

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**

CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Constitutional Affairs

Justice, Freedom and Security

Gender Equality

Legal and Parliamentary Affairs

Petitions

The impact of the crisis on fundamental rights across Member States of the EU

Country Report on Ireland

STUDY FOR THE LIBE COMMITTEE





DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

The Impact of the crisis on fundamental rights across Member States of the EU Country Report on Ireland

STUDY

Abstract

Upon request by the LIBE Committee, this study looks into the impact of the economic crisis and the austerity measures which were introduced as a response thereto, to the enjoyment of a set of selected fundamental rights by individuals in Ireland. It also contains recommendations on how to make sure that the enjoyment of these rights is ensured in the future.

**DOCUMENT REQUESTED BY THE
COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

AUTHORS

Gillian Kelly, Milieu Ltd.
Aoife Nolan, senior reviewer

Milieu Ltd. (Belgium), 112 Chaussée de Charleroi, B-1060, Brussels, tel: +32 2 514 3601; Fax +32 2 514 3603; Project Director: Emma Psaila, e-mail: Project Manager: Aleksandra Ivankovic Tamamovic, e-mail: aleksandra.ivankovic@milieu.be; web address: <http://www.milieu.be/>

RESPONSIBLE ADMINISTRATORS

Roberta Panizza
Sarah Sy
Policy Department C: Citizens' Rights and Constitutional Affairs
European Parliament
B-1047 Brussels
E-mail: poldep-citizens@europarl.europa.eu

LINGUISTIC VERSIONS

Original: EN

ABOUT THE EDITOR

Policy Departments provide in-house and external expertise to support EP committees and other parliamentary bodies in shaping legislation and exercising democratic scrutiny.

To contact the Policy Department or to subscribe to its monthly newsletter please write to: poldep-citizens@ep.europa.eu

European Parliament, manuscript completed in February 2015. Given the continuously changing situation in the Member State under examination, the cut-off date for the data collection was set for 30 June 2014.

© European Union, Brussels, 2015.

This document is available on the Internet at:
<http://www.europarl.europa.eu/studies>

DISCLAIMER

The opinions expressed in this document are the sole responsibility of the author and do not necessarily represent the official position of the European Parliament.

Reproduction and translation for non-commercial purposes are authorized, provided the source is acknowledged and the publisher is given prior notice and sent a copy.

CONTENTS

| | |
|---|-----------|
| LIST OF ABBREVIATIONS | 6 |
| LIST OF TABLES | 8 |
| EXECUTIVE SUMMARY | 9 |
| 1. IMPACT OF THE ECONOMIC CRISIS AND OVERVIEW OF THE MAIN MEASURES ADOPTED TO COPE WITH IT | 17 |
| 1.1. The impact of the economic crisis | 17 |
| 1.2. Ireland exits the crisis | 18 |
| 1.3. Financial assistance from the EU and international organisations | 19 |
| 1.4. Overview of relevant measures | 20 |
| 2. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO EDUCATION (COMPULSORY EDUCATION) | 27 |
| 2.1. International and EU legal framework for the protection of the right to education | 27 |
| 2.2. The right to education in Ireland | 28 |
| 2.3. The measures adopted | 28 |
| 2.4. The impact of the measures | 30 |
| 3. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO HEALTHCARE | 34 |
| 3.1. International and EU legal framework for the protection of the right to healthcare | 34 |
| 3.2. The right to healthcare in Ireland | 35 |
| 3.3. The measures adopted | 35 |
| 3.4. The impact of the measures | 37 |
| 4. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO WORK | 42 |
| 4.1. International and EU legal framework for the protection of the right to work | 42 |
| 4.2. The right to work in Ireland | 43 |
| 4.3. The measures adopted | 43 |
| 4.4. The impact of the measures | 46 |
| 5. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO PENSION | 49 |
| 5.1. International and EU legal framework for the protection of the right to pension | 49 |
| 5.2. The right to pension in Ireland | 49 |

| | |
|---|-----------|
| 5.3. The measures adopted | 50 |
| 5.4. The impact of the measures | 52 |
| 6. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT OF ACCESS TO JUSTICE | 56 |
| 6.1. International and EU legal framework for the protection of the right of access to justice | 56 |
| 6.2. Right of access to justice in Ireland | 57 |
| 6.3. Impact of austerity measures on mechanisms | 57 |
| 7. RIGHT TO FREEDOM OF EXPRESSION AND ASSEMBLY: PROTESTS AGAINST AUSTERITY MEASURES | 60 |
| 7.1. International and EU legal framework for the protection of the freedom of expression and assembly | 60 |
| 7.2. Protection of the freedom of expression and assembly in Ireland | 61 |
| 8. OVERVIEW OF THE IMPACT OF THE AUSTERITY MEASURES ON OTHER FUNDAMENTAL RIGHTS IN IRELAND | 62 |
| 8.1. Right to housing | 62 |
| 8.2. Rights at work | 64 |
| 8.3. The right to social security | 64 |
| 8.4. The right to water | 65 |
| 9. MONITORING COMPLIANCE OF NATIONAL MEASURES WITH FUNDAMENTAL RIGHTS | 66 |
| 9.1. Monitoring compliance at national level | 66 |
| 9.1.1. Binding decisions at national level | 66 |
| 9.1.2. Non-binding monitoring mechanisms available at national level | 67 |
| 9.2. Monitoring compliance at supranational level | 67 |
| 9.2.1. Binding decisions at European level | 67 |
| 9.2.2. Non-binding monitoring mechanisms available at European level | 68 |
| 10. CONCRETE PROPOSALS FOR IMPROVING THE RESPECT OF FUNDAMENTAL RIGHTS IN TIMES OF ECONOMIC CRISIS | 70 |
| REFERENCES | 76 |
| Table of cases | 76 |
| ECtHR case-law | 76 |
| National case-law | 76 |
| Table of Legislation | 76 |
| International law | 76 |
| European law | 77 |

| | |
|--|-----------|
| National law | 77 |
| Publications | 78 |
| EU institutions | 78 |
| International Organisations | 79 |
| National government and authorities | 80 |
| Media articles | 83 |
| Other publications | 86 |
| List of stakeholders consulted | 90 |
| ANNEX - OVERVIEW OF RELATED STUDIES | 91 |

LIST OF ABBREVIATIONS

| | |
|----------------|---|
| A&E | Accident and Emergency |
| CADE | Convention against Discrimination in Education |
| CE | Community Employment |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| DEIS | Delivering equality of opportunity in schools Programme |
| ECHR | European Convention on Human Rights |
| ECJ | European Court of Justice |
| ECSR | European Committee of Social Rights |
| ERSI | Economic and Social Research Institute |
| ESC | European Social Charter |
| EU | European Union |
| EUROCOP | European Confederation of Police |
| FÁS | An Foras Áiseanna Saothair (Irish National Training & Employment Authority) |
| FIDH | International Federation for Human Rights |
| FLAC | Free Legal Advice Centre |
| GDP | Gross domestic product |
| GP | General Practitioner |
| GPA | Garda Representative Association |

| | |
|---------------|--|
| HSE | Health Service Executive |
| ICAN | Irish Centre for Autism and Neurodevelopmental Research |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| IHRC | Irish Human Rights Commission |
| ILO | International Labour Organization |
| IMF | International Monetary Fund |
| OECD | The Organisation for Economic Co-operation and Development |
| PRSI | Pay Related Social Insurance |
| PSPR | Public service pension reductions |
| RESC | Revised European Social Charter |
| UDHR | Universal Declaration of Human Rights |
| UK | United Kingdom |
| UN | United Nations |
| UNESCO | The United Nations Educational, Scientific and Cultural Organization |
| WHO | World Health Organisation |

LIST OF TABLES

TABLE 1

Ireland's economy at a glance, 2008-2013 **17**

TABLE 2

Main measures related to the crisis adopted by Ireland, October 2008-2014 **21**

TABLE 3

Overview of instances in which the ECSR found that Ireland was not in compliance with relevant Charter provisions **69**

EXECUTIVE SUMMARY

The impact of the crisis on Ireland was very severe. Unemployment rates have more than doubled since 2008 and GDP and inflation levels have decreased significantly. Ireland negotiated a bailout programme with the European Commission, the European Central Bank and the International Monetary Fund (the troika), which implied strict conditions. These conditions were transformed into austerity policies and concrete austerity measures which affected a large number of fundamental rights enshrined in the Irish Constitution, the ECHR, the ESC and many other human rights instruments. Ireland exited the crisis when it exited the bailout programme in December 2013. However, the conclusion that Ireland has exited the crisis has been contested by many people e.g. economists at the Central Bank of Ireland, the IMF's Managing Director Christine Lagarde and The Economist newspaper.

Right to education

The right to education is being seriously affected by austerity measures. These austerity measures and the reduction in the State's expenditure on education include the reduction in teacher numbers, rationalisation of teacher/student support services, abolition of grants paid to schools, increase in transport charges and reduction in the clothing and footwear allowance. This has resulted in early school leaving and an increase in the pupil teacher ratio. Children with disabilities, immigrant children and Traveller children have been particularly affected.

Right to healthcare

Other than education, austerity measures have affected the right to healthcare. Many citizens believe that this is the area where cutbacks have had the biggest effect. Increased charges on patients, funding and staff cuts, cuts to mental health spending, closure of public nursing homes, increased waiting lists, decline in home help and home care packages and increased costs for private health insurance have made it more difficult to access healthcare. These austerity measures have particularly affected the elderly, people with disabilities and mental health issues and isolated populations.

Right to work

The right to work has probably been the most affected fundamental right in the context of the economic crisis. It has been affected by the crisis itself (that led to a significant rise in unemployment) and by austerity measures. These measures included public service staff cuts, pay cuts, cuts in training funding and removal of the redundancy rebate. These measures particularly affected young people, women, migrants, Travellers and people with disabilities.

Right to pensions

Pensions were also targeted by austerity measures. Public and private sector pension levies, public sector pay cuts, public service pension reductions and reduction of tax relief on pension funds were introduced. These have caused many problems in the pensions system including exacerbating catastrophic pension shortfalls, reducing future credibility of the system and undermining public confidence in the security of the financial system.

Right of access to justice

The crisis and austerity measures have affected the right of access to justice. Legal aid cuts, significant delays in the Social Welfare Appeals Office due to the increase in the number of appeals and the unavailability of legal aid in employment law cases and for issues regarding rights over land have negatively impacted on people's right of access to justice. No judicial claims filed against these measures have been identified. A number of reforms to the justice system have been carried out including investment in the courts system, reforms to the organisation of the legal profession, and the Legal Aid Board prioritising initiatives to provide early legal advice.

Right to freedom of expression and assembly

Overall there have been a limited number of public protests against austerity measures. Little disturbance by the government or the police during protests or public demonstrations has been reported. As an exception, however, 40 complaints of police brutality during a student protest in November 2010 were made.

Other fundamental rights

Austerity measures have also affected other fundamental rights, such as the **right to housing**, the **right to collective bargaining**, the **right to social security** and the **right to water**. The social housing budget was cut, reductions were made to the rent supplement scheme and cuts were made to child benefit, jobless benefit and maternity leave benefit. New fees for domestic water use have been introduced in homes that are connected to a public water supply. The troika has also vetoed certain people from exercising their right to collective bargaining.

Ireland has seen relatively few cases seeking to declare austerity measures to be violations of constitutional rights. There have been a number of cases challenging changes to social rights that resulted from the crisis. The Court of Justice of the EU (CJEU) has also ruled on one case concerning pension rights.

Austerity measures have been **monitored** at national level mainly through the Irish Human Rights Commission (now referred to as the Irish Human Rights and Equality Commission). At international level, issues related to austerity measures have been dealt with by the Council of Europe and the European Committee of Social Rights. No recommendation or concluding observations from the UN treaty bodies regarding the impact of the crisis and resulting austerity measures on the rights covered by this study have been found.

Recommendations

General recommendations

In order to reduce the impact of austerity measures on fundamental rights, the Government should bring human rights into post-crisis economic policy-making¹. The following steps should be taken:

Place people's rights at the heart of decision making

Amnesty International Ireland has called on the Irish Government to take a "historic step" and place people's rights at the heart of decision making by prioritising those in greatest need². Irish and European governments need to change tack and put people, not economies, first³. According to Social Justice Ireland, "those who were elected in the recent elections need to recognise that development of a fairer future across the EU in general and in Ireland in particular will be possible only when priority is given to the common good. Futures based on the primacy of the market are not likely to be just or fair"⁴.

Laws, policies and fiscal measures based on human rights standards

Government law and policy, including fiscal measures such as the budget, must be based on human rights, reflect Ireland's ESC rights obligations and must not discriminate against the most marginalised and vulnerable people in society⁵.

Include the public and civil society organisations in budgetary decisions

Decisions concerning the budget must be reached in a participatory manner by taking into account the public's right to participate⁶. Recognising that civil society organisations play an important role in ensuring budgetary accountability, the Government should create avenues for their increased involvement in the budgetary process, possibly taking the form of a year round advisory group similar to that in Scotland⁷. Members of the public and representatives of organisations would participate in such an advisory group with a genuine opportunity to directly input into how the budget impacts on marginalised people⁸.

Explicit protection of these rights in the Constitution

The Constitution should be updated to give greater protection to the rights covered in this study. The Government should accept the Constitutional Convention's recommendation that

¹ Amnesty International, 'Bringing ESC Rights Home: Applying Ireland's Economic, Social and Cultural Rights Obligations to Budgetary Policy', 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.

² Ibid.

³ Foley, A.M., 'Government urged to place people's rights at the heart of decision making', 3 June 2014, Press Release, available at <http://www.catholicireland.net/government-urged-place-peoples-rights-heart-decision-making/>.

⁴ Ibid.

⁵ Amnesty International, 'Bringing ESC Rights Home: Applying Ireland's Economic, Social and Cultural Rights Obligations to Budgetary Policy', 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

greater protection be given to ESC rights in the Constitution⁹. It should engage robustly on the issue of constitutional economic, social and cultural (ESC) rights and should ensure full transparency and clear timelines in any measures adopted to deliberate further on how best to implement this recommendation¹⁰.

Ensure budgetary decisions make full use of the State's maximum available resources

The Government should ensure and demonstrate that in any budgetary decisions it is making full use of the State's maximum available resources¹¹. This includes resources which could be mobilised by the State for example via taxation¹². In this regard the Government should ensure non-discriminatory progressive measures as opposed to regressive taxation measures¹³. For example, the low tax base should be increased to mobilise the maximum available resources to finance economic and social rights and limit VAT increases which disproportionately affect the poorest and most vulnerable¹⁴.

Test budgetary measures against the provisions of the ICESCR

Proposed budgetary measures should be tested against the provisions of the ICESCR¹⁵. This includes ensuring that measures identified are non-discriminatory and do not disproportionately impact the most vulnerable¹⁶.

Ensure no retrogression in the level of protection of ESC rights

The Government should undertake that there will be no retrogression in the level of protection of ESC rights in Ireland¹⁷. Should retrogressive measures be deemed unavoidable these must be fully justified by an analysis of the totality of resources available to the Irish State (including those available in the State and through international assistance and cooperation)¹⁸. Even where retrogressive measures are justified, these should not impact upon the minimum core of ESC rights¹⁹.

Guarantee and strengthen social protection measures

Guarantee and strengthen social protection measures, particularly for vulnerable groups including women, children, older persons, Travellers, asylum seekers, people with

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

¹⁵ Amnesty International, 'Bringing ESC Rights Home: Applying Ireland's Economic, Social and Cultural Rights Obligations to Budgetary Policy', 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

disabilities and immigrants²⁰. This should include introducing temporary affirmative action measures so as to protect the right to work of particularly vulnerable groups²¹.

Increased transparency of the social protection system

The transparency of the social protection system should be increased so as to ensure that beneficiaries have access to clear information about the criteria and process by which decisions are made²². For example, the decisions of the Social Welfare Appeals Office should be published in a form which allows for broad dissemination and understanding among potential and existing beneficiaries²³.

Establishment of body to address poverty

Establish an independent statutory body with effective resources to address poverty in light of the increased prevalence of poverty in Ireland²⁴.

Specific recommendations

Bearing in mind that the Irish budget deficit has been over 10% of GDP in recent years²⁵, it would not be possible to reverse all austerity measures that have been introduced. Therefore the recommendations listed below which could be implemented in the next budget (Budget 2016) are priority areas where the cuts/austerity measures have had the most severe impact. The majority of these recommendations are the views of the author, while some recommendations are from certain sources which have been referenced accordingly.

Right to education

- Cuts in areas such as education are counterproductive for the country's future economic viability. Ireland should ensure that cuts in education budgets, notably in programmes of support for children with specific difficulties, do not affect equal access to quality education for all children.
- Ireland should invest in teacher/student support services including in mild disability classes and in schemes designed to support disadvantaged and marginalised pupils. It should also invest in the School Completion Programme in order to combat early school leaving.
- Ireland should also invest in grants paid to schools including student support grants (to combat early school leaving), language support (for immigrant children particularly), provide funding for poorer children, provide grants for Traveller education and provide funding for Travellers.

²⁰ Ibid.

²¹ Ibid; United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

²² United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

²³ Ibid.

²⁴ Ibid.

²⁵ Conclusion based on stakeholder consultation (academic, University of Nottingham), September 2014.

- While Budget 2014 and 2015 provided for the recruitment of new classroom teachers, extra resource teachers and special needs assistants, Ireland should continue to decrease the pupil teacher ratio by employing more teachers in schools, particularly under disadvantage schemes to non-DEIS schools. Ireland should also continue to increase the number of special needs assistants and language support teachers to address the needs of immigrant children and children with disabilities. Posts should also be created for the visiting teachers service for Travellers and resource teachers for Travellers.

Right of access to healthcare

- The Society of Saint Vincent de Paul stressed that Ireland needs a healthcare system based on fairness that is transparent and efficient and that offers equal treatment for equal needs in a timely way²⁶.
- Budget 2015 provided €13.1 billion to the health sector. Ireland should continue to invest in the financing of the Health Service Executive (HSE) (for cancer services, home help services, disability services and day, respite and residential care services).

The Government should in particular do the following:

- Increase the number of staff in the healthcare sector in order to prevent increasing waiting lists. An increase in staff in public nursing homes should be a priority.
- Invest in facilities for public nursing homes.
- Invest in autism services.
- Invest in the carer's allowance for persons with disabilities.
- The HSE should continue to provide free access to healthcare for low income families. For example, the less privileged should not have to pay charges (e.g. bed charges in public hospitals, the Accident and Emergency (A&E) charge, inpatient charges, long stay charges, prescription charges).
- Immediate and free of charge treatment should be provided for serious and urgent conditions. Therefore the A&E charge should be abolished for all patients irrespective of income. Life threatening conditions should be treated without restrictions or preconditions.

Right to work

- Some of the pay cuts that have been placed in the public service should be lifted (for e.g. for new teachers entering the profession).
- The Government should continue to invest in schemes (e.g. the Pathways to Work Strategy, JobBridge and JobsPlus) to assist job seekers, particularly Travellers, migrants and persons with disabilities in finding employment.

Right to pension

- The public and private sector pension levies should be reduced.

²⁶ Foley, A.M., 'Government urged to place people's rights at the heart of decision making', 3 June 2014, Press Release, available at <http://www.catholicireland.net/government-urged-place-peoples-rights-heart-decision-making/>.

- The public service pensions should be increased.
- The tax relief on pension funds should be increased.
- The increase made to the age at which older people qualify for State pensions should be reversed.

Right to access to justice

- The Government should help decrease the backlog/waiting times in the Social Welfare Appeals Office by preventing further cuts to social welfare entitlements and hiring more staff in the Office.

The Government should in particular do the following:

- Prevent further cuts to criminal and civil legal aid.
- Invest in legal aid, hire more staff in the Legal Aid Board and the Free Legal Advice Centre.
- Broaden the scope of civil legal aid to cover issues regarding rights over land in order to help the increasing number of people in negative equity who face the prospect of losing their homes.
- Broaden the scope of civil legal aid to cover employment law rights/issues.

Right to manifestation and assembly

- After the reported police brutality during a student protest in November 2010, Ireland should ensure that protests take place in a safer manner.

Right to housing

- Homelessness due to over indebtedness or unsustainable mortgages should be prevented and efforts should be made to continue to provide adequate resources to social housing²⁷. For example, by continuing to provide money to tackle homelessness and to develop public/private partnerships provided in Budget 2015²⁸ in order to deliver social housing units by 2017. This should be the number one priority of the Irish government as seven new people a day are becoming homeless.
- Regularly updated and comprehensive disaggregated nationwide data on homelessness should be provided to facilitate protection of the right to housing in the future²⁹.
- No further reductions should be made to the rent supplement schemes. If possible, the Government should increase the current amount of rent supplements provided.
- The Government should also invest in the Reception and Integration Agency budget for asylum seekers' accommodation.

²⁷ Ibid.

²⁸ Department of Finance, 'Budget 2015', available at <http://www.budget.gov.ie/Budgets/2015/2015.aspx>.

²⁹ Ibid.

Rights at work

- Voice over actors and freelance journalists should be allowed to exercise their right to engage in collective bargaining

Right to social security

- The Government should continue to increase by another €5 per month in 2016 the child benefit entitlement³⁰.
- The Government should increase the amount of jobless benefit for under 25s and the amount of maternity leave benefit.

Right to water

- People on lower incomes and on social welfare should not have to pay the water costs or should at least receive more than €100 as a water support payment to assist with water costs and to ensure that they are not inhibited from accessing water.

Monitoring compliance with fundamental rights

- The Government should continue funding and providing resources to the Office of the Ombudsman in order for them to carry out their monitoring work effectively and to deal, if it arises again, with an increasing number of complaints.
- The Government should also provide adequate funding to the new Human Rights and Equality Commission and other national human rights bodies so as to ensure an effective monitoring service is provided.

³⁰ In Budget 2015 the child benefit entitlement was increased by €5 per month.

1. IMPACT OF THE ECONOMIC CRISIS AND OVERVIEW OF THE MAIN MEASURES ADOPTED TO COPE WITH IT

KEY FINDINGS

- The impact of the crisis on Ireland was very severe. Unemployment rates have more than doubled since 2008 and GDP and inflation levels have decreased significantly.
- Ireland negotiated a bailout programme with the European Commission, the European Central Bank and the International Monetary Fund (the troika), which implied strict conditions.
- Ireland exited the crisis when it exited the bailout programme in December 2013.

1.1. The impact of the economic crisis

On 24 June 2008, the former Minister for Finance Brian Lenihan said that the latest report from the Economic and Social Research Institute (ERSI) indicated that there was a serious problem in the Irish economy³¹. The ERSI predicted an economic contraction of 14% by 2010³². In the first quarter of 2009, GDP was down by 8.5% from the same quarter in 2008, and GNP was down by 12%³³.

The numbers of people living on unemployment benefits rose to 326,000 in January 2009, the highest monthly level since records began in 1967³⁴.

Table 1: Ireland's economy at a glance, 2008-2013

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|-------|-------|-------|-------|-------|-------|
| GDP ³⁵ (percentage change on previous year) | -2.2% | -6.4% | -1.1% | 2.2% | 0.2% | -0.3% |
| Unemployment ³⁶ (annual average rate of change) | 6.4% | 12% | 13.9% | 14.7% | 14.7% | 13.1% |
| Inflation ³⁷ (annual average rate of change) | 3.1% | 1.7% | -1.6% | 1.2% | 1.9% | 0.5% |

Source: Eurostat

³¹ RTE News, 'Lenihan admits 'serious problem' in economy', 24 June 2008, Press Release, available at <http://www.rte.ie/news/2008/0624/104891-economy/>.

³² Irish Independent, 'ESRI predicts 14% economic decline over three years', 29 April 2009, Press Release, available at <http://www.independent.ie/breaking-news/irish-news/esri-predicts-14-economic-decline-over-three-years-26532219.html>.

³³ Central Statistics Office, Quarterly National Accounts, Quarter 1 2009, 30 June 2009, available at <http://www.webcitation.org/5iVbiD0uI>.

³⁴ Central Statistics Office, Seasonally adjusted standardised unemployment rates', undated, available at <http://www.cso.ie/en/statistics/labourmarket/principalstatistics/seasonallyadjustedstandardisedunemploymentrate/ssur/>.

³⁵ Eurostat, 'Real GDP growth rate-volume, percentage change on previous year', undated, available at <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00115>.

³⁶ Eurostat, 'Unemployment rate by sex and age groups-annual average, %', 30 September 2014, available at http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=une_rt_a&lang=en.

³⁷ Eurostat, 'HICP-inflation rate, annual average rate of change (%)', undated, available at <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00118>.

1.2. Ireland exits the crisis

In December 2013, Ireland became the first country to formally exit the crisis when it exited the EU/IMF bailout programme³⁸. Ireland's unemployment rate has fallen and the economy is growing again³⁹. The Minister for Finance, Michael Noonan, stated that large foreign companies such as Google, are investing in Ireland again, the government can borrow at a rate not much higher than countries like Belgium and England and tourism and agriculture are rebounding⁴⁰. European Movement Ireland stated that Ireland is holding over €20 billion in cash reserves by the end of 2013 which can be used to ensure that it can meet its maturing commitments and funding costs until early 2015 and that Irish sovereign bond yields are at historically low levels⁴¹.

The conclusion that Ireland is exiting the crisis has been contested by many. Economist Colm McCarthy of University College Dublin said that even though the situation is improving, the recovery is tentative⁴². He said that Ireland's fate is very much up to Ireland's export markets, mainly the United States, England and continental Europe, none of which are thriving⁴³. The International Monetary Fund (IMF)'s Managing Director Christine Lagarde said in a statement that "unemployment is too high, public debt substantially remains fragile, and heavy private sector debts and banks' slow progress in resolving non-performing loans weigh on domestic demand"⁴⁴. The Economist newspaper stated that Ireland's situation is still perilous as it still has a yawning deficit, its property market is still over 50% down from its peak and only mass emigration over the past five years has stopped its unemployment figures from rising above 20%⁴⁵. Some economists at the Central Bank of Ireland privately worry that the few signs of recovery in the economy are due to spillover effects from Britain's recovery rather than as a result of much improvement in Ireland's own economic situation⁴⁶. John Campbell, the BBC's Economics and Business Editor in Northern Ireland stated that despite these positive signs the country still has substantial economic problems, unemployment is at approximately 13% and around 17% of owner occupiers are experiencing difficulties paying their mortgages⁴⁷.

³⁸ Zarroli J., 'Ireland exits bailout program, but economy still on the mend', 15 December 2013, Press Release, available at <http://www.npr.org/2013/12/16/251410113/ireland-exits-bailout-program-but-economy-still-on-the-mend>; McDonald H., 'Ireland becomes first country to exit Eurozone bailout programme', 13 December 2013, Press Release, available at <http://www.theguardian.com/business/2013/dec/13/ireland-first-country-exit-eurozone-bailout>; Irish Times, 'Kenny addressing nation as State exits bailout', 15 December 2013 Press Release, available at <http://www.irishtimes.com/search/search-7.1213540?q=ireland%20exits%20bailout&page=0&sortOrder=newest>.

