



**Taighde, Idirphlé, Comhairle**  
Research, Dialogue, Advice

# **Reframing Collective Bargaining & Industrial Relations**

**NERI Seminar 20<sup>th</sup> September 2023**

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## Overview

- Collective bargaining in Ireland
- *Triggers* – changing the debate
- *Drivers* – changing the policy and institutional landscape
- Good Jobs – reframing the debate
- Sectoral dialogue and bargaining
- Scotland and Wales
- The Architecture of a new approach

- Trade union density falling: 28%
- Low collective bargaining coverage (33.5% ) 2<sup>nd</sup> lowest in the EU14, and less than half of the EU14 average of 73%
- Ireland has never introduced legislation that provides for statutory trade union recognition and there is also no legal right to direct negotiations between employers and unions
- Constitutional Conundrum
- Right to Bargaining legislation – limited impact
- Statutory Wage Setting Mechanisms; JLCs (EROs) REAs; SEOS
  - parallel tradition, of the state and the social partners using statutory mechanisms to set (minimum) standards for remuneration and other terms and conditions of employment in a number of sectors.; Irish version of extension agreements
- Legal challenges, legislative fixes and growing employer opposition and/or disengagement have served to reshape the statutory wage setting architecture and constrained it's capacity to promote collective bargaining and protect employment standards

## Triggers – Changing the Debate

- OECD: new policy paradigm
  - contribution that collective bargaining and employee voice can make to employment growth, labour market inclusiveness and job quality
  - New Zealand (Fair Pay Agreements)
  - Australia; legislation to strengthen and expand multi-employer bargaining
- ‘The traditional route in Ireland has been very much wedded to the US tradition and the Biden administration has very firmly swung the pendulum towards collective bargaining, minimum wages and a right to union recognition....’ (Danny McCoy, Ibec)
- Covid -19
  - Interventionist state action
  - Focused attention on the terms and conditions of essential/frontline workers
- Recruitment and retention challenges; worst shortages in sectors characterised by low and poor conditions
- Transition to digital and low carbon future; focus on just transition and ensuring good jobs

1. European Pillar of Social Rights
2. Adequate Minimum Wage Directive
3. LEEF High Level Review Group
4. Government Policy – quality as well as quantity of jobs

- EPSR : comprehensive effort to advance the social dimension of European integration.
- The EPSR sets out 20 principles and rights to support fair and well-functioning labour markets and welfare systems, structured around three main chapters:
  - Equal opportunities and access to the labour market
  - Fair working conditions, and
  - Social protection and inclusion
- Recent policies have demonstrated a greater emphasis on the social dimension including a marked policy re-orientation in the direction of EU policy making towards Member State's labour markets
- Strong political recognition of the need to deliver on the social side of the EU project
- ETUI have adopted proactive and pragmatic approach to the EPSR
- Series of initiatives with the potential to promote a good jobs agenda
  - AMWD
  - Directive on more transparent and predictable working conditions,
  - The Directive on Work Life Balance
  - The proposed Directive on improving working conditions in platform working.

- AMWD

- Procedures in relation to adequacy of minimum wages
- Effective access to minimum wage protection
- Promotion of collective bargaining on wage setting

“The countries with high collective bargaining coverage tend to display a lower share of low-wage workers, higher minimum wages relative to the median wage, lower wage inequality and higher wages than the others” (European Commission 2020a:3).

- MS, in consultation with the social partners, are required to take actions that promote the building and strengthening of the capacity of social partners to engage in collective bargaining on wage setting at sector or cross-industry level and encourage constructive, meaningful and informed negotiations on wages among social partners.
- Collective bargaining coverage **is below a threshold of 80 per cent of workers**, Member States are required to provide for a framework of enabling conditions for collective bargaining and establish an action plan to promote collective bargaining coverage
- Commission argue that it has the potential to deliver an ambitious set of social and economic benefits
- Social market economy compete on innovation and productivity not erosion of employment standards

*“people will look back at this as a defining phase of Social Europe.” (Joost Korte (DG))*

- Watershed in history of European economic and social integration (EP); historic (Muller and Schulten)
- Address the issue of low pay by coordinating policies on minimum wages
- recognition of the social and economic benefits of promoting income growth and better labour market standards.
- Clear articulation of the important role that social actors and collective bargaining institutions can play in building stronger and more inclusive social market economies
- Fundamental paradigm shift in the EU Commission’s approach to employment regulation and labour market policy
- Adequate minimum wages and strong collective bargaining institutions are no longer seen as part of the problem but rather as part of the solution
- Potential game changer for Ireland - level of collective bargaining coverage
- Accords with the tradition of social partnership and progressive approach to IR

- Agreed report published in 2022
  - Good faith engagement
  - Technical assessors in cases under 2015 IR Acts
  - Education & training initiative for enterprise level bargaining
  - Reform of the JLCs
- Improve functioning of CB and IR landscape and ensure state is well placed to meet EU law obligations **in a meaningful way**
- Action plan under AMWD would need to support and encourage sectoral level CB
  - JLC – in situ a legislative mechanism for supporting it
- Measures designed to make the JLC system more effective and flexible and ending the ability of any party to exercise a de facto veto

