

# **EXPLOITATION PERMITTED**

**How Ireland's Atypical Permit Scheme Drives the Exploitation of Migrant Workers**





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This document should be cited as: ITF (2017)  
**Exploitation Permitted: How Ireland's Atypical Permit Scheme Drives the Exploitation of Migrant Workers**

International Transport Workers' Federation:  
London ISBN

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# Executive Summary

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- This independent report into modern employment relationships and practices in the Irish Fishing sector with regards to non-EEA crew was commissioned by the ITF.
- The ITF has been working to document the abuse of migrant workers in the UK and Irish fishing industries for nearly a decade and this report follows our 2008 report, *Migrant Workers in the Scottish and Irish Fishing Industry*. This report also finds that many of the abuses documented in 2008 continue to persist today.
- The Irish fishing industry, like many around the world, has long been reliant on cheap migrant crew to meet its labour demand. Initially, this was primarily comprised of European nationals, while recent years have seen a dramatic increase in non-EEA crew, who now comprise at least 42% of all fishers in the sector.
- Prior to the implementation of the Atypical Worker Permission System (AWPS) in February 2016, no legitimate mechanism existed for these crew to gain entry into Ireland or for Irish vessel operators to employ them. As a result, many 100s – potentially 1000s – of non-EEA migrants entered the industry using a range of illegitimate methods, including tourist visas and the abuse of the UK's seafarer transit system, which is designed to facilitate seafarers joining or leaving vessels; this has left non-EEA crew undocumented, without the protection of the state and vulnerable to abuse.
- As a result of these practices, and the subsequent exploitation of many migrant crew working aboard Irish vessels, the ITF has collected evidence indicating that a number of cases of human trafficking may have occurred. The ITF intends to seek redress for those affected.
- A 2015 exposé by the *Guardian* newspaper reported a range of abuses against non-EEA crew in the Irish fishing industry, including underpayment, withholding of payment, excessive hours and potential cases of human trafficking. As a result, the Irish government established a Task Force to review the matter and make recommendations for improvement.
- The Task Force recommended the establishment of a scheme to regularise non-EEA crew through an Atypical Work Permit Scheme, which would ensure all crew are provided with contracts and are paid the Irish minimum wage for a minimum of 39 hours per week.
- The scheme was capped at 500 permits, despite industry assertions that at least 1000 would be required, while the ITF estimated this number to be significantly higher. Despite this, uptake has been disappointingly low, with less than 200 permits issued to date. This means that 100s and possibly 1000s of non-EEA nationals remain uncovered by the scheme and continue to work in the sector undocumented and without protection.
- The scheme also includes only vessels over 15m, leaving approximately 90% of the Irish fleet exempt.
- Ongoing work by the ITF, including in-depth interviews with many migrant fishers, indicates that, while well intentioned, the scheme may have legitimised some forms of exploitation. For example, the 39-hour minimum appears to represent a ceiling rather than a floor, which allows countless workers to be paid for less than one-third of their total hours worked.
- The high costs associated with acquiring a permit, particularly very high legal fees of more than €1,000, are being offset onto migrant fishers, with many claiming to see unexplained deductions from their already low wages.
- In addition to not being paid for all of their work, the excessive hours with little respite demanded of migrant crew are leading to dangerous levels of fatigue, which have previously resulted in tragedy.
- The scheme also ties crew to their employer, leaving them with little recourse to assert their rights or exit potentially abusive employment situations.
- This report asserts that the scheme, as currently applied, essentially provides a legal basis for the continued exploitation of non-EEA crew in the industry.

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## Key Timeline

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- 1993** Irish Sea-Fishing Boat License system amended, allowing EU nationals and companies to apply for a license previously only open to Irish nationals and companies. Conditional that 75% of crew is from EEA countries - later readjusted to 50%.
- 1999 - 2003** Dramatic increase in number of work permits issued to those from non-EEA countries, from 6,250 (1999) to 47,551 (2003) - an increase of more than 660%.
- 2003** European Communities (Workers on Board Sea-going Fishing Vessels) (Organisation of Working Time) Regulations 2003 (S.I. No. 709 of 2003) enacted.
- 2006** Introduction of the Employment Permits Act sees sector-specific work permits change. Increases difficulty of employing non-EEA crew.
- 2008** Criminal Law (Human Trafficking) Act introduced.
- 2008** ITF releases *Migrant Workers in the Scottish and Irish Fishing Industry* report.
- 2010** UK Government grants permits for non-EEA crew to work on fishing vessels operating within the 12-mile limit capped at 1500, with just 44 permits granted during the 18-month window.
- 2011** UK Government grants extension to above.
- 2013** Criminal Law (Human Trafficking) (Amendment) Act enacted.
- 2014 - 2020** Ireland set to receive €147.6m the European Maritime and Fisheries Fund.
- 2014** Employment in the Irish fishing industry estimated at approximately 3,150.
- 2014** 20% of fishers over 50 and 30% between 41 and 50 years old.
- 2015** MSO reveals non-EEA crew comprise majority of fishers in the industry, making up 42% of those recorded, compared with 32% Irish and 25% from other EEA countries. Only 33% of vessels meet the requirements to provide Logbooks and only 33% of them met crewing requirements.
- 2015** *Guardian* article exposes undocumented migrant crew working extremely long hours, receiving less than the minimum wage and being confined to vessels in Ireland.
- 2016** Irish Government Task Force launches Atypical Workers Scheme in response to above. Only applies to vessels 15m in length and above, or less than 10% of the fleet. Permits capped at 500. Minimum contract length 1 year. Minimum Wage - €9.15 per hour.
- 2016** US Department of State's annual Trafficking in Persons (TIP) Report criticises Ireland over human trafficking record.
- 2016** (December) ITF meeting attended by 41 Egyptian fishers - 4 have a permit.
- 2017** (February) ITF meeting attended by 70 Egyptian fishers - 1 has a permit.

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# Introduction

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For nearly a decade, the ITF has been working to expose the exploitation of migrant workers in the UK and Irish fishing industries, improve conditions for fishers and compel relevant authorities and the industry to take action. In 2008, the ITF's report – *Migrant Workers in the Scottish and Irish Fishing Industry* – demonstrated how the industry had not only become heavily reliant on migrant crews but also how common practices in source countries, and within the UK and Irish industries, were leading to abuse and exploitation of these individuals. The report detailed specific cases involving instances of excessive working hours, extremely low pay, withholding of payments, confiscation of identity documents and other serious abuses indicative of forced labour and exploitation. Since the release of that report in 2008, numerous incidents of abuse involving migrant fishers have continued to emerge from both the UK and Irish fishing industries. Many of these cases share the same or similar characteristics as those detailed in 2008, demonstrating the apparent impunity with which the industry continues to operate in relation to fishers from outside of the European Economic Area (EEA).

At the same time, numerous attempts have been made at a government level to address the ongoing issue, particularly in the UK, including an 18-month concession in 2010, which granted permits for non-EEA crew to work on fishing vessels operating within the 12-mile limit.<sup>1</sup> The decision, hailed as a victory for common sense, was designed to provide the industry with the opportunity to transition away from its reliance on non-EU migrant labour as tougher immigration laws came into force under the new Conservative government. Indeed, the ITF believed that the decision would ultimately “provide more local people with the opportunity to find work in this industry.”<sup>2</sup> However, by the time the application period ended on 31 May 2010, uptake of the scheme had proved disappointingly low, with only 44 applications received for the 1,500 places available, despite the ITF estimates of as many as 1,800 Filipinos working in the UK industry at the time.<sup>3</sup> Phil Taylor, regional director of the UK Border Agency in Scotland and Northern Ireland expressed his consternation at the low uptake, which he said “took considerable time and effort working with the industry and interested parties to develop.”<sup>4</sup>

Nonetheless, in the summer of 2011, as the deadline approached, and despite only 44 concessions being issued, some MPs representing coastal constituencies began calling for extensions, claiming the vessels in the areas they represented would simply be unable to go to sea for lack of crew. Scottish MP for Na h-Eileanan an Iar, Angus MacNeil, and Northern Irish MP for Strangford, Jim Shannon, both called on then Immigration Minister Damian Green to extend the visas of Filipinos fishing in the UK, claiming British jobs were at risk as skippers faced bankruptcy and fish processors would be out of work.<sup>5/6</sup> Mr Shannon added that he had met some of them and been impressed by their work ethic, saying “When you tell them

to be on the harbour at 2am, they are there waiting, ready to go.”<sup>7</sup>

However, despite the concession and its extension, the industry's reliance on non-EEA crew appears undiminished, as migrant workers continue to be recruited from countries such as the Philippines, Indonesia, Ghana and Egypt.<sup>8</sup> An apparent willingness to work long hours and accept pay that is well below the minimum wage mean migrant fishers are very attractive to employers; and, in an industry heavily impacted by external pressures – such as political decisions, weather, fish stocks and fuel prices – it is perhaps easy to understand why it is so difficult to reduce reliance on migrant workers.

