



An Coimisiún um Chaidreamh san Áit Oibre  
**WORKPLACE RELATIONS COMMISSION**

Fisheries Sector:  
Review of WRC Outreach and use of Interpreters in  
Information Provision, Inspection and Enforcement

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**February, 2022**

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# 1. Executive Summary

## 1.1 Background

At the meeting of the Joint Oireachtas Committee on Enterprise, Trade and Employment held on 20 October, 2021, the Director General of the Workplace Relations Commission (WRC) indicated that the WRC intended to engage with both Irish fishing vessel owners and fishers and relevant organisations in relation to employment obligations and employment rights and to review the use by WRC Inspectors of interpreters in fisheries operations including taking views from fishers and relevant organisations.

## 1.2 Atypical Worker Permission Scheme for non-EEA Crews

The Atypical Scheme provided for the first time a structured and transparent framework for the employment of non-EEA workers within defined segments of the Irish fishing fleet. The Scheme sets down minimum terms and conditions of employment applicable to these workers which are in line with the general statutory terms and conditions applicable to workers more generally in the State.

It is estimated that there may be some 500 non-EEA or migrant fishers working on Irish-registered fishing vessels, some 300 of which hold permissions to work under the Atypical Worker Permission Scheme<sup>1</sup> introduced in February, 2016. A number of Departments and agencies contribute to the enforcement of this Scheme including the WRC, which monitors compliance with employment and employment permits legislation, the Department of Transport which enforces working time and rest break legislation in the fishing sector and the Department of Justice and the Department of Agriculture, Food and the Marine, who administer the Scheme. The enforcement of residency requirements rests with the Department of Justice.

Further material in relation to the Scheme and the WRC's associated enforcement operations is available in Appendix 2.

## 1.3 Review

The WRC consulted with 16 relevant stakeholders in December, 2021 who were requested to make written submissions in relation to the use of interpreters by the WRC in fisheries enforcement operations and possible additional outreach measures for fishing vessel owners

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<sup>1</sup> Atypical Worker Permission Scheme for Non-EEA Workers engaged on Irish registered Whitefish fishing vessels greater than 15 metres in length.

and migrant fishers. Submissions were received subsequently from five stakeholders - see further details at Section 3. The WRC very much welcomes and appreciates the submissions made, and engagement with, this consultation process.

This report sets out actions/roadmap to enhance arrangements and outcomes in relation to the two specific issues examined, summarises and discusses the contributions from stakeholders and outlines relevant action points.

## 2. Actions/Roadmap

There are significant challenges insofar as enhancing outreach to migrant fishers in particular is concerned. The actions suggested set out some 23 measures and initiatives in terms of information provision, awareness and promotion, direct engagement with both fishers and vessel owners and representative organisations, training and use of communication and social media channels.

The progression of these actions will have significant resource implications for the WRC which is significantly invested in enforcement of the Atypical Scheme but has compliance and information provision commitments across all sectors of the economy and a workforce of more than two million generally.

In consultation with stakeholders, the WRC will undertake a review in 18 months of the effectiveness and efficiency of the Action Programme.

### Actions/Roadmap

Pillar	Action No	Action
Fisher engagement and Interpretation	1	That the forthcoming procurement process for the provision of interpretation and translation services to the WRC should also provide for the availability of interpreters (Arabic, Cebuano, Twi and Javanese) both in port and on telephone during WRC mini operations
	2	That the WRC deploy interpretation services on a pilot basis for one of its mini operations in 2022 and review in due course the outcomes
	3	That the WRC examine the scope, in the context of its recruitment programme, for recruiting Inspectors with language competencies relevant to migrant fishers
	4	That the WRC examine the scope for, and value of, arranging for relevant language training courses for members of its Fisheries Compliance Team
	5	That the WRC discuss with BIM the potential for including an employment law module, to be delivered by the WRC, in BIM's fishers safety training programme

Pillar	Action No	Action
Vessel Owner Engagement	6	That the WRC attend as Exhibitor at the annual Irish Skipper Expo commencing with the March 2022 Expo
	7	That the WRC request the Atypical Worker Unit of the Department of Justice to attend as the annual Irish Skipper Expo
	8	That the WRC discuss with BIM the potential for including an employment law module, to be delivered by the WRC, in BIM's vessel owner/skippers training programmes
	9	That the WRC arrange, through the Fish Producer Organisations, annual regional meetings with vessel owners to provide information to enhance employment rights compliance.
Stakeholder Engagement	10	That a coordinated, multi-agency approach to the promotion of awareness amongst vessel owners and fishers of the requirements and obligations under the Atypical Scheme be put in place under the aegis of the Inter-Departmental Oversight Committee,
	11	That the WRC should meet at least twice each year with the Fish Producer Organisations to discuss issues arising from WRC inspections
	12	That the WRC continue with its regular engagement with relevant employee organisations including twice yearly meetings with the ITWF
Communications	13	That the WRC arrange webinars for Fish Producer Organisations and vessel owners on specific employment law topics and make recordings of these available on relevant social media platforms
	14	That the WRC initiate a facility for one-to-one communications with Non-EEA Fishers (with multi-lingual capacity) via relevant platforms used by fishers e.g., WhatsApp, Facebook Messenger. This should be made available on the relevant WRC webpage, the proposed dedicated Facebook page and in card format and should also be distributed to non-EEA fishers by the Department of Justice in the context of applications for Atypical Permissions and by BIM with training course documentation
	15	That the WRC use direct group email communications/broadcasts to fishers and vessel owners to draw attention in summary form to new website and Facebook content and other issues
Information and Awareness	16	That the WRC establish a dedicated relevant platform page, e.g., Facebook page for fishers
	17	That additional content be included on the WRC's webpage, <a href="#">Working on Irish Fishing Vessels</a> , incorporating summaries and linkages to Department of

Pillar	Action No	Action
		Justice (Atypical Scheme and Immigration), Department of Transport (working time), BIM (training) and other content relevant to fishers and vessel owners
	18	That the WRC, having established enhanced communications with migrant fishers and following the implementation of further information and awareness initiatives, should arrange, in early 2023, a pilot town hall type event(s) for migrant fishers to determine the take-up and effectiveness of such events.
	19	That the WRC liaise with the Citizen's Information Service (CIC) with a view to holding clinics for fishers at appropriate CIC offices.
	20	That the language options on the WRC's webpage, <a href="#">Working on Irish Fishing Vessels</a> , be updated to include Cebuano, Twi and Javanese
	21	That the WRC design and make available online and in print a leaflet on Fisher (employee and share) entitlements. This leaflet could also be made available through BIM and the Department of Justice
	22	That the WRC use multi-lingual infographic and video content to promote awareness across the relevant platforms
	23	That the WRC consider the inclusion of contact details for other organisations supporting fishers in its outreach programmes for fishers.

The **ITWF**, in its comments on the draft of this Report, stated that it regarded the proposals positively insofar as they would serve to further awareness among non-EEA migrant fishers of their rights and a greater amount of their interaction with the authorities would take place in accessible platforms, with consideration of the work patterns in the sector and with interpretation in their native language or dialect.

