



European  
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COUNCIL OF EUROPE



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**

28 May 2018

**Case Document No. 9**

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

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

**Registered at the Secretariat on 20 April 2018**





THE CZECH REPUBLIC

ADDITIONAL OBSERVATIONS OF THE GOVERNMENT  
ON THE MERITS OF THE APPLICATION  
AND  
ON THE COMPLAINANT ORGANISATION'S CLAIMS  
FOR COSTS AND JUST SATISFACTION

**UNIVERSITY WOMEN OF EUROPE (UWE) v. the CZECH REPUBLIC**  
*(no. 128/2016)*

PRAGUE

20 APRIL 2018

1. In response to the letter of 22 February 2018 regarding the above mentioned application lodged with the European Committee for Social Rights by UNIVERSITY WOMEN OF EUROPE (UWE) (“the complainant organisation”), in which the Committee transmitted to the Government of the Czech Republic the complainant organisation’s response to the Government’s observations and its claims for costs and just satisfaction (“UWE’s response”), the Government, maintaining their position expressed in their initial observations of 3 November 2017, wish to submit the following additional comments.

2. The Government recall that while the complainant organisation repeatedly alleges a violation of Articles 1, 4, 4 § 3, Articles 20 and E of the Charter and Article 1 of the 1988 Additional Protocol, the Czech Republic has not ratified the Revised Charter and has not accepted Article 1 § 4 and Article 4 § 1 of the Charter. The Committee found the complaint admissible in respect of Articles 1 §§ 1 to 3, and Articles 4 §§ 2 to 5 of the Charter, and Article 1 of the 1988 Additional Protocol. However, the complainant organisation has in fact only raised objections on the grounds of Article 4 § 3 of the Charter and Article 1 of the 1988 Additional Protocol, namely that

- in the Czech Republic, there is a gender pay gap despite international obligations and relevant national law, and
- there is a very low proportion of women in decision-making positions in private companies.

3. The Government will therefore only address the complainant organisation’s objections on the ground of these two Articles as they did in their initial observations on the merits.

4. The Government fully refer to their initial observations on the merits dated 3 November 2017 (“initial observations”) and will limit their observations to further comments on additional issues mentioned by the complainant organisation in its response.

## ON THE MERITS

### I. THE FACTS

5. The Government hold their opinion on the facts declared in § 2 of their initial observations.

### II. THE LAW

6. First and foremost, the Government object to the manner in which the response of the complainant organisation is drafted. Above all, the complainant organisation does not refer to their initial observations specifically, but it rather

makes, mostly haphazard and unsubstantiated, comments on the topic of gender equality in general and it is apparent that for the significant part of its response it used a common draft for all 15 respondent States against which it lodged analogous complaint.

7. Firstly, the complainant organisation made repeated references to provisions of the Charter that the Czech Republic has not accepted or to the Revised Social Charter which the Czech Republic has not ratified (see § 2 of these observations).

8. Secondly, the complainant organisation's response did not reflect the Government's initial observations. It commented on issues that had not been mentioned in previous observations filed either by the complainant organisation itself or by the Government, as they had probably been mentioned in respect of some of the other 14 respondent States. These include in particular the impact of the crisis (part 2.3 of UWE's response) and arguments concerning risks of breaches of the principle of confidentiality of personal data (part 3.2. of UWE's response). The Government will therefore refrain from addressing these issues.

9. Thirdly, UWE expressed negative comments on issues that had been mentioned, but clearly did so in the context of another respondent State. Specifically, the complainant organisation claimed for example that the powers of the wide range of relevant bodies were shared in a manner probably unclear to the women workers, and proceeded by alleging that the Government had failed to provide clarifications and had referred insistently to a recent adoption of a new body of rules and a recent setting up of new institutions (page 8 of UWE's response).

The Government object to this allegation as in the Czech Republic the relevant bodies in the sense of the previous paragraph are two, namely the Public Defender of Rights and the State Labour Inspectorate (with its district branches). It is therefore unsubstantiated to assert that the system is unclear, needless to add that these bodies work closely together and therefore would refer a complainant to each other accordingly, if necessary. Also, neither had the Government mentioned any new body of rules, nor the setting up of a new institution. The complainant organisation seems to have used analogous allegations against many, if not all respondent States.

10. Fourthly, the complainant organisation mentioned a number of statistical data and international documents. However, its references were mostly very general and vague and no concrete causal link was shown between these documents and the situation obtaining in the Czech Republic. The Government refer to §§ 7 and 16 of their initial observations in this respect. Also, while alleging what is in fact happening to women within their professional career, the complainant organisation only gave general examples and did not base them on any evidence. Sometimes it even merely provided a link without further commenting on what the relevant information contained in it was or what its purpose was (see pages 3–5, 13 in relation to the Czech Statistical Office, and 17–18 of UWE's response). Furthermore, at least once it made reference to an example of another State's cir-

cumstances, its judicial system respectively, as to an argument of a shortage on the side of the Czech Republic which was completely irrelevant (see page 5 of UWE's response where the complainant organisation refers to a case of a Belgian flight attendant from 1970 lasting for 10 years).

