



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

11 April 2017

**Case Document No. 3**

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

**RESPONSE FROM UWE TO THE GOVERNMENT'S  
OBSERVATIONS ON ADMISSIBILITY**

**Registered at the Secretariat on 20 March 2017**

Collective complaint  
No. 131 /2016

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European Committee of Social Rights  
Secretariat of the European Social Charter

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**REPLY TO THE OBSERVATIONS ON ADMISSIBILITY**

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Claimant: University Women of Europe, UWE /

Groupe Européen des Femmes Diplômées des Universités, GEFDU

Represented by Ms Anne Nègre, member of the Versailles Bar

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Respondent: Greece

## TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

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By letter dated 15 December 2016, the High Contracting Party, Greece, represented by Ms Evangelia Zerva, Agent of the government, Department of International Relations of the Ministry of Labour, Social Security and Social Solidarity, stated its opinion that the collective complaint submitted by the UWE should be declared inadmissible by the European Committee of Social Rights.

By letter dated 31 January 2017, Mr Kristensen, Deputy Executive Secretary of the European Committee of Social Rights invited the UWE to present its reply to the states' observations by 28 February 2017. The same day, the UWE asked to benefit from the same treatment as that accorded to states, by being provided with a translation of their observations in order to avoid any misinterpretations. On 7 February 2017, the UWE was informed that the deadline would be adjusted to one month following the forwarding of the translation of the observations. The French translation was sent on 23 February 2017.

It will be clear to the European Committee of Social Rights, in the light of the explanations given in this reply, that the collective complaint lodged by the UWE should in contrast be found to be admissible.

### **1. On Article 5 of the 1995 Protocol**

Pursuant to Article 5 of the Protocol *“Any complaint shall be addressed to the Secretary General who shall acknowledge receipt of it, notify it to the Contracting Party concerned and immediately transmit it to the Committee of Independent Experts”*.

The collective complaints procedure is explained on the Council of Europe website at the following address: <https://www.coe.int/en/web/turin-european-social-charter/collective-complaints-procedure1>.

Under the heading “Admissibility conditions for complaints”, it is clearly stated that “Complaints must be addressed to the Executive Secretary of the European Committee of Social Rights acting on behalf of the Secretary General of the Council of Europe”.

In compliance with these rules, the collective complaint was submitted on 24 August 2016 with a covering letter addressed to Executive Secretary of the European Committee of Social Rights acting on behalf of the Secretary General of the Council of Europe, Department of the European Social Charter and the European Code of Social Security, Directorate General of Human Rights and Rule of Law, Council of Europe. (Doc. 79).

The European Committee of Social Rights will note that Article 5 of the Protocol has been complied with.

### **2. On the texts referred to in the collective complaint**

The Committee will note that the texts on which the collective complaint is based to reach a conclusion of a violation are all cited, as Greece acknowledges, and are referred to with precision:

- Article 1 of the revised European Social Charter, in its entirety
- Article 4 of the revised European Social Charter, also in its entirety but in particular paragraph 3
- Article E of the revised European Social Charter to be read in conjunction with the preceding provisions
- Article 20 of the revised European Social Charter

Greece has ratified the revised Charter, which is undoubtedly not a secondary text but an enrichment of the initial Charter. And there has been a long-term and constant violation of its provisions. There could be a case for inadmissibility if the signed and ratified texts of the corpus of the European Social Charter on which the alleged violation is based had not been cited. But certainly not in this case.

Moreover, the Greek government does not seriously dispute the admissibility of the complaint with regard to the above provisions.

### **3. On the analyses and arguments in support of the complaint**

Greece's comments are at the very least surprising in view of the extensive, detailed and well-supported documentation submitted proving unequal pay between women and men and the discrimination suffered by women in this field.

In point of fact, there were numerous documents submitted and cited in the collective complaint which referred directly or indirectly to the texts of this country (complaint, pages 13 to 16), along with various international and European texts signed and ratified by this country and to which accordingly it remains bound.

It should be pointed out that *“few gender mainstreaming methods, such as consultations with those concerned and gender-differentiated statistics, appear to be used (Doc. 46). An independent authority, the HDPA, issues opinions and recommendations on data protection, and imposes administrative penalties for failure to comply with the relevant legislation (Doc. 49, page 14)”* (complaint, page 17, Doc. 49).

*“However, this authority did not provide information to the CEDAW committee for the preparation of its 7th report in 2013 (Doc. 40, page 11)”* (complaint, page 17, Doc. 40).

