



National Women's
Council of Ireland
Comhairle Náisiúnta
na mBan in Éirinn

**Response to Baseline Assessment of Legislative and Regulatory Framework
National Plan on Business and Human Rights**

4 February 2019

Introduction

The National Women's Council of Ireland (NWC) is the leading national women's membership organisation in Ireland. Established in 1973, it represents a membership base of over 180 groups and organisations across a diversity of backgrounds, sectors and locations and is committed to the promotion of full equality between women and men. Our aim is an Ireland where women and men are treated equally.

We strive to show leadership in bringing women together to build a consensus on the kind of society we want to be a part of, and on the key values, that we believe, should be at the heart of that society. Our feminist values of equality, inclusion, respect for diversity, empowerment and meaningful participation by women in society, are shared by Irish trades union and civil rights movements.

We welcome the opportunity to provide input into the Baseline Assessment of Legislation and Regulatory Framework, as required by the National Plan on Business and Human Rights 2017-2020. NWC's comments reflect the lived experiences of the women that we have worked with and that have contacted us in huge numbers over many years.

This submission, like previous contributions to the Department of Foreign Affairs and Trade on the National Plan on Business and Human Rights from NWC, is underpinned by our vision of Ireland where men and women enjoy the same power to define their lives and contribute to the shaping of the world around them, sharing both care and employment.

Submission Structure

Our comments relate to two separate sections of the Baseline Assessment:

Part III Key Issues in Ireland (pages 26 to 47 of the Study) concerning Key Issue 1: Labour and Worker Rights, Key Issue 3: Equality and Anti-Discrimination, and sub-issue Women's Rights and Key Issue 9: Procurement.

And.

Part IV Remedies (pages 48 and 49 of the Study). NWCI will be commenting on the general ways in which improved access to remedies and justice can be achieved.

Introduction

Inequalities between women and men have serious implications for a woman's lifetime earnings, her career decisions and her ability to live in older years with a decent income. The pay and pensions gaps not only arise just from a legacy of inequality such that, as societies modernise, economic inequality can be expected to decline. Instead it is reinvented in new forms of employment and insecure and precarious working. Closing the equality gap will derive significant economic and social benefits.

In May 2017, NWCI welcomed the publication of the National Strategy for Women and Girls 2017-2020: Creating a Better Society for All. However, as it stands, this Strategy is a series of commitments; it requires significant investment and prioritisation of resources for key areas such as violence against women, childcare and women's economic independence. The Strategy will only be realised if each Government Department gets on board, both in terms of providing leadership and investment. Moreover we are half way through its implementation and many of the commitments outlined in the Strategy remain to be fulfilled (these comments are made in reference to page 33 of the Baseline Assessment).

Summary of comments for consideration and insertion into the reviewed Baseline Assessment.

Key Issue 1: Labour and Worker Rights (Discussed on pages 26 to 30 of the Baseline Assessment). NWCI submits that a significant challenge encountered in modern life by all workers, but most especially women, is the difficulty reconciling their professional and private lives. However, absent from the subheading, Gaps and Recommendations (pages 29 and 30), is a detailed analysis of the ways in which the limited possibilities to cost-effectively, efficiently and flexibly combine paid work with family responsibilities negatively impacts workers. NWCI submits that this topic should be considered for inclusion in this section, and we include a detailed discussion in this section.

Key Issue 3: Equality and Anti-Discrimination (Discussed on pages 32 and 34 of the Baseline Assessment). NWCI believes that the role of law and justice is essential to achieving gender equality. However, absent from the subheading Gaps and Recommendations (page 33), is a detailed analysis of the ways in which these laws specifically protect or more importantly fail to protect women. NWCI submits that this topic should be considered for inclusion in this section, and we include a detailed discussion in this section.

Key Issue 3: Equality and Anti-Discrimination concerning subheading, Women’s Rights (Discussed on pages 33 and 34 of the Baseline Assessment). NWCI believes that an equal society requires political and business will towards redistribution and provide additional context and more contemporary information concerning the discussion on page 34 under subheading Gaps and Recommendations, and we include a detailed discussion in this section.

Key Issue 8: Procurement (Discussed on pages 43 and 46 of the Baseline Assessment). NWCI believes that public procurement procedures can be used to promote gender equality. However, absent from the subheading Gaps and Recommendations (page 45), is a discussion of this position. NWCI submits that this topic should be considered for inclusion in this section, and we include a detailed discussion in this section.