The ITWF also advised it had made reference, that In the course of its recent meeting with the Atypical Scheme Review Group, to the WRC's proposed outreach measures contained in this Report and to its belief that those measures would be particularly effective in the context of the key reforms to the Scheme being advocated by the ITWF.

### 3. Consultation

On 19<sup>th</sup> November, 2021 the Workplace Relations Commission issued a Consultation Document to some 16 stakeholders seeking their views (see [Appendix 1](#)) in relation to

- a) WRC practices and policies in relation to the use of interpreters in fisheries operations, and
- b) The design and implementation of further awareness and information outreach measures insofar as fishing vessel owners and fishers are concerned.

The deadline for submissions from stakeholders was 13<sup>th</sup> December, 2021. Submissions were received from five stakeholders, namely, the Department of Justice, the International Transport Workers Federation (ITWF), Bórd Iascaigh Mhara (BIM), the Migrant Rights Centre Ireland (MRCI) and the Irish Fish Producers Organisation (IFPO). These five submissions are available in full at [www.workplacerelations.ie](http://www.workplacerelations.ie). A summary of these submissions, insofar as responses to the matters at a) and b) above are concerned, is incorporated throughout this document.

This Report was submitted in draft form on 4<sup>th</sup> February, 2022 to the five stakeholders who made written submissions. Responses to that request were received by the deadline of 11<sup>th</sup> February, 2022 from the ITWF, the MRCI and BIM.

Matters raised in the stakeholder submissions and in the comments on the draft of this Report which are outside the scope of this Document are not reviewed and may be considered separately by the relevant organisations.

Further material on the Scheme is set out in Appendix 2.

## 4. Fisheries Outreach Programme

### 4.1 Existing Initiatives

The October 2021 Report by Maynooth University [Experiences of Non-EEA Workers in the Irish Fishing Industry](#), which was funded by the International Transport Workers Federation (ITWF), recommended, among other matters, that the WRC and the Marine Survey Office of the Department of Transport should perform more outreach and speak more directly to migrant fishers in private as a matter of course.

At the 20<sup>th</sup> October, 2021 meeting of the Joint Oireachtas Committee on Enterprise, Trade and Employment the WRC Director General gave an undertaking to engage with both Irish fishing vessel owners and fishers and relevant organisations in Q1 of 2022 in relation to employment obligations and employment rights.

A number of information and awareness measures have been introduced since 2016 to enhance awareness and compliance in the fishing industry. These have included:

- a) engagement by the WRC with stakeholders, including the ITWF and the Fish Producer organisations;

- b) participation by the WRC in fisheries information events organised by the Sea Fisheries Protection Authority (SFPA);
- c) distribution in early 2016 of a WRC leaflet on the Atypical Working Scheme and employment rights for workers on fishing vessels;
- d) every intended participant under the Scheme receiving their contract of employment in their native language, as well as English. The letter of approval is also in the fisher's native language, as well as English, as appropriate;
- e) a copy of the WRC publication *Employment Rights Explained* is enclosed with the Department of Justice Letter of Approval.
- f) the making available of the WRC's employment publications in the languages of non-EEA crews;
- g) a WRC Contact/Information Line (T: 1890/0818 80 80 90);
- h) a detailed WRC inspection appointment letter setting out the records and documentation to be produced at inspections;
- i) a WRC letter to all vessel owners participating in the Atypical Working Scheme setting out the steps that require to be taken to ensure full compliance,
- j) a specific page [Working on Irish Fishing Vessels](#) on the WRC website for fishers and fishing vessel owners,
- k) face-to-face engagement by WRC Inspectors with fishers both on in-port inspections and by telephone/video link, and
- l) WRC Inspectors providing their contact details to fishers and fishing vessel owners/skippers at inspections in case of follow up enquiries.

The WRC dedicated webpage, [Working on Irish Fishing Vessels](#), which provides information on employment rights and obligations for employees engaged on Irish-registered fishing vessels together with details in relation to the Atypical Permission Scheme and working time regulations enforced by the Department of Transport. The WRC website has a translation facility so all content is available in some 100 languages. In addition, a link to this webpage is embedded in the Atypical Permission Letter of Approval issued by the Department of Justice.

The 'Other Language Publications' page of the WRC website hosts the Employment Law Explained publication in the following languages:- Arabic, Filipino, Hindi, Indonesian, Mandarin, French, Polish, Portuguese, Romanian, Russian and Spanish.



## 4.2 Issues for Consideration by Stakeholders

The views of stakeholders were sought in relation to further outreach measures which could be undertaken by the WRC and other agencies with responsibility for enforcement of the Atypical Scheme insofar as increasing awareness, facilitating access to redress and enhancing compliance are concerned.

The following questions were raised in order to usefully inform Stakeholder submissions:-

- Views on the current level of awareness amongst target audiences (fishers and fishery owners)?
- What are the specific barriers impacting on outreach measures and how might these be addressed?
- Would specific national and/regional events for fishers and owners be useful? If so, what should be considered when preparing for such an event (e.g., time of year, during fishery closures, close to or removed from fishery harbour centres, virtual only events, availability of interpretation, etc.)?
- Are there regular meetings of fishing vessel owners (e.g. in context of Fish Producer Organisation meetings) which would provide a useful forum for enhancing awareness?
- Is there value in holding an employment law seminar for administrators/accountants engaged by fishing vessel owners to discuss the practical (i.e pay, working time, terms of employment) requirements to underpin compliance with the Atypical Scheme?
- What information do fishers and fishing vessel owners have difficulty in accessing? What are the key messages for these audiences?
- What are the preferred information and communication channels for owners and fishers (websites, brochures, posters, advertising, radio/TV, advertisements, industry magazines, email, videos/YouTube, facebook, twitter, other social media (specify), townhall meetings)? For example, given the estimated number of non-EEA nationals engaged in the whitefish fleet, targeted emails to fishers might be a useful channel.
- Are there champions or ambassadors who could support outreach initiatives?
- Could training programmes for owners and fishers (e.g. BIM safety training, etc) usefully incorporate an employment law module?
- What are the key performance measures/indicators (e.g. digital engagement, no of enquiries to WRC helpline, attendance at events, etc.) to measure the success or otherwise of outreach initiatives?

## 4.3 Outreach Challenges

The **ITWF** submits that when a WRC inspector meets migrant fishers mid-contract there is a strong tendency for the migrants to not fully articulate their grievances, if at all, if they feel it would give rise to a conflict with their employer and the potential early termination of the

employment relationship. The Federation adds that while migrant fishers are broadly aware of their legal entitlements they are, therefore, prepared to work through the contract while experiencing what they see as overwork, payments below statutory minimum wage rates and understatement of hours of working time and that it is only following the ending of the employment relationship that migrant fishers move to present complaints to the WRC for adjudication or investigation by an Inspector. The ITWF also refer to other issues such as Department of Justice procedures around Atypical contract cessation, difficulties in accessing Visa Stamp 4s, the involvement of WRC Inspectors in enforcing the employment permits legislation insofar as undocumented fishers are concerned and what they see as inadequate anti-human trafficking enforcement as issues which further undermine the willingness of migrant fishers to engage with State redress mechanisms while in employment.

