



PDFORRA

Address to the Dail Joint Committee

On

Foreign Affairs and Defence

25th May 2021

Chairman, Deputies, Senators,

Firstly, I wish to introduce my colleagues: Mr Mark Keane, President of PDFORRA, Mr Martin Bright, Deputy General Secretary of PDFORRA and Mr Damien Quigley, member of our National Executive.

I wish to thank you for the invitation to attend your Committee this afternoon. This is the second time that I have had the honour of addressing the Committee during my tenure as General Secretary of PDFORRA.

PDFORRA represents in excess of 6500 members of the Defence Forces. This number represents one of the highest levels of representation as a percentage of workforce of any public service union in the State.

Our Association was founded in 1990, following a significant period of turmoil surrounding pay and allowances, which forced many personnel to leave at that time. Recent times have seen the Defence Forces encounter further difficulties with pay and allowances, resulting in another exodus of fine young men and women who could not sustain life within the Defence Forces, based on the rates of pay and allowances on offer.

In an effort to stem this exodus, PDFORRA has engaged in every process and with every Body who we believed could make a difference and improve the lot of our members. Regrettably, there has been a lack of engagement by various parties which has seen our Association turn in ever-increasing numbers to the court system for relief. Actions have been taken on foot of breaches of the Working Time Directive, Freedom of Association and Freedom of Assembly. Additionally, legal actions have taken place regarding outstanding adjudications for members of the Army Ranger Wing, Chefs, and Account Holders with papers recently being submitted on behalf of members to secure placement on the current SNCO course.

Further, this year, our Association has highlighted some of these issues to external bodies such as the International Labour Organisation and the European Social Rights Committee.

Over the course of the last year, PDFORRA has made submissions to the Commission on the Future of the Defence Forces, the Pensions Commission and a submission to the Department of Enterprise on the issue of remote working.

Further, PDFORRA has continued our work and engagement on behalf of our members at Conciliation Council and at DFHQ Forum.

However, despite all of the foregoing work, returns to members have not been what we believe are necessary to sustain retention across the Defence Forces. This can be exemplified by turnover figures across the defence organisation.

For example, the Naval Service now has a strength figure of just over 800. Given numbers in training, the numbers of non-seagoing appointments across both the Commissioned and Enlisted ranks and the numbers of personnel who have completed their sea/shore rotation, the numbers of personnel actually available to go to sea is extremely limited. PDFORRA has, for years, advised our Department, military management and public representatives that there was no elasticity in the system should a crisis arise. The net result is the inability of State ships to go to sea. In some instances vessels worth tens of millions of Euro are idle for the lack of appropriately trained staff.

Specialist technicians within the Air-Corps are also in short supply with significant shortfalls in personnel across a wide spectrum of specialities. This is feeding a growing incidence of burnout and departure from this branch of the service. The potential rise in the economic situation, together with the lack of security of tenure and lack of movement in technician pay will no doubt hasten the departure of more men and women in the short to medium term.

The Army, also has significant difficulties with the retention of personnel. Indicative of the trend in personnel leaving is the fact that in 2016 there were 44 Sgt vacancies within the Army this has now risen to 155 in 2021, with 267 vacancies across the whole organisation.

As PDFORRA highlighted previously, many of these vacancies are technicians, which take years to backfill- as personnel have to qualify in both their technical area and to the appropriate military rank. However, there are multiple vacancies in the line streams also, with some units having significant shortfalls of Sergeants and Corporals. All told there would be in excess of 650 vacancies at Corporal level if all the Sergeant vacancies were filled. This, in an organisation as small as our Defence Forces is an enormous shortfall.

The foregoing leads me to this point, the fact that the Defence Forces has performed, to the excellent level it has over the course of the pandemic, is testament to the calibre of the men and women that populate its ranks. As an Association, PDFORRA is extremely proud of the contribution to the national effort made by our members during the past year. They have shown themselves to be selfless, adaptable, resilient and capable of feats that surpass even the loftiest of expectations. Great credit is also due to the families of members who have supported our personnel in their endeavours over the last year. Lastly, PDFORRA will also take this opportunity to place on record PDFORRA's recognition and appreciation of the dedicated voluntary work undertaken by the many veterans across the country over the last year.

This pandemic will shortly be beaten. The State and our Defence Forces will return to normal operational tempo. Our economy will improve. Jobs will be created and as a nation we will flourish again. What then happens to the Defence Forces? Will we as a nation forget the contribution made by these men and women, or will we learn the valuable lesson that storms/pandemics and cyber-attacks occur at the most inopportune moments and without appropriate investment in the resource that is the Defence Forces we are liable to pay a heavy price for being unprepared.