Unfortunately, attempts to address the industry's reliance on migrant workers, apparent willingness to flout the law and even exploit migrant crew have largely considered the issue through the prism of immigration and have consequently focused on the ‘regularisation’ of these workers. However, as became apparent from the low uptake of concessions in the UK, this issue goes beyond an immigration matter, and is indicative of the industry's heavy reliance on – and perhaps even addiction to – cheap migrant labour as part of its business model.

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*We are disappointed with the low take up of this concession, which took considerable time and effort working with the industry and interested parties to develop. As we made clear when the concession was launched, we will not hesitate to take enforcement action against any business employing non-European fishermen employed in breach of the law.*

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Phil Taylor, regional director of the UK Border Agency in Scotland and Northern Ireland



Most recently, the Irish government has introduced its own regularisation scheme for non-EEA crew working in the fishing industry following a report by the *Guardian* newspaper on 2 November 2015, which uncovered undocumented migrant crew working extremely long hours, receiving less than the minimum wage and being confined to vessels, among other issues.<sup>9</sup> Commenced on 15 February 2016, the 'Atypical Working Scheme for non-EEA Crew Members' follows the recommendations of a Task Force convened the day after the publication of the *Guardian* article to directly address the issues raised, improve the situation for non-EEA crew, mitigate the risk of abuse and allow the fishing industry to meet its labour demands.<sup>10</sup>

Certainly, the new legislation and registration scheme are promising steps in the right direction; however, ongoing work by the ITF – including detailed and in-depth interviews with a number of migrant fishers previously or currently working under the scheme – has revealed serious failings with its interpretation and implementation. In many cases, the permit and contract arrangements contained within the scheme have had the opposite of the intended effects, often codifying low and underpayment of crew, tying them to their employers and forcing them into debt to cover high legal fees.



Drawing on evidence gathered by the ITF through interactions and interviews with more than 100 non-EEA crew working in the Irish fishing industry, this report will examine the realities and perhaps unintended consequences of life for those working under the Atypical Working Scheme for non-EEA Crew Members.





# THE IRISH FISHING INDUSTRY

The economic contribution of Ireland's seafood industry – often referred to as 'Ireland's Ocean Economy' – is relatively small, with estimates putting the total value at €1.4bn, or 0.8% of GDP.<sup>11</sup> However, in spite of its relatively small contribution to GDP, the seafood industry is considered to play a vital role in "the sustainable development of the economic and social fabric of the many small coastal communities."<sup>12</sup>

Compared with other European fishing nations, the Irish fishing fleet is of average size, coming 10th out of 23 countries in both total tonnage and total power, as well as total volume of catch landed.<sup>13</sup> The fleet itself is relatively fragmented, varying considerably in vessel length and size, and is divided into five separate segments.

Though numbers fluctuate, there are roughly 2,000 vessels in the Irish fishing fleet, with the Polyvalent Segment comprising approximately 90% of the total.<sup>14</sup> Of these, just 171 are over 15m in length, which will be discussed further in relation to the threshold for inclusion in the government's Atypical Workers Scheme for non-EEA crew.<sup>15</sup>

According to the the European Scientific, Technical and Economic Committee for Fisheries (STECF), the position of the Irish fishing industry changed from net loss to net profit in 2012, a trend it has maintained ever since.<sup>16</sup> The total value of Irish seafood trade for 2015 was €891m, roughly two-thirds of which was generated through the exports, with the remaining

third comprised of domestic sales.<sup>17</sup> The largest export market is by far the European Union, accounting for 70% of all export value, with the largest individual export countries being France (€129m), Spain (€96m), Great Britain (€71m), Italy (€30m) and Germany (€21m).<sup>18</sup> However, exports to non-European markets continue to grow rapidly, with €98m combined pelagic exports to Nigeria, Cameroon and Egypt, while the value of Asian markets grew by 13% to €47m in 2015.<sup>19</sup>

## IRISH INDUSTRY SEGMENTS

**Refrigerated Seawater (RSW) Pelagic Segment:** Engaged mostly in fishing for pelagic species (herring, mackerel, horse mackerel and blue whiting), with vessels ranging in size from 27m – 71m.

**Polyvalent Segment:** Contains the vast majority of the fleet; vessels are multi-purpose and include small inshore vessels, medium and large offshore vessels targeting whitefish, pelagic fish and bivalve molluscs.

**Beam Trawler Segment:** Dedicated beam trawling vessels used predominantly in inshore waters, except in the southeast, where it is used to catch flatfish such as sole and plaice.

**Specific Segment:** Contains vessels permitted to fish for bivalve molluscs and aquaculture species.

**Aquaculture Segment:** Must be exclusively used in the management, development and servicing of aquaculture areas.<sup>20</sup>



Like all EU fishing nations, Ireland receives a considerable amount of money from the European Union in the form of the European Maritime and Fisheries Fund (EMFF). This fund is designed to support a number of developments in the fishing industry, including helping fishermen in the transition to sustainable fishing, supporting coastal communities in diversifying their economies and financing projects that create new jobs and improve quality of life along European coasts.<sup>21</sup> In the funding period from 2014 – 2020, Ireland is set to receive €147.6m towards an overall budget of €239.2m for the government’s Operational Programme (OP). While this is a relatively small amount compared with larger or less-developed fishing nations, it nonetheless represents a considerable amount of money from the European Union, and constitutes well over half of the Irish government’s total OP funding.

Employment in the sector is also variable, including seasonal variations. However, in 2014, employment was estimated at approximately 3,150 across both large and small-scale fisheries.<sup>22</sup> Figures also show that the industry’s workforce is aging, with 20% of fishers over 50 and 30% between 41 and 50 years old; those under 25 make up just 8% of the workforce. As the EU’s Scientific, Technical and Economic Committee for Fisheries observes, “attracting young people to the industry remains a challenge.”<sup>23</sup> This challenge may help to understand the industry’s increasingly heavy reliance on migrant workers – including non-EEA crew –, which will be discussed at greater length below.

## RELIANCE ON MIGRANT WORKERS

It is difficult to say exactly when the Irish fishing industry began to rely on migrant workers to meet its labour demand; however, like nearly all fishing nations anywhere in the world, the Irish industry is now heavily reliant on migrant crew, particularly those from outside the European Economic Area (EEA). According to the government’s Task Force report, “up to the early 1980s, fishing vessel crews were predominantly Irish, however [sic] Spanish crew became a major element from the mid 1980s.”<sup>24</sup> Following the accession of new European states, Latvian, Lithuanian and Polish crew also began entering the industry.<sup>25</sup>

In 1993, the Irish Sea-Fishing Boat License system was amended to allow European nationals and companies to apply for a license that had only previously been open to Irish nationals and companies. As a result, a condition requiring 75% of crew to be from EEA countries was introduced, in order to “mitigate any economic loss to the Irish industry and coastal communities arising from the extension of eligibility.”<sup>26</sup> Following representations from the industry, this requirement was reduced to 50%, where it stands today.

However, in recent years, the numbers of non-EEA crew working on Irish vessels – particularly those from the Philippines, Egypt and Ghana – have been increasing, and these individuals now make up the majority of foreign crew working in the industry.<sup>27</sup> As part of the work of the Irish government’s Task Force, the Department for Transport, Tourism and Sport (DTTAS) analysed fishing vessel logbooks – which are required to record the names

and nationalities of crew on board, as well as crew agreements – submitted to the Marine Survey Office (MSO) between January and June 2015.

The results of this analysis, which covered 75 vessels, showed that nearly 62% of fishers were Irish, with a further 18% coming from other EEA countries, meaning nearly 80% were from within the EEA. In the analysis, non-EEA workers made up less than 10%, while those with ‘Unknown Nationality’ represented just over 11%. However, according to the Task Force, the MSO “reviewed this data and estimates that half of these fishers, reported as undeclared nationalities, could be non-EEA nationals”, resulting in 15% of crew being non-EEA nationals.<sup>28</sup>

Logbooks can be problematic for a number of reasons, not least because they effectively rely on an honour system and can be easily fabricated. Indeed, one fisher interviewed by the ITF explained that he did not receive payment for a fishing trip, subsequently discovering the period he worked had been listed as ‘cancelled’ in the vessel’s logbook:

*“I was in Porcupine [Bank], 15 days, she not give it to me. I think last April, last year April, we have one trip, but she not give it to me. And then my friend, he saw in the logbook in the boat...he read ‘[name removed] and [name removed], Porcupine, Cancelled’, like that. He read it in the logbook inside the boat...So I have, proof, of Porcupine, that she didn’t give [the money] to me.”*

In addition, the ITF understands that only one third of eligible vessels meet their requirements to submit logbooks to the MSO, while only one third of those submitted contain the required crew agreements.<sup>29</sup>

While the statistics above are derived from potentially problematic declarations made by vessel owners themselves, separate data gathered during MSO inspections of 25 vessels presents a starkly different picture. Numbers gathered by the MSO reveal that non-EEA crew in fact comprise the majority of fishers in the industry, making up 42% of those recorded, compared with 32% Irish and 25% from other EEA countries.<sup>30</sup> It would be perhaps unwise to attempt to draw too many firm conclusions regarding why such a significant discrepancy exists, though it appears that self-reporting by vessel owners in the form of logbooks heavily under-report the numbers of non-EEA crew and may have led to a distorted understanding of just how vital these migrant workers are.

