

# DÁIL ÉIREANN

---

## AN COMHCHOISTE UM POIST, FIONTAIR AGUS NUÁLAÍOCHT

## JOINT COMMITTEE ON JOBS, ENTERPRISE AND INNOVATION

---

*Dé Máirt, 4 Iúil 2017*

*Tuesday, 4 July 2017*

---

Tháinig an Comhchoiste le chéile ag 4 p.m.

---

The Joint Committee met at 4 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Niall Collins,	Aidan Davitt,
Tom Neville,	Paul Gavan,
Maurice Quinlivan,	Gerald Nash,
Noel Rock,	James Reilly.
Bríd Smith.	

Teachta / Deputy Mary Butler sa Chathaoir / in the Chair.

*The joint committee met in private session until 4.26 p.m.*

### **Scrutiny of EU Legislative Proposals**

**Chairman:** I ask members, visitors and those in the Public Gallery to ensure their mobile telephones are switched off or are on flight mode for the duration of the meeting as they interfere with the broadcasting equipment, even when on silent mode.

Under schedule B we have COM (2017) 137, COM (2017) 162, COM (2017) 182, COM (2017) 244 and COM (2017) 245. It is proposed that the proposals listed do not warrant further scrutiny. Is that agreed? Agreed.

It is proposed that we suspend to allow our guests to take their seats. Is that agreed? Agreed.

*Sitting suspended at 4.27 p.m. and resumed at 4.33 p.m.*

### **Atypical Work Permit Scheme: Discussion**

**Chairman:** Before we commence, I would like to apologise for the lack of nameplates today. For some reason, only Senator Davitt's is working. None of the rest of us seems to have a nameplate. When members are speaking, I ask them to identify themselves.

I remind members, visitors and those in the Gallery to ensure that their mobile phones are either switched off or placed in flight mode for the duration of the meeting as they interfere with the broadcasting equipment even when on silent. I welcome Ms Edel McGinley and Ms Dearbhla Ryan from the Migrant Rights Centre Ireland, MRCI, and Mr. Ken Fleming, Mr. Darren Proctor and Mr. Padraig Yeates of the International Transport Workers Federation.

Before we commence and in accordance with procedure, I am required to read the following. By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

I remind the witnesses that presentations should be no more than five minutes duration. The presentations submitted by today's attendees have been circulated to members. I invite Ms McGinley to begin her presentation.

**Ms Edel McGinley:** I thank the Chairman and members for inviting us to discuss the atypi-

cal work permit scheme for non-EEA fishermen and exploitation in the fishing industry as it relates to this committee and the Department of Jobs, Enterprise and Innovation. Our statement focuses on the roll-out of the scheme, the problems we have encountered with the scheme and data from a survey we carried out in recent months which involved in-depth interviews with a number of fishermen. Ms Ryan will discuss that.

The MRCI is a non-governmental organisation. We work predominantly with migrant workers in low-wage sectors of the economy. We come to this issue through the intersection of immigration and employment, and it is something on which we have worked for many years in terms of how people become undocumented in the State. We have worked with fishermen for approximately three years, but our drop-in centre deals with up to 2,000 people a year in the context of issues relating to immigration, exploitation and employment rights.

This issue came to light through an exposé in the *The Guardian* in 2015. As a result, the then Minister for Agriculture, Food and the Marine, Deputy Coveney, set up a task force to examine it. Senator Gerald Nash worked on the enforcement element. Following that, the Department of Justice and Equality set up an atypical scheme for fishermen which created a number of problems in terms of access to and retaining immigration status once granted.

I will hand over to Ms Ryan, who will take the committee through some of our research and preliminary findings. I will then discuss our recommendations.

**Ms Dearbhla Ryan:** There are a number of fishermen in the Gallery and another will follow. Committee members may be able to meet them after the meeting. We hoped a fisherman could speak directly to the committee. However, as the session is being broadcast, workers are reluctant to speak because there may be repercussions for their jobs.

I will discuss the context of the atypical permit scheme for the information of the committee. MRCI has monitored the scheme since its roll-out in February 2016. The permit was introduced to deal with a very particular segment of the fishing fleet in Ireland, namely, polyvalent, beamer and specific vessels over 15 m. There are approximately 179 boats in this category. The scheme gave undocumented fishermen from outside the EU a window of six months, from February to July 2016, to come forward and apply for work permits. The scheme relied on the employer and an employment contract to make a person eligible for the scheme. The scheme imposes a very limited 9 a.m. to 5 p.m. 39-hour working week on this segment of the fishing industry. However, as I am sure the committee will understand, the industry does not operate within that framework. Many boats go out on trips for 12 days at a time and might be back in harbour for a day or two before going back out for another 12 days. The hours specified in the permit do not fit the hours worked and the industry and fishermen are not being remunerated at the correct rates as a result.

This segment of the industry is marked by long hours, poor remuneration, breaches of employment legislation and disorganised enforcement. In fishing, no single body is tasked with enforcing employment legislation. Instead, the issue cuts across a number of bodies dealing with health and safety, the organisation of working time - including rest breaks - the payment of wages and the minimum wage. This means that much of the information is not combined by the different bodies responsible in order to establish a comprehensive picture of non-compliance and exploitation.

The committee may ask why workers do not take cases to the Workplace Relations Commission. The profile of workers can explain this. Many workers are from outside the EU, as

we said, and do not have a sufficient level of English to complete the application process. Many do not know their rights and entitlements or how to exercise them. In addition, workers know employers are well networked and organised and fear that if they take a case against one employer, they will be marked as troublemakers and will be unable to get further work. This has happened to a number of fishermen with whom we have worked.

Fishing can be very isolated, as the committee can see from the hours involved and the areas where fishing is an industry. It is exhausting work. Fishermen have very little time off to seek support and meet organisations such as the MRCI and the ITF.

I will now discuss some preliminary research findings. We are in the process of doing research. We have already carried out 30 in-depth interviews with fishers, mostly from the Philippines and Egypt. As the research is still in progress, this is just preliminary evidence, but the full findings will be provided to the committee as soon as possible.

Regarding the profile of the respondents, 93.3% were employed at the time we surveyed them, that is, over the course of last year. At this time, 80% had a work permit, that is, an atypical work permit, and 41.2% had experienced discriminatory behaviour. This would include, for instance, migrant workers not receiving the same wage as Irish or white fishers, having to attend to the more difficult jobs than others on the boat and sometimes even having to stay back on the boat on shore to clean up after all the other crew members had left. Of the workers surveyed, 33% had experienced verbal or physical abuse or both. One worker stated that his employer shouts and swears at him and the crew daily, and on one occasion the employer began physically pulling and tugging at him. Of those surveyed, 44% had experienced personal injuries while at work. Such injuries included serious cuts and crushed limbs. One man received serious cuts but did not get medical attention until he went back onto land four days later. One worker became so ill that an air ambulance had to be called. When the ambulance arrived, the worker's employer denied that the sick man worked for him. Regarding safety, 48% claim they do not feel safe at work. Their safety concerns are often due to the lack of rest breaks and days off. Consequently, the exhaustion makes them prone to work accidents. Another hazard is the lack of safety equipment on board some of the boats.

