

**DECISION ON ADMISSIBILITY**

**COMPLAINT No. 21/2003**

From the World Organisation against Torture (OMCT)  
against Belgium

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 198<sup>th</sup> 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 21/2003, lodged on 23 September 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 Belgium 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 29 October 2003 by the Belgian Government (hereafter referred to as “the Government”),

Having regard to the additional information submitted on 13 November 2003 by the OMCT,

Having regard to the Charter and, in particular, to Article 17 which reads 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 163<sup>rd</sup> 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 Belgium does not comply with Article 17 of the Charter because Belgian 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 of the complaint. It alleges that it does not fulfil the requirements under Article 4 of the Protocol. One sentence of the text refers to “the European Social Charter of 1996” although Belgium has ratified the European Social Charter of 1961 and hasn’t yet ratified the Revised European Social Charter of 1996.
3. The Committee notes that, in conformity with Article 4 of the Protocol, which was ratified by Belgium on 23 June 2003 and has entered into force for this State on 1<sup>st</sup> August 2003, the complaint is presented in writing. It further notes that in substance the text of the complaint only refers to Article 17 of the Charter of 1961, a provision accepted by Belgium on 16 October 1990 at the time of ratification. It considers that the mere reference in the text of the complaint to the “the European Social Charter of 1996” is a material mistake which has been rectified by OMCT in its additional information.
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 Committee, therefore, considers that the condition provided for in Article 20 of its Rules of procedure is fulfilled.

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 Tekin AKILLIOĞLU, 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 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.

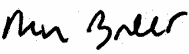
Invites the Contracting Parties to the Protocol and the other States having submitted a declaration pursuant to Article D of the Revised Charter, in order to accept the procedure established by the Protocol, to communicate to it by the same date any observations which they wish to submit.

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.

  
Tekin AKILLIOĞLU  
Rapporteur

  
Jean-Michel BELORGEY  
President

  
Régis BRILLAT  
Executive Secretary