It is unclear precisely when the fishing industry’s preference towards non-EEA crew began. Between 1999 and 2003, Ireland saw a dramatic increase in the numbers of work permits issued to those from countries outside of the EU, with just 6,250 issued in 1999 and 47,551 issued in 2003, an increase of more than 660%.<sup>31</sup> According to a report by the Centre for Innovation and Structural Change (CISC), “the majority of work permit holders are concentrated among some of the lower paid occupations in services, catering and agriculture and fisheries.”<sup>32</sup> The CISC report also reveals that the country accounting for the largest number

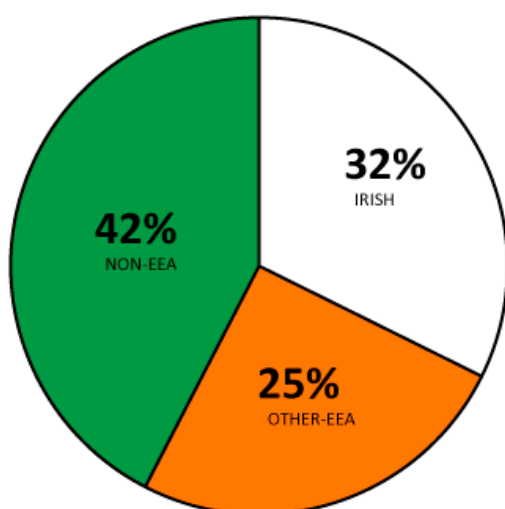
## NO LEGITIMATE MECHANISM FOR ENTRY

of work permits granted was the Philippines. While there may be many reasons why the Philippines is so highly represented – including large numbers of nurses recruited from the Philippines – it is also important to note that the ‘Agriculture/Fishing’ sector received the third highest number of work permits, an area where Filipinos have been over-represented. Significantly, however, Egypt is not represented amongst the top 25 origin countries for permits issued, despite comprising a large proportion of non-EEA fishers in the sector. There are a number of potential reasons for this, though it is significant that the majority of Egyptian fishers assisted by the ITF in Ireland originally entered the country on tourist visas and subsequently overstayed; a process that will be discussed in greater detail below.

The system of sector-specific work permits changed considerably in 2005-2006 with the introduction of the Employment Permits Act, perhaps reflecting a wider shift in the Irish government’s approach to immigration. In response to a question, the then Minister for Enterprise, Trade and Employment outlined the government’s new strategy for modernising its labour market and economy: “Our skills policy will be predicated, first, on upskilling our resident workforce; second, on maximising the potential of EEA nationals to fill our skills deficits; and, third, on the introduction of a new green card and revised work permit system for non-EEA nationals to fill strategic high skills deficits which cannot otherwise be resolved.”<sup>33</sup>

The inference here appears to be that permits for non-EEA workers will largely be focused on filling skills deficits in higher-skilled, higher-paid sections of the economy. However, as has been demonstrated in many industries all over the world, once an industry becomes accustomed to cheap migrant labour, it is a very difficult trend to reverse, and it appears that the Irish fishing industry simply developed new, often surreptitious, methods of obtaining cheap non-EEA crew for their vessels.

MSO Survey: Crew Nationality



As changes to the work permit system following the introduction of the Employment Permits Act 2006 made it more difficult to recruit non-EEA crew for their vessels, it would appear that the Irish fishing industry began to develop a range of methods for obtaining these workers, which they had come to rely on. Again, it is unclear precisely when these methods began to develop, but they appear to have emerged in both the UK and Irish fishing industries at approximately the same time. The ITF 2008 report, *Migrant Workers in the Scottish and Irish Fishing Industry*, cites numerous examples of non-EEA crew – primarily from the Philippines – gaining entry into the UK using transit visas applied for by manning agencies in their home countries.

Transit visas are the primary mechanism used by seafarers entering the UK to join a ship that operates outside the UK’s 12 nautical mile (nm) territorial water limit. Originally designed for merchant seafarers, they allow the holder ‘leave to enter’ the UK while in transit to their vessel (or aircraft). As a result of the interpretation of the UK’s Immigration Act 1971, transit visas are also issued to fishermen joining vessels that have demonstrated they operate mostly outside of the 12nm limit, often by overseas agents. While this system is not illegal, it has proven extremely vulnerable to abuse and been used as a method of gaining entry for non-EEA crew destined for vessels that operate within the 12nm limit, as well as those who eventually cross over the border to Ireland.

This issue was first raised by the ITF in 2008, and little appears to have been done to clamp down on it. One common practice is for overseas agents to provide a transit visa or letter with the name of a vessel known to operate outside of the 12nm limit, despite the fact that the fisher is never intended to join this vessel. This has been the case for a number of individuals assisted by the ITF. One such case was described to the ITF by two Filipinos whose transit visas listed a vessel in Penzance as their destination, though they in fact ended up on a vessel in Northern Ireland; when one of them asked if they were in Penzance, they were told they were, despite being some 600 miles away. The risks of this are clear, and the increased vulnerability created for fishers being unaware of their actual location is unacceptable. Further, despite their visas stating a destination of Penzance, their flights – arranged by the agent in Manila – were booked for their final destination in Belfast, suggesting a clear and well-planned deception; when presented with the opportunity to clarify the fishers’ true location, the Northern Irish operator chose to continue the deception. When combined with the excessive hours worked by these men, as well as being made to work on shore while the vessel was being repaired, lack of payment and eventual injury to one of them, this represents a relatively clear case of human trafficking.

And, it would seem, in the absence of a clear, state sanctioned mechanism for entry into Ireland, this method has also been used to gain entry for non-EEA migrants to work on Irish fishing vessels. In one case recently handled by the ITF, Henry entered the UK through Belfast airport with a transit visa for an Irish-flagged vessel based in Greencastle; he was eventually taken to Killybegs, where he worked on a vessel different to that

on his contract (See Page 14 – Henry’s Story).

This deceptive means of gaining entry for non-EEA crew put many of them at significant risk and effectively made them undocumented workers due to the discrepancy between their contracts and their actual place of work. Further, all of the contracts seen by the ITF, drawn up in the fishers’ home countries, establish payment for crew significantly below that of the Irish minimum wage. While different contracts vary slightly, all have been around \$1,000USD for a 48-hour week. If these contracts were adhered to, and crew only worked 48 hours a week, they would effectively be earning just \$5.20USD per hour. However, as anyone familiar with the nature of fishing will confirm, 48 hours a week represents approximately 2.5 days worth of fishing, with 18 hour days being the minimum a fisher can expect, though 20 or 21 hour days are much more common. This means crew are regularly working 150 hours during a seven day trip, with trips often occurring consecutively, so that crews regularly work multiple 150 hour weeks in a row without rest. While this is clearly excessive and very dangerous – which will be discussed further below - those receiving \$1,000USD per month and working 150 hours a week were in fact paid \$1.66USD per hour.

While the abuse of the transit system represents a relatively well-

orchestrated and sophisticated method for gaining entry, it would seem that the industry’s demand for cheap migrant crew and willingness to hire undocumented crew is fuelling illicit migration from other countries. The majority of the most recent cases handled by the ITF have involved Egyptians entering the country on tourist visas to look for work in the fishing industry. Once a job is secured, these fishers inevitably overstay their tourist visas, consequently ending up as undocumented workers. Throughout its work, the ITF has encountered a variety of methods for entering the country this way, ranging from simply applying for a tourist visa in Egypt to entering another EU country – such as Italy – and paying a broker to arrange the visa on their behalf before travelling over land to the UK and Ireland. These illicit methods of entry present considerable risk to migrants, including debt bondage and increased vulnerability as a result of their undocumented status. The industry’s demand for cheap migrant labour combined with political and economic instability in Egypt is driving this migration.



# HUMAN TRAFFICKING IN THE FISHING INDUSTRY

The previous failure of the Irish government to recognise the continued recruitment of non-EEA workers into the fishing industry and provide a legitimate mechanism for them to do so, as well as the industry's abuse of the UK's transit visa system, has increased the risk to already vulnerable migrant workers and, it would appear, led to some being trafficked.