The **Migrant Rights Centre Ireland (MRCI)** feels that fishers themselves are best placed to raise issues of non-compliance of employment law in the fishing industry. In the MRCI's experience, the main obstacle to non-EU workers coming forward and reporting violations is less a matter of knowledge of rights but more about what a worker can do to realise their rights without jeopardising their livelihood, housing, immigration status, etc. The Centre adds that fishers need to be aware of the available options, how best to engage with WRC Inspection Services and how to navigate that space without jeopardy.

The WRC very much notes these comments and would acknowledge that they reflect its own experience in some instances with regard to occasional low engagement by fishers at inspections and in complaints being submitted for investigation or adjudication after the employment relationship has concluded.

In the context of its own operational area of responsibility, however, the WRC would point out that WRC Inspectors interview a sample of fishers during inspections and associated enquiries, both in ports and, by arrangement, elsewhere, in order to validate employment records presented by vessel owners, to afford the opportunity to fishers to raise any issues or concerns and to provide information generally to fishers in relation to employment rights and obligations.

Such interviews are not exclusively relied on by Inspectors in determining compliance but are an effective complement to other elements of the inspection process including the detailed review of employment records and engagement with vessel owners and others. In addition, in all cases in which formal complaints have been presented for investigation by WRC Inspection Services, the Inspector will meet with the complainant fisher(s) and, where applicable, the complainant's representatives.

The WRC is aware that, on occasions, some employees may be reluctant to engage with Inspectors during inspections and associated enquiries. While every opportunity is also

afforded employees to contact the Inspectors in confidence at any time, with language interpretation being provided where required, there are challenges and barriers to engagement, as articulated by the ITWF and MRCI. However, WRC Inspectors have gained significant experience and expertise in the identification of potential issues and even brief contacts with employees can often assist in the targeting of records examinations and further enquiries. Further, the inspectors distribute contact details at the inspections, and these are often used in subsequent engagements “off-site” with workers who have particular concerns about aspects of their employment.

In order to further support and underpin compliance assessments, the WRC works closely, and exchanges intelligence and information, with a number of partner enforcement agencies including An Garda Síochána, Department of Social Protection, Revenue Commissioners, Health and Safety Authority, Road Safety Authority and the Department of Transport. In addition, WRC Inspectors, while not having a statutory function in relation to human trafficking, are trained in identifying indicators of human trafficking and will refer all potential cases encountered during inspections to the relevant Garda authorities.

The WRC’s inspection and compliance operations are further supported and complemented by a range of outreach measures to provide information to employees and employers and raise awareness of employment law generally.

For example, the WRC has run a number of campaigns on social media to assist migrant workers: this summer the WRC participated in a Europe wide campaign on Twitter targeting seasonal workers and prospective employers in the horticultural sector. This was supported by inspection and enforcement activity in that sector. A similar social media campaign targeting the hospitality sector was carried out over September and October as those sectors re-opened. The Commission also works closely with other Government Departments and international bodies such as the International Labour Organisation (ILO), the European Labour Authority, EUROPOL, the UK Gangmasters, as well as with important actors including, Citizens Information Board, the International Transport Workers Federation, the Migrant Rights Centre of Ireland, Embassies, and others.

The WRC also participates in European campaigns co-ordinated by EUROPOL under the EMPACT programme. Sectors which Ireland has identified as of concern include nail bars and pop-up car washes. As part of this programme in May 2019 Inspectors carried out 169 inspections focussed mainly on labour exploitation in the Car Wash and Nail Bar sectors. This operation also involved the An Garda Síochána, officers of the Department of Employment Affairs and Social Protection, and the Revenue Commissioners.

Specific outreach and awareness measures have been introduced to enhance awareness and compliance in the fishing industry. These have included engagement by the WRC with

stakeholders, including the International Transport Workers Federation and the Fish Producer organisations, participation by the WRC in fisheries information events organised by the Sea Fisheries Protection Authority (SFPA), the issue by owners of contracts of employment in the native language of the fishers engaged under the Atypical Scheme, the provision of the WRC publication *Employment Rights Explained* to all fishers issued with Atypical Permissions, the making available of the WRC's employment publications in the languages of non-EEA fishers, the provision of a specific page [Working on Irish Fishing Vessels](#) on the WRC website for fishers and fishing vessel owners, face-to-face engagement by WRC Inspectors with fishers both on in-port inspections and by telephone/video link, and WRC Inspectors providing their contact details to fishers and fishing vessel owners/skippers at inspections in case of follow up enquiries.

The **MRCI** welcome the suggestion that the WRC directly email (or text) information to fishers in relation to their rights. The MRCI assumes in this regard that the fisher would provide an email, preferred language, etc. to the Department of Justice in the context of the issue of the Atypical Permission, and that these details would then be shared with the WRC. The MRCI considers that regular emails in a worker's language would serve as an ongoing resource to fishers about their rights and who to contact in the WRC via email (or text) with potential queries or complaints.

The MRCI also suggests that employment rights information given to fishers should include contact details of trusted NGOs like the ITWF and the MRCI who are in a position to provide supports and guidance in terms of reporting non-compliance and making an official complaint. The WRC has provided 'Other Useful Contacts' details in a number of its publications and would be happy to consider the inclusion of similar details in relation to outreach programmes for fishers.

The MRCI also suggests that WRC inspections might be initiated by contacting fishers by email or text which would ensure privacy and safety and could incorporate in person and/or remote (zoom, teams etc) interviews with interpreters. The MRCI consider that this approach would not draw any undue attention from an employer and ensure that a complaint would remain anonymous. The WRC points out that the majority of fisheries inspections are unannounced. Announced inspections are generally only held to review records which are not available at the unannounced inspection and in order to progress detailed compliance assessments. The WRC adds that Inspectors would never divulge to employers that a complaint has been made or the identity of a complainant. In addition, while WRC Inspectors attempt to engage with fishers at in-port inspections, they also contact fishers at a later stage requesting a telephone or online interview, supported, if necessary, by interpreters.

**BIM** noted that over the period of the operation of the Scheme, vessel owners have become increasingly cogniscent of the rules regarding the employment of atypical workers and their

responsibilities as employers. However, BIM discussions with vessel owners indicate that vessel owners find the process of registering atypical workers a lengthy and complex one involving as it does contact with multiple agencies. There would also appear to be a level of confusion regarding the roles and responsibilities of the various agencies. BIM has suggested that it could act as a conduit between the WRC and industry representative groups to build a better understanding of both employer and employee perspectives.

BIM is also aware that engagements between the Fish Producer Organisations and the ITWF do not always address issues of mutual concern in an optimal manner. BIM is of the view that more constructive engagement at all levels would be helpful. The **ITWF** advised that, in its opinion, there has been little recent meaningful engagement on the Scheme between it and the relevant employer organisations.

From a WRC perspective, BIM suggests that the Commission could engage more directly with vessel owners, channelled through the Producer Organisations, in order to better understand the obstacles encountered by both vessel owners and the fishers themselves with the current process.