³⁹ Zarroli J., 'Ireland exits bailout program, but economy still on the mend', 15 December 2013, Press Release, available at <http://www.npr.org/2013/12/16/251410113/ireland-exits-bailout-program-but-economy-still-on-the-mend>.

⁴⁰ Ibid.

⁴¹ European Movement Ireland, 'Just the facts-Ireland exits EU/IMF Bailout Programme', November 15 2013, available at <http://www.europeanmovement.ie/just-the-facts-bailout-programme/>.

⁴² Zarroli J., 'Ireland exits bailout program, but economy still on the mend', 15 December 2013, Press Release, available at <http://www.npr.org/2013/12/16/251410113/ireland-exits-bailout-program-but-economy-still-on-the-mend>.

⁴³ Ibid.

⁴⁴ Bigelow W., 'Ireland finishes paying back EU bailout', 16 December 2013, Press Release, available at <http://www.breitbart.com/Big-Peace/2013/12/15/Ireland-Finishes-Paying-Back-EU-Bailout>.

⁴⁵ The Economist, 'Dead cat bounce', 15 December 2013, Press Release, available at <http://www.economist.com/blogs/freeexchange/2013/12/irish-bailout-exit>.

⁴⁶ Ibid.

⁴⁷ BBC News, 'Ireland exits recession as economy grows', 19 September 2013, Press Release, available at <http://www.bbc.com/news/business-24159574>.

1.3. Financial assistance from the EU and international organisations

On 29 November 2010, the government negotiated a financial assistance package with the European Commission, the European Central Bank and the IMF (the troika) totalling €85 billion (including a contribution of €17.5 billion from Ireland's own resources (National Pension Reserve Fund and cash reserves))⁴⁸. The remaining €67.5 billion was provided by the external partners from the EU, through the European Financial Stabilisation Mechanism, the European Financial Stability Facility, bilateral loans from Sweden, Denmark and the UK, and from the IMF⁴⁹. Drawdown of funding was subject to compliance with the conditionality set out in the Programme Documents (the Memorandum of Understanding, the Technical Memorandum of Understanding and the Memorandum of Economic and Financial Policies)⁵⁰. In July 2011, EU leaders agreed to reduce the interest rate and to extend the maturity on the EU loans provided to Ireland under the programme⁵¹. This has resulted in significant savings for Irish taxpayers and has helped to improve the country's debt sustainability⁵².

The financial assistance programme contains three main elements. There is a financial sector strategy to help Ireland to have a smaller, better capitalized banking sector⁵³. There is also fiscal consolidation to put Ireland's public finances on a sustainable path over the medium term⁵⁴. Lastly, there is an ambitious structural reform agenda to strengthen the economy's growth potential and to restore competitiveness⁵⁵.

From 2010-2013, the troika and the Irish authorities agreed a series of memoranda of understanding⁵⁶. These memoranda included undertakings on the part of the Irish Government that it and the Central Bank would give effect to in terms of economic and financial policies⁵⁷. Key fiscal tightening measures from a social rights perspective included:

- Reduction in expenditure by €10 billion including on goods and services⁵⁸
- Reduction in public capital expenditure⁵⁹
- Increase in taxes by €5 billion⁶⁰

⁴⁸ European Commission, 'Ireland's economic crisis: how did it happen and what is being done about it?', undated, available at http://ec.europa.eu/ireland/economy/irelands_economic_crisis/index_en.htm.

⁴⁹ Department of Finance, 'Ireland's Programme (EU-IMF Programme)', undated, available at <http://www.finance.gov.ie/what-we-do/eu-international/irelands-programme-eu-imf-programme>.

⁵⁰ Ibid.

⁵¹ European Commission, 'Ireland's economic crisis: how did it happen and what is being done about it?', undated, available at http://ec.europa.eu/ireland/economy/irelands_economic_crisis/index_en.htm.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Nolan A., 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

⁵⁷ Ibid.

⁵⁸ Ibid; Laven Z., and Santi F., 'EU Austerity and Reform: A country by country table', 3 May 2012, available at <http://www.europeaninstitute.org/April-2012/eu-austerity-and-reform-a-country-by-country-table-updated-may-3.html>.

⁵⁹ Nolan A., 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

- Reduction of minimum wage by €1 (thereby reducing it to €7.65)⁶¹
- Savings in social welfare expenditures of €2.8 billion by 2014 through a combination of enhanced control measures and structural reforms⁶²
- Reduction in public service staff numbers by 24,750 over 2008 levels, back to 2005 levels⁶³
- Introduction of a reformed pension scheme for new entrants to the public service and pay cuts of 10%⁶⁴
- Reduction of existing public service pensions⁶⁵
- Reform of the welfare system aimed at encouraging employment⁶⁶
- Introduction of water metering by 2014⁶⁷

No information on major plans for applying for financial assistance in the future has been identified.

1.4. Overview of relevant measures

Since the beginning of the crisis, and especially since Ireland requested a bailout from the EU, Ireland has taken a number of legislative and other measures as a result of the crisis.

The table below offers an overview of the most notable measures (all of which will be described in more detail in subsequent sections) introduced in Ireland to cope with the crisis and which may have an impact on the fundamental rights covered by this study. Unless otherwise specified by legislation or the National Reform Programme, most of these measures were introduced by the annual budgets stemming from the first austerity budget (Budget 2009) introduced in October 2008 until the most recent 2014 Budget. Most of these measures, apart from the fiscal tightening measures imposed by the EU/IMF bailout programme, were self-imposed by the Irish Government. No information was identified on whether there are government plans to introduce such measures in the future. Some of these measures, as described in the table below, were adopted as temporary emergency measures under the various Financial Emergency Measures in the Public Interest Acts in response to the EU/IMF bailout programme.

⁶⁰ Laven Z. and Santi F., 'EU Austerity and Reform: A country by country table', 3 May 2012, available at <http://www.europeaninstitute.org/April-2012/eu-austerity-and-reform-a-country-by-country-table-updated-may-3.html>.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Nolan A., 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

⁶⁶ Laven Z., and Santi F., 'EU Austerity and Reform: A country by country table', 3 May 2012, available at <http://www.europeaninstitute.org/April-2012/eu-austerity-and-reform-a-country-by-country-table-updated-may-3.html>.

⁶⁷ Ibid.

Table 2: Main measures related to the crisis adopted by Ireland, October 2008-2014⁶⁹

| Year and category | Measure |
|-----------------------------------|---|
| 2014⁶⁹ | |
| Employment | <ul style="list-style-type: none"> • The rate of jobless benefit for the under-25s was cut to €100 a week. The full rate of jobseekers' allowance is now only available for those over 26, who will receive €188. • Reduction of 12% in maternity benefit • Start Your Own Business Scheme to promote entrepreneurship and support SMEs |
| Education | <ul style="list-style-type: none"> • Increased post-primary school transport charges by €100 per annum and introduced a €100 charge for primary school transport • Provision for the recruitment of over 1250 new classroom & extra resource teachers • Books to Rent Programme in primary schools funded by the government to fund books in primary schools |
| Budget | <ul style="list-style-type: none"> • €1.6 billion of spending cuts and €900m tax hikes |
| Health | <ul style="list-style-type: none"> • prescription charges increased by 60%. • The majority of pensioners saw their medical cards removed, which entitled them to free treatment, and replaced with a card that only grants them free appointments with a GP (General Practitioner) • €37m to provide free GP care for under 5s |
| Social (including pension) | <ul style="list-style-type: none"> • Standard State pension age increased to 66 years for everyone from 1 January 2014 • Reduction of absolute value of the standard fund threshold from €2.3m to €2m • Creation of a new 0.15% levy on private pensions to run alongside the existing 0.6% levy. |

⁶⁸ Budget 2015, which has implications for several of the findings in this report, was published in October 2014 and will therefore not be dealt with as it is outside the time period for this study.

⁶⁹ Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

| Year and category | Measure |
|-----------------------------------|--|
| 2013⁷⁰ | |
| Employment | <ul style="list-style-type: none"> Jobs Plus, a new employer incentive scheme was launched by the Department of Social Protection that rewards employers who employ jobseekers on the live register |
| Social (including pension) | <ul style="list-style-type: none"> Fees for domestic water use introduced for homes that are connected to a public water supply by the Water Services Act 2013⁷¹ and the Water Services (No.2) Act 2013⁷² as a condition of the EU/IMF bailout programme. Finance (No.2) Act 2013⁷³ increased the private sector pension levy to 0.75% Financial Emergency Measures in the Public Interest Act 2013⁷⁴ introduced further cuts to public servants' remuneration whose annual remuneration exceeds €65,000 Financial Emergency Measures in the Public Interest Act 2013⁷⁵ reduced public service pensions above €32,500 (with a grace period) |
| Health | <ul style="list-style-type: none"> cut of 0.5m hours of home help prescription charges increased from 50 cent to €1.50 per item |
| Education | <ul style="list-style-type: none"> Reduction in the Back to School Clothing and Footwear Government Allowance |
| 2012⁷⁶ | |
| Employment | <ul style="list-style-type: none"> Social Welfare Act 2012⁷⁷ removed the entitlement of an employer to claim a redundancy rebate for any statutory redundancy payments made after 1 January 2013 The multi-annual Action Plan for Jobs aimed to have 100,000 more people in work by 2016 and 2m people in work by 2020 through the introduction of additional employment supporting measures The National Reform Programme 2012⁷⁸ made provision for conversion courses to upskill/reskill unemployed people to meet skills shortages in new and emerging sectors The Pathways to Work Strategy introduced a new integrated employment and support service involving the transformation of local social welfare offices into a 'one-stop-shop' (called <i>Intreo</i>) allowing |

⁷⁰ Department of Finance, 'Budget 2013', available at <http://budget.gov.ie/Budgets/2013/2013.aspx>.

⁷¹ Water Services Act 2013, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0006/index.html>.

⁷² Water Services (No.2) Act 2013, available at <http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0050.pdf>.

⁷³ Finance (No.2) Act 2013, available at <http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0041.pdf>.

⁷⁴ Financial Emergency Measures in the Public Interest Act 2013, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0018/>.

⁷⁵ Ibid.

⁷⁶ Department of Finance, 'Budget 2012', available at <http://budget.gov.ie/Budgets/2012/2012.aspx>.

⁷⁷ Social Welfare Act 2012, available at <http://www.irishstatutebook.ie/pdf/2012/en.act.2012.0043.pdf>.

⁷⁸ European Commission, 'National Reform Programme for Ireland 2012 Update under the Europe 2020 Strategy', 2012, available at http://ec.europa.eu/europe2020/pdf/nd/nrp2012_ireland_en.pdf.

| Year and category | Measure |
|-----------------------------------|--|
| | <p>jobseekers to access their entitlements and get help with planning their return to work</p> <ul style="list-style-type: none"> Reforms to the jobseekers' schemes were introduced by the Government to ensure that people in part-time employment are incentivised to take up full-time employment as such opportunities become available. |
| Justice | <ul style="list-style-type: none"> Cost of free legal aid scheme fell by 10% Cuts to legal aid included: <ul style="list-style-type: none"> -10% reduction in fees; -re-structuring of district court fees; -50% reduction in travel and subsistence payments. |
| Health | <ul style="list-style-type: none"> Costs for private health insurance rose by 16% The provision of €35m for the development of community mental health teams and services and €15m to fund access to primary care without fees to claimants of free drugs under the Long Term Illness Scheme |
| Social (including pension) | <ul style="list-style-type: none"> The Public Service Pensions (Single Scheme and other Provisions) Act 2012⁷⁹ introduced a new single pension scheme for all new entrants to the public service: <ul style="list-style-type: none"> -raising the minimum pension age to 66 years initially and then linking it to the State pension age; -a maximum retirement age of 70; -actuarially reduced early retirement facility from age 55. This act also made certain changes affecting existing public service pension arrangements. -career average earnings rather than final salary to be used to calculate pension Social housing budget cut by 26% Reductions made to the rent supplement scheme of between 20% and 25% |
| 2011⁸⁰ | |
| Employment | <ul style="list-style-type: none"> Section 22 of the Social Welfare and Pensions Act 2011⁸¹ restored the minimum wage rate to €8.65 from €7.65. The Government launched a National Internship Scheme, JobBridge providing 5,000 internship placements of six to nine months duration The National Reform Programme 2011 stated that in 2011 there were approximately 276,000 training and further education places available |

⁷⁹ Public Service Pensions (Single Scheme and other Provisions) Act 2012, available at <http://www.irishstatutebook.ie/2012/en/act/pub/0037/index.html>.

⁸⁰ Department of Finance, 'Budget 2011', available at <http://budget.gov.ie/Budgets/2011/2011.aspx>.

⁸¹ Social Welfare and Pensions Act 2011, Section 22, available at <http://www.irishstatutebook.ie/2011/en/act/pub/0009/sec0022.html#sec22>.

| Year and category | Measure |
|-----------------------------------|--|
| | for the unemployed to access ⁸² |
| Social (including pension) | <ul style="list-style-type: none"> • The Social Welfare and Pensions Act 2011⁸³ increased the State pension age from 66 to 67 from 2021 and to 68 from 2028 • Reduction of tax relief on pension funds worth above €2.3m • Introduction of a 0.6% levy on private pension funds as a temporary emergency measure to raise cash for job creation • Social housing budget cut by 36% • Resource allocations for asylum seekers' accommodation reduced by 13% |
| Justice | <ul style="list-style-type: none"> • 10% decrease in criminal legal aid fees |
| Education | <ul style="list-style-type: none"> • Withdrawal of visiting teachers service and resource teachers for Travellers • Removal of rural transport coordination service from 331 rural DEIS (Delivering Equality of opportunity in schools programme) primary schools |
| Health | <ul style="list-style-type: none"> • Increased costs for private health insurance rose by 22% |
| 2010⁸⁴ | |
| Health | <ul style="list-style-type: none"> • Prescription charge of 50 cent per item • Spending on mental health dropped to 5.3% of the overall health budget • Salary cuts of 6% for medical staff |
| Education | <ul style="list-style-type: none"> • Rationalisation of teacher support services • Provision of 500 additional teachers over 3 years, as well as additional teachers to meet demographic pressures and ensure no further increase in the pupil-teacher ratio • Maintain Capitation Grants and provide additional resources for books and curricular activities |
| Employment | <ul style="list-style-type: none"> • A reduction by €1 of the minimum wage introduced as a structural reform measure under the first Memorandum of Understanding of EU/IMF programme of financial support, mandated by Section 13 of the Financial and Emergency Measures in the Public Interest Act 2010⁸⁵ |

⁸² European Commission, 'National Reform Programme for Ireland under the Europe 2020 Strategy, 29 April 2011, available at http://ec.europa.eu/europe2020/pdf/nrp/nrp_ireland_en.pdf.

⁸³ Social Welfare and Pensions Act 2011, available at <http://www.irishstatutebook.ie/2011/en/act/pub/0009/index.html>.

⁸⁴ Department of Finance, 'Budget 2010', available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

⁸⁵ Financial Emergency Measures in the Public Interest Act 2010, Section 13, available at <http://www.irishstatutebook.ie/2010/en/act/pub/0038/sec0013.html#sec13>.

| Year and category | Measure |
|-----------------------------------|--|
| | <ul style="list-style-type: none"> • Reduction in grant for Community Employment (CE) training and materials overhead; • Reduction in part-time third level places for Irish National Training & Employment Authority (FÁS) and ending of Science Challenge (closing in 2009); • Cessation of the FÁS Training Allowance of €204.30 per week to new entrants not entitled to Jobseeker's Benefit/Allowance; • Pay cuts of between 5% and 15% were introduced for public sector workers from 1 January 2010 • Employer Job (PRSI) Incentive Scheme was launched in June 2010 by the Department of Social Protection (exempted employers from social insurance contributions for certain employees) |
| Social (including pension) | <ul style="list-style-type: none"> • Cut in public sector pensions in payment on average by 4% under the Financial Emergency Measures in the Public Interest Act 2010⁸⁶ |
| 2009⁸⁷ | |
| Health | <ul style="list-style-type: none"> • Spending on mental health dropped to 6.4% of the overall health budget • Introduction of a 20% increase in private and semi-private bed charges in public hospitals • The Accident and Emergency (A&E) charge was increased from €66 to €100 for non-medical card holders who attend A&E departments without a letter from their GP • The public hospital statutory in-patient charge was increased from €66 to €75 • Long Stay Charges increased by 26% • Universal entitlement to a medical card ended for over 70s. An annual cash grant of €400 will be paid to people over 70 who do not qualify for a medical card or a GP Visit Card under normal criteria and whose gross weekly income is up to €650 for a single person or €1300 for a married couple. • Salary cuts to medical staff by 10% |
| Education | <ul style="list-style-type: none"> • The Staffing Schedule (the number of students on which classroom appointments are based) at both Primary and Post-Primary level was increased by one point, and by one further point in fee-paying schools • Restrictions introduced relating to substitution cover and other teacher allocations, including English language support, educational |

⁸⁶ Financial Emergency Measures in the Public Interest Act 2010, available at <http://www.irishstatutebook.ie/2010/en/act/pub/0038/>.

⁸⁷ Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

| Year and category | Measure |
|-----------------------------------|--|
| | <p>psychologists and certain posts in schools that have lost disadvantage status</p> <ul style="list-style-type: none"> • A number of grants, mainly school related, were abolished or scaled back gaining savings of €26.6m. • Reduction in rates of student support grants • Reduction in expenditure on teachers in service education support by €5m, removal of disability classes and cutbacks on schemes designed to support disadvantaged pupils • Increased post-primary school transport charges to a €300 annual fee • Reduced funding for travelers • Additional €10 million was provided to fund a package of measures in the area of Special Education, as an interim measure. This included the extension of coverage by the National Educational Psychological Service to all primary and post-primary schools by the end of 2009 |
| Justice | <ul style="list-style-type: none"> • 26% cut in criminal legal aid fees |
| Social (including pension) | <ul style="list-style-type: none"> • Introduction by the Financial Emergency Measures in the Public Sector Act 2009⁸⁸ of a 1.4 billion levy on all public service pensions. The pension levy is on average a 7% levy on the after-tax pay of all public service workers. |
| Employment | <ul style="list-style-type: none"> • State's moratorium on recruitment and promotion in the public sector by a March 2009 Cabinet decision |

Source: Multiple sources (as per footnotes)

The following sections of the national study will focus on the right to education, to healthcare, to work and to pension. These rights were selected in light of the research carried out at EU and international level on the impact of the crisis on fundamental rights which showed that these rights have been most significantly affected by the austerity measures imposed across Europe. However, to make sure the national studies reflect the situation in the country, section 8 will provide a final overview of the national context reporting on other rights that might have been importantly affected in Ireland. Finally, the report provides findings on the right to manifestation and assembly as well as on the right to access to justice which allow citizens to defend their positions against measures and actions linked to the crisis that negatively affect them.

⁸⁸ Financial Emergency Measures in the Public Interest Act 2009, available at <http://www.irishstatutebook.ie/2009/en/act/pub/0005/>.

2. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO EDUCATION (COMPULSORY EDUCATION)

KEY FINDINGS

- The right to education is being seriously affected by austerity measures. These austerity measures and reduction in the State's expenditure on education include the reduction in teacher numbers, rationalisation of teacher/student support services, abolition of grants paid to schools, increase in transport charges and reduction in the clothing and footwear allowance.
- This has resulted in early school leaving and an increase in the pupil teacher ratio.
- Children with disabilities, immigrant children and Traveller children have been particularly affected.

2.1. International and EU legal framework for the protection of the right to education

The right to education is defined as a universal entitlement to education, and is recognised as a right that includes the right to free, compulsory primary education for all, as well as an obligation to provide for a system of secondary education which is not necessarily free, but is available and accessible to all, while the material conditions of teaching staff shall be continuously improved in accordance with the International Covenant on Economic, Social and Cultural Rights (the 'ICESCR')⁸⁹. In addition, the right to education encompasses the obligation to combat discrimination at all levels of the educational system and to set minimum standards and to improve quality of education. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities⁹⁰. Education needs to be provided under the principles of: availability, accessibility, acceptability and adaptability⁹¹.

The right to education has been reaffirmed in the 1960 UNESCO Convention against Discrimination in Education, Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (the 'CEDAW'), Articles 28 and 29 of the Convention on the Rights of the Child (the 'CRC') and Article 24 of the Convention on the Rights of Persons with Disabilities (the 'CRPD'). Furthermore, it is also guaranteed by Article 2 of Protocol No. 1 to the European Convention on Human Rights (the 'ECHR').

The EU Charter guarantees the right to education and access to vocational and continuing training, with the possibility to receive free compulsory education⁹².

⁸⁹International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A (XXI) of 16 December 1966, 1976, article 13.

⁹⁰ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13 – Right to education*, UN Doc. E/C.12/1999/10 (1999), §1.

⁹¹*Ibid*, §6.

⁹² The EU Charter, Article 14.

2.2. The right to education in Ireland

Compulsory education in Ireland consists of primary and post-primary education. Primary education is an eight year cycle beginning at the age four or five. Pupils normally transfer to post-primary education at the age of 12 until the age of 18⁹³. The right to education is protected by Article 42 of the Constitution, which, does not correspond to the right to education under international human rights law:

"42.1: The State acknowledges that the primary and natural educator of the child is the family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

42.2: Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State.

42. 3. 1: The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

42.3.2: The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

42.4: The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

42.5: In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child⁹⁴".

2.3. The measures adopted

A number of measures have been adopted regarding teacher reductions, teacher/student support services, school grants, transport charges and the clothing and footwear allowance. These measures, including the cuts in budget made in these areas, have to a greater or lesser extent been influenced by the economic crisis.

⁹³ Department of Education and Skills, 'Primary Education', undated, available at <http://www.education.ie/en/The-Education-System/Primary/>.

⁹⁴ Constitution of Ireland, Article 42, 1937, available at https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf; Parts of this article are due to be amended if and when the Constitutional Amendment on the Rights of the Child 2012 comes into force.

Austerity measures affecting the right to education

Reduction in teacher numbers

Budget 2009 increased the pupil teacher ratio in primary schools from 27 to 28 per class and in secondary schools from 18 to 19 per class from September 2009⁹⁵. This has resulted in 200 fewer primary teachers and 200 fewer post-primary teachers in September 2009 compared to September 2008⁹⁶. Budget 2009 also made arrangements for the withdrawal of teacher posts which had been provided under previous disadvantage schemes to non-DEIS (Delivering Equality of opportunity in schools programme) schools⁹⁷. In addition, the same budget delayed recruitment of educational psychologists⁹⁸ and suspended substitution cover from January 2009 for absences arising from uncertified sick leave in schools in addition to school business absences in post-primary schools⁹⁹. Budget 2009 put a ceiling of two on the number of language support teachers per school¹⁰⁰. The visiting teachers service for Travellers and resource teachers for Travellers were withdrawn from 1 September 2011 (40 posts ceased)¹⁰¹.

Rationalisation of teacher/student support services

The 2010 budget introduced the 'rationalisation' of teacher support services¹⁰². The 2009 Budget reduced the expenditure on teacher in service education support by €5m, removed mild disability classes and made cutbacks on a range of schemes designed to support disadvantaged and marginalised pupils¹⁰³. For example, the overall allocation for projects participating in the School Completion Programme for the 2010/11 school year was reduced by 5% and by a further 6.5% in 2012. The School Completion Programme provides needs-based support to children and young people at risk or experiencing educational disadvantage or learning difficulties¹⁰⁴.

Abolition of grants paid to schools

The 2009 budget abolished and reduced a number of grants that had previously been made to schools. Reductions in rates of student support grants were introduced. Grants for particular areas, for example music, language support, transition year (an optional one-year school programme focusing on many non-academic subjects, voluntary work, language exchanges, music and sports), home economics, physics and chemistry were withdrawn¹⁰⁵. Grants for school books, funding for poorer children, library grants, equipment grants for resource teachers and grants for Traveller education were all also abolished¹⁰⁶. The 2009 budget also reduced funding for Travellers and withdrew certain

⁹⁵ Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

⁹⁶ Community Technical Aid, 'Budget 2009: Key Points', 13 November 2008, available at <http://www.cta.ie/?p=52>.

⁹⁷ Ibid.

⁹⁸ Harvey B., 'Tomorrow's child in an age of austerity', November 2011, available at <http://www.barnardos.ie/assets/files/Advocacy/2011-Tomorrows-Child-BHarvey.pdf>.

⁹⁹ Ibid.

¹⁰⁰ Ibid; Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

¹⁰¹ Harvey B., 'Travelling with Austerity: Impacts of cuts on travellers, traveller projects and services', April 2013, available at http://www.paveepoint.ie/tempsite3/wp-content/uploads/2013/10/Travelling-with-Austerity_Pavee-Point-2013.pdf; Irish Traveller Movement, 'Cuts to Traveller Education: Position Paper', April 2011, available at http://itmtrav.ie/uploads/publication/ITM_Position_Paper_Traveller_Education_Cuts.pdf; Figures from Dail Eireann, Debates, 12th February 2013, 196-8, available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013021200001?opendocument>.

¹⁰² Department of Finance, 'Budget 2010', available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

¹⁰³ Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

¹⁰⁴ Department of Education and Science, 'School Completion Programme: Guidelines towards best practice', 2005, available at http://www.sdpi.ie/sdpi_deis_docs/scp_guidelines_towards_best_practice.pdf.

¹⁰⁵ Harvey B., 'Tomorrow's child in an age of austerity', November 2011, available at <http://www.barnardos.ie/assets/files/Advocacy/2011-Tomorrows-Child-BHarvey.pdf>; Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

¹⁰⁶ Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

funding from schools that were not in the DEIS programme but had received top-up funding originally provided under previous disadvantage initiatives¹⁰⁷.

Increase in transport charges

The 2014 budget increased the post-primary school transport charges by €100 per annum and introduced a €100 charge for primary school transport¹⁰⁸. In August 2011 the rural transport coordination service from 331 rural DEIS primary schools was removed¹⁰⁹.

Reduction of clothing and footwear allowance

Budget 2013 reduced the back to school clothing and footwear allowance from €250 to €200 for children aged 12-17 and from €150 to €100 for children aged 4-11 years¹¹⁰.

Positive measures aimed at improving the situation

A number of measures aimed at alleviating the impact of the austerity measures have been taken. These measures aim at recruiting more teachers, providing additional resources for books and curricular activities and providing funding to special education.

The provision of 500 additional teachers over 3 years in order to ensure no further increase in the pupil-teacher ratio was introduced in the 2010 Budget¹¹¹. Budget 2014 also introduced a provision for the recruitment of over 1250 new classroom and extra resource teachers¹¹².