Human trafficking is a broad and complex concept, often encompassing other crimes, including smuggling, forced labour and various other forms of exploitation. However, a widely accepted definition has come to include three constituent elements: 1) The Act (What is done); 2) The Means (How it is done); and, 3) The Purpose (Why it is done).<sup>36</sup> In this sense, if any combination of specified act, means and purpose are present, then human trafficking can be considered to have occurred.

Based on this definition and evidence gathered by the ITF over more than a decade of assisting migrant fishers in the UK and Ireland, it would appear that a number of non-EEA crew, many still working in the industry, have been trafficked, as defined under the Criminal Law (Human Trafficking) Act 2008, amended by the Criminal Law (Human Trafficking) (Amendment) Act 2013 in Ireland (see Table 1).<sup>37</sup> Indeed, the ITF has dealt with multiple cases in which individuals have been provided with employment (the act) by means of deception or abuse of a position of vulnerability (the means) for the purposes of subjecting the person to forced labour (the purpose) within the fishing industry (See Page 14 – Henry's Story).

In many ways, Ireland has long been behind the curve on human trafficking, compared with other European countries. Before the introduction of trafficking legislation in 2008 – and its subsequent amendment in 2013 – Ireland was the only European country without specific trafficking legislation, a fact highlighted in 2006 by then MEP Simon Coveney, who said "Ireland remains the only EU country not to have introduced legislation to define and outlaw trafficking of adults. This is shameful and totally unacceptable."<sup>38</sup>

Despite the subsequent introduction of legislation, as well as responsibilities under the EU's Directive 2011/36/EU, Ireland's response to human trafficking has often been found wanting. In the 2015 High Court case *P v. Ireland and Others* [2015] 2 ILRM 1, the court found failings by both the Garda and the State in relation to identification of victims of human trafficking.

Ireland has also faced criticism over its failure to prosecute perpetrators of trafficking. In the 2016 edition of the US Department of State's annual Trafficking in Persons (TIP) Report, it was observed that Ireland "has not convicted a trafficker under the 2008 anti-trafficking law since 2013," despite a number of victims being identified.<sup>41</sup> In the fishing industry in particular, the previous lack of a government approved permit system allowing non-EEA crew to work legally in Ireland – thereby enjoying protection under the law – has meant that undocumented migrants have been working long hours for low pay and

without legal protection for many years. A 2015 exposé by the *Guardian* revealed evidence of the widespread employment of undocumented workers in the fishing industry, as well as reports of extremely long working hours and very low pay.<sup>42</sup> In line with the ITF's 2008 report, as well as on going assertions regarding trafficking and abuse of migrants, the *Guardian* piece also identified a number of likely cases of trafficking, though it stopped short of a definitive proclamation.

Following the *Guardian* exposé, the US Department of State's annual Trafficking in Persons (TIP) Report cited:

*"Media reports claimed undocumented Ghanaian, Filipino, Egyptian, and Indian migrant fishermen endure conditions possibly indicative of forced labor, including debt bondage, such as document retention, restriction of movement, and non-payment of wages, dangerous working conditions, and verbal and physical abuse."*

It is also clear that the media attention spurred the government into action, with a Cabinet decision, taken the day after publication, to establish a high level inter-departmental Task Force "in response to the claims of exploitation...published in the *Guardian* newspaper on 2nd November 2015."<sup>42</sup> Following the Task Force's examination of the issues raised by the *Guardian*, it was stated that, "the maritime industry, including fishing, has been identified as an area of potentially high risk for human trafficking due to the nature of the work in the sector and the employment structures that are used."<sup>43</sup> At the end of 2015, the Task Force submitted a series of recommendations to ensure that non-EEA crew would be protected under Irish law and covered by the protections afforded to all employees in the country. Following these recommendations, the government introduced the Atypical Worker Permission System (AWPS), which will be the focus of the remainder of this report.



# CASE STUDY

## HENRY'S STORY - PHILIPPINES

*“18 hours a day working, but no overtime pay. That's fixed now, \$1000.”*

Henry was recruited by a manning agent in the Philippines, who provided him with a contract for \$1,000USD per month to work 48 hours per week, and transit visa to join a vessel based in Greencastle. In order to utilise his transit visa, Henry needed to enter the UK, so he was booked on a series of flights destined for Belfast. Unaware of where he was going, he was told he would be picked up at the airport and taken to his vessel.

After being picked up, he was taken to a fishing port, where he joined an Irish-flagged vessel. Unknown to him at the time, this was neither the port nor the vessel listed on his visa and contract. Instead of being taken to Greencastle, he was in fact taken to Killybegs to join an entirely different vessel. Despite his contract being invalid on this vessel, the skipper nonetheless honoured the agreed amount of \$1,000USD per month, paying Henry a flat rate every month for more than 10 months.

However, despite stipulations to include overtime and holiday pay, as well as working as many as 150 hours per week, Henry only ever received \$1,000USD per month. After the period of his contract expired, Henry's skipper applied for a work permit for him under the new Atypical Worker Permission Scheme, which saw a slight increase in his salary to €1,200 per month. However, in September of that year, Henry was badly injured while working on board, needing to be airlifted from the vessel to hospital, where his hand was operated on.

Since that time, he has been unable to work and has not received compensation for his injury. Under the definition of human trafficking, which includes the act, the means and the purpose, it would appear that Henry was deceived into working on the vessel where he ended up, and was forced to work hours not stipulated in his contract for extremely low pay before being injured and not paid the compensation to which he was entitled.

**TRAFFICKING IN HUMAN BEINGS**  
**As defined by the Criminal law (Human trafficking) Act 2008**  
**As amended by the Criminal Law (Human trafficking)(Amendment) Act 2013**

ACT	MEANS	PURPOSE
Procuring a person	By means of Coercion	For the purposes of subjecting the person to forced labour (Including forcing him or her to beg)
Recruiting a person	By means of threats	For the purposes of forcing the person to render services to another person
Transporting a person	By means of abduction	For the purposes of enslavement of the person
Harbouring a person	By means of the use of force	For the purposes of subjecting the person to servitude or a similar condition or state
Transferring a person to another person	By means of deception	For the purposes of causing the person to engage in sexual activity for the purpose of producing pornography
Placing a person in the custody, care or charge, or under the control of another person	By means of fraud	For the purposes of the prostitution of the person
Delivering a person to another person	By means of abuse of authority leaving the person no real and acceptable alternative but to submit	For the purposes of the commission of a sexual offence against the person
Causing a person to enter or leave the State or to travel within the State	By taking advantage of the vulnerability of a person leaving the person no real and acceptable alternative but to submit	For the purposes of causing the person to commit a sexual offence against another person
Taking custody of a person	By making any payment to any person in whose charge or care, or under whose control, the trafficked person was for the time being, in exchange for that person permitting the trafficker to traffic the trafficked person	For the purposes of causing the person to commit a sexual offence against another person
Taking a person into one's charge	By conferring any right, interest or other benefit on any person in whose care or charge, or under whose control, the trafficked person was for the time being, in exchange for that person permitting the trafficker to traffic the trafficked person	For the purposes of causing the person to engage in an activity that constitutes an offence and that is engaged in for financial gain or that by implication is engaged in for financial gain.
Taking a person under one's control		For the purposes of the removal of one or more of the person's organs
Providing a person with employment		For the purposes of forcing a person to engage in activity that constitutes an offence and that is engaged in for financial gain or that by implication is engaged in for financial gain
Providing a person with accommodation		For the purposes of forcing a person to engage in activity in a place other than the state that constitutes an offence under the law of that place and would, if done in the state, constitute an offence, and is engaged in for financial gain or that by implication is engaged in for financial gain

# Atypical Worker Permission System (AWPS)

This section will examine the Atypical Worker Permission System (AWPS) as designed and implemented by the Irish government. Drawing on experience from the ITF's on going work with migrant fishers in the sector, as well as in-depth interviews with a number of individuals currently or recently working in the industry, this section will also examine some of the key issues arising from the AWPS as designed and implemented.