In response, the WRC would point out that its role is limited to the enforcement of, and the provision of information in relation to, employment legislation (other than working time legislation) and that the terms and administration of the Atypical Permission Scheme for Non-EEA Fishers are matters for the Department of Justice, Department of Enterprise, Trade and Employment and Department of Agriculture, Food and the Marine and, in particular, the Inter-Departmental Oversight Group.

#### 4.4 Training

The **IFPO** favour an outreach programme that would encompass employers and employees and associated obligations and rights under employment law and agree that an employment law module could usefully be incorporated in training programmes for owners and fishers. The IFPO suggest that the first module should be delivered ‘in-person’, in September/October during the seasonal change in fishing or between Christmas and the New Year when vessels are traditionally tied up, with refresher training online every 2 years.

**BIM** would be happy to engage with vessel owners to ensure all atypical workers have completed their mandatory 3-day safety training. BIM points out that it has provided workshops in fishing ports on BIM’s Coastal Training Units covering topics of interest for owners and crew, for example, marine law and employment and could investigate this for future initiatives. Additionally, the National Fishermen’s Development Group is a consultative forum of fishermen facilitated by BIM and in the past has held dedicated sessions with legal and financial advisors to explain and clarify different areas of importance to the fishing sector.

BIM suggests that this group could also provide a conduit for providing such guidance on employment law.

The **MRCI** supports the suggestion of including an employment law module in training delivered by BIM.

The **Department of Justice** stated that it's Atypical Worker Scheme Unit would be happy to be involved in any outreach programmes and initiatives.

#### **4.5 Social Media and Communication Platforms**

The **ITWF** states that migrant fishers, the majority of whom have Facebook accounts, rely heavily on WhatsApp as their preferred social media and communication platform and that Twitter, Instagram and Tik Tok are not the platforms of choice for these communities.

The ITWF suggests that the WRC might consider leveraging the faith communities, specifically the Islamic Foundation of Ireland and the Filipino religious congregations, to disseminate information to migrant fishers. The ITWF points out, for example, that it seeks to reach out to the Filipino fisher community (who tend to live on the fishing vessels) through a Filipino subcommittee structure of the Irish Nurses and Midwives Organisation given contacts by such fishers from time to time with Filipino healthcare workers.

**BIM** uses multiple channels of communication to engage with industry and other stakeholders. The BIM website ([www.bim.ie](http://www.bim.ie)), provides visitors with a range of information using different formats to enhance accessibility. This includes the use of strong fisheries and seafood industry related photography, video, infographics, Frequently Asked Questions (FAQs) and publications. The website is mobile enabled in recognition of the increasing use of smart phones to access it.

BIM also communicates with the industry in the following ways:

- Social media channels (organic and promoted/ paid-for posts)
- Hosting of, and attendance at industry events (both face to face and virtual)
- Undertaking Industry surveys (telephone and online)
- Direct Email to industry members and Phone calls/Emails to producer organisations/fishing co-ops and their subsequent dissemination of relevant information to their wider fishing industry member base
- Editorial and advertising across national and local regional broadcast and print media

BIM has suggested that the WRC might consider establishing a link to the BIM website at the appropriate point on the webpage 'Working on Irish Fishing Vessels'.

#### 4.6 Meetings with/Events for, Owners and Fishers

The ITWF is positively disposed to town hall style meetings (in-person, virtual or hybrid) for fishers but points to a number of challenges in this regard including fisher availability given absences at sea, lack of Wifi on board, unavailability of laptops and PCs amongst migrant fisher communities and a perception that such meetings might be monitored/observed by vessel owners and skippers. The ITWF suggests, for these reasons, that the WRC be modest in its expectations for attendance and rely upon a small, committed attendance (which may often comprise former fishers) to convey information to the wider migrant fisher communities.

Insofar as the timing of any such events is concerned, the ITWF points to a December-January window when fishing operations are reduced and to periods of full moon when prawns burrow into the seabed and are not available to catch. There will be 12 full moons in 2022; on 17<sup>th</sup> January, 16<sup>th</sup> February, 18<sup>th</sup> March, 16<sup>th</sup> April, 16<sup>th</sup> May, 14<sup>th</sup> June, 13<sup>th</sup> July, 11<sup>th</sup> August, 10<sup>th</sup> September, 9<sup>th</sup> October, 8<sup>th</sup> November and 8<sup>th</sup> December.

In acknowledging these salient points, the WRC would add that, based on its enforcement experiences, many migrant fishers take the bulk of their leave (up to 6 weeks in some cases) around the Christmas to end January period which would impact in-person attendance at outreach events. The IFPO have already referred (see above) to the September/October seasonal change in fishing period as an option for in-person (training) events and, subject to issues discussed with the ITWF (below), this may be an optimal period to carry out such events.

The WRC met with the ITWF on 10<sup>th</sup> January, 2022 to further explore outreach and other measures. The general consensus was that it would be difficult in all the circumstances to arrange events, either online or in-person, which would attract a sufficient number of fishers and that the best approach may be to arrange short clinics around specific events such as the decommissioning of a vessel and associated enquiries from non-EEA fishers in relation to redundancy entitlements. As BIM is responsible for the administration of this Scheme there may be opportunities for liaison between BIM and the WRC in relation to the timing of such clinics.

**BIM** point to a number of industry events held each year, the principal one being the Irish Skipper Expo<sup>2</sup>, scheduled to be held in Limerick on 25<sup>th</sup> & 26<sup>th</sup> March 2022. This is the major trade event for many in the sector, and BIM suggest that it may be appropriate for the WRC to attend.

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<sup>2</sup> [Irish Skipper Expo | The Skipper](#)

In that context, however, while it has in the past attended as an exhibitor at 'Breakfast Information' regional events organised by the Sea Fisheries Protection Authority (SFPA), the footfall at these events at the WRC exhibit was not significant.

**BIM** have offered to share with the WRC the findings of a Labour Force Survey to be completed by BIM by the end of Q1 of 2022, that aims to provide a detailed analysis of the labour force market within the Irish catching sector, including atypical workers. It will describe the way crew are employed, the terms and conditions and relevant tax and social welfare rules that apply across the catching sector and identify the main constraints to recruitment in the sector. This study will be completed by the end of Q1 of 2022. The WRC considers that this Survey may be helpful in devising targeted awareness measures.

## 5. Use of Interpreters in Fisheries Operations

At the 20<sup>th</sup> October, 2021 meeting of the Joint Oireachtas Committee on Enterprise, Trade and Employment the WRC Director General also indicated the WRC intention to review the use of interpreters in fisheries operations including taking views from fishers and relevant organisations.

The WRC engages interpreters where required to assist in interviewing fishers both during inspections and at other times. As the majority of WRC inspections of fishing vessels are unannounced, with inspectors being tasked at short notice based on intelligence and satellite tracking, with many being conducted during unsocial hours, including weekends, it is neither practical nor cost effective to engage interpreters to accompany inspectors.

There are also health and safety and training prerequisites associated with inspections at landing places and on-board fishing vessels which require all assigned WRC Inspectors to complete certified training and significant risk is attached to the engagement of third parties for such operations.

