

HIGH COURT

[2023] IEHC 544

[2022 No. 127 MCA]

**IN TH MATTER OF APPEAL PURSUANT TO SECTION 46 OF THE WORKPLACE
RELATIONS COMMISSION ACT 2015
AND IN THE MATTER OF THE ORGANISATION OF WORKING TIME ACT**

BETWEEN

AHMED ELGANAGY

APPELLANT

AND

GALOPIN TRAWLERS LIMITED

RESPONDENT

**JUDGMENT of The Hon. Mr. Justice Alexander Owens delivered on the 4th day of
September 2023.**

1. This is an appeal on a point of law from a decision of the Labour Court under s.46 of the Workplace Relations Act 2015 (the 2015 Act).
2. Ahmed Elganagy worked on a sea-going fishing vessel registered in the State. He alleges that Galopin Trawlers Limited (Galopin Trawlers) who employed him and owned this trawler failed to comply with Article 6 of the European Communities (Workers on Board Seagoing Fishing Vessels) (Organisation of Working Time) Regulations 2003 (S.I. No. 709/2003) (the Regulations of 2003). He alleges that he was not given adequate rest while this vessel was operating.
3. The issue of law which arises is whether, arising from this alleged failure by Galopin Trawlers, Ahmed Elganagy is entitled to remedies specified in s.27(3) of the Organisation of Working Time Act 1997 (the 1997 Act) and to invoke procedures set out in ss. 41 to 44 of the 2015 Act to enforce those remedies, notwithstanding absence of express reference to s.27(1) or procedures for employee redress in the Regulations of 2003.
4. The answer to the question posed depends on whether provisions of the Irish legal framework implementing EU Directives on working time can and should be interpreted as providing this remedy in order to conform with the law of the European Union.
5. Yes, they can and should be so interpreted. What has been omitted from the Regulations of 2003 is there by implication. This is because it must be assumed that in the Regulations of 2003 the State intended to include this remedy by making a change to s.27(1) of the 1997 Act, as this was necessary to implement a Directive of the European Council and Parliament in a manner compliant with European law.
6. Section 27 of the 1997 Act, permits employees to make complaints of contravention of "relevant provisions" listed in s.27(1)(a) of the 1997 Act. These provisions are ss. 6(2), 11 to 23, and 26 of the 1997 Act. These sections implement Articles 3 to 11 of

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (the 1993 Directive).

7. Where a complaint is admissible under s.27(1) of the 1997 Act, procedures for determination, appeal and enforcement are now governed by provisions of the 2015 Act.
8. Section 27(3) of the 1997 Act confers on statutory decision-makers powers to determine whether such a complaint was or was not well-founded, require an employer to comply with the relevant provision and award the employee compensation of a just and equitable amount not exceeding 2 years remuneration in respect of that employee's employment.
9. Section 41(1) of the 2015 Act allows employees to present such complaints in respect of alleged contraventions by employers of provisions "specified in Part 1 or 2 of Schedule 5" of that Act.
10. The purpose of Schedule 5 of the 2015 Act is to identify redress provisions in existing legislation in order to confer jurisdiction on decision-makers empowered by the 2015 Act.
11. Para.7 of Schedule 5 Part 1 lists: "A relevant provision within the meaning of section 27 of the Organisation of Working Time Act 1997."
12. Provisions in s.27 of the 1997 Act and the Regulations listed at 2, 8 and 9 in Schedule 5 Part 2 were also amended to conform with procedures governing claims and appeals under that Act.
13. Schedule 5 Part 2 of the 2015 Act lists at Paras. 2, 3, 8 and 9 "Regulation 5, 6, 7, 8, 9, and 10 of the European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations 2004 (S.I. No. 494 of 2004)", "European Communities (Organisation of working Time) (Mobile Staff in civil Aviation) Regulations 2006 (S.I. No. 507 of 2006)", "European Communities (Working Conditions of Mobile Workers engaged in Interoperable Cross-border Services in the Rail Sector) Regulations 2009 (S.I. No. 377 of 2009)" and "Regulation 5, 8, 9, 10, 11 and 12 of the European communities (Road Transport) (Organisation of Working time of Persons Performing Mobile Road Transport Activities) Regulations 2012 (S.I. No 36 of 2012).
14. Provisions in s.27 of the 1997 Act and the Regulations listed at 2, 8, and 9 in Schedule 5 Part 2 were also amended to conform with new procedures governing claims and appeals under the 2015 Act.
15. Article 6 of the Regulations of 2003 is not listed in Schedule 5 of the 2015 Act.
16. Adam Elganagy was employed as a fisherman by Galopin Trawlers on an Irish Registered sea fishing vessel.