Budget 2010 provided additional resources for books and curricular activities¹¹³ while Budget 2014 introduced the Books to Rent Programme (€15m scheme developed by the Minister for Education providing funding to 400 primary schools)¹¹⁴.

Budget 2009 provided an additional €10m to fund a package of measures in the area of Special Education. This included the extension of coverage by the national educational psychological service to all primary and secondary schools by the end of 2009¹¹⁵.

2.4. The impact of the measures

A number of austerity measures that were introduced as a result of the economic crisis have had actual and potential impacts on the right to education. These are described in the sections below.

¹⁰⁷ Ibid.

¹⁰⁸ Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>; Social Justice Ireland, 'Budget 2014: Analysis & Critique', October 2013, available at <http://www.socialjustice.ie/sites/default/files/file/Budget/2013-10-16%20%20Budget%20Analysis%202014%20FINALFINAL.pdf>.

¹⁰⁹ Harvey B., 'Tomorrow's child in an age of austerity', November 2011, available at <http://www.barnardos.ie/assets/files/Advocacy/2011-Tomorrows-Child-BHarvey.pdf>.

¹¹⁰ Department of Finance, 'Budget 2013', available at <http://budget.gov.ie/Budgets/2013/2013.aspx>.

¹¹¹ Department of Finance, 'Budget 2010', available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

¹¹² Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

¹¹³ Department of Finance, 'Budget 2010', available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

¹¹⁴ Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

¹¹⁵ Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.

A. Actual and Potential Outcomes

While the Organisation for Economic Co-operation and Development (OECD) has found in its 2014 report¹¹⁶ that young people in Ireland are more likely to complete second level education in comparison to other OECD countries. However, this masks the high levels of early school leaving concentrated in low income communities recorded in the Childrens Rights Alliance 2014 Report Card¹¹⁷. Early school leaving can be linked to the rationalization of student support services like the School Completion Programme, the reduction in rates of student support grants, the abolition of grants for school books, Traveller education, funding for poorer children and the increase in transport charges. The changes to supervision and substitution arrangements is likely to have an impact on the provision of sports and other extracurricular activities, which have been found to be important for the engagement and retention of students at risk of early leaving¹¹⁸. Early school leaving has the potential of causing lifelong disadvantage (including unemployment, poor health, welfare dependency and risk of crime)¹¹⁹.

The OECD found that Ireland's pupil teacher ratio increased between 2007 and 2010 and is worse than the OECD and EU average¹²⁰. This increase is likely to seriously damage the education service for children and will have a significant impact on those with slower learning abilities as they will receive less individual attention¹²¹.

The abolition of the book grant scheme, cuts to the school transport scheme and reduction in the clothing and footwear allowance puts additional financial pressure on parents, especially those from disadvantaged backgrounds and living in rural areas¹²². The absence of the book grant scheme will result in some children not having the correct materials and being at risk of falling behind before starting the school year¹²³.

The removal of language support posts undermines Ireland's aim to provide "inclusive, high quality education for all students"¹²⁴.

The cutbacks on various schemes designed to support disadvantaged and marginalised pupils is likely to lead to a disimprovement in the performance of disadvantaged students

¹¹⁶ OECD, 'Education at a glance 2014', September 2014, available at <https://static.rasset.ie/documents/news/education-at-a-glance-2014.pdf>.

¹¹⁷ Childrens Rights Alliance, 'Report Card 2014', 2014, available at http://childrensrights.ie/sites/default/files/submissions_reports/files/RC2014-2Education.pdf.

¹¹⁸ Barnardos, 'Written Out Written Off: Failure to Invest in education deprives children of their potential', May 2009, available at https://www.barnardos.ie/assets/files/campaigns/disadvantages/Written_Out_Written_Off.pdf.

¹¹⁹ Harvey B., 'Tomorrow's child in an age of austerity', November 2011, available at <http://www.barnardos.ie/assets/files/Advocacy/2011-Tomorrows-Child-BHarvey.pdf>.

¹²⁰ RTE News, 'OECD publishes study on Irish education', 9 September 2014, Press Release, available at <http://www.rte.ie/news/2014/0909/642475-oecd-education/>.

¹²¹ Barnardos, 'Written Out Written Off: Failure to Invest in education deprives children of their potential', May 2009, available at https://www.barnardos.ie/assets/files/campaigns/disadvantages/Written_Out_Written_Off.pdf.

¹²² Ibid; United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

¹²³ Barnardos, 'Written Out Written Off: Failure to Invest in education deprives children of their potential', May 2009, available at https://www.barnardos.ie/assets/files/campaigns/disadvantages/Written_Out_Written_Off.pdf.

¹²⁴ Taguma M., Kim M., Wurzburg G., & Kelly F., 'OECD Reviews of Migrant Education Ireland', December 2009, available at [http://www.integration.ie/website/omi/omiwebv6.nsf/page/AXBN-7YSG5V1225516-en/\\$File/OECD%20Reviews%20of%20Migrant%20Education%20-%20Ireland.pdf](http://www.integration.ie/website/omi/omiwebv6.nsf/page/AXBN-7YSG5V1225516-en/$File/OECD%20Reviews%20of%20Migrant%20Education%20-%20Ireland.pdf), page 9; Mallon S., and Healy S., 'Ireland and the Europe 2020 Strategy: Unemployment, Education and Poverty', January 2012, available at <http://www.socialjustice.ie/sites/default/files/file/EU/Europe%202020%20Strategy/2012-01-26%20-%20Shadow%20Report%20on%20Ireland%20NRP%20-%20FINAL.pdf>.

and those with learning difficulties¹²⁵. In addition, the withdrawal of grants for music, transition year, home economics, physics and chemistry, resulting in reduced subject options, leads to a diminished quality of educational experience and a diminished experience of extracurricular activities for pupils¹²⁶.

B. Specific impact on vulnerable groups

The impact of the crisis and related austerity measures has been more severe on certain vulnerable groups. Immigrant children have been particularly affected by the cutbacks to extra language resources. Reducing the number of language-support teachers in schools jeopardize immigrant children's chances of attaining sufficient educational support and social integration¹²⁷.

Children with disabilities have also been disproportionately affected by excessive cuts to education services including student support grants and teacher support services and by the reduction in the number of special needs assistants¹²⁸. For example, the resource teaching time for children with learning difficulties was reduced by 10% in 2011 and by 5% in 2012¹²⁹. Also due to the reduction in funding allocated to mainstream support services, there are increasing numbers of children with disabilities being turned away from mainstream schools as such schools do not have the financial means to support them¹³⁰.

Traveller children have also been disproportionately affected due to cuts to educational support provided to them (a reduction in educational spending on Traveller programmes from €76.5m in 2008 to €10.2m in 2013) and the withdrawal of the extra school transport assistance¹³¹. The withdrawal of the extra school transport assistance particularly affects Travellers as the existing mainstream programme only applies to children attending their nearest school¹³². Travellers often find it difficult to enroll in their nearest school because of discrimination. As a result they have to travel to a more distant school, but they become ineligible for transport as a result¹³³.

¹²⁵ Harvey B., 'Tomorrow's child in an age of austerity', November 2011, available at <http://www.barnardos.ie/assets/files/Advocacy/2011-Tomorrows-Child-BHarvey.pdf>.

¹²⁶ Ibid.

¹²⁷ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

¹²⁸ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

¹²⁹ European Foundation Centre, 'Assessing the impact of European governments' austerity plans on the rights of people with disabilities, October 2012, available at http://www.efc.be/programmes_services/resources/Documents/Austerity%20European%20Report_FINAL.pdf.

¹³⁰ Ibid; National Disability Authority, 'Briefing Paper Inclusion of children with disabilities in mainstream early childhood care and education', undated, available at [www.nda.ie/cntmgmtnew.nsf/0/.../\\$File/preschoolinclusion.doc](http://www.nda.ie/cntmgmtnew.nsf/0/.../$File/preschoolinclusion.doc)

¹³¹ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>; ITM, National Traveller Women's Forum, 'Joint statement on cuts to Travellers education', Pavee Point Travellers' Centre, December 2010, available at <http://paveepoint.ie/2011/02/jointstatement-on-cuts-to-traveller-education/>.

¹³² Harvey B., 'Travelling with Austerity: Impacts of cuts on travellers, traveller projects and services', April 2013, available at http://www.paveepoint.ie/tempsite3/wp-content/uploads/2013/10/Travelling-with-Austerity_Pavee-Point-2013.pdf.

¹³³ Ibid.

C. Level of protection remaining

While there has been a reduction in teachers, a rationalisation of teacher/student support services, abolition of grants paid to schools, an increase in transport charges and a reduction of the clothing and footwear allowance since 2008, a significant level of protection of the right to education still remains. Budget 2014 introduced a provision for the recruitment of over 1250 new classroom and extra resource teachers and the Books to Rent Programme, while Budget 2010 provided additional resources for curricular activities and Budget 2009 invested funding in Special Education.

D. National/EU law challenging austerity measure and complaints received

No austerity measures impacting on the right to education have been declared invalid, unconstitutional or to be in violation of international or European law¹³⁴.

No information on complaints regarding the economic crisis and austerity measures affecting the right to education submitted post-2008 crisis was identified for this study¹³⁵.

E. Doubts about the respect by national measures of this right

A number of challenges to a breach of national measures of the right to education have been brought but none have reached a full hearing¹³⁶.

¹³⁴ Conclusion based on stakeholder consultation (academic, University of Nottingham), September 2014.

¹³⁵ Conclusion based on stakeholder consultation (Office of the Ombudsman), September 2014; Conclusion based on stakeholder consultation (Office of the Ombudsman for Children), September 2014.

¹³⁶ Conclusion based on stakeholder consultation (academic, University of Nottingham), September 2014.

3. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO HEALTHCARE

KEY FINDINGS

- Austerity measures have affected the right to healthcare. Many citizens believe that this is the area where cutbacks have had the biggest effect.
- Increased charges on patients, funding and staff cuts, cuts to mental health spending, closure of public nursing homes, increased waiting lists, decline in home help and home care packages and increased costs for private health insurance have made it more difficult to access healthcare.
- These austerity measures have particularly affected the elderly, people with disabilities and mental health issues and isolated populations.

3.1. International and EU legal framework for the protection of the right to healthcare

Article 12 of the ICESCR guarantees the highest attainable standard of health. This right is repeated in the Constitution of the World Health Organisation¹³⁷. Right to health does not mean the right to be healthy, but contains different freedoms and entitlements, where the entitlements represent the right to a system of health protection, which provides equality of opportunity for people to enjoy the highest attainable standard of health. Nonetheless, a line must be drawn between the right to health and the right to healthcare. The right to health is broader and means that 'governments must generate conditions in which everyone can be as healthy as possible'¹³⁸. This entails ensuring availability of health services, healthy and safe working conditions, adequate housing and nutritious food. The right to healthcare, on the other hand, is limited only to the first component – the right to have access to health services. The right to health, and implicitly the right to healthcare, needs to meet the requirements of: availability, accessibility, acceptability and quality¹³⁹. This entitlement indeed represents the right to healthcare. The right to health (or healthcare) has been re-emphasised in Article 12 the CEDAW, Article 25 of the CRPD, Article 24 of the CRC and Article 11 of both the European Social Charter and the Revised European Social Charter.

Article 35 of the EU Charter guarantees the access to preventive healthcare and the right to benefit from medical treatment under the conditions established by national laws and practices.

¹³⁷ Constitution of the World Health Organisation, preamble.

¹³⁸ WHO, *Factsheet 323 on the right to health*, available at: <http://www.who.int/mediacentre/factsheets/fs323/en/> (last accessed 23 October 2014).

¹³⁹ United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 14 – The right to highest attainable standard of health', UN Doc. (E/C.12/2000/4).

3.2. The right to healthcare in Ireland

There is no constitutional right to healthcare in Ireland. The same was true pre-crisis. There are sporadic calls to legislate on this right but nothing has been done. There is potential for the right to healthcare to be covered under the Irish constitutional framework¹⁴⁰. In the view of the Irish Human Rights Commission (IHRC), issues such as healthcare are consistently named as a main political priority of the public at large, and it is at least arguable that this matter should be addressed in an effective manner in the operable text of the Constitution¹⁴¹. In the case of *Heeney v Dublin Corporation*¹⁴² Unreported Supreme Court, 17 August 1998, O'Flaherty J alluded to the existence of a constitutional right to health, as being second only to the right to life in the hierarchy of rights¹⁴³. In the case of *In the Matter of Article 26 of the Constitution and the Health (Amendment) (No.2) Bill 2004*¹⁴⁴ Unreported Supreme Court decision, 16 February 2005, counsel raised the possibility that either a constitutional right to healthcare existed under Article 40.3.1 or that such a right could be derived from the right to life, the right to bodily integrity and/or the right to personal dignity under that Article¹⁴⁵. In its judgment, however, the Court rejected the existence of a right to health that would create an obligation to provide a free healthcare service¹⁴⁶. It also exists as part of Ireland's international human rights obligations and different aspects of the right to healthcare are provided for in legislation.

3.3. The measures adopted

A number of measures have been introduced regarding staff and salary cuts, funding cuts for services, buildings and equipment, removal of medical cards, increased charges on patients and increased costs for private health insurance. These measures and the cuts to the health service budget have to a greater or lesser extent been influenced by the economic crisis.

Austerity measures affecting the right to healthcare

Funding cuts

From 2009 to 2013 financing of the Health Service Executive (hereafter referred to as "the HSE") dropped by 22%, which amounted to nearly €3.3 billion less in public funding¹⁴⁷. This

¹⁴⁰ Irish Human Rights Commission, 'Discussion document', undated, available at <http://www.ihrc.ie/download/pdf/escrdiscussiondocument.pdf>; Nolan A., 'Ireland: The Separation of Powers vs Socio-economic Rights' in Langford (ed), *Social Rights Jurisprudence: Emerging Trends in Comparative and International Law* (Cambridge: CUP, 2008) pp.295-319, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1434905.

¹⁴¹ Irish Human Rights Commission, 'Discussion document', undated, available at <http://www.ihrc.ie/download/pdf/escrdiscussiondocument.pdf>.

¹⁴² *Heeney v Dublin Corporation* Unreported Supreme Court, 17 August 1998

¹⁴³ Irish Human Rights Commission, 'Discussion document', undated, available at <http://www.ihrc.ie/download/pdf/escrdiscussiondocument.pdf>.

¹⁴⁴ *In the Matter of Article 26 of the Constitution and the Health (Amendment) (No.2) Bill 2004* Unreported Supreme Court decision, 16 February 2005.

¹⁴⁵ Irish Human Rights Commission, 'Discussion document', undated, available at <http://www.ihrc.ie/download/pdf/escrdiscussiondocument.pdf>.

¹⁴⁶ Ibid.

¹⁴⁷ Health Service Executive, 'Health Service national performance assurance report', August 2013, available at <http://www.hse.ie/eng/services/Publications/corporate/performanceassurancereports/performanceAug13.pdf>; Thomas S., Burke S. and Barry S., 'The Irish health-care system and austerity: sharing the pain', May 3 2014, available at <http://www.medicine.tcd.ie/resilience4health/assets/pdf/pubs/Lancet-Ire-austerity-May-2014.pdf>.

has resulted in no additional funding for cancer services, a cut of 0.5 million hours of home help hours in 2013 alone¹⁴⁸ and a 3.7% funding cut to disability services, with unavoidable reductions in day, respite and residential care¹⁴⁹.

Staff and salary cuts

A Cabinet decision in March 2009 announced a moratorium on recruitment and promotion in the public sector. This has resulted in cuts of over 10,000 staff from the workforce¹⁵⁰. The salaries of HSE staff and professionals contracted by the public sector were also reduced by 10% in 2009 and 6% in 2010¹⁵¹.

Removal of medical cards

The first austerity budget (Budget 2009) removed medical cards as a universal entitlement to over 70 year olds¹⁵². The 2014 Budget states that this will be replaced with a card that only grants them free appointments with a General Practitioner (GP)¹⁵³.

Increased charges on patients

The 2009 Budget also introduced a 20% increase in private and semi-private bed charges in public hospitals, increased the accident and emergency (A&E) charge from €66 to €100 for non-medical card holders who attend A&E departments without a letter from their GP, increased the public hospital statutory inpatient charge from €66 to €75 and increased long stay charges by 26%¹⁵⁴. The 2010 Budget introduced a 50 cent prescription charge for each item for medical card holders¹⁵⁵ while Budget 2014 increased the prescription charge by 60%¹⁵⁶.

Increased costs for private health insurance

There have also been increased costs for private health insurance which rose 22% in 2011 and 16% in 2012¹⁵⁷. This is a particularly important issue given the reliance on private health insurance in Ireland to meet health needs¹⁵⁸.

¹⁴⁸ European Social Network, 'The impact of austerity policy on social services in Ireland', 26 September 2013, available at <http://www.esn-eu.org/news/254/index.html>

¹⁴⁹ O Cionnaith, F., and Ring E., '€750m in healthcare cuts to hit the most vulnerable', January 17 2012, Press Release, Irish Examiner, available at <http://www.irishtimes.com/ireland/health/750m-in-healthcare-cuts-to-hit-the-most-vulnerable-180444.html>

¹⁵⁰ ASISP Burke S., 'Pensions, Health and Long-Term Care', Ireland, November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.

¹⁵¹ Department of Finance, 'Summary of 2009 Budget Measures-Policy Changes', available at http://budget.gov.ie/Budgets/2009/Summary.aspx#_Toc211585097; Department of Finance, 'Summary of 2010 Budget Measures-Policy Changes', available at <http://budget.gov.ie/Budgets/2010/Summary.aspx>.

¹⁵² Department of Finance, 'Summary of 2009 Budget Measures-Policy Changes', available at http://budget.gov.ie/Budgets/2009/Summary.aspx#_Toc211585097.

¹⁵³ Shilton J., 'Irish government unveils new austerity Budget', 17 October 2013, available at <http://www.wsj.com/en/articles/2013/10/17/irel-o17.html>; Department of Finance, Budget 2014, available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

¹⁵⁴ Department of Finance, 'Summary of 2009 Budget Measures-Policy Changes', available at http://budget.gov.ie/Budgets/2009/Summary.aspx#_Toc211585097.

¹⁵⁵ Burke S., 'Boom to bust: its impact on Irish health policy and health services' [2010] (2):1 Irish Journal of Public Policy available at <http://publish.ucc.ie/ijpp/2010/01/burke/08/en>.

¹⁵⁶ Department of Finance, Budget 2014, available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

¹⁵⁷ Nolan A., Barry S., Burke S., Thomas S., 'Observatory-WHO study on the impact of the financial crisis on health and health systems in Europe, Case Study Ireland 2013', London: WHO European Observatory on Health Systems.

¹⁵⁸ Conclusion based on stakeholder consultation (academic, University of Nottingham), September 2014.

Mental health spending

Spending on mental health dropped from 13% of the overall health budget in 1986 to 6.4% in 2009 and 5.3% in 2010¹⁵⁹. The 2010 staff recruitment moratorium has disproportionately impacted on the mental health services: mental health represents only 9% of the healthcare work force but accounted for 20% of the 1,500 posts lost through the moratorium¹⁶⁰.

Positive measures aimed at improving the situation

Various measures aimed at alleviating the impact of the austerity measures have been taken. Among these measures, €15m was made available by Budget 2012 to extend free GP care under the long-term illness scheme and €35m has been provided to invest in community mental health teams and services¹⁶¹. €37m has been provided by the 2014 Budget to provide free GP care for under five year olds¹⁶².

3.4. The impact of the measures

A number of austerity measures that were introduced as a result of the economic crisis had actual and potential impacts on the right to healthcare. The 2014 Pfizer Health Index survey found that 53% of people believe health is the area in which cutbacks have had the biggest effect¹⁶³.

A. Actual and Potential outcomes

Closure of public nursing homes and public nursing home beds

Large scale retirement and staff cuts have affected access to services¹⁶⁴. For example, the HSE's 2013 Service Plan foresaw the closure of between 555 and 898 public nursing home beds due to agency and overtime cuts, retirements, staff cuts, and facility failures to meet new infrastructure standards¹⁶⁵. Some public nursing homes have also been closed down (and more are due to close) as a result of funding cuts and staff cuts¹⁶⁶.

Limited public services

Services which are provided universally without charge such as public health nurses visits to new born babies, vaccinations and palliative care have come under pressure and are more limited in the service than the demand for them¹⁶⁷. For example, in 2011 it was

¹⁵⁹ Mental Health Reform, 'Mental Health in Ireland', undated, available at <http://www.mentalhealthreform.ie/home/mental-health-in-ireland/>.

¹⁶⁰ Ibid.

¹⁶¹ Department of Finance, Budget 2012, available at <http://budget.gov.ie/Budgets/2012/2012.aspx>.

¹⁶² Department of Finance, Budget 2014, available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

¹⁶³ Pfizer, 'The 2014 Pfizer Health Index', 2014, available at http://www.pfizer.ie/UserFiles/file/Pfizer_Health_Index_Reports/Pfizer-Health-Index-2014.pdf.

¹⁶⁴ O Cionnaith F., and Ring E., '€750m in healthcare cuts to hit the most vulnerable', January 17 2012, Press Release, Irish Examiner, available at <http://www.irishexaminer.com/ireland/health/750m-in-healthcare-cuts-to-hit-the-most-vulnerable-180444.html>.

¹⁶⁵ European Social Network, 'The impact of austerity policy on social services in Ireland', 26 September 2013, available at <http://www.esn-eu.org/news/254/index.html>; O Cionnaith F., and Ring E., '€750m in healthcare cuts to hit the most vulnerable', January 17 2012, Press Release, Irish Examiner, available at <http://www.irishexaminer.com/ireland/health/750m-in-healthcare-cuts-to-hit-the-most-vulnerable-180444.html>.

¹⁶⁶ Office of the Ombudsman, 'Health care in Ireland- An Ombudsman Perspective', 2011, available at <https://www.ombudsman.gov.ie/en/news/speeches-articles/2011/health-care-in-ireland-an-ombudsman-perspective-.html>.

¹⁶⁷ ASISP Burke S., 'Pensions, Health and Long-Term Care', Ireland, November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.

reported that nearly three in ten mothers and new born babies are not being visited on time in the north-east of Ireland and in the west of Ireland nearly one in ten are not getting the service within 48 hours¹⁶⁸.

Waiting lists

Waiting lists are also rising, a fact that is linked to funding cuts to health services, staff cuts and retirements. In 2012, the HSE published out-patient waiting times which found that 384,446 people were waiting for a public outpatient hospital appointment, with 17% of these waiting between 12-24 months, 6.4% waiting 24-36 months, and 5.2% waiting over three years for a first appointment¹⁶⁹.

Decline in home help and home care packages

Since 2008, there has been a decline in home help and home care packages¹⁷⁰. In 2008, 12.6 million home help hours were provided compared to 9.8 million hours provided in 2012 (over 2.7 million fewer than in 2008)¹⁷¹. This is also an impact of funding cuts and staff cuts.

Cutbacks in autism services

Moreover, according to preliminary findings by NUI Galway's Irish Centre for Autism and Neurodevelopmental Research (ICAN), cutbacks in autism services are having a real and measurable effect on the wellbeing of parents¹⁷².

Decline in private health insurance market

Just over 200,000 people have left the private health insurance market since it peaked in 2008¹⁷³. However, many more have swapped insurance packages for less expensive comprehensive cover¹⁷⁴. This can be linked to the increased costs for private health insurance.

Retention of medical cards

Despite the provision under the 2009 Budget for the removal of medical cards as a universal entitlement to over 70 year olds, relatively few have actually lost their cards because of the powerful demonstration of older people outside Government Buildings and the broader lobbying and advocacy work undertaken by Age Action¹⁷⁵. As a result no further action was taken to curtail the numbers and most over 70 year olds kept their cards with just 15,703 fewer people over 70 having a medical card on 1 September 2009 compared to those who had them on 1 September 2008¹⁷⁶. However, an actual impact of this measure is an increase in charges and waiting times for accessing services.

¹⁶⁸ O'Regan, E., 'Baby check-ups stalled by cuts', 22 February 2011, Press Release, available at <http://www.independent.ie/life/family/mothers-babies/baby-checkups-stalled-by-cuts-26707152.html>.

¹⁶⁹ Health Service Executive, 'Outpatient Data Quality Programme Update', February 2012, Dublin: HSE.

¹⁷⁰ ASISP Burke S., 'Pensions, Health and Long-Term Care', Ireland, November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.

¹⁷¹ Nolan A., Barry S., Burke S., Thomas S., 'Observatory-WHO study on the impact of the financial crisis on health and health systems in Europe, Case Study Ireland 2013, London: WHO European Observatory on Health Systems.

¹⁷² Irish Health, 'Parents stressed over autism cutbacks', 5 June 2013, available at <http://www.irishhealth.com/clin/depression/newsstory.php?rss&id=22197>.

¹⁷³ ASISP Burke S., 'Pensions, Health and Long-Term Care', Ireland, November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf; HIQA, 'HIQA Healthcare Monitoring Report', 2013, available at <http://www.hiqa.ie/healthcare/find-a-centre/inspection-reports>.

¹⁷⁴ Ibid.

¹⁷⁵ Age Action, 'Sickest, poorest and most vulnerable of older people hit hardest by Budget', 15 October 2013, available at <http://www.ageaction.ie/sickest-poorest-and-most-vulnerable-older-people-hit-hardest-budget>.

¹⁷⁶ Conclusion based on stakeholder consultation (academic, Trinity College Dublin), September 2014.

Additional costs

In 2013, every person in Ireland was on average paying about €100 in additional costs for accessing care and prescribed drugs¹⁷⁷. This is linked to the user charges that were introduced and the removal of the universal entitlement to a medical card for over 70 year olds.

General Practitioners (GPs) to withdraw from primary care teams

A potential impact of the austerity measures is the move by GPs to withdraw from primary care teams, community intervention teams, clinical care programmes involved in chronic disease treatment and other work not covered by the medical card contract¹⁷⁸. This is linked to the 7.5% cutback in GP fees for treating medical card patients. Withdrawal of GP services will affect pro-bono work not covered by contract including routine blood tests for diabetes, monitoring blood pressure and administering warfarin to combat blood clotting¹⁷⁹. That loss will trigger an influx of patients to hospitals, significantly increasing the cost of the health service while also further increasing waiting lists¹⁸⁰.

Financial pressure on families

Increases to healthcare charges place additional pressures on families. The prescription charge for medical card holders has been increased from €1.50 to €2.50 and the monthly cap for a family has been increased to €25¹⁸¹. The introduction of a 50 cent charge on all prescription medicines impacts also families with children who require regular prescription medication for chronic illnesses as they will pay more for vital medication each month¹⁸².