11. Fifthly, on page 6 of its response it mentioned that the Czech Republic had been exempt from reporting on the provisions under examination in Conclusions 2017. This is not true. The Czech Republic submitted its 15<sup>th</sup> report regarding the period from 1 January 2013 to 31 December 2016 in respect of Article 4 § 3 amongst others. The Committee sought clarifications but did not make any conclusion on non-compliance with the said provision. This again suggests that the complainant organisation made a reference to another respondent State's observations.

12. Sixthly, on page 6 of its response, the complainant organisation commented on whether the Charter imposed obligations of results or obligations of means. It disagreed with the initial observations of the Government while stating that according to the Government, the Charter "only impose[d] an obligation of results in terms of passing legislation that meets the requirement of the Charter and possibly setting up institutions to ensure its enforcement, but not in terms of achieving the objectives set".

The Government assert that this interpretation is misleading. The Government are well aware what conditions must be met to ensure compliance with Article 4 § 3 of the Charter and Article 1 of the Additional Protocol, and they have either provided their comments on the following steps (mentioned in the UWE's response, part 2.2) already or will add further comments below (see references in brackets):

- a) adopt the necessary legal [see for example part (iv) of the initial observations], financial [see for example part (iv) of these observations] and operational [see for example (iii) of these observations] means of ensuring steady progress towards achieving the goals laid down by the Charter;
- b) maintain meaningful statistics on needs, resources and results [see for example part (iii) of the initial observations and part (i) of these observations];
- c) undertake regular reviews of the impact of the strategies adopted, also mentioned as appropriate monitoring and administrative supervision mechanisms that are reasonably regular and effective [see for example part (iii) of these observations];
- d) establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage [see for example part (iv) of the initial observations and (iii) of these observations];
- e) pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable [see for example (iii) of these observations];

- f) provide for judicial remedies that are accessible and reliable, i.e. which are not too expensive and do not involve excessively complex proceedings and are based on rules of evidence [see part (v) of the initial observations];
- g) carry out systematic awareness-raising [see for example part (iv) of the initial observations and parts (i) and (ii) of these observations].

The Government further note that the complainant organisation alleged that the issue regarding obligation of results or means had already been put forward in the observations on admissibility (see 1<sup>st</sup> paragraph of part 2.2. of UWE's response). This again suggests that the complainant organisation was responding to another respondent State's observations as the Government only mentioned this issue in their initial observations.

13. Lastly, on page 14 of its observations, the complainant organisation contended that "any gender pay gap does not fulfil the non-discrimination requirement based on sex". The Government disagree with this statement as it suggests that merely 0% gender pay gap would be compliant with the Charter while this situation can indeed only hardly occur in the real world. A certain difference will always exist, being it to the detriment of women, or in their favour. The Government therefore again refer to their initial observations (see §§ 10 and 19 in particular) and reiterate that the current situation should be addressed in terms of assessing sufficiency of measures adopted and evaluating whether the difference in treatment of persons in relevantly similar situations without reasonable justification occurs, rather than relying on statistics and general references to international documents.

14. The Government are concerned about such a general response of the complainant organisation which fails to develop a meaningful dialogue, and refer to their opinion expressed in their initial observations on the merits (§§ 7 to 9). Hence, they will only address the complainant organisation's objections linked to the sufficiency of measures put in place in order to achieve equal pay for work of equal value, the interest of trade unions and employers organisations, monitoring and evaluation of mechanisms for achieving gender equality, financial resources provided for this aim, the efficiency of reversal of the burden of proof, education of women, and measures implemented and statistics concerning small companies.

**(i) Measures put in place in the Czech Republic which were not mentioned in the initial observations**

15. The Government disagree with the complainant organisation's allegations that the measures adopted by the Czech Republic are insufficient, and find it necessary to mention further measures put in place in order to achieve equal pay for work of equal value [see part (iv) of the Government's initial observations] and equal representation of women in decision-making positions (see §§ 68 to 76 of the Government's initial observations).