However, WRC inspectors have significant experience insofar as engagement with non-EEA nationals across all sectors is concerned given their enforcement functions under the Employment Permits Acts. Inspectors do not in general encounter any significant difficulties from a language perspective in this regard and report that most non-EEA fishers have a working knowledge of English or that at least one of the non-EEA crew can facilitate engagement with other crew members.

In addition, Inspectors have access to interactive translation technologies and telephone translation services.

While interpreters do not routinely accompany Inspectors on inspections of fishing vessels, where Inspectors are of the view, for whatever reason, that such services are required,



Inspectors have access to interpretation services in the context of follow up to specific inspections, for example, where statements are required to underpin legal proceedings or where detailed, off-site, interviews with non-EEA nationals are necessary.

The WRC, in September, 2021, designed and launched a multi-lingual employee questionnaire for use in face-to-face interviews with fishers and for completion and return by post. Funding for this project was provided by the European Labour Authority.

One of the objectives of on-board inspections is to engage with fishers in private. For example, over 30 inspections were carried out by WRC Inspectors during Operation Pallas, held in September this year. 43 non-EEA fishers were interviewed during those inspections. Contact details for Inspectors are given to all fishers interviewed.

The WRC maintains a webpage, [Working on Irish Fishing Vessels](#), which provides information on employment rights and obligations for employees engaged on Irish-registered fishing vessels together with details in relation to the Atypical Permission Scheme and working time regulations enforced by the Department of Transport. The WRC website has a translation facility, so all content is available in some 100 languages. In addition, a link to this webpage is embedded in the Atypical Permission Letter of Approval issued by the Department of Justice.

The 'Other Language Publications' page of the WRC website hosts the Employment Law Explained publication in the following languages:- Arabic, Filipino, Hindi, Indonesian, Mandarin, French, Polish, Portuguese, Romanian, Russian and Spanish.

The views of stakeholders were sought

- a) on current WRC policy and arrangements as set out above in relation to the use of interpreters, including impacts, if any, on enforcement and on engagement by fishers with WRC Inspectors,
- b) in relation to changes to existing policy and arrangements including specific measures to enhance the use of interpretation, and
- c) in relation to any other matters concerning the use of interpretation/interpreters in fisheries enforcement operations.

The **IFPO** is satisfied that the current use of interpreters and interpretation services by the WRC meets the business needs of the industry. It points out that prospective fishers currently engage in English throughout the application and recruitment process in terms of reading and signing contracts (provided in English and native language), applying for visas, securing travel tickets, navigating airports, adhering to health and travel instructions, securing accommodation, residence card (interview in English with Garda), PPSN and PSC (online

application and interview in English with Department of Social Protection), Revenue MyAccount (registration in English) and a bank account and registering with Revenue and BIM.

The IFPO also points out that fishers must display a working knowledge of English in terms of day-to-day fisheries operations including taking instructions on fishing trip departure times, organising food and supplies, pre-departure and departure routines, winching to cast and haul nets, work and safety instructions, pre-arrival, arrival, off-loading and clean down routines.

**BIM** consider that language is still the biggest barrier to a better understanding by migrant fishers of their rights and entitlements under employment legislation.

The **ITWF** consider that the four most significant national cohorts among migrant fishers are Egyptian, Filipino, Ghanaian and Indonesian and, in this regard, provided useful details, summarised in the table below, concerning the specific languages:-

Fisher Cohort	Primary Origin	Dominant Fisher Language	Comments
Egyptian	Fishing villages near Alexandria	Egyptian Arabic	Mutually intelligible with Arabic spoken elsewhere in the region
Filipino	Cebu (island), Mindanao Region	Cebuano	Tagalog is the dominant language in that country
Ghanaian	Town of Tema	Twi	Only a minority of the Ghanaians encountered by the ITWF have good English
Indonesian	Java (Pemalang)	Javanese	Indonesian Embassy in London has advised ITWF that these fishers should also understand Indonesian Bahasa which is the dominant national language

The ITWF experience from its dealings with migrant fishers at the initial point of contact is that a firm arrangement for an interpreted conversation face to face or remotely is arranged once it is established that interpretation is required. These remote conversations, often been organised at very short notice, are typically conducted by three-way WhatsApp phone calls between the ITWF, fisher and interpreter.

The ITWF consider that Google translating WhatsApp text messages is a very unsatisfactory option where an interpreter is not available and one is trying to urgently receive/convey information, particularly where sentences with multiple clauses, or that contain any vernacular are involved.

## **6. Conclusions**

### **6.1 Interpretation Services**

While WRC Inspectors exercise discretion in relation to the use of interpretation before, during and after inspections, on-site interpretation is generally not arranged for scheduled fisheries enforcement operations and assistive technologies are used where required. WRC Standard Operational Procedures provide that interviews (by audio call, video call or in-person) with a sample of non-EEA fishers engaged on vessels which are the subject of compliance checks should be attempted and, where arranged, interpretation should be offered. The purpose of these interviews is to validate records and information provided by vessel owners and provide fishers with the opportunity to raise any concerns or issues and seek information.

WRC Inspectors contacted 25 non-EEA fishers in November, 2021 requesting interviews by voice or video call and offering interpretation; only two responses were received. This would appear to be consistent with the ITWF's contention that non-EEA fishers are reluctant, for a number of reasons, to engage with Inspectors while in employment and, in particular, to raise grievances and potential exploitation. Such reluctance is likely to be more prevalent in the context of interviews conducted in port. Indeed, WRC Inspectors report that very few issues arise from such interviews. The general consensus is that the greatest potential value would arise from interviews conducted post-inspection when employment records are available and can be validated and corroborated with fishers.

The WRC considers, in all the circumstances, that interpretation resources would be best directed at post-inspection interviews; however, the WRC will, as a pilot, deploy interpretation services for one of the WRC's mini operations in 2022 and to review in due course the outcomes. Other specific measures in this area are set out in the Actions/Roadmap above.

### **6.2 Outreach**

While the submissions received, in particular from ITWF, would suggest that there is a broad level of awareness among migrant fishers of their rights and that the issue perhaps lies in exercising their rights in making complaints, there are a number of challenges as outlined above associated with promoting awareness and facilitating communications with non-EEA fishers.

From discussions with the ITWF it would appear that WhatsApp and Facebook Messenger are the preferred communications platforms, and the WRC would be happy to reach out also on

these channels for one-to-one communications. Direct email communications to fishers might also be considered subject to contact details being available.

Insofar as one-to-many communications and information platforms are concerned the WRC's facebook page, [Working on Irish Fishing Vessels](#), could usefully be expanded to incorporate more specific material (e.g. redundancy rights when vessels are decommissioned) and FAQs. We should also work with other agencies to promote awareness of this resource.

The feasibility of using a WRC WhatsApp or WhatsApp for Business group for fishers was considered; however, there are GDPR, security and content control issues in relation to the use of this platform.

Training courses delivered by BIM to fishers and vessel owners/skippers provide an ideal opportunity for the WRC and other agencies to promote awareness and address issues to captive audiences. This should be explored further with BIM.

