

*"This booklet makes a compelling case for all Irish Trade unionists to vote YES."*  
John Monks, General Secretary,  
European Trade Union Confederation (ETUC).

# Lisbon and Your Rights at Work

Why the Lisbon Treaty is Good for Workers and their Unions



September 2009



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for Workers and their Unions



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## Introduction

The Lisbon Treaty has the potential to improve employment protections in Ireland and across Europe, including the right to collective bargaining and collective action. That's because, if ratified, the Treaty would establish the European Charter of Fundamental Rights as primary EU law for the first time. This would give a wide range of human and civil rights – including workplace rights and the right to collective bargaining and collective action – the same legal status as existing EU laws and treaties governing internal trade and the free market.

Although the Charter's provisions would not automatically apply to all domestic Irish law, the rights it enshrines would be protected when the EU is legislating, when Ireland and other member states are implementing EU law, and when the Irish and EU courts are interpreting EU legislation.

That's why most trade unions and European trade union confederations believe that ratification of the Treaty would strengthen their ability to vindicate enhanced rights enshrined in EU law. The enhanced legal status of the European Charter of Fundamental Rights would be an extra valuable tool in the fight for employment protections and other civil rights, adding weight to campaigns to improve Irish laws.

Opponents of the Lisbon Treaty have argued that existing employment rights will be eroded if the Treaty is ratified. They are wrong. Nothing in the Treaty would take away any existing employment rights.

## The battle for 'Social Europe'

At this time of deep economic recession and growing unemployment, it has never been more important for Ireland to be a respected and fully-participating member of an EU equipped to deliver sustainable investment, employment and economic recovery. Equally, workers and their unions are concerned that employers, politicians and others will seek to exploit the recession to drive down wages and erode hard-won workplace rights.

Some Lisbon opponents have tried to exploit this fear by misrepresenting the Treaty. They have wrongly suggested that the Treaty would erode existing workplace rights and have argued that it underpins and strengthens a free market-oriented EU. Both of these assertions are wrong.

Nobody argues that the Lisbon Treaty is a panacea for enhanced workplace rights. There is an ongoing political contest about the direction of EU policies and actions, which predates the Lisbon Treaty by decades and which will continue regardless of whether or not the Treaty is ratified. But, although it's far from perfect, the Treaty would immediately give supporters of a 'social Europe' some important new tools to help win improved rights for workers, consumers and citizens.

Trade unions and other progressive forces have long worked to develop a 'social market' approach to EU policy. The social market approach recognises the role and importance of markets and cross-border trade in the European economy, but insists that the protection of workers, citizens, communities and the environment are just as important. So the social market approach places a high value on workers' and consumer rights, high quality and accessible public services and utilities, social security, and environmental protection.

Support for these values often crosses traditional European party-political lines. For example, many MEPs from centre-right parties have shared trade union positions on recent issues like the services directive, working time rules and protection for agency workers.

The social market approach has already helped deliver many benefits and protections for Irish and European workers including most of our laws and regulations concerning equal opportunities, gender pay equality, paid maternity leave, parental and adoptive leave, health and safety protections, and working time limits including legal entitlements to paid holidays. These extremely progressive measures are tangible evidence of the long European tradition of solidarity, which informed the post-war formation and development of the EU. The Lisbon Treaty opens new opportunities to strengthen that tradition within the institutions of the European Union.