Our preliminary results reveal that exploitation and non-compliance are widespread within the sector. The rights conferred under Irish employment law are routinely breached. Most breaches occur under the National Minimum Wage Act, the Organisation of Working Time Act, the Terms of Employment (Information) Acts and the Payment of Wages Act. Of those we surveyed, 17.2% earned less than €300 per week, 65.4% were required to carry out extra duties without extra pay and 50% did not receive any holiday pay of any kind.

I will quote from one of our interviews.

We work constantly, around the clock, there are no official breaks. We bring food with us onto the boat that we can eat while we work. Crackers and crisps and other dry food we can have on the deck and eat while we sort fish. Sometimes we have to beg for a break or we sometimes sneak breaks while we go the toilet, quickly grab some food or a short lie down. There is a lot of tension on the boat, the skipper shouts and abuses us for not working hard enough. It's up to him who gets a break and when and it depends on his mood. The longest rest you will get is an hour or two. A lot of the time your sleep will only be 30 minutes long.

For context, in the fishing industry, 14 hours is the longest working day one is supposed to have in 24 hours, and one is supposed to work a maximum of 72 hours in one week.

Through our monitoring of the scheme, casework and preliminary research, it has become clear that the atypical scheme has not achieved what the Government set out to do, that is, to tackle exploitation in the industry and provide an avenue to document workers. In fact, some people are in a worse situation. Many did not find a willing employer during the six-month window to apply for a work permit, leaving them undocumented. As the first round of permits are up for renewal, we see many fishers let go as employers do not want to deal with the bureaucracy. This is leading to a casualisation of work whereby undocumented and documented fishers are taken on for trips at a time here and there without contracts or agreements.

One fisher wanted very much to speak today but he was very concerned about getting employment. He asked me to read a statement out, on which I will conclude.

First of all I would like to thank you for the opportunity to speak for myself and my colleagues. We are all professional and skilled fishermen. Many of us come from coastal towns where generations of our families have been working in fishing. It is a very hard and difficult job. I have worked in many different boats in Ireland with bad conditions. In this work we only get a few hours' sleep per night on the boats. We fish for very long periods, sometimes over 20 days at a time. Many Skippers treat us migrant workers with disrespect and discrimination. We are not treated equally. There also are many health and safety issues on the boats. One man I know he was fishing and a wire cut off three of his fingers. The skipper called an ambulance for him and left him on the shore. The fisher lost his job and was given no support by his employer. When the employer reported on the accident he stated that it was the fisher's fault when really it was the Skipper who was not taking care of health and safety properly on the boat. Fishing will always be a very difficult job but we must have fair conditions and pay. When we are badly treated we must be able to stand up to employers and get justice. Everyone deserves to have a safe working environment and be fairly paid for their work.

Ms McGinley will now outline some of our recommendations very briefly.

**Ms Edel McGinley:** I will be very quick. They are really just recommendations for the committee. They anticipate what I am sure the International Transport Workers Federation, ITF, will say, and we also echo its recommendations in the report. We would like to see an immediate review of the atypical scheme, solutions identified and a move forward on the matter. We request that the committee write to the Minister for Social Protection - soon to be Minister for employment and social protection - and recommend the setting up of a time-bound working group between this Department and the Department of Justice and Equality on which the MRCI, the ITF and other interested individuals would sit. This would be a short-term measure to review what has worked and what has not. As there is a complete lack of linkage between skills gaps in the industry and what is needed in terms of permits, there needs to be a review of this in terms of labour migration policy and the skills that are needed in the industry right now. There is a need right now that is not being recognised by the atypical scheme. What we are seeing are these gross forms of exploitation along with a lack of monitoring and enforcement in this area. I know the ITF will go into this in much more detail, given its role in the industry. I thank the committee for listening to us.

**Chairman:** I thank Ms McGinley and Ms Ryan. I now ask Mr. Fleming to begin his presentation to the committee.

**Mr. Ken Fleming:** I thank the Chairman and everyone else who has bothered to attend. Like the MRCI and Ms Ryan, I have reams and reams of case examples. Thankfully, I now do not have to go into them but I will speak about one case that took place on 28 April later in my

presentation. Unlike the MRCI, I have been involved in this since 2008. What shocks me is that I have been a film star in the fishing industry and the maritime industry for the past ten years and I used to say to my wife I would break the story the next time I appeared on television, but the reality is that we have campaigned for the past ten years in every single Department, through Minister after Minister, and have achieved nothing. We have had reams and reams published in the *Irish Examiner* and all the national newspapers, two appearances on “Prime Time” and many pieces on the “Six One” and “Nine News”, resulting in just a one-day sensation.

It took publication in *The Guardian*, an international publication, to force the Minister at the time, Deputy Coveney, who must be complimented for doing something and introducing the permit scheme, to take action. However, if one takes the time to go back through the RTE archives, one will see Ken Fleming standing outside his door in January 2016 saying I do not believe that the boat owners, with whom I had engaged through 2008, 2009 and 2010, believe or understand that with the permit scheme comes a whole raft of legislation. The most important at this time is legislation on the national minimum wage, which then stood at €9.15. I was asked by the interviewer that day whether I thought the boat owners would pay it and I said it absolutely would not happen, and I have been proved right. I went on to say I feared - and my colleagues on my left have heard me say this a number of times - that we would legalise slavery, which is exactly what we have done. Neither Deputy Coveney nor anyone else involved in the Departments at that time had any idea that their efforts on the day would reduce what has been described as a work permit - although we all know what it means - to nothing more than a dog licence. I have seen dogs treated better than what I have witnessed in the past two years in particular in Ireland. It shames me to say I am Irish.

I also remind the committee that Senator Gerald Nash, who was the Minister of State at the time, was good enough to attend a meeting in his constituency on 6 December 2016 which 42 fishers attended. I will repeat what Senator Nash himself said. He said it is clear the permit scheme is not working and he expressed some shame that he was part of a permit scheme that led to the working conditions that currently exist in this country.

I have been described as a fantasist. I am currently subject to threatening letters from the industry for defamation. *The Guardian* has been sued. *The Irish Examiner* has received a letter of intent to sue for defamation. An Garda Síochána has been reported to GSOC. It seems we are all wrong. Then let us consider the efforts of the State. The Marine Survey Office, MSO, will not talk to the Garda. The Marine Survey Office is the principal policing and enforcement agency in this field. The Marine Survey Office had to be dragged into the office to sign the memorandum of understanding, MOU, because it did not sit well with the individual responsible for running that particular office on behalf of the State.

