

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



16 December 2016

Case Document No. 2

University Women of Europe (UWE) v. Greece
Complaint No 131/2016

**OBSERVATIONS BY THE GOVERNMENT
ON ADMISSIBILITY**

Registered at the Secretariat on 15 December 2016



HELLENIC REPUBLIC
MINISTRY OF LABOUR,
SOCIAL SECURITY & SOCIAL
SOLIDARITY
GENERAL DIRECTORATE OF
ADMINISTRATIVE SUPPORT & E-
GOVERNANCE
DIRECTORATE OF INTERNATIONAL
RELATIONS
SECTION I

Athens,

Ref. No.:

TO
Council of Europe
General Directorate of Human Rights
and Rule of Law
Directorate of Human Rights
Secretariat of the European Social Charter
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(to the attention of Mr. Regis Brillat
Secretary General of the ESC)

COMM:
1) PERMANENT REPRESENTATION OF
GREECE
TO THE COUNCIL OF EUROPE

{sent via fax & E-Mail}

Subject: Collective Complaint No131/2016 of the “University Women of Europe (UWE) against Greece”

The Directorate General for Human Rights of the Council of Europe by its letter dated 27th September 2016 informed the Greek Government of the Collective Complaint No 131/2016, which was submitted by the International Non-Governmental Organisation *University Women of Europe (UWE)* against Greece on 24/08/2016. With this letter, the Secretariat of the ESC asks the Greek Government to submit its observations on the admissibility of the case.

Following the extension requested by the Greek side as well as the letter of the Secretariat dated 16th November 2016, and, in accordance with articles 4 and 6 of the Additional Protocol to the European Social Charter, the observations of the Greek Government on the admissibility of the above mentioned Collective Complaint are the following:

1. The complainant organization, *University Women of Europe (UWE)*, is an international Non-Governmental Organisation entitled to submit complaints to the Council of Europe and has competence over matters relating to the protection of women's rights. We consider therefore that it is legally entitled to submit the present Collective Complaint.
2. The Collective Complaint was submitted in writing. We have to point out however that it is not clear to the Greek Government whether it is addressed to the General Secretary. The English version of the letter we received from the Secretariat shows that the Complaint is addressed to the Secretariat of the Charter and not the General Secretary, as provided for in article 5. We assume that the Collective Complaint forwarded to the Council of Europe was accompanied by a letter explicitly stating that it is addressed to the General Secretary. If possible, we would appreciate if this accompanying letter could be communicated to us.
3. With regard to the provisions for which the complainant organization alleges violated by Greece, we would like to make certain clarifications since, as regards several points, it is not clear for us to which provision the UWE refers, making it difficult to present our arguments on the merits of this case.

For example, we would like to mention that in page 13 of the Complaint, the complainant organization mentions that it «fulfils the requirements to lodge a collective complaint against Greece alleging a violation of the Social Charter **and** the Revised Social Charter, particularly articles 4, para.3, 20 **and** E, and the Protocol of 5 of May 1988....». We would like to point out that Greece, by virtue of Law 4359/2016 (O.G. 5^A/20-01-2016), ratified the Revised ESC and is now bound by its provisions, and not by those of the 1961ESC, nor by the Additional Protocol of 1988 (which, in any case, has been incorporated in the text of the Revised ESC). We consider therefore, that the Complaint against Greece refers to a violation of the Revised ESC and stress that the Complainant should not confuse the three treaties (1961 ESC, Revised ESC, 1988 Additional Protocol).

Similarly, in page 27 of the Complaint, where the INGO mentions the grounds for its complaint, it requests the European Committee of Social Rights, inter alia, «to hold that Greece's failure to observe the principle of equal pay for women and men for equal, similar or comparable work, breaches the provisions of the Social Charter **and** subsequent related texts (?), such as the Revised Social Charter, particularly articles 1, 4, 4, para.3, 20 **and** E».

Once again, at this point it seems that there is confusion between the two texts or that the Revised ESC is a secondary text compared to the 1961ESC. We would like to note that these are two separate treaties of equal validity and value, and we would like to reiterate that Greece is now bound by the provisions of the Revised ESC.

Moreover, in page 27 of the Complaint, article 1 on the right to work, which was not previously mentioned, is now added. We understand their claim for an alleged violation of art. 1, para2; however, regarding paras 1, 3 and 4 we cannot find the correlation with the submitted Complaint nor does its content reveal any such correlation, as there is neither sufficient analysis nor specific arguments that would justify this allegation.

Finally, concerning article 4, it is not clear whether the violation relates to all five paragraphs or only to paragraph 3 thereof. The complainant organisation, in page 27, explicitly states that both article 4 and article 4, para.3 are violated, a fact that creates confusion.

At this point, we would like to note that the Greek Government does not dispute the admissibility with regard to the above provisions; however, we believe that it should be made abundantly clear whether the complainant organization indeed alleges violation of article 1 (as a whole or only as regards a specific paragraph) and whether it refers to article 4 as a whole or only to para. 3 thereof. These clarifications are necessary, in order for us to be able to answer on specific issues when submitting our observations on the merits, in case the ECSR concludes that the Complaint is admissible.

Finally, regarding article E, we would like to point out that, neither in page 13 nor in page 27, where the object and the grounds of the Complaint are mentioned (though not clearly), it is not clear which is the provision that it accompanies. On the contrary, the wording in both cases implies a cumulative effect, suggesting that this article is **also** violated per se. There is only one point in page 10 of the Complaint that states that “taken together, these provisions (we assume art.4, para3, art. 20 and art. E) make it essential to establish full equality of treatment between women and men with regard to pay for equal, similar or comparable work”. We believe that it would more accurate and correct from the complainant’s part to explicitly state in Chapter V of the Complaint, that art. E is examined in conjunction with art. 4, para 3 and art.20, instead of stating “particularly Articles 1, 4, 4, para3. 20 **and E**”, thus avoiding the finding of the alleged violation of art. E as inadmissible.

4. With regard to the request for compensation submitted by the complainant organization, we acknowledge in principle that, in accordance with its standard practice and based on its case law, this issue is examined by the European Committee of Social Rights during proceedings on the merits. However, following the discussion that took place during the informal meeting of the Bureau of the European Committee of Social Rights with the agents of the Member States on issues relating to the collective complaints procedure (Strasbourg, 4 July 2016), together with the relevant note made by the Chairman of the Committee that the issue is under discussion, we consider it is worth pointing out – also during the present procedure of submitting observations on the admissibility - that the complainant organisation inadmissibly requests for compensation by the Greek Government. To begin with, the Additional Protocol of Collective Complaints does not provide for compensation for legal costs; a fact that should be respected. Besides, although the European Committee of Social Rights, according to its case law to date, recommends to the Committee of Ministers to compensate complainant organizations (a practice placed under review as mentioned above), the Committee of Ministers has never awarded such a sum, since there is no legal basis for taking such action.

Finally, as regards the appointment of the Greek government’s agent, we would like to inform you that, for this specific Complaint, Ms. Evangelia Zerva, government official in the

Department of International Relations of the Ministry of Labour, Social Security and Social Solidarity, is appointed as the ad-hoc agent.

To conclude, we would like to stress that the Complaint itself is more like a political manifesto; additionally, it is quite inconsistent and vague, a fact that - should the ECSR declare it admissible - will pose difficulties in the submission of observations on the merits of the case. In its decision, both the style and the essence of the text should be taken into serious consideration by the ECSR, as the risk of making way to the submission of similar, poorly founded and ill-defined complaints lurks, jeopardizing the procedure itself.

THE SECRETARY GENERAL



ANDREAS NEFELOUDIS