B. Specific impact on vulnerable groups

The impact of the crisis and related austerity measures has been more severe on certain vulnerable groups. Over the last six years, cuts in public services such as home help, day care services and community nursing units, the loss of many public beds, increases in prescription charges and means-tested access to medical cards have all adversely affected and had a particularly severe impact on the sickest of older people¹⁸³.

¹⁷⁷ Thomas S., Burke S. and Barry S., 'The Irish health-care system and austerity: sharing the pain', May 3 2014, available at <http://www.medicine.tcd.ie/resilience4health/assets/pdf/pubs/Lancet-Ire-asusterity-May-2014.pdf>.

¹⁷⁸ Irish Examiner, 'Health cutbacks-GPs' action will impact on services', 11 July 2013, Press Release, available at <http://www.irishexaminer.com/viewpoints/ourview/health-cutbacks--gps-action-will-impact-on-services-236506.html>.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

¹⁸² Ibid.

¹⁸³ O Cionnaith F., and Ring E., '€750m in healthcare cuts to hit the most vulnerable', January 17 2012, Press Release, Irish Examiner, available at <http://www.irishexaminer.com/ireland/health/750m-in-healthcare-cuts-to-hit-the-most-vulnerable-180444.html>. ; United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf; Social Justice Ireland, 'Budget 2014: Analysis & Critique', October 2013, available at <http://www.socialjustice.ie/sites/default/files/file/Budget/2013-10-16%20-%20Budget%20Analysis%202014%20FINALFINAL.pdf>.

These measures have impacted disproportionately on people with low incomes who cannot afford private healthcare¹⁸⁴. These patients have to wait longer for what can be lifesaving diagnosis and treatment in public hospitals¹⁸⁵.

The reduced level of healthcare services that are available has had a detrimental impact on the increased number of people living in poverty (e.g. the street homeless and asylum seekers)¹⁸⁶. In particular those living in rural areas face numerous barriers in accessing healthcare services¹⁸⁷.

An increasing number of women have also been affected as they are unable to afford sexual and reproductive health services¹⁸⁸.

Persons suffering from mental health issues have been affected. This is due to the increased difficulty of accessing mental health services as a result of the recruitment moratorium¹⁸⁹.

People with disabilities and their families have also been disproportionately disadvantaged by the general measures and by the reduction of the carer's allowance creating a situation in which many disabled people may be effectively imprisoned in their own homes¹⁹⁰.

C. Level of protection remaining

There have been massive funding cuts to the HSE, staff cuts, the introduction of user charges for many services and prescription drugs which have led to an increased difficulty for people to access health services, increased waiting lists, a decline in home help and home care packages and the closure of public nursing homes. However, some level of protection still remains. On 1 January 2014 only 1,849,380 (about 40% of the population) were covered by medical cards¹⁹¹. However, it is estimated that an additional 60,000 cards will be granted in 2014¹⁹².

¹⁸⁴ Burke S., 'Boom to bust: its impact on Irish health policy and health services' [2010] (2):1 Irish Journal of Public Policy available at <http://publish.ucc.ie/ijpp/2010/01/burke/08/en>.

¹⁸⁵ Ibid.

¹⁸⁶ Conclusion based on stakeholder consultation (academic, Trinity College Dublin), September 2014.

¹⁸⁷ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

¹⁸⁸ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

¹⁸⁹ Mental Health Nurse Managers Ireland, 'Assessment of progress of the Implementation of Vision for Change to date', undated, available at <http://health.gov.ie/wp-content/uploads/2014/03/Mental-Health-Nurse-Managers-submission.pdf>.

¹⁹⁰ Ring E., 'Welfare cuts leaving the disabled 'prisoners'', Press Release, The Irish Examiner, 28 October 2011, available at <http://www.irishexaminer.ie/ireland/welfare-cuts-leaving-the-disabled-prisoners-167660.html>; Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

¹⁹¹ Citizens Information Board, 'Relate', [2014] (41): 3 Irish Journal of development in social services policy and legislation in Ireland, available at http://www.citizensinformationboard.ie/publications/relate/relate_2014_03.pdf.

¹⁹² Ibid.

D. National/EU law challenging austerity measure and complaints received

No austerity measures impacting on the right to health have been declared invalid, unconstitutional or to be in violation of national, international or European law¹⁹³.

The Ombudsman has stated that he is receiving more complaints (up by 15.5% in 2009, as compared to 2008) about social welfare and health service benefits since the recession¹⁹⁴. The Ombudsman does not see this increase as necessarily reflecting on the quality of service provided by the public bodies concerned but is rather a consequence of the very significant increase of users of these services¹⁹⁵. The Office of the Ombudsman is currently carrying out an investigation as to why there is such a low number of complaints against the Irish health system compared to other Member States¹⁹⁶.

E. Doubts about the respect by national measures of this right

No challenges to a breach of national measures of the right to healthcare have been brought¹⁹⁷.

¹⁹³ Conclusion based on stakeholder consultation (academic, Trinity College Dublin), September 2014.

¹⁹⁴ Office of the Ombudsman, 'Challenge and Change in the Irish Public Service in 2010', 2010, available at <https://www.ombudsman.gov.ie/en/News/Speeches-Articles/2010/Challenge-and-Change-in-the-Irish-Public-Service-in-2010-.html>.

¹⁹⁵ Ibid.

¹⁹⁶ Conclusion based on stakeholder consultation (Office of the Ombudsman), September 2014.

¹⁹⁷ Conclusion based on stakeholder consultation (academic, Trinity College Dublin), September 2014.

4. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO WORK

KEY FINDINGS

- The right to work has probably been the most affected fundamental right in the context of the economic crisis. It has been affected by the crisis itself (that led to a significant rise in unemployment) and by austerity measures.
- These measures included public service staff cuts, pay cuts, cuts in training funding and removal of the redundancy rebate.
- These measures particularly affected young people, women, migrants, Travellers and people with disabilities.

4.1. International and EU legal framework for the protection of the right to work

There is no blanket guarantee in the international law of the right to work, if understood as the right to have and maintain gainful employment. Article 6 of the ICESCR recognises the right to work in the sense of opportunity of everyone to gain their living by freely chosen or accepted work. In that regard, States Parties are expected to take appropriate steps to safeguard this right, including by providing vocational and technical training and economic policies aimed at steady economic development and full employment. This right, according to the ICESCR implies that the Parties must guarantee equal access to employment and protect workers from being unfairly deprived of their employment, including by preventing discrimination. This right depends on a number of interdependent and essential elements, implementation of which will depend on the conditions present in each State Party, which may be identified as: availability, accessibility, acceptability and quality, while the states have the general obligation to respect, protect and fulfil this right¹⁹⁸. Moreover, the International Labour Organization (the 'ILO') has the right to work as the core of its activities, and numerous conventions have been adopted within its framework to protect and improve the enjoyment of the right to work.

Similarly, the EU Charter guarantees to everyone the right to engage in work and to pursue a freely chosen or accepted occupation¹⁹⁹, which corresponds to the guarantee from the ICESCR. The EU Charter, furthermore, provides for a guarantee for everyone to a free placement service²⁰⁰, protection from unjustified dismissal²⁰¹ and the right to fair and just working conditions²⁰².

¹⁹⁸ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 18 – Right to work*, UN Doc. E/C.12/GC/18 (2006).

¹⁹⁹ The EU Charter, Article 15(1).

²⁰⁰ The EU Charter, Article 29.

²⁰¹ The EU Charter, Article 30.

²⁰² The EU Charter, Article 31.

4.2. The right to work in Ireland

The right to work is not expressly set out in the Constitution. It can be considered as an unenumerated social right under the Constitution. According to Article 40.3.1 of the Constitution, 'the State guarantees in its laws to respect, and, as far as practicable by its laws to defend and vindicate the personal rights of the citizen'²⁰³. However, it should be noted that the right to work does not impose an obligation on the State to guarantee employment for Irish citizens²⁰⁴.

4.3. The measures adopted

While the right to work has not been affected specifically by the economic crisis, a number of austerity measures have been adopted regarding staff cuts, pay cuts, cuts in training funding, redundancy procedures, and measures aimed at assisting finding employment. These measures including the cuts in budget made in the above-mentioned areas have to a greater or lesser extent been influenced by the economic crisis.

Austerity measures affecting the right to work

Public service staff cuts

A reduction in public service staff numbers by 24,750 over 2008 levels back to 2005 levels was a condition for the EU/IMF bailout²⁰⁵. A Cabinet decision in March 2009 announced a moratorium on recruitment and promotion in the public sector. This moratorium spread across the civil service, non-commercial State bodies, local authorities, the army and the Gardai (Irish Police Service). In addition, all sections of the civil service have been given targets to reduce staff under Employment Control Frameworks for each Department²⁰⁶. These targets include the introduction of incentivised early retirement and career break schemes²⁰⁷.

Pay cuts

In the public service, pay cuts of between 5% and 15% were introduced from 1 January 2010. The pay cuts were announced by the Government in the 2010 Budget²⁰⁸. The cuts were implemented through the Financial Emergency Measures in the Public Interest (No. 2) Act 2009²⁰⁹. For example, the salaries of new teachers entering the profession appointed

²⁰³ Constitution of Ireland 1937, Article 40.3.1, available at <http://www.irishstatutebook.ie/en/constitution/>.

²⁰⁴ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

²⁰⁵ Laven Z., and Santi S., 'EU Austerity and Reform: A country by country table', 3 May 2012, available at <http://www.europeaninstitute.org/April-2012/eu-austerity-and-reform-a-country-by-country-table-updated-may-3.html>.

²⁰⁶ Paul M., and Duncan P., 'Staffing problems at Department of Jobs due to moratorium on recruitment', Press Release, Irish Times, 10 August 2014, available at <http://www.irishtimes.com/business/economy/staffing-problems-at-department-of-jobs-due-to-moratorium-on-recruitment-1.1891743>.

²⁰⁷ Department of the Environment, Community and Local Government, 'Workforce Planning in the Local Government Sector', September 2012, available at <http://www.envirom.ie/en/Publications/LocalGovernment/Administration/FileDownload.32049.en.pdf>.

²⁰⁸ Department of Finance, Summary of 2010 Budget Measures Policy Changes, available at <http://budget.gov.ie/Budgets/2010/Summary.aspx>.

²⁰⁹ Financial Emergency Measures in the Public Interest (No.2) Act 2009, available at <http://www.irishstatutebook.ie/2009/en/act/pub/0041/>.

after 1 January 2011 were reduced by 10%²¹⁰. Net earnings were also impacted by a levy from March 2009, also on a progressive scale of 5%-10.5%²¹¹. In addition, the majority of private sector firms have been freezing basic pay/salary at pre-crisis levels and cutting extra earnings²¹².

A reduction by €1 of the minimum wage to €7.65 was adopted as a structural reform measure under the first Memorandum of Understanding of 1 December 2010 of the EU/IMF Programme of Financial Support²¹³. This was mandated by section 13 of the Financial Emergency Measures in the Public Interest Act 2010²¹⁴. Section 22 of the Social Welfare and Pensions Act 2011 required the restoration of the rate to €8.65 which was achieved with effect from 1 July 2011²¹⁵.

Cuts in training funding

Budget 2010 provided for the reduction in the grant for Community Employment training and materials overhead, a reduction in part-time third level places for Irish National Training & Employment Authority (FÁS) and cessation of the FÁS Training Allowance of €204.30 per week to new entrants not entitled to Jobseeker's Benefit²¹⁶.

Removal of redundancy rebate

The Social Welfare Act 2012 removed the entitlement of an employer to claim a redundancy rebate for any statutory redundancy payments made after 1 January 2013²¹⁷.

Funding for gender equality measures

Approximately €10million in EU funding for gender equality measures has been redirected to other labour market programmes²¹⁸.

Positive measures aimed at improving the situation

A large number of work-related measures aimed at alleviating the impact of the austerity measures have been taken. These measures assist job seekers in finding employment placements, promote entrepreneurship, provide employment targets and incentive schemes for employers (including for positive action), and provide training, further education and work experience placements for job seekers.

²¹⁰ European Commission, 'Eurydice Report: Teachers' and School Heads' Salaries and allowances in Europe', 2011/12, available at http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/salaries_EN.pdf.

²¹¹ Farrelly R., and Higgins C., 'Ireland: Evolution of Wages during the Crisis', 10 July 2012, available at <http://www.eurofound.europa.eu/ewco/studies/tn1203015s/ie1203019q.htm>.

²¹² Ibid.

²¹³ Conclusion based on stakeholder consultation (Irish Congress of Trade Unions), September 2014.

²¹⁴ Laven Z., and Santi Z., 'EU Austerity and Reform: A country by country table', 3 May 2012, available at <http://www.europeaninstitute.org/April-2012/eu-austerity-and-reform-a-country-by-country-table-updated-may-3.html>.

²¹⁵ Social Welfare and Pensions Act 2011, section 22, available at <http://www.irishstatutebook.ie/2011/en/act/pub/0009/index.html>.

²¹⁶ Department of Finance, Budget 2010, available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

²¹⁷ Social Welfare Act 2012, Section 18, available at <http://www.irishstatutebook.ie/pdf/2012/en.act.2012.0043.pdf>; Freshfields Bruckhaus Deringer LLP, 'Labour market reforms tracker', Winter 2014, available at http://www.freshfields.com/uploadedFiles/SiteWide/Knowledge/36432_Labour_Market_Reforms_Interactive.pdf.

²¹⁸ National Women's Council of Ireland, 'Pre-Budget Submission 2011', Dublin, 2010, available at http://www.nwci.ie/download/pdf/pre_budget_submission_2011.pdf.

- The Pathways to Work strategy, which was launched in February 2012 by the Department of Jobs, Enterprise and Innovation, introduced a new integrated employment and support service involving the transformation of local social welfare offices into a 'one-stop-shop' allowing jobseekers to access their entitlements and receive help with planning their return to work²¹⁹.
- Reforms to the jobseekers' schemes were introduced by the Government in 2012 to ensure that people in part-time employment are incentivised to take up full-time employment as such opportunities become available²²⁰.
- Start your own Business Scheme, introduced in the 2014 Budget by the Department of Jobs, Enterprise and Innovation, helps to promote entrepreneurship and support SMEs²²¹.
- The multi-annual Action Plan for Jobs (which began in 2012) aims to have 100,000 more people in work by 2016 and 2 million people in work by 2020 through the introduction of additional employment supporting measures²²². The development of the Plan is coordinated by the Department of Jobs, Enterprise and Innovation²²³.
- The Employer Job (PRSI) Incentive Scheme was launched in June 2010 by the Department of Social Protection²²⁴. The scheme exempts employers from liability to pay their share of social insurance contributions for certain employees for 12 months²²⁵. The Scheme ceased on 30 June 2013 for new participants. JobsPlus is a new employer incentive scheme launched in 2013 from the Department of Social Protection that rewards employers who employ jobseekers on the Live Register (i.e. national monthly report recording persons registered for benefits)²²⁶.
- In 2011, the Government launched a National Internship Scheme, JobBridge. The scheme provides 5,000 internship placements of six to nine months duration²²⁷.
- The provision of conversion courses to upskill/reskill unemployed people to meet skills shortages in new and emerging sectors was introduced by the National Reform Programme 2012²²⁸.

²¹⁹ European Commission, 'National Reform Programme Ireland', April 2014, available at http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_ireland_en.pdf.

²²⁰ European Commission, 'National Reform Programme for Ireland under the Europe 2020 Strategy', 29 April 2009, available at http://ec.europa.eu/europe2020/pdf/nrp/nrp_ireland_en.pdf.

²²¹ See Office of the Revenue Commissioners, 'Start your own business relief', January 2014, available at <http://www.revenue.ie/en/tax/it/reliefs/own-business-scheme/index.html>; Department of Finance, 'Budget 2014 Leaflet', 2014, available at <http://budget.gov.ie/Budgets/2014/Documents/Budget%20leaflet%202014%20-%20web%20version.pdf>.

²²² European Commission, 'National Reform Programme for Ireland 2013 Update under the Europe 2020 Strategy', available at http://ec.europa.eu/europe2020/pdf/nd/prqrep2013_ireland_en.pdf.

²²³ Department of Jobs, Enterprise and Innovation, 'Action Plan for Jobs 2014', 27 February 2014, available at http://www.enterprise.gov.ie/en/Publications/Action_Plan_for_Jobs_2014.html.

²²⁴ Department of Social Protection, 'Employer Job (PRSI) Incentive Scheme', 23 July 2013, available at http://www.welfare.ie/en/Pages/240_Employer-Job-PRSI-Incentive-Scheme.aspx.

²²⁵ Citizens Information, 'Employer Job (PRSI) Incentive Scheme', 9 July 2013, available at http://www.citizensinformation.ie/en/social_welfare/irish_social_welfare_system/social_insurance_prsi/employer_job_prsi_incentive_scheme.html; Tajgman D., Saget C., Elkin N., and Gravel E., 'Rights at work in times of crisis: Trends at the country level in terms of compliance with international labour standards', ILO Employment Working Paper No. 101, 2011, available at http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/documents/publication/wcms_167804.pdf.

²²⁶ Department of Social Protection, 'JobsPlus', 1 November 2013, available at <https://www.welfare.ie/en/Pages/Jobs-Plus.aspx>.

²²⁷ European Commission, 'National Reform Programme for Ireland under the Europe 2020 Strategy', 29 April 2011, available at http://ec.europa.eu/europe2020/pdf/nrp/nrp_ireland_en.pdf.

- In 2011 there were approximately 276,000 training and further education places available for the unemployed to access²²⁹. These have been provided by FÁS, Skillnets (a company which supports and works with businesses in Ireland to address their skills needs), the Labour Market Activation Fund and the Further Education sector²³⁰.

4.4. The impact of the measures

A number of austerity measures that were introduced as a result of the economic crisis have had actual and potential impacts on the conditions for the right to work. These are described in the sections below.

A. Actual and Potential Outcomes

An actual impact of the economic crisis is the rise in unemployment rates from 6.4% to 13.1% between 2008 and 2013²³¹. The rate of long-term unemployment accounted for 56% of overall unemployment in 2011²³². Construction workers were the most affected, with employment in this sector dropping by 53% between Spring 2007 and Spring 2010²³³. There has also been an increase in public service unemployment: the number of staff at the Department of Jobs dropped from 1,075 at the end of 2008 to 783 by the middle of June 2014²³⁴. This is directly linked to the moratorium on recruitment and the reduction in public service staff.

However, it should be noted that the JobsPlus scheme referred to above has helped create over 1,000 new full-time jobs since its launch in July 2013²³⁵.

²²⁸ European Commission, 'National Reform Programme for Ireland 2012 Update under the Europe 2020 Strategy', 2012, available at http://ec.europa.eu/europe2020/pdf/nd/nrp2012_ireland_en.pdf.

²²⁹ European Commission, 'National Reform Programme for Ireland under the Europe 2020 Strategy', 29 April 2011, available at http://ec.europa.eu/europe2020/pdf/nrp/nrp_ireland_en.pdf.

²³⁰ IBEC, 'IBEC Submission on Jobs Initiative: Submission to Government', April 2011, available at [https://www.ibec.ie/IBEC/DFB.nsf/vPages/Social_affairs~Policy_positions~labour-market-activation-12-08-2013/\\$file/IBEC+Submission+on+Jobs+Initiative+-+April+2011.pdf](https://www.ibec.ie/IBEC/DFB.nsf/vPages/Social_affairs~Policy_positions~labour-market-activation-12-08-2013/$file/IBEC+Submission+on+Jobs+Initiative+-+April+2011.pdf).

²³¹ Central Statistics Office, 'Employment and Unemployment', undated, available at <http://www.cso.ie/en/statistics/labourmarket/principalstatistics/>; Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

²³² Central Statistics Office, 'Quarterly national household survey', 12 December 2011, available at http://www.cso.ie/en/media/csoie/releasespublications/documents/labourmarket/2011/qnhs_q32011.pdf; Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

²³³ Finfacts, 'Irish employment decline slows to 4.1% in the year to Q2 2010; Non-Irish nationals accounted for 12.4% of workforce and 46,800 were unemployed; Net emigration rises to 34,500', 21 September 2010, available at http://www.finfacts.ie/irishfinancenews/article_1020615.shtm;

Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

²³³ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

²³⁴ Paul P., and Duncan P., 'Staffing problems at Department of Jobs due to moratorium on recruitment', Press Release, Irish Times, 10 August 2014, available at <http://www.irishtimes.com/business/economy/staffing-problems-at-department-of-jobs-due-to-moratorium-on-recruitment-1.1891743>.

²³⁵ Department of Social and Family Affairs, 'JobsPlus helps create over 1,000 new jobs since its launch', undated, available at <http://www.welfare.ie/en/pressoffice/pdf/pr291113.pdf>.

Another impact of the economic crisis is that the 2008 national pay agreement providing for pay rises in the private and public sectors of 6% over 21 months was abandoned by many employers because they could not afford to pay the agreed increases and IBEC (Irish Business and Employers Confederation) ultimately stated that it was withdrawing from the private sector national pay agreement²³⁶.

New public sector workers have also been badly affected as lower rates of pay have been introduced²³⁷.

The moratorium on recruitment in the public sector has led to an increased number of people being employed on fixed term contracts and retired people not being replaced²³⁸.

B. Specific impact on vulnerable groups

The impact of the crisis and related austerity measures has been more severe on certain vulnerable groups. The younger generation has been disproportionately affected. Estimates state that the number of under 25s who are unemployed fell by over half between the end of 2007 and the end of 2011²³⁹.

Women, particularly single mothers, encounter specific obstacles preventing them from participating on an equal basis in the work market²⁴⁰. For example, the cost of childcare acts as a significant barrier to female participation in the workforce²⁴¹.

Other vulnerable groups such as Travellers, migrants and people with disabilities face important challenges in accessing the labour market²⁴². Unemployment in the Traveller community stood at 84% in 2011, compared to 8.4% in 2006²⁴³. This is mainly because Travellers are generally employed in informal jobs which are more vulnerable during an economic recession²⁴⁴. Migrants also tend to be in informal employment, under often

²³⁶ Kerr A., 'Social Rights in Crisis in the Eurozone. Work Rights in Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

²³⁷ Ibid.

²³⁸ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

²³⁹ McGinnity F., Russell H., Watson D., Kingston G. and Kelly E., 'Winners and Losers?: The equality impact of the great recession in Ireland', 2014, available at <http://www.equality.ie/Files/Winners-and-Losers.pdf>; Kelly E. and McGuinness S., 'The impact of the recession on the structure and labour market success of NEET youth in Ireland', (2013) ESRI Working Paper No. 465, Dublin: Economic and Research Institute.

²⁴⁰ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

²⁴¹ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

²⁴² McGinnity F., Nelson J., Lunn P., Quinn E., 'Discrimination in Recruitment', Equality Authority/Economic and Social Research Institute, Dublin 2009; United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

²⁴³ Financial Times, 'Ireland's travellers bear brunt of austerity', 29 April 2013, Press Release, available at <http://www.ft.com/intl/cms/s/0/c963d0c2-b0e6-11e2-80f9-00144feabdc0.html#axzz3DmFPGIir>; Pavee Point Travellers' Centre, 'Pre-budget submission for budget 2011', September 2010, available at <http://paveepoint.ie/pdf/FPPFinalPBS240910.pdf>.

²⁴⁴ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

precarious conditions, which has exposed them to wage decreases and redundancies during the crisis²⁴⁵. Many of them were attracted to Ireland by the boom in the construction sector, and were thus vulnerable to the burst of the housing bubble²⁴⁶. Those migrants who do not qualify for work visas are particularly vulnerable and their situation is likely to be worsening due to the increase of competition for low-paid jobs²⁴⁷.

In 2010, people with a disability faced higher unemployment rates than those without a disability (22% versus 16%)²⁴⁸. A study commissioned by the National Disability Authority²⁴⁹ found that people with a disability were affected disproportionately by the decline in public sector employment since the introduction of the moratorium on recruitment into the public sector in 2009. The absolute number of people with disabilities employed in the public sector declined by 9.9% compared to a 4% decline in overall employment in 2010²⁵⁰.

C. Level of protection remaining

While there have been many redundancies, pay cuts and salary freezes in the public and private sectors, some level of protection still remains. For those made redundant in the public sector, redundancy packages are available (e.g. Eircom (telecommunications company) and An Post (postal services provider) offer very generous severance agreements)²⁵¹ and the full rate of jobseekers allowance for those over 26 is also available. Training, further education and work experience placements have been made available for the unemployed²⁵².

D. National/EU law challenging austerity measure and complaints received

No austerity measures impacting on the right to work have been declared invalid, unconstitutional or to be in violation of national, international or European law²⁵³.

No information on complaints submitted post-2008 crisis was identified for this study²⁵⁴.

E. Doubts about the respect by national measures of this right

No challenges to a breach of national measures of the right to work have been brought²⁵⁵.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

²⁴⁸ McGinnity F., Russell H., Watson D., Kingston G. and Kelly E., 'Winners and Losers?: The equality impact of the great recession in Ireland', 2014, available at <http://www.equality.ie/Files/Winners-and-Losers.pdf>.

²⁴⁹ National Disability Authority, 'Disability and work: The picture we learn from official statistics', undated, available at [http://www.nda.ie/cntmqmtnew.nsf/0/E016F5035C8127BC802570660054EC12/\\$File/DisabilityandWork.pdf](http://www.nda.ie/cntmqmtnew.nsf/0/E016F5035C8127BC802570660054EC12/$File/DisabilityandWork.pdf).

²⁵⁰ McKeogh T., 'Assessing the impact of European governments' austerity plans on the rights of people with disabilities', October 2012, available at http://www.efc.be/programmes_services/resources/Documents/Ireland%20Country%20Report_FINAL.pdf.

²⁵¹ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

²⁵² E.g. As mentioned above, the National Internship Scheme, JobBridge, provides 5,000 internship placements of six to nine months duration, the National Reform Programme 2012 provided for conversion courses to upskill/reskill unemployed people to meet skills shortages in new and emerging sectors and in 2011 there were approximately 276,000 training and further education places provided by FÁS, Skillnets, the Labour Activation Fund and the Further Education sector for the unemployed to access.

²⁵³ Conclusion based on stakeholder consultation (Irish Congress of Trade Unions), September 2014.

²⁵⁴ Ibid.

²⁵⁵ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

5. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO PENSION

KEY FINDINGS

- Pensions were also targeted by austerity measures. Public and private sector pension levies, public sector pay cuts, public service pension reductions and reduction of tax relief on pension funds were introduced.
- These have caused many problems in the pensions system including exacerbating catastrophic pension shortfalls, reducing future credibility of the system and undermining public confidence in the security of the financial system.