The National Employment Rights Authority, NERA, not the WRC, was charged with responsibility for enforcing the legislation in the industry. The individuals who were charged with the responsibility of enforcing the legislation in the industry were the same individuals with whom I was communicating in 2008 to 2010, inclusive. This is borne out in my files and yet this State, for some weird reason, decided that those same people who have presided over the industry for such a long time, working in NERA, somehow were going to turn some magical trick and change the way they have been operating for the past ten years. Sadly, I have been proven right, because they have discovered that of 68 boats that do not comply with the legislation, 30% of those boats had no paperwork and yet, like speaking to a child, they tried to tell me that they had a list of breaches and of non-compliance - no payslips, low wages, non-payment of wages, long hours and bad treatment, which statistically represented X amount. We

asked them, in respect of the 30% of boats that do not have paperwork, how it was possible to determine what breaches had actually taken place. How could they say, in their presentation to the Santa Marta Group last Monday week, that they have issued 200 permits when, on drilling into the figure for 2017, they have given a figure straddling two years? The one thing members will understand is that on the night of an election, one always look for the valid poll because that determines who gets elected and who does not. The valid poll in Ireland stands at 42 permits at present. There are only 42 permits today in existence today for an industry that has more than 1,500 migrant workers. Yet the only thing I see on the legal front is invitations to migrant workers to call to the local police station to discuss how best they can be escorted to the airports and run out of the country, while no action has been taken against the owners of the boats from which they have been taken.

We have approached every single political party in the Dáil. We have been to the European Parliament and have met the MEPs. The attitude quite simply is that everyone on this side of the table is wrong and the poor boat owners are getting bashed by the State. The reality of what is happening to these individuals is that for them, a work permit is akin to a dog licence. I am told by boat owners that they look after their crew, that they shop in Lidl and buy tons of food. They invite me to look in the back of their jeep or in the fridge. A boat owner will tell me that a crew member had dinner with his family last Christmas but so did the dog. We have allowed the industry to drop to a bottomless pit so far away from what we would class as reality that they will tell a trade unionist that this is justification and that they are good men.

Let me describe an incident. A man from Ghana aged 51 years of age was working on an Irish-owned vessel, 142 miles off the coast of Ireland. He hurt himself on the Sunday night, having joined the vessel on Friday, 28 April. He insisted that he had to go to bed because he had fallen through a false floor in the hull of the boat. He went to bed on Monday night and was assaulted on Tuesday by the boat owner, who insisted he should somehow resurrect himself from the bed and go back to work. That was not possible for this Ghanaian guy - who incidentally has a stamp 4 document and is entitled to be here and to be treated correctly - and he remained in bed until the following Sunday. He made his way to the wheelhouse and pleaded with the owner to get him off the boat because he was in excruciating pain. The boat owner hit him again and sent him flying down the stairs and exacerbated his injuries. He took to the bed for the second time.

On the Monday, an officer of the Irish Naval Service boarded the vessel on a routine inspection. The next part of my story is borne out by the statement from that officer, who met the Ghanaian crew member, who pleaded with him to take him off the vessel. He told the man that the Naval Service vessel was not fit for that purpose. The captain of the Naval Service vessel spoke to the owner and captain of the vessel in question. The Irish owner-captain of the vessel agreed that he would take the man to port immediately. The Naval Service officer was satisfied that he would be taken to port. At 3.30 a.m. on the morning of 8 May, in seas that were not conducive to what was about to happen, this man was taken from his bed and brought to the front of the boat. The remaining crew members, all of whom were non-nationals were standing there and he was put into a survival suit and dumped over the side of the boat. The boat owner called to his other boat that was in the vicinity and told it to come and pick up the black B. The crew of the second boat reached him, picked up a rope that was tied to his waist, got him ashore, brought him to Castletownbere and sent him on his way. He went to the Garda station and the gardaí told him he was a fine fellow and was lucky to be alive. There was an altercation between him and the gardaí. As he was entitled to be in Ireland, unlike others he did not fear denunciation and the other stuff used against migrants on a daily basis. He stood his ground. He was told

to go to Bandon because Bandon was the closer station to where the incident took place. He telephoned Bandon and Bandon Garda station told him to go back to Anglesea Street, make the statement and have it faxed to Bandon. Luckily somebody in the area, an employee of the State, told him he should get in touch with Ken Fleming. When the Ghanaian rang me, I was able to go straight down and check it out. The incident was entered into PULSE and the garda went off to do what he does best - whatever that was - but it was not in the interest of this poor man.

I engaged a very high-profile law firm because I did not think I was capable of handling this and we bullied the gardaí by letter and every other way we could into carrying out an investigation. That investigation has now concluded. It is clear the man was put into the water. It is clear that he was injured and it is clear that it was unsafe to do what was done. It is clear that a rope was tied out of his back and it is clear the other boat took him up. It is clear that the Naval Service officer heard him say, "please get me off the boat.". All of that is clear but the gardaí are now claiming the boat was too far out, 140 miles off our coast, which is outside the jurisdiction. My response was that if there was ten tonnes of drugs on it, we would all line up for the cameras, because of this fantastic job of work An Garda Síochána had done, but given that it was a black Ghanaian 142 miles off the coast, they would rather let the Brits handle it because the ship was British-flagged but Irish-owned. I am still working between Interpol and Europol. I have been in touch with very sympathetic police in England, who are smiling at the manner and attitude that is being demonstrated by the Marine Survey Office, An Garda Síochána, the Departments of Transport, Tourism and Sport and Agriculture, Food and the Marine, all of which have washed their hands of this.

I am glad this happened because the lad has survived and has met me. It is like when the families of those who have lost their lives in the past have come to me and got redress for their loss. We do not take any nonsense and there is no wriggle room. Such an incident can take place. Nine men can live in one room in Finglas with no sanitary facilities and urinate out through a window because only one of them is paying the bills. I suspect the aforementioned man with no fingers is living in that room. Photographs can be provided to members of a situation akin to a game of dog hunting sheep to the ground by way of a whistle. As Ms Dearbhla Ryan said, when the captain makes a decision that the crew can sleep, they do not go to the bunks. The men fall to the ground in their full oils and sleep on the spot because every minute counts. The maximum time they enjoy from one length of Ireland to the other at any one time is a two-hour rest period. Yet we are paying serious money to the NERA and to the Marine Survey Office to do a job. There are some great people working there, and they should be allowed to do their job. We have a situation where this State is responsible for presiding over modern day slavery. That brings me to my final point.

**Chairman:** Mr. Fleming is 15 minutes into his contribution and we have to allow members to ask questions.

**Mr. Ken Fleming:** Members should be warned that as a result of the inaction of this State, we have already made formal complaints to the European Association for Human Rights and the European Parliament.

On 12 July 2017 we are lodging our own trafficking cases against this State and we will accuse the Irish State of failing to do what it should do in order to protect the individuals who found themselves in our State. Thank you very much for your leniency on the time, Chairman.