While the Commission on the Future of the Defence Forces work could not be timelier, in terms of having a national emergency to test current structures and the response of the Defence Forces, it must be remembered that recommendations from this body relating to pay/allowances and systems must be discussed with PDFORRA in advance of subsequent implementation.

The status of morale within the organisation is always difficult to judge, but, currently, it fluctuates across the three services. In many units it is at a low ebb due to the negative impact the loss of personnel has, in other units, the desire to contribute to the national effort has a crystallising effect. Regardless, personnel will always act in a professional manner in times of national crisis; however, personnel are aware that the structural difficulties with pay, allowances, working time and contracts remain live issues. Additionally, the contentious issue of a potential Permanent Pay Review Body, which has never been discussed with PDFORRA is also on the horizon.

I will, in so much as possible within the timeframe permitted, address these issues in turn.

PDFORRA has seen it remarked that the starting pay of a member of the Defence Forces is very good, and while it cannot be denied that the basic pay including MSA of a three star Private at Twenty Nine Thousand Euro, before tax, is a significant amount of money for any young man or woman, it must be measured against the hours worked, exposure to danger, insecurity of tenure and the impact that military life has on family life and budgets notwithstanding the other vagaries of service.

Current pay structures within the Defence Forces have a narrow pay spine that reflects the hierarchical nature of our rank structure. This pay spine is then added to with allowances to reflect specialities, such as trade/qualifications. Additionally, due to the historical revulsion at establishing a system of overtime, which the General Staff described as “an anathema to military service” to the Gleeson Commission in 1990, other allowances have been added to reflect unique dangers and circumstances such as EOD allowance for Ordnance personnel and Sea-Going Allowance to induce personnel to go to sea.

The foregoing factors have resulted in a complex pay structure, which was described as such by the Gleeson Commission.

PDFORRA has made numerous recommendations to the Commission on the Future of the Defence Forces in this area of pay structures. The Association has not made recommendations on pay rates, as this falls outside of the Commissions Terms of Reference.

There can be no doubt that current pay structures need to be revised, however, it must be remembered that the complexity of the role and function of the Defence Forces has not been

altered considerably since the Gleeson Commission reported and changes should not be made only in the hope that they will turn things around, as sometimes even small changes, which were believed might have a positive effect can have adverse consequences for years afterwards.

Previously, members of the Defence Forces, like other public servants, enjoyed certain benefits associated with public service- guaranteed pay and pensions, security of tenure until pension age, protection against dismissal etc. These benefits were contrasted against private sector employment by prospective employees, which while generally better paying had less stability. These factors, when compared, and taking due cognizance of the economic circumstances prevailing, made public service a credible prospect.

However, since 1990, the benefits previously associated with public service generally, have become relatively mainstream with the advent of, *inter alia*, the Payment of Wages Act, The Minimum Wage Act, The Organisation of Working Time Act, the Pensions Act and the Unfair Dismissals Act. These legislative provisions, in essence, have diminished the attractiveness of a life in the Defence Forces, which necessitates a particular calibre of person in any event.

Rates of pay, generally, are a product of the pay provided divided by the time spent at work. What has not helped the Defence Forces over the last few years is the lack of any formal working time agreement, with members working extensive hours for rates of pay that are more appropriate for flat hours, which is not the norm in the defence forces.

PDFORRA recognised the causal link between levels of disenfranchisement with pay and working time many years ago, however, the opportunity to address this was clouded in the absence of precedent on the issue of working time from the CJEU.

In 2013, PDFORRA submitted a claim for Holiday Pay through the C&A Scheme on foot of a CJEU ruling in the case of *Williams V British Airways*. Following the submission of this claim it was found that members of the Defence Forces did have an entitlement to Holiday Pay. This was paid in arrears to 2009.

Subsequently, following the exchange of extensive correspondence with the Department, PDFORRA initiated a claim on behalf of Ms Susan O' Donnell for the amendment of leave Regulations A.11. This claim sought to provide for carryover leave in appropriate circumstances arising from the *Schultz-Hoff* judgement. This claim was settled on the "steps of the court" as one might say with the amendment of the Regulation.

Thereafter, PDFORRA, following extensive exchange of correspondence, again initiated legal actions on multiple cases for breaches of the Working Time Directive. These claims were subsequently settled in 2019 following a mediated settlement.

