



Irish Congress of Trade Unions

Opening Statement to Oireachtas Joint Committee on Enterprise, Trade and Employment on the regulatory and legislative changes required for the transposition of the Adequate Minimum Wages Directive

24 January 2024

www.ictu.ie

Cathaoirleach, members of the Joint Committee, thank you for the invitation to this hearing on the transposition of the Adequate Minimum Wages Directive. My colleague Mr Ger Gibbons, Social Policy and Legislative Officer with Congress, and I look forward to engaging with you on what is necessary to fulfil Ireland's obligations in respect of the transposition of this especially important directive.

Congress has been centrally involved in the development and negotiation of this directive through our active participation in the European Trade Union Confederation (ETUC). We see this legislation as the most significant and progressive to emerge from the European Union in a generation and, if transposed and implemented as intended, to be potentially transformative and enormously beneficial for industrial relations in Ireland.

The aim of the directive is to improve **"living standards and working conditions."** It sets the **"promotion of collective bargaining on wage setting"** as a fundamental way to achieve this. **"Collective bargaining"** is cited thirty-four times, hence its centrality to transposition and implementation.

To give effect to the directive properly we need to see a key fundamental change of culture. The Irish state has been, at best, a passive, disinterested bystander on collective bargaining and, at worst, has facilitated its denial to many. The directive now obliges the state to **"promote collective bargaining."** Therefore, the state and all its agencies need to become advocates and enablers of collective bargaining. An all-of-government approach is needed, with a clear and consistent policy focus.

Article 4 places several obligations on Member States to promote collective bargaining. The aim is twofold here, both to facilitate the exercise of the right of workers to collective bargaining and to increase collective bargaining coverage (the share of workers covered by collective agreements). The state is therefore obliged to:

- **“Promote the building of and strengthening the capacity of social partners”** to engage in collective bargaining;
- Encourage **“meaningful and informed negotiations between the social partners on an equal footing, with access to appropriate information”** to conduct collective bargaining;
- **Protect workers** engaging in collective bargaining and their trade union representatives from acts of discrimination in respect of their employment, when participating in collective bargaining, or seeking to;
- **Protect unions and employers** engaging in collective bargaining from interference by each other in their establishment and functioning.

Trade union density (‘membership’) in Ireland currently stands at around 22%. Coverage around 34%. In stark contrast, density for employer representative bodies is 70%. The lower union density is not because workers do not wish to access collective bargaining. On the contrary, it is because of the in-built imbalance in government policies. Representativeness and adequate representativeness are issues the state must address in transposition.

Unlike in many parts of Europe, workers in Ireland have no right to access and engage in collective bargaining. This is particularly acute and problematic in the private sector. When unions organise a group of workers in an employment, whether it’s 30%, 60% or 90%, those workers have no right to engage in collective bargaining. Therefore, we must use *the power of persuasion* - persuade the employer it’s a good thing to negotiate with a union or, should that fail, fall back on *the persuasion of power* – take industrial and/or strike action. Is this really the best Ireland can do in 2024? Transposition requires the state to address this inequity.

Research shows there is a powerful appetite among workers to access unions and collective bargaining. The 2021 *Union Voice in Ireland* paper by Professor John Geary and Dr Maria Belizon of UCD, found that 44% of all workers not in a union, and 67% of young workers (16-24) want to join and take part in collective bargaining.

The directive provides the tools to address the power imbalance in state policy and to remove an employer's veto on the right for his/her workers to access collective bargaining with a union. And the directive is clear that collective bargaining takes place with *unions*, not other entities.

Recital 24 provides that among the steps member states can take to promote collective include ***'measures easing access of the trade unions representatives to workers.'*** Given the enormous disparity in density statistics cited above, we must ensure this happens.

If one of the aims is increase coverage, this can only occur by an increase in collective bargaining in general but particularly at sector level. For this to happen workers who want this need access to unions - and unions to workers. How can we have ***"constructive, meaningful and informed negotiations on a equal footing where both parties have access to appropriate information in order to carry out their functions in respect of collective bargaining on wage setting"*** if unions cannot access workers who want to engage in collective bargaining? If employers refuse to engage, despite the fact that a union represents a portion of his/her employees?

We therefore need legislation that:

- Promotes collective bargaining in general but particularly at sector level,
- Provides a road map for unions to seek to engage in collective bargaining with an employer where it is not the traditional practice of the employer to engage, (provided the union can verify it represents an agreed percentage of workers in each grade, group or category);
- Provides relevant penalties, following due process and procedures involving both the WRC and Labour Court that encourages such employers to engage in collective bargaining;
- Protects trade union representatives from dismissal or unfavourable treatment at work due to their role;

- Provides that a designated trade union representative in each employment is provided by the employer with the comprehensive necessary means to conduct his/her functions;
- Provides that an employer will not penalise a worker on the grounds of trade union membership or activity;
- Provides be sufficient and dissuasive sanction equivalent to five years remuneration should the worker be dismissed or subject to unfavourable treatment for trade union activity.

We also need to seriously look at public procurement as a lever and tool to promote collective bargaining. Why should taxpayers' monies go to firms who deny their workers access to collective bargaining, should they want it.

Regarding the provisions concerning statutory minimum wages such as the National Minimum Wage (NMW), we need to look at issues such as the procedures for setting an *adequate* NMW; the involvement of social partners in setting the NMW; variations (e.g. reduced rates for younger workers) and deductions; workers currently excluded (e.g. apprentices); enforcement, infringements and penalties.

To conclude, we have much work to do to transpose the directive. We have urged the Department of Enterprise, Trade and Employment to commence discussions with the social partners next month. Further to transposition we need to consider the suite of ***"enabling conditions"*** regarding collective bargaining and an Action Plan. We see the Doherty High Level Group report forming part of such a first action plan. That report has yet to be fully legislated for and we urge the department conclude that process without further delay.

We would be happy to take questions.

Thank You.

Ends