## AWPS OVERVIEW

As discussed, the previous lack of a legitimate mechanism to allow for the recruitment of non-EEA crew into Ireland led the industry to develop methods that essentially rendered migrant workers undocumented and without legal protections. The vulnerability this created led some of these workers to suffer abuse and exploitation – including extremely low or no wages and excessive working hours – as evidenced by the *Guardian* exposé in late 2015, which led to the establishment of an Inter-Departmental Government Task Force, chaired by Simon Coveney T.D., Minister for Agriculture, Food and the Marine. At the end of 2015, the Task Force submitted a series of recommendations regarding the implementation of a new system to document and protect non-EEA fishers in Ireland. The Task Force noted that it would be “the introduction for the first time of a comprehensive new set of arrangements for the employment of non-EEA fishermen.”<sup>44</sup>

The new arrangements would cover all vessels above 15m in length in the Polyvalent, Beamer and Specific segments of the fleet, with the Task Force citing evidence presented by the *Guardian* that this was the area of highest concern, despite it representing less than ten per cent of Ireland's total fleet. Drawing on data provided by the MSO and BIM, the Task Force also recommended that the total number of contracts be capped at 500; a recommendation that has now been implemented. Finally, in order to “guarantee the worker certain minimum terms and conditions of employment”, a number of requirements were introduced, including:

### AWPS REQUIREMENTS

- The crewmember must be employed directly by the holder of a sea-fishing boat licence in Ireland.
- The crewmember must have a written contract of employment for a duration of 12 months.
- The contract must be certified by a practicing solicitor in compliance with the conditions for the employment of non-EEA crewmembers.<sup>47</sup>
- The employee shall be paid, in respect of the 12-month period, a minimum equal to the amount which he or she would have received by virtue of the Minimum Wage legislation (€9.15 per hour) if he or she had worked 39 hours per week for 52 weeks.<sup>48</sup>

Considering that the Task Force's recommendations came at the end of 2015, the AWPS was implemented rapidly, beginning on 15 February 2016. The initial stage, designed to last three months, focused on non-EEA crewmembers already working in Ireland. In November 2015, Simon Coveney described the intention of this initial stage to the *Irish Times*, saying:

*“It is a way of regularising the position for people who are currently undocumented essentially, and vulnerable because of that... We want people who are currently working in the fishing industry but are undocumented - we want to change their status to make sure they are legally working here under a contract of employment.”<sup>49</sup>*

Following the first three months of allowing fishers already in the country to apply for permits, applications for crewmembers from within the state were no longer accepted from 1 July 2016. From that date onwards, applications were only available to persons outside the country.<sup>50</sup>

In general, the scheme was designed to provide employment protections for non-EEA crew in Ireland – where there had been none before – by ensuring they received the minimum wage and protections under the Working Time Regulations governing hours of work and rest, as well as other protections enjoyed by employees in Ireland.

## ISSUES WITH THE SCHEME

While the ITF accepts that the AWPS was designed with the best of intentions, and in many ways represents a significant step in the right direction towards protecting some of Ireland's most vulnerable workers, it is clear from our on going work in the sector that a number of issues have developed since the introduction of the scheme. Some of the issues concern the scheme's design; however, it also appears that some employers in industry have chosen to interpret elements of the scheme in ways that reduce the amount of money paid to crew, as well as creating situations of debt through high solicitor's fees. Drawing on the ITF's experience in the sector and interviews with a number of non-EEA crew currently or formerly working in the sector, this section will examine some of the key issues that have emerged since the scheme's introduction.

“I was happy, I was lucky to get a work permit, to make me legal in the country, but I was stupid to accept 285 euro a week... There is nothing left, I have a daughter, I have a family you know? So, I would say, for whoever done this work permit scheme, he has to open his eyes a bit.”

Egyptian Fisher



## LOW UPTAKE

According to a 2015 article in the *Irish Times*, “the industry says that it has been seeking a work-permit scheme since 2005-6.”<sup>51</sup> During the consultation process before the introduction of the AWPS, the industry suggested it would need at least 1,000 permits to cover all of the non-EEA fishers in the industry.<sup>52</sup> The ITF estimates this to be a conservative figure and puts the number of undocumented non-EEA fishers even higher. Despite this, the government capped the total number of permits at 500, citing data from the BIM and MSO.<sup>53</sup>

However, despite the number of available permits being well below both industry demand and the ITF estimates, uptake of the scheme has been disappointingly low. According to a report by RTE from 6 April 2017, less than 200 permits have been issued.<sup>54</sup> As with the situation in the UK in 2010, despite significant engagement with and public support from the industry, it would seem that many employers decided not to take advantage of the scheme, leaving the vast majority of crews undocumented and without protection. Using the industry’s estimated requirement of at least 1,000 permits, this leaves well over 800 non-EEA crew uncovered by the permit scheme; however, the ITF’s evidence suggests the numbers non-EEA to be much higher, potentially leaving more than 1,000 undocumented migrant fishers continuing to work in the industry. According to the chief executive of the Irish Fish Producers’ Organisation, Francis O’Donnell, “take-up has not been as strong as I would have thought. It should have been higher.”<sup>55</sup>

Less than  
**200** permits  
have been issued  
since the scheme  
began

This low uptake is also confirmed by the ITF’s own experience, having recorded the details of well over 100 non-EEA fishers in the Irish industry. In December 2016, the ITF held a meeting attended by 41 Egyptian fishers; only four of these individuals had a valid permit. At another ITF meeting, held in Dublin in February 2017, and attended by around 70 migrant fishers, just one individual stated that he had a permit, while many others alleged low pay, excessive working hours and threats of deportation.<sup>56</sup>

Despite the industry’s apparent support for the scheme, the low uptake of permits not only leaves most migrant fishers without the protections for which it was designed, it may also suggest an unwillingness on the part the industry to implement fair employment practices – including legal wages and employee

## >15M LIMIT

Whilst the stipulation that only vessels over 15m are covered by the scheme is understandable, it is also perhaps indicative of the rush to implement a scheme following the *Guardian* article. The Task Force’s report specifically cites the *Guardian* article as justification for the 15m cut off, saying:

*“The problems highlighted by the Guardian article are concentrated in the main on the larger >15m Whitefish (Polyvalent and Beam Trawl) vessels, largely fishing for Prawns (Nephrops) and Mixed Whitefish (Cod, Haddock, Whiting, Plaice, Megrim, etc.)”<sup>57</sup>*

As has been discussed, the vast majority of the Irish fishing fleet is under 15m, meaning the scheme covers just 171 vessels and exempts 1,829. While the logic is clear, it would be a mistake to characterise all vessels under 15m as small-scale operations without non-EEA crew. According to an RTE report, “many suspect that illegal migrants are being transferred to smaller vessels.”<sup>58</sup> Indeed, this assertion is backed up by the ITF’s own experience, with many undocumented crew continuing to work on smaller vessels not covered by the scheme. One Egyptian fisher interviewed by the ITF who did not have a permit – part of a group of five undocumented Egyptians – explained that he was forced to move to a smaller vessel when the owner of the vessel he worked on refused to apply for a permit.

It is therefore the ITF’s view that the AWPS should be extended to vessels under 15m in order to ensure that undocumented crew are not simply moved onto smaller vessels, thereby allowing employers to avoid their responsibilities and creating more vulnerability amongst migrant fishers.

## EXCESSIVE HOURS, FATIGUE AND LOW PAY

The issues of working and rest hours in fishing – and how to effectively regulate them – have long been a source of contention; not just in Ireland, but globally. The nature of fishing – including the need to work almost continuously while at sea in order to maximise the return on investment in fuel, labour and maintenance, take full advantage of limited fishing days and pressure to fill allocated quotas – means that attempts to establish hard and fast regulations around working and rest hours are often impractical and impossible to enforce. Under the European Communities (Workers on Board Sea-going Fishing Vessels) (Organisation of Working Time) Regulations 2003 (S.I. No. 709 of 2003) – which establish maximum working and minimum rest hours for fishers in Ireland – crew must receive at least 10 hours rest in a 24 hours period and 77 hours rest in a seven day period.<sup>55</sup> This is also in line with standards set out in the International Labour Organisation’s (ILO) Work in Fishing Convention (C.188).

In reality, most fishermen agree that the mandated rest hours are simply not practical and rarely observed. All of the migrant fishers interviewed by the ITF reported working as much as 24 hours straight on a regular basis, though the average was generally 20 or 21, with 18 being the minimum. One Egyptian interviewee said:

*"I would say fisherman is a different man, if you call it a man, because it's a crazy man. If I accept to do fisherman, so I should accept to do 1 hour [sleep]...if I get 1 hour every 6 hour I'm lucky. I won't stop fishing, I will not stop fishing, okay, if I'm getting this one hour."*

It is also worth noting that the four hours rest the crew does receive is rarely continuous and generally taken in single hour increments. Compounding this issue is the common practice of switching skippers when vessels return to port, with the fresh skipper returning to sea with the same crew, meaning this pace of work may continue for many weeks without adequate rest. This was the case for at least one of those interviewed by the ITF, who reported working for many weeks on end, with little or no rest.

