

## Ratification of ILO Forced Labour Protocol

### Article by Article Assessment of the Protocol compared with National Laws and Policies

Article	Comments
<b>Article 1</b>	
<p>1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.</p>	<p><i>take effective measures to prevent and eliminate its use,</i></p> <ul style="list-style-type: none"> <li>• Criminal Law (Human Trafficking) Act, 2008 and the Criminal Law (Human Trafficking) (Amendment) Act 2013</li> <li>• Second National Action Plan (NAP) to Prevent and Combat Human Trafficking in Ireland</li> <li>• Employment Rights legislation</li> </ul> <p><i>to provide to victims protection and access to appropriate and effective remedies, such as compensation,</i></p> <ul style="list-style-type: none"> <li>• National Referral Mechanism</li> <li>• Redress under WRC structures</li> <li>• Recompense under Section 4 of the Employment Permits Amendment Act 2014</li> <li>• Criminal injuries compensation scheme</li> </ul> <p><i>and to sanction the perpetrators of forced or compulsory labour.</i></p> <ul style="list-style-type: none"> <li>• Criminal Law (Human Trafficking) Act, 2008 and the Criminal Law (Human Trafficking) (Amendment) Act 2013</li> </ul>
<p>2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities</p>	<p>The Second National Action Plan (NAP) to Prevent and Combat Human Trafficking in Ireland sets out a broad-based plan of action for the effective and sustained suppression of forced or compulsory labour. ICTU and Ibec were consulted on the preparation of the Plan. Trade unions and employers' representative bodies are key social</p>

and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.	partners in preventing trafficking in human beings for the purpose of labour exploitation.
3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.	Section 1 of the Criminal Law (Human Trafficking) Amendment Act 2013 defines "Forced Labour" in line with the ILO definition for Forced Labour in Convention 29.
<b>Article 2</b>	
The measures to be taken for the prevention of forced or compulsory labour shall include:	
(a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;	<ul style="list-style-type: none"> <li>• The Second National Action Plan comprises a broad-based prevention strategy which focuses on awareness-raising activities amongst other matters.</li> <li>• Continued efforts are being made to raise public awareness of the issue of trafficking in human beings using the Blue Blindfold campaign. <a href="http://www.blueblindfold.gov.ie/">http://www.blueblindfold.gov.ie/</a></li> <li>• A number of awareness raising activities and training initiatives have taken place in recent years, including radio advertisements, educational packs for schools, presentation to third level institutions and articles in targeted publications, e.g. migrant newspapers.</li> <li>• The training of frontline personnel on the indicators of human trafficking will continue, with the extension of this training beyond traditional sectors to frontline personnel in social services, emergency services etc.</li> </ul>
(b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;	<ul style="list-style-type: none"> <li>• A particular focus of the Blue Blindfold campaign is on the business community who have a key role to play in reducing the demand for trafficking and disrupting the activities of traffickers.</li> </ul>

	<ul style="list-style-type: none"> <li>• WRC labour inspectors conduct workplace inspections to ensure compliance with employment rights legislation. Inspections also provide the opportunity to inform employers of the requirements of legislation, discuss best practice for compliance and deal with queries they may have.</li> <li>• They have a number of publications providing information on employment matters available on their website including 'Employment Law Explained' (published in 12 languages) and a guide to the 'Employment Rights of Domestic Workers in Ireland' (published in 8 languages). These guides are equally useful to employers and workers.</li> </ul>
<p>(c) undertaking efforts to ensure that:</p> <p>(i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and</p> <p>(ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;</p>	<ul style="list-style-type: none"> <li>• The Criminal Law (Human Trafficking) Act, 2008 and the Criminal Law (Human Trafficking) (Amendment) Act 2013 cover victims of trafficking for the purpose of labour exploitation (in all sectors of the economy).</li> <li>• Under Section 4 of the Employment Permits (Amendment) Act 2014 a permit or former permit holder who is a victim of labour exploitation can request the Minister to take a civil case for recompense.</li> <li>• WRC inspectors can enter any workplace to carry out an inspection and in 2017 a total of 4,747 inspections, related to some 99,259 employees were carried out (an increase of 24,000 on 2016). Inspections are frequently focused on sectors where a high risk on non-compliance and exploitation is expected.</li> <li>• The WRC are represented on national structures established to combat forced labour.</li> <li>• WRC Inspectors co-operate and participate in joint operations with the Garda and other state agencies which are focussed on labour exploitation and forced labour. The Europol EMPACT initiative has resulted such joint operations</li> </ul>

