

Mr Dara Callery, TD
Minister for Labour Affairs and Public Service Reform,
Department of Enterprise Trade and Innovation,
Davitt House,
Dublin 2.

Irish Congress Trade Unions
Observations and Recommendations on the Draft Convention on 'Decent Work for Domestic Workers'

1st November 2010
Dear Minister

As you are aware the next International Labour Conference (June 2011) will be the standard setting Conference for the Convention on "Decent Work for Domestic Workers". In June of this year (2010) the Conference held its first discussion and adopted proposed conclusions in the form of a Convention and Recommendation. The objective of the second discussion in 2011 is to finalise the negotiations and ensure that comprehensive instruments ensuring decent work for domestic workers are adopted.

The Irish Congress Trade Unions sees the proposed conclusions in the form of a Convention and Recommendation as the satisfactory basis on which to start the second round of negotiations. The support of Ireland along with the majority of governments for the adoption of a Convention and Recommendation in June 2010 was most welcome. **Congress' key concern is to ensure that you and your Department will continue to promote a strong instrument in the form of a Convention.**

The draft texts for next year's discussion have been prepared (the so called brown report) Report IV(1) "Decent work for domestic workers" which invites governments to send comments to the ILO on the proposed text of the Convention. I set out below our key observations and recommendations for inclusion in the report from Ireland.

1. The ICTU fully supports the recommendations of the ITUC. In addition we would like to highlight the following observations and recommendations:
2. **The Convention must protect Domestic Workers in Diplomatic Households**
 - a. It would be wrong to exclude domestic workers who work for diplomatic officials in embassies or their homes from the protection afforded under this Convention. Such exclusion will leave a large number of domestic workers in situations where they depend on their employers' good will or suffer when that good will is absent.
 - b. Experience in Ireland and around the world is that domestic workers working for embassy officials experience abuses that range from unreasonable duties, non payment of wages, excessively long hours without rest to physical, sexual and psychological abuse and violence. Many abuses are likely to remain unreported as domestic workers have few avenues for redress.
 - c. In Ireland, domestic workers in embassies or working in the homes of embassy staff, can only have their complaint heard if their employer consents. Recent cases in Ireland have highlighted that such consent is

rarely given. As a result domestic workers find it virtually impossible to pursue their complaint as Embassy officials invariably claim their diplomatic immunity and ignore complaints or refuse to attend at the various employment rights adjudicating bodies. The existing legal environment shields employment and human rights abuses from outside scrutiny.

- d. The ICTU believes that the time has come to implement measures that will protect domestic workers' rights in practice not just on paper and we are calling on you to support the following:
 - i. that the Convention will apply to all domestic workers in diplomatic and consular households ***'including non-diplomatic locally recruited staff'***...(amendment to be insert into Article 2 scope)
 - ii. that the Convention will provide for domestic workers in diplomatic and consular households to have access to courts, tribunals or other third party dispute and resolution procedures; ***'to deal with complaints about breaches of rights afforded under this and other relevant ILO Conventions'*** (amendment to be inserted into Article 14);
 - iii. It is essential that the third party dispute and resolution process be ***'agreed with the representative organizations of workers and employers and further that the concrete measures are communicated by Members to the Director General of the ILO'*** (amendment to be inserted into Article 14);
 - iv. ***'In the absence of the communication to the Director General setting out the concrete measures to protect the rights of domestic workers in embassies and consular, no visa or permits for domestic workers shall be issued by Members'*** (insert amendment in Article 14).

3. The Convention must take into account the 2010 Recommendation concerning HIV and Aids and the World of Work

- a. The ICTU supports the alternative wording in *Paragraph 3 (Point 25 of the Conclusions)* proposed by the ILO Office. It represents an improvement and is in line with the recently adopted Recommendation concerning HIV and AIDS and the World of Work, (No.200). This Recommendation was adopted at the Conference in June 2010. The aim of the proposed change is to ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose their HIV or pregnancy status.

4. Comments on Article 2,6,7, 9 and 13

- a. **Article 2:** The Convention should apply to domestic workers regardless of their immigration status and further we recommend that *'aupairs performing domestic work on an occupational basis'* be included in the scope.
- b. **Article 6:** should include *'overtime'* and *'the provision of sick leave and access to medical care'* also there is a benefit in including a requirement to inform domestic workers that their employer is *'prohibited from*

- making certain deductions, such as deductions for accidental breakages or making charges for cleaning equipment, tools or uniforms’.*
- c. **Article 7:** should provide for the information to be provided ‘*in a language understood by the domestic worker*’.
 - d. **Article 9:** add at end of (c)... *Members shall have in place dissuasive sanctions to prohibit employers from keeping in their possession passports, identity documents, bank accounts or other travel and essential documents belonging to the domestic worker.*
 - e. **Article 13:** include ‘*and dental and sickness benefits*’ at end of (b).

Ireland does not have to wait for the ILO Convention to take action. We already have a trade union negotiated Code of Practice that is supported by the Migrant Rights Centre, *Protecting People Working in Other Peoples Homes*. The National Employment Rights Authority (NERA) should organise an information campaign to let domestic workers know about their rights and employers their responsibilities. In addition NERA could do more to ensure the full enforcement of the protections for domestic workers that exist in current law.

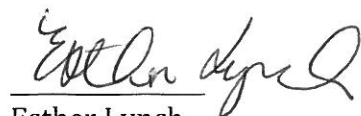
There is a value in establishing a simplified registration procedure for employers of domestic workers linked to an improved social insurance benefits scheme that makes it simple for employers to purchase social security for domestic workers and takes account of specific circumstance of migrant domestic workers.

Congress has also been campaigning for improved legislation to bring about greater and more effective regulation and control of recruitment agencies. In this regard we welcome the publication of the Consultation on the Transposition of the EU Directive on Temporary Agency Work as a means through which we can begin to bring the rights afforded under the draft Convention to life. For some time now SIPTU trade union and the Migrant Rights Centre have been calling for the establishment of a JLC (Joint Labour Committee) and ERO (Employment Regulation Order) to set minimum pay and standards for the employment of domestic workers.

I trust this is all in order. I understand that the Migrant Rights Centre has already communicated their recommendations to you and I enclose a copy.

I very much hope that workers can rely on the support of the Government of Ireland during the Conference next June as we work together to secure a strong Convention that will protect a group of vulnerable workers whose needs have been ignored for too long.

Yours sincerely



Esther Lynch
Legal and Social Affairs