5.1. International and EU legal framework for the protection of the right to pension

There is no internationally guaranteed right to pension. However, pensions, including the contributory pensions, as well as the so-called social pensions (in so far as provided by applicable legislation), have been observed through the lenses of the right to property. Namely, having developed the doctrine of pensions as acquired rights, the European Court of Human Rights has observed pensions through the lenses of the right to property as guaranteed by Article 1 of Protocol No. 1 to the ECHR²⁵⁶.

With this understanding, Article 17 of the EU Charter guarantees the right for everyone 'to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss.'

5.2. The right to pension in Ireland

The right to pension is not explicitly set out in the Constitution. However, according to Article 40.3.2 of the Constitution²⁵⁷, 'the State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen'. Constitutional property rights could be used to defend pensions²⁵⁸. In *Cox v Ireland* [1992] 2 I.R. 503 Finlay C.J. held that "it is clear that the provisions of s.34 of the Act of 1939, when it becomes applicable to any person convicted of a scheduled offence in a Special Criminal Court potentially constitutes an attack, [...] on certain property rights protected by the Constitution, such as the right to a pension [...]"²⁵⁹. It should also be noted that there is no obligation on employers to

²⁵⁶ See e.g. *Gaygusuz v. Austria*, case no. 17371/90, judgment of 16 September 1996, §41. For a full list of references to the regime of 'acquired rights' see *Grudić v. Serbia*, case no. 31925/08, judgment of 17 April 2012, §72.

²⁵⁷ Constitution of Ireland, Article 40.3.2, 1937, available at <http://www.irishstatutebook.ie/en/constitution/index.html#article40>.

²⁵⁸ Conclusion based on stakeholder consultation (academic, University of Nottingham), September 2014.

²⁵⁹ *Cox v Ireland* [1992] 2 I.R. 503 at 522.

provide a pension, their only entitlement is to inform employees to take out a Pay Related Social Insurance (PRSI) savings account, but employers have no obligation to fund it²⁶⁰.

5.3. The measures adopted

A number of measures have been adopted regarding pension levies, pension cuts, pay cuts and reductions of tax relief on pension funds. These measures including the cuts in budget made in these areas have to a greater or lesser extent been influenced by the economic crisis.

Austerity measures affecting the right to pension

Public sector pension levy

In April 2009, the Government introduced a €1.4 billion levy on all public service pensions²⁶¹. The pension levy is, on average, a 7% levy on the after-tax pay of all public service workers²⁶². This was brought in as an emergency measure by the Financial Emergency Measures in the Public Sector Act 2009²⁶³.

Public sector pay cuts

The Financial Emergency Measures in the Public Interest (No.2) Act 2009 introduced reductions (on average of 6.5%) in all public servants' remuneration with effect from January 2010²⁶⁴. The Financial Emergency Measures in the Public Interest Act 2013 introduced further cuts to public servants' remuneration whose annual remuneration exceeds €65,000 with effect from 1 July 2013²⁶⁵.

Public service pension reductions (PSPR)

The December 2010 budget cut public sector pensions in payment on average by 4%²⁶⁶. Pensions up to €12,000 were not affected²⁶⁷. Pensions amounting to over €60,000 were cut by 12% and those from €12,000 to €24,000 and from €24,000 to €60,000 were cut by 6% and 9% respectively²⁶⁸. These cuts were made effective from January 2011²⁶⁹. They were brought in as an emergency measure under the Financial Emergency Measures in the Public Interest Act 2010²⁷⁰.

The Financial Emergency Measures in the Public Interest Act 2013 provided for the further reduction of public service pensions above €32,500²⁷¹. This Act introduced a grace period

²⁶⁰ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

²⁶¹ Farrelly R., 'Ireland: Industrial relations in central public administration-Recent trends and features', 17 July 2014, available at <http://www.eurofound.europa.eu/eiro/studies/tn1307019s/ie1307019g.htm>.

²⁶² Ibid.

²⁶³ Financial Emergency Measures in the Public Interest Act 2009, available at <http://www.irishstatutebook.ie/2009/en/act/pub/0005/sec0002.html#sec2>.

²⁶⁴ Financial Emergency Measures in the Public Interest (No.2) Act 2009, section 2, available at <http://www.irishstatutebook.ie/2009/en/act/pub/0041/>.

²⁶⁵ Financial Emergency Measures in the Public Interest Act 2010, section 2, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0018/sec0002.html#sec2>.

²⁶⁶ Euracs, 'Republic of Ireland Pension Summary', 2014, available at <http://euracs.eu/summaries/summary-ireland/>.

²⁶⁷ Ibid.

²⁶⁸ Ibid.

²⁶⁹ Ibid.

²⁷⁰ Financial Emergency Measures in the Public Interest Act 2010, section 2, available at <http://www.irishstatutebook.ie/2010/en/act/pub/0038/sec0002.html#sec2>.

²⁷¹ Financial Emergency Measures in the Public Interest Act 2013, section 5, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0018/sec0005.html#sec5>.

allowing workers who retire before 30 June 2015, to have their pension calculated on the pay rate in force prior to 1 July 2013²⁷². This grace period was originally due to expire on 31 August 2014. However, due to a Government decision the grace period has now been extended to 30 June 2015²⁷³.

Private sector pension levy

In 2011 a temporary 0.6% levy on private pension funds was introduced as an emergency measure to raise cash for job creation²⁷⁴. The Government announced that it would only apply for four years, from 2011 to 2014 inclusive²⁷⁵. The Finance (No.2) Act 2013 increased the levy to 0.75% in 2014, and a further levy of 0.15% will be applied in 2015²⁷⁶. This was announced in Budget 2014²⁷⁷.

Reduction of tax relief on pension funds

Tax relief on pension funds worth above €2.3m was reduced in Budget 2011²⁷⁸. The previous standard fund threshold (SFT) was €5.14m²⁷⁹. Budget 2014 further reduced the absolute value of the SFT from €2.3m to €2m²⁸⁰.

Other reforms were introduced into the Irish pension system. It should be noted that these reforms had largely been proposed in advance of 2008 and the fiscal contraction, and so any suggestion they would not have happened in its absence would not be correct– they would have been required, whatever the economic context²⁸¹. These reforms are described below.

In Budget 2010, the Government announced the introduction of a new single pension scheme for all new entrants to the public service after 1 January 2013²⁸². The Public Service Pensions (Single Scheme and Other Provisions) Act 2012 became law on 28 July 2012²⁸³. The main provisions of the scheme are:

raising the minimum pension age to 66 years initially and then linking it to the State pension age;

- a maximum retirement age of 70 years;

²⁷² Financial Emergency Measures in the Public Interest Act 2013, section 5 available at <http://www.irishstatutebook.ie/2013/en/act/pub/0018/sec0005.html#sec5>; University College Dublin, 'Grace period for retirements prior to 30 June 2015', undated, available at <http://www.ucd.ie/hr/pensions/graceperiodforretirements/>.

²⁷³ University College Dublin, 'Grace period for retirements prior to 30 June 2015', undated, available at <http://www.ucd.ie/hr/pensions/graceperiodforretirements/>.

²⁷⁴ Considine M., 'Pensions', in ASISP 'Country Document 2013: Pensions, health and long-term care', November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.

²⁷⁵ Pensions Ombudsman, 'Annual Report 2013', 15 April 2014, available at http://www.pensionsombudsman.ie/cms/sites/default/files/2971%20Pensions%20Ombudsman%20AR13%20inside_0.pdf.

²⁷⁶ Ibid.

²⁷⁷ Ibid.

²⁷⁸ Department of Finance, 'Budget 2011', available at <http://budget.gov.ie/Budgets/2011/2011.aspx>.

²⁷⁹ McDonald D., 'Ten judges to retire before 70pc pension super tax kicks in', 21 December 2013, Press Release, available at <http://www.independent.ie/irish-news/ten-judges-to-retire-before-70pc-pension-super-tax-kicks-in-29857501.html>.

²⁸⁰ Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

²⁸¹ Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014; Conclusion based on stakeholder consultation (Assistant Principal Officer, Department of Social Protection), September 2014.

²⁸² Department of Finance, 'Budget 2010', available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

²⁸³ Public Service Pensions (Single Scheme and other provisions) Act 2012, available at <http://www.irishstatutebook.ie/2012/en/act/pub/0037/index.html>.

- actuarially-reduced early retirement facility from age 55, i.e. before minimum pension age.
- career average earnings rather than final salary to be used to calculate pension. This is expected to be less costly for the tax payer by still offering adequate if not generous pensions in the future²⁸⁴.

This Act also made certain changes affecting existing public service pension arrangements. These included:

- the introduction on 28 July 2012 of a 40-year limit on the total service which can be counted towards pension where a person has been a member of more than one existing public service pension scheme;
- the extension on 1 November 2012 of pension abatement so that a retiree's public service pension is liable to abatement on re-entering public service employment in future, even where the new employment is in a different area of the public service;
- the aggregation of pensions for the purposes of imposition of the Public Service Pension Reduction subject to a commencement order to be signed by the Minister for Public Expenditure²⁸⁵.

Budget 2014 introduced a standard State pension age of 66 years for everyone from 1 January 2014²⁸⁶. The Social Welfare and Pensions Act 2011 also increased the age for qualification for the State pension from 66 to 67 from 2021, and an increase to 68 years from 2028²⁸⁷. It should be noted that these changes are related to changing demographics, and the fact that people are living longer, healthier lives, thereby spending more of their years in receipt of pensions rather than in relation to the economic crisis²⁸⁸.

5.4. The impact of the measures

A number of austerity measures that were introduced as a result of the economic crisis have had actual and potential impacts on the right to pension. These are described in the sections below.

A. Actual and Potential Outcomes

Approximately 55% of the workforce has made some pension provision for their retirement outside the main State scheme²⁸⁹. These schemes have come under increasing pressure since the economic crisis and the fall in annuity rates²⁹⁰.

²⁸⁴ Conclusion based on stakeholder consultation (Department of Public Expenditure & Law Reform), September 2014.

²⁸⁵ Department of Public Expenditure and Reform, 'Recent changes affecting existing public service pensions', undated, available at <http://www.per.gov.ie/recent-changes-affecting-existing-public-service-pensions/>.

²⁸⁶ Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.

²⁸⁷ Social Welfare and Pensions Act 2011, available at <http://www.irishstatutebook.ie/2011/en/act/pub/0009/index.html>; Freshfields Bruckhaus Deringer, 'Labour market reforms tracker', Winter 2014, available at http://www.freshfields.com/uploadedFiles/SiteWide/Knowledge/36432_Labour_Market_Reforms_Interactive.pdf.

²⁸⁸ Conclusion based on stakeholder consultation (Assistant Principal Officer, Department of Social Protection), September 2014.

²⁸⁹ M. Walsh B., L. Mitchell P., C. Bandelow N., 'Sustainable Governance Indicators: Ireland Report', 2014, available at http://www.sgi-network.org/docs/2014/country/SGI2014_Ireland.pdf.

It has been argued that the austerity measures that have been introduced are causing many problems to the pension system including exacerbating catastrophic pension shortfalls, reducing future credibility of the system and undermining public confidence in the security of the financial system²⁹¹. For example, according to a recent report on Budget 2014 measures, a young worker setting aside annually some €2,500 as a starting pension in 2011 will see a life-time cost of the pension levies reach €32,500²⁹². He/she will face a reduction of €1,625 per annum in annual retirement benefits due to levies alone²⁹³.

Government balances have been improved in terms of magnitude as a result of the austerity measures²⁹⁴. For example, the public service pension levy has contributed over €900 million per year to improve the fiscal position, while the PSPR is raising approximately €125 million per year on all public service pensions over €32,500 which were implemented under the Financial Emergency Measures in the Public Interest Act 2013²⁹⁵. Also, according to the Government, the single pension scheme for all new entrants to the public service will significantly reduce costs to the taxpayer²⁹⁶.

The public sector pension reductions have had a significant focus on the higher paid as the highest pension reduction rates were applied to those on the highest rates of income²⁹⁷.

B. Specific impact on vulnerable groups

The impact of the crisis and related austerity measures has had a specific impact on certain vulnerable groups. Older workers, particularly those born after 1949, are exposed to the impact of current uncertainties as they have been given relatively little time to prepare for the fact that their State pension rights have been delayed by one year and their public sector pensions may have been reduced²⁹⁸. The UN Special Rapporteur on Extreme Poverty and Human Rights stressed that increasing the age at which older people qualify for State pensions represents a reduction in social transfers to a sector that is heavily dependent on such payments and, as such, a potential threat to their right to an adequate standard of living²⁹⁹.

C. Level of protection remaining

The increase in the number of social insurance contributions to be eligible for State pension has also had an impact on women who have not reached the required years to be eligible

²⁹⁰ Ibid.

²⁹¹ Dr Gurdgiev C., 'Irish pensions: a crisis of policy, institutions and savings', 20 November 2013, Press Release, available at <http://trueeconomics.blogspot.be/2013/11/20112013-irish-pensions-crisis-of.html>.

²⁹² Ibid.

²⁹³ Ibid.

²⁹⁴ Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014.

²⁹⁵ Minister for Public Expenditure and Reform, 'Financial Emergency Measures in the Public Interest Act 2013 (No.18 of 2013): Annual review and report to the Houses of the Oireachtas by the Minister for Public Expenditure and Reform under section 12 of the Act', June 2014, available at http://opac.oireachtas.ie/AWDData/Library3/PERDocLaid30062014_161037.pdf.

²⁹⁶ Euracs, 'Republic of Ireland Pension Summary', 2014, available at <http://euracs.eu/summaries/summary-ireland/>.

²⁹⁷ Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014.

²⁹⁸ Considine M., 'Pensions', in ASISP 'Country Document 2013: Pensions, health and long-term care', November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.

²⁹⁹ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

for State pension³⁰⁰. The primary reason for the inequality in the pension cuts is that women had taken time out of work to rear children, or were forced out of jobs due to the marriage bar and during their time at home they did not receive social insurance points³⁰¹. An internal department survey of 5,700 claimants was conducted which highlighted the likelihood that women would be disproportionately affected by the measures introduced in April 2012³⁰². The figures showed that in the categories of pensioners where there was a majority (more than 60%) of women there were cuts imposed of between €1,196 per year and €1,497 per year³⁰³. In contrast, the other two categories, which were made up predominantly of men (only 36% and 16% women), the annual cuts were €977 and €0 respectively³⁰⁴.

While there have been public service pension reductions, public service remuneration deductions, public and private sector levies introduced, a reduction of tax relief on pension funds, an increase in the qualification age for the State pension, and changes to the pension schemes of new public service entrants, some level of protection still remains.

It should be noted that despite the public sector pension reductions, everybody is still receiving some level of a pension. Pensions up to €12,000 have not been affected at all by the PSPR. Moreover, private sector pensions are protected by the Pensions Act 1990 from being cut³⁰⁵.

Spending on State pensions has continued to increase even in the context of such structural reforms and fiscal pressures. The full personal rate of both old age State pensions [the State pension contributory (based on social insurance contributions paid or credited) and the State pensions non-contributory (based on a means test)] have been raised in the period since 2007 by €37 per week (€1,924 p.a.)³⁰⁶.

It should be noted that the emergency measures that were introduced in the public sector and the introduction of the private sector pension levy are temporary measures that are not supposed to be permanent³⁰⁷.

The Finance (No.2) Bill 2013 provides for an individual who has pension rights on 1 January 2014 in excess of the new lower standard fund threshold limit of €2m, to claim a Personal Fund Threshold from Revenue so as to protect the value of those rights on that date³⁰⁸.

³⁰⁰ Conclusion based on stakeholder consultation (academic, Maynooth University), September 2014.

³⁰¹ Ryan, C., 'Women bear brunt of pension changes', March 17 2014, Press Release, available at <http://www.irishexaminer.com/ireland/women-bear-brunt-of-pension-changes-262237.html>.

³⁰² Ibid.

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ Pensions Act 1990, available at <http://www.irishstatutebook.ie/1990/en/act/pub/0025/index.html>; Euracs, 'Republic of Ireland Pension Summary', 2014, available at <http://euracs.eu/summaries/summary-ireland/>.

³⁰⁶ Conclusion based on stakeholder consultation (Assistant Principal Officer, Department of Social Protection), September 2014.

³⁰⁷ Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014.

³⁰⁸ Houses of the Oireachtas, 'Finance (No.2) Bill 2013', available at <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2013/10213/document1.htm>; McDonald D., 'Ten judges to retire before 70pc pension super tax kicks in', 21 December 2013, available at <http://www.independent.ie/irish-news/ten-judges-to-retire-before-70pc-pension-super-tax-kicks-in-29857501.html>.

D. National/EU law challenging austerity measure and complaints received

According to the research conducted, no austerity measures affecting the right to pension have been declared, invalid, unconstitutional or to be in violation of national, international or European law³⁰⁹. Any austerity measures or reforms that were introduced to the Irish pension system are legal and do not infringe upon the right to pension³¹⁰. Two challenges were brought before the courts³¹¹ in relation to the imposition of the public sector pension levy (described in section 5.3), both of which failed³¹².

The number of complaints received by the Pensions Ombudsman increased by 56% in the first half of 2009, driven by the increased vigilance of pension members on how their pension funds were invested, as companies were switching from defined benefit to defined contribution schemes³¹³. Again in 2012 there was a 79% increase in the number of complaints to the Office of the Pensions Ombudsman³¹⁴. The Ombudsman's annual report for 2012 shows 2,189 disputes being referred to the Office of the Pensions Ombudsman in 2012, an increase from 1,221 in 2011³¹⁵. These complaints were mainly due to funding shortfalls for pension funds and the large number of public sector employees taking early retirement before the end of February 2012 based on their earnings before the general pay reduction³¹⁶. There is no information identified on whether there is an increase or decrease in the number of relevant complaints granted or rejected pre and post 2008 crisis.

E. Doubts about the respect by national measures of this right

No challenges to a breach of national measures of the right to pension have been identified³¹⁷.

³⁰⁹ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014; Conclusion based on stakeholder consultation (Assistant Principal Officer, Department of Social Protection), September 2014; Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014.

³¹⁰ Conclusion based on stakeholder consultation (Assistant Principal Officer, Department of Social Protection), September 2014; Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014.

³¹¹ *Garda Representative Association v Minister for Finance* [2010] IEHC 78; *UNITE V Minister for Finance* [2010] IEHC 354.

³¹² Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

³¹³ Stewart N., 'Irish pension complaints rise 56% in 2009', 16 July 2009, Press Release, available at <http://www.ipe.com/irish-pension-complaints-rise-56-in-2009/32226.fullarticle>.

³¹⁴ The Journal, '79 per cent increase in number of complaints to pensions ombudsman', 27 May 2013, Press Release, available at <http://www.thejournal.ie/pensions-ombudsman-report-2012-927039-May2013/>.

³¹⁵ Ibid.

³¹⁶ Pensions Ombudsman, 'Annual Report 2012', 30 April 2013, available at <http://www.pensionsombudsman.ie/cms/sites/default/files/2287%20Pensions%20Ombudsman%20AR12.pdf>.

³¹⁷ Conclusion based on stakeholder consultation (Assistant Principal Officer, Department of Social Protection), September 2014; Conclusion based on stakeholder consultation (Department of Public Expenditure and Reform), September 2014.

6. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT OF ACCESS TO JUSTICE

KEY FINDINGS

- The crisis and austerity measures have affected the right of access to justice. Legal aid cuts, significant delays in the Social Welfare Appeals Office due to the increase in the number of appeals and the unavailability of legal aid in employment law cases and for issues regarding rights over land have negatively impacted on people's right of access to justice.
- No judicial claims filed against these measures have been identified.
- A number of reforms to the justice system have been carried out including investment in the courts system, reforms to the organisation of the legal profession, and the Legal Aid Board prioritising initiatives to provide early legal advice.

6.1. International and EU legal framework for the protection of the right of access to justice

While access to justice has not been explicitly guaranteed by international human rights law as such, it has however figured highly in the general requirements of the respect of rights of individuals. Hence, the UDHR, ICCPR, or ECHR, while guaranteeing procedural rights by means of the right to a fair hearing (or trial), do not make a reference to access to justice. The absence of a guarantee of the right of access to justice, has not prevented the ECtHR to effectively provide protection of this right by expanding the guarantee from Article 6 of the right to a fair trial to also mean the guarantee of the right to access to a court. Furthermore, Article 13 of the ECHR guarantees the right to legal remedy, which is also an important element of access to justice.

More recently, however, the Convention on the Rights of Persons with Disabilities³¹⁸ guarantees the right of people with disabilities on access to justice on an equal basis with others.

Access to justice is guaranteed by Article 47 of the EU Charter, which guarantees the right of everyone to an effective remedy before a tribunal established by the law, by means of a fair and public hearing within a reasonable time, with access to legal aid, if necessary. However, even though it is seen to typically mean 'having a case heard in a court, it can more broadly be achieved or supported through mechanisms such as national human rights institutions, equality bodies and ombudsman institutions, as well as European Ombudsman at the EU level³¹⁹.'

³¹⁸ CRPD, Article 13.

³¹⁹ FRA, [Themes: Access to justice](#).

6.2. Right of access to justice in Ireland

Mechanisms available at national level to seek remedy for violation of rights

The main mechanism available to natural and legal persons for enforcing the rights covered by this study is to institute court proceedings. Trade Unions have also given legal advice on specific issues, for example how much time teachers are entitled to take on maternity leave³²⁰. The Trade Unions have brought a number of cases under the Employment Equality legislation and the Payment of Wages legislation (involving pay reductions) to the Employment Appeals Tribunal³²¹. Negative decisions on social welfare entitlements can be challenged initially through an internal review process where a Deciding Officer has the authority to review decisions³²². There is a right to appeal within the social welfare system to a quasi-judicial tribunal known as the Social Welfare Appeals Office³²³. The Office of the Ombudsman addresses complaints of maladministration from the public who have interacted with public services including undesirable administrative practices, lack of response to correspondence, undue delays or decisions taken without proper authority³²⁴. It should be noted that decisions of the Ombudsman are not legally binding but they can have enough influence to address the substance of the complaint³²⁵.

6.3. Impact of austerity measures on mechanisms

Since the 2008 economic crisis large numbers of people have accessed the social welfare system, benefitting more than 1.5 million people in 2014³²⁶. This has led to a significant rise in appeals of over 30,000 reaching the Social Welfare Appeals Office each year³²⁷. In 2007, there were 19,568 live appeals³²⁸. The number of live appeals rose to almost 59,000 in 2013³²⁹. This increase in the number of appeals due to the cuts in social welfare entitlements and the lack of staffing capacity due to the State's embargo on recruitment have led to a huge backlog, significant delays and obstacles in terms of access to justice and right to an effective remedy in a timely manner³³⁰. In 2011 social welfare appellants were waiting on average 52.5 weeks to have their appeal heard³³¹. In addition, guidelines for decision makers are not publicly available, resulting in a lack of transparency³³².

³²⁰ Conclusion based on stakeholder consultation (academic, University College Dublin), September 2014.

³²¹ Ibid.

³²² FLAC, 'The Irish Social Welfare System and Access to Justice Concerns', September 2014 (not yet published online).

³²³ Ibid.

³²⁴ Ibid.

³²⁵ Ibid.

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ Social Welfare Appeals Office, 'Annual Report 2007', 2008, available at <http://www.socialwelfareappeals.ie/pubs/annreps/annrep07.pdf>.

³²⁹ Minister for Social Protection, Joan Burton TD, Written Answers, Dail Eireann, unrevised, 29 May 2014, available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013052900072>.

³³⁰ FLAC, 'The Irish Social Welfare System and Access to Justice Concerns', September 2014 (not yet published online); Conclusion based on stakeholder consultation (academic, Maynooth University), September 2014.

³³¹ FLAC, 'The Irish Social Welfare System and Access to Justice Concerns', September 2014 (not yet published online).

³³² Irish Human Rights and Equality Commission, 'Submission to the UN Committee on Economic, Social and Cultural Rights on Ireland's Third Periodic Report on the International Covenant on Economic, Social and Cultural Rights – List of Issues Stage', October 2014, available at http://www.ihrec.ie/download/pdf/ihrec_ireland_list_of_issues_1oct14.pdf.

Appellants therefore do not have equal access to information as previous decisions are not published³³³.

Austerity measures have also threatened access to justice by weakening the accessibility and capacity of the judicial system. In 2011 and 2012 legal aid was subjected to significant cuts, restricting its availability to a more limited number of cases³³⁴. For example, there was a 26% cut in criminal legal aid fees in March 2009 and a further 10% decrease in October 2011³³⁵.

The economic crisis has also put additional pressure on the civil legal aid service as the numbers qualifying for legal aid increased due to the large increase in those unemployed and dependent on social welfare³³⁶. Demand for civil legal aid increased by over 90% between 2006 and 2011 while staffing decreased by 16% over the same period³³⁷. The Legal Aid Board estimated that 2-4 months was a reasonable waiting time³³⁸. However, the Free Legal Advice Centre (FLAC) estimated that in August 2014, some people were waiting 58 weeks for a first appointment with a solicitor and a further 79 weeks for full representation³³⁹. This has resulted in clients being hampered in their capacity to resolve their difficulties while waiting for legal representation³⁴⁰. The delays have also caused an increase in the number of people who are forced to represent themselves despite cases being very complex and requiring legal representation for a fair hearing³⁴¹. Justice is further delayed as the courts are required to walk self-represented clients through the legal process³⁴².

Due to the collapse of the housing market and the increase in the number of people in negative equity during the recession, numerous people face the prospect of losing their homes³⁴³. Under the current guidelines for civil legal aid, the majority of issues regarding rights over land are not covered which is leading to people not having the necessary access to legal advice and representation which they need³⁴⁴.

With regard to access to labour court mechanisms (i.e. the Employment Appeals Tribunal) to vindicate employment rights, workers/trade unions have to pay quite a significant fee to take a case and no legal aid is available in such matters. This creates a significant barrier to clients lacking financial resources to vindicate their employment rights³⁴⁵.

Judicial claims filed against these austerity measures

No judicial claims filed against these austerity measures have been identified³⁴⁶.

³³³ Ibid.

³³⁴ Derechos, 'Safeguarding human rights in times of economic crisis', November 2013, <http://www.derechos.org/nizkor/espana/doc/ddhhesp1.html>.

³³⁵ FLAC, 'Note to CCBE on Access to Justice in Ireland', 19 September 2014 (not yet published online).

³³⁶ Ibid.

³³⁷ Ibid.

³³⁸ O'Donoghue v The Legal Aid Board, the Minister for Justice Equality and Law Reform & Ors [2004] IEHC 413.

³³⁹ FLAC, 'Note to CCBE on Access to Justice in Ireland', 19 September 2014 (not yet published online).

³⁴⁰ Ibid; Conclusion based on stakeholder consultation (Senior Research and Training Officer, Irish Human Rights and Equality Commission), September 2014.

³⁴¹ Ibid.

³⁴² Ibid.

³⁴³ FLAC, 'Note to CCBE on Access to Justice in Ireland', 19 September 2014 (not yet published online).

