



Industrial relations and social dialogue
**Ireland: Institutions, policies and
practices for enforcing minimum
wage compliance**

*Minimum wages: Non-compliance and
enforcement across EU Member States
Comparative report*

Authors: Andy Prendergast (IRN Publishing); Serena Drufuca and Alessandra Crippa (Istituto per la Ricerca Sociale)

Research manager: Carlos Vacas-Soriano

Eurofound reference number: WPEF23055

© European Foundation for the Improvement of Living and Working Conditions (Eurofound), 2023
Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the Eurofound copyright, permission must be sought directly from the copyright holders.

Any queries on copyright must be addressed in writing to: copyright@eurofound.europa.eu

Research carried out prior to the UK's withdrawal from the European Union on 31 January 2020, and published subsequently, may include data relating to the 28 EU Member States. Following this date, research only takes into account the 27 EU Member States (EU28 minus the UK), unless specified otherwise.

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127.

European Foundation for the Improvement of Living and Working Conditions

Telephone: (+353 1) 204 31 00

Email: information@eurofound.europa.eu

Web: www.eurofound.europa.eu

Contents

1. Legal framework and minimum wage enforcement institutions	1
Regulation of minimum wage enforcement.....	1
Enforcement institutions and coordination system in place.....	1
Resources and capacity of control/enforcement institutions in charge of MW compliance	2
2. Enforcement measures	2
Deterrence measures	2
Persuasion/preventive measures	3
3. Role of social partners and other stakeholders	3
Social partners	3
Role of other institutions/stakeholders.....	3
EU cooperation	4
4. Enforcement challenges, strengths and weaknesses of the enforcement system	4

1. Legal framework and minimum wage enforcement institutions

Regulation of minimum wage enforcement

LEGAL/REGULATORY FRAMEWORK	<p>The National Minimum Wage Act (2000) regulates national Minimum Wages and all the issues related to enforcement.</p> <p>The Low Pay Commission Act 2015 provides the Low Wage Commission with the authority to examine the Minimum Wage and make recommendations. The Minimum Wage rate is then set by the relevant Minister.</p> <p>Enforcement is delegated to an inspectorate section in the Workplace Relations Commission (WRC), which was established in 2015. The inspectorate deals with different compliance issues regarding Irish employment law.</p>
SPECIFIC REGULATIONS	<p>In addition to the provisions of the Minimum Wage Acts for setting the general national minimum wage, Minimum Wages are also set by Sectoral Employment Orders (SEOs) and Employment Regulation Orders (EROs).</p> <p>SEO can set pay, pension and sick pay for workers belonging to a particular sector. SEOs place a legally binding floor on rates and obligations in the particular sectors throughout the country.</p> <p>ERO fixes minimum rates of pay and conditions of employment for workers in particular business sectors. Employers in those sectors are obliged to pay wage rates and provide conditions of employment not less favourable than those prescribed.</p>
DISPUTE RESOLUTION MECHANISMS	<p>Dispute resolution mechanisms regarding Minimum Wage compliance are centred on the adjudication service in the WRC. It is prohibited to victimise employees making a claim: if a complaining employee is dismissed, the dismissal is 'unfair'.</p> <p>Dispute Resolution Mechanism in SEOs and EROs: a dispute should be notified to the employer in writing; if the issue is not resolved, disputes can be taken to the WRC.</p> <p>In SEOs and EROs, workers may raise a complaint through their trade union (which brings the complaint to the WRC on behalf of the worker) or address the WRC directly</p>

Enforcement institutions and coordination system in place

ENFORCEMENT INSTITUTIONS	<p>The WRC has an inspectorate section dealing with the application of employment law (including regulation on MW).</p> <p>Enforcement of MW in SEOs and EROs is conducted mostly through industrial relations mechanisms, although the case can be referred to WRC or to a Labour Court.</p> <p>The Irish Labour Court can hear cases relating to MW implementation. It is not a court of law, but it operates as an industrial relations tribunal.</p> <p>Trade unions are generally involved in the negotiation of SEOs and EROs and play an active role in ensuring that their provisions are implemented in the relevant sectors.</p> <p>The Low Pay Commission is responsible for reporting on the implementation of the national minimum wage and making recommendations to the incumbent Minister for setting the rate of the national minimum wage.</p>
INTERNAL ORGANISATION	<p>WRC is the sole body with the authority to oversee the enforcement of the national minimum wage and the sector specific agreements in case of EROs and SEOs.</p>

	WRC is divided in service areas: Inspection, Enforcement, Information and Customer Services Division which aims to ensure that workers and employers are aware of the legislation.
COORDINATION	The inspectorate coordinates and collaborates with other agencies (Customs, Tax authorities, <i>An Garda</i> (police) which are not directly involved in the enforcement process. Cooperation is based on informal arrangements. There is also a strong informal link with NGOs working with migrants and minority groups.
MONITORING AND DATA COLLECTION SYSTEM	No specific monitoring and data collection on Minimum Wage enforcement, but annual reports of WRC and Low Pay Commission provide some information.

Resources and capacity of control/enforcement institutions in charge of MW compliance

FINANCIAL RESOURCES	WRC overall budget: 14.954 (€m) in 2020 Increased from 12.57 (€m) in 2016
HUMAN RESOURCES	WRC total staff: 192.32 (2020). Increased from 164.1 in 2016 In September 2020 there were 48 WRC Labour Inspectors. Partially adequate. The WRC is aiming to increase staff by 20% over the next three years.