16. In relation to the complainant organisation's statement that women who may wish to make complaints find it hard or impossible to obtain comparative data concerning the wages paid (part 3.2. of UWE's response), the Government reiterate that extensive data, including that specific to gender and remuneration, are fully available on the website of the Czech Statistical Office ([www.czso.cz](http://www.czso.cz)). After all, the complainant organisation itself referred to the Office's major study Focus on Women and Men.<sup>1</sup>

In terms of reliable statistics the Government further wish to refer to the analysis mentioned in their initial observations entitled "*Current differences in remuneration of women and men in the Czech Republic: an in-depth analysis of statistics and an international comparison*" [*Aktuální rozdíly v odměňování žen a mužů v ČR: hloubková analýza statistik a mezinárodní srovnání*].<sup>2</sup>

17. Additionally, comparative data concerning the wages paid according to age, the highest achieved education, region and profession, can be easily accessed using online *Kalkulačka férové odměny* [*Calculator of fair remuneration*].<sup>3</sup> It is a complex tool which may be used to get a better idea on an individual's position on the labour market or for salary negotiation. Using the application may be useful while applying for a new job, changing profession, moving, changing position within a company's hierarchy or getting back to work after parental leave.

18. Furthermore, the introduction of the Swiss software Logib [mentioned in part (iv) of the Government's initial observations] is planned to be pilot tested with 30 employers from both public and private sector and is now being tested with 3 of them already. Subsequently, it will be provided to employers free of charge.

19. In addition to methodologies mentioned previously, other methodologies and outputs of the Ministry of Labour and Social Affairs' 5-year system project entitled "*22% k rovnosti*" [*22% to Equality*], running from 2016 until 2020 and including 11 key activities, 4 expert working groups and more than 20 outputs (project further described in the Government's initial observations, § 25), are planned. Methodology for the State Labour Inspectorate and its pilot testing is planned within the project as well as a pilot methodology for Employment Offices, including establishing of gender coordinator positions at three Regional Employment Offices. The purpose of the latter is to support the labour market and employment policy, in particular with regard to vulnerable groups of the labour market.

Furthermore, a Manual on salary negotiation for six target groups (e.g. mothers on maternal leave, women in pre-retirement age, women in low-wage occupa-

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<sup>1</sup> The applicant refers to a study published in 2016. Updated study published in 2017 is available at <https://www.czso.cz/documents/10180/45709978/30000217.pdf/92da801e-56d6-4d45-8cef-67497ed59949?version=1.1>.

<sup>2</sup> Available at <http://www.rovnaodmena.cz/wp-content/uploads/2017/12/Aktuální-rozdíly-v-odměňování-žen-a-mužů-v-ČR.pdf>.

<sup>3</sup> Available at [http://www.rovnaodmena.cz/?page\\_id=228](http://www.rovnaodmena.cz/?page_id=228).



tions), including essential information on labour law and negotiation methods and options, will be circulated.

Subsequently, draft collective agreement provisions concerning equal treatment and remuneration will be distributed as well as know-how on how to set fair systems of remuneration and on decreasing of the gender pay gap by using collective bargaining and social dialogue.

Additionally, an in-depth analysis on actual difference in the gender remuneration (quantitative and qualitative research), analysis of possible legislative measures leading to permanent reduction in gender pay gap in specific conditions of the Czech Republic, and economic analysis for impact assessment of the difference in remuneration on the economic growth of the country (labour productivity, GDP) and public budget (expenses on benefits, income from taxes) will also be carried out. Action Plan on Reducing the Difference in Remuneration of Women and Men in the Czech Republic will contain a proposal of specific measures, including changes in legislation for increasing transparency and reducing the difference, which will be carried out at the end of the project in 2020.

Finally, education of public service, Employment Offices and the State Labour Inspectorate, in particular on gender equality in the labour market, will be carried out, and cooperation with social partners, trade unions and employers' organisations will proceed as well as awareness-raising activities such as educational campaigns and conferences.

20. With regard to awareness-raising, the Government wish to add to the information contained in their initial observations that, within the project "*22% k rovnosti*", two conferences on equal remuneration were held on 8 March 2017 in Prague and on 19 September 2017 in Liberec. Similarly, the final conference of the project "*To je rovnost!*" (see further information in § 29 of the initial observations) was organised by the Gender Equality Department of the Office of the Government on 20 April 2017.

**(ii) Alleged lack of interest of trade unions and employers' organisations**

21. The Government strongly disagree with the complainant organisation's allegation that trade unions and employers' organisations lack interest in equal pay for women and men (UWE's response, part 3.1.).

