area level. It is also proposed to fully implement a Single Resolution Mechanism for banks and to launch a common deposit insurance scheme and a more integrated capital markets system at EU level. In the longer term it is envisaged to establish a capacity for the Euro Zone to provide an automatic stabiliser function. The need for increased oversight by both the European Parliament and National Parliaments of the European Semester process is highlighted and it is recommended to incorporate rules relating to the European Stability Mechanism into the EU Treaties. The possibility of creating a Euro area Treasury is also put forward. Overall, the report presents significant changes in relation to how the Euro Area is to be structured and governed over an immediate and extended time horizon.

EU Recommendation on National Productivity Boards

In mid-June, EU Finance Ministers agreed in principle to establish, within 18 months, National Productivity Boards (NPBs) in Eurozone countries. The purpose of these boards will be to ‘analyse developments in the field of productivity and competitiveness.’

The ETUC acknowledges that Ministers had ‘thankfully watered down’ the Commission’s original October 2015 proposal to set up a coordinated network of National Competitiveness Councils to ‘monitor’ competitiveness developments and to ‘inform’ wage setting processes, but still opposes this initiative, arguing that pay rises and public investment are the only sustainable way to increase Europe’s productivity; it will “at best be useless, and at worst very damaging”.

The non-binding Recommendation, which has yet to be formally adopted, states that each government should ‘identify’ one NPB, which in turn could ‘rely or consist’ of different existing bodies. The National Competitiveness Council may therefore be designated as Ireland’s NPB. The Recommendation refers to the ‘involvement and consultation’ of stakeholders, suggesting a role for unions and others both in the adoption of the NPB’s ‘national mandate’ and in its ongoing work.

Ministers also added a clause stating that analysis “could be produced by existing and separate bodies provided it is of...high quality”. This may provide some scope to reframe the debate on these issues.

ILO Geneva 2016

Report on the hearing of Ireland’s case at the ILO’s Committee of the application of standards (CAS) June 2016

Right to Collective bargaining for self-employed workers - Congress was asked by the ITUC if we wanted our case to remain on what is known as the CAS ‘long list’. The issue is the Competition Authority ruling that the collective agreement between EQUITY/SIPTU and the Institute of Advertising Practitioners in Ireland was in breach of s.4 of the Competition Act 2002 for the exclusive reason that each actor was considered to be a business ‘undertaking’ and it is unlawful for undertakings to agree to fix prices for the sale of their services. This decision affected other unions representing self-employed workers in Ireland, (including the NUJ), representing freelance journalists and photographers and session musicians represented by SIPTU – all of whom lost access to their collective agreements. Despite numerous requests from the ICTU to the Competition Authority to alter its position, they have consistently upheld the original decision.

However, through *Towards 2016*, an agreement provided for an amendment to the Competition Act as follows:

“To exclude certain categories of self-employed workers (freelance journalists, session musicians or voice-over actors) from the provisions of the Competition Act 2002”.

For various reasons, including the arrival of the Troika in Ireland, and despite the ECJ ruling in the FNV musician case, that agreement has never been implemented and the Government continues to advise us that the advice of the European Commission is that to do so is contrary to EU competition law.

The hearing took place on 3rd June. The hearing is a formal affair where the Government is given an opportunity to set out its stall followed by responses from worker and employer reps. We were supported by worker delegates from the UK, New Zealand, the Netherlands and France.

Our main argument was that Ireland cannot argue that, following interpretation of EU rules, that it is exempt from ILO rules. We argued that all Convention No 98 applies to all ‘workers’ and that the creation of an artificial distinction between employees and self-employed workers is contrary to proper observance of the Convention and is damaging the ability of vulnerable workers to collectively bargain on their pay and conditions of employment.

The following are the Conclusions presented 8 June:

- Right to Organise and Collective Bargaining Convention, 1949 (No. 98) Ireland (ratification: 1955).
- The Committee took note of the information provided by the Government representative and the discussion that followed on issues raised by the Committee of Experts. The Committee welcomed the Government’s indication that a significant step was taken with the introduction of the *Industrial Relations (Amendment) Act 2015 (No. 27)*, which entered into force on 1st August 2015.
- The Committee expressed disappointment that the Government had not provided a report in time for the Committee of Experts’ Review. It noted that the Government advised that it had submitted a report in April 2016 and the Government undertook to ensure that its report was fully responsive to the issues raised by the Committee of Experts so that the experts can fully consider the Government’s responses on all of the issues raised in this case.
- The Committee noted that this case related to issues of EU and Irish competition law. To this end, the Committee suggests that the Government and the social

partners should identify the types of contractual arrangements that would have a bearing on collective bargaining mechanisms.

- The Committee invites the Government to report in detail to the experts before its next session in November 2016.

