



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

7 May 2013

**Case document No. 2**

**Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland**  
Complaint No. 89/2013

**OBSERVATIONS FROM THE GOVERNMENT  
ON THE ADMISSIBILITY**

**Registered at the Secretariat on 3 May 2013**



**Collective Complaint**

**European Committee of Social Rights**

**Federation of Catholic Family Associations in Europe (FAFCE)**

**v.**

**Ireland**

**Complaint No 89/2013**

**Observations on the admissibility of the Application**

**3 May 2013**

## Introduction

1. By letter dated 22 March 2013 the Executive Secretary of the European Committee of Social Rights wrote to the Agent for the Government of Ireland (the Respondent) to inform that the European Committee of Social Rights (the Committee) wished to receive the Respondent's observations on the admissibility of the above mentioned complaint. The Respondent submits that this application must be declared inadmissible for failure to comply with Article 3 of the European Social Charter (Additional Protocol) which states:

### *“Article 3*

*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 prescribed by the aforesaid provisions only in respect of those matters regarding which they have been recognised as having particular competence.”*

(Emphasis added)

The enclosed submissions are without prejudice to any observations the Respondent may submit on the merits of the application as may be required.

## **The failure to establish its competence in the application submitted**

2. The Respondent requests the Committee to take note of the fact that in the section of the complaint titled “Admissibility”, the applicant organisation addresses the requirement that only international non-governmental organisations which have consultative status with the Council of Europe may submit complaints alleging the unsatisfactory application of the Charter (Article 1(b)) but fails to refer to the competence requirement contained in Article 3.
3. The Respondent submits that it is incumbent on applicant organisations to establish their competence in accordance with the requirements of Article 3 of the European Social Charter (Additional Protocol) and failure to do so at the point of lodging their application should disallow further consideration of their application ie it is not for the

applicant organisation to subsequently try and establish their competence once the application has been lodged.

**The applicant organisation does not meet the requirements of Article 3**

4. The Respondent considers this complaint to be inadmissible on the grounds that the Federation of Catholic Family Associations in Europe (FAFCE) does not have a ‘particular competence’ in respect of child trafficking generally and in particular as it relates to Ireland.
5. The website of FAFCE describes it as a representative body made up of catholic family organisations from various European countries who have come together to improve the representation of family interests at a European level. On its website FAFCE proceeds to describe itself in the following terms:

*“The FAFCE serves as a European liaison platform for exchange of experiences of pastoral care of the family and family policy issues for its members. Our member associations provide important catholic expertise and contacts on local level and the Federation serves as a European umbrella organisation. Outwards we consider ourselves as a political representation for family interests from a catholic perspective, on the basis of the Catholic Church’s Social and Family teaching as well as of the testimony of faith and experiential knowledge of Christians in Church and in society”*

6. Nowhere on the website does the Applicant organisation give any indication of a “particular competence” in relation to human rights issues, child trafficking generally, or as it relates to Ireland.
7. According to the website the Irish affiliate is Family Solidarity, Ely House, Ely Place Dublin 2. As outlined in *Ireland’s 8<sup>th</sup> National Report on implementation of the revised European Social Charter* a Working Group on child trafficking (the Working Group) has been established as a key element in developing a response to child trafficking and in creating an environment which protects children. The working group is part of a wide ranging consultative structure established in Ireland which involves more than 70 different Governmental, Non-Governmental and International Organisations who are involved in anti-trafficking initiatives. The Irish consultative framework is based on that recommended by the Organisation for Security and



Cooperation in Europe in the context of developing National Referral Mechanisms on human trafficking.

8. The membership of the Working Group is open to any Non-Governmental Organisation that is active in the area of preventing child trafficking in Ireland. Family Solidarity are not members of this working group nor have they indicated an interest in joining. The Applicant organisation could have applied to become a member of this working group but it has made no application. Consequently, the Applicant organisation cannot claim to have a particular competence in this field generally and as it relates to Ireland.

*The material relied on is out of date and indicates FAFCE's lack of a particular competence*

9. The application lodged is not supported by accurate and up to date information. First, reference is made to research by Patricia Stapleton, *Human trafficking in Ireland: identifying victims of Trafficking* (2011); even though this paper states that '*the phenomenon of child trafficking was deemed to be outside the scope of this research as it raises different political and ethical issues.*'
10. Second, the complaint references the US State Department Trafficking in Persons Report 2011. There have been more recent reports by the US State Department, namely the 2012 Report. The Respondent maintains that the situation with regard to prosecutions has changed in the two years since the publication of the 2011 report. The Applicant organisation has not included more recent information available regarding ongoing prosecutions. In December 2012, in a response to a parliamentary question the Minister for Justice and Equality highlighted that there were 7 prosecutions going through the courts for offences under the Criminal Law (Human Trafficking) Act 2008 (**Appendix I**). These cases involve a total of 14 children as victims; 10 males and 4 females; all of these children are Irish Nationals. The full text of this reply is attached as **Appendix II**.
11. The Respondent notes that the European Committee on Social Rights (ECSR) has interpreted Article 7, paragraph 10, as covering the trafficking of human beings, not Article 17 which is the subject of this complaint.<sup>1</sup> It should also be recalled that the

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<sup>1</sup> Children's Rights under the European Social Charter, Information Document prepared by the Secretariat of the ESC;

Committee itself seeks information on trafficking under Article 7 and not Article 17 as is relied on by the Application organisation.

12. All of the issues highlighted point to a lack of 'particular competence' on the part of the Applicant Organisation and in the circumstances the Respondent contests the admissibility of this complaint.

### **Conclusion**

13. Article 3 of the European Social Charter (Additional Protocol) is clear; an applicant organisation must be "...*recognised as having particular competence.*" It is not enough that an organisation may have an interest in an area. The requirements of Article 3 are separate and additional to the requirement of being an international non-governmental organisation with consultative status with the Council of Europe. There is good reason to require that applicant organisations must have a particular competence. As is demonstrated here, applications submitted by organisations that do not have a particular competence in respect of the matters which they complain can contain out of date and inaccurate information.
14. The Respondent submits that in the present complaint no attempt has been made by the Applicant organisation to establish in the application lodged that it has a particular competence as required by Article 3. It is submitted that the reason for this is that, in fact, the Applicant organisation does not have "a particular competence." Consequently, the Respondent submits that the application should be struck out.