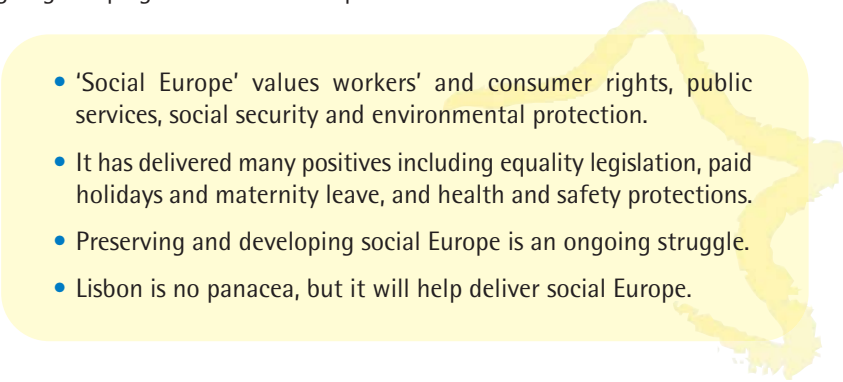
There has always been – and probably always will be – an ongoing political struggle between those who support the social market and others who want to see unfettered free market economies with minimal regulation and scant protection for workers,

citizens, consumers and the environment. That's why trade unions and others have to work constantly to inform and influence the direction of EU policy.

Opponents of the Lisbon Treaty have argued that it would shift the balance of EU policy, away from the social market and towards a more market-oriented approach. This is not the case because, by establishing the European Charter of Fundamental Rights as primary EU law, ratification of the Treaty will enhance the legal status of a range of human, civil, political, social and workplace rights.

The European Council's recent 'Solemn Declaration on Workers' Rights and Social Policy' also explicitly reaffirms the high importance that the EU places on employment, equal opportunities, social progress and public services, while reaffirming a high degree of national autonomy over the delivery of public services.

In these ways, ratification of the Lisbon Treaty would be a positive development in the ongoing campaign for a social Europe.

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- 'Social Europe' values workers' and consumer rights, public services, social security and environmental protection.
  - It has delivered many positives including equality legislation, paid holidays and maternity leave, and health and safety protections.
  - Preserving and developing social Europe is an ongoing struggle.
  - Lisbon is no panacea, but it will help deliver social Europe.

## The Lisbon Treaty and employment rights

Trade unionists and others are rightly concerned that hard-won employment rights are increasingly under attack from politicians, employers and others in Europe and beyond. During Ireland's 2008 Lisbon Treaty ratification referendum campaign, some 'no' campaigners argued that European Union directives, treaties, and institutions were responsible for much of this. They said that the Lisbon Treaty would institutionalise and accelerate the erosion of employment rights.

Most trade unions disagreed. So did the European trade union confederations to which many Irish unions are affiliated. The European Trade Union Confederation (ETUC), to which all ICTU-affiliated unions belong, continues to urge ratification of the Lisbon Treaty.

One reason for this is that most of the important decisions about employment protection – including unpopular decisions – are taken at national level. Although Irish opponents of the Lisbon Treaty have argued that it undermines workers' rights, the examples they point to exist now – before the Treaty has been ratified. And, by and large, they are problems that stem from domestic laws which would not be directly affected by the Treaty. This point is expanded below in the section on recent European Court of Justice rulings.

The Treaty itself does nothing to erode workers' rights, although unions have argued that its drafters could have done more to enhance workplace protections. But, together with social democrats across the EU, most trade unions have argued that the Treaty has the potential to significantly enhance civil rights, including equal opportunities and employment rights, by establishing the European Charter of Fundamental Rights as primary EU law for the first time.

- Workers' rights are under attack.
- Most legal limits on workers' rights stem from Irish law, not the EU.
- Lisbon would not erode workers' rights.
- Lisbon would improve workplace protections by making the European Charter of Fundamental Rights primary EU law.

## The Charter of Fundamental Rights of the European Union<sup>1</sup>

The Charter of Fundamental Rights of the European Union was adopted by the European Council, which is made up of representatives of the Governments of all EU member states, in December 2000. Since then, trade unions and civil rights groups have campaigned strongly for the Charter to be given full legal status. This goal will finally be achieved if the Lisbon Treaty is ratified.

The Treaty will give full legal effect to the Charter, in respect of anything that comes within the competency of the EU. This will bring important new legal protections for European citizens' civil rights, including employment rights, when EU laws are written, incorporated into domestic law, and interpreted by Irish courts and the European Court of Justice.