2. Enforcement measures

BALANCE BETWEEN DETERRENCE AND PREVENTIVE MEASURES	Deterrence and preventive measures are balanced; measures are generally effective. The strength of the Irish approach is that it is non-punitive, thus having best chances of gaining cooperative compliance. The main weakness is that it relies on the good will of employers and on the actions of employees.
---	---

Deterrence measures

TYPE OF MEASURE AND CHANGE IN USE IN THE LAST DECADE	Stable use of routine inspections, spot checks, inspections by request, sharing of information were used. Increased use of blaming and sharing and blacklists and information/education. Targeted inspections and peer-to-peer surveillance are also used.
INSPECTIONS AND VIOLATIONS	Number of inspections concluded for the enforcement of employment law in general (not only for inspections related to MW): 1,650 (2015) 4,830 (2016) 4,747 (2017) 5,753 (2018) 4,804 (2019)

SANCTIONS	<p>Generally, there are no sanctions for employers who pay back arrears. Section 37 of the Minimum Wages Act 2000 includes provision on penalties, but they have very rarely been imposed.</p> <p>Sanctions are not considered an effective measure and thus are rarely used.</p> <p>The only relevant change is that the names of convicted employers are now being reported in the WRC Annual Report.</p>
------------------	---

Persuasion/preventive measures

TYPE OF MEASURE, INSTITUTION IN CHARGE, CHANGE IN THE LAST DECADE	<p>Measures adopted: provision of advice, counselling and training through presentations; awareness raising through a free call number, leaflets and publications in different languages. Both measures developed over time.</p> <p>Publication of details of prosecutions under Irish employment law.</p>
ROLE OF DIGITAL TOOLS	<p>WRC uses social media and the WRC website to raise awareness on regulations and provide information.</p>

3. Role of social partners and other stakeholders

Social partners

ROLE + FOCUS ON SPECIFIC SECTORS/TERRITORIES/WORKERS	<p>Employer bodies and unions have formal representation on the WRC board and the Low Pay Commission, thus being able to influence policies and legislation.</p> <p>Informal contacts with the WRC inspectorate are important to raise concerns and seek clarifications.</p> <p>Under SEOs and EROs, the role of social partners is formally recognised, and they play a central role in enforcing provisions of the agreements in place.</p> <p>No significant changes in the last decade.</p>
COORDINATION	<p>Apart from the formal membership of employer and union representatives on the board of the WRC and the Low Pay Commission, regular meetings (twice per year) take place with these bodies and the WRC inspectorate to discuss any issue arising from the minimum wage implementation.</p>
STRENGTH/WEAKNESSES	<p>The mix of formal and informal interactions enable social partners to influence policies and practices.</p> <p>However, the formal role of social partners in enforcement activities is relatively limited in scope.</p>

Role of other institutions/stakeholders

OTHER INSTITUTIONS/STAKEHOLDERS	<p>Although there is cooperation among different state agencies (An Garda, Customs, Social Protection etc) for sharing information of mutual interest, these do not have formal functions in the enforcement of Minimum Wage provisions.</p>
--	--

EU cooperation

EXAMPLES OF EU COOPERATION	Sharing of expertise and resources within the European Labour Authority (ELA), agreements with different EU state authorities for free flow of information, cooperation with the UK Gangmasters and Labour Abuse Authority.
CHANGE IN LAST DECADE	Increased
STRENGTH/WEAKNESSES	<p>The ELA provides an opportunity for developing future cooperation.</p> <p>Different legal systems give rise to different approaches in enforcing MW, making direct comparisons difficult. EU regulations do not cover MW, so that direct cooperation on this issue is more difficult. There is also a need for better education of and understanding by the relevant authorities to enable closer cooperation on MW enforcement to take place.</p>

4. Enforcement challenges, strengths and weaknesses of the enforcement system

MAIN ENFORCEMENT CHALLENGES	<p>Main challenges include the problem of raising awareness about regulations; the limited number of inspectors and the fact that inspections generally depend on complaints. There is also the need to overcome the fear of vulnerable workers in case they raise a complaint, and the fact that there are no penalties against employers infringing minimum wage entitlements if they pay the retrospective amount. In addition, records and data are not always accurately gathered.</p> <p>Finally, although undocumented migrant workers are the most vulnerable to underpayment, the 2000 Act on MW does not apply to them.</p>
STRENGTHS AND WEAKNESSES	<p>The legal system is clear with continuous monitoring by the Low Pay Commission. However, undocumented workers are not protected by the law and legislation is not based on EU directives.</p> <p>The main strength of the enforcement set up is the fact that all activities are streamlined under a single body, and organization and coordination are very effective within the limits of available resources.</p> <p>Deterrence and preventive measures are balanced.</p> <p>The strength of Irish approach is that it is non-punitive, thus having best chances of gaining cooperative compliance.</p> <p>The main weakness is that it relies on the good will of employers and on the actions of employees.</p> <p>The limited number of inspectors and lack of inspectors specifically dedicated to MW is another major weakness of the system, together with the fact that employer records are often not well kept.</p>

Source: National Eurofound Correspondent for Ireland

WPEF23055

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127.