

European Confederation of Police (EuroCOP) -v- Ireland

Complaint number 83/2012

1. I wish to re-emphasise our regret that it was not possible to provide a written response to the findings of the ECSR in advance of today's meeting. However, I would now like to outline for you the position of the Irish government.
2. Ireland welcomes the opportunity to respond to the findings of the issues raised in the report by the European Committee of Social Rights (ECSR) to the Committee of Ministers in relation to the complaint listed above.
3. In the interests of completeness it may be helpful to restate some of the issues raised.
4. Before dealing with specific issues, it is worth recalling that the police force in Ireland – An Garda Síochána - is organised as a unitary police and security and intelligence force across the country. Administratively and operationally the organisation is divided into Regional, Divisional, District and sub-District units. Transfers within and between any unit at any level are possible as a result of promotion or voluntary transfer or transfer by order of the Garda Commissioner. General police powers are granted to each member of the organisation on their appointment as members of the force or on their appointment to a particular rank in the force. A member of the police in one part of the country retains all those powers while in another part of the country.
5. Ireland notes and welcomes the finding that Ireland is not in breach of Article 5 of the Charter concerning the prohibition of police from

establishing trade unions. Representative Associations exist for the purposes of representing the staff interests of all ranks up to Chief Superintendent in An Garda Síochána. These associations are established by law and Ireland agrees with the finding of the ECSR that the police representative associations enjoy the basic trade union rights within the meaning of Article 5 of the Charter.

6. The ECSR has found that Ireland is in violation of **Article 5** (the right to organise) and **Article 6§2** (the right to bargain collectively) of the Charter on grounds of the prohibition against police representative associations from joining national employees' organisations and on grounds of restricted access of police representative associations to pay agreement discussions respectively.
7. A collective agreement was concluded in May 2013 between unions and representative associations representing public sector workers on the one part and the Government on the other part. Each of the Associations representing the ranks in the Garda Síochána took part in these discussions. In the case of the Garda an independent, comprehensive review of the organisation has begun. This review has the following terms of reference:-

To review and make recommendations on the use by An Garda Síochána of the resources available to it, with the objective of achieving and maintaining the highest levels of efficiency and effectiveness in its operation and administration.

The review shall encompass all aspects of the operation and administration of An Garda Síochána, including:

the structure, organisation and staffing of An Garda Síochána;

the deployment of members and civilian staff to relevant and appropriate roles;
the remuneration and conditions of service of members of An Garda Síochána,
including an evaluation of annualised hours/shift pay arrangements;
the appropriate structures and mechanism for the future resolution of matters
relating to pay, industrial relations and attendance matters.

8. I would highlight in particular the final two points in these terms of reference deal with *the remuneration and conditions of service of members of An Garda Síochána, and the appropriate structures and mechanism for the future resolution of matters relating to pay, industrial relations and attendance matters.*
9. These elements of the review are being carried out, by agreement between all parties, by the former Deputy Chairperson of the Labour Court in Ireland and an acknowledged expert in these matters. The review will receive and accept input from a number of different parties including the Government and the Associations themselves.
10. The mission statement of the Labour Court is "*To find a basis for real and substantial agreement through the provision of fast, fair, informal and inexpensive arrangements for the adjudication and resolution of trade disputes*".
11. The Labour Court was established under the Industrial Relations Act, 1946, to provide a free, comprehensive service for the resolution of disputes about industrial relations, equality, organisation of working time, national minimum wage, part-time work, fixed-term work, safety, health and welfare at work, information and consultation matters.
12. The Labour Court is not a court of law. It operates as an industrial relations tribunal, hearing both sides in a case and then issuing a

Recommendation (or Determination/Decision/Order, depending of the type of case) setting out its opinion on the dispute and the terms on which it should be settled.

13. This review is now underway and the findings of the ECSR will be submitted to the review. We fully expect that they will be taken into account, together with all other relevant issues, as part of that process.
14. The review is expected to be completed in the coming months. Given that this is an independent review, it would not be appropriate – or possible – for one of the parties to prejudge the outcome.-
15. We can assure this Committee however that Ireland takes careful note of the findings of the ECSR on these issues and they will be fully considered. In this regard, Ireland is committed to engagement with all relevant parties on these issues with a view to seeking solutions which respect the Charter.
16. The ECSR has also found that Ireland is in violation of **Article 6§4** of the Charter on grounds of the prohibition of the right to strike of members of the Garda Síochána.
17. I have already outlined the particular role that An Garda Síochána provide in the delivery of the security and intelligence service of the state, in addition to the delivery of the policing service as well as immigration services.
18. Members of An Garda Síochána are engaged in regular policing, security and intelligence services and immigration services on a daily basis. All members of An Garda Síochána are recruited at a single

point of entry as Garda recruits and following initial training are assigned to general policing duties. Over time and with additional training, members may be assigned to specific duties such as members of the Garda National Drugs Unit, Special Detective Unit, Scenes of Crime experts etc. These assignments are at the discretion of the Garda Commissioner who, by law, directs and controls the organisation. Members may be re-assigned from one unit to another either on voluntary transfer or at the direction of the Commissioner.

19. It is critically important that the police and security services in the State are fully operational at all times and it must be emphasised that providing a right to strike to members of the Garda Síochána across the country would raise the most serious issues in respect of the capacity of the State to ensure the maintenance of law and order.
20. Delegations will have noted the narrow margin within the ECSR upon which this decision was based, as well as the strong dissenting opinions put forward. This is a particularly difficult and sensitive issue, including for other Member States, and raises complex questions for Ireland from a legal, operational and management perspective. These issues require detailed and considered input from various parties including the Garda Commissioner, the Attorney General and indeed Government itself.
21. It is only in the full knowledge of all aspects of this issue that full and careful consideration can be given to any proposed change in the present arrangements being contemplated.
22. Ireland takes careful note of the findings of the ECSR in this issue while conscious of the importance of ensuring that the security of the

state is not compromised by any change in the industrial relations arrangements that apply to An Garda Síochána.

23. Ireland will continue to keep this matter under review and looks forward to reporting back on all aspects of the findings of the ECSR, in the context of our own regular reporting obligations under the Charter.

24. As indicated, I am happy to respond now to any questions delegations may have on the issues raised. I am also happy to respond in writing, and we will, of course, circulate this response in hard copy after the meeting. We hope that it will be possible for this group to take a decision today to instruct the Secretariat to draft a resolution for consideration – and onward transmission to Deputies – at the next meeting

Ends.