17. He made a complaint to the Director General of the Workplace Relations Commission under s.41(1) of the Workplace Relations Act 2015 (the 2015 Act) that he was not provided with rest periods mandated by Article 6 of the Regulations of 2003.
18. His complaint was rejected by an adjudication officer and on appeal by the Labour Court. These bodies concluded that they lack jurisdiction to entertain his complaint. The Labour Court considered that as it was not vested with jurisdiction it could not disapply any provision of Irish law which did not confer that jurisdiction.
19. All courts and tribunals established by law have power to examine the basis on which they are invited to assume jurisdiction. Jurisdiction may be conferred by a legislative act expressly or by necessary implication. A legal remedy may also be conferred either expressly or by necessary implication.
20. All courts and tribunals must apply national law in determining whether they have jurisdiction. While Member States have discretion in the manner in which they implement Directives, European law requires purposive interpretation of provisions of national law which implement Directives.
21. Absent some clear indication contrary intention, regulations made under s.3 of the European Communities Act 1972 (the 1972) Act must be interpreted in a manner which gives full effect to Directives; full effect which accords with the purposes of those Directives and general principles of European law. This sometimes includes interpretation which implies or supplies content.
22. Section 27(1) of the 1997 Act and the Regulations of 2003 must be interpreted in a manner which assumes that a purpose of both the 1997 Act and those Regulations is to give full effect to the 1993 Directive and Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000, amending the 1993 Directive and concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive (the 2000 Directive).
23. These provisions must be read together in a manner which gives full effect to this intention. This includes presumed intention of the State to implement the 2000 Directive by providing a remedy to workers affected by breaches of Article 6 of the Regulations of 2003 which is the same as that afforded by s.27 of the 1997 Act to workers in other sectors.
24. The 1993 Directive "la(id) down minimum safety and health requirements for the organisation of working time" (Article 1.1). It applied to "minimum; periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time; and certain aspects of night work, shift work and patterns of work" (Article 1.2).
25. Article 17 of the 1993 Directive allowed Member States to derogate from obligations imposed by Articles 3, 4, 5, 6, 8 or 16 in the case of workers engaged in specified activities. Article 1.3 of the 1993 Directive specified that "This Directive shall apply to all

sectors of activity, both public and private, within the meaning of Article 2 of Directive 89/391/EEC, without prejudice to Article 17 of this Directive, with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing and other work at sea and the activities of doctors in training..."

26. The 2000 Directive states at para. (2) of the recitals that the 1993 Directive "should be amended for the following reasons." Recitals (3) to (13) are relevant. These read as follows:

"(3) Road, air, sea and rail transport, inland waterways, sea fishing, other work at sea and the activities of doctors in training are excluded from the scope of Council Directive 93/104/EC.

(4) The Commission, in its proposal of 20 September 1990, did not exclude any sectors and activities from Council Directive 93/104/EC, nor did the European Parliament in its Opinion of 20 February 1991 accept such exclusions.

(5) The health and safety of workers should be protected at the workplace not because they work in a particular sector or carry out a particular activity, but because they are workers.

(6) As regards sectoral legislation for mobile workers, a complementary and parallel approach is needed in the provisions on transport safety and the health and safety of the workers concerned.

(7) Account needs to be taken of the specific nature of activities at sea and of doctors in training.

(8) Protection of the health and safety of mobile workers in the excluded sectors and activities should also be guaranteed.

(9) The existing provisions concerning annual leave and health assessments for night work and shift work should be extended to include mobile workers in the excluded sectors and activities.

(10) The existing provisions on working time and rest need to be adapted for mobile workers in the excluded sectors and activities.