PART IV: Remedies (discussed on pages 48 and 49 of the Baseline Assessment). While the Baseline Assessment states on page 48 that a ‘detailed discussion and analysis of remedies is outside the scope of this Report’, it went on to recommend on page 49 that ‘the Implementation Group engage in a detailed review of remedies and access to these remedies as a priority’, and it is in that context that NWCI submits a number of recommendations for consideration, and we include a detailed discussion in this section. We add that these recommendations may also be read in conjunction with the preceding comments and recommendations contained in this Submission.

NWCI comments for consideration and insertion into the reviewed Baseline Assessment of the Legislative and Regulatory Framework as per the National Plan on Business and Human Rights.

Key Issue 1: Labour and Worker Rights (Discussed on pages 26 to 30 of the Baseline Assessment)

NWCI submits that a significant challenge encountered in modern life by all workers, but most especially women, is the difficulty reconciling their professional and private lives. However, absent from the subheading, Gaps and Recommendations (pages 29 and 30), is a detailed analysis of the ways in which the limited possibilities to cost-effectively, efficiently and flexibly combine paid work with family responsibilities negatively impacts workers. NWCI submits that the below content is highly relevant to this discussion and should be considered for inclusion in this section.

Women have historically been excluded from participating in paid employment in Ireland. Their exclusion was reinforced by the marriage bar which prevented married women from working in the civil service and local authorities until 1973 and by Article 41.2 of the Constitution which ensured that women would not be obliged by economic necessity to work outside the home. Furthermore, because of the separation of public and private spheres and because of the persistence of structures of discrimination against women, women's caring work has tended to be unpaid and undervalued. The change in the Government's policy in the 1990s to one encouraging women to enter the workforce has not served to address the historical problem of discrimination against women's work as it has prioritised the needs of the economy over those of women.¹

Thus, while recent decades have seen a dramatic increase in the number of women participating in paid employment, women continue to be concentrated in low-paid, part-time work. Limited possibilities to cost-effectively, efficiently and flexibly combine paid work with family responsibilities is one of the main reasons for women to predominate in this type of work. This is particularly urgent in the area of childcare, eldercare and personal care workers. These vital social services are being delivered by women, often young women, women of colour or migrant women who are vulnerable to

¹ For a detailed discussion see NWCI's Millennium Report Women and Work, 2000.

the most precarious working conditions. With this practical reality of ‘equality in work’ and work life imbalance, it is unsurprising that the gender pay gap in Ireland continues to stand at 13.9% in favour of men.

At the end of 2017, the Irish Government broadly welcomed the European Pillar of Social Rights,² a document that sets out twenty specific principles under three broad categories – (i) equal opportunities and access to the labour market; (ii) fair working conditions; and (iii) social protection and inclusion. The principals aim to deliver new rights for the citizens of the Union, including gender equality, equal opportunities, support for children and the inclusion of persons with disabilities. In particular, Principle 9 focuses on Work-life Balance and establishes that ‘parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services’.

Related to that is the EU’s Work Life Balance Directive which is designed to ensure the implementation of the principle of equality between men and women with regard to labour market opportunities and treatment at work. It contains a package of measures aimed at addressing the underrepresentation of women in employment, and supporting women’s career progression by creating improved conditions whereby they can reconcile their working responsibilities and family commitments. The specific objectives of the Directive are (1) To improve access to work-life balance arrangements and (2) To increase take-up of family-related leaves and flexible working arrangements by men.

- This year could bring real change in the regulation of family leave, as numerous Bills make their way through the Oireachtas; the Shared Maternity Leave and Benefit Bill 2018, Parental Leave (Amendment) Bill 2017 proposing to extend the leave by a number of weeks, a draft Heads of Family Leave Bill suggesting a substantial overhaul of leave arrangements and other entitlements and the proposed EU Directive on work-life balance for parents and carers which suggests introducing a number of days leave for employees with caring responsibilities. These initiatives propose a range of new protections for employees, with a particular focus on new parents. Every employer will be affected by the initiatives, which come at a time when there are ever greater

² <https://www.welfare.ie/en/pressoffice/Pages/pr231017.aspx>

restrictions on the employer flexibility to manage their workforce.