The Charter contains 50 rights, ranging from the prohibition of the death penalty to the right to form and join trade unions, in six areas:

Dignity	5 human rights	Solidarity*	12 human rights
Freedom	14 human rights	Citizens' rights	8 human rights
Equality	7 human rights	Justice	4 human rights.

\* This is where most of the employment and workplace rights appear in the Charter.

The Charter is printed in full as Appendix One of this pamphlet.

A large number of specific employment-related rights included in the Charter would have additional legal force at EU level if the Lisbon Treaty is ratified. They include:

- The prohibition of slavery, forced labour and human trafficking (Article 5)
- The right to collective bargaining and collective action, including strike action (Article 28)
- The prohibition of discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion, political belief, membership of a national minority, property, birth, disability, age or sexual orientation (Article 21)
- Equality for men and women in employment, work and pay (Article 23)
- Protection in the event of unjustified dismissal (Article 30)
- The right to working conditions that respect health, safety and dignity (Article 31)
- The right to limited maximum working hours, daily and weekly rest periods and paid annual leave (Article 31)
- Rights to information and consultation (Article 27)
- The prohibition of child labour and protection of young people at work (Article 32)
- The right to protection from dismissal for reasons connected with maternity (Article 33)
- The right to paid maternity leave and parental and adoptive leave (Article 33)
- Rights to social security and assistance, including in cases of maternity, illness, industrial accidents, old age and loss of employment (Article 34)
- The right of authorised 'third country' nationals to equivalent working conditions to EU citizens (article 15)
- Access to preventative health care, medical treatment and other public services ('services of general interest') (Articles 35 and 36)
- The right to protection of personal data (Article 8).

While many of these rights already have strong legal effect through EU directives others, including rights to collective bargaining and collective action, have not. Following ratification of the Treaty, Irish courts and the European Court of Justice would be obliged to give these rights the same weight as existing EU laws governing trade and the free market. EU legislators would also have to give them equal weight when formulating new EU laws, and Irish governments would have to do the same when incorporating EU laws into Irish legislation.

- The European Charter sets out 50 rights including the right to collective bargaining and collective action, including strike action.
- Lisbon gives the European Charter the same legal force as all other EU laws.
- If Lisbon is ratified, these rights couldn't be ignored by EU or Irish legislators and courts.

## Why the Charter's legal status is important

The Irish Human Rights Commission has emphasised the importance of primary legal status for the Charter of Fundamental Rights. It says: "The central importance of the European Union Charter of Fundamental Rights is that it eschews the traditional distinction drawn between civil and political rights on the one hand, and economic, social and cultural rights on the other, and places all such rights on the same footing, thus elevating the status of traditionally neglected rights within the Community legal order." This would have a practical effect on cases concerning fundamental rights like workers' individual and collective rights, which would have equal legal standing in cases governing internal EU trade and the free market.

The European Court of Justice (ECJ) is the body that interprets and enforces European law. While it can take account of declarations, including the Charter in its existing status, it must base its legal interpretations and decisions on existing EU treaties and laws. In the absence of primary EU law on workers' rights to collective bargaining and collective action, its rulings on cases involving these issues have sometimes been trumped by more powerful EU legislation governing free trade within the EU.

The first and immediate benefit of achieving full legal status for the Charter is that the ECJ will have to place as much weight on the Charter – including its provisions on workplace and bargaining rights – as it does on all other EU laws and treaties. Although

it would not give workplace rights *precedence* over market rules, it would for the first time give them *equivalence* when the ECJ makes its rulings. Trade unionists and legal experts, including ETUC General Secretary John Monks, have said this could have been significant in recent controversial judgements like Lavel, Viking, Ruffert and Luxembourg.