(11) All workers should have adequate rest periods. The concept of "rest" must be expressed in units of time, i.e. in days, hours and/or fractions thereof.

(12) A European Agreement in respect of the working time of seafarers has been put into effect by means of a Council Directive ⁽⁵⁾, on a proposal from the Commission, in accordance with Article 139(2) of the Treaty. Accordingly, the provisions of this Directive should not apply to seafarers.

(13) In the case of those "share-fishermen" who are employees, it is for Member States to determine, pursuant to Article 7 of Council Directive 93/104/EC, the conditions for entitlement to, and granting of, annual leave, including the arrangements for payments."

27. The 2000 Directive recognises the principle that the health and safety of workers should be protected at the workplace. This right is not confined to workers who work in a particular sector or engage in a particular activity. The 2000 Directive gives effect to this principle by providing modified protections for workers engaged in sea fishing or other activities at sea, doctors in training, and to "guarantee" protection of the health and safety of "mobile workers in the excluded sectors and activities." It states that "All workers should have adequate rest periods."

28. Article 1 of the 2000 Directive gave effect to this by replacing Article 1.3 of the 1993 Directive by the following text:

"3. This Directive shall apply to all sectors of activity, both public and private, within the meaning of Article 2 of Directive 89/391/EEC, without prejudice to Articles 14 and 17 of this Directive.

This Directive shall not apply to seafarers, as defined in Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers, concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST)(*) without prejudice to Article 2(8) of this Directive."

29. Sea fishing and the activities of doctors in training were no longer excluded from the ambit of the 1993 Directive. Instead, doctors in training were provided for by permitting a derogation allowed by additional text inserted into Article 17(2) of the 1993 Directive and workers on sea-going fishing vessels were provided for insertion into the 1993 Directive of Article 17b which states as follows:

"Workers on board sea-going fishing vessels

1. Articles 3, 4, 5, 6 and 8 shall not apply to any worker on board a sea-going fishing vessel flying the flag of a Member State.
2. Member States shall, however, take the necessary measures to ensure that any worker on board a sea-going fishing vessel flying the flag of a Member State is entitled to adequate rest and to limit the number of hours of work to 48 hours a week on average calculated over a reference period not exceeding 12 months.
3. Within the limits set out in paragraphs 2, 4 and 5 Member States shall take the necessary measures to ensure that, in keeping with the need to protect the safety and health of such workers,

the working hours are limited to a maximum number of hours which shall not be exceeded in a given period of time, or

a minimum number of hours of rest are provided within a given period of time.

The maximum number of hours of work or minimum number of hours of rest shall be specified by law, regulations, administrative provisions or by collective agreements or agreements between the two sides of the industry.

4. The limits on hours of work or rest shall be either:
 - (a) maximum hours of work which shall not exceed:
 - (i) 14 hours in any 24-hour period, and
 - (ii) 72 hours in any seven-day period;
 - or
 - (b) minimum hours of rest which shall not be less than:
 - (i) 10 hours in any 24-hour period, and
 - (ii) 77 hours in any seven-day period.
5. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.
6. In accordance with the general principles of the protection of the health and safety of workers, and for objective or technical reasons or reasons concerning the organisation of work, Member States may allow exceptions, including the establishment of reference periods, to the limits laid down in paragraphs 2, 4 and 5. Such exceptions shall, as far as possible, comply with the standards laid down but may take account of more frequent or longer leave periods or the granting of compensatory leave for the workers. These exceptions may be laid down by means of
 - (i) laws, regulations or administrative provisions provided there is consultation, where possible, of the representatives of the employers and workers concerned and efforts are made to encourage all relevant forms of social dialogue, or
 - (ii) collective agreements or agreements between the two sides of industry.