- Lack of flexible working opportunities is a core reason behind women's thinning presence in senior jobs; the closer the ladder gets to senior roles, the more women fall off it. This is because senior positions are still seen as full-time by default; a stubborn legacy of old work practices, which is rewarded accordingly. Making all jobs flexible, unless there is a compelling business need not to, would remove the stigma flexible working continues to carry and allow workers to use it to shape their jobs and work around their family and community life.³ This would also challenge the widespread perception that visibility equals productivity. Improving this would not just help women as priorities for work-life balance are shifting for all genders. Employers should start working on practical solutions, sooner rather than later. This is not just a question of morale and staff retention; there appears to be a negative correlation between a lack of flexitime and companies' performance, too.⁴
- Many women leave the labour market or move into part-time jobs after giving birth which has a knock-on effect on their pay. This is partly due to conservative views regarding the division of labour in Ireland, where most mothers take on the bulk of childcare and housework. Even when mothers choose to maintain their careers after childbirth, there can be an inherent bias towards them due to societal perceptions that they will prioritise their family over their work. The best way to challenge this is to ensure that fathers, or partners, take on their role in childcare. One way to do this is to give them the opportunity to spend time with their new-born babies, as well as to provide them with the opportunity to be more hands on later in the child's life. In that respect we broadly welcome the Government's recently launched 'First 5', Ireland's first ever cross-Departmental strategy to support babies, young children and their families; A ten year plan that aims to introduce a range of progressive measures, including extending parental leave. However, other measures such as ensuring that both maternity and paternity leave are 'topped up' would

³ In a study published in 2018, Deloitte and Timewise, found that a significant number of women had experienced negative effects from flexible working

⁴ Morgan Stanley found that companies that do not offer flexible working underperformed on the MSCI World index between November 2011 and October 2016. Indeed, the gap steadily widened over those five years.

instil greater confidence.⁵

- Formal policies must be consistent with what employees actually experience. It has emerged that although the language of organisational work/life policies is generally gender-neutral, these policies have historically developed to facilitate the working conditions of women, to facilitate caring duties, so men's uptake continues to be extremely low. Such disparate utilisation rates by men entrench women's place as primary carers, reinforcing the strongly gendered way in which employment and caregiving is combined. We need data on the uptake rates of policies across organisations because this will provide evidence to the existence of unsupportive cultures and practices.

Key Issue 3: Equality and Anti-Discrimination (Discussed on pages 32 and 34 of the Baseline Assessment)

NWCI believes that the role of law and justice is essential to achieving gender equality. However, absent from the subheading Gaps and Recommendations (page 33), is a detailed analysis of the ways in which these laws specifically protect or more importantly fail to protect women. NWCI submits that the below should be considered for inclusion in this section.

The role of law and justice is essential to achieving gender equality. The legal status of women in Ireland has changed significantly in recent decades but given the continuing differences in the material and social conditions of the lives of women and men, it must be accepted that there is still a long way to go. And as we witness the expansion and penetration of the legal sphere into more and more aspects of other social (public and private) spheres – the prominence of law and rights in affecting women's lives becomes increasingly obvious.

⁵ Workplace Relations Commission in the case of *An Area Manager v A Transport Company ADJ-0000577* is authority for the proposition that employers are not required to apply the same rules to maternity pay and paternity pay, given the special protection afforded with regard to pregnancy and maternity in European and Irish law.

- Laws, whether formal or informal, provide the substantive content of our rights. Some of our laws have been shown over time to need changing and improving. And, as the various forms of sex discrimination in our society continue to evolve or to change, the law also needs to adapt and improve to reflect those changes. With the political and social landscape now at such a pivotal moment, this is an ideal time to take stock of our current sex discrimination laws: to analyse what works well for women; to identify what needs to change; and to draw together diverse ideas to improve both the legislation and our system of justice, for those women who consider that they have been the victims of unlawful sex discrimination and who rightly want to complain about it.
- Particular need should be paid to the prevalence and nature of pregnancy discrimination and disadvantage in the workplace. Despite the existence of protective laws in this area a 2011 study, the only comprehensive major study of its kind carried out here, found extensive that 30 per cent of those who worked while pregnant experienced discrimination. A similar figure reported problems surrounding maternity leave. If an employer breaches maternity legislation, the legislation provides that a woman who has been affected can receive up to 20 weeks remuneration. Usually remuneration for breaches other than maternity legislation is up to 2 years, and protected disclosure is up to 5 years remuneration. Therefore, remuneration of 20 weeks in the maternity legislation devalues the important right of a woman to return to her same position in work. This reflects how the legislature values the right. Women usually bring their claim under the maternity legislation in with an employment equality claim to ensure higher awards.
- The question of equal pay is an especially difficult one to resolve through individual litigation. This is because complainants encounter evidential problems. A successful complainant must show that there is a person of opposite sex in the same employment working for the same (or associated) employer doing “like work”. This is difficult to achieve in the context of gender-segregated employment which is further aggravated by the unavailability of a “hypothetical comparator”. More particularly the most relevant information will be at the disposal of the employer, and there is no legal obligation on them to provide particular information to the claimant. Such a binding obligation would be more effective at allowing potential claimants to figure out if they have a

