

DECISION ON ADMISSIBILITY
19 March 2007

European Council of Police Trade Unions (CESP)
v. France

Complaint No. 38/2006

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 221th session attended by:

Messrs Andrzej SWIATKOWSKI, First Vice-President
 Tekin AKILLIOĞLU, Second Vice-President
 Jean-Michel BELORGEY, General Rapporteur
 Alfredo BRUTO DA COSTA
 Nikitas ALIPRANTIS
 Stein EVJU
Ms Csilla KOLLONAY LEHOCZKY
Messrs Lucien FRANÇOIS
 Lauri LEPPIK
Mrs Ersiliagrazia SPATAFORA
Mr Colm O' CINNEIDE
Ms Monika SCHLACHTER
 Birgitta NYSTRÖM

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

Having regard to the complaint dated 20 October 2006, registered on the same date as number 38/2006 and lodged by the European Council of Police Trade Unions ("CESP") and signed by its President, Mr Branco PRAH, requesting the Committee to find that France is not in conformity with Article 4§2 of the Revised European Social Charter ("the Revised Charter");

Having regard to the documents appended to the complaint;

Having regard to the observations submitted on 15 February 2007 by the French Government ("the Government");

Having regard to the letter submitted on 13 March 2007 by the CESP in which it did not make comments to these observations;

Having regard to the Revised Charter, and in particular to Article 4§2 which reads as follows:

Article 4 – The right to a fair remuneration

Part I : "All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families."

Part II : " With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

(...)

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;

(...)"

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints ("the Protocol");

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201st session and revised on 12 May 2005 at its 207th session ("the Rules");

Having deliberated on 19 March 2007;

Delivers the following decision, adopted on the above date:

1. The CESP alleges that the French legislation on the payment of overtime is not in conformity with Article 4§2 of the Revised Charter, because it does not allow the Operational Command Corps of the National Police Force, which is classified as an A-grade body within the national civil service, to receive compensation for the overtime worked as a result of anti-governmental demonstrations held in France in the first half of 2006.
2. The Government does not contest that the complaint meets the conditions for admissibility laid down in Article 1(b), Article 3 and 4 of the Protocol. This is without prejudice to its views on the merits.

THE LAW

3. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by France on 7 May 1999 and entered into force for this state on 1 July 1999, the complaint has been submitted in writing and concerns Article 4§2 of the Revised Charter, provision accepted by France when it ratified this treaty on 7 May 1999 and to which it is bound since the entry into force of this treaty in its respect on 1 July 1999.

4. Moreover, the grounds for the complaint are indicated.

5. The Committee also observes that, in accordance with Articles 1 b) and 3 of the Protocol, the CESP is an international non-governmental organisation with participatory status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints.

6. The Committee has already considered that the CESP has particular competence (CESP v. Portugal, complaint n° 11/2001, decision on admissibility of 17 October 2001, §5). It confirms this decision since no significant change has taken place.

7. The complaint is signed by Mr Branco PRAH, who is President of the CESP. The Committee therefore considers that the complaint complies with Rule 23 (CESP v. Portugal, complaint n° 11/2001, decision on admissibility of 17 October 2001, §6).

8. 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 notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D paragraph 2 of the Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 31 May 2007.

Invites the CESP to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the states having submitted a declaration pursuant to Article D paragraph 2 of the Revised Charter to make comments by 31 May 2007, should they so wish.

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 make observations by 31 May 2007.

Nikitas ALIPRANTIS
Rapporteur

Andrzej SWIATKOWSKI
First Vice-President

Régis BRILLAT
Executive Secretary