The complaint criticises the ineffectiveness of the equality monitoring bodies, indicating the sources for this criticism, as with every point made, in the following terms:

- *“Ombudsman: “The Ombudsperson is an independent authority anchored in the Constitution. The institution of the Ombudsperson was established under Law No. 2477/97 and has been in effect since 1 October 1998. The legislative framework for its operation is governed by Law No. 3094/03. The Ombudsperson’s services are free of charge. The Ombudsperson examines*

*individual administrative acts or cases of failure to act or action by public service bodies in violation of the rights or legitimate interests of natural or legal persons” (Doc. 43).*

*Law No. 3304/2005 transposing Directives 2000/43/EC of the Council of 29 June 2000 and 2000/78/EC of the Council of 27 November 2000 assigns official responsibility for promoting the principle of equality to the Ombudsperson, the Equality Body and the Labour Inspection Corps (SEPE), defining their tasks accordingly.*

*In particular:*

- 1. “The Ombudsperson is responsible for upholding the principle of equality where this principle has been violated by public administrative authorities. The term ‘public administrative authorities’ refers here to authorities mentioned in Article 3(1) of Law No. 3094/2003 (Government Gazette, Series I, No 10), ‘Ombudsperson and other provisions’;*
- 2. The Equality Body is responsible for upholding the principle of equality where this principle has been violated by natural or legal persons other than those mentioned above, with the exception of matters relating to employment and labour;*
- 3. In matters relating to employment and labour, the Labour Inspection Corps (SEPE) is responsible for upholding the principle of equality where this principle has been violated by natural or legal persons other than those mentioned in paragraph 1 (S.EDoc.E.)”. (Doc. 43 [https://e-justice.europa.eu/content\\_fundamental\\_rights-176-el-en.do?member=1](https://e-justice.europa.eu/content_fundamental_rights-176-el-en.do?member=1))*

*Article 13, paragraph 8, of Law No. 3488 of 6 September 2006 establishes the first official machinery for co-operation between the Ombudsperson and the Labour Inspectorate.*

*Persons who think they have suffered discrimination may take legal action. The report confirms that there are no limits to the amount of compensation the courts can award if they find a breach of the applicable provisions (Doc. 47).*

*“A considerable number of experts have reported that only very few (or even no) claims on gender pay discrimination make their way up to the competent (regular or administrative) courts .. Case law on equal pay issues is indeed very scarce. Explanations for such scarcity are multiple, including the problematic scope of comparison, the lack of personal resources of the claimant, problems regarding time limits, limited compensation and sanction possibilities and also lack of trust in the judiciary” (Doc. 49, page 19.)*

*In practice ombudspersons need training on problems relating to equality.*

- Labour Inspectorate: The Labour Inspection Corps was established in Greece by Law No. 2639 of September 1998 on the rules governing employment relationships, the establishment of the labour inspection corps and other provisions.*

*The inspection corps monitors implementation of the legislation, and ensures that the principle of equal opportunities for and treatment of women and men in the fields of employment and*

*labour is properly applied and that the provisions on reconciling work and family/private life are respected.*

*The inspectorate must be informed of any violations of Law No. 3488/2006, as amended by Law No. 3869/2010, or in other words any breach of its provisions relating to the principle of equal treatment of women and men in the fields of employment, vocational training, career advancement and working conditions (Docs. 42 and 43).*

*The local offices of the inspection corps are required to inform the ombudsperson of any complaints they have received concerning gender-based workplace discrimination and present him or her with the conclusions of their inquiries. The inspectorate retains the power to impose administrative penalties or to bring the case to the courts to secure a criminal conviction and sentence.*

*However, the Labour Inspection Corps lacks sufficient human and material resources to perform its functions (Doc. 49, page 24).*

*In its Conclusions, your Committee has stated that “the Committee recalls that legislation must provide effective protection against any retaliatory measures taken by the employer against a worker asking to benefit from the right to equal pay . The latter requirement includes in particular an obligation to prohibit dismissal in such cases and in cases of unlawful dismissal to provide for the reinstatement of the workers. In exceptional cases, where reinstatement is not possible or is not desired by the worker, financial compensation instead may be acceptable, but only if it is sufficient to deter the employer and to compensate the worker. Any compensation must, as a minimum, cover the difference in pay” (Doc. 46)” (Complaint, pages 17, 18, 19).*

Furthermore, Document 40 comprises the observations of the Committee on the Elimination of Discrimination against Women on the 7<sup>th</sup> report by Greece, published on 23 March 2013, which provides ample proof given that the information was submitted by Greece itself. The complaint is very detailed and substantiated with regard to the situation in Greece as it emerges from this report (complaint, pages 25 and 26).

