

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**



16 December 2016

Case Document No. 2

University Women of Europe (UWE) v. Finland
Complaint No 129/2016

**OBSERVATIONS BY THE GOVERNMENT
ON ADMISSIBILITY**

Registered at the Secretariat on 15 December 2016



15 December 2016

Mr Henrik Kristensen
Deputy Executive Secretary
European Committee of Social Rights

Complaint No. 129/2016
University Women of Europe (UWE) v. Finland

Sir,

With reference to your letters of 27 September, 4 November and 16 November 2016 concerning the aforementioned complaint, I have the honour, on behalf of the Government of Finland, to submit the following observations on the admissibility of the aforementioned complaint.

Procedural aspects

The Government notes with reference to the Committee's letter of 27 September 2016 that the original complaint (in French) was accompanied by 78 annexes which were not communicated to the Government.

By its letter of 3 November 2016 the Government requested extension of the time-limit of 4 November 2016 fixed by the Committee for the submission of the Government's observations on the admissibility of the complaint, *inter alia*, on the grounds that it was yet to receive the annexes in question.

On 4 November 2016 the Committee extended the time-limit until 15 December 2016 as requested.

The Government received the English translation of the complaint on 16 November 2016.

By its letter of 12 December 2016 the Government again requested extension of the time-limit of 15 December 2016 fixed by your Committee for the submission of the Government's observations on the admissibility of the complaint, *inter alia*, on the grounds that it was still to receive the annexes in question.

The Government received the said 78 annexes on 14 December 2016.

In this connection, the Government emphasizes the importance of submitting all relevant documents concerning the complaint, including annexes as well as translations, to the Agent of the Government of Finland before the European Committee of Social Rights, at the same time.

The Government regrets in this connection that the Committee's letter of 27 September 2016 did not mention the fact that the same complaint had been also lodged against all other 14 Contracting Parties also having had ratified the 1995 Additional Protocol to the European Social Charter.

Finally, as regards the University Women of Europe's (later, "UWE") multiple allegations presented to the Committee, the Government emphasizes that the fact the Government does not comment each and every allegation does not mean that the Government accepts them. Accordingly, all of the UWE's allegations are to be rejected.

Admissibility of the complaint

General

The Government observes that the present complaint has been lodged by University Women of Europe (UWE) on 24 August 2016.

The UWE alleges that Finland has violated Articles 1, 4 § 3 and 20 in conjunction with Article E of the Revised European Social Charter and complains that Finland fails to observe the principle of equal pay for women and men for equal, similar or comparable work in breach of the above-mentioned provisions.

The Government notes that in accordance with Article 2 § 1 of the Additional Protocol of 1995 providing for a system of collective complaints, any Contracting State may declare that it recognises the right of any other representative national non-governmental organisation than those referred to in Article 2 of the Additional Protocol within its jurisdiction which has particular competence in matters governed by the Charter, to lodge complaints against it with the European Committee of Social Rights.

The Government observes that the Additional Protocol providing for a system of collective complaints took effect in Finland on 1 September 1998 and Finland has made a declaration enabling national non-governmental organisations to submit collective complaints.

The Government further observes that the UWE has been registered for the period of 1 January 2016 to 31 December 2019 as an international non-governmental organisation entitled to submit collective complaints by the Governmental Committee of the European Social Charter and the European Code of Social Security.

Unsatisfactory application of the Charter

The Government observes that according to Article 3 of the Additional Protocol of 1995 for Providing for the System of Collective Complaints, the international non-governmental organisations and the national non-governmental organisations referred to in Article 1(b) and Article 2 respectively may submit complaints in accordance with the procedure described by the aforesaid provisions only in respect of those matters regarding which they have been recognised as having particular competence.

The Government observes that according to information available on the UWE's internet page, "nowadays UWE is a network of Associations of University Women from nineteen European countries working in partnership with the Council of Europe and the European Women's Lobby to address issues impacting the lives of academic women throughout the European community. Its aim is to work towards an achievement of the goals of the Council of Europe and also to cooperate with all other European governmental and non-governmental organizations dealing with European matters and in particular questions affecting the lives of academic women".

The Government further observes that the UWE appears to justify its competence by referring to the statute of Federation of University Women (IFUW), which has become Graduate Women University (GWI) in 2015. The UWE does not explicit the competence of IFUW/GWI whose statutes are not joined to the file. The Government considers that the UWE has thus not proven its particular competence.

The Government notes that on the basis of the complaint itself as well the multiple annexes it still remains unclear in which way the UWE would have "particular competence" in the field of labour law and the status of women in the labour market. Accordingly, the complaint should be declared inadmissible for this reason alone.

The Government notes that according to Article 4 of the Additional Protocol providing for a system with collective complaints, a complaint must relate to a provision of the Charter accepted by the Contracting Party concerned and indicate in what respect the latter has not ensured the satisfactory application of this provision.

The Government observes that part IV of the complaint entitled "The Violations of the Charter" appears to focus on three specific aspects, namely 1) equality monitoring bodies, 2) representation of women in decision-making posts in private companies and 3) the actual situation with regard to unequal pay for equal or similar work.

The Government further observes that the UWE states on page 11 of the complaint that "the relevant laws are out-dated and have no effect in any of the countries which have ratified the Social Charter and the subsequent related texts.

On page 16 of the complaint the UWE has referred to "the country report in Finland and in the ILO's Natlex base". Further, while some national Acts in Finland are mentioned, the complaint does not mention which particular part of the Finnish legislation nor practice would allegedly violate any provisions of the Charter. All in all, the UWE's allegations are very vague, general and unsubstantiated, and not supported by any relevant arguments nor evidence in that respect.

For instance, on page 23 of the complaint the UWE notes itself that "Finland's score is above that of Europe and of many other countries. Finland is one of the four leading countries, however despite commendable efforts, the result is still not achieved".

In the Government's view, there is no indication in the complaint of how the Charter provisions are not satisfactorily applied. The UWE has merely drawn its own conclusions from various sources listed as annexes but has failed to indicate in what respect Finland has not ensured the satisfactory application of the Charter provisions.

Further, according to paragraph 2 of the Explanatory Report to the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, "the system of collective complaints is to be seen as a complement to the examination of governmental reports, which naturally constitutes the basic mechanism for the supervision of the application of the Charter".

In the Government's view, due to its nature and scope, the present complaint can be seen as alternative, rather than a complement to the reporting procedure. The same complaint has in fact been lodged against all other 14 Contracting Parties also having had ratified the 1995 Additional Protocol to the European Social Charter which number could change should other Contracting Parties ratify the said Additional Protocol.

It is further unclear as to whose interest the UWE seeks to defend as the wording in the complaint can be interpreted to include all women in Europe. In fact, on page 24 of the complaint the UWE notes that "If the Committee were to recognise that Finland complies with the Social Charter, this would validate the argument that it is reasonable to be subjected to unequal treatment with regard to pay. It would undermine the Social Charter, which offers so much hope for all women who are exploited so shamelessly in Finland and elsewhere".

Finally, the Government expresses its concern over the fact that the complaint appears to be a somewhat political manifesto.

Conclusion

The Government is firmly of the view, without taking any stance on the merits of the case, that for the reasons mentioned above, the UWE has failed to indicate in what respect Finland has not ensured the satisfactory application of the Charter's provisions, and that the UWE has thus failed to meet the admissibility criteria laid down in the Additional Protocol and accordingly, the complaint should be declared inadmissible.

Accept, Sir, the assurance of my highest consideration.



Krista Oinonen
Agent of the Government of Finland
before the European Committee of Social Rights
Director, Unit for Human Rights Courts and Conventions