22. Českomoravská konfederace odborových svazů [Czech-Moravian Confederation of Trade Unions] (ČMKOS), the biggest independent confederative association of trade unions in the Czech Republic is heavily involved in the fight for gender equality. Its Programme for the period 2014–2018 contains references to key gender equality issues in several provisions. In particular, it highlights the necessity of focusing on elimination of all forms of discrimination including that on grounds of sex, eliminating differences in remuneration of women and men, situation on the labour market including from gender perspective, work-family-and-private-life balancing, equal position of women and men in particular in deci-

sion-making posts.<sup>4</sup> Above all, ČMKOS uses its role of a social partner in the legislative process to promote its requirements. Its representatives are members of several working groups and specialised institutions. It does so mainly through its Legislative Council and its Committee for Equal Opportunities of Women and Men (“ČMKOS Committee”). Representatives of the ČMKOS Committee represent trade unions in the Gender Equality Council of the Government and its Committees such as the Committee for the Institutional Safeguarding of Equal Opportunities for Women and Men, the Committee for Work-Private-and-Family-Life Balance, and the Committee for Equal Representation of Women and Men in Politics and Decision-Making Positions. ČMKOS Representatives in all three Committees are women.

ČMKOS participated in the gender stereotypes awareness-raising project “*To je rovnost!*” and its final conference (see § 20 of these observations), and participates in the project “*22% k rovnosti*”. ČMKOS chairman was a panellist at the conference “*22% k rovnosti*” on 8 March 2017, and its vice-chairman was a panellist at the conference on 19 September 2017 in Liberec. Besides its activity in the legislation process, ČMKOS provides comments on governmental documents, for example it provided its critical comments on the Government Report on Equality 2016 (see § 29 of these observations).

On the basis of the pressure of the trade unions and as a result of social dialogue and negotiations, measures which should contribute to decreasing the difference in opportunities of women and men, both on the labour market and in private life, were adopted in 2017. Above all, the minimum wage was raised from 1 January 2018, a new postnatal care allowance for fathers was introduced from 1 February 2018 (see § 27 of the initial observations of the Government), pensions are being raised, it is possible to draw parental benefit faster up to the amount of CZK 220,000, and the group of families eligible for a child benefit will be extended. ČMKOS naturally plays a key role in collective bargaining, too.

The ČMKOS Committee’s priority for the period from March 2017 to February 2018 was remuneration, particularly within the campaign against cheap labour including the gender pay gap. Gender aspect is an essential part of the campaign as the lowest wages and problematic work conditions are in sectors in which women predominate. It also published a leaflet on gender equality and protection from discrimination.<sup>5</sup>

Equal remuneration is also very intensively dealt with by European trade unions. ČMKOS is an active member of the European Trade Union Confederation (“ETUC”), both within its Leading team and its working groups, and is therefore familiar with European gender trade union agenda. Above all, the ETUC Action

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<sup>4</sup> Programme in Czech available at <https://www.cmkos.cz/obsah/263/program-cmkos-2014-2018/13308>.

<sup>5</sup> Available in Czech at <https://www.cmkos.cz/obsah/219/letak-vyboru-cmkos-pro-rovnost-prilezitosti-zen-muzu/12482>.

Plan on Gender Equality 2016–2019 represents a key framework for the ČMKOS's work.

Additionally, ČMKOS participated in negotiations about the European Pillar of Social Rights presented by the European Commission in April 2017. ČMKOS supports the adoption of the draft Directive, focused on implementing the principle of equal opportunities of women and men in the labour market and the principle of equal treatment at the workplace, within the ETUC's campaign. ČMKOS also proposes indexation of salaries of parents on parental leave in compliance with the salary growth in a company which would represent a specific step towards narrowing the difference in remuneration and the income loss of the caring parent.

ČMKOS further carries out a project "*Promoting social dialogue concerning an option of shortening the working hours without lowering the salary and benefiting from flexible forms of working hours in connection to the work productivity and the work-life balance*", financed by the European Social Fund in 2014–2020. The realisation of the project is a part of the ČMKOS Programme and it is also an opportunity to look for options of work organisation in favour of equal opportunities for women and men.

In June 2016 ČMKOS in cooperation with Friedrich Ebert Foundation (FES) organised a conference entitled "*End of Cheap Labour in the Czech Republic – End of Unequal Remuneration of Women and Men*" whose aim was to assess current options for improving working conditions and to remedy unfair salary levels particularly in women-dominated fields. In May 2017 ČMKOS in cooperation with FES organised perhaps the first conference concerning the topic of gender aspect of work digitalisation in the Czech Republic. The difficulties as well as possible opportunities linked to changes in the society due to digitalisation were discussed.

ČMKOS is also a member of the International Trade Union Confederation (ITUC), participates in the OECD Trade Union Advisory Committee and is represented in relevant committees and councils of the European Union, in the European Economic and Social Committee as well as in the European Public Service Unions (EPSU). In January 2018 its members discussed the issue of gender inequality with International Monetary Fund representatives which included the Czech Republic into its planned pilot project.

23. In relation to the low number of legal proceedings, ČMKOS would fully support everyone pursuing their gender equality case before the court. However, it naturally cannot do so against their will and low number of legal proceedings therefore cannot be interpreted as lack of interest of trade unions.