**Deputy Niall Collins:** I thank the witnesses for their very informative presentations, which were very powerful. Given what we have heard today, which is disturbing and of concern, it

would be right to hear from the other actors who are not behaving as they should be, as outlined by Mr. Fleming, for example, the Marine Survey Office, the Workplace Relations Commission, which used to be NERA, and representatives of the people who own the fleet, namely, the Irish Fish Producers Organisation, IFPO. They should be asked to attend a number of sessions so we can hear what they have to say. I am very concerned by what I have heard.

We discussed the undocumented in a committee in the previous Dáil. Reference was made to 1,500 people. We estimate that there are possibly 30,000 undocumented working in the shadow economy. Mr. Fleming said approximately 1,500 out of the 30,000 are working in the fishing sector. There is a big overlap. Could Mr. Fleming or Ms McGinley shed some light on the issue?

**Ms Edel McGinley:** We do not have a full figure for the undocumented in the fishing sector but from work we have done previously we estimate that there are between 20,000 and 26,000 undocumented in the State. They include fishermen as well as workers in restaurants, hotels and in a range of other areas. The scheme was introduced in an attempt to rectify the situation but it did not work. That does not mean the scheme is defunct, but it needs to be reviewed and facilitated much better. It is very difficult to apply for permits as the system is very bureaucratic. The power is in the hands of the employer and against the employee because the employer must make the application and bring in a model work permit. That is a real problem. There is mobility in the scheme but it is not being used. As we are aware, there is a lot of exploitation. If one wants to leave one boat and move to another boat one should be able to do that easily and quickly but there are not enough resources in the Department of Justice and Equality to enable that to work quickly. We have a problem and there is a solution but it is just not working properly. The Department of Justice and Equality wants to introduce a range of schemes to deal with the undocumented. It is not interested in a blanket regularisation, it is interested in schemes for different sectors. That is one of those types of scheme but we have to get it right. We are told the Department will introduce other schemes on the undocumented and this one is a wedge of that.

**Deputy Niall Collins:** Could Mr. Fleming advise us whether there is a way to partly address the cases he has outlined to us? Is there a way of tying the policing of this problem to the licensing of the fishing vessel? Has that approach been considered?

**Mr. Ken Fleming:** We have considered all sorts of things. There is no willingness on behalf of any Department to go down that road. It is a difficult issue. I have been a trade union official for 30 years. I am not working with my own tools, which I did for years, as I am doing this job now for about 13 years. We have a set of circumstances where the Government agencies, NERA and all of those guys, are being asked to go in and police something that is quite complex. The man on my right is one of my inspectors who has been over here helping me. It took me two years to train him. My team is a team of seven. It is a hands-on job because of the trickery in the maritime area generally in terms of a flags of convenience and plates on walls. We can get around all that because we have inspection rights. We offered to be part of the construct of the scheme and we were ignored. We were brought in and shown a piece of paper and we were told to leave. When they told us to leave every bit of expertise in the country had just walked out of the room.

I offered to provide finance to train members of An Garda Síochána at the highest level. I spoke with Derek Byrne, the assistant commissioner. I suggested he pick seven or eight gardaí and take them out of their locations because if one has a garda in Castletownbere or even Finglas, he is dependent on me to give him the nod when something is going on around the

corner that is a bit untoward so that we can start detecting the crime. If I happen to be a boat owner who has a black fellow on the boat and I am not paying him. The Garda has not been, and is not going to get, involved in that. If we are going to have a raid somewhere we need to train up people from different jurisdictions and bring them in, but the one thing we have to do is find a way to stop the boat owners from knowing we are coming. I say that on record. A raid took place in October and I rang the Garda on the Friday and said they need not bother going because the boat owner knew they were coming. I told them the boats that would be there waiting for them. This was a senior garda. He asked me how I knew. I said one of the boat owners had just told me. He asked me who told him. I said it was one of “your lads”.

It is community based. It is a community disease. It is inherent in everything. I always preface my remarks by saying I am a practising Catholic. It is right from the Catholic Church all the way down to the Spar shop with the Western Union machine in it. A Deputy owns one of the shops and I asked him one day in RTE whether there were any foreign workers in his port and he said “No”. I asked what he was doing with the Western Union machine in the front of his shop. What Irish person sends people money through Western Union? The whole system is in denial. Unless we can get the Garda and the MSO to commit resources, no matter what we do to the permit scheme, what colour it is or how well designed it is, if there is not independent inspection and consequences this will go on and on.

If members saw those people when they are homeless or when they come to Liberty Hall and accept clothes for nothing, or if they saw me in RTE going next door to buy toilet rolls - in the name of Jesus - and the boat owners say I am a fantasist. They cannot get me today because of House privilege but when they get me, if they ever get me, it will be off to the High Court with me because they are suing everyone else. I would rather they put their money into paying wages than paying legal teams.

**Deputy Niall Collins:** This is my final question, as I have to leave for an appointment at 6 p.m. Could Mr. Fleming just expand a little on his experience of dealing with An Garda Síochána as a first point of contact when an issue of assault or criminality arises vis-à-vis his experience with the PSNI, the police in the UK or Interpol?

**Mr. Ken Fleming:** I will have to be honest. I did say back in 2009 when we introduced the permit scheme in Scotland that bad and all as it was I used to criticise Ireland on the basis that at least something happens in the UK. Since Theresa May funded the awareness on trafficking there has been a reconstruction of the attitude of the police in England. I have given a few talks in every major county in England because there are 42 different police forces there. I have met most of the important ones. There is no sense in meeting a midland police force so we have stayed on the coast. They have employed a guy by the name of David Enright who is a senior detective. He is heading the thing up. They mean to do the business, whereas over here we get together in these groups, these Santa Marta groups, and it is really grandeur and everybody is tapping everybody on the back. The Archbishop of Dublin is there. Everybody is there. The PSNI is there. The fisheries authorities are there. Revenue is there. Everybody is there. It is one big talking shop because nothing happens when we go out the door then and blow the whistle, as we did when we compiled three concise fundamental reports, naming the boat owners, photographing the victims, photographing the owners, and photographing the documentary evidence to say they were not paid. We submitted that to NERA, the Garda Síochána and the Marine Survey Office. A man with me here attended the meeting of the MSO when the head of the MSO admitted that he had put my report in the bin. The head of NERA described my reports as lively. As I said to him last Monday week, it is an awful pity that NERA is not as lively

as my reports because we would not have these problems. That is the reality. We are treated as a pain in the arse and nothing is going to be done about it. There is a view that no trade union movement or anyone like it will tell them how do to the work. That is not what we are trying to do. I was asked one day what were my aspirations before I retired. I said that these people are in hell and at the end of the day they will remain in hell, but at least if we get them paid for it, we will have achieved something. The boat owners I have met will never change and treat these people in a decent manner. We might be able to force them to pay them.

**Senator Gerald Nash:** I thank Mr. Fleming for his very powerful testimony. I can confirm that he is not a fantasist because I know the work he has done. Mr. Fleming and I have worked hand in glove to improve this situation for quite some time. In many respects, he is a dissident voice but a distant one in terms of trying to improve the worst excesses of some practices in this industry.

