



Irish Congress of Trade Unions

Congress Submission to the Joint Committee on Gender Equality

April 2022

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Congress welcomes this opportunity to make a brief written submission, as part of the Committee's examination of the recommendations made by the Citizens' Assembly on Gender Equality. As requested, we have limited ourselves to responses on the recommendation/s most relevant to our own work and have made suggestions on how those recommendations could be implemented.

Our full submission to the Citizen's Assembly is available on our website¹.

Introduction

Congress actively participated in the work of the assembly presenting twice on workplace related issues. In April 2021² we welcomed publication of the Citizens Assembly recommendations, stating that it was "a very good day for working women and for future generations of workers". We noted that many of the recommendations made by this group of men and women in the Citizens Assembly echoed the calls from trade unions in our campaigns to remove barriers to pay parity and gender equality in the workplace.

Of particular interest was the adoption of our recommendation that workers be given a legal right to collective bargaining, and the acknowledgment of this as vital for improving wages and working conditions.

Assembly members deserve great credit for charting a course towards a long-awaited gender equal society, including in our workplaces. The Oireachtas must now match the ambition for change put forward by the Assembly and implement the recommendations in a timely manner and we wish the Committee on Gender Equality the best in your work.

Relevant Recommendations

Pay and Workplace Conditions

Recommendation 32 : The State should set targets in legislation to reduce the hourly gender pay gap (currently 14%) to 9% by 2025 and to 4% by 2030 with a view to eliminating it by 2035.

The current Eurostat figure³ for Ireland's gender pay gap is 11.3% (based on 2018 data), below the EU average of 13%.

¹ <https://www.ictu.ie/publications/congress-submission-gender-equality-citizens-assembly>

² <https://www.ictu.ie/news/good-day-women-workplace-ictu>

³ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics#Gender_pay_gap_levels_vary_significantly_across_EU

We note the significant issues surrounding how the pay gap is currently calculated and how it is measured raised by the NERI in their submission to your committee⁴. Targets can of course focus minds and give an explicit goal under which political and policy action can work towards to eradicate the gender pay gap. However, there is a real risk that when it comes to the gender pay gap that if we narrow our focus, we can end up missing the target. This is because the gender pay gap is a complex issue and cannot be accurately captured via a single indicator such as the gap in mean hourly earnings. The Gender Pay Gap Information Bill recognises this, and so this is why employers will be required to report on the gap using a range of indicators and we welcome this.

Congress asks that the movement of the gender pay gap continue to be regularly monitored as our gender pay gap audit systems develop so as to ensure they are effective.

Recommendation 33: The Gender Pay Gap Information Bill should be enacted and implemented without delay. The law should include penalties for non-compliance and an obligation for annual reporting.

Congress notes the 8 March announcement by Minister O’Gorman⁵ regarding the introduction of gender pay gap reporting in 2022.

While it is a significant development that employers with 250 employees or more will be obliged to choose a ‘snapshot’ date of their employees in June 2022 and to report on the hourly gender pay gap for those employees on the same date in December 2022, it is a source of disappointment that the full regulations governing the process are still not available at time of writing. Congress has been to the fore in calling for the introduction of gender pay gap reporting and we want to see early publication of these, including a requirement on employers to discuss the gap with workers and their representatives and to agree a joint approach to tackling any gaps identified in an effective manner.

We have trained trade union officials on how to interrogate gender pay audits and unions will be equipped with the necessary supports to participate in this first round of audits in the coming months.

Congress asks the Committee to recommend such an approach to the implementation of the Gender Pay Gap Information Bill.

Recommendation 34: Increase the minimum wage to align it with the living wage by 2025 while considering potential employment impacts on small businesses.

The Programme for Government refers to a new social contract with citizens, including a commitment to progressing a living wage over the lifetime of the Government. The Government has

⁴ <https://www.neriinstitute.net/blog/neri-submission-citizens-assembly-gender-equality>

⁵ <https://www.gov.ie/en/press-release/aa331-minister-ogorman-announces-introduction-of-gender-pay-gap-reporting-in-2022/>

sought the advice of the Low Pay Commission on the most appropriate means of fulfilling this commitment and we have presented views to the LPC on this matter.

