



DECISION ON ADMISSIBILITY

4 July 2017

University Women of Europe v. Cyprus

Complaint No. 127/2016

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 293rd session in the following composition:

Giuseppe PALMISANO, President
Monika SCHLACHTER, Vice-President
Karin LUKAS, Vice-President
Eliane CHEMLA, General Rapporteur
Birgitta NYSTRÖM
Petros STANGOS
József HAJDU
Krassimira SREDKOVA
Raul CANOSA USERA
Marit FROGNER
François VANDAMME
Barbara KRESAL
Kristine DUPATE
Aoife NOLAN

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary,

Having regard to the complaint registered on 24 August 2016 as number 127/2016, lodged by University Women of Europe (“UWE”) and signed by Ms Anne Nègre, a lawyer appointed by the President of UWE, Ms Edith Lommerse, requesting the Committee to find that the situation in Cyprus is not in conformity with Articles 1, 4, 4§3 and 20 of the Revised European Social Charter (“the Charter”), read alone or in conjunction with Article E, as well as with the 1961 Charter and Article 1 of the 1988 Additional Protocol; the complaint was notified to the Government of Cyprus (“the Government”) on 27 September 2016;

Having regard to the documents appended to the complaint;

Having regard to the observations of the Government on the admissibility of the complaint registered on 14 December 2016;

Having regard to the response submitted by UWE to the Government's observations on 20 March 2017;

Having regard to the additional observations of the Government registered on 17 May 2017;

Having regard to the Charter, and in particular to Articles 1, 4§5, 20 and E, which read as follows:

Article 1 – The right to work

Part I: “Everyone shall have the opportunity to earn his living in an occupation freely entered upon.”

Part II: “With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.”

Article 4 – Right to a fair remuneration

Part I: “All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.”

Part II: “With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

(...)

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.”

Article 20 – Right to equal opportunities and equal treatment in employment and occupation without sex discrimination

Part I: "All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex."

Part II: "With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a. access to employment, protection against dismissal and occupational reintegration;
- b. vocational guidance, training, retraining and rehabilitation;
- c. terms of employment and working conditions, including remuneration;
- d. career development, including promotion."

Article E – Non-discrimination

"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints ("the Protocol");

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201st session and last revised on 6 July 2016 at its 286th session ("the Rules");

Having deliberated on 4 July 2017;

Delivers the following decision, adopted on the above-mentioned date:

1. UWE alleges that the situation in Cyprus constitutes a violation of Articles 1, 4, 4§3, 20 and E of the Charter, as well as with the 1961 Charter and Article 1 of the 1988 Additional Protocol. UWE invokes the following grounds:

a) The first concerns the wage gap between men and women in Cyprus, which still persists and is unfavourable to women. Unequal pay is a reality, despite the international obligations entered into and the legislation enacted in this area. In this respect, UWE also alleges that, in practice, the bodies which are responsible for monitoring effective compliance with employment law in relation to equal pay for men and women, have failed to fulfil their task in fighting discrimination, thus rendering existing legislation ineffective. UWE cites the work in particular of the Ombudsman and the labour inspectorate;

b) Secondly, UWE alleges that a very small number of women occupy decision-making positions within private companies, as there is no legislation ensuring a balanced access of women to these positions.

2. In its observations, the Government objects to the admissibility of the complaint. It argues in particular that the complaint seems an alternative rather than a complement to the reporting procedure. The Charter violations alleged by UWE on the wage gap discrimination seem to be attributed to husbands, employers, parents, and even some bodies of the Council of Europe, without any distinction between actions attributable to the State and the others. According to the Government, UWE

refers to many reports and studies, but as complaints have been lodged against all 15 States having accepted the complaints procedure, their wording is too general; the grounds concerning Cyprus are not specific enough.

3. In its response to the Government's objections, UWE states that it refers to national legislation, as well as international organisations' reports on Cyprus to substantiate its complaint. The fact that the complaint has been lodged against the 15 States having accepted the complaints procedure does not have any impact on the admissibility or the merits of the case.

4. In its additional observations, the Government reiterates the objections already raised.

THE LAW

5. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Cyprus on 6 August 1996 and entered into force for this State on 1 July 1998, the complaint has been submitted in writing and concerns Article 20 of the Charter, provision accepted by Cyprus when it ratified the Charter on 27 September 2000, as well as E. Cyprus is bound by these provisions since the entry into force of the treaty in its respect on 1 November 2000. The Committee acknowledges that UWE also invokes Article 4 and, in particular 4§3 of the Charter, a provision not accepted by Cyprus. UWE cites also the 1961 Charter and the 1988 Additional Protocol, without making any distinction between them. The Committee recalls that all complaints must be based on provisions accepted by the defendant State (see in this sense *European Federation of Employees in Public Services (EUROFEDOP) v. Greece*, Complaint No. 3/1999, decision on admissibility of 13 October 1999). The Committee considers that only the accepted provisions of the Charter are applicable.