7. The master of a sea-going fishing vessel shall have the right to require workers on board to perform any hours of work necessary for the immediate safety of the vessel, persons on board or cargo, or for the purpose of giving assistance to other vessels or persons in distress at sea.
 8. Members States may provide that workers on board sea-going fishing vessels for which national legislation or practice determines that these vessels are not allowed to operate in a specific period of the calendar year exceeding one month, shall take annual leave in accordance with Article 7 within the abovementioned period."
30. The 1997 Act implemented the 1993 Directive. Part II of the 1997 Act conferred a number of rights on employees to minimum rest periods and other matters relating to working time. As permitted by the 1993 Directive, s.3(2)(a) of the 1997 Act provided that Part II of that Act did not apply to "a person engaged in- (i) sea fishing, (ii) other work at sea, or (iii) the activities of a doctor in training."
 31. The 2000 Directive brought workers on sea-going fishing vessels within the 1993 Directive. They are covered by special provisions contained in that Directive. The 1993 2000 Directives were replaced by Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 (the 2003 Directive) concerning certain aspects of the organisation of working time. The 2003 Directive entered into force on 2 August 2004.
 32. Article 21 of the 2003 Directive is identical to Article 17b of the 1993 Directive, as inserted by the 2000 Directive. Article 21 of the 2003 Directive has since been replaced by Article 11 of the Agreement (the Agreement) implemented by Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the Implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives In the European Union (Cogeca), the European Transport Workers Federation (ETF) and the Association of National Organisations of Fishing enterprises in the European Union (Europêche) (Text with EEA relevance.) (the 2017 Directive).
 33. The Agreement covers a number of subjects, including organisation of working time. It was the subject matter of a request to the Council for implementation under Article 155(2) of the Treaty on the functioning of the European Union and it was decided that the appropriate method of implementation under Article 288 was a Directive. Article 11 of the Agreement deals with rest periods for workers on EU registered fishing vessels.
 34. Article 11(1)(a) specifies that Articles 3 to 6 inclusive, 8 and 21 of the 2003 Directive "shall not apply to fishermen covered under this agreement." The remainder of text of this Article contains provisions which are almost identical to those in Article 21 of the 2003 Directive.

35. The overall scheme of the various relevant Directives is that they now apply to all workers in all sectors covered by the 2003 Directive. Workers in some sectors must work irregular hours. Special provisions regulate working hours and rest periods of workers in these sectors.
36. These Directives are silent on the manner in which Member States may choose to implement their provisions and provide enforcement remedies. However, they do not permit Member States to make arbitrary rules which preclude specific sectors of the workforce from availing of remedies given to workers in other sectors.
37. Ministers of State with responsibility for sectors of employment activity have made a number of regulations in order to give effect to the 1993 Directive, the 2000 Directive, the 2003 Directive and other relevant Directives. Some of these regulations avail of permitted exemptions and derogations.
38. These regulations were made in exercise of powers conferred by s.3 of the European Communities Act 1972 (the 1972 Act) or Section 4 of the 1997 Act. Most of these regulations expressly provide for employee recourse to a complaints and compensation remedy identical to that contained in s.27 the 1997 Act.
39. For instance, the Organisation of Working Time (Inclusion of Offshore work) Regulations 2004 (S.I. No. 819 of 2004) was introduced to implement other provisions of the 2000 Act to workers engaged in offshore installations. These regulations exclude the application of ss.11, 12 and 13 and 16 of the 1997 Act. However, their effect is to bring these workers within the ambit of that Act. The Organisation of Working Time (Inclusion of Transport Activities) Regulations 2004 (S.I. No. 817 of 2004) have similar effect and exclude the application of ss. 11, 12, 13 and 16 of that Act.
40. The European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations 2004 (S.I. No. 494 of 2004) were made under s.3 of the 1972 Act. These regulations included an amendment to the definition of "relevant provision" in s.27(1)(a) of the 1997 Act which gave doctors in training access to the rights conferred by s.27.
41. The European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2012 (S.I. No. 36 of 2012) gave effect to Directive 2002/15/EC of the European Parliament and Council of 11 March 2002 for the working time of persons performing mobile road transport activities. Articles 5, 8, 9, 10, 11 and 12 of those Regulations impose obligations relating to breaks from work, daily and weekly rest and night work and ancillary obligations relating to notifications to employees and proper record keeping. These Regulations provide employees in this sector with a complaints and redress procedure which is identical to that set out in s.27 of the 1997 Act.