*"We have two skippers...After one trip [Skipper 1], then [Skipper 2]. [Skipper 1] off, [Skipper 2] on. Off [Skipper 2]...like that. That's why the crew no changes. Not the crew. Sometimes you have two months, no rest."<sup>61</sup>*

“

*We had two trips before in the Irish Sea, 48 hours, 60 hours, no sleep... Sometimes 48 hours, 60, no sleep. If we're going to the Irish Sea, plenty catch. Very small prawns in the Irish Sea, very hard in Irish Sea than Porcupine [Bank].*

”

Filipino Fisher

Clearly, the issue of rest hours on fishing vessels requires careful consideration, and the practice of swapping skippers but not crew is not only unfair but also potentially very dangerous; as mentioned above, fatigue has regularly been cited by the Marine Casualty Investigation Board (MCIB) – responsible for investigating accidents at sea in Ireland – as a contributing factor in a number of accidents, including the deadly sinking of the *Tit Bonhomme* in 2012.<sup>62</sup> Many of the fishers interviewed by the ITF reported experiencing dangerous levels of fatigue while working at sea. Mohammed explained that the lack of sleep made him feel unsafe and meant he was prone to falling asleep while performing important duties, such as keeping watch.

“

*I didn't feel safe but I can't say nothing. It's not safe because sometimes, for example, if I am tired and I have to go watch, and I sleep upstairs and we have 20 miles – the boat have to go 20 miles in each direction for work – if I crash something, everybody dies, yeah? So I am not safe. And I can't catch myself...when I'm tired I'm going to be sleeping up straight. How can I catch myself?*

”

Egyptian Fisher

“

*Sometimes we go to starboard, because your brain is empty – no sleep, no eat – supposed to be you on the starboard, but your brains goes on the port side, because you're empty, you know, you don't have strong, you don't have power.*

”

Filipino Fisher

However, much of the hardship associated with fishing is mitigated by the potential for relatively high earnings as many fishermen are paid a percentage of the value of their catch. During the busiest summer months, this can represent a considerable income, while also providing incentive to work longer than is safe and catch more fish.

For non-EEA crew working in the Irish fishing industry under the AWPS, their permits stipulate that they must earn the Irish minimum wage of €9.15 per hour for a minimum of 39 hours per week.<sup>63</sup> However, it would seem that many employers view this as a ceiling rather than a floor. Whether this is deliberate or down

to a misunderstanding is unclear, but it often means crew are paid for less than one third of the total hours they work, with all of those interviewed by the ITF regularly working 150 hours a week. One fisher interviewed by the ITF seemed all too aware that the minimum amount of hours employees should be paid for – 39 hours a week – was in fact being used as a cap by employers:

*“The permit says the employee should get the minimum wages, which is €9 something, and should get paid minimum for 39 hours, so no one go for the maximum, always go for the minimum. So no one said, okay “you work 80 hours so you get paid for 80 hours, okay?”...For example about me, myself, my gross payment is 356 euro every single Friday.”*

However, under the permit scheme, those working 80 hours should be entitled to €732, meaning many fishers are being significantly underpaid. This means that not only are many fishers being asked to work dangerously long hours, they are also only being paid for a fraction of the actual time they work. One perhaps unintended though significant consequence of fishers being regularly underpaid is the negative impact on tax revenues taken by the Irish The Office of the Revenue Commissioners. Considering that the majority fishers interviewed by the ITF report regularly being paid just one third of their total hours, it seems reasonable to assume that the Revenue Office is therefore missing out on approximately two thirds of the tax revenue due for most fishers.

In some cases, fishers appear to not be paid at all. One Filipino fisher interviewed by the ITF explained that he had not been paid for a 15-day trip. Taking an average of 20 hours per day at €9.15 per hour, this fisher should have been paid €2,745. However, he was informed by a colleague – who had also not been paid – that the trip was listed as ‘cancelled’ in the logbook.

*“I got in Porcupine 15 days, she not give it to me. I think last April, last year April, we have one trip she, but she not give it to me. And then my friend, he saw in the logbook in the boat...he read [name removed] and [name removed], Porcupine, Cancelled’, like that. He read it in the logbook inside the boat...So I have, proof, of Porcupine, that she didn’t give [the money] to me.”*

Mohammed also experienced not being paid after his skipper ‘loaned’ him to another boat:

*“He send me to work with [name removed], seven days’ trip, with Mr [name removed] in Union Hall. In seven days I did more than 150 hours, okay, with just 4 person, yeah 4 person and me...and I did work more than 150 hours. And Mr [name removed] take 350 from my cheque...I ask Mr [name removed] for my money and he say, Mr [name removed] did pay for you already, so he take this money. Yeah, he doesn’t give me nothing. Nothing.”*

This is clear evidence of the attitude of some employers to workers in the industry, who are willing to take advantage of the vulnerability of migrant fishers. Without support networks or



resources to claim his money back, this fisher has little recourse for not being paid. Nonetheless, the desperate need for work to make ends meet and send money back home to their families means many fishers are willing to overlook such poor treatment for the opportunity to earn. One individual interviewed by the ITF stated on many occasions that he would be willing to go back and work with the same employer.

“

*If the owner is telling me now if I’m coming back, and she gives me my work permit, it’s no problem, I’m coming back, because I need a job, I need money to send back to send money to the Philippines to support my kids.*

”

Filipino Fisher

While many interpret this willingness to work with employers, even where clear evidence of abuse exists, as a sign that all is well, it is a potentially dangerous misconception. For vulnerable migrant workers, struggling to pay their bills and trying to send money back home, the pressure to work is strong, meaning they are apparently willing to accept low pay and poor conditions. However, it is clear that many employers within the industry are willing to exploit this desperation in order to acquire the cheap migrant labour they have come to rely on so heavily.

## HIGH WORK PERMIT FEES

An Atypical worker permit costs €250.<sup>64</sup> While it is not explicitly stated that employers must cover this cost, it seems reasonable to expect them to do so, considering the money they would be saving on crew costs even if the permit system were properly observed. Further, the AWPS requires the “employer (who must be a licensed vessel owner) to be responsible for ensuring that a valid contract of employment (certified by a Solicitor) and drafted in accordance with National and EU employment rights legislation, is in place.”<sup>65</sup> Evidence gathered by the ITF suggests that the heavy burden of these costs are regularly being placed on migrant fishers, often forcing them into debt, which is subsequently deducted from their already low wages. In many cases, these charges are not explained to fishers.

“

*Yes he charged me for legal fees. No he didn't discuss, he just do it. I don't understand. This legal fee, I charge you for that. I can't remember actually how much, but more than €1,000. More than €1,500.*

”

Egyptian Fisher

For Mohammed, his employer told him that the payment for the hours he worked beyond 39 per week would be paid as a bonus. He has never received this payment, though when he did ask for it, he was informed that, in fact, he owed money for his permit.

*“And when I ask about my bonus, he said ‘you get minus 44’, I say ‘for what?’ and he say ‘he charge me for legal visa.’”*

Another fisher explained that he learned of the solicitor’s charges only when he noticed that his cheque was for significantly less than expected.

*“Before last May I signed my contract with [name removed]. And then my work permit, was done on June 30, and charged my wages, she charged €1,000-something in solicitor...€1,800 for solicitor.”<sup>66</sup>*

This individual is, in fact, yet to receive his permit, which he believes is being held by his employer (See Page 21 - Rodrigo’s Story).

Though the responsibility for these costs is clearly open to interpretation, it seems to be common practice for migrant fishers to bear them. While these high fees risk compounding the vulnerability of migrant fishers, it is particularly disturbing to hear that these fees are often not explained to them and are simply being deducted from their wages. In this way, employers are further offsetting the cost of their fishing operations onto the backs of non-EEA crew.

## TIED TO EMPLOYERS

It is perhaps an unintended consequence that the AWPS also ties migrant crews to potentially abusive employers, making it very difficult to leave and further compounding their vulnerability. One fisher explained that the work permit system gave employers all of the power, leaving fishers with little choice but to endure long hours and low pay.

“

*The work permit, it doesn't say I can renew for myself, I just need to pay, so ‘you stay in this boat, you get paid €285 euro and you shut the fuck up, otherwise I'm not going to renew for you, go fuck yourself.’ Exactly what I'm saying.*

”

Egyptian Fisher

In the case of Rodrigo (See Page 21 - Rodrigo's Story), the fact that his employer has not given him his permit means he is unable to find work elsewhere. Finally, Mohammed explained that being tied to his employer – who regularly underpaid him, and even once failed to pay him entirely – means he has little choice but to accept the poor conditions and pay on offer:

“

*“From September, till now, more than 5 months, if I had no girlfriend, and nobody to help me, and I am already in this permit and I say ‘no I am not going to go out for that, because it is slaves work’, so what can I do? I will be homeless on the street. I can't do any work. I can't pay a solicitor to get me my money back. But the employer still keeps on working. Still keep on going, he's never mind about me, or about anybody. So who is the slaves? Just me.”*

”

Egyptian Fisher

## CASE STUDY

### RODRIGO'S STORY - PHILIPPINES



*“If the owner is telling me now if I’m coming back, and she gives me my work permit, it’s no problem, I’m coming back, because I need a job, I need money to send back to send money to the Philippines to support my kids.”*



Rodrigo’s employer promised to take care of his work permit for him. She told him that she had applied for it just before the cut off for non-EEA crew already working in Ireland on 30 June 2016. She also deducted €1,332 from his salary in order to cover the cost of the permit (€250) and solicitor’s fees (€1,082); however, he is still waiting to receive it, leaving him unable to work legally and making him vulnerable to deportation or further exploitation on other vessels as an undocumented worker.

