



European
Social
Charter

Charte
sociale
européenne



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

28 May 2018

Case Document No. 9

University Women of Europe (UWE) v. Croatia
Complaint No. 126/2016

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

Registered at the Secretariat on 20 April 2018

The European Committee of Social Rights

Complaint No. 126/2016

University Women of Europe (UWE) - complainant

versus

The Government of the Republic of Croatia - respondent

RESPONSE TO UWE SUBMISSION

April 2018



I. Summary of the complaint

In September 2016 the Republic of Croatia was informed that the University Women of Europe (UWE) submitted a complaint against Croatia. The complaint was registered on 24 August 2016 and has been given the reference number 126/2016.

On 14 December 2016 the Republic of Croatia requested the European Committee of Social Rights to declare collective complaint by UWE inadmissible due to the fact that it was rather politically motivated document addressed to all contracting parties to the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints¹ without specifying in what respect Croatia failed to ensure satisfactory implementation of the provisions of the European Social Charter. Regarding the alleged violation of the provisions of the revised European Social Charter the Republic of Croatia emphasised that it was not bound by its provisions.

UWE submitted its response to the Croatian observations on admissibility on 19 March 2017 stating that complaint should be declared admissible.

On 19 May 2017 Croatia submitted final observations on admissibility by stressing its belief that the collective complaint does not meet admissibility criteria.

The European Committee of Social Rights declared the complaint No. 126/2016 admissible but only in respect of Article 1 of the European Social Charter and Article 1 of the Additional Protocol. Namely, the European Committee of Social Rights was requested by the UWE to find that the situation in Croatia is not in conformity with Articles 1, 4, 4§3 and 20 of the Revised European Social Charter and with the European Social Charter together with Article 1 of the Additional Protocol. Having in mind that the web pages of Council of Europe are transparent it is easy to check [signatures, ratifications and accepted provisions](#). This proves that complaint from UWE is politically motivated and generic prepared for all 15 countries without specifying in details problems with implementation². Merely by quoting international reports and emphasising some statistics without providing full statistical information and explaining the context of the each country UWE did not prove any violation of the provisions of the European Social Charter. **This clearly shows the lack of substance in the complaint.**

After it was invited to make written submission, the Republic of Croatia has sent its submission on the merits of the complaint on 3 November 2017. The complaint alleged that

¹ The States having accepted the Additional Protocol providing for a system of collective complaints were as follows: Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden.

² Response of the UWE to the submissions on the merits dated on 9 February 2018 stats on the page 2 that: "On 4 July 2017, during its 293rd Session, the European Committee of Social Rights "declare[d] the complaint admissible in respect of Articles 1, 4, 4§3, 20 and E of the Charter". Croatia did not accept the provisions from Article 4.



the Republic of Croatia violated the provisions of the European Social Charter because of two reasons:

- 1) failure to undertake measures in order to ensure equal pay for women and men for the equal, similar or comparable work, citing the fact that the Labour Inspectorate and the Ombudsperson are not able to fight efficiently against wage discrimination between men and women.
- 2) the absence of legislation allowing for equal access of women to decision-making boards of private enterprises.

In its submission the Republic of Croatia showed in details overview of legal context, institutional responsibilities and strategies/activities of responsible state bodies. It was explained that pursuant to the provisions of the Act on Gender Equality ("Official Gazette", Nos. 82/08 and 69/17) the most important state administration bodies for introducing and improving gender equality in Croatia are: the Ombudsperson for Gender Equality, Office for Gender Equality of the Republic of Croatia, Gender Equality Committee of the Croatian parliament, Coordinators in the state administration bodies, Coordinators in the state administration offices and County/Local Gender Equality Commissions. It is obvious from the text of UWE complaint that they did not explore the role of Croatian state administration bodies in the area of gender equality but they only focused on the Labour Inspectorate and the Ombudsperson. Additionally, the Republic of Croatia presented extensive legislative framework on promotion of gender equality between women and men, thus proving that allegations for absence of legislation are arbitrarily and unfounded.



II. Republic of Croatia arguments

A collective complaint lodged by UWE against the Republic of Croatia alleges that the situation in the Republic of Croatia constitutes a violation of Article 1 and 4 of the European Social Charter and of Article 1 of the 1988 Additional Protocol. **First allegation** states that Republic of Croatia failed to undertake measures in order to ensure equal pay for women and men for the equal, similar or comparable work. UWE claims that the Labour Inspectorate and the Ombudsperson are not able to fight efficiently against wage discrimination between men and women.

