

DECISION ON ADMISSIBILITY

COMPLAINT No. 17/2003

From the World Organisation against Torture (OMCT)
against Greece

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (hereafter referred to as "the Committee"), during its 198th session in the following composition:

MM. Jean-Michel BELORGEY, Président
Nikitas ALIPRANTIS, Vice-Président
Mrs. Polonca KONCAR, Vice-Présidente
MM. Stein EVJU, Rapporteur General
Rolf BIRK
Matti MIKKOLA
Konrad GRILLBERGER
Tekin AKILLIOĞLU
Mrs. Csilla KOLLONAY LEHOCZKY
MM. Lucien FRANÇOIS
Andrzej SWIATKOWSKI

Assisted by Mr Régis BRILLAT, Executive Secretary of the European Social Charter

Having regard to the complaint registered as number 17/2003, lodged on 28 July 2003 by the World Organisation against Torture (hereinafter referred to as "OMCT"), represented by its President Mr. Eric SOTTAS, requesting that the Committee find that Greece fails to apply in a satisfactory manner Article 17 of the European Social Charter (hereafter referred to as "the Charter");

Having regard to the documents appended to the complaint;

Having regard to the observations submitted on 27 October 2003 by the Greek Government (hereafter referred to as “the Government”),

Having regard to the Charter and, in particular, to Article 17 which read as follows:

Article 17 – The right of children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints (hereafter referred to as “the Protocol”);

Having regard to the Rules of Procedure adopted by the Committee on 9 September 1999 during its 163rd session (hereafter referred to as “the Rules of Procedure”);

After having deliberated on 9 December 2003;

Delivers the following decision, adopted on the above date:

1. The OMCT alleges that Greece does not comply with Article 17 of the Charter because Greek law has not effectively prohibited corporal punishment of children, nor has it prohibited other forms of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

2. The Government does challenge the admissibility on three grounds:

Under the first ground, the complaint has not been signed by a representative of the complainant organisation, as Rule 20 of the Rules of the Committee requires. On the one hand, according to the Government, neither the text of the complaint nor the cover letter were signed by a representative of the OMCT. On the other hand, the Government states that, even if the cover letter had been signed by a representative of the OMCT, it could not be considered as being part of the complaint since it also refers to a complaint against Ireland.

Under the second ground, the complaint has not been addressed to the Secretary General of the Council of Europe, as required by Article 5 of the Protocol and Rule 19 of the Rules of the Committee.

Under the third ground, the complainant organisation is not particularly qualified in the field of degrading treatment of children.

3. The Committee notes that, in conformity with Article 4 of the Protocol, which was ratified by Greece on 18 June 1998 and has entered into force for this State on 1 August 1998, the complaint is presented in writing and concerns Article 17 of the Charter, a provision accepted by Greece on 6 June 1984 at the time of ratification of the Charter.

4. It also notes that, in conformity with Article 1 b) and Article 3 of the Protocol, the OMCT is an international non-governmental organisation with consultative status with the Council of Europe. It appears in the list of non-governmental organizations entitled to lodge a complaint established by the Governmental Committee.

5. Moreover, the complaint is signed by Mr Eric SOTTAS, Director of the organization, who, pursuant to the statutes of the organization, is entitled to act in all matters relating to the organisation's aims. The signature appears on the bottom page of the cover letter submitting the complaint, whose original was received by the Secretariat of the European Social Charter on 28 July 2003 and which has been forwarded to the Permanent Representation of Greece at the Council of Europe on 3 October 2003. The admissibility of the complaint, under Rule 20 of the Rules of the Committee, is not affected by the fact that the signature of the representative of the OMCT only appears on the cover letter and not on the text presenting the arguments of the complaint nor by the fact that the copy of the cover letter that was forwarded to the Permanent Representation on 25 July 2003 was not signed. Furthermore, the complaint was addressed to the Executive Secretary of the Social Charter, who, under Rule 19 of the Rules, is entitled to receive collective complaints.

6. Finally, the Committee considers that the OMCT is a non-governmental organization whose aim is to contribute to the struggle against torture, summary executions, disappearances, arbitrary detention, psychiatric internment for political reasons, and other cruel, inhuman and degrading treatment, regardless of the age of the persons against whom such treatments are directed, has filed a complaint for which it is particularly qualified according to Article 3 of the Protocol.

7. For these reasons, the Committee, on the basis of the report presented by Mr. SWIATKOWSKI, and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE.

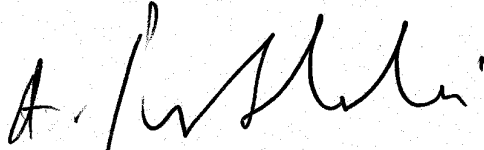
In application of Article 7§1 of the Protocol, requests the Executive Secretary to inform the Contracting Parties to the Charter and to the Revised Charter that the present complaint is admissible.

Invites the Government to submit in writing by 31 January 2004 all further relevant explanations or information.

Invites the Contracting Parties to the Protocol and the other States having submitted a declaration pursuant to Article D of the Revised Charter, in order to accept the procedure established by the Protocol, to communicate to it by the same date any observations which they wish to submit.

Invites the OMCT to submit in writing by a deadline which it shall determine all relevant explanations or information in response to the observations of the Government.

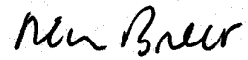
In application of Article 7§2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27§2 of the Charter and to invite them to submit their observations by 31 January 2004.



Andrzej SWIATKOWSKI
Rapporteur



Jean-Michel BELORGEY
President



Régis BRILLAT
Executive Secretary