“The Group considers that properly functioning JLCs can be an effective, evolving, and flexible system of sectoral regulation, that can contribute to the **progressive development of different sectors of the economy, support more sustainable and inclusive high-quality employment**, and also help **address other employment challenges**”. (LEEF High Level Group 2020:7)

“having set standards of pay through an ERO for security operatives, it allows the industry to attract the right calibre of people, justify the training levels required for licencing and not allow for standards to be depleted.” (Irish Security Industry Association, cited in Labour Court 2018:46)

- JLCs in Security; Contract Cleaning; ELC services; English language schools
- Re-establish JLC in tourism and hospitality (Dáil JC Report); encourage access to trade unions (Employer Excellence Programme)
- Contestation and legal challenges
- Not just minimum standards but drivers of the good jobs economy

- Programme for Government there is a clear articulation of the need for a concerted policy focus on increasing the number of quality and sustainable jobs in the labour market

“We are working to ensure the pandemic leaves a legacy of a more inclusive and secure society. Full employment. Good jobs. Secure jobs. Making work pay more and rewarding effort”. (Tánaiste Leo Varadkar, T.D. 2022”

- Strengthening of employees terms and conditions
  - Statutory Living Wage by 2026;
  - The introduction of a new statutory sick pay scheme (Sick Leave Act 2022).
  - New auto-enrolment pension scheme from January 2024; The Payment of Wages (Amendment) (Tips and Gratuities) Act 2022,
  - Additional public holiday; Extension of parents leave
  - Work Life Balance and Miscellaneous Provisions Act 2023 the right to request remote working;
- Employment Miscellaneous Provisions Act (2018).
- JLC for ELC Services: Active intervention by the Government (funding quid pro quo)

- Good Jobs: potential to deliver positive outcomes for employees, employers and wider society (state)
- Intrinsic and extrinsic characteristics
  - Interaction that shapes employees experience
  - Making all jobs better
- Voice (individual & collective)
  - Enabler of other dimensions/characteristics
- NCPC (2022)
  - Attracting and retaining skilled labour
  - recognise that good wages and good working conditions can promote productivity growth
- Unlocking potential: tapping into employee's ideas to enhance productivity and improve performance
- Job-quality-health-productivity nexus (San Martin et al., 2018)

- Good jobs: contextualised for different sectors
- Sectoral Forums/Taskforces
  - Forge shared understanding of the particular challenges and develop customised/tailored responses
  - Good jobs to positioned in the broader context: sustainable, productive and innovative sectors that deliver for all stakeholders
- AMWD – premised on supporting and promoting sectoral collective bargaining
  - inclusive and dynamic growth

- Fair work as key to inclusive growth, well-being, enhanced productivity and prosperity
- Employment law a reserved function;
  - Using policy levers (procurement) and public grants
  - Soft powers; strategic influence, moral authority, convening power
  - Institutional support
  - Collaborative approach
- Social Partnership ethos underpins the fair work agenda
  - Social Partnership and Public Procurement Wales Act'
- Strong focus on sectoral engagement and collective bargaining (voluntary) – best way to deliver fair work improvements for employees, employers and wider society

- Fair work as an outcome but also an enabler of progressive change (collective voice)
- Sustainable, resilient and productive sectors capable of delivering fair work
  - Retail, social care , construction, hospitality
  - National Care Service (Scotland) commitment to fair work and sectoral collective bargaining for all employees (public/independent third sector)
  - Social Care Fair Work Forum (Wales) new model of collective bargaining
- *Getting the Change Right – A Retail Strategy for Scotland’* (co-developed)
  - Industry Leadership Group to deliver the strategy in particular fair work aspects
  - Fair Work Agreements (Voluntary) - address low pay for workers and provide benefits for businesses in terms of staff recruitment, productivity and resilience

- The Irish Congress of Trade Unions' Retail Sector Group:
  - Campaign to address low pay and insecure work
  - Tripartite Retail Stakeholder Group – develop a new blueprint for the Retail & Distribution Sector
- DETE: 'Future of the Irish Retail Sector' report
- Retail Forum (profitability and rising prices)
- Mandate 'Smoke and Mirrors' Report
- Multi-stakeholder forum for meaningful dialogue and frank exchange of views ;
  - Research and consultation
  - Shared strategy and ownership of delivery
  - Good jobs at the centre of this
  - Key role for TU and CB

- Transposition of the AMWD – meaningful way
- Progressive approach to implementing the LEEF HLG report
- Continue to deliver improvements in employee benefits and rights
  - improving pay and conditions and adopting progressive work practices can drive improvements in recruitment and retention, productivity and performance; (not just a cost)
- Sustained, concerted and collaborative focus on good jobs
  - Institutional and policy supports
  - Public sector procurement; care strategy etc.,
  - More work about work (multiple sources of evidence)
- Multi-stakeholder sectoral taskforces – specific needs of sector and bring forward plans (Programme for Government)
- Social dialogue and new social contract

- Collective bargaining coverage is too low “let us be frank; we are not probably where we should be.”
- “An efficient collective bargaining system is not just in the interest of the workers but also in the interest of the employers, and, most importantly, the interest of economy and society as a whole” (Neale Richmond T.D., Minister of State at DETE).