I support the call by Deputy Niall Collins for the agencies that were involved in developing elements of this scheme to be invited before the committee to give testimony to it. It was on foot of a discussion that we had two or three months ago at this committee that I, through the Chair, extended an invitation to the delegation present to attend. I did so because I believed Mr. Fleming's voice and that of the MRCI needed to be heard and needed this platform to raise awareness about the wilful abuse of some people who came here in good faith. Some of them do not have permits. Some of them have chosen not to take up the opportunity that was presented to them by the introduction of the permits scheme in late 2015 and early 2016.

As has been rightly pointed out, I met 42 non-EEA fishermen who are predominantly from Egypt. They travelled to meet me in Drogheda in late 2015. I am glad that I heard their testimony in order that I can bear witness to their experience. I met individuals who are here in good faith. The men ranged in age from late teens up to 60 years of age. I asked them to convey how many of them had valid permits with a show of hands and fewer than ten men raised their hands.

**Mr. Ken Fleming:** Two men.

**Senator Gerald Nash:** Yes. Only two fishermen out of 42 had permits just one year after the introduction of the permits scheme. I would like to see the whites of the eyes of some of the employers involved. In late 2015 and early 2016, I personally had to drag people to sign a memorandum of understanding that would enforce the employment rights of this scheme. There was a problem, there is a problem and there continues to be a problem with certain agencies. They have adopted a dog in a manger attitude in terms of the operation of this scheme. In some respects they have exploited and abused people who have chosen to work in this country in difficult circumstances and in good faith. I have no difficulty in naming the particular agency that took a repugnant attitude to the scheme from the start. The Marine Survey Office took a very territorial and proprietorial attitude to its responsibilities. I found it difficult to get the office to sign the memorandum of understanding in the first place. If it wants to discuss the matter, then I want to see it happen and we can discuss ways to improve the scheme.

As Mr. Fleming and others have acknowledged, the scheme was developed in good faith. In response to an exposé published in *The Guardian* the Government at the time moved quickly to introduce a scheme that would bestow and apply employment rights to those who worked in this country. I remind committee members that those who worked in the State until then were undocumented, by and large, and worked illegally as share fishermen. The motivation was to grant employment rights to these individuals in order that they could benefit from legislation such as the National Minimum Wage Act, and the Workplace Relations Commission must en-

sure those rights are vindicated. It was very clear to me that the scheme was not being enforced when only two fishermen had permits out of the 42 fishermen who met me in a hotel room in Drogheda.

Politically the scheme was designed to solve an egregious problem in the fishing industry and in our society in general. Clearly, the lack of enforcement is an issue. I have raised in the Seanad, and through various media platforms with Mr. Fleming in recent times, the need to review the scheme and for someone to take political responsibility for the scheme. It is a political hot potato. We are talking about migrant workers who are often abused and exploited. The problem is there are no votes in it but resolving the matter is the right thing to do. People are working here in good faith, but in many cases they are being abused and exploited and endure difficult circumstances. The scheme needs to be reviewed. I stand over the fact the scheme was designed with the best will in the world to introduce employment rights for people who are availing of a new permit scheme. Sadly, the scheme is only good if agencies are prepared to enforce it, which has not been the case to date. It would be useful to invite the agencies to attend here as it would allow us to get an holistic view of the problem and develop a route map that would resolve the issues with the scheme.

The Irish fishing industry depends on skilled non-EEA labour. The industry must acknowledge that systems of pay and protection must be respected and introduced. Mr. Fleming and I have discussed these matters. We share the view that the industry needs a collective bargaining agreement or a sectoral employment order to govern pay, terms and conditions. If the present situation continues, I envisage that the reputation of the Irish fishing fleet will be permanently damaged, which would have an impact on the supply chain and the market. The Irish fishing industry markets itself as sustainable. What about sustainable employment? We need to reflect deeply on the matter. There are some very good employers in the industry. I know them and members know them because we have dealt with them. People who circumvent the law queer the pitch for compliant and decent employers. These employers work hard, run their businesses properly and look after their staff in compliance with the law. Unfortunately, a number of individuals do not. We must deal with them and this State must take responsibility for doing so.

**Senator Paul Gavan:** I wish to declare an interest. As a former SIPTU official I know at first hand that everything Mr. Fleming has said is right and accurate. One of my first experiences of being a trade union official took place in Rossaveal in Galway in 2007. I was a fairly innocent and green trade union official who tried to help some Egyptian fishermen but I lost on a technicality. I have spent more than ten years as a trade union official and in all that time I have never met people who were more exploited than the fishermen. I have every confidence that this committee will tackle the issue because we have worked very well on other issues. If we do not deal with this matter as a body politic, then there will be an inquiry in 20 or 30 years like the inquiry into mother and baby homes. At that time we will be asked why, as a political class, we failed to deal with this scandal. Let members be under no illusion that this is bonded labour or slavery and I saw it at first hand. Regardless of our political differences, I do not believe anyone on this committee would stand over such a situation. It raises a question that I will put to Mr. Fleming or Ms McGinley and I urge them not to answer my question in a party political way. Why has there been a lack of political will to deal with the problem? My theory is that the State authorities do not want to know because they know it would open a Pandora's box. They know they will be opening a roll of shame that would show them up for their complete failure to intervene. Therefore they would rather just keep playing along. We have State actors, Departments and civil servants playing along saying there is nothing to see here when we know there is something to see here that is shocking and shames the country. We are a country that

sent our people overseas for years and here we are turning our backs on the weakest and most vulnerable workers. We cannot even allow room to legislate for them to give them a modicum of safety and respect.

I would like to see representatives of NERA appear before the committee. I have been a frustrated trade union official for years, but there is something scandalous here. I want accountability. The people in NERA have turned their backs on these workers for years. They cannot say they did not know because Mr. Fleming and his colleagues in the ITF along with my colleagues in SIPTU and the people in the MRCI have flagged this. Let us consider the statistics. One in two workers has a real fear over safety at work. Where is the State? It is nowhere to be seen.

Earlier we discussed our priorities for the rest of the year. I request that we not only write immediately for this time-banded review but that we call these people in as an issue of the utmost urgency. This goes beyond anything else the committee has been dealing with. We are dealing with slavery happening throughout the State. My next question may be a loaded question, but I must ask it. Is our fishing industry modelled on this slavery model? Is that how it operates? If it is, I for one do not want anything to do with it.

**Mr. Ken Fleming:** It is surviving on it. I have said that if it has to survive on slavery, it should go. The political will is with the Marine Survey Office. It is not only protecting the fishing industry. The Irish-flagged merchant ships, which number quite a few, are all in the same boat as they are carrying non-EU and EU crew members from eastern Europe on board their vessels who are not getting within an ass's roar of the national minimum wage. This is big, but I know from my experience that this is much bigger. It is a political bomb that they have not been prepared to touch for years. My predecessor was lobbying in 2001 over abuse on the merchant side. We have an example in Southampton where we caught an Irish-flagged vessel owned in Ireland and it is still floating around with Filipinos being paid \$1,200 a month even though the Marine Survey Office and NERA have accepted we were right but have done nothing about it. It is huge.

