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

28 May 2018

Case Document No. 9

University Women of Europe (UWE) v. Ireland
Complaint No. 132/2016

**FURTHER RESPONSE FROM THE GOVERNMENT ON THE
MERITS**

Registered at the Secretariat on 6 April 2018

UNIVERSITY WOMEN OF EUROPE (UWE)

(Complainant)

-and-

IRELAND

(Respondent)

Complaint No. 132/2016

Response to Submissions of the Complainant

1. The Complainant's response to the Respondent's submissions on the merits is vague and unsubstantiated. The Complainant fails to apply its allegations to Ireland or to point to any particular deficiency in Ireland's legislative, institutional and non-statutory measures that are in place to ensure compliance with Articles 1, 4, 4§3, 20 and E of the Charter.
2. The Complainant fails to indicate, as required by Article 4 of the 1995 Additional Protocol to the Charter, in what respect the Respondent has not ensured the satisfactory application of this provisions cited. The Complainant utilises sources relating to pan-European or global trends, and fails to indicate in what respect Ireland does not ensure the satisfactory application of the Charter save in the most general of language. The Respondent submits that the Complaint should be dismissed on these grounds alone.
3. The Respondent rejects the Complainant's contention that the outlook of the Irish State is exclusively masculine. More than ever, women are to the forefront of Irish political and business life. The Respondent continues to work to improve gender equality across the public and private sectors through a range of measures including legislation, social protection measures, educational intervention and funding for a range of positive action promoting continuous development in gender equality, including equal pay.

4. The Complainant at page 2 of its response refers to calls by trade union lobbyists on the Irish Government to introduce legislation requiring the publication of pay information. A Private Member's Bill regarding pay reporting is currently passing through the Irish Houses of Parliament. It passed through the Committee Stage of the Seanad Éireann (Upper House) on 25 October 2017, and will shortly fall to be considered by Dáil Éireann (Lower House).
5. The Complainant refers at page 3 of its response to an Irish Times article on the division of housework between men and women. The Respondent submits that firstly this is not a matter that comes within the scope of the collective complaints mechanism and is not a matter for legislation.
6. At page 5 of its response, the Complainant engages in a generalised and anecdotal narrative that fails to point to any factual matter that suggests that the Respondent has failed to ensure the satisfactory application of the Charter.
7. The Complainant alleges further on page 5 of its response that "while proceedings may be successful, this will be after years of painful, time-consuming, costly and uncertain struggles." The Respondent submits that this is not the case in Ireland. The 2016 report of the Workplace Relations Commission showed that over three-quarters of complaint applications are heard within five months of the initial receipt of the complaint (25% are heard within three months and 55% within four months)¹. This shows that taking proceedings is not a protracted process. Decisions issue within six to eight weeks of the hearing. These figures clearly show that the Workplace Relations Commission has adequate resources and the Complainant has failed to point to any alleged deficiency in the institutional framework of the Respondent State.
8. The Complainant refers on page 5 of its Response to a Belgian employment law case taken by Gabrielle Defrenne and the length of time her proceedings took to complete. As noted above, employment law proceedings in Ireland are generally concluded within a reasonable period of time and so the reference is not relevant to the complaint at hand.

¹ Workplace Relations Commission Annual Report 2016 at page 19, accessible at https://www.workplacerelations.ie/en/Publications_Forms/WRC_Annual_Report_2016.pdf.

9. The Complainant refers at page 6 of its response to “the fact that the European Committee of Social Rights did not during those supervision cycles find that the relevant policies failed to comply with the Charter does not mean that its analysis covered all the aspects raised by this complaint, in particular because it did not have adequate information for that purpose and for the cause to be heard. Accordingly, the European Committee of Social Rights may acknowledge that the standards in question are in line with the Social Charter but that the practices are disappointing or derisory and are therefore unacceptable.” The Complainant here appears to be criticising the practises of the Committee or attempting to usurp its role. It is clearly the case that the Committee could have found that Ireland was not in conformity with the provisions of the Charter, but chose not to do so. The Respondent again submits that these findings of conformity are relevant to the complaint at hand. The purpose of the supervisory role of the Committee is to examine each State with regard to their conformity and doing so the Committee found that Ireland was in conformity with its obligation under Article 4.3 of the Charter to “recognise the right of men and women workers to equal pay for equal work”.
10. The Complainant at page 7 of its response refers to the case of International Movement ATD Fourth World v. France (Complaint No. 33/2006, 5 December 2007) where the Committee described the nature of states’ obligations under the Charter. It is submitted that the Respondent, having previously been found to be in conformity with the Articles of the Charter that are the subject of this Complaint, satisfied and continues to satisfy the obligations described by the Committee in this Complaint.