legitimate claim at an earlier stage in proceedings, and facilitating swifter resolutions in claims that would help to reduce delay.

Key Issue 3: Equality and Anti-Discrimination concerning subheading, Women’s Rights (Discussed on pages 33 and 34 of the Baseline Assessment)

NWCI believes that an equal society requires political and business will towards substantive action. We submit the following to provide additional context and information concerning the discussion on page 34 under subheading Gaps and Recommendations.

- National Strategy for Women and Girls 2017-2020 (discussed page 33)

Page 33 of the Baseline Assessment made reference to comments from NWCI concerning the National Strategy for Women and Girls 2017-2020. However, we would like to draw attention to the fact that while we support this Strategy it must be clearly acknowledged that as it stands, this Strategy is a series of commitments; it requires significant investment and prioritisation of resources for key areas such as violence against women, childcare and women’s economic independence. The Strategy will only be realised if each Government Department gets on board, both in terms of providing leadership and investment. Moreover we are half way through its implementation and many of the commitments outlined in the Strategy remain to be fulfilled.

- Boards and Quotas (discussed page 34)

The difficulties of achieving substantive progress without corresponding strong measures is clearly exemplified by the decades it took to reach the target of 40% representation of women on our state boards. Even with that there is disparity of representation between boards.⁶ Women comprise just 16% of those on corporate boards in Ireland, far below the EU average of 23%. Without targets or quotas, we could be waiting decades for gender equality on corporate boards. NWCI believes that countries such as Norway serve as an example of how we can accelerate the pace of change and improve women’s representation on corporate boards. Norway was the first

⁶ In 2013, NWCI published our Better Boards, Better Business, Better Society report with recommendations for Government and for businesses on increasing women on private and State boards. http://www.nwci.ie/images/uploads/Better_Boards_PDF.pdf

country in the world to introduce a gender quota for boards in 2015 and within three years they saw women's representation increase from 17% to 40%.

- Wage Transparency (discussed page 34)

Transparency around pay will help remove the question of gender-influenced pay. An employer may be unaware that they even have a gender pay gap until they analyse their pay information. Requiring employers to be more open about gender pay differences should bring pressure to bear on them to explain the reasons for those differences and to consider what they can do to eliminate them. The General Scheme of the Gender Pay Gap Information Bill is designed to compel employers to publish data on their gender pay gaps. Given that this legislation is still in its infancy, NWC, ICTU, SIPTU, and Fórsa have strongly advocated for a number of changes that we believe will strengthen the Bill.

- Recommend amending the applicable firm size to employers with 20 or more employees. This will cover just 4% of all the enterprises operating in the country and 70% of total employees (source: CSO Business demography data).
- Recommended the legislation captures the widest definition of employment, such that proprietary and non-proprietary directors, equity and non-equity partners along with those in "consultant" roles (with the company being their only client) are included.
- Recommended the publication of a narrative alongside the gender pay statistics. As well as an Action Plan on what measures will be taken to close the gap.
- Recommended the legislation provide for specific fines, as uncertainty surrounding enforcement measures could lead to employers not taking their obligations seriously.