Secondly, ratification of the Lisbon Treaty could be very significant on the controversial issue of Irish collective bargaining rights. If the Treaty is ratified, and the Charter is given full legal force, unions would be free to take a suitable Irish case on collective bargaining rights to the Labour Court, which could then refer it to the ECJ under Article 28 of the Charter (which enshrines rights to collective bargaining). If successful, such a case would automatically override Irish case law, including that decided in the Irish Supreme Court.

Thirdly, establishing the Charter's 50 provisions as primary EU law would prevent Ireland and other member states from rowing back on existing legal rights where they relate to EU laws, treaties or regulations. This would effectively strengthen worker protections at a time when employers, politicians and others are calling for deregulation as part of the Government's response to the recession. And that's why it is dangerously complacent to suppose that the Charter is less relevant because some of its provisions already exist in Irish or European law.

Finally, achieving full legal status for the Charter would strengthen trade union campaigns for enhanced Irish legal protections for workers, including representation rights. Although the Charter's provisions would not automatically apply to all domestic Irish law, the rights it enshrines would apply when the EU is legislating, when its member states are implementing or transposing EU law, and when the Irish courts and the ECJ are interpreting EU legislation. Irish unions would have to continue to campaign to have the Charter enshrined in Irish legislation too. This won't be easy, but it is highly unlikely ever to happen if the Charter has not first been adopted as primary EU law.

- EU and Irish courts would have to give equal weight to the Charter's provisions.
- The Charter could help achieve stronger Irish collective bargaining rights.
- The Charter would help prevent erosion of existing legal rights.
- The Charter would strengthen campaigns for enhanced Irish legal protections.

## Recent ECJ rulings

Some have argued for the rejection of the Lisbon Treaty on the basis of some regressive recent European Court of Justice (ECJ) decisions in cases involving workers' rights. This is a strange argument, not least because the decisions were based on existing EU law prior to the ratification of the Lisbon Treaty.

Nevertheless, opponents of the Lisbon Treaty have used four recent ECJ rulings to argue that the Court is fundamentally anti-worker and uniformly favours business interests. There is no evidence to support this assertion, which completely ignores other highly positive ECJ rulings – many of them recent – concerning gender equality, equal pay, fixed-term workers' rights, and carers' rights.

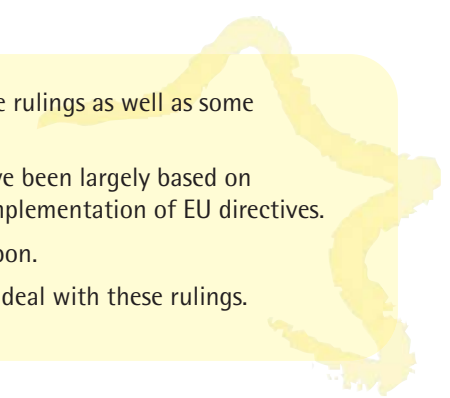
Three of the four cases cited in this argument ('Laval', 'Ruffert' and 'Luxembourg') concern the EU Posting of Workers directive, which is designed to protect workers required by their employers to work in other member states. The fourth (the 'Viking' case) concerned an employers' attempt to reflag, and impose lower pay on, a ferry travelling between Finland and Estonia.<sup>2</sup>

In fact, many of the difficulties arose in these cases because the Posting of Workers directive had not been properly implemented in domestic law. (In the Swedish 'Laval' case, the Government has since revised its domestic legislation on the Posting of Workers directive to ensure that agreed trade union pay rates are covered in future).

Another problem is that, although the Posted Workers' directive demands that posted workers received legal minimum pay rates in the countries to which they are posted, the ECJ has ruled that this only applies to legally-binding and universally-applicable pay rates. Some negotiated pay rates or regional minimum rates have been found not to have met these criteria. This problem can be fixed at national level.

In two of the cases, the ECJ ruled on the right to strike or take collective action. In Viking, it ruled that strike action was legal but must be proportionate to the objectives being sought. In Laval, it ruled that it was illegal for Swedish workers to block a construction site where posted Latvian workers were being paid below the rates negotiated between Swedish unions and employers. The employees concerned were members of a Latvian trade union, which had reached a separate collective pay agreement with the employer.