24. Konfederace zaměstnavatelských a podnikatelských svazů ČR [Confederation of Employers' and Entrepreneurs' Unions] (KZPS) also actively participates in gender equality activities. First of all, the Confederation has been involved in the above-mentioned project "*22% k rovnosti*" and some of the Confederation's member organisations are further involved in a project dealing with

equal opportunities, for example gender audits and subsequent measures. Among others, via its member, Union of Employers' Associations of the Czech Republic, it carried out gender audits including salary analyses in 8 organisations in 2017. Last but not least, the Confederation actively cooperates with the organisation *Byznys pro společnost* [*Business for society*] that organises a competition entitled "Top responsible company" focusing besides other things on equal remuneration and non-discrimination.

**(iii) Monitoring and evaluation mechanisms towards gender equality**

25. The complainant organisation claimed that in the Government's initial observations "*there is no sign of gender mainstreaming in the policies concerned, decision-making, access to resources, procedures and practices, methodology, implementation, monitoring or evaluation. There is no monitoring body and, above all, no checks are provided for or carried out. These are significant shortcomings*".

26. The Government strongly object to these allegations. As mentioned in the initial observations, the framework for promoting gender equality at the governmental level is represented by the Government Strategy for Equality of Women and Men in the Czech Republic for 2014–2020 ("the Strategy").<sup>6</sup> The member of the Government competent for gender equality (currently the Minister of Justice) is responsible for the fulfilment of the Strategy. The Strategy is put into practice by the Gender Equality Department of the Office of the Government ("the Department") through follow-up documents, already mentioned in the initial observations, namely Updated Measures of the Priorities and Policies of the Government in Promoting of Gender Equality ("Updated Measures"), adopted by the Government on annual basis, and Action Plan for Equal Representation of Women and Men in Decision-Making Positions for the period from 2016 to 2018 (the "Action Plan")<sup>7</sup>, which provides a clear time schedule along with indicators for measuring its fulfilment.

27. The Department operates a project entitled "*the Implementation of the Government Strategy for Equality of Women and Men in the Czech Republic for 2014–2020 and related activities*" ("the Project Implementation") running from 1 February 2016 to 31 December 2020, financed by the Operational Programme "Employment" with allocation of CZK 43,901,297.<sup>8</sup> One of the Key Activities of the Project was focused on promoting measures for improving balanced gender representation in decision-making positions. Within this activity, the Strategy of Further Course of Action in the Area of Promoting Balanced Gender Representation in Decision-Making Positions for year 2017–2018 was prepared as an internal document at the governmental level.

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<sup>6</sup> Adopted by the Government's resolution of 12 November 2014, no. 931.

<sup>7</sup> Adopted by the Government's resolution of 13 July 2016, no. 632.

<sup>8</sup> More information available at:

<https://esf2014.esfcr.cz/PublicPortal/Views/Projekty/Public/ProjektDetailPublicPage.aspx?action=get&datovySkladId=F175F7DF-D145-402C-B464-E846F744C661>.

28. Also, the Recommendation of the Gender Equality Council of the Government Aiming at the Elimination of Obstacles and Creation of Conditions for Balanced Gender Representation in Decision-Making Positions (“the Initiative”)<sup>9</sup>, a practical tool consisting of a set of measures for State authorities, resulted from persisting low representation of women in decision-making positions in State administration. Above all, by this resolution, the Government imposed an obligation on their members and heads of other central government authorities from 30 June 2016 to endeavour to fulfil the measures aiming at gradually achieving 40% representation of both sexes at a particular management level or within a group of managers.

29. The evaluation of fulfilment of the Strategy and the Updated Measures is assessed in the Report on Gender Equality and Fulfilment of the Strategy for the past year (“Report on Equality”) which is carried out by the Department, subsequently debated on by the Gender Equality Council of the Government (“the Council”) and eventually presented to the Government until the end of April. The Government is therefore informed of the fulfilment of its Strategy and the Updated Measures and the developments in the field of gender equality each year.

The Report evaluates the developments in the field of gender equality, fulfilment of the Strategy and the Updated Measures by individual Ministries, and provides recommendations on better fulfilment of the Strategy in the future. It is divided into chapters according to the Strategy, including a chapter on gender equality in the labour market and balanced representation of women and men in decision-making positions. It also contains statistical data that can be used to evaluate development within the whole society. Updated Measures for listing set of tasks in individual strategic fields for the next year is presented to the Government along with the Report.