**Ms Edel McGinley:** I would like to deal with the two questions on the political football. The biggest problem is that it falls between three Ministries. We have written to the Minister, Deputy Creed, a dozen times and have not been able to secure a meeting with him on this.

**Senator Paul Gavan:** It is shocking.

**Ms Edel McGinley:** There is a big business lobby and a huge amount of EU funds invested in fisheries. It is all tied up, and if that unravels, our fishing industry is at risk. It is built on the back of the exploitation of migrant workers who are being forced to work in the shocking conditions outlined earlier. We need a collective agreement. We have not yet called for a role for the ITF. It needs an enforcement role for these boats as it has an enforcement role for the bigger boats. That is key because we have problems with enforcement by NERA and the WRC. It is crucial for the ITF to have a role in this.

**Mr. Ken Fleming:** On that point, we have offered to do that for nothing. We have offered to put our own people into the field for nothing.

**Chairman:** For clarity, it transcends five different Departments. Those are the Department of Jobs, Enterprise and Innovation, which this committee shadows. The Marine Survey Office comes under the remit of the Department of Transport, Tourism and Sport. The issue also

comes under the Department of Agriculture, Food and the Marine and under the Department of Justice and Equality regarding Irish naturalisation. The Sea-Fisheries Protection Authority comes under the Department of Defence.

**Mr. Ken Fleming:** If that is not deliberate, it is even worse.

**Chairman:** It was just-----

**Senator Paul Gavan:** I apologise for interrupting. I fully support the call for a collective agreement. However, collective agreements by their nature are voluntary. The employers will have no interest in having a collective agreement unless the State acts in a robust way to tackle these issues finally. We can talk all we like about a collective agreement, but unless the State is prepared to take responsibility and investigate and prosecute these rogue employers, that collective agreement will never happen.

**Deputy Brid Smith:** I am sorry I missed the start of Mr. Fleming's presentation. While he might have covered this earlier, I ask him to describe the employers involved. Are they big multinationals, small individually owned ships or a mixture of both? I know some trawler owners who employ labour, usually from eastern Europe. Sometimes I think that how they are treated leaves much to be desired.

I want to make a wider political point about the modern-day workplace. Irrespective of whether it is on sea or on the building site, there is huge abuse of workers. The definitions of a worker and workers' rights are rapidly changing and we are not dealing with it. There is bogus self-employment in the construction industry at the moment. The crane drivers are taking action because of the bogus self-employment contracts under which they are forced to work. They get no protection, holidays or sick pay. There is no legislative protection or minimum wage. This is going on everywhere.

However, there is another element to this that ties into a wider debate we need to have here and across Europe. The EU has a huge responsibility for it. It has led to a racist Europe. It has blocked migrants from getting away from very dangerous situations and has not let them into Europe with a level of decency. They are usually black and from places such as Egypt or Somalia. They are drowning by the tens of thousands in the Mediterranean and being treated disgracefully by a fortress Europe. If that does not indicate that the fish rots from the head - pardon the pun - then what does? The EU is supposed to give a lead in how we deal with human beings.

I agree with Mr. Fleming's description of it as modern-day slavery. Those sorts of conditions are modern-day slavery. Slavery is only acceptable when one set of human beings is seen as a lesser form than another. When they are treated as lesser people by allowing them to drown in the Mediterranean, when they are not allowed into EU countries and are put in camps when they get here, when we confine them to the torture of direct provision and do not allow them the right to work and keep them on a pittance in a place like Mosney, then we are sending out a signal that these are lesser human beings and the employers pick up on that signal. The employers then exploit the fact that at sea beyond the 12-mile zone, no particular country has responsibility apart from the country whose flag the vessel bears and that flag can be changed.

The whole nine yards is at play here. However, we immediately need investment in inspectors that will take this on and will check out boats as Mr. Fleming said. While they may not be able to raid boats and be invisible - they are not the Marines after all - there are many ways to skin a cat and there are many ways they could find out. While I stand to be corrected on this, I

believe we have more dog wardens in the country than labour inspectors. That goes to the heart of how we treat workers, particularly migrant workers, and more so if they are black and come from Africa or the Middle East.

There are a number of issues at play. If this Department has any concern, it should look immediately at the level of employment inspectors. It needs a strategy to find out what is going on, document it and go after those who are breaching employment law. Given the previous role of the new Minister for Jobs, Enterprise and Innovation in the Department of Justice and Equality, I would have thought she would have considerable experience in this. I am not sure if she has the correct kind of experience. It is a pity she is not here. When she next appears before the committee, she might have something more to add to the discourse because a huge amount is at stake here.

**Chairman:** I wish to state that the Minister was not invited to attend today.

**Senator James Reilly:** I thank Mr. Fleming for his presentation. This is deeply disturbing. It would appear that these workers have no protection. As the witness said, all the power is with the employer. However, I am glad he pointed out that not all employers in this sector are guilty of this behaviour. There must be enforcement, because clearly that has been lacking. I fully agree on the need to invite the various stakeholders here to address this, no holds barred, and then examine the issue. It crosses five Departments and, without being pejorative, there is the old saying that when everyone is responsible, no one is responsible. Clearly, due process is not taking place here. People cannot get due process. They are afraid. Someone mentioned our history. That and the values we have dictate that we must act. All members of the committee wish to have this issue addressed and to stop this gross exploitation of people. If they are Irish boats, it is being done in our name and I certainly do not want that. I doubt that anyone here does. These are clearly vulnerable workers so they must be our top priority in addressing this and in getting the various actors before the committee to explain themselves. When the witness is responding, perhaps he would concisely outline what he believes must be done in a practical, pragmatic fashion.

I will not be political about this because I do not believe it is an issue for politics. It is something the committee members should address together. However, let us address what we can address and not try to address all the other areas where we do not have a remit and which we cannot address. The rights of these workers are an issue for this committee and it is one we must address aggressively. We must invite representatives of the various Departments and have a proper approach put in place. If the bottom line is that this is a matter of lack of enforcement, that must be addressed and people must be held accountable for not so doing.

**Deputy Tom Neville:** I thank the witnesses for the presentation. To be honest, given where I am from, I have had no interaction with boat owners or fishermen. Like the other speakers, I am very disturbed by some of the information given today. I have been educated about what is happening by the testimony and by Senator Nash and his experience in this regard. There should be no politics involved in this at all.

**Chairman:** I agree with that.

**Deputy Tom Neville:** This is above and beyond that. We are talking about human beings and the reported conditions in which they working, or trying to work. We must invite all the stakeholders to appear before the committee as soon as possible. As Senator Reilly said, perhaps the witnesses could suggest solutions that they think might be applicable. Quick solutions

that could begin to alleviate the problem immediately would be necessary. There is a responsibility on the committee now. Speaking for myself, there is a responsibility on me, now that I have been made aware of this. I was unaware of it before this meeting. Everything we can do should be done on this. As mentioned earlier, ten or 15 years hence there could be an inquiry into this. As responsible representatives of the people in our constituencies and of the State, it is incumbent on us to scrutinise this now and arrive at solutions.