The Republic of Croatia denies these claims in their entirety. Equal pay for women and men is one of the fundamental principles of labour and anti-discrimination legislation. UWE states³ that “the relevant laws are out-dated and have no effect in any countries which have ratified the Social Charter and subsequent related texts.” Yet again UWE insists on general argumentation covering all countries without specifying provisions of Croatian legislation that fail to ensure satisfactory implementation of the provisions of the European Social Charter.

To the contrary, promotion of gender equality between women and men is one of the fundamental values of the Croatian constitutional order. The protection and promotion of all human rights are a core commitment and a priority for the Croatian Government in terms of both its national and international policies. Therefore, Croatia has created a modern and high-quality legislation. Besides Constitution, numerous laws provide protection against any kind of discrimination (including a violation of principle of equal pay for women and men): the Labour Act, the Act on Gender Equality, the Anti-Discrimination Act, the Companies Act etc. **The Act on Gender Equality lays down a general framework for the protection and promotion of gender equality and it defines and regulates the method of protection from discrimination on grounds of sex and establishment of equal opportunities for women and men.** Croatian legislation encompasses all relevant international principles. Pursuant to Article 4 of the Act on Gender Equality the provisions of the Act are not allowed to be interpreted so as to restrict or diminish the purpose of warranties on gender equality enshrined in:

1. the universal rules of international law,
2. the *acquis communautaire* of the European Community,
3. the United Nations Convention on the Elimination of All Forms of Discrimination against Women,
4. the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and

³ Complaint of a violation of the revised European Social Charter, Croatia AN 19 8 2016, page 11



5. the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Therefore, allegations from UWE that Croatian laws are out-dated are far from being correct.

According to the **second allegation** from UWE there is absence of legislation allowing for equal access of women to decision-making boards of private enterprises. It is not mentioned which provisions of Croatian legislation are in conflict with the European Social Charter. The Republic of Croatia explained both monistic and dualistic system of corporate governance. Having in mind that the majority of the companies in the Republic of Croatia are small and medium-sized enterprises and that in such companies, the founders and owners are usually managing directors, the **work of the competent authorities is directed towards non-normative activities with the aim of promoting female entrepreneurship** (The Strategy of Women Entrepreneurship Development in the Republic of Croatia for the period of 2014 - 2020) as well as initiating entrepreneurial activities that will lead to higher representation of women in management structures of companies.

Again, besides providing partial statistics UWE did not explain in which way the Republic of Croatia has not ensured the satisfactory application of the provisions of the European Social Charter referred in the complaint. On the other hand the Republic of Croatia presented appropriate measures to promote women's entrepreneurship that will lead to higher representation of women in management structures of companies.

The Republic of Croatia has implemented modern legislative framework regarding the right to equal opportunities on the labour market without discrimination on any ground. With a view to ensuring the effective application of proscribed rules and principles two major documents were created. The National Policy for Gender Equality sets out "creation of equal opportunities in the labour market" as one of the seven key fields. The activities are directed at reducing unemployment and elimination of all forms of discrimination against women in the labour market. In order to improve the position of women in the labour market, numerous activities have been undertaken: monitoring and publication of statistically separated data by sex; implementation of national plans and policies for employment promotion, self-employment and entrepreneurship; organization of education programs, counselling and workshops for unemployed women; conferences, forums, roundtables and participation in targeted projects and programs often in cooperation with NGOs.

In 2014 regional offices of Croatian Employment Service participated as partners of NGOs and local self-government units in the implementation of 8 projects (in 2015 there were 9 projects) aimed at improving the position of women in the labour market (young women, women victims of domestic violence, women in rural areas, women from war-affected areas,



women over the age of 50, unemployed mothers, members of national minorities). Progress has been made in the reporting period in the field of strengthening women's entrepreneurship. The Government of the Republic of Croatia adopted a Decision on the adoption of the Women's Entrepreneurship Development Strategy for the Republic of Croatia for the period 2014-2020 (Official Gazette 77/14). **The Republic of Croatia is one of few countries that have such a thematic action plan that is recognized and highlighted as an example of good practice by several international organizations.**

One of the examples of good practise is the implementation of the *Entrepreneurial Impulse - Entrepreneurship and Trade Promotion Program*. According to a special measure women entrepreneurs earn additional points if they own more than 51% of the business entity. Data from the Ministry of Economy register show that in 2014 out of total 4.306 requested grants, there were 1.668 (39%) requests by women entrepreneurs. Women entrepreneurs were awarded 670 grants (46,08%) in the total amount of HRK 18.993.178,13. In 2015 the number of awarded grants increased to 724 (30,7%) with total amount of HRK 10.743.486,94.

The implementation of a special loan program "*Women entrepreneurs*" of the Croatian Bank for Reconstruction and Development was adopted in April 2011, with the aim of encouraging the establishment and development of small and medium-sized businesses owned by women. In 2014 and 2015 a total of 150 projects were approved for the total value of HRK 62.850.272,95.