42. While the Regulations of 2003 do not expressly refer to the 1997 Act, they gave effect to those parts of Directive 2000/34/EC dealing with sea fishermen which are now to be found in Article 21 of the 2003 Directive.
43. The Labour Court in its decision referred to absence of provisions for compensation and redress in either the 2003 Regulations or the European Union (International Labour Organisation Work in Fishing Convention) (Working Hours) Regulations 2019 (S.I. 672 of 2019) (the Regulations of 2019).
44. The Regulations of 2019 give effect to Articles 3 and 11 of the Annex to the 2017 Directive. They post-date Adam Elganagy's complaint.
45. This Court has identified one further Irish legislative act relating to hours of work and rest in the 1993 Directive and subsequent related Directives which does not expressly provide employees with a domestic remedy for breach equivalent to that set out in s.27 of the 1997 Act. This is the European Communities (Merchant Shipping) (Organisation of working Time) Regulations 2003 (S.I. No 532 of 2003). These regulations were made to give effect to Directive 1999/63/EC concerning the agreement on the organisation of working time of seafarers concluded by the European Community shipowners' Association and the Federation of Transport Workers' Unions in the European Union and European Parliament and Council Directive 1999/95/EC concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports (the 1999 Directive).
46. Clauses 4, 5, 6, and 7 of the agreement annexed to the 1999 Directive laid down rules relating to daily and weekly work hours and rest and night work. Sea transport was excluded from the scope of the 1993 Directive. The revision to Article 1(3) of the 1993 Directive in Article 1 of the 2000 Directive continued this exclusion for seafarers as defined in Directive 1999/63/EC. The 2003 Directive which replaced these Directives with effect from 1 August 2004 did not continue this exclusion. This undermines any rationale for continuing to exclude workers in this sector from remedies equivalent to those given by s.27 of the 1997 Act.
47. Galopin Trawlers draw attention to the fact that the public bodies entrusted by the 2003 Regulations with responsibility for inspection and enforcement are different from those mandated by law to ensure compliance with the provisions of the 1997 Act. This is also a feature of S.I. 532 of 2003 and of the Regulations of 2019. The enforcement powers conferred on these bodies are also somewhat different. They say that the State has elected to provide a different enforcement regime for working time rights of workers on board trawlers and that the Regulations of 2003 reflect this by not including any amendment to s.27(1) of the 1997 Act to bring employed staff on trawlers within that provision.
48. There is no indication from within the 2003 Regulations that the State made a deliberate choice not to extend the provisions of s.27(1) of the 1997 Act to breaches of Article 6 of those regulations. They operate in tandem with the 1997 Act. They do not refer to that

Act or amend s.3(2)(a)(i) to remove the exclusion of a person engaged in sea fishing. Their subject-matter is maritime activity, and it is no surprise that they contain recording obligations and inspection and enforcement regimes which differ from those applicable the 1997 and 2015 Acts. They give no powers to authorised officers to issue instructions to owners or masters of ships to secure compliance.

49. Many fishing vessels operating in European Union waters are registered in Ireland. Workers engaged on these vessels are vulnerable to exploitation. It cannot be inferred that the State intends workers in this sector to enjoy a lesser standard of protection for rights conferred by the 2000 and 2003 Directives than that enjoyed by workers in other sectors.
50. The law of the European Union requires that Member States provide effective national remedies to individuals affected by breaches of obligations imposed by that law. Autonomy of Member States in the manner in which they bring European law into force is subject to this overriding requirement.
51. Where a Member States adopts rules giving effect to an amending Directive which extends rights to further classes of individuals, absent some indication of contrary intention, such rules should be presumed to intend to extend existing remedies for enforcement of such rights. Like should be treated with like. This is the concept of equivalence. It should also be presumed that rules adopted by a Member State to extend such protections are not intended to impair effective exercise of rights so conferred.
52. The principle of interpretation in conformity with European Union law requires an Irish court or tribunal to do whatever lies within its competence, having regard to the whole body of rules of national law, to ensure that the 2000 and 2003 Directives are fully effective. The national court is required to consider the national law and to assess to what extent it may be applied to produce a result which is either in favour of or contrary to that sought by those Directives.
53. For example, if the application of interpretative methods recognised by national law enables, in certain circumstances, a provision of domestic law to be construed in such a way as avoid conflict with another rule of domestic law or the scope of that provision to be restricted to that end by applying it only in so far as it is compatible with the rule concerned, the national court is bound to use those methods in order to achieve the result sought by the Directive: see Cases C-397-403/01 *Pfeiffer and others v. Deutsches Rotes Kreuz, Kreisverband Waldschut eV* [2004] ECR I-8835 at paras.115, 116 and 118.
54. If the State had enacted a consolidated code to implement the 1993, 2000 and 2003 Directives which conferred on workers a remedy of the sort provided by s.27 of the 1997 Act, but specifically excluded recourse to that provision to enforce protections afforded by Article 6 of the 2003 Regulations, Article 17a of the 2000 Directive and Article 21 of the 2003 Directive, an adjudication officer would be obliged to disregard