6. The Government raises several objections concerning the grounds of the complaint, namely, that the complaint is too vague and seems to concern society as a whole (see §§2 and 4 above).

7. As regards the first ground, concerning the wage gap between men and women for equal, similar or comparable work, the complainant organisation alleges specifically the violation by Cyprus of Article 20 of the Charter. Article 20 of the Charter concerns matters of employment and occupation without discrimination on the grounds of sex, including pay. According to UWE, statistical data and factual elements show that in Cyprus unequal pay is a reality, despite the international obligations entered into and the legislation enacted by Cyprus in this area. Concerning the practice of national bodies, UWE also alleges that the Ombudsman and the labour inspectorate are not able to fight efficiently against wage discrimination between men and women. These bodies have not removed existing obstacles to lodging complaints relating to discrimination on grounds of unequal pay for equal, similar or comparable work between men and woman.

8. As regards the second ground, concerning the representation of women in decision-making posts in private companies, UWE invokes the lack of national provisions concerning the representation of women in decision-making posts in private companies and, to illustrate the situation in practice, also refers to statistical data reported by European and national sources concerning the performance of Cyprus in this area. The Committee recalls that the right to equal opportunities is guaranteed by Article 20 of the Charter.

9. Consequently, in light of the above, the Committee holds that the complaint relates to provisions of the Charter accepted by Cyprus. The Committee further observes that UWE has indicated in what respect it considers that Cyprus has not ensured the satisfactory application of these provisions. The complaint therefore satisfies Article 4 of the Protocol for the purposes of admissibility. The Committee further recalls that consideration of any alleged lack of substance in the complaint is a matter for the examination of the merits of the complaints, not its admissibility (see, among others, *European Federation of Employees in Public Services (EUROFEDOP) v. Italy*, Complaint No. 4/1999, decision on admissibility of 10 February 2000, §12). The Committee therefore rejects the objections of the Government on this issue.

10. The Committee also observes that, in accordance with Articles 1 b) and 3 of the Protocol, UWE is an international non-governmental organisation with participatory status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations entitled to lodge complaints before the Committee.

11. As regards the particular competence of UWE in the area of the complaint, the Committee notes that, according to Article 2 of its Statute, the official objective of UWE is:

“(a) to promote action consistent with the purpose of IFUW [International Federation of University Women] by encouraging cooperation between its European members at various levels and to enable them to collaborate with European International Organisations as well as to promote in Europe the programme of IFUW,

(b) to participate in the progressive development of European Civil Society, by working to achieve the programmes of the Council of Europe and the European Women’s Lobby and other European governmental and non-governmental organisations as is deemed appropriate by the aims and programmes of UWE,

(c) to promote lifelong education, especially for women and girls.”

12. The Committee considers that these activities fall within the context of actions in favour of gender equality, one of the fundamental criteria of democracy (Recommendation No. R(98)14 of the Committee of Ministers to member States on gender mainstreaming, adopted on 7 October 1988 at the 643rd meeting of the Ministers’ Deputies). Wage equality for equal work is one of its pillars as well as a major societal challenge. Taking into account the broad scope of UWE’s activities, which are developed in the framework of equality of rights and non-discrimination, the Committee considers that the condition concerning the competence of UWE is fulfilled for the purpose of the instant complaint.

13. Finally, the complaint filed on behalf of UWE is signed by Ms Anne Nègre, a lawyer who, according to the mandate signed by Ms Edith Lommerse, President of UWE, and by Ms Roxana Elena Petrescu, General Secretary of UWE, is authorised to lodge a complaint against the 15 States Parties on behalf of UWE. The Committee considers, consequently, that the complaint complies with Rule 23 of its Rules.

14. For these reasons, on the basis of the report presented by Krassimira SREDKOVA, and without prejudice to its decision on the merits of the complaint, the Committee

DECLARES THE COMPLAINT ADMISSIBLE IN RESPECT OF ARTICLES 1, 4§5, 20 AND E OF THE CHARTER

In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Charter, and to make it public.

Requests the Executive Secretary to publish the decision on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 13 October 2017.

Invites the complainant organisation to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the States having submitted a declaration pursuant to Article D paragraph 2 of the Charter to make comments by 13 October 2017, should they so wish.

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 13 October 2017.



Krassimira SREDKOVA
Rapporteur



Giuseppe PALMISANO
President



Henrik KRISTENSEN
Deputy Executive Secretary