



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

14 June 2017

Case Document No. 4

University Women of Europe (UWE) v. Norway
Complaint No 135/2016

**FURTHER RESPONSE OF THE GOVERNMENT TO UWE'S
OBSERVATIONS ON ADMISSIBILITY**

Registered at the Secretariat on 2 June 2017

FURTHER OBSERVATIONS ON ADMISSIBILITY
SUBMITTED BY THE GOVERNMENT OF THE KINGDOM OF NORWAY

to

THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

in

University Women of Europe (UWE) v. Norway
(Complaint No. 135/2016)

1 INTRODUCTION

- (1) Reference is made to the letter from the Deputy Executive Secretary of 31th March 2017, enclosed a copy of University Women of Europe's ("UWE") response to the government of Norway's (the "Government") observations on admissibility in the above mentioned case. Further reference is made to the letter from the Deputy Executive Secretary of 21th April 2017 forwarding an English translation of UWEs response and inviting the Government to submit further observations within 19th May 2017. The time limit has been extended until 2nd June 2017.
- (2) The Government maintains that the complaint from UWE is inadmissible as the requirements set out in article 4 of the Additional Protocol are not met. The Government refers to the views set out in its observations of 13th December 2016 and will add some further observations in this document.

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2 FURTHER OBSERVATIONS ON THE ADMISSIBILITY OF THE COMPLAINT FROM UWE

- (3) The Government recalls that article 4 of the Additional Protocol requires a complainant to "*indicate in what respect [the Contracting Party] has not ensured the satisfactory application [of the Convention's provisions]*". Hence, it follows from the text, as well as from the other sources cited in our observations of 13th December 2016, that the complaint should meet minimum requirements of specificity and documentation in order to be admissible. The complaint must lend itself to be considered and decided by the Committee in a meaningful way in order to be accepted for consideration. The questions of whether such minimum requirements are met are questions of admissibility, not of merits as UWE contends in its response page 2.
- (4) The Government contends that the Committee should base its decision on admissibility on the relevant sources of law, among these most importantly the text of the Convention. The Government further submits that the Committee should seek guidance in other sources of law, including the admissibility criteria developed in other international complaint systems. Reference is made to the European Court of Human Rights ("ECHR") that declares unsubstantiated or undocumented complaints inadmissible as "manifestly illfounded". Reference is made to ECHR's "Practical guide on admissibility criteria" pages 87-88. The Government will also point to the fact that the Committee has been given the tools to develop and design suitable admissibility criteria, ref. the Explanatory Report to the Additional Protocol para. 31.
- (5) The complaint from UWE lacks the required specificity and documentation in two respects: First, UWE has indeed mentioned some Norwegian legislation and mechanisms for enforcement in its complaint. However, these instruments again contain a vast number of rules and regulations, covering a number of situations. UWE has not described what part or parts of the legislation or enforcement mechanisms that the organisation find unsatisfactory in its wording or application. It is the Norwegian system as such that is alleged in breach of Norway's obligations.
- (6) The Government further brings the Committee's attention to the fact that UWE bases its complaint on provisions of the Charter that are formulated as obligations of *effort* not of *results*. Hence, a properly formulated complaint should also describe in what way Norway allegedly has failed to fulfil its obligations to take such relevant measures. Only pointing to an alleged lack of results is not sufficient for a complaint to be admitted for consideration by the Committee.
- (7) Second, UWE has based its factual description of the "actual situation in Norway" (complaint 4.6) on reports and statistics that mostly describe the situation in Europe or the world as such, in little detail and in general terms. The complaint lacks the required specificity and documentation also in this respect.
- (8) UWE has in its response to the observations of the Government in various ways argued that it has provided a lot of information and documentation to support its complaint. The Government contends that the amount of information is irrelevant, as long as UWE has failed to specifically describe the alleged breach, pointing to the specific and relevant pieces of national regulations and factual situation that the Committee shall examine. It is such specificity, enabling consideration and rebuttal, that the Government finds necessary for a complaint to be regarded as admissible and thereby amenable to consideration by the Committee. This does not mean that the Government requires the "*complaint to refer to each case of inequality in each sector and company*", as alleged by UWE in the response page 5.

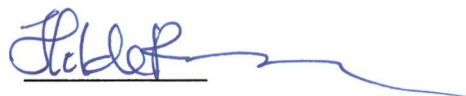
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- (9) The Government further submits that if the complaint is declared admissible, the Committee will in practice place a much greater burden on the states than was intended by the States Parties that ratified the Additional Protocol. If the complaint is to be examined on the merits, the vagueness of the complaint will require the Government to describe all relevant measures taken and the results achieved in the area of equality of pay, which would be a considerable and time consuming, indeed probably insurmountable, task. In contrast, Article 4 of the Additional Protocol presupposes that it is for the *complainant* to present and substantiate the alleged breach in first hand, and for the governments to rebut.
- (10) Further, it follows from the preamble to the Additional Protocol that the purpose of the collective complaints procedure is to "*improve the effective enforcement of the social rights guaranteed by the Charter*". Hence, the aim is to supplement the reporting system under the Charter. The complaint from UWE will, with its lack of specificity and documentation, fail to fulfill this purpose. On the contrary it will require a rebuttal in a general form normally reserved for the country reports and entail an unintended and unnecessary overlap of the two enforcement mechanisms.

3 CONCLUSION

- (11) For these reasons the Government respectfully submits that the Committee should find the complaint from UWE inadmissible.

Oslo, 2 June 2017



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