30. The Council is one of the Government’s advisory bodies in the field of human rights; its chairperson is the member of the Government competent for gender equality (currently the Minister of Justice). According to Article 2 § 2 of its Statute, the Council in particular:

- monitors national fulfilment of the Czech Republic’s international obligations in the field of gender equality, particularly obligations under the CEDAW and other Conventions;
- identifies current issues in the field of gender equality in the society;
- debates on and recommends the Government its key conceptual courses of action in promoting gender equality, in particular through preparing proposals concerning policies in individual areas of gender equality, proposals of partial measures and incentives for improvement in gender equality, either on their own initiative or within tasks imposed by the Government to the Council or its chairperson;

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<sup>9</sup> Adopted by the Government’s resolution of 23 May 2016, no. 466. The sum of CZK 43,901,296 corresponds to approximately EUR 1,733,174.

- evaluates the effectivity of pursuing gender equality in the Czech Republic;
- monitors the fulfilment and assists with realisation of strategic documents of the Government of the Czech Republic in the field of gender equality;
- coordinates the main direction of departmental gender equality conceptions and defines sets of priorities for projects of the Ministries for supporting the realisation of gender equality;
- cooperates with non-governmental non-profit organisations (“NGO”) focusing on gender equality and with regional authorities.

The Council composition is based on the wide participation principle. It has 29 members including 9 NGO representatives, 4 representatives of the public, the Office of the Public Defender of Rights, academic representatives and social partners. It therefore represents a key component of evaluation of the effectivity of the fulfilment of strategic gender equality documents. It is closely involved in the evaluation of the Strategy and the Updated Measures and its involvement in preparation of the Report on Equality supports impartial and critical evaluation of the fulfilment of the governmental gender equality documents. It also has the power to provide its recommendations in the Report on Equality which represent a basis for the tasks in the Updated Measures.

31. As to the Action Plan, its monitoring is carried out particularly by the Committee for Equal Representation of Women and Men in the decision-making positions (“the Political Committee”) which is one of four Council’s committees. It comprises of NGO, public service, private companies, political parties and social partners’ representatives.

32. The Political Committee in cooperation with the Department prepare the Summary Report on the Fulfilment of the Action Plan for the past year (“the Summary Report”).<sup>10</sup> Above all, it summarises the development in the field of balanced representation of women and men in the decision-making positions, information on the fulfilment of the Action plan by individual Ministries and the Political Committee’s stand. The latter represents critical evaluation of information on the fulfilment of individual tasks of the Action Plan, and it further provides recommendations on how the tasks can be fulfilled more effectively. After the Political Committee’s debates, the Summary Report is presented to the Council and subsequently passed onto the Government for information.

33. According to the Summary Report 2016, even though the Action Plan was only adopted by the Government on 13 July 2016, out of its 25 tasks with the deadline until the end of 2016 (and continuously thereof), 4 (16%) had been fulfilled or were being fulfilled, 16 (64%) had partially been fulfilled or were being

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<sup>10</sup> Summary Report from 2016 available at <https://www.vlada.cz/cz/ppov/rovne-prilezitosti-zen-a-muzu/aktuality/vlada-vzala-na-vedomi-zpravu-za-rok-2016-o-plneni-akcniho-planu-pro-vyrovnane-zastoupeni-zen-a-muzu-v-rozhodovacich-pozicich-158559/>

fulfilled, and 5 had not been fulfilled nor were they being fulfilled. Apart from that, general tasks for supporting balanced gender representation in decision-making positions were explicitly mentioned as being at least partially fulfilled (pages 32–33). These included tasks:

- to support projects of NGOs, social partners, and diversity management and balanced gender representation focused enterprises through the European Structural and Investment Funds Programme period of 2014–2020,
- to support parents with children under the age of 2 in their return to the labour market under the Ministry of Labour and Social Affairs’s Conception of Family Politics (fulfilled),
- to carry out analysis and regular evaluation of anonymised data on the difference in remuneration between genders and representation in decision-making positions in different fields,
- to carry out awareness-raising media activities on gender pay gap, advantages of balanced gender representation in decision-making positions, and risks of gender stereotypes, to use gender mainstreaming in the media and to educate media staff accordingly,
- to introduce an obligation to publish gender ratio in decision-making positions of the largest commercial companies (fulfilled),
- to introduce programmes targeted at supporting monitoring, networking and development of talents of young women with a view to balancing gender representation in decision-making posts in commercial companies,
- to motivate girls and women to study technical fields of study in both high schools and universities.

In terms of the requirement of 40 % representation of both sexes in decision-making positions, other central governmental authorities on which such obligation was imposed had more or less been trying to fulfil this target and some even stated data on balanced gender representation within their management already (i.e. Czech Telecommunication Office, Council for Radio and Television Broadcasting, Industrial Property Office, State Administration of Land Surveying and Cadastre, and State Office for Nuclear Safety). It can also be said that all other central government authorities indicated they have been using at least some measures to fulfil the Initiative (page 32).