³⁴⁴ Ibid.

³⁴⁵ Ibid; Conclusion based on stakeholder consultation (academic, Maynooth University), September 2014.

³⁴⁶ Conclusion based on desk research conducted.

Reforms to the justice system

A number of reforms to the justice system have been carried out using the political momentum created by the crisis. For example, the Legal Aid Board is prioritising initiatives to provide early legal advice and an integrated family mediation initiative to reduce demand for litigation in family law cases³⁴⁷. The criminal and civil law structures and systems, including family law and court structures, are also being updated so that Ireland's laws and procedures reflect the current needs of society and to promote access to justice³⁴⁸. For example, in 2013, €58m was invested into the courts system. This helped to establish the new family court structure and the new superior court of appeal to deal with appeals in civil cases in order to decrease the overwhelming workload which was being faced by the Supreme Court³⁴⁹. Also, in 2011 the IMF, as part of the EU-IMF supported adjustment programme, asked Ireland to propose reforms to the organisation of the legal profession³⁵⁰. The development of reforms to the legal profession was led by the Irish authorities under the Legal Services Regulation Bill 2011³⁵¹ which focused on allowing barristers and solicitors to set up one-stop shops with other services to help reduce costs for people hiring lawyers³⁵², increasing transparency on legal costs, better protecting consumers of legal services, and creating independent oversight bodies for professional misconduct and disputes over legal costs³⁵³.

³⁴⁷ Department of Public Expenditure and Reform, 'Public Service Reform Plan 2014-2016', January 2014, available at <http://reformplan.per.gov.ie/downloads/files/Reform%20Plan%202014.pdf>, at p.48.

³⁴⁸ Ibid.

³⁴⁹ 'Referendum will allow radical reform of courts system', 17 July 2012, Press Release, available at <http://www.thejournal.ie/referendum-courts-system-reform-court-of-appeal-oath-alan-shatter-524007-Jul2012/>.

³⁵⁰ IMF, 'Statement issued by the IMF staff regarding a press statement made by EU Commissioner for Justice, Viviane Reding on 17 March 2014', 24 March 2014, available at <https://www.imf.org/external/country/IRL/rr/2014/032414.pdf>.

³⁵¹ Legal Services Regulation Bill 2011, available at <http://www.oireachtas.ie/documents/bills28/bills/2011/5811/document2.pdf>.

³⁵² McEnroe, J., 'Fitzgerald: 'New era of transparency and reform in the justice system'', 9 May 2014, Press Release, available at <http://www.irishexaminer.com/ireland/fitzgerald-new-era-of-transparency-and-reform-in-the-justice-system-267996.html>.

³⁵³ IMF, 'Statement issued by the IMF staff regarding a press statement made by EU Commissioner for Justice, Viviane Reding on 17 March 2014', 24 March 2014, available at <https://www.imf.org/external/country/IRL/rr/2014/032414.pdf>.

7. RIGHT TO FREEDOM OF EXPRESSION AND ASSEMBLY: PROTESTS AGAINST AUSTERITY MEASURES

KEY FINDINGS

- Overall there have been a limited number of public protests against austerity measures.
- Little disturbance by the government or the police during protests or public demonstrations has been reported.
- As an exception, however, 40 complaints of police brutality during a student protest in November 2010 were made.

7.1. International and EU legal framework for the protection of the freedom of expression and assembly

Freedoms of expression and assembly are guaranteed by Articles 20 and 23 of the UDHR, Articles 21 and 22 of the ICCPR, Article 8 of the IESCR, Articles 10 and 11 of the ECHR and Articles 5 of both ESC and RESC. Article 11 of the EU Charter guarantees the right of freedom of expression and information, while Article 12 provides for the protection of freedom of assembly and association.

Indeed, freedom of expression and freedom of assembly are two separate rights. The former guarantees the 'right to hold opinions and to receive and impart information and ideas without interference by public authority'³⁵⁴, whereas the latter provides for the protection of the 'right to freedom of peaceful assembly'³⁵⁵. However, in the context of this particular study, they are being observed at the same time, and in relation with the same events – the protests in the Member States which were provoked by the austerity measures, and which at the same time served to express their opinions, however quite often by means of collective public assembly, through protests and other forms of manifestations, hence calling for the protection from either or both of these guarantees.

Like all other rights dealt with in the present study, these two rights are not absolute. In other words, they are guaranteed, but only under certain conditions. In that regard, one important element has to be present – the assembly needs to be peaceful. As soon as the assembly loses this attribute, the State has not only the right, but also the duty to intervene, in order to protect the rights and freedoms of others. At the same time, the opinion needs to be expressed without interference by a public authority, unless such an interference is 'necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary'³⁵⁶.

³⁵⁴ ECHR, Article 10 and EU Charter, Article 11.

³⁵⁵ ECHR, Article 11 and EU Charter, Article 12.

³⁵⁶ ECHR, Article 10.

7.2. Protection of the freedom of expression and assembly in Ireland

No measures have been put in place since the crisis or as a result of the crisis to limit or inhibit public demonstrations against austerity measures³⁵⁷.

While there have been some public protests against austerity measures, there has been a limited number overall and large scale public protests and riots remain unlikely³⁵⁸. Little disturbance by the government or the police during protests or public demonstrations has been reported. The government did not threaten people³⁵⁹. Demonstrations were not encouraged by the government and police, they tried to marginalise them but they did not prevent them³⁶⁰.

It should be noted, however, that on 3 November 2010 a student protest took place in Dublin against university registration fees and further cuts to the student maintenance grant. 40 complaints of police brutality during the protest were made to the Garda Síochána (Police) Ombudsman Commission of which just 24 were admitted³⁶¹. One protester, Vanessa O'Sullivan said that she had been knocked unconscious by a Garda (Policeman)³⁶². It was reported that another two protesters were pulled out of the Department of Finance 'by their ankles' and one by her hair³⁶³. One male protester was assaulted and incurred facial injuries while another protester was trampled by a horse ridden by a Garda³⁶⁴. Another student claimed a Garda had shouted at her to get off the street and was struck by a baton³⁶⁵. This led to a 500 person student protest against the behaviour of the Gardai a week later³⁶⁶.

³⁵⁷ Conclusion based on stakeholder consultation (Dublin Council of Trade Unions), September 2014; Conclusion based on stakeholder consultation (Senior Research and Training Officer, Irish Human Rights and Equality Commission), September 2014.

³⁵⁸ Nolan A., 'Welfare rights in crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

³⁵⁹ Conclusion based on stakeholder consultation (Dublin Council of Trade Unions), September 2014.

³⁶⁰ Ibid.

³⁶¹ Garda Síochána Ombudsman Commission, 'Report in accordance with section 103 of the Garda Síochána Act, 2005 relating to the policing of the Union of Students in Ireland Protest March on 3 November 2010', 2010, available at http://www.gardaombudsman.ie/docs/publications/Student_Protests_Section_103_Report.pdf.

³⁶² Duncan P., 'Up to 500 students protest over Garda behaviour', 11 November 2010, Press Release, available at <http://www.highbeam.com/doc/1P2-26343796.html>.

³⁶³ The Belfast Telegraph, 'Student protest brings chaos to Dublin streets', 4 November 2010, Press Release, available at <http://www.belfasttelegraph.co.uk/news/local-national/republic-of-ireland/student-protest-brings-chaos-to-dublin-streets-28568591.html>.

³⁶⁴ Ibid.

³⁶⁵ Ibid.

³⁶⁶ Duncan P., 'Up to 500 students protest over Garda behaviour', 11 November 2010, Press Release, available at <http://www.highbeam.com/doc/1P2-26343796.html>.

8. OVERVIEW OF THE IMPACT OF THE AUSTERITY MEASURES ON OTHER FUNDAMENTAL RIGHTS IN IRELAND

KEY FINDINGS

- Austerity measures have also affected other fundamental rights, such as the right to housing, the right to collective bargaining, the right to social security and the right to water.
- The social housing budget was cut, reductions were made to the rent supplement scheme and cuts were made to child benefit, jobless benefit and maternity leave benefit.
- New fees for domestic water use have been introduced in homes that are connected to a public water supply.
- The troika has also vetoed certain people from exercising their right to collective bargaining.

8.1. Right to housing

The right to housing is not enshrined in the Irish Constitution³⁶⁷. However, Article 8 of the ECHR³⁶⁸, which was domestically incorporated into Irish law by the European Convention on Human Rights Act 2003³⁶⁹, protects aspects of the right to housing and provides that: 'everyone has the right to respect for his private and family life, his home and correspondence'.

The social housing budget was cut by 36% in 2011³⁷⁰, and was further cut by 26% in 2012³⁷¹. The number of households on waiting lists for social housing increased by 75% between 2008 and 2011, from 56,000 to 98,000³⁷². These recent reductions will have a detrimental impact on the capacity of local authorities and housing associations to both finish existing projects and provide new housing to those who have lost their homes and

³⁶⁷ Conclusion based on stakeholder consultation (Director of Research and Corporate, Housing), September 2014.

³⁶⁸ European Convention on Human Rights, 1950, available at http://www.echr.coe.int/Documents/Convention_ENG.pdf.

³⁶⁹ European Convention on Human Rights Act 2003, available at <http://www.irishstatutebook.ie/2003/en/act/pub/0020/>.

³⁷⁰ Focus Ireland, 'Savage budget cuts will lead to increase in homelessness', undated, available at <http://communityplatform.ie/uploads/Focus%20Ireland%20response%20to%20Budget%202011.pdf>; Department of Finance, 'Budget 2011', available at <http://budget.gov.ie/Budgets/2011/2011.aspx>.

³⁷¹ Department of Finance, 'Budget 2012', available at <http://budget.gov.ie/Budgets/2012/2012.aspx>; Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

³⁷² Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>; Department of the Environment, Community and Local Government, 'Minister Penrose announces publication of Social Housing Needs Assessment 2011', 19 September 2011, available at <http://www.environ.ie/en/DevelopmentHousing/Housing/SocialHousingSupport/LocalAuthorityHousing/News/MainBody,27882,en.htm>.

their jobs, as well as groups with special needs, at a time when demand for social housing is soaring³⁷³.

It is estimated that in 2011 approximately 5,000 people were homeless in Ireland compared to 3157 people counted in 2008³⁷⁴. According to Focus Ireland, seven new people a day are becoming homeless³⁷⁵. This is a regrettable reversal after significant reductions in homelessness levels between 2002 and 2005³⁷⁶.

Unsustainable mortgages may be contributing to the homelessness problem³⁷⁷ as over-indebted homeowners are unable to keep up their payments³⁷⁸. The continued rise in rents, particularly in the last 12 months, is also contributing to the problem³⁷⁹.

Rent supplement tenants have either become homeless or been placed at risk of homelessness by the reductions made in Budget 2012 to the rent supplement scheme, making it impossible for them to find a place to rent on existing rent supplement limits³⁸⁰. These rent supplement limits have been reduced by between 20% and 25%³⁸¹.

In August 2014 a couple were evicted from the home they rented for 15 years³⁸². The couple said they had tried to find somewhere else to live but landlords would not accept rent supplement and rents had doubled in their area³⁸³. This has left the couple homeless. This illustrates the extent of the housing crisis in Ireland³⁸⁴.

Certain vulnerable groups have been adversely affected. Travellers have experienced 85% spending cuts on housing since 2008³⁸⁵. Moreover, resource allocations for asylum seekers' accommodation were reduced by 13% in 2011 when €10 million was removed from the

³⁷³ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

³⁷⁴ Focus Ireland, 'Estimating the number of people who are homeless in Ireland', November 2011, available at <http://www.focusireland.ie/images/articles/Homeless%20Numbers.pdf>; Simon Community, 'Homelessness', undated, available at <http://www.simon.ie/Homelessness/Homelessness.aspx>.

³⁷⁵ Focus Ireland, 'Focus Ireland warns that budget 2014 must put people first and ease austerity to avoid forcing more households into homelessness', undated, available at <https://www.focusireland.ie/about-homelessness/resource-centre/press/press-releases/811-focus-ireland-warns-that-budget-2014-must-put-people-first-and-ease-austerity-to-avoid-forcing-more-households-into-homelessness>.

³⁷⁶ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>; O'Sullivan E., 'Sustainable Solutions to Homelessness: The Irish Case', School of Social Work and Social Policy, Trinity College, December 2008, available at <http://eohw.horus.be/files/freshstart/European%20Journal%20of%20Homelessness/Volume%20Two/evaluation-3.pdf>.

³⁷⁷ Smyth J., 'Bank rate rises risk increase in homelessness' 16 February 2011, Press Release, available at <http://www.irishtimes.com/newspaper/ireland/2011/0216/1224289928493.html>.

³⁷⁸ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

³⁷⁹ Conclusion based on stakeholder consultation (Director of Research and Corporate, Housing), September 2014.

³⁸⁰ Ibid.

³⁸¹ Threshold, 'Threshold pre-budget submission 2013', September 2012, available at http://www.threshold.ie/download/pdf/threshold_prebudget_submission_2013.pdf.

³⁸² Conclusion based on stakeholder consultation (academic, National University of Ireland), September 2014.

³⁸³ Carbery G., 'Humanity 'apparently doesn't exist anymore' for evicted couple', 28 August 2014, Press Release, available at <http://www.irishtimes.com/news/crime-and-law/humanity-apparently-doesn-t-exist-any-more-for-evicted-couple-1.1910128>.

³⁸⁴ Conclusion based on stakeholder consultation (academic, National University of Ireland), September 2014.

³⁸⁵ Smyth J., 'Irish travellers bear brunt of austerity', 29 April 2013, Press Release, available at <http://www.ft.com/intl/cms/s/0/c963d0c2-b0e6-11e2-80f9-00144feabdc0.html#axzz3DmFPGFfir>.

Reception and Integration Agency budget³⁸⁶. In 2008, 36% of all single-parent households were on the waiting list for social housing and one fifth of all people who relied on a rent supplement to meet their rental costs were single parents³⁸⁷. The capital assistance scheme, which used to house people with disabilities was also reduced from €145m in 2010 to €50m in 2012³⁸⁸.

8.2. Rights at work

The troika vetoed the commitment given by the previous Irish government to amend the Competition Act 2002 to allow 'voice over actors' and freelance journalists to exercise their right to engage in collective bargaining on the basis that according to settled EU case law, self-employed individuals were undertakings³⁸⁹. While certain people, outlined above, have had difficulties exercising their right to collective bargaining which coincided with the troika process, the real difficulties emanated from the case of McGowan v Labour Court [2013] IESC 21 which resulted in the denial of the right to collective bargaining to Irish workers³⁹⁰. However, this case was taken in advance of the crisis and was thus not related to austerity measures³⁹¹.

8.3. The right to social security

The right to social security has been affected badly through cuts to child benefit, jobless benefit and maternity leave benefit.

Child benefit cuts

Budget 2010³⁹² decreased the child benefit entitlement to €16 a month while Budget 2013 reduced child benefit to €130 a month for each child³⁹³.

Jobless benefit cuts

Budget 2014 reduced the amount of jobless benefit for the under-25s from €188 to €100 a week. The full rate of jobseekers' allowance (€188) is now only available for those over 26³⁹⁴.

³⁸⁶ Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>; Reception and Integration Agency, 'Parliamentary Questions Relating to RIA', 2 November 2011, available at http://www.ria.gov.ie/en/RIA/Pages/PQ_32464_November_2011.

³⁸⁷ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepúlveda Carmona M.,: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

³⁸⁸ Disability Federation of Ireland, 'Disability Federation of Ireland Pre-Budget Submission 2014, undated, available at <http://www.disability-federation.ie/index.php?uniqueID=10710>.

³⁸⁹ Kerr A., 'Social Rights in Crisis in the Eurozone. Work Rights in Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

³⁹⁰ Irish Congress of Trade Unions, 'Congress makes collective bargaining complaint to court of human rights, supreme court ruling 'flawed' says legal expert', 6 February 2014, available at <http://www.ictu.ie/press/2014/02/06/congress-makes-collective-bargaining-complaint-to-court-of-human-rights-supreme-court-ruling-flawed-says-legal-expert/>; ETUC, 'Statement of the ETUC Collective Bargaining Committee in Country Specific Recommendations 2014 concerning wages and collective bargaining systems', 4 June 2014, available at <http://www.etuc.org/statement-etuc-collective-bargaining-committee-country-specific-recommendations-2014-concerning>.

³⁹¹ Conclusion based on stakeholder consultation (Irish Congress of Trade Unions), September 2014.

³⁹² Department of Finance, Budget 2010, available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.

³⁹³ Department of Finance, Budget 2013, available at <http://budget.gov.ie/Budgets/2013/2013.aspx>.

Maternity leave benefit

Budget 2014 resulted in a reduction of 12% in maternity benefit³⁹⁵.

8.4. The right to water

Ireland has no express right to water in its legislation or Constitution. This right has also not been explicitly recognised by any of the existing human rights instruments. In July 2010 the United Nations General Assembly adopted Resolution 64/292 recognizing the human right to water and sanitation³⁹⁶. However, the Irish Government abstained from this vote, meaning they did not formally acknowledge water as a human right³⁹⁷.

As a condition of the EU/IMF memorandum of understanding, new fees for domestic water use have been introduced in Ireland for homes that are connected to a public water supply (or to public wastewater services)³⁹⁸. The new system is being brought into effect under the Water Services Act 2013³⁹⁹ and the Water Services (No. 2) Act 2013⁴⁰⁰. Water meters are being installed at present and the first bills for domestic water will issue from January 2015.

There will be 30m³ per year of free basic water, after which €4.88/m³ including taxes will be charged⁴⁰¹. From January 2015 the Household Benefits Package will include a new water support payment to assist with water costs. This will be worth €100 each year⁴⁰². Even though people on lower incomes and on social welfare will receive a water support payment to assist with water costs, this may not be enough and these water charges may impede such people from accessing water⁴⁰³.

Protests have been brought against the installation of water meters in Cork and Dublin. One protestor said that she was particularly concerned about the health issues associated with smart meters and possible radiation emanating from the devices⁴⁰⁴.

It remains to be seen what impacts these water charges will have on the Irish population's enjoyment of the right to water.

³⁹⁴ Department of Finance, Budget 2014, available at <http://budget.gov.ie/Budgets/2014/Documents/Buisead%202014%20Leaflet%20-%20Gaeilge.pdf>.

³⁹⁵ Ibid.

³⁹⁶ United Nations General Assembly, 'Resolution adopted by the General Assembly on 28 July 2010', 3 August 2010, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/292.

³⁹⁷ TASC, 'Water charges: an equality-proofed approach', February 2012, available at <http://www.enviro.ie/en/Environment/Water/WaterSectorReform/Submissions/Organisations/FileDownload.31833.en.pdf>.

³⁹⁸ Enetenglish, 'Austerity has eroded human rights, Council of Europe study says', 4 December 2013, Press Release, available at <http://www.enetenglish.gr/?i=news.en.article&id=1656>.

³⁹⁹ Water Services Act 2013, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0006/index.html>.

⁴⁰⁰ Water Services (No.2) Act 2013, available at <http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0050.pdf>.

⁴⁰¹ Commission for Energy Regulation, 'Guide to the CER's Decision in Irish Water Charges Plan for Domestic Customers', 30 September 2014, available at <http://www.cer.ie/docs/000979/CER14745.2%20Guide%20to%20the%20CER's%20Decision%20on%20Irish%20Water's%20Water%20Charges%20Plan%20for%20Domestic%20Customers.pdf>.

⁴⁰² Citizens Information, 'Water charges', undated, available at http://www.citizensinformation.ie/en/environment/water_services/water_charges.html.

⁴⁰³ Society of St. Vincent de Paul, 'Water proposals have serious implications for low-income households, as alleviation measures are not targeted', 31 July 2014, Press Release, available at <http://www.svp.ie/News-Media/Press-Releases/Water-charge-per-litre-is-one-of-the-highest-in-Eu.aspx>.

⁴⁰⁴ Roche B., 'Anti-water protests spread to Dublin', 23 April 2014, Press Release, available at <http://www.irishtimes.com/news/environment/anti-water-meter-protests-spread-to-dublin-1.1771005>.

9. MONITORING COMPLIANCE OF NATIONAL MEASURES WITH FUNDAMENTAL RIGHTS

KEY FINDINGS

- Ireland has seen relatively few cases seeking to declare austerity measures to be violations of constitutional rights. There have been a number of cases challenging changes to social rights that resulted from the crisis. The ECJ has ruled on one case concerning pension rights.
- Austerity measures have been monitored at national level mainly through the Irish Human Rights Commission. At international level, issues related to austerity measures have been dealt with by the Council of Europe and the European Committee of Social Rights.

9.1. Monitoring compliance at national level

9.1.1. Binding decisions at national level

Ireland has seen relatively few cases seeking to declare crisis-related austerity measures to be violations of constitutional rights⁴⁰⁵. Moreover there is no evidence of any significant, widespread effort made by rights-holders/lawyers to use the Constitution to challenge measures and policies affecting fundamental rights on an individual basis⁴⁰⁶. It should be noted that the *Garda Representative Association (GPA)*⁴⁰⁷ and the *trade union UNITE*⁴⁰⁸ initiated judicial review proceedings seeking to challenge the Minister for Finance's decision not to exempt some of their members from the 7 % pension levy⁴⁰⁹. However, both applications were unsuccessful.

There have been a number of cases challenging changes to social rights that resulted directly from the crisis⁴¹⁰. The only relevant case identified for this study was *J. & J. Haire & Co. Ltd v Minister for Health*⁴¹¹. This case concerned a challenge brought by pharmacists to reductions in the fees paid by the State to them⁴¹². They challenged the constitutionality of the 2009 Act and the Regulations made in respect of pharmacists on the grounds that the relevant measures failed to vindicate their fundamental rights to property and to equal

⁴⁰⁵ Nolan A., 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

⁴⁰⁶ Ibid.

⁴⁰⁷ *Garda Representative Association v Minister for Finance* [2010] IEHC 78.

⁴⁰⁸ *UNITE v Minister for Finance* [2010] IEHC 354.

⁴⁰⁹ Kerr A., 'Social Rights in Crisis in the Eurozone. Work Rights in Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

⁴¹⁰ Nolan A., 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

⁴¹¹ *J. & J. Haire & Co. Ltd v Minister for Health*, HC, 17 December 2009.

⁴¹² Nolan A., 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>.

treatment. The Court held that there was no constitutional property right at issue here as the right asserted was one founded on contract. Moreover, the Court rejected the claim of unconstitutional discrimination or unequal treatment⁴¹³.

9.1.2. Non-binding monitoring mechanisms available at national level

As regards the monitoring framework of compliance with national measures in Ireland, the *Irish Human Rights Commission*⁴¹⁴ (IHRC), now replaced by the Irish Human Rights and Equality Commission, plays an important role. It is empowered to make recommendations to Government, including on legislative proposals, and may also conduct inquiries. The human rights that the IHRC is mandated to promote and protect are the rights, liberties and freedoms guaranteed under the Irish Constitution and under international agreements, treaties and conventions to which Ireland is a party. The IHRC highlighted that the current financial and economic crisis and the austerity measures in response to it have created significant hardship for many people and raise pressing questions of human rights, particular care should be taken to ensure that budgetary measures do not disproportionately impact on the most vulnerable in our society⁴¹⁵.

No strong public declarations or critical reports made by the *Office of Ombudsman* and the *Ombudsman for Children's Office* against austerity measures negatively affecting fundamental rights were identified⁴¹⁶. However, the Ombudsman did warn public bodies that if they were making staff cuts and cuts to financial resources, it should be ensured that these were equitable and fair⁴¹⁷. The Ombudsman stated that his predecessor, Emily O'Reilly, experienced some difficult times during her tenure with the economic downturn resulting in cuts to the resources of the Office, at one stage seeing a 16% reduction in staffing⁴¹⁸. The Office had to deal with a significant increase in the volume of complaints despite the reduction in resources and staff numbers. This reduction in resources led to a significant backlog of work⁴¹⁹.

It should be noted that these mechanisms have proved to be sufficient and effective in promoting the respect for fundamental rights in times of economic crisis.

9.2. Monitoring compliance at supranational level

9.2.1. Binding decisions at European level

On 25 April 2013, the *European Court of Justice* (ECJ) ruled in favour of Waterford Crystal workers who took a case against Ireland for the loss of their pensions when the company collapsed⁴²⁰. The ECJ ruled that offering retirees half of what they had been promised under

⁴¹³ Ibid.

⁴¹⁴ Information available at <http://www.ihrc.ie/>.

⁴¹⁵ Human Rights Challenges for 21st Century Ireland, IHRC and Law Society 11th Annual Human Rights Conference, address by McDonagh SC, acting Chairperson of the Irish Human Rights and Equality Commission, 12 October 2013.

⁴¹⁶ Conclusion based on stakeholder consultation (Office of the Ombudsman), September 2014.

⁴¹⁷ Ibid.

⁴¹⁸ Office of the Ombudsman, 'Delivering Fairness and Transparency: Speech by the Ombudsman and Information Commissioner, Tyndall P., 19 February 2014, available at <https://www.ombudsman.gov.ie/en/News/Speeches-Articles/2014/Fairness-and-Transparency.html>.

⁴¹⁹ Ibid.

⁴²⁰ Finfacts, 'European Court of Justice rules against Ireland in Waterford Crystal pensions case', 25 April 2013, available at http://www.finfacts.ie/irishfinancenews/article_1025907.shtml.

a defined benefit scheme does not amount to protection by the State⁴²¹. The ECJ ruled that the economic situation of Ireland does not constitute "an exceptional situation capable of justifying a lower level of protection of the interests of employees as regards their entitlement to old-age benefits under a supplementary occupational pension scheme"⁴²².

9.2.2. Non-binding monitoring mechanisms available at European level

Council of Europe complaints

International Federation for Human Rights (FIDH) v. Ireland, no. 110/2014

The complaint, registered on 18 July 2014, relates to the right to protection of health, right of the family to social, legal and economic protection, right of children and young persons to social, legal and economic protection and right to protection against poverty and social exclusion of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause set forth in Article E of the Revised European Social Charter. The complainant organisation, FIDH, alleges that Irish law, policy and practices on social housing do not comply with European housing, social protection and anti-discrimination standards, in breach of the above-mentioned provisions⁴²³.

European Confederation of Police (EUROCCP) v. Ireland, no. 83/2012

The complaint was registered on 7 June 2012. The complainant organisation alleges that police representative associations in Ireland, and more specifically, the Association of Garda Sergeants and Inspectors, do not enjoy full trade unions rights. The complainant organisation alleges a violation of Articles 5 (the right to organise), 6 (the right to bargain collectively), and 21 (the right to information and consultation) of the European Social Charter (Revised). The European Committee of Social Rights declared the complaint admissible as far as it concerns Article 5 and 6 of the Charter, declared the remainder of the complaint inadmissible and concluded that there was a violation of Articles 5, 6§2 and 6§4 of the Charter and transmitted its report containing its decision on admissibility and the merits of the complaint to the Parties and to the Committee of Ministers on 16 January 2014⁴²⁴.

