

DECISION ON ADMISSIBILITY

COMPLAINT No. 22/2003

By the *Confédération Générale du Travail (CGT)*
against France

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 200th session attended by:

MM. Jean-Michel BELORGEY, President
Nikitas ALIPRANTIS, Vice-President
M^{me} Polonca KONCAR, Vice-President
MM. Rolf BIRK
Alfredo BRUTO DA COSTA
Stein EVJU
Matti MIKKOLA
Konrad GRILLBERGER
Tekin AKILLIOĞLU
M^{me} Csilla KOLLONAY LEHOCZKY
MM. Lucien FRANCOIS
Gerard QUINN
Andrzej SWIATKOWSKI

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

Having regard to the complaint registered as number 22/2003, lodged on 24 October 2003 by Confédération Générale du Travail (hereafter referred to as the « CGT »), represented by its Secretary General, Mr Bernard THIBAUT, requesting that the Committee find that France fails to apply in a satisfactory manner Articles 2§1, 3§1, 11§1 and 11§3 of the Revised European Social Charter (hereafter referred to as "the Revised Charter");

Having regard to the documents appended to the complaint;

Having regard to the observations submitted on 13 January 2004 by the French Government,

Having regard to the Revised Charter and, in particular, to Articles 2§1, 3§1, 11§1 and 11§3 which read as follows:

Part II

Article 2 – The right to just conditions of work

“With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

- 1 to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;”

Article 3 – The right to safe and health working conditions

“With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers organisations:

- 1 to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;”

Article 11 – The right to protection of health

“With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia*:

1. to remove as far as possible the causes of ill-health
- ...
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.”

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;

After having deliberated on 9 February 2004;

Delivers the following decision, adopted on the above date:

1. The CGT is a trade union which alleges that Act No. 2003-47 of 17 January 2003 on wages, working time and development of employment constitutes a violation of Articles 2§1, 3§1, 11§1 and 11§3 of the Revised Charter.
2. The French Government does not contest that the complaint respects the conditions for admissibility laid down in Articles 1c and 4 of the Additional Protocol.
3. The Committee notes that the Protocol was ratified by France on 7 May 1999, and has entered into force for this State on 1st July 1999. In addition, France ratified on 7 May 1999 the Revised Charter which entered into force in its respect on 1st July 1999. According to Article 4 of the Protocol, the complaint is presented in writing and concerns Articles 2§1, 3§1, 11 §1 and 11 §3 of the Revised Charter, provisions accepted by France at the time of ratification of this treaty.
4. Exercising its activities in France, the CGT is a confederation of trade unions within the jurisdiction of this country as required by Article 1c of the Protocol. Furthermore, the CGT is considered by French law as being representative on the national level. The Committee recalls that, for the purposes of the collective complaints procedure, representativity is an autonomous concept, not necessarily identical to the national notion of representativity (Complaint No. 9/1999, *Confédération Française de l'Encadrement "CFE-CGC"* v. France, decision on admissibility, paragraph 6).
5. Having made an overall assessment of the documents in the file, the Committee considers that the CGT is a representative confederation of trade unions for the purposes of the collective complaints procedure. It also notes that this is not contested by the Government.
6. Moreover, the complaint submitted on behalf of the CGT is signed by Mr Bernard THIBAULT, entitled according to Article 38 of the CGT's statutes to represent it before the courts, whether national or international. The Committee, therefore, considers that the condition provided for in Article 20 of its Rules of procedure is fulfilled.
7. For these reasons, the Committee, on the basis of the report presented by Mr Nikitas ALIPRANTIS, 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 that the present complaint is admissible.

Invites the French Government to submit in writing by 9 April 2004 all further relevant explanations or information.

Invites the Contracting Parties to the Protocol and the 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 CGT to submit in writing by a deadline which it shall determine all relevant explanations or information in response to the observations of the French 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 9 April 2004.

Nikitas ALIPRANTIS
Rapporteur

Jean-Michel BELORGEY
President

Régis BRILLAT
Executive Secretary