The Living Wage Technical Group, in their most recent report, calculated the hourly pay required by a full-time worker without children to afford a socially acceptable standard of living at €12.90. The current hourly rate of the minimum wage is €10.50 so substantial increases are needed over the coming years if the commitment is to be met. It is notable that after an extended period of low inflation there has been a sharp increase in the cost of living in 2022 and it is our view that the next recommendation of the low pay commission should be that the minimum wage aligns with the rate of the living wage.

Congress calls on Government to align the national minimum wage as soon as possible with the Living Wage and hope the Committee can support such a call.

Recommendation 35: Support employment contract security through:

(a) Establishing a legal right to collective bargaining to improve wages, working conditions and rights in all sectors.

This is a key recommendation from the Assembly in our view and is an enabling one for many of the other workplace challenges identified. Collective bargaining is a key means whereby employers and trade unions can establish fair wages and working conditions and provide the basis for sound labour relations.

Collective bargaining agendas have been broadened to address issues such as workplace discrimination, equal pay for work of equal value, the care responsibilities of workers, and the impact of domestic violence in the workplace. Women are increasingly participating in the leadership of some trade unions and collective bargaining is a key instrument for the achievement of gender equality.

We believe that all workers across Europe and our world must have the right to influence and shape the conditions under which they work. Yet today in Ireland, many workers are denied this fundamental right.

There are a couple of processes underway which have the potential to address this serious decent work deficit:

1. A draft EU directive on a minimum wage aims to lay down minimum requirements to ensure an income that allows for a decent standard of living for workers and their families. This can either be realised via a statutory minimum wage (the lowest wage level permitted by law) or by allowing workers to negotiate their wages with their employers via collective bargaining. The draft Directive also seeks to strengthen and extend the coverage of collective bargaining by obliging member states with less than 80% of workers covered by these agreements to take active steps to promote this tool. This Directive could transform the landscape for collective bargaining in Ireland in favour of workers.
2. Work on this topic is also underway in a High-Level Group through the Labour Employer Economic Forum and could also make a significant contribution.

If we are to achieve Goal 8 of the sustainable development goals and provide decent work for all – we in Ireland must grasp these opportunities to finally introduce a mature industrial relations system that will also ensure that nobody is left behind.

Congress asks that the Committee support these calls to advance collective bargaining here.

(b) Increased resourcing of the Workplace Relations Commission for more effective enforcement of current employment laws.

This is another important recommendation. The WRC is currently operating with around 50 Labour Inspectors. There is an urgent need to increase this number to at least the 90 as agreed as part of the last social partnership agreement, Towards 2016.

Congress asks that the Committee support such an increase in the number of labour inspectors.

Recommendation 36: Introduce a statutory right to reasonable access to flexible working.

Congress has led the campaign for the right to request remote working bill, currently at pre-legislative scrutiny stage. There is a huge appetite among our members for a blended working arrangement – some of the time in the office and some of the time working from home or a hub close to home. As unions we recognise that remote working has huge potential benefits for workers and their families, for businesses, for communities and for the environment.

However, we are starting to see the emergence of a work-life balance privilege gap between workers in jobs that can be done remotely and workers in jobs requiring a physical presence – a Zoom Divide.

In order to reduce the potential for such a two-tier workforce between the remote working haves and have-nots, Congress has been to the fore in calling for a statutory right to request all types of flexible working arrangements, not just remote. That is, arrangements such as flexi-time, part-time, job shares, split shifts, compressed hours etc. This is already an established worker right in the UK and in most other EU countries.

Indeed, we raised this in our evidence to the Citizen’s Assembly and are delighted they made the introduction of a statutory right to access to flexible working one of their recommendations. Congress believes that making flexible working more mainstream will help address gender inequalities in the workplace and narrow the gender pay gap.

A 2019 EU Directive on Work-Life Balance⁶ will give carers and parents with children up to eight years old a right to request flexible work. It is our view however that limiting this right to these two

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L1158#PP4Contents>

groups risks the expected shift to working from home becoming highly feminised, which would have negative consequences for women's career progression.

The need for flexibility must be balanced with the needs of the business. Not all jobs can be done from home. What the new workers' right to request flexible working does is require employers to give requests for flexible working reasonable consideration.