Within the European Social Fund 17000 scholarships are available for women until 2023 in order to promote STEM professions.

The analysis of the implementation of the measures from the National Policy for Gender Equality in the overall reporting period from 2011 to 2015 showed that most of the measures were implemented (60), while 23 measures were partially implemented and 10 measures were not implemented. Such a high level of National Policy implementation implies a high level of involvement of all relevant stakeholders, mainly state administration bodies and other state bodies, as well as County Gender Equality Commissions, which have frequently carried out their activities in cooperation with civil society organizations and the local community.



III. UWE final response to the submission on the merits

In their complaint and further responses UWE claimed that countries are regularly sending to the Council of Europe biased self-produced reports. The Republic of Croatia rejects such claims. Namely, the reporting system is formally governed by the provisions of the European Social Charter. All State Parties are committed to submit regular reports and to bring situation in their respective country in conformity when European Committee of Social Rights concludes that a situation is not in conformity. The follow-up of the conclusions is safeguarded by the Committee of Ministers of the Council of Europe. Therefore, it is evident that reporting system is transparent and well established in order to monitor the implementation of the European Social Charter.

The UWE quotes The World Economic Forum Global Gender Gap Report for 2016 and 2017 stating that according to estimations it would take 170 years (in 2016) or 217 years (in 2017) to close the gender gap. This estimation does not refer to Croatia; it is given as overall global gender gap in economic sphere⁴. The state of play in Croatia is much better than the world's average or even EU average.

Complainant mentions also article from Rachel Silvera but this article does not cover Croatia at all. As an argument for long lasting proceedings the case of Gabrielle Defrenne, a Belgian flight attendant, is being mentioned. However, she appealed to the Brussels Employment Tribunal and European courts; therefore the example is irrelevant for the complaint against Croatia.

The most evident proof that the complaint and all further submissions from UWE lack of substance is their conclusion that Croatia is not in conformity concerning Article 4§3 of the European Social Charter. The Republic of Croatia ratified the European Social Charter as well as the additional Protocol to the Charter on 26 February 2003 and accepted 40 of the Charter's 72 paragraphs. However, **it did not accept the provisions from the Article 4 of the European Social Charter to which UWE refers to.**

In their first submission UWE claimed that Croatian relevant laws are out-dated and that according to ILO's NATLEX database Croatia has adopted only 661 items of labour, social security and related human rights legislation while at the same time Germany adopted 1281 and Finland 2602 items of legislation. In later submissions Croatia explained into details labour and anti-discrimination legislative framework. Therefore, in final observation UWE does not refer to Croatian legislation anymore but emphasize the importance to introduce operational procedures. UWE criticises Croatia for not having monitoring body and for non-checking of efficacy of carried out actions. Croatia strongly disagrees which such a

⁴ The World Economic Forum Global Gender Gap Report (2016), page 24: "However, the most challenging gender gaps remain in the economic sphere and in health. At the current rate of change, and given the widening economic gender gap since last year, it will not be closed for another 170 years."



statement. Namely, the mission of the Office for Gender Equality is to perform technical tasks for the Government of the Republic of Croatia in order to coordinate all activities aimed at ensuring gender equality in the society, develop an integrated system of protection and promotion of gender equality and monitor the implementation and efficiency of the Act on Gender Equality and the National Policy for Gender Equality. Therefore, the Office for Gender Equality prepares reports on the implementation of the National Policy for Gender Equality with accurate information on implemented and non-implemented measures. Furthermore, the Ombudsperson for Gender Equality prepares annual reports which stipulate all activities, initiatives, surveys, statistics and outlines of cases. The summaries are available in English and such practice allows the wider public at the international level, to obtain the crucial information related to the gender equality promotion in the Croatian society.

As regards discrimination procedures the UWE provides partial abstracts from different international reports⁵ for Croatia without explaining the context and their relevance to particular violation of the Articles from the European Social Charter. Apart for quoting partial abstracts the UWE does not provide added value to the complaint.

UWE is of opinion that “the respondent state’s submissions include only very few relevant and reliable figures.” But on the other hand, in their submissions they are using a whole set of statistics abstracted from the national reports, international reports and web pages of the responsible bodies. The Republic of Croatia also provided relevant figures although not always were they in favour of the argumentation in this complaint. The summaries of the Ombudsperson for Gender Equality Reports are available in English and they provide very detailed and transparent information on success and failures of national policies.

⁵ Although whole paragraphs of the text are quotations from the reports, that is not clearly marked by UWE in their submission.