Other specific measures in this area are set out in the Actions/Roadmap section.

### List of Stakeholders invited to make Submissions

- Department of Transport
- International Transport Workers Federation (ITWF)
- SIPTU
- Bord Iascaigh Mhara (BIM)
- Sea Fisheries Protection Authority (SFPA)
- Migrant Rights Council of Ireland (MRCI)
- Atypical Scheme for Non-EEA Fishers Oversight Committee
- Department of Enterprise, Trade and Employment
- Department of Agriculture, Food and the Marine
- Department of Justice
- Health and Safety Authority
- Irish Fish Producers Organisation
- Irish South and West Fish Producers Organisation
- Killybegs Fish Producers Organisation
- Irish South and East Fish Producers
- Eures Ireland (Department of Social Protection)

### Background

#### Task Force

An article in the Guardian newspaper published on 2<sup>nd</sup> November, 2015 alleged that migrant workers on board Irish fishing vessels had in some cases been trafficked onto vessels for labour exploitation, were paid below minimum wage or were not paid wages, were subjected to extreme sleep deprivation and dangerous working practices and had been denied freedom of movement. The article also suggested that individuals had been routed legally through the UK to Northern Ireland and transported illegally into the Republic of Ireland without any Irish permission or Visa.

The Government established, in November, 2015, a Task Force to 1) examine the issues raised by the Guardian article and to formulate a co-ordinated and effective cross-Government response to the matter and 2) to make recommendations to minimise the risk of exploitation while ensuring that reputable employers are in a position to recruit trained and experienced crew members. The Task Force's Report was published in December, 2015 and its primary recommendation proposed the establishment of a specific atypical worker permission mechanism to allow the structured and transparent employment of non-EEA workers within a specific segment of the Irish fishing fleet. This Scheme was launched on 15<sup>th</sup> February, 2016.

#### Fisher Numbers

Up to the early 1980's, fishing vessel crews were predominantly Irish. However, Spanish crew became a major element from the mid-1980s and, following accession of the Baltic States, many Latvian/Lithuanian/Polish crew were engaged. In more recent years Egyptian and Philippine crewmen have tended to predominate.

Traditionally, crew members on fishing vessels were "share fishers" and received a share of the proceeds of the vessel's catch rather than a regular wage. In Ireland share fishers are classified as self-employed rather than as employees and do not, therefore, come within the employment rights and social insurance frameworks. The majority of crew members in the whitefish fleet are engaged under the share fisher arrangement.

An analysis, undertaken for the Task Force, of fishing vessel logbooks, other information held in relation to crew members and information made available from a sample of inspections conducted by the Marine Survey Office of the Department of Transport concluded that between 15% and 42% of crew on Irish fishing vessels were non-EEA nationals. Given that the higher estimate was informed by observations from State inspections, the Task Force considered that this was more reflective of the reality within the fleet.

The problems highlighted by the Guardian article were concentrated in the main on the larger (>15 metres), labour-intensive Whitefish (Polyvalent and Beam Trawl) vessels whose crew members are usually classified as share fishers and are paid a share of the proceeds of the vessel's catch. The smaller Whitefish vessels (<15 metres) are typically owner-operated with 1-2 crew members while the larger Pelagic vessels are crewed mainly by Irish crew members who are generally paid a significant weekly wage (with potential bonus), are classified as employees and thus fully insured under the Irish Social Insurance system. In contrast, the larger Whitefish vessels (>15 metres) are labour-intensive, multi-crewed vessels. The effect of being share fishers is that employment rights and social insurance frameworks do not apply to this cohort.

There are some 2,000 vessels on the current Irish Register of Fishing Vessels. Some 170 of vessels currently come within the scope of the Atypical Worker Permission Scheme for Non-EEA Fishers in that they are greater than 15 metres in length and are registered in the polyvalent, beamer or specific segments of the Irish fishing fleet (effectively whitefish vessels).

It is understood that the Department of Justice (Immigration Service Delivery-ISD) issued some 454 Atypical Permissions to non-EEA fishers in the period to the end of 2021 since the Atypical Scheme for Non-EEA Fishers was launched in February, 2016. The main nationalities involved are Filipino (47%), Egyptian (25%), Ghanaian (12%), Indonesian (10%) and Indian (3%). At 31 December 2021, it is understood that approximately 337 individuals held potentially valid permission under the Scheme. This figure would also include individuals potentially availing of the extensions to all valid immigration permission to May 2022 granted by the Minister for Justice as a part of a pragmatic immigration response to difficulties caused by COVID-19.

An analysis of the Irish fleet<sup>3</sup> concluded that an average of 1,049 fishers (including crew and officers) were engaged on > 15 metres Irish whitefish vessels. The Task Force concluded, therefore, that some 500 non-EEA fishers may at that time have been engaged on those vessels.

### Atypical Scheme

The Scheme only applies to crew members working on licensed and registered fishing vessels in the Polyvalent, Beamer and Specific segments of the Irish fishing fleet for vessels more than 15 metres in length overall. The crew member must be employed directly by the holder of a sea-fishing boat licence in Ireland and must have a written contract of employment for a duration of 12 months.

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<sup>3</sup> Based on Bord Iascaigh Mhara (Irish Sea Fisheries Board) data for the years 2008-2014 inclusive

Applications under the Scheme must be made from outside Ireland, through the on-line application portal, and it is emphasised that applicants must not travel until they are in possession of an AWS Letter of Approval and, where applicable, the appropriate entry visa.

The Atypical Scheme provided for the first time a structured and transparent framework for the employment of non-EEA workers within defined segments of the Irish fishing fleet. The Scheme sets down minimum terms and conditions of employment applicable to these workers which are in line with the general statutory terms and conditions applicable to workers more generally in the State. The Scheme was welcomed as a solution to the risk of exploitation and to guarantee employment rights and protections to non-EEA fishers availing of the Scheme.

The Atypical Worker Permission Scheme for non-EEA Crews provides, among other matters, that the existence of a valid, written contract of employment between the vessel owner and the crew member is a pre-condition to the grant of the Atypical Permission. Prior to an application for a Permission, a Solicitor, acting on behalf of the vessel owner, must submit to the Department of Agriculture, Food and the Marine, as the Central Depository, the contract of employment, including supporting documentation and a certificate to confirm that the contract meets all the conditions of the Scheme, is legally valid and is enforceable in the State.

The Scheme and associated legislation also provide

- a) for a minimum 12-month contract of employment,
- b) for notice of termination of employment in accordance with the Minimum Notice and Terms of Employment Acts 1973 to 2005,
- c) payment of at least the National Minimum Hourly Wage rate for all hours worked,
- d) a weekly payment of an amount not less than the National Minimum Hourly Wage for 39 hours including for periods during which the vessel is inactive or tied-up,
- e) payment weekly in arrears directly to the fisher's bank account,
- f) for the provision to fishers of payslips and, at the end of each month, records of working time/hours of rest,
- g) that deductions may not be made in relation to the cost of travelling to commence employment, repatriation, training or Atypical Permission application,
- h) for public holiday entitlements,
- i) that the fisher may request a written statement of their average hourly rate of pay for any reference period,
- j) for a minimum of 4 weeks or 20 days annual leave over the term of the 12-month contract,
- k) for the delivery of all appropriate training for the job including safety training,
- l) for a copy of the Owner's health and safety statement to be given to the fisher,



- m) for a copy of the employment contract and all grievance and disciplinary procedures to be given to the fisher in his/her native language,
- n) that fishers may transfer to another Owner within the Scheme without the current Owner's consent, and
- o) that the Owner must ensure that the fisher, on cessation of employment, is repatriated, at the Owner's expense, to the country where the fisher had been habitually resident during the 12 months prior to the commencement of the contract.