For 2018, a proposal of an updated task part of the Action Plan is planned in connection to the evaluation of the past two years.

**(iv) Financial resources made available to make measures put in place effective in practice**

34. The complainant organisation mentioned on several occasions that for a State to comply with the obligations under the Charter, sufficient means must be

provided to ensure steady progress towards achieving the goals laid down by the Charter and operational procedures must be introduced to give full effect to the rights specified therein (see for example page 6 of UWE's observations).

35. The Government already mentioned several gender equality programmes and projects and the amount of financial resources allocated in respect of them in their initial observations. However, as a reaction to the complainant organisation's allegations (page 9 of UWE's response), which the Government consider vague and untrue, they will add further programmes and projects and relevant figures respectively.

36. As already described in the initial observations, the budget of CZK 85 million<sup>11</sup> was allocated to the substantial project "22% k rovnosti" (§ 25 of the Government's initial observations).

37. Further to the subsidy programme of the Office of the Government of the Czech Republic, annually announced by the chairperson of the Council, entitled "Support of Publicly Beneficial Activities of NGOs in the Area of Gender Equality" (§ 75 of the Government's initial observations), its subsidy programme allocation for years 2014 and 2015 was CZK 5 million per year, and for 2016 and 2017 the allocation was CZK 7 million per year. The supported projects focus on both reducing of the gender pay gap and balanced representation of women and men in decision-making positions, including Fórum 50 %, o.p.s., whose activities are directly targeted on increasing the representation of women in decision-making positions and in politics.

In 2014, 8 gender-pay-gap-focused projects ("GPG projects") were supported by allocations amounting to CZK 4,011,747.50 and 1 balanced-gender-representation project ("BGR project") was supported by an allocation of CZK 660,000. In 2015, 10 GPG projects were supported by allocations amounting to CZK 4,448,245.50, and 1 BGR project was supported by an allocation of CZK 545,317.52. In 2016, 6 GPG projects were supported by allocations amounting to CZK 3,356,117, and 1 BGR project was supported by an allocation of CZK 435,750. And in 2017, 8 GPG projects were supported by allocations amounting to CZK 4,561,874, and 1 BGR project was supported by an allocation of CZK 532,400. Annual allocations hence amounted to CZK 4,671,747.50 in 2014, CZK 4,993,563,02 in 2015, CZK 3,791,867 in 2016, and CZK 5,094,274 in 2017.

38. Furthermore, the Ministry of Labour and Social Affairs carries out the subsidy programme *Family* in the long-term, supporting projects focusing on work-life balance which represents the main condition for decreasing the gender pay gap. Allocation for this program was CZK 90,389 million in 2014, CZK 93,833 million in 2015, CZK 99,965 million in 2016, and CZK 96,5 million in 2017.<sup>12</sup>

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<sup>11</sup> The official exchange rate proclaimed by the Czech National Bank on 20 April 2018, i.e. the date of these Observations, is EUR 1 equalling CZK 25.33.

<sup>12</sup> Additional information available at <https://www.mpsv.cz/cs/890>.



39. Additionally, gender equality and implementation of the Strategy is financially supported under Calls of the Operational Programme “Employment” 2014–2020.<sup>13</sup> Calls nos. 027 and 028 concerned support of the public administration in adopting measures under the Strategy. Under the Call no. 027 concentrated on less developed regions was allocated CZK 130 million, and under subsequently adopted legal documents, CZK 52 million was distributed among 15 projects. Under the Call no. 028 concerning Prague, CZK 170 million was allocated, and under subsequently adopted legal documents, CZK 60 million was distributed among 11 projects.

Moreover, Calls focused on realisation and consequent implementation of gender audits were announced in Prague and regions. One of obligatory activities under these Calls was to carry out a gender audit of a company or an organisation which represents a key tool for balancing positions of women and men, and lowering the gender pay gap. CZK 30 million was allocated for the Call no. 050 – Realisation of Gender Audits of Employers – less developed regions, announced on 1 September 2016, and CZK 5 million was allocated for the Call no. 051 – Realisation of Gender Audits of Employers – Prague, announced on 1 September 2016. Further CZK 180 million was allocated for the Call no. 130 – Implementation of Recommendations of Gender Audits of Employers outside of Prague, announced on 19 April 2016, and CZK 30 million was allocated for the Call no. 131 – Implementation of Recommendations of Gender Audits of Employers in Prague, announced on 19 April 2016.