In these observations, the Committee “*regrets that the report lacked updated statistical data, disaggregated by sex, and qualitative data on the situation of women in a number of areas covered by the Convention, that it was not prepared in a participatory process and that neither civil society organizations nor the Parliament were involved in the whole process*” (CEDAW Report page 1, paragraph 2).

The report continues: “*While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage the Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations between now and the Government’s next reporting process under the Convention*” (CEDAW Report page 2, paragraph 7).

And: “*The Committee urges the State party to:*

a) *Make effective use of European Union funds to maintain and develop programmes and policies aimed at reaching substantive gender equality and use the studies due at end of 2014 to reorient, as needed, gender equality policies, in view of the impact of the austerity measures on the enjoyment by women of their economic, social and cultural rights under the Convention;*

b) *Ensure that the Observatory Mechanism to Monitor the Implementation of Gender Equality Policies in Public Activity receives the necessary human and financial resources to accomplish its mandate, and avoid duplications with the General Secretariat of Gender Equality;*

c) *Evaluate the efficiency of the Ombudsman, maintain and if possible increase the budget of this service so that it can handle the cases referred to him in a timely fashion” (CEDAW Report page 3, paragraph 11).*

With regard to employment, the CEDAW calls on Greece to:

*“eliminate occupational segregation, both horizontal and vertical, and adopt measures to narrow and close the wage gap between women and men and, make sure that female wages and pensions are not below the poverty limits;*

b) *Carefully review and analyse the impact of the new legislation on women’s opportunities in the labour market, and make necessary amendments to ensure women’s equal participation in the labour market, by instituting measures to eliminate stereotypes and traditional attitudes that discriminate against women;*

c) *Restore the institutions of social dialogue which provide important social services for women; and;*

d) *Collect data disaggregated by sex, geographical location and minority, on the situation of women and men in the area of employment in order to monitor and improve women’s working conditions” (CEDAW Report page 8, paragraph 29).*

The report notes that the General Secretariat of Gender Equality has to date inadequate possibilities for action, that it needs to be given sufficient human, financial and technical resources to enable it to play a co-ordinating role and work effectively to promote the inclusion of a gender perspective in all sectors, and that the National Committee on Equality should be reactivated.

It is interesting to note that *“the Committee urges the State party to collaborate with non-governmental organizations and involve them, in particular, women’s associations, in the design and implementation of policies, programmes and measures aiming at the advancement of women in all areas covered by the Convention, as well as in the process of reporting to the Committee” (CEDAW Report page 4, paragraph 15).*

The above shows the unsatisfactory way in which equality is established in this country in terms of equal pay between women and men, discrimination and, consequently, the failure to comply with the provisions of the revised Social Charter.

The complaint highlights the inadequacy of the tasks of the monitoring bodies in the field of equal pay between women and men, showing that in this respect Greece fails to satisfy the requirements of the European Social Charter to ensure that this equality exists in both law and in practice. It further refers to the Conclusions of the ECSR (complaint, pages 16, 17 and 18).

Reference is also made to the burden of proof in judicial matters which fails to uphold this country's commitments (complaint, page 19).

Furthermore, the very low number of women in leadership positions in companies, 4%, which is a proven fact, pay inequality and widespread gender-based discrimination simply for being a woman all constitute a violation of the Social Charter. If Greece cannot see how it has failed to ensure the satisfactory application of the Charter's provisions, does it claim that pay equality is the rule in the country? That there is no gender-based discrimination? Unfortunately, that is far from the situation in this country.

The Greek government has a responsibility under the European Social Charter, but it is its choice not to comply with it.

Greece has a gender gap of 15% compared with the European Union average of 16.3%. In 2015, in its Gender Equality Index, the EU's European Institute for Gender Equality (EIGE) calculated that the overall score for the EU was 52.9% while that of Greece was 38.3%. (complaint, pages 23-24).

As the ECSR will note, the comment on the lack of information on the situation in Greece does not hold water, given the well-documented, precise and corroborating arguments proving that this country fails to comply satisfactorily with the provisions of the revised European Social Charter concerning equal pay and combating discrimination. The lack of effectiveness of the texts that have been adopted, the absence of any co-ordinated policies and the lack of any budgetary resources allocated to these policies are unmistakable. All this comes under the merits.

The European Committee of Social Rights will accordingly declare the UWE's complaint to be admissible.