### Review of Scheme

Following mediation between a number of Government Departments and the International Transport Workers' Federation on the scheme for employment of non-EEA fishers (outside the European Economic area) in parts of the Irish sea-fishing fleet, a settlement agreement was reached and signed by all parties. This mediation was in the context of proceedings taken by the ITWF against the relevant Government Departments in relation to the Scheme and a High Court judgment on injunctive relief, dated 7<sup>th</sup> December 2018. The High Court struck out the case on 30<sup>th</sup> April, 2019.

The relevant Government Departments involved in the Scheme are the Department of Justice, Department of Transport, Department of Enterprise, Trade and Employment, Department of Agriculture, Food and the Marine and the Workplace Relations Commission.

The main terms of the agreement were as follows:

- The WRC and the Marine Survey Office agreed arrangements (in Appendix I to the Agreement) regarding the referral by the Commission of potential contraventions of fishing vessel working time/hours of rest regulations.
- Transfers of employment would not be vetoed.
- Every intended participant under the Scheme to receive their contract of employment in their native language, as well as English. The letter of approval was also to be in the fisher's native language, as well as English, as appropriate. This has been implemented.
- A link to a webpage explaining the fisher's rights as an employee and where the fisher can make complaints regarding any violation of these rights would be provided to participants in the Scheme in their letter of approval. This has been implemented (page on WRC website)
- As had previously been the case, the costs associated with applications under the Atypical Workers Scheme would not be recoupable from the fisher's wages.

- The contract of employment would clarify that fishers are entitled to be paid for every hour worked and to receive payslips and a copy of hours of rest/work records. This has been implemented.
- A hardcopy of the WRC publication Employment Rights Explained would be enclosed with the Department of Justice Letter of Approval. This has been implemented.
- No employment permission would be granted to any non-EEA nationals to work in the State without a contract with a specific employer. Non-EEA fishers to retain the right to transfer employment within the Scheme; any such transfer of employment could occur without the existing or previous employer's consent. This has been implemented.
- Where the Department of Justice becomes aware that a fisher has left their employment, for any reason, before the end of their twelve-month contract, a letter would issue to the non-EEA fisher requesting that they provide details of their new contract of employment under the Scheme to the Department of Justice within 28 days. This has been implemented.
- EU Directive 2017/159 would be transposed into Irish law by the 15<sup>th</sup> of November, 2019 regulating maximum hours of work, minimum hours of rest, and manning requirements aboard commercial fishing vessels. This is a matter for the Department of Transport.
- The Department of Justice, with the support of the Department of Enterprise, Trade & Employment (DETE), to recommend that WRC Adjudicators have jurisdiction over violations of the fishing vessel working time/hours of rest Regulations (at that time Regulation 6 of SI 709 of 2003) and to implement this recommendation by the appropriate measures to be determined by DETE. It is understood that the Department of Enterprise, Trade and Employment has consulted with the Department of Transport and that both Departments support the proposal to confer jurisdiction to the WRC's Adjudication Service to investigate complaints of violations of working time rules relating to employees engaged on fishing vessels. The implementation of this proposal will require primary legislation and will be put to the Oireachtas for its consideration as soon as a suitable Bill becomes available.
- The relevant bodies, i.e. the Workplace Relations Commission (WRC), the Marine Survey Office (MSO), and the Department of Justice, would liaise with each other on the enforcement of Regulations (enforced by the Department of Transport) relating to the hours of work and rest on board fishing vessels. This has been implemented- some 41 referrals have been made by the WRC to the Marine Survey Office under this Agreement.
- The Oversight Committee, chaired by the Department of Agriculture, Food and the Marine, would meet on a two monthly basis for the first six months, starting in May, 2019 and quarterly thereafter, to monitor the Scheme and ensure that it was operating as intended.

The WRC understands that a further review of the Atypical Scheme is currently underway.

Some nine agencies contribute to enforcement of the Atypical Scheme. An Inter-Agency Memorandum of Understanding (MOU) was agreed in order to underpin enforcement of the Scheme by the relevant authorities. The MOU provides for further coordination and cooperation between the relevant enforcement bodies to ensure the effective and efficient enforcement of statutory requirements relating to the employment of non-EEA nationals on Irish-registered fishing vessels, facilitates effective communication and exchange of relevant information, avoids any unnecessary duplication of effort, supports a coherent and transparent cross-Government approach, maximises synergies from the actions of all signatories and promotes and supports compliance.

### Responsibilities Matrix of the Relevant Agencies/Organisations

Organisation	Role/Responsibilities
Department of Transport	DoT authorised officers inspect compliance with and enforce rest period and maximum working time regulations <sup>4</sup> and regulate the safety, security, pollution prevention and living and working conditions of all Irish ships and crews and foreign flagged ships and crews in Irish ports
Department of Justice (Immigration Service Delivery-ISD)	ISD is responsible for administering the functions of the Minister for Justice in relation to asylum, immigration (including visas) and citizenship matters. ISD maintains close contact with the Garda National Immigration Bureau (see below) in relation to many aspects of its work.
Department of Enterprise, Trade and Employment	The Department's responsibilities include the promotion of quality employment, positive workplace relations, well-functioning dispute resolution mechanisms, a safe working environment and the evolution of the minimum wage. The Department also operates the Employment Permits System to regulate the entry of individuals from non-EEA countries through a flexible approach reflecting the changing nature of immigration.
Bord Iascaigh Mhara (BIM-the Irish Sea Fisheries Board)	BIM provides training to the seafood sector across all its main activities (fishing, farming, processing, retailing, passenger boats, as well as health & safety). For seagoing personnel, training focuses on i) safety at sea including Basic and Enhanced Safety Training, ii) preparation of candidates for DoT Certificates of Competency, and iii) Safety & Health at Work. It is mandatory for all fishing vessel personnel to undergo training in Personal Survival Techniques, Elementary First Aid, Fire Prevention and Safety Awareness & Risk Assessment. Those who successfully complete Basic Safety Training are issued with a BIM Safety Card.
Sea Fisheries Protection Authority (SFPA)	Physical inspection of active fishing vessels at sea or at the place of landing are undertaken by Sea Fisheries Protection Officers (SFPOs) of the SFPA and the Naval Service to determine compliance with the rules in force in relation to their fishing area, target species or any other relevant EU or national requirements. The SFPA, in conjunction with the Naval Service, operates the Irish Fisheries Monitoring Centre.