Last but not least, subsidiary Call within the Operational Programme “Employment” focuses on supporting the establishment and operation of children groups, both public and corporate, which provide regular preschool care for children from 1 year of age. Again, available care for the youngest children represents an essential condition for facilitating earlier return to work and for work-life balance which principally impact the decrease in gender pay gap and women’s progress in their careers. Specifically, CZK 927,897,631 was allocated for the Call no. 132 – Support of the establishment and the operation of children groups for corporates and public outside of Prague, announced on 30 November 2016, CZK 1,129,844,630 was allocated for the Call no. 073 – Support of the building and the operation of children groups for corporates and public outside of Prague, announced on 1 September 2017, and CZK 372,512,276 was allocated for the Call no. 074 – Support of the building and the operation of children groups for corporates and public in Prague, announced on 1 September 2017.

**(v) Allegation that reversal of the burden of proof is ineffective**

40. The complainant organisation alleged ineffectiveness of the reversal of the burden of proof as a supporting measure in discrimination cases as there have only been a few legal proceedings regarding discrimination of women at work. While admittedly, there has only been a few legal proceedings, the reversal of the

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<sup>13</sup> Additional information available at <https://www.esfcr.cz/prehled-vyzev-opz>.

burden of proof under Article 133a a) of the Code of Civil Procedure applies among other situations if a plaintiff presents facts before the court from which it may be implied that the defendant directly or indirectly discriminated against them on the grounds of sex in relation to employment or access thereto, entrepreneurship or self-employment and access thereto, or a membership in trade unions, employers' organisations or professional chambers.

41. The complainant organisation did not provide any specific proof of ineffectiveness of this measure that would be directly linked to a low number of legal proceedings in this field. Therefore, with a view to the fact that details of the Czech judicial system as well as possible factors causing low number of discrimination legal cases have already been explained in part (v) of the initial observations of the Government, it may be concluded again that the national legal framework is consistent, functioning and sufficient and does not amount to a violation of Article 4 § 3 of the Charter and Article 1 of the Protocol by the State (§ 51 of the initial observations).

**(vi) Education of women**

42. On page 9 the complainant organisation claimed that *“little or no account is taken of many areas, for instance, the courses of study chosen by women, which all too often are non-scientific and unambitious, the greater number of vocational training courses of a higher standard available for men, the large number of benefits in kind for men and the small number for women”*.

43. On the other hand, on page 14 it refers to the ETUC's observations, compliant with the Government's initial observations, claiming that Czech women have higher levels of education and qualifications than men.

44. Hence, not only are these statements unsubstantiated and based on no evidence, they are also contradictory. The Government find it necessary to point out in this respect that the Czech educational system is diverse and it is an individual's choice which path they will take. The Government strongly disagree with the allegation that the availability and quality of education or training depend on gender and as this topic had not been mentioned before and no evidence was provided, they will not comment further on it.

**(vii) Measures implemented and statistics concerning small companies**

45. The complainant organisation claimed that the measures implemented do not concern small enterprises. It however does not make any further reference to this topic and only refers to the ETUC's observations alleging that the official statistics exclude small (micro) sized enterprises (page 14 of UWE's response). According to ETUC, with which UWE agrees, this makes it possible to arbitrarily indicate better wage equality figures and it is therefore probable that the gender pay gap is even higher in these enterprises.

46. As the complainant organisation did not make any further comments on the former, the Government will only comment on the latter argument. According

to Eurostat, the Czech Republic is the only State whose statistics concern companies as small as 1 employee.<sup>14</sup>

47. In any case, the ETUC claimed that if exclusion of small companies was true, this would represent a violation of Article 20 of the Charter which is not applicable for the Czech Republic. Therefore, no violation should be found in this respect.

## ON COSTS AND JUST SATISFACTION

48. As the complainant organisation raised no new arguments in respect of its claim of costs and its entitlement to just satisfaction respectively, the Government refer fully to their initial observations on the merits, §§ 74 to 77.

## GENERAL CONCLUSION

49. As to the admissibility and merits of the complaint at hand, the Government refer to their initial observations on the merits as mentioned above.

50. The Government conclude that in the Czech Republic the topic of gender equality is included throughout legislation and operational procedures as well as in public debates. Measures put in place for achieving gender equality both to gradually eliminate the gender pay gap and increase the representation of women in decision-making positions are sufficient, effective and functioning mechanisms for monitoring and evaluation of the fulfilment of relevant governmental gender equality documents exist and considerable financial resources were allocated to support implementation of these measures.

51. In the light of the above, the Government propose that the Committee holds that in the case at hand the Czech Republic is not in breach of its obligations under Article 4 § 3 of the Charter or Article 1 of the Protocol.

52. In addition, the Government propose rejecting all the complainant organisation's financial claims.

Vít A. S c h o r m  
Agent of the Government

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<sup>14</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:UnadjustedGPG\\_Figure1.PNG](http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:UnadjustedGPG_Figure1.PNG).