The common thread running through the majority of these issues is the marked reluctance to engage through the C&A process and final settlement at court. This, as I have said before to this Committee in 2019, has a demoralising effect, as PDFORRA must go through the C&A process in order to be successful at court action. Meanwhile, members are frustrated at the apparent lack of progress while claims are processed.

Presently, PDFORRA is in the process of preparing multiple court actions due to the failure to secure agreement on basic rights based issues.

A similar situation arises in the context of contracts. PDFORRA, in 2019, informed this Committee that the issue of contract terms for Post 1994 personnel needed attention. Regrettably, to date, enlisted personnel do not have the clarity needed on their upper service limits. This will cause irreparable harm the longer it remains unresolved, with members rightly feeling a lack of reciprocated loyalty.

It makes no sense to compulsorily discharge personnel who are experienced, capable and medically fit to perform the duties required of them. PDFORRA raised this important issue with the Minister yesterday, who informed us that an interim report should be available by mid-June.

Lastly, I want to address the issue of ICTU affiliation. PDFORRA, in 2014, submitted a complaint to the European Social Rights Committee alleging breaches of Articles 5 & 6 of the European Social Charter. These complaints were upheld unanimously by the Committee in early 2018. In late 2018, PDFORRA was asked to engage with Mr Gerard Barry who was asked to carry out a review of the C&A Scheme with the inclusion of ICTU affiliation in his terms of reference. This was undertaken in good faith by PDFORRA. Mr Barry recommended that discussions take place between officials of the Department, ICTU and PDFORRA. PDFORRA engaged with all sides, as recommended. Following this, certain assurances were sought by management from PDFORRA. These were subsequently provided.

In early 2020, prior to the General Election, Mr Leo Varadkar, then Taoiseach, was reported in the Irish Examiner on the 1st of February as having said that PDFORRA should be permitted to affiliate to ICTU. Our Association and membership was extremely pleased by his remarks and believed that our hard fought case for affiliation would finally be recognised.

However, subsequent to discussions between the coalition partners, PDFORRA discovered that a Permanent Pay Review Body was proposed to be established. This body was never requested by PDFORRA. Moreover, our Association, having viewed the results from the Armed Forces Pay Review Body in Britain, would believe that the establishment of such a body would be counterproductive and give rise to even greater problems in time.

Additionally, it must be considered that the Programme for Government commits such a body to act in compliance with the Public Sector Pay Policy. This would result in a situation where the representative bodies would be subject to a policy that they have no prospect of influencing. Further, PDFORRA believe such a policy would be inconsistent with our obligations under the European Social Charter and in direct contravention of the recent recommendations of the OCSE, who have stated that bodies such as ours should be allowed to associate with umbrella groups.

PDFORRA has repeatedly asked the Minister to explain how such a body can meet the aforementioned obligations under international treaties and conventions while still conforming to public sector pay policy. We have yet to receive clarity on these points. Repeated pronouncements about the unique nature of the Defence Forces being recognised do little to provide any illumination on the subject. Our members deserve clarity and should be

able to expect that that findings from bodies, such as the Social Rights Committee would be honoured.

People who assert that in the event of a strike members of the Defence Forces may refuse to cross picket lines would do well to reacquaint themselves with Section 131 of the Defence Act 1954, and the obligations of members to obey all lawful orders. Additionally, persons who say that in the event that our members cross picket lines we would be punished by ICTU at subsequent pay talks should consider that members have received little, if anything, beyond basic deals in the past 10 years anyway. Furthermore, it must be remembered that all public sector unions would have provisions for minimum cover in any event during strikes.

Lastly, it must be considered that PDFORRA has provided numerous saving caveats to the Minister through the Department in response to the foregoing perceived fears.

In the foregoing respect, PDFORRA view ourselves as the tin edge of the wedge and could be used as a model to reduce workers' rights and sow discourse across the public service.

As pointed out earlier, the failure to keep pace with movements in pay, legislation and societal norms will result in our Defence Forces falling further and further behind in terms of recruiting and retaining personnel. It's long past time to stop the rot. It's time to look to the future and embrace the prospect of modern work practices and a modern Defence Forces that provides our State and its citizens with the protections they need and deserve.

And, while PDFORRA may not necessarily agree with his cause, it is easy to concur with the sentiments of General Stonewall Jackson when he said:

“The patriot volunteer, fighting for country and his rights, makes the most reliable soldier on earth”

On behalf of PDFORRA members I want to thank you for the work of the Committee.