this exclusion and proceed to determine any complaint arising from breach of the relevant provisions.

55. Member States must implement European Union Directives in a manner which respects Charter rights. Their courts and tribunals must apply and interpret national rules accordingly.
56. Inclusion of a discriminatory rule of this sort in national legislation implementing these Directives would contravene Articles 20 and 31 of the Charter of Fundamental Rights of the European Union. All courts and statutory tribunals are obliged to apply European Union law and to disapply national law where there is a conflict between that law and national law.
57. The same principle should apply where an interpretation arising from piecemeal implementation of Directives would produce a similar discriminatory result, so long as it is open to a court or tribunal to interpret national implementing law as conferring any necessary competence.
58. This Court considers that in order to construe the 2003 Regulations in a manner compliant with European law it is necessary to assume that, although intention to extend the provisions of s.27(1) and (3) of the 1997 Act to breaches of Article 6 was not expressed, this must be implied as a matter of public law necessity to give full effect to European law in much the same way as courts construing contracts in private law may imply what is not expressly stated in order to give such contracts business efficacy.
59. This interpretation is not contra legem. It does not contravene any express contrary provision in the 1997 Act or the 2003 Regulations. It does not contravene any fundamental rule of Irish Law. It accords with the purposes of the 2000 and 2003 Directives and ensures that workers in all sectors have a uniform right of recourse to effective civil law remedies where their rights to proper rest periods have been infringed.
60. This judgment relates to a decision of the Labour court to uphold a determination of the adjudication officer not to entertain the complaint on grounds of want of jurisdiction. This point about absence of jurisdiction was raised by the adjudicating officer and the Labour Court. They acted properly.
61. Judicial review of the decision of the adjudication officer may have been a preferable means of resolving this issue. While courts and tribunals have jurisdiction to determine issues of European law, such issues sometimes have a public law dimension which extends beyond the interests of immediate parties to litigation.
62. Section 46 of the 2015 Act states that a decision of the High Court on an appeal on a point of law from a decision of the Labour Court "shall be final and conclusive." Any appeal against this decision must be to the Supreme Court under Article 34.5.4 of the

Constitution. The Attorney General should be notified of this decision as he may wish to intervene and appeal it.

63. This judgment is being delivered electronically. The parties should initially make written submissions on who is to bear the costs of this appeal. A date will be fixed in early course for the hearing of any oral submissions relating to the form of the order and the costs of this appeal.
64. Following delivery of this judgment in its unapproved form this Court became aware of the European Union (Workers on Seaboard Fishing Vessels) (Organisation of working Time) (Share fishermen) Regulations 2020 (S.I. No. 585 of 2020), (the 2020 Regulations). The 2020 Regulations were made to comply with the State's obligation under Article 21 of the 2003 Directive. They relate to rest periods of "share fishermen" engaged to work on fishing boats other than under contracts of service and paid on whole or in part out of profits or gross earnings of the catch. They do not contain any express extension of s.27 (1) and (3) of the 1997 Act to workers affected by breaches of the rights to rest and limits on hours of work which are set out in Article 4.
65. The content of the 2020 Regulations do not alter this Court's view of what must be read into the Regulations of 2003. Inclusion of Article 6 of the Regulations of 2003 in the list of provisions covered by s.27(1) of the 1997 Act is there by implication in order to give an effective and equal remedy to workers on Irish-registered sea trawlers. This implication is necessary to uphold entitlements which were conferred when the State implemented provisions of the 2000 Directive which applied to this sector of the workforce.