This is probably a conversation for another day, but I would be interested in receiving statistics on the industry, how many people are employed, how many are undocumented, how many are documented, whether they believe they are being exploited, reports of exploitation and so forth. For the present, however, we should invite the other stakeholders to appear before the committee. We should be very concise in our approach. As was mentioned, we should do what we have the power to do. Outside of that, even if it is important, if we do not have the power to do anything about it, we should leave it to one side. We should prioritise what we can do in order that we can get something done about this as quickly as possible. If the witnesses can put forward any solutions and we could push them through, I would fully support that.

**Deputy Maurice Quinlivan:** I thank the witnesses for their presentation. Ms McGinley appeared before the committee last May and made a presentation on open-ended hours, during which she alluded to this issue. I am delighted she is here. I have been a member of the committee for a year and Mr. Fleming's presentation was the most powerful I have heard so far. He got the message across clearly. I was aware of the issue on our ships from speaking to my colleague. I agree with many of the comments made. We must invite representatives from the National Employment Rights Authority, NERA, to appear before the committee as soon as possible. We must ensure enforcement is part of the project in the future, and if we carry out a review of it, it should be a short-term review in order that we can get this to work. Technically, five Departments could be in charge of this, but I do not wish to be here 20 years hence - I hope I will be alive 20 years hence - listening to how we did not solve this problem. The least we should be able to say is that this committee did its best to come up with a solution. We will work together on it. Many of us have been shocked by the powerful presentation Mr. Fleming made. I appreciate it. I do not wish to be political about it but if the Minister for Agriculture, Food and the Marine, Deputy Creed, has not responded, that message must be conveyed as well. He must respond and meet the witnesses on the issue. As the other members of the committee said, we must invite the stakeholders to appear before the committee as soon as possible. We should prioritise that for the next meeting, if possible.

**Chairman:** Senator Nash wishes to intervene briefly.

**Senator Gerald Nash:** I hope I will be able to provide some helpful insight. I agree with Deputy Neville and others that we should not break down on party lines in discerning a solution to this. It is an issue of our common humanity and we must unite around that in our quest for solutions. However, political responsibility must be taken at senior ministerial level. No ministerial responsibility has been taken for the drift in the system over time.

As Mr. Fleming correctly pointed out, a group chaired by the then Minister for Agriculture, Food and the Marine, Deputy Coveney, devised the non-EEA permit scheme, with the support of the Department of Justice and Equality and others. There was a small element of the scheme where employment rights became an issue and where a memorandum of understanding was required to try to have some type of risk-based enforcement and inspection process in place. I recall attending the last meeting of that group in December 2015. Everyone congratulated themselves on a job well done, but I and officials in the Department of Jobs, Enterprise and In-

novation put our hands up and told them the job was not done as we had no idea how it was going to be enforced or what the inspection regime would be from the perspective of vindicating employment rights. As Mr. Fleming knows, I spent two to three months trying to bang heads together, for want of a better phrase. They were from eight agencies - the Sea-Fisheries Protection Authority, Bord Iascaigh Mhara, the Workplace Relations Commission labour inspectorate, the Health and Safety Authority, the Revenue Commissioners, the Marine Survey Office, An Garda Síochána and the Naval Service - and five Departments. This was to try to sign a memorandum of understanding as to who would take responsibility for inspecting ships and, critically, the sharing of information, because when there are limited inspection resources, best practice insists that one must share information and try to identify the actors in an industry who might be liable to be non-compliant. That was difficult.

I do not wish to make an explicit political point on the drift we have now and I hope people will not misinterpret this, but there must be direct ministerial responsibility for reforming this, and there has been silence from the political system over the last period.

**Senator Aidan Davitt:** I would also like to thank Ms McGinley, Ms Ryan, Mr. Fleming and the chaps who are present for giving their presentation today. Some of this is really eye-opening. I am from the middle of Ireland and I suppose one could call me a landlubber. We have quite a lot of part-time and seasonal workers in farming and related industries. My general experience is that most of them are treated as well as the farmers' own families. Many of them even live in family homes. It is shocking to hear this kind of thing in respect of fishing. On behalf of Fianna Fáil, and as my colleague, Deputy Niall Collins, has already stated, we will fully support this case and whatever mechanism we can come up with to try to progress this matter. Senator Nash, who has a genuine interest in this area, has said that when he was in power and pushing hard on this matter, not a lot got resolved. It will not be much easier for us who are still trying to push it on while not in power. We will certainly do our utmost however. I will be led by Senator Nash and by his experience in the area. We will certainly take on board anything we can do.

**Senator James Reilly:** Coming back to what I said earlier in respect of what we are capable of achieving as a committee, some people think we can cure the world and more. We are not going to be able to do that. This is a republic, however, and we have values. This goes to the core of what we stand for as a republic. We have to address this issue in so far as we can. Somebody mentioned the issue of unfair competition. This will be like a cancer eating through those people who are upholding the law and giving decent conditions. They will not be able to compete.

That brings me to the wider point. We have influence, perhaps not as a committee, but as a Government. What are conditions like in other fishing nations? How prevalent is this in the Spanish fleet, for example, or in any other large fleet? Sorting this out may very well have further ramifications and implications for the wider EU. I am not using that as any kind of negative. I am just saying that we will do our bit here and let the consequences flow to wherever they will.

**Mr. Ken Fleming:** My experience in the International Transport Workers Federation, ITF, so far has related to Spain, Portugal, France, Belgium, Germany, the UK and Ireland and we are the worst. There is no two ways about it; we are the worst. The second worst, running behind us, is Scotland. This all started in 2005 when a boat from the North of Ireland rounded the head of Fraserburgh. I know the boat owners involved. The Northern Irish owner asked where the Scottish owner had gotten the black fella on his crew. The Scottish guy said that he was a great

lad - he was very skilled and worked for nothing. My boss was a guy called Norrie McVicar at the time. We took it on and we got a permit scheme introduced in Scotland in 2009. We then left. There is a scheme up there. It had a bad take-up but the conditions are different. The conditions are being abused, but they are different.

**Chairman:** I will interject and ask Mr. Fleming a question if he does not mind. Is he saying this is a racist issue? In his opinion, are only coloured people affected by this? Can Mr. Fleming give us an example scenario? Are there 20 or 30 crew members on a trawler or ten? Are two or three people being picked out while the rest are being treated well?

**Mr. Ken Fleming:** There could be one Irish captain and four documented or undocumented migrants. I believe the boat owner would treat me just as badly if I put up with it. That is why the permit scheme was introduced.

**Chairman:** I am sorry to interrupt. Is Mr. Fleming saying everybody on the trawler is being treated badly by the owner or is it just the case that some of the migrant workers are not getting the same terms and conditions as other fishermen?

