

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



16 December 2016

Case Document No. 2

**University Women of Europe (UWE) v. Czech Republic
Complaint No 128/2016**

**OBSERVATIONS BY THE GOVERNMENT
ON ADMISSIBILITY**

Registered at the Secretariat on 4 November 2016

European Committee of Social Rights

Executive Secretary

Council of Europe

University Women of Europe

v.

Czech Republic

Collective Complaint No 128/2016

- I. On August 24, 2016, the University Women of Europe (UWE, the “complainant INGO”) lodged in accordance with Article 5 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, the complaint alleging a violation of European Social Charter of 1961 and other subsequent documents, such as Additional Protocol to the European Social Charter of 1988 and Articles 1, 4, 4 § 3, 20 and E of the revised European Social Charter (“revised Charter”).
- II. The Government of the Czech Republic (“the Government”) consider that essential elements of the complaint are not met in following points:

a/ As stipulated in Rule 23 of the Rules of the European Committee of Social Rights, Part VIII: The Collective Complaints Procedure (“Rules”), *complaint shall be signed by the person(s) with the competence to represent the complainant organisation*. The Government note that there was no power of attorney attached to the complaint or any other official authorisation declaring the mentioned fact, the competence thus it is not been proved and the condition has not been fulfilled.

In November 2, 2016 at 4 pm, i.e. only two days before the time limit set by the President of the Committee for the Government to submit their observations on the admissibility of this complaint, the Government received by an e-mail a link to more than 70 appendices mainly in French to the above mentioned complaint. As the November 4, 2016 was set as the limit to submit the observation of the Government, it was impossible to pay an adequate attention to those documents, given the observations on this complaint had already been finalised.

b/ According to Article 3 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (“ the Protocol”), *INGO may submit complaints in accordance with the procedure only in respect of those matters regarding*

which they have been recognised as having particular competence. The aim of complainant INGO's activity, as mentioned in its Statute, concentrates on lifelong education for women and girls' promotion, participation in the progressive development of European Civil Society and equal access to education. To the contrary, the subject of the complaint is devoted to a complicated issue relating to labour law and labour policies. Therefore, the requirement of the relevant competence in this case also cannot be regarded as fulfilled.

c/ Organisations GWI and IFUW are not on the list of INGOs entitled to submit collective complaints. The condition stipulated in Article 1 § b of the Protocol (*INGO entitled to submit complaint alleging unsatisfactory application of the Charter ... which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee;*) has not been met with regard to those two organizations.

d/ In accordance with Article 4 of the Protocol, *the complaint shall relate to a provision of the Charter accepted by the Contracting Party and indicate in what respect the latter has not ensured the satisfactory application of its provision.* As the Czech Republic has not ratified the revised Charter and thus is not bound by its provisions, the Government raise an objection of incompatibility *ratione materiae*.

Concerning the identification of unsatisfactory application of the Charter provision, the complaint does not determine which provision, national law or practice is not in compliance with the Charter. Arguments submitted by complainant INGO covering, among others, languages imperfections, democracy weaknesses, criticism of CoE terminology and documents content, human rights conception, unsatisfactory statistics as to either the representation of women in private entities' decision-making bodies or unequal remuneration of women (in both private and public spheres) have been indefinite and vague. The complaint thus fails to meet the requirement of Article 4 of the Protocol and it is also for this reason why the complaint should be declared inadmissible.

As a final remark, the Government note with concern the procedural conduct indicated above and ask the Committee to provide the Government in later stages of this proceedings, in compliance with the principle of equality of arms, with all the documents and materials submitted by the complainant INGO sufficiently in advance for the Government may study duly those materials.

As regards the request made by complainant organisation to compensate Ms Anne Nègre costs in the amount 10 000 €, the Government prefer to reserve the right to comment on this issue in a later stage of the proceedings in case the complaint is not declared inadmissible in the view of the above mentioned objections. At this point they first remind, however, the last Informal meeting between the agents of the governments before the ECSR in July 4, 2016 between governments with participation of the Committee's Bureau, when it was stated that there is no legal basis for the ECSR to impose compensation of costs. As a side note, the amount seems to be completely exaggerated with regard to 14 other almost same complaints submitted by the

complainant INGO against other states (the same amount being demanded in each of the complaints).

With respect to facts mentioned above, the Government maintain a position that the complaint does not meet admissibility criteria resulting from Rules and the Protocol and ask the European Committee of Social Rights

to declare the complaint inadmissible.



Zuzana Zajarošová

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