This conclusion indicted that the Government was running out of excuses and was a factor in the acceptance of Senator Ivana Bacik's Bill, which can be downloaded on <https://www.kildarestreet.com/sendebates/?id=2016-07-06a.218>

Qatar at ILO 2016

A discrimination case at the Committee on the Application of Standards was heard and conclusions are posted below. The discrimination case was chosen because the ILO can't be seen as going over the same ground as the high level mission and the 'ultimatum' given to Qatar over Convention 29 on forced labour. In March this year, the International Labour Organisation gave Qatar twelve months to reform its labour laws and ensure effective labour inspection, or face the prospect of an ILO Commission of Inquiry being launched next March. Government, employer and worker delegates to the ILO's Governing Body set the deadline yesterday, despite a major lobbying effort by the Qatar government. An ILO Commission of Inquiry is one of the most powerful elements in the UN body's mechanisms to help ensure compliance. In close to a century of history of the ILO, the procedure has been invoked only thirteen times.

The meeting received a report from a high-level mission of union, employer and government representatives in February, which underlined Qatar's failure to comply with key international labour standards that it has ratified but not implemented.

Qatar now has twelve months to do what it has to do and has so far refused to do so. It must end the use of modern slavery in the huge migrant workforce by bringing its laws in line with ILO standards. An immediate start is needed, to end the appalling treatment of the people delivering its massive infrastructure programme – construction workers, domestic workers and those providing the services on which one of the world's richest countries depends.

The complaint against Qatar, brought by ILO delegates in 2014, calls for the government to respect ILO Conventions 29 on Forced Labour and 81 on Labour Inspection. Cosmetic reforms announced by the Government have failed to convince the international community that it is yet serious about ending forced labour. Key steps which the government needs to take are:

- Ratification of the Protocol updating Convention 29, adopted by the ILO in 2014.

- Complete abolition of the notorious exit visa, which is used to force migrant workers to remain in Qatar.
- A non-discriminatory living minimum wage; and
- Allowing migrant workers to have a collective voice without fear of punishment.

Qatar embarked on a massive infrastructure programme to underpin its hosting of the World Cup in 2022, but it did so without regard to the consequences for the construction workforce. The death and injury toll continues to rise, and migrant workers remain impoverished and trapped in servitude. Qatar has the financial means to ensure safe work and decent wages. That day has yet to come, but the new ruling from the ILO should hasten Qatar's realisation that the world will only be convinced by real change, not by public relations exercises.

European Economic and Social Committee Update

An important paper on 'Work Quality' has been published – **'The Changing Nature of Employment Relationships and its Impact on Maintaining a Living Wage (Exploratory Opinion - Dutch Presidency):**

<http://www.eesc.europa.eu/?i=portal.en.soc-opinions.37881>

This is worth reading in full, but selected recommendations are as follows:

- Clarification of the legal status of new labour market intermediaries and which standards, obligations, liabilities and rules of operation should apply.
- That new forms of employment relationships be addressed should the EU Commission decide to revisit the Written Statement Directive.
- That issues relating to regulation of the activity of the intermediary, liability for accidents, damage and service failures in relation to on-line platforms, crowdsourcing, economically dependent self-employed and other new forms of self-employment be addressed.
- Clarification of the applicability of existing EU regulations on safety and health at work for these new forms of employment, procedures for dealing with breaches of these regulations, responsibilities for inspection and for workers', consumers' and public liability insurance.
- Labour inspectorates should be ensured a role and given the resources and training to fulfil this role.

Key recommendations for further study are as follows:

- The changing nature of work and employment relationships to inform EU employment policy.
- The impact of these developments on skills.
- The lifetime implications of new forms of work, whether they are gendered or related to other demographic variables (such as age, disability, ethnicity and migrant status).
- The impact on collective bargaining coverage, and the right to freedom of association needs to be assessed and concerns to be addressed and remedied.

CBI and TUC publish joint statement on the impact of the EU referendum vote on workers and the economy:

<http://www.eesc.europa.eu/?i=portal.en.group-2-news.39877>

Opinion on REFIT – The Proposed Streamlining of EU Directives

If this process takes a wrong direction it could encourage deregulation.

The Committee points out that the work of the REFIT Platform, in which it actively participates, should be restricted to carrying out a limited review of a number of topics and cannot replace the co-legislators or the mandatory consultation of the Committee and the social partners, as provided for by the Treaties.

The EESC calls for the REFIT programme exercise not to conclude in advance, what course regulation should take - validating, extending, complementing, amending or repealing legislation. The EESC could furthermore not agree to be a part of any exercise that sought to quantitatively diminish the EU acquis without measuring in advance all the consequences on social, environmental and consumer protection.

<http://www.eesc.europa.eu/m?i=portal.en.int-opinions.38341>