	<p>targeting particular areas on concern such as car washes, nail bars and other risk sectors.</p> <ul style="list-style-type: none"> <li>• Formal referral mechanisms are in place to allow the inspectorate to refer suspected cases of THB to the Garda.</li> </ul>
<p>(d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;</p>	<ul style="list-style-type: none"> <li>• Employment agencies regulated under the Employment Agency Act, 1971.</li> <li>• Under Section 23 of the Employment Permits Act 2006 it is an offence to charge for the recruitment or placement of a permit holder.</li> </ul>
<p>(e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour;</p>	<ul style="list-style-type: none"> <li>• The WRC have an active Labour Inspectorate. All inspectors are fully trained in the indicators of forced labour, which ensures compliance with labour standards in all sectors of employment.</li> <li>• The WRC provides a lo-call phone line and produces guidelines on employment rights in up to 12 languages on their website.</li> <li>• The WRC also carries out training and information events in various employment sectors and public events. These promote compliance with employment law and inform workers of potential avenues of redress if they are not receiving their rights.</li> <li>• Experts from agencies within the National Referral Mechanism provided training to An Garda Síochána, the HSE, other State Agencies, and NGOs by to ensure they can: <ul style="list-style-type: none"> <li>➤ recognise that someone is a victim of human trafficking,</li> <li>➤ respond appropriately, and</li> <li>➤ refer the victim to the appropriate resources.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>Continued efforts are being made to raise awareness of the issue of trafficking in human beings, including trafficking for labour exploitation, using the Blue Blindfold campaign.</li> </ul>
(f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.	Root causes include poverty, discrimination and a climate of impunity. Ireland addresses these root causes through our suite of social protection services, equality legislation, employment rights legislation, enforcement services and a policy focus on quality job creation.
<b>Article 3</b>	
Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.	<p>Under the Second NAP we have a broad-based identification and prevention strategy which focuses on: training for frontline personnel, awareness-raising activities, a data collection system designed to ensure knowledge of emerging trends, enhanced coordination and cooperation among stakeholders and reduction in the demand for services of victims of human trafficking.</p> <p>Victims of forced or compulsory labour may receive the protections afforded to victims of human trafficking under the National Referral Mechanism. These include health services (mental, emotional and physical care), immigration permission, legal services, accommodation, material assistance (supplementary welfare allowance, rent), vocational training and education, repatriation, translation/interpretation services and access to education for dependent children.</p>

<p><b>Article 4</b></p>	
<p>1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.</p>	<ul style="list-style-type: none"> <li>• Under the Second NAP, the State continues to provide assistance to victims of trafficking and/or voluntary assisted return or reintegration programmes.</li> <li>• The Legal Aid Board provides free legal services to victims of trafficking in relation to certain matters.</li> <li>• Victims of Forced Labour have the same access to criminal injuries compensation mechanisms as any other victims of crime.</li> <li>• Victims who are legally entitled to work in Ireland can avail of the State's redress structures under employment law.</li> <li>• Under Section 4 of the Employment Permits (Amendment) Act 2014 a permit or former permit holder who is a victim of labour exploitation can request the Minister to take a civil case for recompense.</li> </ul>
<p>2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.</p>	<p>The <a href="#">Prosecutorial Guidelines of the DPP</a> encompass this concern.</p>
<p><b>Article 5</b></p>	
<p>Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.</p>	<p>Widespread international cooperation takes place through the EU, Council of Europe, OSCE Alliance against Trafficking, UN and UNGIFT (The United Nations Global Initiative to Fight Human Trafficking), the International Organisation for Migration (IOM), International Labour Organisation (ILO) and the Intergovernmental Consultations on Asylum and Migration (IGC) Working Group on</p>

	Trafficking. Gardaí information share with FRONTEX, Europol and Interpol, attend training courses organised by CEPOL, and attend annual Europol Expert meeting on trafficking in human beings.
<b>Article 6</b>	
The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.	Consultations ongoing - including with Irish employer and worker representative bodies (Ibec and ICTU).
<b>Article 7</b>	
The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.	<b>Technical provision</b>
<b>Article 8</b>	
1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.	<b>Technical provision</b>
2. The Protocol shall come into force twelve months after the date on which ratifications of two Members have been registered by the Director- General. Thereafter, this Protocol shall come into force for a Member twelve months after the date on which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol	<b>Technical provision</b>
<b>Article 9</b>	
1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 30, by an act communicated to	<b>Technical provision</b>

the Director-General of the International Labour Office for registration.	
2. Denunciation of the Convention in accordance with its Articles 30 or 32 shall ipso jure involve the denunciation of this Protocol.	<b>Technical provision</b>
3. Any denunciation in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.	<b>Technical provision</b>
<b>Article 10</b>	
1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.	<b>Technical provision</b>
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.	<b>Technical provision</b>
<b>Article 11</b>	
The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.	<b>Technical provision</b>



<b>Article 12</b>	
The English and French versions of the text of this Protocol are equally authoritative.	<b>Technical provision</b>