The Lisbon Treaty does not specifically deal with the issues involved in any of these four cases, except that achieving full legal effect for the Charter of Fundamental Rights would strengthen legal rights to collective bargaining and collective action, including strike action.

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- The ECJ has made many positive rulings as well as some negative ones.
  - Recent negative ECJ rulings have been largely based on national shortcomings in the implementation of EU directives.
  - These rulings happened pre-Lisbon.
  - The Treaty does not specifically deal with these rulings.


## The solemn declaration on workers' rights and social policy

The 'solemn declaration on workers' rights and social policy' was among the guarantees obtained – by the Irish Government from the other EU member states – after the first Lisbon referendum. The declaration, which is reprinted as Appendix 2, sets out the EU actions and attitudes in the field of social policy including employment, equality and the provision of public services.

The solemn declaration is essentially a restatement of EU policies as set out in the Lisbon Treaty and existing treaties. In itself it is not legally binding. This is because some of the issues it covers are already the subject of EU law (eg, equality) while others are areas where national governments retain a lot of sovereignty (eg, labour markets and public services).

In a separate campaign, trade unions across Europe are working for an EU 'framework' directive to cover the protection of public services. This has been supported by the European Parliament, but resisted by the European Commission. But it was never part of the Lisbon Treaty negotiations. This Europe-wide trade union campaign will continue regardless of whether the Lisbon Treaty is ratified or not.

The declaration is an impressive outline of the achievements of social Europe. It reaffirms EU commitments on equality between women and men, the rights of the child, social exclusion, employment and social protection. It explicitly states that member states – not the EU – have the authority to organise their own public services, and that each member state (including Ireland) has a veto when it comes to international trade agreements that might affect social, education or health services.

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- A yellow decorative graphic consisting of a thick, wavy line that forms a stylized shape, possibly representing a map of Ireland or a similar geographical outline, positioned in the upper right corner of the page.
- The 'solemn declaration' does not have legal force because the issues it covers are national matters or are already covered by EU law.
  - But it's an impressive declaration of the achievements of 'social Europe'.
  - It reaffirms that Ireland – not the EU – determines how its public services are run.

## Conclusion

Nothing in the Lisbon Treaty erodes the existing employment rights of Irish and European workers.

However, by establishing the European Charter of Fundamental Rights as primary EU law, ratification of the Lisbon Treaty would improve employment protections in Europe and Ireland, including rights to collective bargaining and collective action.

Together with the Charter's wider provisions, which include a very broad range of political, social and economic rights, strengthening the legal status of the Charter through the ratification of the Lisbon Treaty would be a significant advance for 'social Europe'.

While the Treaty will not directly enhance the Irish legislation on workers' rights and collective bargaining, it would strengthen unions' ability to vindicate enhanced rights in EU law in both the Irish courts and the European Court of Justice.

Achieving full legal status for the Charter would also strengthen trade union campaigns for enhanced Irish legal protections for workers, including representation rights.

Meanwhile, establishing the Charter's 50 provisions as primary EU law would help prevent Ireland and other member states from rowing back on existing legal rights in the workplace and elsewhere.

## APPENDIX 1

# The Charter of Fundamental Rights of the European Union

### Preamble

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values. Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, goods, services and capital, and the freedom of establishment. To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

This Charter reaffirms, with due regard for the powers and tasks of the Community and the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Community and by the Council of Europe and the case-law of the Court of Justice of the European Communities and of the European Court of Human Rights. Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations. The Union therefore recognises the rights, freedoms and principles set out hereafter.

## CHAPTER I: DIGNITY

### Article 1: Human dignity

Human dignity is inviolable. It must be respected and protected.