**Mr. Ken Fleming:** If a boat has more than one Irish guy on it, who would usually be the skipper, the other Irishman - or it could be an Englishman or, more recently, an American - is treated completely differently to the Filipinos, the Ghanaians, the Indonesians and the Egyptians.

**Chairman:** Is it a racist issue?

**Mr. Ken Fleming:** It is, yes.

**Ms Edel McGinley:** It is discriminatory practice, absolutely. There are hierarchies depending on a person's power relationship to the employer. If people are documented they have a particular amount of power. If they have a stamp they can assert more power. They can leave the boat and they can go and take up other employment. If they are undocumented they do not have that power. It absolutely is discrimination. It is racism. It is whatever the Chair would like to call it.

**Senator James Reilly:** Just for clarity, would this apply to eastern Europeans?

**Mr. Ken Fleming:** It did until they became EU nationals.

**Senator James Reilly:** So it is not racist in that sense.

**Mr. Pádraig Yeates:** One thing that has changed about the fishing industry in the last decade is that the Irish no longer work in it. I lived a lot of my life in Howth and I would have known a lot of fishing families there - ordinary fishers, not boat owners. They have all gone. They all went into the building industry and when that collapsed, they migrated. They never came back to fishing because no one in their right mind would. There was a community there, so there was a sort of limit set by the community on the level of exploitation of fishermen by skippers, because they all had to live together. Now there is a situation where there are skippers with boats, people come and go, and nobody could care less. The last people who want to antagonise the community are the gardaí. They will not antagonise the fishing boat community by doing their job and protecting fishers. That is why there is a need for some sort of outside agency to do the work.

**Chairman:** I will ask Mr. Fleming another question if I may. I want to try to tease this point

out a little bit more. On average, would there be ten, 12 or 15 people on a trawler?

**Mr. Ken Fleming:** There would be between five and seven.

**Chairman:** Is it the case that one or two people are being ill-treated in the way Mr. Fleming has described - such as that they are literally sleeping where they are working - while the other five or six turn a blind eye and overlook this as well?

**Mr. Ken Fleming:** No. The intense running involved in fishing, irrespective of which species is being sought, requires a 24-hour operation. In any 24-hour operation, the shifts are broken up into three shifts of eight hours or two shifts of 12 hours or some other division. As there is no rule or legislation, however, which demands a minimum number of crew to operate the vessel, it can be sailed with as small as crew as one thinks one can get away with. If a vessel is operating for 24 hours, those on board cannot rest. Everybody, including the skipper, is at work for that particular period of time. When the skipper finally reaches the barrier and has to give in, he will go to bed because he has that choice, and one of the other unfortunates on board will continue to steer the boat and haul until the skipper resurfaces. The guys with whom I have learned to work are getting approximately two to three hours sleep in every 24 hours. Those vessels are out there and it is just a matter of luck that they are not drifting in front of other boats and ferries and causing major accidents.

If we review a permit scheme, as I said at the outset, it would be meaningless because Deputy Coveney's task force was dismantled behind our backs. No one told us. The actual task force, which was put in place to bring all the State agencies together in order that we would not have this multiplicity of secretaries and offices and Deputies, is gone. They thought we would not find out. That did not happen by mistake. That was deliberate. They believed we would run out of steam. My organisation has been dragged so far into this that we have put millions aside. We will stay for as long as possible.

In respect of Senator Reilly's comment, we have attacked the agencies by way of the retail outlets. We are working on a memorandum of understanding with all of the European supermarkets. If we are forced to pull the trigger, it will bring the fishing industry in Ireland to an end and it will disgrace us. We have sent submissions to Europe. We are preparing a formal complaint against the State. This is not something which an Irishman does against his own country. It is all because we cannot energise any Department in Ireland or any Government agency, from the Garda National Immigration Bureau to anybody else. They are confiscating passports. I have been on Burgh Quay getting passports belonging to unfortunate poor individuals handed back because the gardaí took their passports, which they had no right to do. The gardaí themselves are exercising control over these people in some circumstances. These people are wandering around without documentation in fear that the next garda they meet will tip them on the shoulder, arrest and deport them. I do not have any training but when I went into the office with Pádraig Yeates and asked why a person's passport was taken, I was told to wait for a moment. A garda then brought the man out, asked him to sign a form and gave him an extra six months to stay in the country. He handed back his passport, tapped him on the head and said he hoped he would find a job on a fishing boat. This was done in my presence and I would testify to that anywhere. This happened in the Garda National Immigration Bureau, GNIB, office. What in the name of God is going on and what was going on before the Migrant Rights Centre Ireland and I got involved in this issue? This is an indictment on the GNIB. I once saw Mr. Yeates offer his hand to an Egyptian fisher, who shied away from shaking hands because he had lost a hand. I had to tell Mr. Yeates that he did not want to show that a hand was missing. When we asked what was being done about the loss of his hand, the fisherman said he could not do anything as

the boat owner had told him he was illegal and if he opened his mouth, he would be deported. He said he could not go back to Egypt.

**Chairman:** I thank Mr. Fleming and our other guests for their powerful presentations. Members will have a private discussion when the witnesses leave to decide what steps the committee will take. We will, however, adopt a united approach. We will also have the other stakeholders appear before us. This is not the end of the matter.

**Ms Edel McGinley:** If I may make one final comment, I hope to have more statistics in September.

**Deputy Tom Neville:** That will be useful to help me get my head around the issue.

**Ms Edel McGinley:** Yes, statistics are very useful.

We made a number of recommendations to the Department of Justice and Equality regarding the type of scheme that needs to be introduced. The Department did not listen when we explained what it must and should do and identified the pitfalls in the measures it introduced. We have given the Department roadmaps before but it does what it wants.

**Senator Paul Gavan:** We knew the flaws in the work permits system that used to operate for foreign nationals from outside the European Union. We also knew that tying employees to particular employers effectively created bonded labour. The Department had no excuse for replicating that system and it is an indictment of it that it did so. It speaks to the fact that it does not care.

**Ms Edel McGinley:** That is the nature of our work permits system. If members want to change the system, they must highlight the issue. We have been banging on for years about the practice of tying workers to employers.

We appeared recently before the joint committee to discuss the issue of banded contracts. There is a serious problem in that there are no criminal sanctions applied when employers take money out of employees' pockets. The National Minimum Wage Act provides a criminal sanction but it is very difficult to trigger. If an employer puts his hand in the pocket of a worker and robs him or her, as is happening here, the employer does not face criminal sanction. The legislation presents an opportunity to introduce criminal sanctions for those who rob workers' wages.

**Chairman:** I thank the witnesses for their engagement with the joint committee. We will have a short discussion in private session and will keep the witnesses informed as to what action we intend to take.

The joint committee went into private session at 5.54 p.m. and adjourned at 6.04 p.m. until 4 p.m. on Tuesday, 19 September 2017.