#### **4. On Greece's allegation of the political motivation and the style of the complaint**

No problem regarding admissibility had been raised, for example, in the Greek General Confederation of Labour v. Greece case, Complaint No. 111/2014, in which the wording of the complaint, as presented, also comprised a political dimension in the highest sense of the term.

Greece challenges the contention that unequal pay between women and men for equal work is rooted in the culture and derives from history and the slow pace of policies pursued in recent years as a result of serious obstacles preventing equal pay from being implemented.

With regard to politics, since Plato in "The Statesman", a distinction has been drawn, which has been further developed over the centuries, between party politics, the preserve of political



parties, a necessarily partisan ideology to be implemented, and politics in the much broader sense, as promoted by civil society, independent of any ideology or political party.

The UWE is independent of all political parties. It is therefore odd that the representative of a government whose members have been brought to power by means of elections based on an ideology, should make such an allegation against the UWE.

Legal remedies are available to different applicants through legal instruments. The European Social Charter is one of these instruments as it is viewed by some as the social constitution of Europe, making it possible, in a totally unique way, for a collective complaint to be submitted, in the first instance, to a committee comprising judges of the highest level, independent of the states which have appointed them. It is to the credit of the Council of Europe and its member states that such a quasi-judicial body has been established.

While the aim is to spotlight the situation in many countries of Europe, the failings at national level are clearly set out for each country in each complaint. Drafting the complaint was a long and arduous endeavour, as it was wished to facilitate the task of the rapporteurs. However, apart from the statement of facts and the highlighting of this manifest, persistent and abnormal situation of inequality in the various countries, each complaint is entirely tailored to each country. One needs only to read them to see the specific issues raised which are different for each country.

This inequality is to be found in Greece, as has been proved by the UWE. And this situation has, as its corollary, the violation of the revised European Social Charter.

Why sign and ratify texts if they are not applied in practice? There is, accordingly, no political motivation in the sense of partisan ideology on the part of the UWE, and Greece gives no justification for this allegation. The UWE's action must therefore be declared admissible.

The style of this complaint does not prevent the statement of facts from focusing on the existence, causes and consequences of inequality, bearing in mind the particular difficulty in having one's voice heard on this matter.

The underlying reasoning is set out in a meticulous and enumerated way. Each part looks at various points of law and how they are applied in practice. There are two options:

- Either the complaints are such that they risk "*jeopardising the [collective complaints] procedure itself*" according to the observations of Greece
- Or these collective complaints are not up to the standards of the requirements. However, in this case, there is no need for states to consult and try by all means to have them declared inadmissible.

The government does not like criticism of the facts. What text or case law sets out how to describe the facts in a way that will suit the Greek government? It does not quote them.

Is there a form of censorship directed towards a lawyer's freedom of written expression? For, in this case, it is a lawyer who is being called into question and certainly not the UWE.

## **5. Concerning the number of collective complaints and consultation among states**

The European Committee of Social Rights will notice similarities in the observations of certain states. Indeed this consultation is confirmed by the observations of the Netherlands in which it is stated (page 1, paragraph 6): *“Having become aware of the submission of fifteen similar complaints, it was agreed between the Government Agents that each of the respondent states will formulate its own observations on admissibility.”*

Is this decision to engage in consultations among the states concerned any more normal than a joint action, under the auspices of an accredited INGO – the UWE – by national women's movements not authorised to act directly? Is it not intended to paralyse the attempt to highlight violations by the states that are signatories to the Charter of the undertakings they have entered into?

Is it not the case that the question of equal pay between women and men is such a burning issue that it should of necessity be examined on the merits by the European Committee of Social Rights?

It will also be noted that there are other states against which the collective complaint has been lodged, alleging, using the same presentation of national data, unequal pay, discrimination and inadequate effectiveness in practice of enacted legislation but which have not found any grounds for inadmissibility and have therefore not written any observations as to the admissibility of the UWE's action.

The UWE's complaint should therefore be declared admissible.

### **ON THESE GROUNDS**

AND SUBJECT TO ANY THAT MIGHT BE RAISED IN ADDITIONAL MEMORIALS OR MENTIONED AT  
A HEARING

The European Committee of Social Rights is asked to confirm the competence of the University Women of Europe, UWE / Groupe Européen des Femmes diplômées des Universités, GEFDU to lodge a collective complaint against Greece,

and to examine this collective complaint on the merits.

Without prejudice  
19 March 2017



## **ADDITIONAL DOCUMENTATION**

79. 24 August 2016, letter forwarding the collective complaint