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IRELAND

[2 October 1975]

III A7 - The right to form trade unions and to join the trade union of one's choice

1. Article 40.6.1 of the Constitution of Ireland guarantees liberty for the exercise, subject to public order and morality, of the right of citizens, inter alia, to form associations and unions. The Article provides that laws may be enacted for the regulation and control in the public interest of the exercise of this right. It is provided that such laws shall contain no political, religious or class discrimination.

2. In Ireland the terms and conditions of employment of the vast majority of workers are negotiated through free collective bargaining between employers or employers' organizations and workers' organizations. It was primarily with the object of assisting both sides in reaching agreement on such matters that the Labour Court was established under the Industrial Relations Act, 1946. The primary function of the Labour Court is to secure the settlement of trade disputes either by conciliation or by the Court investigating a dispute and issuing to the parties a non-binding recommendation setting forth the terms on which, in the Court's opinion, the dispute should be settled. In the isolated instances where the rights to organize or to bargain collectively appear to be questioned by an employer or their free operation hampered, it is open to the aggrieved party to refer the matter in dispute to the Labour Court. Where such cases have come before it, the Court has consistently endorsed these rights.

3. The Trade Union Act 1971 specifies 500 as the minimum number of members a registered trade union must have in order to apply for a negotiation licence. Any registered trade union which does not have the required number of members and which feels that the granting of a negotiation licence to it would not be against the public interest may appeal to the High Court for a declaration to that effect. If the Court should so declare, the Minister for Labour must grant the licence.

Under the Trade Union Act, 1971 the minimum sum of money, which is required to be deposited with the High Court as a further condition for obtaining a negotiation licence, is £5,000. There is no appeal against this condition. In effect therefore a registered trade union which cannot meet the deposit requirement cannot obtain a negotiation licence. While this may be considered restrictive, regard must be had to the situation concerning trade unions in Ireland. Something over 400,000 workers are organized in almost 100 unions. There exist cases of 21 unions representing 11,000 workers in one company, 33 representing 21,000 in another, 18 representing 2,200 in another and 12 representing 700 in yet another. In this type of situation negotiations involving a number of different trade unions prove difficult and complex. It is therefore essential that negotiation licences should only be issued to bona fide trade unions and thus prevent the further fragmentation of the trade union structure. It is also considered essential that any trade union seeking a negotiation licence should have sufficient funds to enable it to provide an adequate level of services for its members.

Apart from registered trade unions, the Trade Union Acts of 1941 (Section 6) and 1942 (Section 2) provide for "excepted body" status to be granted to any particular group. An excepted body can negotiate in regard to wages or other conditions of employment but the protection of the Trade Union Act 1906 in relation to picketing etc. is not afforded to it. There is no minimum requirement to be met as regards numbers of members for excepted body status. Neither is the deposit of any sum of money required.

### III A8 - The right to strike

4. The principal Act affecting strikes is the Trade Disputes Act, 1906, which protects peaceful picketing by workers if the picketing is undertaken "in contemplation or furtherance of a trade dispute". By virtue of the Trade Union Act, 1941 the protection of the 1906 Act applies only to members of trade unions which hold negotiation licences. However, workers who do not belong to a trade union which holds such a licence enjoy the right to strike but the protection of the 1906 Act does not apply to action taken by such workers in contemplation or furtherance of a trade dispute.