### Article 2: Right to life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

### Article 3: Right to the integrity of the person

1. Everyone has the right to respect for his or her physical and mental integrity.
2. In the fields of medicine and biology, the following must be respected in particular:
  - the free and informed consent of the person concerned, according to the procedures laid down by law,
  - the prohibition of eugenic practices, in particular those aiming at the selection of persons,
  - the prohibition on making the human body and its parts as such a source of financial gain,
  - the prohibition of the reproductive cloning of human beings.

### Article 4: Prohibition of torture and inhuman or degrading treatment or punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### Article 5: Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

## CHAPTER II: FREEDOMS

### Article 6: Right to liberty and security

Everyone has the right to liberty and security of person.

### Article 7: Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

### Article 8: Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

### Article 9: Right to marry and right to found a family

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

#### **Article 10: Freedom of thought, conscience and religion**

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

#### **Article 11: Freedom of expression and information**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

#### **Article 12: Freedom of assembly and of association**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.
2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.

#### **Article 13: Freedom of the arts and sciences**

The arts and scientific research shall be free of constraint. Academic freedom shall be respected.

#### **Article 14: Right to education**

1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.
3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

#### **Article 15: Freedom to choose an occupation and right to engage in work**

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

#### **Article 16: Freedom to conduct a business**

The freedom to conduct a business in accordance with Community law and national laws and practices is recognised.

#### **Article 17: Right to property**

1. Everyone has the right 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. The use of property may be regulated by law in so far as is necessary for the general interest.
2. Intellectual property shall be protected.

**Article 18: Right to asylum**

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.

**Article 19: Protection in the event of removal, expulsion or extradition**

1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

**CHAPTER III: EQUALITY****Article 20: Equality before the law**

Everyone is equal before the law.

**Article 21: Non-discrimination**

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

**Article 22: Cultural, religious and linguistic diversity**

The Union shall respect cultural, religious and linguistic diversity.

**Article 23: Equality between men and women**

Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

**Article 24: The rights of the child**

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

**Article 25: The rights of the elderly**

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

**Article 26: Integration of persons with disabilities**

The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

## CHAPTER IV: SOLIDARITY

### **Article 27: Workers' right to information and consultation within the undertaking**

Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Community law and national laws and practices.

### **Article 28: Right of collective bargaining and action**

Workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

### **Article 29: Right of access to placement services**

Everyone has the right of access to a free placement service.

### **Article 30: Protection in the event of unjustified dismissal**

Every worker has the right to protection against unjustified dismissal, in accordance with Community law and national laws and practices.

### **Article 31: Fair and just working conditions**

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

### **Article 32: Prohibition of child labour and protection of young people at work**

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations. Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

### **Article 33: Family and professional life**

1. The family shall enjoy legal, economic and social protection.
2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

### **Article 34: Social security and social assistance**

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.

**Article 35: Health care**

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

**Article 36: Access to services of general economic interest**

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union.

**Article 37: Environmental protection**

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

**Article 38: Consumer protection**

Union policies shall ensure a high level of consumer protection.

**CHAPTER V: CITIZENS' RIGHTS****Article 39: Right to vote and to stand as a candidate at elections to the European Parliament**

1. Every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State.
2. Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.

**Article 40: Right to vote and to stand as a candidate at municipal elections**

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State.

**Article 41: Right to good administration**

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
2. This right includes:
  - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
  - the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
  - the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

**Article 42: Right of access to documents**

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents.

**Article 43: Ombudsman**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

**Article 44: Right to petition**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament.

**Article 45: Freedom of movement and of residence**

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.
2. Freedom of movement and residence may be granted, in accordance with the Treaty establishing the European Community, to nationals of third countries legally resident in the territory of a Member State.

**Article 46: Diplomatic and consular protection**

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he or she is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State.

## CHAPTER VI: JUSTICE

**Article 47: Right to an effective remedy and to a fair trial**

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

**Article 48: Presumption of innocence and right of defence**

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

**Article 49 Principles of legality and proportionality of criminal offences and penalties**

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence.