Though he has seen a picture of a colleague’s permit – which was supposedly applied for at the same time as his – he has never seen any evidence that his permit does in fact exist. While he remains optimistic that he will eventually receive it, there are serious doubts about whether the permit was actually applied for at all.

Nonetheless, the lack of a permit means he has been relying on friends to support him for months, and his increasing desperation for work means he says he is willing to return to his previous employer, despite issues around dangerously long hours, underpayment and failure to provide him with his work permit.

## CASE STUDY

### MOHAMMED'S STORY - EGYPT

*I don't know where the cheque is, because I am going just as favour for him so...he have to pay for me properly but he take all the money.*

In many ways, Mohammed's story represents the range of challenges and different forms of exploitation faced by migrant fishers working in the Irish industry. Before travelling to Ireland, Mohammed was in England, where he heard about work in the fishing industry. Being a fisherman by trade, he travelled to Ireland where he met up with other Egyptians in West Cork, who helped him to find a job on a fishing vessel. He was offered a 'trial' seven-day trip by the skipper, during which time he worked 150 hours without pay. Following his trial, he was offered a work permit and a job. Before receiving his permit, he was paid a share of the catch, but after the permit was completed he received a flat rate of €339 per week, despite regularly working 150 hours over a seven day trip.

Though he was being underpaid every week, his skipper explained that he would receive a bonus of the outstanding wages every six months. However, when he asked for his bonus, he was informed that he in fact owed money and that it had been deducted from his wages. Without explanation, the cost of Mohammed's permit – including very high legal fees – had been deducted from his wages. Because it was never explained to him, he is unsure of exactly how much was deducted, though he puts the figure at more than €1,500.

While working aboard this vessel, Mohammed was also regularly asked to move approximately 20 boxes of fish below deck, which he later realised was in order to hide them from the authorities. In the course of these activities, Mohammed was regularly entering the fish room alone. On one occasion, he was overcome by fumes and passed out. Luckily he was discovered and taken to hospital, where doctors informed him that, had he spent one more minute there, he would have died. Following his accident, he was visited in hospital by the vessel owner, who pressured him to keep quiet about the details of his accident. In this way, Mohammed's vulnerability was exploited to make him an unwitting participant in a crime, representing a key aspect of trafficking. This situation also provides evidence that those willing to illegally hire and exploit migrant workers may also be willing to flout other laws, such as regulations concerning landing declarations and tax avoidance.

Finally, following his return from injury, he was 'loaned' to another vessel, where he worked for 150 hours during one seven-day trip. When he asked to be paid for this trip, he was informed that his original skipper had received the money, though he was never paid for this work.

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## CONCLUSION

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Ireland's support for international legal instruments seems somewhat inconsistent; it has not signed up to the Migration for Employment Convention (C97) or the Migrant Workers' Convention (C143). Nevertheless, Ireland has obligations under the European Convention of Human Rights, the European Social Charter, and the Council of Europe Convention on Action against Trafficking in Human Beings (Treaty 197) and is further bound to adhere to international instruments such as the International Convention on Civil and Political Rights and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

Human exploitation in the Irish fishing sector is blatant. The lack of action, including investigations and prosecutions, on this subject suggests a sense of impunity amongst boat-owners which ultimately points to a failure of the state. This cannot continue unchallenged.

The problems facing non-EEA fishers in the Irish fishing industry have been many years in the making. As the industry increasingly began to recognise the benefits of this cheap and relatively easily available source of labour, their prevalence in the sector grew rapidly. Without an official and legal system for obtaining these crew, many operators began to employ tactics that left migrant fishers with little or no rights due to their undocumented status, such as the abuse of the UK's transit visa system. As a result, clear indicators of trafficking – including deception, coercion and exploitation – have emerged, and been documented by the ITF. It is also clear that the employment of migrant fishers in Ireland is almost universally characterised by low pay, excessive hours and underpayment. The contracts that have been found by the ITF represent both a gross underestimation of the number of hours involved in fishing as well as extremely low pay, with all of the contracts seen detailing pay of approximately \$1,000USD per month for a 48 hour week. However, as has been demonstrated, these already unfair contracts were made substantially worse by the fact that fishers report regularly working 150 hour weeks, meaning a \$1,000USD per month contract could result in the fisher being paid just \$1.60USD per hour. Over many years of these practices, the industry has become reliant not only on these individuals, but also on the extremely cheap labour they provide.

As the ITF have been arguing for many years, the employment conditions for many migrant fishers in Ireland is, at best, exploitative and at worst tantamount to forced labour. This is a fact that has been exposed many times, including by the *Guardian* in 2015.

As a result, the Irish government introduced the Atypical Worker Permission System (AWPS) in 2016 in an attempt to regularise migrant fishers and provide them with the employment protections of the Irish state. However, as the ITF's ongoing work and recent research reveal, this system has in many ways provided a legal basis for the continued exploitation of migrants by unscrupulous employers in the industry. Dangerously long hours remain commonplace, though the interpretation of the scheme by many employers sees fishers paid for just a fraction of their hours worked. The hours many migrant crew are forced to work have potentially

dangerous consequences, as has been witnessed by a number of serious accidents and fatalities at sea. Burdensome costs – including high legal and administration fees – are being offset onto employees, deducted from their wages with little or no explanation. The permit system also ties employees to potentially abusive employers, leaving them little recourse and unable to easily move employers.

The Irish fishing industry is not unique in its reliance on migrant workers; however, as a developed country and member of the EU, Ireland has a number of obligations to protect and ensure the rights of those working in the country. As has been demonstrated, the AWPS, as currently designed and implemented, is failing in these obligations. As fishing vessels around the world are increasingly crewed by migrant workers – who are drawn largely from developing countries – it is now more vital than ever that national and international instruments for ensuring decent work and pay are properly designed and rigorously implemented, protect vulnerable workers effectively and ensure the rights of all employees regardless of their country of origin or immigration status.

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# RECOMMENDATIONS

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## **A. End the current permit scheme and undertake a review and restructuring to make the mechanism fit for purpose. Measures to include:**

1. A moratorium on permits to out of country fishers;
2. Removal of the exemption from the Permit scheme of vessels under 15 metres;
3. A cooling off period to safeguard and regularise the employment of existing fishers;
4. Decoupling of the Permit from a single specified employer to the fisher;
5. Simplification of Permit procedures so that applications can be made directly to a central registry that is open to public inspection and that a PPS number is attached to each Permit.





## **B. Establish effective system to regulate employment conditions of migrant fishers including adequate and rigorous capacity for enforcement. Measures to include:**

1. Appointment of the MSO as the lead statutory enforcement agency;
2. Introduction of a Statutory Instrument authorising the Marine Survey Office (MSO) to ensure all employees on Irish fishing vessels hold BIM safety cards and prosecute non-compliant owners of vessels;
3. Reinstatement of health insurance for fishers, including provision for occupational injuries. (This was withdrawn unilaterally by the WRC);
4. Enforcement of the state's employment, revenue, health and safety laws by prosecuting non-compliant skippers and boat owners;
5. Recognition of the ITF as key witnesses in cases where prosecutions are brought against boat owners when the ITF have been involved in the initial complaint;
6. Inclusion of the ITF in the Task Force as an equal partner so that its expertise and experience can be utilised to help make the scheme effective;
7. Facilitation of ITF inspections of fishing vessels to monitor and support effective compliance and enforcement;
8. Enforce requirement that employers pay accurately for all hours worked by confirming amounts with fishers during inspections, using the internationally recognised rest and working hours form employed by the maritime sector rather than the current practise of each state agency using different forms;
9. Training of border control officers at key entry points within the UK and Ireland, and in particular all connecting flights through London airports to Belfast, Glasgow and Aberdeen, to identify cases of high risk;
10. Ratification and enforcement by the Irish State of ILO Convention 188 concerning work in the fishing sector;
11. Effective implementation of the Social Partners Agreement on Work in Fishing adopted by the European Council (soon to be a Directive).
12. Effective implementation and enforcement of local and international legal instruments dealing with the prevention of forced labour and trafficking, including but not limited to:
  - ILO Forced Labour Convention C29 (in force in Ireland since 1931), and its Protocol P029 (adopted in 2014 and now in force);
  - ILO Abolition of forced labour convention C105 (in force Ireland since 1958)
  - Council of Europe Convention on Action against Trafficking in Human Beings (Treaty 197)
  - Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.