A) Adopt the Necessary Legal, Financial and Operational Means

11. The Respondent has previously described the legal framework by which the right to equal pay is protected in Ireland. It is submitted that this framework is robust and effective and satisfies the Respondent’s obligations under the Charter.

B) Maintain Meaningful Statistics on Needs, Resources and Results

12. Statistics are maintained by the Central Statistics Office² and by the Workplace Relations Commission in relation to complaints submitted to this body. These statistics are used to inform policy development in this area.

C) Undertake Regular Reviews/ D) Establish a Timetable

13. The Respondent has engaged in regular reviews of policy with regard to equal pay and all policies are formulated with an exact timetable in mind. The most up to date policy in this regard is the National Strategy for Women and Girls 2017-2020 previously submitted to the Committee. This a detailed document that creates a clear action plan across the area of gender equality, involving a broad range of stakeholders and details the required actions and the timeframe for doing so.

E) Pay Close Attention to the Impact of Policies, particularly on the most Vulnerable

14. The above referenced National Strategy for Women and Girls places a particular emphasis on the impact of policies on women facing particular socio-economic disadvantages. It states at page 30:

“Advancing the specific socio-economic situations of particular groups such as migrant, Traveller and Roma, and LGBTI women and women with disabilities, through the Migrant Integration Strategy, and the Comprehensive Employment Strategy for People with Disabilities and through the forthcoming National Traveller and Roma Inclusion Strategy, National LGBTI Inclusion Strategy, and National Disability Inclusion Strategy, all currently being drafted. The implementation of these strategies will each be monitored and reported on a gender- disaggregated basis.”

15. At page 9 of its response the Complainant alleges a lack of data concerning discrimination complaints in the annual report of the Workplace Relations Commission. The Workplace Relations Commission Annual Report 2016 gives the detailed analysis of complaints made under the Employment Equality Acts 1998-2011

² See e.g. Central Statistics Office, Men and Women in Ireland 2016, accessible at <http://www.cso.ie/en/releasesandpublications/ep/p-wamii/womenandmeninireland2016/>.

and each of the grounds of discrimination indicated in each complaint during 2016³. There were 691 specific complaints under the Acts during this time, and each complaint may indicate more than one ground of discrimination. Gender was cited as a ground of complaint in 51% of cases, showing that there are a substantial number of employees bringing complaints on this basis. The breakdown of the complaints and grounds of discrimination indicated is as follows:

Ground	Number of Times Ground Indicated
Age	161
Civil Status	52
Disability	204
Family Status	114
Gender	353
Membership of the Traveller Community	7
Race	189
Religion	9
Sexual Orientation	24

16. Further, all decisions issued by the Workplace Relations Commission are published on its website and are accessible to the public for the benefit of employees, employers, legal practitioners etc.

17. The Complainant contends at page 10 that “the limits set on compensation arguably undermine the requirement that sanctions be effective, proportionate and dissuasive”. The Complainant fails to detail this allegation as it relates to Ireland. The Respondent rejects this contention and submits that the range of remedies available in cases of gender discrimination as described at paragraphs 34-36 of the Respondent’s initial submissions on the merits are appropriate, proportionate and effective.

18. At page 11 of its response, the Complainant raises the issue of inspections of workplaces. The Workplace Relations Commission Report 2016 shows that an active inspection service is in play. It states at page 25 that in 2016: “The Division carried out

³ Workplace Relations Commission Annual Report 2016, *supra* note 3 at page 17.

a total of 4,830 inspections, of which 2,877 (60%) were unannounced. These inspections related to some 74,793 employees (an average of almost 16 employees per employer inspection.⁴)

19. Finally, it is noted that the Complainant continues to claim that it is entitled to costs incurred in connection with this complaint. The Respondent again submits that the European Committee of Social Rights has no jurisdiction to give such a direction.

20. In conclusion, the Respondent asks the Committee of Social Rights to dismiss this complaint due to its vague and unsubstantiated nature, and in the alternative to find that in light of the Respondent's submissions on the merits, these submissions, and previous findings of the Committee in 2014 and 2016, to find that the situation in Ireland is in compliance with Articles 1, 4, 4§3, 20 and E of the Charter.

⁴ *Ibid* at page 25.