The European Committee of Social Rights (ECSR) has adopted several conclusions concerning Ireland's compliance with the European Social Charter in the fields covered by this study. The table below provides an overview of instances in which the ECSR found that Ireland was not in compliance with relevant Charter provisions. The table covers selected austerity-related conclusions of the ECSR issued since 2008.

⁴²¹ Ibid.

⁴²² Ibid.

⁴²³ International Federation for Human Rights (FIDH) v. Ireland, Complaint No.110/2014, European Committee of Social Rights available at http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC110CaseDoc1_en.pdf.

⁴²⁴ European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, European Committee of Social Rights, available at http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC83CaseDoc1_en.pdf.

Table 3: Overview of instances in which the ECSR found that Ireland was not in compliance with relevant Charter provisions

| 2012/def/IRL | Protection against dismissal | Employment |
|---|--|------------|
| <p>'[T]he situation in Ireland is not in conformity with Article 24 of the Charter on the grounds that it has not been established that legislation permits the exclusion of employees from protection against dismissal for one year during the probationary period and that employees having reached the normal retiring age are excluded from the protection of the Unfair Dismissals legislation which goes beyond what is permitted by the Appendix to the Charter.'</p> | | |
| 2011/def/IRL | Prohibition of employment of children subject to compulsory education | Education |
| | <p>'[T]he situation in Ireland is not in conformity with Article 7§3 of the Charter on the ground that the rules applying to the employment children still subject to compulsory education does not apply to children employed by a close relative.'</p> | |
| | Fair pay for young persons | Employment |
| | <p>'[T]he situation in Ireland is not in conformity with Article 7§5 of the Charter on the grounds that the minimum net wage is manifestly inadequate, the rate paid to young workers between 16 and 18 years is too low and young persons working for close relatives are not covered by the Minimum Wage Act.'</p> | |
| | Social Security | Employment |
| | <p>'[T]he situation in Ireland is not in conformity with Article 8§1 of the Charter on the grounds that the amount of maternity benefit is manifestly too low.'</p> | |
| | Illegality of dismissal | Employment |
| | <p>'[T]he situation in Ireland is not in conformity with Article 8§2 of the Charter on the grounds that it has not been established that there is adequate protection against unlawful dismissals during pregnancy or maternity leave and it has not been established that reinstatement or adequate compensation is provided for in cases of unlawful dismissal during pregnancy or maternity leave.'</p> | |

These mechanisms have proved to be sufficient and effective in promoting the respect for fundamental rights in times of economic crisis. No recommendation or concluding observations from the UN treaty bodies regarding the impact of the crisis and resulting austerity measures on the rights covered by this study have been found.

10. CONCRETE PROPOSALS FOR IMPROVING THE RESPECT OF FUNDAMENTAL RIGHTS IN TIMES OF ECONOMIC CRISIS

KEY FINDINGS

- In order to improve the respect of fundamental rights in times of crisis, a number of recommendations have been listed with regard to each right mentioned in the study that has been affected by the economic crisis. In addition, a number of general recommendations can also be made in order to improve the respect of fundamental rights in times of crisis.
- In particular, people's rights should be placed at the heart of decision making; the public and civil society organisations should be allowed to participate in decisions around the budget; laws and policies adopted in response to the crisis must be based on human rights standards; the Constitution should give greater protection to these rights; budgetary decisions should make full use of the State's maximum available resources by ensuring non-discriminatory progressive tax reforms; budgetary measures should be tested against the provisions of the ICESCR and no retrogression in the level of protection of ESC rights should be ensured. Action should also be taken to guarantee and strengthen social protection measures, increase transparency of the social protection system and establish a body to address poverty.

General recommendations

In order to reduce the impact of austerity measures on fundamental rights, the Government should bring human rights into post-crisis economic policy-making⁴²⁵. The following steps should be taken:

Place people's rights at the heart of decision making

Amnesty International Ireland has called on the Irish Government to take a "historic step" and place people's rights at the heart of decision making by prioritising those in greatest need⁴²⁶. Irish and European governments need to change tack and put people, not economies, first⁴²⁷. According to Social Justice Ireland, "those who were elected in the recent elections need to recognise that development of a fairer future across the EU in general and in Ireland in particular will be possible only when priority is given to the

⁴²⁵ Amnesty International, <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf> at tmlnd Information Commissions to Budgetary Policy', 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.

⁴²⁶ Ibid.

⁴²⁷ Foley, A.M., 'Government urged to place people's rights at the heart of decision making', 3 June 2014, Press Release, available at <http://www.catholicireland.net/government-urged-place-peoples-rights-heart-decision-making/>.

common good. Futures based on the primacy of the market are not likely to be just or fair⁴²⁸”.

Laws, policies and fiscal measures based on human rights standards

Government law and policy, including fiscal measures such as the budget, must be based on human rights, reflect Ireland’s economic, social and cultural (ESC) rights obligations and must not discriminate against the most marginalised and vulnerable people in society⁴²⁹.

Include the public and civil society organisations in budgetary decisions

Decisions concerning the budget must be reached in a participatory manner by taking into account the public’s right to participate⁴³⁰. Recognising that civil society organisations play an important role in ensuring budgetary accountability, the Government should create avenues for their increased involvement in the budgetary process, possibly taking the form of a year round advisory group similar to that in Scotland⁴³¹. Members of the public and representatives of organisations would participate in such an advisory group with a genuine opportunity to directly input into how the budget impacts on marginalised people⁴³².

Explicit protection of these rights in the Constitution

The Constitution should be updated to give greater protection to the rights covered in this study. The Government should accept the Constitutional Convention’s recommendation that greater protection be given to ESC rights in the Constitution⁴³³. It should engage robustly on the issue of constitutional ESC rights and should ensure full transparency and clear timelines in any measures adopted to deliberate further on how best to implement this recommendation⁴³⁴.

Ensure budgetary decisions make full use of the State’s maximum available resources

The Government should ensure and demonstrate that in any budgetary decisions it is making full use of the State’s maximum available resources⁴³⁵. This includes resources which could be mobilised by the State for example via taxation⁴³⁶. In this regard the Government should ensure non-discriminatory progressive measures as opposed to regressive taxation measures⁴³⁷. For example, the low tax base should be increased to mobilise the maximum available resources to finance economic and social rights and limit VAT increases which disproportionately affect the poorest and most vulnerable⁴³⁸.

⁴²⁸ Ibid.

⁴²⁹ Amnesty International, ‘Bringing ESC Rights Home: Applying Ireland’s Economic, Social and Cultural Rights Obligations to Budgetary Policy’, 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.

⁴³⁰ Ibid.

⁴³¹ Ibid.

⁴³² Ibid.

⁴³³ Ibid.

⁴³⁴ Ibid.

⁴³⁵ Ibid.

⁴³⁶ Ibid.

⁴³⁷ Ibid.

⁴³⁸ Center for Economic and Social Rights, ‘Mauled by the Celtic Tiger: Human rights in Ireland’s economic meltdown: Rights in crisis briefing paper’, February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.

Test budgetary measures against the provisions of the ICESCR

Proposed budgetary measures should be tested against the provisions of the ICESCR⁴³⁹. This includes ensuring that measures identified are non-discriminatory and do not disproportionately impact the most vulnerable⁴⁴⁰.

Ensure no retrogression in the level of protection of ESC rights

The Government should undertake that there will be no retrogression in the level of protection of ESC rights in Ireland⁴⁴¹. Should retrogressive measures be deemed unavoidable these must be fully justified by an analysis of the totality of resources available to the Irish State (including those available in the State and through international assistance and cooperation)⁴⁴². Even where retrogressive measures are justified, these should not impact upon the minimum core of ESC rights⁴⁴³.

Guarantee and strengthen social protection measures

Guarantee and strengthen social protection measures, particularly for vulnerable groups including women, children, older persons, Travellers, asylum seekers, people with disabilities and immigrants⁴⁴⁴. This should include introducing temporary affirmative action measures so as to protect the right to work of particularly vulnerable groups⁴⁴⁵.

Increased transparency of the social protection system

The transparency of the social protection system should be increased so as to ensure that beneficiaries have access to clear information about the criteria and process by which decisions are made⁴⁴⁶. For example, the decisions of the Social Welfare Appeals Office should be published in a form which allows for broad dissemination and understanding among potential and existing beneficiaries⁴⁴⁷.

Establishment of body to address poverty

Establish an independent statutory body with effective resources to address poverty in light of the increased prevalence of poverty in Ireland⁴⁴⁸.

Specific recommendations

Bearing in mind that the Irish budget deficit has been over 10% of GDP in recent years⁴⁴⁹, it would not be possible to reverse all austerity measures that have been introduced.

⁴³⁹ Amnesty International, *nd.net/government-urged-place-peoples-rights-heart-decision-making/sion-making/"* available at Tyndallnary Policy', 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20-%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.

⁴⁴⁰ Ibid.

⁴⁴¹ Ibid.

⁴⁴² Ibid.

⁴⁴³ Ibid.

⁴⁴⁴ Ibid.

⁴⁴⁵ Ibid; United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepulveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

⁴⁴⁶ United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Sepulveda Carmona M.: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.

⁴⁴⁷ Ibid.

⁴⁴⁸ Ibid.

Therefore, the recommendations listed below which could be implemented in the next budget (Budget 2016) are priority areas where the cuts/austerity measures have had the most severe impact. The majority of these recommendations are the views of the author, while some recommendations are from certain sources which have been referenced accordingly.

Right to education

- Cuts in areas such as education are counterproductive for the country's future economic viability. Ireland should ensure that cuts in education budgets, notably in programmes of support for children with specific difficulties, do not affect equal access to quality education for all children.
- Ireland should invest in teacher/student support services including in mild disability classes and in schemes designed to support disadvantaged and marginalised pupils. It should also invest in the School Completion Programme in order to combat early school leaving.
- Ireland should also invest in grants paid to schools including student support grants (to combat early school leaving), language support (for immigrant children particularly), provide funding for poorer children, provide grants for Traveller education and provide funding for Travellers.
- While Budget 2014 and 2015 provided for the recruitment of new classroom teachers, extra resource teachers and special needs assistants, Ireland should continue to decrease the pupil teacher ratio by employing more teachers in schools, particularly under disadvantage schemes to non-DEIS schools. Ireland should also continue to increase the number of special needs assistants and language support teachers to address the needs of immigrant children and children with disabilities. Posts should also be created for the visiting teachers service for Travellers and resource teachers for Travellers.

Right of access to healthcare

- The Society of Saint Vincent de Paul stressed that Ireland needs a healthcare system based on fairness that is transparent and efficient and that offers equal treatment for equal needs in a timely way⁴⁴⁹.
- Budget 2015 provided €13.1 billion to the health sector. Ireland should continue to invest in the financing of the HSE (for cancer services, home help services, disability services and day, respite and residential care services).
- The Government should in particular do the following:
 - Increase the number of staff in the healthcare sector in order to prevent increasing waiting lists. An increase in staff in public nursing homes should be a priority.
 - Invest in facilities for public nursing homes.
 - Invest in autism services.

⁴⁴⁹ Conclusion based on stakeholder consultation (academic, University of Nottingham), September 2014.

⁴⁵⁰ Foley, A.M., 'Government urged to place people's rights at the heart of decision making', 3 June 2014, Press Release, available at <http://www.catholicireland.net/government-urged-place-peoples-rights-heart-decision-making/>.

- Invest in the carer's allowance for persons with disabilities.
- The HSE should continue to provide free access to healthcare for low income families. For example, the less privileged should not have to pay charges (e.g. bed charges in public hospitals, the A&E charge, inpatient charges, long stay charges, prescription charges).
- Immediate and free of charge treatment should be provided for serious and urgent conditions. Therefore the A&E charge should be abolished for all patients irrespective of income. Life threatening conditions should be treated without restrictions or preconditions.

Right to work

- Some of the pay cuts that have been placed in the public service should be lifted (for e.g. for new teachers entering the profession).
- The Government should continue to invest in schemes (e.g. the Pathways to Work Strategy, JobBridge and JobsPlus) to assist job seekers, particularly Travellers, migrants and persons with disabilities in finding employment.

Right to pension

- The public and private sector pension levies should be reduced.
- The public service pensions should be increased.
- The tax relief on pension funds should be increased.
- The increase made to the age at which older people qualify for State pensions should be reversed.

Right to housing

- Homelessness due to over indebtedness or unsustainable mortgages should be prevented and efforts should be made to continue to provide adequate resources to social housing⁴⁵¹. For example, by continuing to provide money to tackle homelessness and to develop public/private partnerships provided in Budget 2015⁴⁵² in order to deliver social housing units by 2017. This should be the number one priority of the Irish government as seven new people a day are becoming homeless.
- Regularly updated and comprehensive disaggregated nationwide data on homelessness should be provided to facilitate protection of the right to housing in the future⁴⁵³.
- No further reductions should be made to the rent supplement schemes. If possible, the Government should increase the current amount of rent supplements provided.
- The Government should also invest in the Reception and Integration Agency budget for asylum seekers' accommodation.

⁴⁵¹ Ibid.

⁴⁵² Department of Finance, 'Budget 2015', available at <http://www.budget.gov.ie/Budgets/2015/2015.aspx>.

⁴⁵³ Ibid.

Rights at work

- Voice over actors and freelance journalists should be allowed to exercise their right to engage in collective bargaining

Right to social security

- The Government should continue to increase by another €5 per month in 2016 the child benefit entitlement⁴⁵⁴.
- The Government should increase the amount of jobless benefit for under 25s and the amount of maternity leave benefit.

Right to water

- People on lower incomes and on social welfare should not have to pay the water costs or should at least receive more than €100 as a water support payment to assist with water costs and to ensure that they are not inhibited from accessing water.

Right to manifestation and assembly

- After the reported police brutality during a student protest in November 2010, Ireland should ensure that protests take place in a safer manner.

Right to access to justice

- The Government should help decrease the backlog/waiting times in the Social Welfare Appeals Office by preventing further cuts to social welfare entitlements and hiring more staff in the Office.

The Government should in particular do the following:

- Prevent further cuts to criminal and civil legal aid.
- Invest in legal aid, hire more staff in the Legal Aid Board and the Free Legal Advice Centre.
- Broaden the scope of civil legal aid to cover issues regarding rights over land in order to help the increasing number of people in negative equity who face the prospect of losing their homes.
- Broaden the scope of civil legal aid to cover employment law rights/issues.

Monitoring compliance with fundamental rights

- The Government should continue funding and providing resources to the Office of the Ombudsman in order for them to carry out their monitoring work effectively and to deal, if it arises again, with an increasing number of complaints.
- The Government should also provide adequate funding to the new Human Rights and Equality Commission and other national human rights bodies so as to ensure an effective monitoring service is provided.

⁴⁵⁴ In Budget 2015 the child benefit entitlement was increased by €5 per month.

REFERENCES

Table of cases

ECtHR case-law

- ECtHR, Grudić v. Serbia, no. 31925/08, 17 April 2012
- ECtHR, Gaygusuz v. Austria, no. 17371/90, 16 September 1996

National case-law

- Cox v Ireland [1992] 2 I.R. 503 at 522.
- Heeney v Dublin Corporation Unreported Supreme Court, 17 August 1998.
- O'Donoghue v The Legal Aid Board, the Minister for Justice Equality and Law Reform & Ors [2004] IEHC 413.
- In the Matter of Article 26 of the Constitution and the Health (Amendment) (No.2) Bill 2004 Unreported Supreme Court decision, 16 February 2005.
- Garda Representative Association v Minister for Finance [2010] IEHC 78.
- UNITE V Minister for Finance [2010] IEHC 354.

Table of Legislation

International law

- WHO, Constitution, 1946, available at http://www.who.int/governance/eb/who_constitution_en.pdf
- Universal Declaration of Human Rights (UDHR), 1948, available at <http://www.un.org/en/documents/udhr/>
- UNESCO Convention against Discrimination in Education, 1960, available at http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html
- United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- United Nations International Covenant on Civil and Political Rights (ICCPR), 1966, available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- United Nations Convention on the Rights of the Child, 1989, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
- United Nations Convention on the Rights of Persons with Disabilities, 2006, available at <http://www.un.org/disabilities/convention/conventionfull.shtml>

European law

- Charter of Fundamental Rights of the European Union, OJ C 83/389, 30.03.2010, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>
- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 1950, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>
- European Social Charter (ESC), 1961, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm>
- Revised European Social Charter (RESC), 1996, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm>

National law

- Constitution of Ireland, Articles 42 and 40.3.2, 1937, available at https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf.
- European Convention on Human Rights, 1950, available at http://www.echr.coe.int/Documents/Convention_ENG.pdf.
- Pensions Act 1990, available at <http://www.irishstatutebook.ie/1990/en/act/pub/0025/index.html>.
- European Convention on Human Rights Act 2003, available at <http://www.irishstatutebook.ie/2003/en/act/pub/0020/>.
- Financial Emergency Measures in the Public Interest Act 2009, available at <http://www.irishstatutebook.ie/2009/en/act/pub/0005/>.
- Financial Emergency Measures in the Public Interest (No.2) Act 2009, available at <http://www.irishstatutebook.ie/2009/en/act/pub/0041/>.
- Financial Emergency Measures in the Public Interest Act 2010, available at <http://www.irishstatutebook.ie/2010/en/act/pub/0038/>.
- Social Welfare and Pensions Act 2011, available at <http://www.irishstatutebook.ie/2011/en/act/pub/0009/sec0022.html#sec22>.
- Legal Services Regulation Bill 2011, available at <http://www.oireachtas.ie/documents/bills28/bills/2011/5811/document2.pdf>.
- Social Welfare Act 2012, available at <http://www.irishstatutebook.ie/pdf/2012/en.act.2012.0043.pdf>.
- Public Service Pensions (Single Scheme and other Provisions) Act 2012, available at <http://www.irishstatutebook.ie/2012/en/act/pub/0037/index.html>.
- Houses of the Oireachtas, 'Finance (No.2) Bill 2013', available at <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2013/10213/document1.htm>
- Water Services Act 2013, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0006/index.html>.
- Water Services (No.2) Act 2013, available at <http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0050.pdf>.

- Finance (No.2) Act 2013, available at <http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0041.pdf>.
- Financial Emergency Measures in the Public Interest Act 2013, available at <http://www.irishstatutebook.ie/2013/en/act/pub/0018/>.

Publications

EU institutions

- European Commission, 'Eurydice Report: Teachers' and School Heads' Salaries and allowances in Europe', 2011/12, available at http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/salaries_EN.pdf.
- European Commission, 'Ireland's economic crisis: how did it happen and what is being done about it?', undated, available at http://ec.europa.eu/ireland/economy/irelands_economic_crisis/index_en.htm.
- European Commission, 'National Reform Programme for Ireland 2012 Update under the Europe 2020 Strategy', 2012, available at http://ec.europa.eu/europe2020/pdf/nd/nrp2012_ireland_en.pdf.
- European Commission, 'National Reform Programme for Ireland 2013 Update under the Europe 2020 Strategy', 2013, available at http://ec.europa.eu/europe2020/pdf/nd/prgprep2013_ireland_en.pdf.
- European Commission, 'National Reform Programme for Ireland under the Europe 2020 Strategy', 29 April 2009, available at http://ec.europa.eu/europe2020/pdf/nrp/nrp_ireland_en.pdf.
- European Commission, 'National Reform Programme for Ireland under the Europe 2020 Strategy', 29 April 2011, available at http://ec.europa.eu/europe2020/pdf/nrp/nrp_ireland_en.pdf.
- European Commission, 'National Reform Programme Ireland', April 2014, available at http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_ireland_en.pdf.
- European Commission, 'National Reform Programme Ireland', April 2014, available at http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_ireland_en.pdf.
- Eurostat, 'HICP-inflation rate, annual average rate of change (%)', undated, available at <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00118>.
- Eurostat, 'Real GDP growth rate-volume, percentage change on previous year', undated, available at <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00115>.
- Eurostat, 'Unemployment rate by sex and age groups-annual average, %', 30 September 2014, available at http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=une_rt_a&lang=en.

International Organisations

- Amnesty International, 'Bringing ESC Rights Home: Applying Ireland's Economic, Social and Cultural Rights Obligations to Budgetary Policy', 2014, available at <http://www.amnesty.ie/sites/default/files/page/2014/10/Bringing%20ESC%20Rights%20Home%20%20Applying%20Ireland's%20Economic,%20Social%20and%20Cultural%20Obligations%20to%20Budgetary%20Policy%20-%20web%20version.pdf>.
- HIQA, 'HIQA Healthcare Monitoring Report', 2013, available at <http://www.hiqa.ie/healthcare/find-a-centre/inspection-reports>.
- ILO, David Tajzman, Catherine Saget, Natan Elkin and Eric Gravel, 'Rights at work in times of crisis: Trends at the country level in terms of compliance with international labour standards', ILO Employment Working Paper No. 101, 2011, available at http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/documents/publication/wcms_167804.pdf.
- IMF, 'Statement issued by the IMF staff regarding a press statement made by EU Commissioner for Justice, Viviane Reding on 17 March 2014', 24 March 2014, available at <https://www.imf.org/external/country/IRL/rr/2014/032414.pdf>.
- OECD, 'Education at a glance 2014', September 2014, available at <https://static.rasset.ie/documents/news/education-at-a-glance-2014.pdf>.
- Office of the High Commissioner for Human Rights, 'The United Nations independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda, issued the following statement on her recent mission to Ireland', undated, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10658&LangID=E#sthash.OyWsr3Ej.dpuf>.
- OHCHR, '[The Right to Adequate Housing](#)', undated, p. 3.
- United Nations Committee on Economic, Social and Cultural Rights, 'General comment no. 4 on the right to housing', [UN Doc. E/1992/23](#), 1991.
- United Nations Committee on Economic, Social and Cultural Rights, 'General comment no. 7 on forced evictions', [UN Doc. E/1998/22](#), 1997.
- United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 13 – Right to education', UN Doc. (E/C.12/1999/10 1999).
- United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 14 – The right to highest attainable standard of health', UN Doc. (E/C.12/2000/4).
- United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 18 – Right to work', UN Doc. (E/C.12/GC/18) (2006).
- United Nations General Assembly, 'Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Mission to Ireland', Human Rights Council Seventeenth Session, 17 May 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.34.Add.2_en.pdf.
- United Nations General Assembly, 'Resolution adopted by the General Assembly on 28 July 2010', 3 August 2010, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/292.

- WHO, A. Nolan, S. Barry, S. Burke, S. Thomas, 'Observatory-WHO study on the impact of the financial crisis on health and health systems in Europe, Case Study Ireland 2013', London: WHO European Observatory on Health Systems.
- WHO, 'Factsheet 323 on the right to health', available at: <http://www.who.int/mediacentre/factsheets/fs323/en/> (last accessed 23 October 2014).

National government and authorities

- Central Statistics Office, 'Employment and Unemployment', undated, available at <http://www.cso.ie/en/statistics/labourmarket/principalstatistics/>.
- Central Statistics Office, 'Quarterly national household survey', 12 December 2011, available at
- Central Statistics Office, Quarterly National Accounts, Quarter 1 2009, 30 June 2009, available at <http://www.webcitation.org/5iVbiD0uI>.
- Central Statistics Office, 'Seasonally adjusted standardised unemployment rates', undated, available at <http://www.cso.ie/en/statistics/labourmarket/principalstatistics/seasonallyadjustedstandardisedunemploymentratesur/>
- Department of Education and Science, 'School Completion Programme: Guidelines towards best practice', 2005, available at http://www.sdpi.ie/sdpi_deis_docs/scp_guidelines_towards_best_practice.pdf.
- Department of Education and Skills, 'Primary Education', undated, available at <http://www.education.ie/en/The-Education-System/Primary/>.
- Department of Finance, 'Budget 2009', available at <http://budget.gov.ie/Budgets/2009/2009.aspx>.
- Department of Finance, 'Budget 2010', available at <http://budget.gov.ie/Budgets/2010/2010.aspx>.
- Department of Finance, 'Budget 2011', available at <http://budget.gov.ie/Budgets/2011/2011.aspx>.
- Department of Finance, 'Budget 2013', available at <http://budget.gov.ie/Budgets/2013/2013.aspx>.
- Department of Finance, 'Budget 2014 Leaflet', 2014, available at <http://budget.gov.ie/Budgets/2014/Documents/Budget%20leaflet%202014%20-%20web%20version.pdf>.
- Department of Finance, 'Budget 2014', available at <http://budget.gov.ie/Budgets/2014/2014.aspx>.
- Department of Finance, 'Budget 2015', available at <http://www.budget.gov.ie/Budgets/2015/2015.aspx>.
- Department of Finance, 'Ireland's Programme (EU-IMF Programme)', undated, available at <http://www.finance.gov.ie/what-we-do/eu-international/irelands-programme-eu-imf-programme>.

- Department of Finance, 'Summary of 2009 Budget Measures-Policy Changes', available at http://budget.gov.ie/Budgets/2009/Summary.aspx#_Toc211585097.
- Department of Finance, 'Summary of 2010 Budget Measures-Policy Changes', available at <http://budget.gov.ie/Budgets/2010/Summary.aspx>.
- Department of Jobs, Enterprise and Innovation, 'Action Plan for Jobs 2014', 27 February 2014, available at http://www.enterprise.gov.ie/en/Publications/Action_Plan_for_Jobs_2014.html.
- Department of Public Expenditure and Reform, 'Public Service Reform Plan 2014-2016', January 2014, available at <http://reformplan.per.gov.ie/downloads/files/Reform%20Plan%202014.pdf>, at p.48.
- Department of Public Expenditure and Reform, 'Recent changes affecting existing public service pensions', undated, available at <http://www.per.gov.ie/recent-changes-affecting-existing-public-service-pensions/>.
- Department of Social and Family Affairs, 'JobsPlus helps create over 1,000 new jobs since its launch', undated, available at <http://www.welfare.ie/en/pressoffice/pdf/pr291113.pdf>.
- Department of Social Protection, 'Employer Job (PRSI) Incentive Scheme', 23 July 2013, available at http://www.welfare.ie/en/Pages/240_Employer-Job-PRSI-Incentive-Scheme.aspx.
- Department of Social Protection, 'JobsPlus', 1 November 2013, available at <https://www.welfare.ie/en/Pages/Jobs-Plus.aspx>.
- Department of the Environment, Community and Local Government, 'Workforce Planning in the Local Government Sector', September 2012, available at <http://www.environ.ie/en/Publications/LocalGovernment/Administration/FileDownload,32049,en.pdf>.
- Department of the Environment, Community and Local Government, 'Minister Penrose announces publication of Social Housing Needs Assessment 2011', 19 September 2011, available at <http://www.environ.ie/en/DevelopmentHousing/Housing/SocialHousingSupport/LocalAuthorityHousing/News/MainBody,27882,en.htm>.
- Figures from Dail Eireann, Debates, 12th February 2013, 196-8, available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013021200001?opendocument>.
- Garda Síochána Ombudsman Commission, 'Report in accordance with section 103 of the Garda Síochána Act, 2005 relating to the policing of the Union of Students in Ireland Protest March on 3 November 2010', 2010, available at http://www.gardaombudsman.ie/docs/publications/Student_Protests_Section_103_Report.pdf.
- Health Service Executive, 'Health Service national performance assurance report', August 2013, available at <http://www.hse.ie/eng/services/Publications/corporate/performanceassurancereports/performanceAug13.pdf>.

