

## Questionnaire on Domestic Servitude

### Response of Ireland

#### Question 1

**A. Are there provisions in place within your country's national legal framework which criminalise contemporary forms of slavery (e.g. forced labour, bonded labour, domestic servitude, serfdom, etc.)?**

Yes, all forms of trafficking in human beings are prohibited in Ireland.

**B. Please specify these provisions, including specific references to the source of law.**

The Criminal Law (Human Trafficking) Act 2008 provides for penalties of up to life imprisonment and, at the discretion of the court, an unlimited fine for trafficking of persons for the purposes of labour or sexual exploitation or for the removal of a person's organs. The Child Trafficking and Pornography Act 1998 had already made the trafficking of children for the purposes of sexual exploitation illegal.

The Criminal Law (Human Trafficking) (Amendment) Act 2013 came into effect and broaden the definition of trafficking to include forced begging and forced participation in criminal acts. The definition of forced labour in line with the definition in ILO Convention No. 29 on Forced Labour. The Criminal Law (Sexual Offences) Act 2017 criminalises the purchase of sexual services while decriminalising the selling of sex. It creates a specific offence of paying for sexual services from someone who has been trafficked.

The Department of Business, Enterprise and Innovation, in close cooperation with the International Labour Organisation (ILO) Interdepartmental Group, is advancing work towards ratification of the ILO Protocol of 2014 to the Forced Labour Convention. The Protocol is a legally binding instrument that establishes a common framework for the ILO member states to move towards the elimination of forced labour. The Protocol strengthens the international legal framework by creating new obligations to prevent forced labour, to protect victims and to provide access to remedy. It requires governments to take measures to better protect workers, in particular migrant labourers, from fraudulent and abusive recruitment practices and emphasizes the role of employers and workers in the fight against forced labour. Ireland is currently a Titulaire member of the Governing Body of the ILO and the ratification of the Forced Labour Protocol is a key deliverable of our term as Titulaire.

#### Question 2

**Are there provisions in place within your country's national legal framework which establish distinct rights and/or restrictions for domestic workers, including migrant domestic workers (in regards to, for instance, salary, working hours, freedom of movement, freedom of association, limited freedom to change employers, etc.)?**

In July 2014 Ireland ratified the International Labour Organisation (ILO) Convention on Decent Work for Domestic Workers (No. 189), 2011 – it was the third EU country to do so. The Convention requires countries to take measures to ensure that domestic workers, like other workers generally, should enjoy fair terms of employment, and sets out provisions in this regard such as requiring that where the domestic workers reside in the household for which they work, they should enjoy decent living conditions that respect their privacy. Ireland's strong track

record on protection of domestic workers was demonstrated by the fact that we were able to ratify the Convention without having to amend our existing suite of robust employment rights legislation.

### **Question 3**

**A. Please specify whether reporting mechanisms or institutions are available for human rights violations suffered by domestic workers, including to migrants if applicable; if no reporting mechanisms or institutions are in place, please specify what kind of support is available to enable victims to file complaints in case of alleged abuse and to pursue effective and adequate remedies for their rights violations.**

Nil response.

**B. Please specify these provisions, including specific references to the source of law.**

Nil response.

### **Question 4**

**A. Please provide any available data on the number of migrant domestic workers in your country. Is there gender-disaggregated data available, specifying the number of female and male domestic workers?**

Nil response.

**B. Please also provide data/estimates on the number of formal and informal migrant domestic workers in your country.**

Nil response.

### **Question 5**

**A. Please describe how often the labour inspectorate conducts inspections in private households to investigate abuses in domestic work and if any investigations of such a nature have taken place.**

The Workplace Relations Commission (WRC) is an independent, statutory body which was established on 1st October 2015 under the Workplace Relations Act 2015. The roles and functions previously carried out by the National Employment Rights Authority (NERA) were assumed into the WRC with the enactment of the 2015 Act. Inspectors of the WRC carry out inspections of employer records with a view to determining compliance with employment rights legislations. These inspections arise:

- in response to complaints received of alleged non-compliance with relevant employment rights legislation;
- as part of compliance campaigns which focus on compliance in specific sectors or specific pieces of legislation, or
- as routine inspections, which act as a control measure.

Inspections of domestic employment in private homes have been taking place since 2011. To date 233 inspections have been undertaken and almost €44,000 in wages owed to workers has been recovered.

**B. Please specify if there are specific trainings of labour inspectorates to identify practices which may amount to slavery-like conditions or to contemporary forms slavery in domestic work.**

Labour inspectors have been trained in the identification of indicators of forced labour and human trafficking (THB). A formal referral process is in place where suspected cases are encountered. The WRC regularly updates Inspectors on trends and new developments relating to labour exploitation and works closely with the Garda National Protective Bureau and the Garda National Immigration Bureau in dealing with the issues of forced labour and human trafficking. The WRC Inspectorate is also part of the EUROPOL Empact Labour Exploitation group. This group brings together Labour Inspectors and Police officers across Europe to exchange information and good practice to help combat forced labour and human trafficking on an ongoing basis. The WRC has participated in days of action in 2016 and 2017 focussed on Car Washes and Nail Bars respectively. Over the course of these days of action over 240 inspections were carried out (18 in conjunction with the Garda) and several severe cases of exploitation and labour law violations were detected.

Most of the WRC Inspectors have also undergone training in human rights awareness using a syllabus developed in conjunction with the Irish Human Rights and Equality Commission.

**Question 6**

**Please detail relevant jurisprudence, including any landmark cases, which demonstrate effective access to justice for victims of domestic servitude (including migrant workers), and provide copies of any judgments if possible.**

Nil response.

**Question 7**

**What measures are in place for victims of contemporary forms of slavery to pursue access to justice and remedy for violations of their human rights taking place in domestic work, in particular as pursued by migrant domestic workers?**

There are a number of methods of obtaining remedy currently available to victims in Ireland as follows:

- Court Order for payment of compensation under Section 6 of the Criminal Justice Act 1993;
- Civil Action to claim damages taken either under legislative or common law rules which may relate to an employment situation or personal injuries;
- Criminal Injuries Compensation Tribunal may provide compensation for any expenses or lost earnings that were suffered directly because of trafficking.

Victims of trafficking may also initiate a civil claim for damages and compensation from their country of origin.

The Employment Permits (Amendment) Act enacted in July 2014 seeks to address the deficiency where a foreign national could not enforce employment rights if a contract of employment was unlawful due to a failure to have an employment permit.

The State system of direct support to victims of trafficking through the provision of accommodation and services and generous NGO funding, is the principal means of redress made available by the State to victims of trafficking.