# REFERENCES

1. UKBA (2010) – Reprinted: <http://www.worldseafishing.com/forums/threads/clyde-codling-enough-said-already.292406/page-25>
2. ITF (2010), 'UK concession set to free migrant fishers from exploitation', [http://www.itfseafarers.org/maritime\\_news.cfm/newsdetail/4260/region/1/section/0/order/1](http://www.itfseafarers.org/maritime_news.cfm/newsdetail/4260/region/1/section/0/order/1)
3. Immigration Matters (2010), 'Concessionary visa arrangement for employers of non European fishermen ends', <http://immigrationmatters.co.uk/concessionary-visa-arrangement-for-employers-of-non-european-fishermen-ends.html>
4. *ibid*
5. ForArgyll (2011), 'Scotland to suffer from Fortress UK ending vital concession to top Filipino fishermen?', <http://forargyll.com/?p=41875>
6. BBC (2011), 'Filipino fishermen visa reprieve welcomed', <http://www.bbc.co.uk/news/uk-northern-ireland-14713750>
7. *ibid*
8. *ibid*
9. Guardian (2015), 'Revealed: trafficked migrant workers abused in Irish fishing industry', <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>
10. INIS (2017), 'Response by Minister for Communications, Climate Action and Environment, Denis Naughten TD', <http://www.inis.gov.ie/en/INIS/Pages/speech-080217>
11. Marine Institute (2015), 'Report on Ireland's Ocean Economy launched', <https://www.marine.ie/Home/site-area/news-events/press-releases/report-ireland%E2%80%99s-ocean-economy-launched>
12. European Commission (2014), European Maritime and Fisheries Fund (EMFF) – Ireland, [https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/op-ireland-fact-sheet\\_en.pdf](https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/op-ireland-fact-sheet_en.pdf)
13. Eurostat (2016), 'Fishery Statistics', [http://ec.europa.eu/eurostat/statistics-explained/index.php/Fishery\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Fishery_statistics)
14. Inter Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
15. *ibid*
16. Scientific, Technical and Economic Committee for Fisheries (STECF), '5.11: Ireland', [https://stecf.jrc.ec.europa.eu/documents/43805/1489224/2016\\_AER\\_5\\_NC\\_IRELAND.pdf](https://stecf.jrc.ec.europa.eu/documents/43805/1489224/2016_AER_5_NC_IRELAND.pdf)
17. Bord Iascaigh Mhara (BIM) (2015), 'Irish Seafood Industry: Fish Facts 2015', <http://www.bim.ie/media/bim/content/downloads/2015/Seafood,Industry,Fact,Sheet,2015.pdf>
18. Scientific, Technical and Economic Committee for Fisheries (STECF), '5.11: Ireland', [https://stecf.jrc.ec.europa.eu/documents/43805/1489224/2016\\_AER\\_5\\_NC\\_IRELAND.pdf](https://stecf.jrc.ec.europa.eu/documents/43805/1489224/2016_AER_5_NC_IRELAND.pdf)
19. *ibid*
20. Eurostat (2016), 'Fishery Statistics', [http://ec.europa.eu/eurostat/statistics-explained/index.php/Fishery\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Fishery_statistics)
21. European Commission (2014), 'Fisheries - European Maritime and Fisheries Fund (EMFF)', [https://ec.europa.eu/fisheries/cfp/emff\\_en](https://ec.europa.eu/fisheries/cfp/emff_en)
22. Scientific, Technical and Economic Committee for Fisheries (STECF), '5.11: Ireland', [https://stecf.jrc.ec.europa.eu/documents/43805/1489224/2016\\_AER\\_5\\_NC\\_IRELAND.pdf](https://stecf.jrc.ec.europa.eu/documents/43805/1489224/2016_AER_5_NC_IRELAND.pdf)
23. *ibid*
24. Inter Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
25. *ibid*
26. *ibid*
27. *ibid*
28. *ibid*
29. ITF Communications
30. *ibid*
31. Centre for Innovation and Structural Change (2005), 'Labour Relations Practices and Migrant Workers in Ireland', <http://www.nuigalway.ie/cisc/documents/00022ciscwp.pdf>
32. *ibid*
33. House of Oireachtas (2006), 'Employment Permits Bill 2005: Second Stage', <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad2006052400006?opendocument>
34. Name changed
35. ITF Interviews
36. UNODC, 'Human Trafficking', <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>
37. Irish Statute Book (2013), 'Criminal Law (Human Trafficking) (Amendment) Act 2013', <http://www.irishstatutebook.ie/eli/2013/act/24/section/1/enacted/en/html>
38. Simon Coveney (2006), 'Coveney highlights trafficking in debate on Human Rights Report', [http://web.archive.org/web/20070110142126/http://www.simoncoveney.ie/archives/2006/05/coveney\\_highlig.html](http://web.archive.org/web/20070110142126/http://www.simoncoveney.ie/archives/2006/05/coveney_highlig.html)
39. US Department of State (2016), '2016 Trafficking in Persons Report Country Narrative: Ireland', <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258788.htm>
40. Guardian (2015), 'Revealed: trafficked migrant workers abused in Irish fishing industry', <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>
41. US Department of State (2016), '2016 Trafficking in Persons Report Country Narrative: Ireland', <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258788.htm>
42. Inter Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
43. *ibid*
44. *ibid*
45. *ibid*
46. *ibid*
47. INIS (2016), 'Atypical working scheme: Non-EEA crew in Fishing Fleet', <http://www.inis.gov.ie/en/INIS/Pages/atypical-scheme-fishing-crew>
48. Inter Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
49. Irish Times (2015), 'Migrant fishermen permit scheme to be capped at 500', <http://www.irishtimes.com/news/politics/migrant-fishermen-permit-scheme-to-be-capped-at-500-1.2437174#.Vk7Kc9kzIU.twitter>
50. INIS (2016), 'Atypical working scheme: Non-EEA crew in Fishing Fleet', <http://www.inis.gov.ie/en/INIS/Pages/atypical-scheme-fishing-crew>
51. Irish Times (2015), 'Give Me a Crash Course In . . . illegal workers on Irish fishing vessels', <http://www.irishtimes.com/news/ireland/irish-news/give-me-a-crash-course-in-illegal-workers-on-irish-fishing-vessels-1.2420142>
52. Guardian (2016), 'Fears over low take-up of permits for Irish fishing industry migrant workers', <https://www.theguardian.com/global-development/2016/jun/10/fears-over-low-take-up-of-permits-for-irish-fishing-industry-migrant-workers>
53. Inter-Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
54. RTE (2017), 'Concerns raised over trawler permit scheme', <https://www.rte.ie/news/ireland/2017/0406/865900-fishing/>
55. Guardian (2016), 'Fears over low take-up of permits for Irish fishing industry migrant workers', <https://www.theguardian.com/global-development/2016/jun/10/fears-over-low-take-up-of-permits-for-irish-fishing-industry-migrant-workers>
56. Guardian (2017), 'Irish trawlers accused of 'alarming' abuses of migrant workers', <https://www.theguardian.com/global-development/2017/feb/08/irish-trawlers-abuses-migrant-workers>
57. Inter-Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
58. RTE (2017), 'Concerns raised over trawler permit scheme', <https://www.rte.ie/news/ireland/2017/0406/865900-fishing/>
59. Irish Statute Book (2003), 'S.I. No. 709/2003 - European Communities (Workers on Board Sea-Going Fishing Vessels) (Organisation of Working Time) Regulations 2003', <http://www.irishstatutebook.ie/eli/2003/si/709/made/en/print>
60. ILO (2007), 'C188 - Work in Fishing Convention, 2007 (No. 188)', [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_IL0\\_CODE:C188](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_IL0_CODE:C188)

61. Skipper names removed to protect fisher's identity
62. The Journal (2013), 'Report: Fatigue biggest factor in Tit Bonhomme tragedy', <http://www.thejournal.ie/tit-bonhomme-investigation-report-861239-Apr2013/>
63. Inter Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
64. INIS (2016), 'Atypical working scheme: Non-EEA crew in Fishing Fleet', <http://www.inis.gov.ie/en/INIS/Pages/atypical-scheme-fishing-crew>
65. Inter Departmental Government Task Force (2015), Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet, <https://www.agriculture.gov.ie/media/migration/publications/2015/TaskForceReport141215.pdf>
66. NB: The actual amount he was charged was €1,332 - permit (€250) and solicitor's fees (€1,082)