- Wage negotiations (absent from the discussion)

Addressing the hidden discrimination inherent in wage negotiations is essential for achieving pay transparency. An initial salary at an early job can affect salary at a later one because hiring managers often base their offer on previous pay. Research has shown that those who get lower

salary offers are often women. Legislation should prohibit employers (and by extension recruiter agencies) from asking about salary history. Employers should also be prohibited from seeking this information through an agent or from other sources, such as the applicant's former employers.⁷ Employers should also be legally required to state the minimum salary that they are prepared to offer for an advertised role, regardless of whether it is advertised internally or externally. Employers should also be generally prohibited from inserting terms in a contract that prevent employees from disclosing/discussing their wages. These measures will help to ensure that salaries reflect the qualifications, skills, experience and achievements of the particular employee. They will also help shift the emphasis from presentism to the quality and output of the work done, so that taking extended periods of time off of work will not unduly affect future wages. This is essential for women as they tend to have more career interruptions than men. Disrupting inadvertent gendered wage patterns that follow women from job to job or penalise carers (predominately women) returning to paid work after an extended period of time out of the workforce are essential to eliminating the gender pay gap.

Key Issue 8: Procurement (Discussed on pages 43 and 46 of the Baseline Assessment)

NWCI believes that public procurement procedures can be used to promote gender equality. However, absent from the subheading Gaps and Recommendations (page 45), is a discussion of this position. NWCI submits that the below should be considered for inclusion in this section.

Public procurement refers to the process by which public bodies purchase works, goods or services from suppliers. EU law sets out a minimum harmonised public procurement rules to create a level playing field for all businesses across Europe. These rules govern the way public authorities and certain utility operators purchase goods, works and services.

- NWCI believes public procurement procedures can be used to promote gender equality. Non-discrimination is a fundamental principle of EU law generally and public procurement law in

⁷ Numerous laws to this effect have been implemented in the US.

particular so the concept of including provisions which promote non-discrimination generally is consistent with EU law requirements.

- Some research has been done in this area by the European Institute for Gender Equality⁸. This study confirms that public procurement has a great potential to promote gender equality as the EU standards require that contracts should always be awarded in observance of the principles of equality and non-discrimination. Under this proposal a contracting authority could include a requirement to show how the bidding company has demonstrated equal opportunities and gender diversity in their business. Due to the economic incentive of a public procurement contract, this may motivate businesses to change and update their policies to enshrine gender diversity.
- By way of comparison, it would also be possible to structure National guidelines in a way, which effectively penalises companies which cannot demonstrate gender equality. For example, the Federal Equal Opportunities Office in Switzerland has included the principle of equal pay for men and women in the national legislation on public procurement contracts. This requires companies bidding for a public procurement contract to subscribe to the principle of equal pay. Furthermore, bidding companies must sign a declaration stating that they enforce equal pay policies in their company. Companies unable to give this guarantee are excluded during the evaluation process.
- Structures to promote other social policies are used widely in public procurement in Ireland. For example, the Department of Communications, Climate action and Environment has a Green Public Procurement (GPP) policy aimed at ensuring that public procurement promotes the delivery and use of environmentally friendly products and services in supplies to the public sector. The EU publication “Public procurement for a better environment” published in 2008 also provides guidance on how to reduce the environmental impact caused by public sector consumption and how to use GPP to stimulate innovation in environmental technologies, products and services.
- In recent years, The Irish Government has begun including clauses in Government contracts, which require suppliers to ensure that at least 10% of the workforce for projects is sourced from persons who are on the live register. It is also quite common for public bodies to require suppliers and service providers to comply with any corporate governance or other policies in use by the relevant

⁸ “Equal opportunities for men and women in public procurement contracts: A few recommendations.” (2007)

public body. There are some examples of public bodies requiring suppliers to include details of policies such as CSR as part of tender processes. These are often submitted on a for information basis only and are not subject to evaluation and the award of marks.

- Based on the above we do see it is both possible and consistent with EU law and public procurement principles to include measures, which encourage gender diversity in public procurement. We suggest the following approach be adopted:
 - We do not consider seeking to have legislation introduced to expressly require account to be taken of gender diversity in public procurement is the most effective or efficient approach. Gender diversity is not expressly captured in the Procurement Directives and domestic legislative provisions, which expressly provide for it in Ireland could be seen as introducing different rules applicable within an EU context which could be seen as discriminating against non-domestic suppliers (who may not be familiar with Irish domestic laws).
 - Public authorities do often require suppliers to comply with the public authority policies. Where a public authority has a gender diversity policy we see no reason why the public authority cannot require the supplier to comply with that policy. This would be done by introducing a clause into the relevant public contract requiring the supplier to comply with all relevant policies including in respect of gender diversity
 - Similarly, we do not see any reason why public authorities cannot introduce specific clauses which promote gender diversity in public contracts in a manner similar to the way in which public authorities require suppliers to comply with social inclusion clauses. We recommend that these be drafted in the same way as those used for social exclusion. They effectively seek to promote the activity rather than seeking to penalise it. Requiring suppliers to submit details of their gender diversity policy should be encouraged through procurement and could form part of the qualitative assessment of tenders.