Minister O'Gorman has indicated that he will be bringing forward Heads of a Bill to give effect to outstanding aspects of the Directive, including Article 9 on Flexible Work. Congress asks that the Government be more ambitious than what the directive prescribes

To support all workers to reconcile work and care commitments and greater gender balance in flexible and remote working, Congress recommends that Government extend the new legal right to request flexible working arrangements to every worker.

Carers

Recommendation 4: To improve the terms and conditions of those in paid employment as carers (for children and adults):

(a) They should have a pay structure and benefits (including sick pay and pensions) that reward their level of skill and training, similar to those of teachers and nurses.

Collective bargaining is also key to this recommendation. SIPTU's Big Start - the campaign to transform Ireland's childcare sector – has successfully introduced collective bargaining to the sector.

After years of organising workers, one-day protests, one of which saw over 30,000 people protesting in Dublin, on-line campaigning, meeting with Ministers, party spokespersons and TDs, there is now a Joint Labour Committee for the Early Years Sector where workers and their representatives are currently negotiating an industry agreement that will improve pay and conditions for over 25,000 workers.

Congress asks the Committee to support this approach to improving terms and conditions for those working in the wider care sector.

Recommendation 9: Paid Leave for parents should:

(a) Cover the first year of a child's life.

This is an area also covered by the EU Work Life Balance Directive which will result in 9 weeks paid "parents leave" for both parents. Currently paid leave for parents includes:

- 7 weeks parent's leave (paid) per parent (from July this year), so 14 weeks;
- 26 Weeks maternity (plus 16 unpaid);

- 2 Weeks paternity;

That will result in 42 weeks paid, leaving a 10-week gap to cover the first year of a child's life. Even after the extra two weeks parents leave required by the Directive (by 1 August 2024) are introduced there will still be a 6-week gap to be filled in order to ensure that paid leaves cover the first year of a child's life.

Congress asks the Committee to recommend a roadmap to improve paid leaves for parent to ensure that we cover the first year of a child's life in a timely manner.

(b) Be non-transferable to encourage sharing of childcare responsibility between parents.

This is an important matter and covered in our legislation and required by the EU Work Life Balance Directive.

(d) Be incentivised by increasing payment levels to encourage increased take up.

The Irish social welfare system is unusual in a European context in that payments are paid at a flat rate, whereas payments in Continental and Nordic welfare systems are paid as a (high) percentage of a worker's weekly earnings.

Earnings related welfare payments ensure workers have an adequate replacement income to preserve their living standards when they experience interruptions in employment, such as job loss, sickness, maternity, retirement. Ireland's flat-rated system of welfare payments aims only to prevent poverty.

Two new welfare payments - Paternity Benefit (2018) and paid Parent's Leave (2019), have been introduced in recent years to support families in the more equal sharing of care responsibilities. However, uptake of these supports is disappointingly low. Only half of eligible men working in the private sector have availed of Paternity Benefit, compared to 92% uptake by women for Maternity Benefit.

A key driver to low uptake is the relatively low payment rate. That is, average weekly take-home pay in the private sector is over 2.5 times the Paternity Benefit payment - €642 compared to €250 per week. Unless an employer provides a salary-top, and there is no legal requirement on employers to do so, the average family will experience a big drop in their household income if both parents avail of maternity and paternity leave on top of the added expense a new baby brings.

To support all working parents to take family leave and the more equal sharing of care within families, Congress recommends family benefits be paid as a percentage of earnings and hopes the Committee will support such an approach.

On the payment side, commenting on the fact that 50% of fathers are not availing of the paid two weeks away from work provided by paternity leave, Minister O'Gorman himself has expressed his disappointment at the relatively low rate of take up. There are of course cultural and societal issues

at play here but the level of payment is also a determining factor. Paternity and Parents' leave are both paid at a rate of €250 per week by the State.

A recent spending review by DPER entitled, "Focused Policy Assessment: Paid Parents' Leave Scheme", found that no salary top ups are paid for the new scheme in the public service. It also pointed to survey evidence from IBEC which suggests that fewer companies will offer salary top ups in the private sector.

The assessment goes on to state that: "the scheme does not address the existing disparity in leave entitlements or the low uptake rate of paternity leave. As such it is unlikely to support families in the more equal sharing of care responsibilities or address women's underrepresentation in the labour market".