- Health Service Executive, 'Outpatient Data Quality Programme Update', February 2012, Dublin: HSE.
- http://www.cso.ie/en/media/csoie/releasespublications/documents/labourmarket/2011/qnhs_q32011.pdf.
- Irish Health, 'Parents stressed over autism cutbacks', 5 June 2013, available at <http://www.irishhealth.com/clin/depression/newsstory.php?rss&id=22197>.
- Irish Human Rights and Equality Commission, 'Submission to the UN Committee on Economic, Social and Cultural Rights on Ireland's Third Periodic Report on the International Covenant on Economic, Social and Cultural Rights – List of Issues Stage', October 2014, available at http://www.ihrec.ie/download/pdf/ihrec_ireland__list_of_issues_1oct14.pdf.
- Irish Human Rights Commission, 'Discussion document', undated, available at <http://www.ihrc.ie/download/pdf/escrdiscussiondocument.pdf>.
- Mental Health Nurse Managers Ireland, 'Assessment of progress of the Implementation of Vision for Change to date', undated, available at <http://health.gov.ie/wp-content/uploads/2014/03/Mental-Health-Nurse-Managers-submission.pdf>.
- Mental Health Reform, 'Mental Health in Ireland', undated, available at <http://www.mentalhealthreform.ie/home/mental-health-in-ireland/>.
- Minister for Public Expenditure and Reform, 'Financial Emergency Measures in the Public Interest Act 2013 (No.18 of 2013): Annual review and report to the Houses of the Oireachtas by the Minister for Public Expenditure and Reform under section 12 of the Act', June 2014, available at http://opac.oireachtas.ie/AWData/Library3/PERDocLaid30062014_161037.pdf.
- Minister for Social Protection, Joan Burton TD, Written Answers, Dail Eireann, unrevised, 29 May 2014, available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013052900072>.
- National Disability Authority, 'Briefing Paper Inclusion of children with disabilities in mainstream early childhood care and education', undated, available at [www.nda.ie/cntmgmtnew.nsf/0/.../\\$File/preschoolinclusion.doc](http://www.nda.ie/cntmgmtnew.nsf/0/.../$File/preschoolinclusion.doc).
- National Disability Authority, 'Disability and work: The picture we learn from official statistics', undated, available at [http://www.nda.ie/cntmgmtnew.nsf/0/E016F5035C8127BC802570660054EC12/\\$File/DisabilityandWork.pdf](http://www.nda.ie/cntmgmtnew.nsf/0/E016F5035C8127BC802570660054EC12/$File/DisabilityandWork.pdf).
- Office of the Ombudsman, 'Challenge and Change in the Irish Public Service in 2010', 2010, available at <https://www.ombudsman.gov.ie/en/News/Speeches-Articles/2010/Challenge-and-Change-in-the-Irish-Public-Service-in-2010-.html>.
- Office of the Ombudsman, 'Health care in Ireland- An Ombudsman Perspective', 2011, available at <https://www.ombudsman.gov.ie/en/news/speeches-articles/2011/health-care-in-ireland-an-ombudsman-perspective-.html>.
- Office of the Revenue Commissioners, 'Start your own business relief', January 2014, available at <http://www.revenue.ie/en/tax/it/reliefs/own-business-scheme/index.html>.

- Pensions Ombudsman, 'Annual Report 2012', 30 April 2013, available at <http://www.pensionsombudsman.ie/cms/sites/default/files/2287%20Pensions%20Ombudsman%20AR12.pdf>.
- Pensions Ombudsman, 'Annual Report 2013', 15 April 2014, available at http://www.pensionsombudsman.ie/cms/sites/default/files/2971_Pensions_Ombudsman_AR13_inside_0.pdf.
- Reception and Integration Agency, 'Parliamentary Questions Relating to RIA', 2 November 2011, available at http://www.ria.gov.ie/en/RIA/Pages/PQ_32464_November_2011.
- Social Welfare Appeals Office, 'Annual Report 2007', 2008, available at <http://www.socialwelfareappeals.ie/pubs/annreps/annrep07.pdf>.

Media articles

- 'Referendum will allow radical reform of courts system', 17 July 2012, Press Release, available at <http://www.thejournal.ie/referendum-courts-system-reform-court-of-appeal-oath-alan-shatter-524007-Jul2012/>.
- Ann Marie Foley, 'Government urged to place people's rights at the heart of decision making', 3 June 2014, Press Release, available at <http://www.catholicireland.net/government-urged-place-peoples-rights-heart-decision-making/>.
- Barry Roche, 'Anti-water protests spread to Dublin', 23 April 2014, Press Release, available at <http://www.irishtimes.com/news/environment/anti-water-meter-protests-spread-to-dublin-1.1771005>.
- BBC News, 'Ireland exits recession as economy grows', 19 September 2013, Press Release, available at <http://www.bbc.com/news/business-24159574>.
- Conor Ryan, 'Women bear brunt of pension changes', March 17 2014, Press Release, available at <http://www.irishexaminer.com/ireland/women-bear-brunt-of-pension-changes-262237.html>.
- Dearbhail McDonald, 'Ten judges to retire before 70pc pension super tax kicks in', 21 December 2013, Press Release, available at <http://www.independent.ie/irish-news/ten-judges-to-retire-before-70pc-pension-super-tax-kicks-in-29857501.html>.
- Dr Constantin Gurdgiev, 'Irish pensions: a crisis of policy, institutions and savings', 20 November 2013, Press Release, available at <http://trueeconomics.blogspot.be/2013/11/20112013-irish-pensions-crisis-of.html>.
- Eilish O'Regan, 'Baby check-ups stalled by cuts', 22 February 2011, Press Release, available at <http://www.independent.ie/life/family/mothers-babies/baby-checkups-stalled-by-cuts-26707152.html>.
- Enetenglish, 'Austerity has eroded human rights, Council of Europe study says', 4 December 2013, Press Release, available at <http://www.enetenglish.gr/?i=news.en.article&id=1656>.

- Enetenglish, 'Austerity has eroded human rights, Council of Europe study says', 4 December 2013, Press Release, available at <http://www.enetenglish.gr/?i=news.en.article&id=1656>.
- Evelyn Ring, 'Welfare cuts leaving the disabled 'prisoners' ', Press Release, The Irish Examiner, 28 October 2011, available at <http://www.irishexaminer.ie/ireland/welfare-cuts-leavingthe-disabled-prisoners-167660.html>.
- Fiachra O Cionnaith and Evelyn Ring, '€750m in healthcare cuts to hit the most vulnerable', 17 January 2012, Press Release, Irish Examiner, available at <http://www.irishexaminer.com/ireland/health/750m-in-healthcare-cuts-to-hit-the-most-vulnerable-180444.html>.
- Financial Times, 'Ireland's travellers bear brunt of austerity', 29 April 2013, Press Release, available at <http://www.ft.com/intl/cms/s/0/c963d0c2-b0e6-11e2-80f9-00144feabdc0.html#axzz3DmFPGEir>.
- Finfacts, 'Irish employment decline slows to 4.1% in the year to Q2 2010; Non-Irish nationals accounted for 12.4% of workforce and 46,800 were unemployed; Net emigration rises to 34,500', 21 September 2010, available at http://www.finfacts.ie/irishfinancenews/article_1020615.shtml.
- FLAC, 'Note to CCBE on Access to Justice in Ireland', 19 September 2014 (not yet published online).
- Genevieve Carbery, 'Humanity 'apparently doesn't exist anymore' for evicted couple', 28 August 2014, Press Release, available at <http://www.irishtimes.com/news/crime-and-law/humanity-apparently-doesn-t-exist-any-more-for-evicted-couple-1.1910128>.
- Henry McDonald, 'Ireland becomes first country to exit Eurozone bailout programme', 13 December 2013, Press Release, available at <http://www.theguardian.com/business/2013/dec/13/ireland-first-country-exit-eurozone-bailout>.
- Irish Examiner, 'Health cutbacks-GPs' action will impact on services', 11 July 2013, Press Release, available at <http://www.irishexaminer.com/viewpoints/ourview/health-cutbacks--gps-action-will-impact-on-services-236506.html>.
- Irish Independent, 'ESRI predicts 14% economic decline over three years', 29 April 2009, Press Release, available at <http://www.independent.ie/breaking-news/irish-news/esri-predicts-14-economic-decline-over-three-years-26532219.html>.
- Irish Times, 'Kenny addressing nation as State exits bailout', 15 December 2013 Press Release, available at <http://www.irishtimes.com/search/search7.1213540?q=ireland%20exits%20bailout&page=0&sortOrder=newest>.
- Jamie Smyth, 'Bank rate rises risk increase in homelessness', 16 February 2011, Press Release, available at <http://www.irishtimes.com/newspaper/ireland/2011/0216/1224289928493.html>.
- Jamie Smyth, 'Irish travellers bear brunt of austerity', 29 April 2013, Press Release, available at <http://www.ft.com/intl/cms/s/0/c963d0c2-b0e6-11e2-80f9-00144feabdc0.html#axzz3DmFPGEir>.

- Jim Zarroli, 'Ireland exits bailout program, but economy still on the mend', 15 December 2013, Press Release, available at <http://www.npr.org/2013/12/16/251410113/ireland-exits-bailout-program-but-economy-still-on-the-mend>.
- Jordan Shilton, 'Irish government unveils new austerity Budget', 17 October 2013, available at <http://www.wsws.org/en/articles/2013/10/17/irel-o17.html>.
- Juno McEnroe, 'Fitzgerald: 'New era of transparency and reform in the justice system'', 9 May 2014, Press Release, available at <http://www.irishexaminer.com/ireland/fitzgerald-new-era-of-transparency-and-reform-in-the-justice-system-267996.html>.
- Mark Paul and Pamela Duncan, 'Staffing problems at Department of Jobs due to moratorium on recruitment', Press Release, Irish Times, 10 August 2014, available at <http://www.irishtimes.com/business/economy/staffing-problems-at-department-of-jobs-due-to-moratorium-on-recruitment-1.1891743>.
- Nyree Stewart, 'Irish pension complaints rise 56% in 2009', 16 July 2009, Press Release, available at <http://www.ipe.com/irish-pension-complaints-rise-56-in-2009/32226.fullarticle>.
- Pamela Duncan, 'Up to 500 students protest over Garda behaviour', 11 November 2010, Press Release, available at <http://www.highbeam.com/doc/1P2-26343796.html>.
- Roisin Farrelly, 'Ireland: Industrial relations in central public administration-Recent trends and features', 17 July 2014, available at <http://www.eurofound.europa.eu/eiro/studies/tn1307019s/ie1307019q.htm>.
- RTE News, 'Lenihan admits 'serious problem' in economy', 24 June 2008, Press Release, available at <http://www.rte.ie/news/2008/0624/104891-economy/>.
- RTE News, 'OECD publishes study on Irish education', 9 September 2014, Press Release, available at <http://www.rte.ie/news/2014/0909/642475-oecd-education/>.
- Society of St. Vincent de Paul, 'Water proposals have serious implications for low-income households, as alleviation measures are not targeted', 31 July 2014, Press Release, available at <http://www.svp.ie/News-Media/Press-Releases/Water-charge-per-litre-is-one-of-the-highest-in-Eu.aspx>.
- Steve Thomas, Sara Burke and Sarah Barry, 'The Irish health-care system and austerity: sharing the pain', 3 May 2014, available at <http://www.medicine.tcd.ie/resilience4health/assets/pdf/pubs/Lancet-Ire-asuterity-May-2014.pdf>.
- The Belfast Telegraph, 'Student protest brings chaos to Dublin streets', 4 November 2010, Press Release, available at <http://www.belfasttelegraph.co.uk/news/local-national/republic-of-ireland/student-protest-brings-chaos-to-dublin-streets-28568591.html>.
- The Economist, 'Dead cat bounce', 15 December 2013, Press Release, available at <http://www.economist.com/blogs/freeexchange/2013/12/irish-bailout-exit>.
- William Bigelow, 'Ireland finishes paying back EU bailout', 16 December 2013, Press Release, available at <http://www.breitbart.com/Big-Peace/2013/12/15/Ireland-Finishes-Paying-Back-EU-Bailout>.

Other publications

- Age Action, 'Sickest, poorest and most vulnerable of older people hit hardest by Budget', 15 October 2013, available at <http://www.ageaction.ie/sickest-poorest-and-most-vulnerable-older-people-hit-hardest-budget>.
- Anthony Kerr, 'Social Rights in Crisis in the Eurozone. Work Rights in Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%20242014.pdf?sequence=1>.
- Aoife Nolan, 'Ireland: The Separation of Powers vs Socio-economic Rights' in Langford (ed), Social Rights Jurisprudence: Emerging Trends in Comparative and International Law (Cambridge: CUP, 2008) pp.295-319, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1434905.
- Aoife Nolan, 'Welfare Rights in Crisis in the Eurozone: Ireland', 2014, EUI Working Paper LAW 2014/05, available at <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%20242014.pdf?sequence=1>.
- ASISP Sara Burke, 'Pensions, Health and Long-Term Care', Ireland, November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.
- Authority/Economic and Social Research Institute, Dublin 2009.
- Barnardos, 'Written Out Written Off: Failure to Invest in education deprives children of their potential', May 2009, available at https://www.barnardos.ie/assets/files/campaigns/disadvantages/Written_Out_Written_Off.pdf.
- Brendan M. Walsh, Paul L. Mitchell, Nils C. Bandelow, 'Sustainable Governance Indicators: Ireland Report', 2014, available at http://www.sgi-network.org/docs/2014/country/SGI2014_Ireland.pdf.
- Brian Harvey, 'Tomorrow's child in an age of austerity', November 2011, available at <http://www.barnardos.ie/assets/files/Advocacy/2011-Tomorrows-Child-BHarvey.pdf>.
- Brian Harvey, 'Travelling with Austerity: Impacts of cuts on travellers, traveller projects and services', April 2013, available at http://www.paveepoint.ie/temp/site3/wp-content/uploads/2013/10/Travelling-with-Austerity_Pavee-Point-2013.pdf.
- Center for Economic and Social Rights, 'Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown: Rights in crisis briefing paper', February 2012, available at <http://www.cesr.org/downloads/cesr.ireland.briefing.12.02.2012.pdf>.
- Children's Rights Alliance, 'Report Card 2014', 2014, available at http://childrensrights.ie/sites/default/files/submissions_reports/files/RC2014-2Education.pdf.
- Citizens Information Board, 'Relate', [2014] (41): 3 Irish Journal of development in social services policy and legislation in Ireland, available at http://www.citizensinformationboard.ie/publications/relate/relate_2014_03.pdf.
- Citizens Information, 'Employer Job (PRSI) Incentive Scheme', 9 July 2013, available at http://www.citizensinformation.ie/en/social_welfare/irish_social_welfare_system/social_insurance_prsi/employer_job_prsi_incentive_scheme.html.

- Citizens Information, 'Water charges', undated, available at http://www.citizensinformation.ie/en/environment/water_services/water_charges.html.
- Commission for Energy Regulation, 'Guide to the CER's Decision in Irish Water Charges Plan for Domestic Customers', 30 September 2014, available at <http://www.cer.ie/docs/000979/CER14745.2%20Guide%20to%20the%20CER's%20Decision%20on%20Irish%20Water's%20Water%20Charges%20Plan%20for%20Domestic%20Customers.pdf>.
- Community Technical Aid, 'Budget 2009: Key Points', 13 November 2008, available at <http://www.cta.ie/?p=52>.
- Derechos, 'Safeguarding human rights in times of economic crisis', November 2013, <http://www.derechos.org/nizkor/espana/doc/ddhhesp1.html>.
- Disability Federation of Ireland, 'Disability Federation of Ireland Pre-Budget Submission 2014', undated, available at <http://www.disability-federation.ie/index.php?uniqueID=10710>.
- Kelly and S. McGuinness, 'The impact of the recession on the structure and labour market success of NEET youth in Ireland', (2013) ESRI Working Paper No. 465, Dublin: Economic and Research Institute.
- Eoin O'Sullivan, 'Sustainable Solutions to Homelessness: The Irish Case', School of Social Work and Social Policy, Trinity College, December 2008, available at <http://eohw.horus.be/files/freshstart/European%20Journal%20of%20Homelessness/Volume%20Two/evaluation-3.pdf>.
- ETUC, 'Statement of the ETUC Collective Bargaining Committee in Country Specific Recommendations 2014 concerning wages and collective bargaining systems', 4 June 2014, available at <http://www.etuc.org/statement-etuc-collective-bargaining-committee-country-specific-recommendations-2014-concerning>.
- Euracs, 'Republic of Ireland Pension Summary', 2014, available at <http://euracs.eu/summaries/summary-ireland/>.
- European Foundation Centre, 'Assessing the impact of European governments' austerity plans on the rights of people with disabilities, October 2012, available at http://www.efc.be/programmes_services/resources/Documents/Austerity%20European%20Report_FINAL.pdf.
- European Movement Ireland, 'Just the facts-Ireland exists EU/IMF Bailout Programme', 15 November 2013, available at <http://www.europeanmovement.ie/just-the-facts-bailout-programme/>.
- European Social Network, 'The impact of austerity policy on social services in Ireland', 26 September 2013, available at <http://www.esn-eu.org/news/254/index.html>.
- FLAC, 'The Irish Social Welfare System and Access to Justice Concerns', September 2014 (not yet published online).
- Focus Ireland, 'Estimating the number of people who are homeless in Ireland', November 2011, available at <http://www.focusireland.ie/images/articles/Homeless%20Numbers.pdf>.

- Focus Ireland, 'Focus Ireland warns that budget 2014 must put people first and ease austerity to avoid forcing more households into homelessness', undated, available at <https://www.focusireland.ie/about-homelessness/resource-centre/press/press-releases/811-focus-ireland-warns-that-budget-2014-must-put-people-first-and-ease-austerity-to-avoid-forcing-more-households-into-homelessness>.
- Focus Ireland, 'Savage budget cuts will lead to increase in homelessness', undated, available at <http://communityplatform.ie/uploads/Focus%20Ireland%20response%20to%20Budget%202011.pdf>.
- Frances McGinnity, Helen Russell, Dorothy Watson, Gillian Kingston & Elish Kelly, 'Winners and Losers?: The equality impact of the great recession in Ireland', 2014, available at <http://www.equality.ie/Files/Winners-and-Losers.pdf>.
- Frances McGinnity, Jacqueline Nelson, Pete Lunn, Emma Quinn, 'Discrimination in Recruitment', Equality
- Freshfields Bruckhaus Deringer LLP, 'Labour market reforms tracker', Winter 2014, available at http://www.freshfields.com/uploadedFiles/SiteWide/Knowledge/36432_Labour_Market_Reforms_Interactive.pdf.
- IBEC, 'IBEC Submission on Jobs Initiative: Submission to Government', April 2011, available at [https://www.ibec.ie/IBEC/DFB.nsf/vPages/Social_affairs~Policy_positions~labour-market-activation-12-08-2013/\\$file/IBEC+Submission+on+Jobs+Initiative+-+April+2011.pdf](https://www.ibec.ie/IBEC/DFB.nsf/vPages/Social_affairs~Policy_positions~labour-market-activation-12-08-2013/$file/IBEC+Submission+on+Jobs+Initiative+-+April+2011.pdf).
- Irish Congress of Trade Unions, 'Congress makes collective bargaining complaint to court of human rights, supreme court ruling 'flawed' says legal expert', 6 February 2014, available at <http://www.ictu.ie/press/2014/02/06/congress-makes-collective-bargaining-complaint-to-court-of-human-rights-supreme-court-ruling-flawed-says-legal-expert/>.
- Irish Human Rights Commission, 'Discussion document', undated, available at <http://www.ihrc.ie/download/pdf/escrdiscussiondocument.pdf>.
- Irish Traveller Movement, 'Cuts to Traveller Education: Position Paper', April 2011, available at http://itmtrav.ie/uploads/publication/ITM_Position_Paper_Traveller_Education_Cuts.pdf.
- M. Taguma, M. Kim, G. Wurzburg & F. Kelly, 'OECD Reviews of Migrant Education Ireland', December 2009, available at [http://www.integration.ie/website/omi/omiwebv6.nsf/page/AXBN-7YSG5V1225516-en/\\$File/OECD%20Reviews%20of%20Migrant%20Education%20-%20Ireland.pdf](http://www.integration.ie/website/omi/omiwebv6.nsf/page/AXBN-7YSG5V1225516-en/$File/OECD%20Reviews%20of%20Migrant%20Education%20-%20Ireland.pdf).
- Mairead Considine, 'Pensions', in ASISP 'Country Document 2013: Pensions, health and long-term care', November 2013, available at http://socialprotection.eu/files_db/1405/IE_asisp_CD13.pdf.
- National Traveller Women's Forum, 'Joint statement on cuts to Travellers education', Pavee Point Travellers' Centre, December 2010, available at <http://paveepoint.ie/2011/02/jointstatement-on-cuts-to-traveller-education/>.

- National Women's Council of Ireland, 'Pre-Budget Submission 2011', Dublin, 2010, available at http://www.nwci.ie/download/pdf/pre_budget_submission_2011.pdf.
- Pavee Point Travellers' Centre, 'Pre-budget submission for budget 2011', September 2010, available at <http://paveepoint.ie/pdf/FPPFinalPBS240910.pdf>.
- Pfizer, 'The 2014 Pfizer Health Index', 2014, available at http://www.pfizer.ie/UserFiles/file/Pfizer_Health_Index_Reports/Pfizer-Health-Index-2014.pdf.
- Roisin Farrelly and Collman Higgins, 'Ireland: Evolution of Wages during the Crisis', 10 July 2012, available at <http://www.eurofound.europa.eu/ewco/studies/tn1203015s/ie1203019q.htm>.
- Sandra Mallon and Sean Healy, 'Ireland and the Europe 2020 Strategy: Unemployment, Education and Poverty', January 2012, available at <http://www.socialjustice.ie/sites/default/files/file/EU/Europe%202020%20Strategy/2012-01-26%20-%20Shadow%20Report%20on%20Ireland%20NRP%20-%20FINAL.pdf>.
- Sara Burke, 'Boom to bust: its impact on Irish health policy and health services' [2010] (2):1 Irish Journal of Public Policy available at <http://publish.ucc.ie/ijpp/2010/01/burke/08/en>.
- Simon Community, 'Homelessness', undated, available at <http://www.simon.ie/Homelessness/Homelessness.aspx>.
- Social Justice Ireland, 'Budget 2014: Analysis & Critique', October 2013, available at <http://www.socialjustice.ie/sites/default/files/file/Budget/2013-10-16%20%20Budget%20Analysis%202014%20FINALFINAL.pdf>.
- TASC, 'Water charges: an equality-proofed approach', February 2012, available at <http://www.environ.ie/en/Environment/Water/WaterSectorReform/Submissions/Organisations/FileDownload,31833,en.pdf>.
- The Journal, '79 per cent increase in number of complaints to pensions ombudsman', 27 May 2013, Press Release, available at <http://www.thejournal.ie/pensions-ombudsman-report-2012-927039-May2013/>.
- Threshold, 'Threshold pre-budget submission 2013', September 2012, available at http://www.threshold.ie/download/pdf/threshold_prebudget_submission_2013.pdf.
- Trish McKeogh, 'Assessing the impact of European governments' austerity plans on the rights of people with disabilities', October 2012, available at http://www.efc.be/programmes_services/resources/Documents/Ireland%20Country%20Report_FINAL.pdf.
- Univeristy College Dublin, 'Grace period for retirements prior to 30 June 2015', undated, available at <http://www.ucd.ie/hr/pensions/graceperiodforretirements/>.
- Zachary Laven and Federico Santi, 'EU Austerity and Reform: A country by country table', 3 May 2012, available at <http://www.europeaninstitute.org/April-2012/eu-austerity-and-reform-a-country-by-country-table-updated-may-3.html>.

List of stakeholders consulted

- Office of the Ombudsman, September 2014.
- Office of the Ombudsman for Children, September 2014.
- Academic, University of Nottingham, September 2014.
- Academic, Trinity College Dublin, September 2014.
- Academic, University College Dublin, September 2014.
- Irish Congress of Trade Unions, September 2014.
- Official, Department of Public Expenditure and Reform, September 2014.
- Assistant Principal Officer, Department of Social Protection, September 2014.
- Academic, Maynooth University, September 2014.
- Director of Research and Corporate, Housing, September 2014.
- Academic, National University of Ireland, September 2014.
- Dublin Council of Trade Unions, September 2014.
- Senior Research and Training Officer, Irish Human Rights and Equality Commission, September 2014.

ANNEX - OVERVIEW OF RELATED STUDIES

| Name of the Study | PE number | ISBN number |
|---|-------------------|--|
| The impact of the crisis on fundamental rights across Member States of the EU - Comparative analysis | PE 510.021 | 978-92-823-6598-4 print edition 978-92-823-6599-1 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Belgium | PE 510.015 | 978-92-823-6553-3 print edition 978-92-823-6552-6 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Ireland | PE 510.016 | 978-92-823-6547-2 print edition 978-92-823-6546-5 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Greece | PE 510.014 | 978-92-823-6539-7 print edition 978-92-823-6538-0 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Spain | PE 510.019 | 978-92-823-6569-4 print edition 978-92-823-6568-7 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Italy | PE 510.018 | 978-92-823-6564-9 print edition 978-92-823-6565-6 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Cyprus | PE 510.017 | 978-92-823-6563-2 print edition 978-92-823-6562-5 online edition |
| The impact of the crisis on fundamental rights across Member States of the EU Country Report on Portugal | PE 510.020 | 978-92-823-6571-7 print edition 9978-92-823-6570-0 online edition |

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS **C**

Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

- Constitutional Affairs
- Justice, Freedom and Security
- Gender Equality
- Legal and Parliamentary Affairs
- Petitions

Documents

Visit the European Parliament website: <http://www.europarl.europa.eu/studies>

PHOTO CREDIT: iStock International Inc.



ISBN: 978-92-823-6546-5
DOI: 10.2861/472612