PART IV: Remedies (discussed on pages 48 and 49 of the Baseline Assessment)

While the Baseline Assessment states on page 48 that a ‘detailed discussion and analysis of remedies is outside the scope of this Report’, it went on to recommend on page 49 that ‘the Implementation

Group engage in a detailed review of remedies and access to these remedies as a priority', and it is in that context that NWCI submits the below recommendations for consideration. We add that these recommendations should also be read in conjunction with the preceding comments and recommendations contained in this Submission.

Access to justice is both a basic human right but it also an important driver of change and means of implementation of other human rights. The UN Committee on the Elimination of all forms of Discrimination against Women has stressed that certain general principles should be applicable to all legal aid systems, including that they be accessible, sustainable and responsive to the needs of women. In particular, the UN Committee recommended States parties remove economic barriers to justice by providing free or low-cost legal aid, advice and representation in judicial and quasi-judicial processes in all fields of law. Ensuring women's and men's equal access to justice is an essential step towards achieving real gender equality.

Economic Barriers

- The Civil Legal Aid Act 1995 designates certain areas outside the scope of the scheme including in relation to housing law, social welfare law and equality and employment law. While the Workplace Relations Commission introduced some essential reforms, there is a concern that those without the educational attainment, legal experience or simply the technological know-how to navigate an increasingly virtual process may be left behind. To have any real recourse to exercising rights, the fora in or means by which they can do so should be accessible to all, not just to those with access to resources such as legal advice/representation, or access and connectivity to information/support through the internet.
- Outside of the limited areas covered by Civil Legal Aid Act 1995, access to justice through the courts, in the context of civil litigation, is proving increasingly difficult owing to the prohibitive costs involved. NWCI considers that a general system of Protective Costs Orders may assist in alleviating this growing problem. The general rule in civil litigation is that "costs follow the event", that is, that the unsuccessful party must pay the successful party's costs (and their own costs); but this rule does not apply until the case has been decided in court, or settled. Individuals are therefore usually required to fund a claim from their own resources, with the added risk that if

they are unsuccessful they will be required to pay the other party's legal costs also. A form of PCO was put on a statutory footing in Ireland under the Environment (Miscellaneous Provisions) Act 2011 in respect of the cases that fall within the UNECE Convention on Access to Information on the Environment (the Aarhus Convention), as implemented in Directive 2003/35/EC (the amending EIA Directive). As we understand, the Law Reform Commission is proposing to examine this issue in its Fifth Programme of Law Reform.

Workplace Relations Commission

- The “unexplained” portion of the gender pay gap is often attributed to discrimination.⁹ Individuals may take action against their employer and win, but the remedy tends to focus on financially compensating the individual rather than requiring unfairly discriminating employers to change their behaviour. The focus on individual litigation undermines any systematic progress towards change. In the Workplace Relations Commission Adjudication Officers have huge powers, for example to direct an organisation to implement a policy, but it is never enforced unless the individual chooses to enforce it, which is highly unlikely. The Commission or applicable court should impose wider orders on offending employers but they should be empowered to monitor and enforce compliance independent of any individual.

Collective Action

- In 2005 the Law Reform Commission recommended the introduction of multi-party litigation¹⁰ (in other words “class actions”), on the basis that to do so can only strengthen public interest litigation and increase access to justice. Such change has the potential to reduce the cost of litigation, foster solidarity, provide greater access to the courts and allows the resources of the Courts to be put to better use.

⁹ The Department of Justice Equality and Law Reform, “Developing Sectoral Strategies to Address Gender Pay Gaps: A Comparative Analysis of Sectoral Wage Differentials in the European Union” (2003), para 7.28.

¹⁰ Multi-party litigation refers to instances where a collection or group of cases shares characteristics sufficient to allow them to be dealt with collectively. The central, common feature will vary with the group, but will militate in favour of a collective or group approach.

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