**Article 50: Right not to be tried or punished twice in criminal proceedings for the same criminal offence**

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

## **CHAPTER VII: GENERAL PROVISIONS**

**Article 51: Field of application**

1. The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.
2. The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties.

**Article 52: Scope and interpretation of rights and principles**

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.
2. Rights recognised by this Charter for which provision is made in the Treaties shall be exercised under the conditions and within the limits defined by those Treaties.
3. In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.
4. In so far as this Charter recognises fundamental rights as they result from the constitutional traditions common to the Member States, those rights shall be interpreted in harmony with those traditions.
5. The provisions of this Charter which contain principles may be implemented by legislative and executive acts taken by institutions, bodies, offices and agencies of the Union, and by acts of Member States when they are implementing Union law, in the exercise of their respective powers. They shall be judicially cognisable only in the interpretation of such acts and in the ruling on their legality.
6. Full account shall be taken of national laws and practices as specified in this Charter.
7. The explanations drawn up as a way of providing guidance in the interpretation of this Charter shall be given due regard by the courts of the Union and of the Member States.

### **Article 53: Level of protection**

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union, the Community or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.

### **Article 54: Prohibition of abuse of rights**

Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.

## **APPENDIX 2**

### **Solemn Declaration on Workers' Rights, Social Policy and Other Issues**

The European Council confirms the high importance which the Union attaches to:

- Social progress and the protection of workers' rights;
- public services;
- The responsibility of Member States for the delivery of education and health services;
- The essential role and wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest.

In doing so, it underlines the importance of respecting the overall framework and provisions of the EU Treaties.

To underline this, it recalls that the Treaties as modified by the Treaty of Lisbon:

- Establish an internal market and aim at working for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment;
- Give expression to the Union's values;
- Recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union in accordance with Article 6 of the Treaty on European Union;

- Aim to combat social exclusion and discrimination, and to promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child;
- Oblige the Union, when defining and implementing its policies and activities, to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health;
- Include, as a shared value of the Union, the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users;
- Do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest;
- Provide that the Council, when acting in the area of common commercial policy, must act unanimously when negotiating and concluding international agreements in the field of trade in social, education and health services, where those agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them; and
- Provide that the Union recognises and promotes the role of the social partners at the level of the European Union, and facilitates dialogue between them, taking account of the diversity of national systems and respecting the autonomy of social partners.

*"This booklet expertly outlines why the Lisbon Treaty is a step forward for workers. A yes vote will give us a solid foundation to work together to realise a strong Social Europe."*

Carola Fischbach-Pyttel  
General Secretary, European  
Federation of Public Service  
Unions (EPSU).

*"The yes campaign badly needed a clearly explained and easily understood booklet on the Lisbon Treaty and workers' rights. This publication has met that need."*

Brian Sheehan  
Editor, Industrial Relations  
News (IRN), Ireland's only  
independent industrial  
relations journal.

*"In promoting better rights for workers in Europe, we need the Lisbon Treaty and its Charter of Fundamental Rights. This booklet makes a compelling case for all Irish trade unionists to vote yes."*

John Monks  
General Secretary, European  
Trade Union Confederation  
(ETUC).

*"All trade union members and activists should read this booklet before making up their minds on Lisbon."*

David Begg  
General Secretary, Irish  
Congress of Trade Unions.



Lisbon and Your Rights at Work explains how the Lisbon Treaty has the potential to improve employment protections in Ireland and across Europe, including rights to collective bargaining and collective action, by establishing the European Charter of Fundamental Rights as primary EU law for the first time.

The CHARTER GROUP was set up by a group of trade unionists to campaign for the ratification of the Lisbon Treaty. It also campaigns for the full implementation of the European Charter of Fundamental Rights in Irish law, and promotes the benefits of EU membership for Ireland and for working people and their families across Europe. Membership is open to individuals committed to the ongoing process of building a Social Europe.



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