



**DECISION ON ADMISSIBILITY**

**23 January 2023**

**European Organisation of Military Associations and Trade Unions (EUROMIL)  
v. Ireland**

Complaint No. 212/2022

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 332<sup>nd</sup> session in the following composition:

Eliane CHEMLA, Vice-President  
Aoife NOLAN, Vice-President  
József HAJDU  
Kristine DUPATE  
Karin Møhl LARSEN  
Yusuf BALCI  
Tatiana PUIU  
Paul RIETJENS  
George THEODOSIS  
Mario VINKOVIC  
Miriam KULLMANN  
Carmen SALCEDO BELTRÁN  
Monika ŠIMŮNKOVÁ

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having regard to the complaint registered on 9 August 2022 as number 212/2022, lodged by the European Organisation of Military Associations and Trade Unions (EUROMIL) against Ireland and signed by Emmanuel Jacob, President of EUROMIL, and Jörg Greiffendorf, Vice-President of EUROMIL, requesting the Committee to find that the situation in Ireland is not in conformity with Articles 2§1, 2§2, 4§1 and 4§2 of the Revised European Social Charter (“the Charter”);

Having regard to the documents appended to the complaint;

Having regard to the observations of the Government of Ireland (“the Government”) on the admissibility of the complaint, registered on 28 October 2022;

Having regard to the Charter, and in particular to Articles 2§1, 2§2, 4§1 and 4§2, which read as follows:

**Article 2 – The right to just conditions of work**

Part I : “ All workers have the right to just conditions of work.”

Part II : “ With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake :

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduces to the extent that the increase of productivity and other relevant factors permit ; (...)”

2. to provide for public holidays with pay;

(...)”

**Article 4 – The right to a fair remuneration**

Part I : “ All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.”

Part II : “ With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake :

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases ;

(...)”;

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints (“the Protocol”);

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201<sup>st</sup> session and last revised on 6 July 2022 at its 328<sup>th</sup> session (“the Rules”);

Having deliberated on 23 January 2023;

Delivers the following decision, adopted on the latter date:

1. EUROMIL alleges that certain members of the Irish Defence Forces do not enjoy adequate compensation for work on public holidays or an increased rate of remuneration for overtime work, in violation of Articles 2§1, 2§2, 4§1 and 4§2 of the Charter. In particular, EUROMIL asks the Committee to find:

- that the Government has failed to provide adequate remuneration to members of the Defence Forces, including in the form of overtime payment premiums or increased time off in lieu for personnel carrying out duties for a duration of 24 hours or more;
- that the Government has failed to conclude collective agreements covering working hours for members of the Defence Forces;
- that the Government has failed to conclude collective agreements providing for payment premiums for work on public holidays; and
- that the ban on discussing overtime payments as part of the Scheme for Conciliation and Arbitration is unreasonable, disproportionate and unnecessary having regard to the aim to be achieved when compared to the scope given to all other public servants and members of the security services.

2. In its observations, the Government does not contest the admissibility of the complaint.

## **THE LAW**

3. The Committee notes that, in accordance with Article 4 of the Protocol, which was ratified by Ireland on 4 November 2000 and entered into force for this state on 1 January 2001, the complaint has been submitted in writing and concerns Articles 2§1, 2§2, 4§1 and 4§2 of the Charter, provisions accepted by Ireland when it ratified this treaty on 4 November 2000. Ireland is bound by these provisions since the entry into force of this treaty in its respect on 1 January 2001.

4. The Committee notes also that, in accordance with Articles 1 b) and 3 of the Protocol, EUROMIL is an international non-governmental organisation with participative status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints before the Committee.

5. The Committee has already considered that EUROMIL has particular competence for the purposes of the collective complaints procedure within the meaning of Article 3 of the Protocol in respect of promoting the social and professional interests of military personnel of all ranks in Europe (see most recently *EUROMIL v. Portugal*, Complaint No. 199/2021, decision on admissibility of 25 January 2022, §6). In view of the scope of the activities of EUROMIL, it considers that the condition is also fulfilled for the purpose of the instant complaint.

6. Moreover, the Committee notes that the grounds of the complaint are indicated, detailing in what respect EUROMIL considers that Ireland has not ensured the satisfactory application of the Charter. On this basis, the Committee considers that the

complaint fulfils the requirements set out in Article 4 of the Protocol for the purposes of admissibility.

7. Finally, the complaint is signed by Emmanuel Jacob, President of EUROMIL, and Jörg Greiffendorf, Vice-President of EUROMIL. According to Section 12 of the Charter of EUROMIL, the President and the Vice-President or another member of the Board shall represent EUROMIL in legal proceedings. The Committee considers, consequently, that the complaint complies with Rule 23 of its Rules.

8. For these reasons, the Committee, on the basis of the report presented by Yusuf BALCI and without prejudice to its decision on the merits of the complaint,

### **DECLARES THE COMPLAINT ADMISSIBLE**

In application of Article 7§1 of the Protocol, requests the Deputy Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Charter, and to publish it on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 15 March 2023.

Invites EUROMIL to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the States having submitted a declaration pursuant to Article D paragraph 2 of the Charter to make comments by 15 March 2023, should they so wish.

Pursuant to Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the European Social Charter to make observations by 15 March 2023.



Yusuf BALCI  
Rapporteur



Eliane CHEMLA  
Vice President



Henrik KRISTENSEN  
Deputy Executive Secretary