IV. Claim for the cost

With respect to the request for the compensation for costs incurred we deem the request not founded and should not be declared as acceptable.

The system of collective complaints established by a Protocol to the European Social Charter has no provisions proscribing anything regarding the remedies or cost occurred during the collective complaint procedure.

The European Committee of Social Rights, committee of independent experts, acts according to its Rules. These Rules do not provide possibility to provide compensation to complainant.

Over the past decade, the European Committee of Social Rights has built up a body of decisions under the collective complaints procedure and to our knowledge has always rejected the claims for compensation⁶.

Therefore, having in mind that Protocol does not have provisions on awarding costs and pursuant to established precedents of European Committee of Social Rights in collective complaints procedure, the claim for the sum of €10 000 excluding tax as an estimate for the time spent and the costs incurred should be rejected.

⁶ For example Complaint No. 9/2000, Confédération française de l'Encadrement (CGC) v France



V. Conclusion

According to the Article 1 of the European Social Charter the Republic of Croatia is responsible to achieve and maintain high level of employment, protect effectively the right of the worker to earn a living, maintain free employment services and to promote appropriate vocational guidance. Pursuant to Article 1 of the Additional Protocol to the European Social Charter there is obligation to ensure effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupational without discrimination on the grounds of the sex.

Gender equality is one of the most important principles of legal order of the Republic of Croatia. In last 15 years relatively advanced legislative framework for the protection against all categories of discrimination was established. The reason for introducing a new legislation was access to membership of the EU what happened in 2013. The Republic of Croatia implemented the gender equality legislation much before entering the EU. The most important piece of legislation is definitely the Act on Gender Equality which lays down a general framework for the protection and promotion of gender equality and it defines and regulates the method of protection from discrimination on grounds of sex and establishment of equal opportunities for women and men. Equality on the labour market is protected by the provisions of the Labour Act which guarantees equal pay to women and men for equal work or work of equal value.

Croatian labour and anti-discrimination legislative framework is in compliance with the provisions of the European Social Charter and Additional Protocol. In detailed notification on the institutional framework it has been shown that Croatia demonstrated compliance not only in laws, but also in the application of the laws. The political will and commitment to gender equality issues is evident from a number of policies, actions and measures, as well as legislative instruments.

The Republic of Croatia introduced not only new legislation, but also showed positive actions such as the Strategy of Women Entrepreneurship Development, scholarships for STEM professions and Entrepreneurial Impulse - Entrepreneurship and Trade Promotion Program.

In order to root out traditional attitudes and prejudices about gender roles in the society, the twinning project "*Gender Equality Support*" was started in cooperation with Finland. With an aim to raise public awareness on gender-based discrimination, a public campaign was organized during March and April 2017 under the title "*Inequality should not remain a business secret*". Two radio spots were created for the purpose of the campaign, 2,000 leaflets and 1,500 posters printed, while a special site for the campaign on the Office for Gender Equality web was created. Radio spots were broadcasted on 54 radio stations for 30 days and it is estimated that around 1,000,000 people have heard them. In public transport, 1,500 posters were placed in the four largest Croatian cities for 15 days. Data show that



1,164,000 citizens had a chance to see a message from the posters. As posters were placed in 500 business entities and healthcare facilities throughout Croatia, it was estimated that 2,400,000 citizens had passed through primary health care offices and had the opportunity to see posters. In conclusion, it is estimated that there were a total of 3 million views on posters, counting the probability that 1 million citizens had seen the poster several times.

Based on the all provided information it can be concluded that Croatian legislation and policies are in compliance with the European Social Charter and Additional Protocol.

Eurostat data shows that the gender pay gap in Croatia is lower than the EU-28 average. Namely, the Croatian pay gap of 10,4% is considerably lower than 16,2% EU-28 average. These data are clear indicator of successfully implemented national policies and measures.

The complaint lodged by UWE refers mostly to Article 4 of the European Social Charter which is not among accepted provisions by Republic of Croatia. Their complaint and all submissions do not provide correlation between statistical abstracts and national legislation or policies. It is not proven at all that some negative statistics were caused by inappropriate national legislation or strategies for gender equality. UWE failed to indicate in what respect Croatia has not ensured the satisfactory application of the European Social Charter provisions. Contrary to the UWE's negative perception, statistics and international reports quoted by UWE indicate steady progress since the 1990s. The strategies, policy measures and activities are open to general public and NGOs who actively participate in preparation of documents.

For all reasons mentioned above, the Government of the Republic of Croatia believes that the collective complaint lacks of substance on merits, and therefore requests the European Committee of Social Rights to declare that situation in Croatia is in conformity with the provisions of European Social Charter and Additional Protocol.