

The Committee on the Elimination of Discrimination against Women's consideration of the combined sixth and seventh periodic reports of Ireland

Additional response provided in writing on the position regarding domestic workers and au pairs in Ireland

Domestic workers

Ireland's body of employment rights legislation protects all employees who are legally employed on an employer-employee basis, regardless of what title is given to them. Therefore, once it is clear that a person is working under a contract of employment, on a full-time or part-time basis, that person has the same protection under employment law as other employees.

When the Irish Government announced its decision to ratify the ILO Domestic Workers Convention 189 in July 2014 only 14 ILO member countries out of the then 185 members had ratified it, and Ireland was only the third EU country to ratify it. The occasion was marked by the launch of an information booklet on the employment rights of domestic workers in Ireland which was prepared by the then National Employment Rights Authority (now the Workplace Relations Commission).

The decision to ratify the ILO Convention showed a strong commitment on the part of Ireland to the protection of the rights of domestic workers. Ireland's strong track record in the area of protecting people involved in domestic work was evident in the fact that it was possible to ratify the Convention without having to amend Ireland's existing suite of employment rights legislation.

The then National Employment Right Authority (now the Workplace Relations Commission) has undertaken a programme of inspections involving domestic workers, and the Commission continues to respond to any complaints received from domestic workers. In addition, the Labour Relations Commission, in conjunction with the social partners, produced a Code of Practice for Protecting Persons Employed in Other People's Homes which recognises the unique circumstances that occur in the domestic work employment relationship. In any proceedings before a court, or a workplace relations dispute resolution body, a code of practice is admissible in evidence and any provision of the code which appears to the court, body or officer concerned to be relevant to any question arising in the proceedings is taken into account in determining that question

Au pairs

There is no separate legal definition of the term 'au pair' in Irish legislation. Ireland's body of employment rights legislation protects all employees who are legally employed on a contract of service regardless of what title is given to them.

Once it is clear that a person is working under a contract of employment (written or verbal) within the meaning of the relevant employment rights legislation, on a full-time or part-time basis, that person has the same protection under employment law as other employees, including entitlement to the national minimum wage.

Recent Workplace Relations Commission decisions regarding individuals working as Au Pairs do not constitute any change to existing employment law. Any persons working under a contract of employment must continue to have the full protection of employment law.

Under the *National Minimum Wage Act 2000*, certain reckonable components may be taken into account to determine an employee's average hourly rate.

In this context, if an employer provides an employee with full board and lodgings, or lodgings only or full board only, a monetary allowance can be included as reckonable pay.

The Low Pay Commission (LPC) has been asked to review the board and lodgings rates under the National Minimum Wage legislation. **It is not a review of the employment status of au-pairs. The review is confined to examine the board and lodging rates for all employees affected by the National Minimum Wage legislation.** The LPC conducted a public consultation in relation to the operation of these rates.

The closing date for submissions was the 10th of January this year. The LPC is currently considering the submissions received, and will shortly hold oral hearings with a number of those who made submissions. The Commission will then examine all the available evidence and prepare its report and recommendations. The Government has requested that the Low Pay Commission report back by the end of April.