With average weekly net earnings in the private sector over 2.5 times the SIF payment, this is an issue that should be dealt with as part of the transposition process. Unless an employer provides a salary top up, and there is no legal requirement on employers to do so, the average family will experience a big drop in their household income if both parents avail of maternity and paternity leave on top of the added expense a new baby brings.

Congress asks that the committee support our recommendation that family benefits be paid as a percentage of earnings.

Domestic, Sexual and Gender-Based Violence

Recommendation 38: Eliminate tolerance in our society of domestic, sexual and gender-based violence by developing and implementing awareness, prevention and education campaigns which may include children of an appropriate age on:

- (a) The impact and harm caused by domestic, sexual and gender-based violence.
- (b) Supports available to victims/survivor

Recommendation 40: Ensure sufficient publicly funded provision of beds, shelters and accommodation for victims/survivors of domestic, sexual and gender-based violence across the country and their dependents in line with the Istanbul Convention.

Congress is very supportive of these recommendations and believes there are also important workplace elements to this issue.

A 2019 ICTU survey of those who had experienced sexual harassment in the workplace found that four out of five workers experiencing sexual harassment at work do not even report the incident to their employer. And only one in four of the minority who did report such incidents felt it was taken seriously and dealt with satisfactorily. While the #MeToo movement has shed light on the hidden problem of sexual harassment and sexual assault at work and empowered women to speak out, the fear of a negative impact on their career or of not being believed or taken seriously were the most common reported reasons for not pursuing a complaint. The Employment Equality Acts places an onus on employers to prevent sexual harassment in the workplace. Employers must act urgently and proactively to tackle this problem – raise awareness that such behaviour is unacceptable and may be subject to discipline, implement a comprehensive policy, set up proper, timely procedures for reporting, support the victims and deal with the perpetrators. There needs to be real consequences

for those employers who don't comply with their obligations. Everyone has the right to respect and wellbeing at work.

That is why trade unions negotiated ILO Convention 190 on Violence and Harassment in the world of work⁷, adopted on 21 June 2019 by the International Labour Conference. It establishes the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. It is the first international law to do so. C190 is supplemented by Recommendation 206 (R206), which gives further, more detailed guidance on how the Convention should be implemented at national level.

We ask that the Committee supports our call for the Government to ratify this Convention as a matter of urgency.

Workplaces as supportive environments for victims of DV

The Convention also includes the issue of domestic violence - a key demand of trade unions. Perpetrators of domestic violence can be colleagues, where the partners work for the same employer, and perpetrators can follow or stalk their partners at their workplace. Workers experiencing domestic violence can lose their jobs and incomes as a result of frequent absenteeism, loss of concentration and loss of motivation. The Convention recognises that domestic violence can impact the world of work. It can affect employment, productivity and health and safety, and the world of work can be a key point of intervention in mitigating or reducing the impacts of domestic violence. The Convention therefore requires governments to take appropriate measures to recognise the effects of domestic violence and, so far as is reasonably practicable, mitigate its impact in the world of work.

We very much welcome the fact that a Sinn Féin Bill⁸ proposing ten days paid leave for victims of domestic violence has passed second stage in Dáil Eireann and that Minister O’Gorman has also committed to bring forward Government proposals in this regard. It is also worth noting that the Northern Ireland Assembly recently passed the Domestic Abuse (Safe Leave) Bill⁹. It is awaiting the final stage, Royal Assent. The Bill instructs the Department for the Economy to make regulations to allow for up to 10 days paid ‘safe leave’ for victims of Domestic Abuse and Violence. The 10 days should be available as a day one right for all workers and remunerated at normal earnings.

Unions have also been to the fore in seeking to negotiate workplace policies on this matter so that any legislative developments do not occur in a vacuum.

Congress asks the Committee to support the passing of this legislation as a matter of urgency.

⁷ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

⁸ [Organisation of Working Time \(Domestic Violence Leave\) Bill 2020 – No. 58 of 2020 – Houses of the Oireachtas](#)

⁹ <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/non-executive-bills/session-2017-2022/dom-abuse-safe-leave/domestic-abuse-bill---as-amended-at-cs---full-print-version.pdf>