<sup>4</sup> European Communities (Merchant Shipping) (Organisation of Working Time) Regulations 2003 (S.I. No. 532 of 2003) and the European Communities (Workers on Board Sea-going Fishing Vessels) (Organisation of Working Time) Regulations 2003 ( S.I. No. 709 of 2003)

Organisation	Role/Responsibilities
Health and Safety Authority (HSA)	The HSA regulates workplace safety and health and enforces occupational health and safety legislation across all areas of employment and impacting on every person at work in the State. The primary provisions affecting the fishing sector relate to hazard identification, risk assessment and provision of a safety statement, consultation with staff and communication of the safety statement to all people who may be affected and appropriate use of personal protective equipment where other controls are not available. The HSA has an inspectorate with specific expertise, experience and training in workplace safety and health.
Naval Service	The Naval Service assists the relevant authorities in relation to fisheries protection, inspects fishing vessels at sea or at the place of landing to determine compliance with the rules in force in relation to their fishing area, target species or any other relevant EU or national requirements and, in conjunction with the SFPA, operates the Irish Fisheries Monitoring Centre.
Garda Síochána and Garda National Immigration Bureau (GNIB)	An Garda Síochána is also responsible for the prevention and detection of human trafficking and forced labour. The GNIB carries out deportations, border control and investigations relating to illegal immigration. All foreign nationals who are not citizens of a member State of the European Union, the European Economic Area or Switzerland, must register with An Garda Síochána (Irish Police Force) and at all times have a valid registration certificate in the form of a GNIB Card. A multi-agency 'North Atlantic Fisheries Project' which is part of the global 'Santa Marta Group', is coordinated by the Garda and aims to identify and support victims of human trafficking within the maritime sector.
Workplace Relations Commission (WRC)	WRC Inspectors carry out inspections for the purposes of monitoring and enforcing compliance with employment rights and, (as 'authorised officers of the Minister for Enterprise, Trade and Employment), employment permits legislation, including National Minimum Wage, Payment of Wages, Organisation of Working Time, Terms of Employment and Employment Agency legislation. Such inspections relate to persons engaged under a contract of employment (employees) with the exception that DoT officers inspect for compliance with rest period and maximum working hours requirements in the fishing and merchant shipping sectors.

Where fishers are employees, as opposed to genuinely self-employed share fishers, Workplace Relations Commission (WRC) Inspectors are responsible for enforcing compliance with the National Minimum Wage, Payment of Wages, Terms and Conditions of Employment, Employment Agency and Employment Permits Acts in respect of seafarers employed on board Irish registered vessels (with the exception that authorised officers of the Department of Transport, i.e. Marine Surveyors, have responsibility for enforcing compliance with rest period and maximum working hours requirements in the fishing and merchant shipping sectors). Irish employment law does not apply to seafarers employed on foreign registered vessels or to persons classed as 'share fishers' for Revenue purposes, who are deemed to be self-employed and, therefore, fall outside the remit of WRC Inspectors. Inspectors of the WRC have statutory powers to share information and carry out inspections with other State Bodies and such joint inspections, together with information sharing, take place on a regular basis across all employment sectors (including the fishing industry).

## WRC Inspection Team

Nine WRC Inspectors and a Regional Manager underwent the 3-day Safety at Sea/Sea Survival training delivered by Bord Iascaigh Mhara in 2016 and were deployed from March of 2016 for fisheries inspections. Seven additional Inspectors underwent the BIM training in 2017 and 2018.

The BIM Training Course comprises

- Safety Awareness & Fire Prevention, including use of Personal Flotation Devices (PFDs)
- Personal Survival Techniques including use of EPIRBs, life rafts and rescue procedures
- First Aid

Inspectors are provided with Personal Flotation Devices (PFDs) and Personal Locator Beacons (PLBs).

WRC Inspectors involved in the fisheries sector also receive specific internal training in relation to Standard Operating Procedures (SOPs), legislation, etc.

The current position is that seven Inspectors, led by a Regional Manager, are trained and available for deployment on fisheries compliance operations. Two of these Inspectors are based in Sligo, one in Ennis, two in Carlow and two in Dublin. Four additional Inspectors will undertake the BIM Training in Q122, bringing at that stage to 11 the total number of Inspectors available for fisheries operations.

## WRC Inspections

495 inspections of fishing vessels have been undertaken by WRC Inspectors in the period from the launch of the Atypical Scheme in February, 2016 and end 2021.

2016	2017	2018	2019	2020	2021	Total to Date
142	100	87	84	33	49	495

The vast majority of fisheries inspections are unannounced and undertaken in-port. However, from March 2020 to June, 2021, in which period on-site inspection activity was not advisable on public health grounds, the WRC undertook remote inspections of employment law compliance across all sectors by means of interviews with employers and employees by way voice or video call and examination of records and documentation made available to the WRC through a secure share file facility. In terms of fisher activity, some 31 desktop inspections and two on-board inspections were completed in the fisheries sector in 2020, covering some 37 vessels coming within the scope of the Atypical Scheme. Of the 49 inspections undertaken in 2021, 14 were desktop inspections which involved obtaining and scrutinising records with a view to on-site follow up action if deemed necessary.

## Contraventions Detected

277 contraventions were detected in the period since the launch of the Atypical Scheme in February, 2016 to end 2019.

36 contraventions were detected in 2020, relating to 20 vessel owners.

51 contraventions of employment rights or employment permits legislation, relating to 20 vessel owners, were detected by WRC Inspectors in 2021.

This brings to 366 the number of contraventions detected by WRC Inspectors since the introduction of the Atypical Scheme.

Based on an analysis of contraventions detected from 2019 to date

- 20% of contraventions relate to the employment of non-EEA fishers without permission
- 20% relate to contraventions of hours of work/hours of rest regulations (referred to the Department of Transport (Marine Survey Office)
- 13% relate to failure to cooperate with an Inspector and/or the provision of false information or documentation
- 11% relate to failure to pay the National Minimum Hourly rate of pay (currently €10.20 per hour)
- 9% relate to annual leave entitlements
- 7% relate to Public Holiday entitlements
- 20% relate to unauthorised deductions, failure to keep records, failure to issue payslips and failure to issue contracts of employment).

## WRC Investigations

64 fisheries investigations/cases, covering 72 vessels coming within the scope of the Atypical Scheme, were closed in 2020. Contraventions were detected in 25 (39%) of those cases; in 22 of those cases compliance was achieved following engagement with the vessel owners while prosecutions were initiated in the other three cases.

28 fisheries investigations/cases, covering 36 vessels coming within the scope of the Atypical Scheme, were closed in 2021. Contraventions were detected in 17 (61%) of those cases.

235 WRC fisheries investigations/cases have been closed since the Atypical Scheme was introduced in February, 2016 to end 2021.

Currently, there are open investigations in a further 48 cases, in 4 of which legal proceedings have been issued while Contravention Notices have issued in 8 cases. Investigations are ongoing in the remaining 40 cases.

To end 2021, some 42 referrals were made by the WRC to the MSO of the Department of Transport from April, 2019, when an agreement was reached between the WRC and the MSO in regard to liaison on working time issues.