

DECISION ON ADMISSIBILITY

21 May 2007

**European Council of Police Trade Unions (CESP)
v. Portugal**

Complaint No. 40/2007

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 222th session attended by:

Mrs Polonca KONČAR, President
Mssrs Andrzej SWIATKOWSKI, First Vice-President
Tekin AKILLIOĞLU, Second Vice-President
Jean-Michel BELORGEY, General Rapporteur
Alfredo BRUTO DA COSTA
Nikitas ALIPRANTIS
Stein EVJU
Mrs Csilla KOLLONAY LEHOCZKY
Mssrs Lucien FRANCOIS
Lauri LEPPIK
Mr Colm O'CONNOR
Mrs Monika SCHLACHTER
Birgitta NYSTROM

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

Having regard to the complaint dated 7 February 2007, registered on the same date as number 40/2007, lodged by the European Council of Police Trade Unions (CESP) and signed by its President, Mr Branko PRAH, requesting the Committee to find that Portugal is not in conformity with Articles 6§§1-2, 21 and 22 of the Revised European Social Charter (“the Revised Charter”);

Having regard to the documents appended to the complaint;

Having regard to the Revised Charter and, in particular, to Articles 6§§1-2, 21 and 22 which reads as follows:

Article 6 – The right to bargain collectively

Part I: "All workers and employers have the right to bargain collectively."

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

- 1 to promote joint consultation between workers and employers;
- 2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements"

(...)"

Article 21 – The right to information and consultation

Part I: "Workers have the right to be informed and to be consulted within the undertaking"

Part II: "With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality;
- and
- b to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking"

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

Part I: "Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking"

Part II: "With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice , to contribute:

- a to the determination and the improvement of the working conditions, work organisation and working environment;
- b to the protection of health and safety within the undertaking;
- c to the organisation of social and socio-cultural services and facilities within the undertaking;
- d to the supervision of the observance of regulations on these matters"

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 21 May 2007;

Delivers the following decision, adopted on the above date:

1. CESP alleges that in Portugal police officers do not enjoy, in practice, the rights to bargain collectively, to information and consultation and to take part in the determination and improvement of the working conditions and working environment.

THE LAW

2. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Portugal on 20 March 1998 and entered into force for this state on 1 July 1998, the complaint has been submitted in writing and concerns Articles 6§§1-2, 21 and 22 of the Revised Charter, a provision accepted by Portugal when it ratified this treaty on 20 March 1998 and to which it is bound since the entry into force of this treaty in its respect on 1 July 1998.

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

4. The Committee also observes that, in accordance with Articles 1 b) and 3 of the Protocol, 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.

5. The Committee has already considered that CESP has particular competence (See European Council of Police Trade Unions (CESP) v. Portugal, complaint no. 11/2001, decision on admissibility of 17 October 2001, §5). It confirms this decision since no significant change has taken place.

6. The complaint is signed by Mr Branko PRAH, who is President of CESP. The Committee therefore considers that the complaint complies with Rule 23 of the Rules (See European Council of Police Trade Unions (CESP) v. Portugal, complaint no. 11/2001, decision on admissibility of 17 October 2001, §6).

6. For these reasons, without finding it necessary to invite the Government to submit observations on admissibility (Article 6 of the Protocol and Rule 29§3), the Committee, on the basis of the report presented by Mrs Csilla KOLLONAY LEHOCZKY 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 defending 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 14 September 2007.

Invites 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 14 September 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 14 September 2007.

Csilla KOLLONAY
LEHOCZKY
Rapporteur

Polonca KONČAR
President

Régis BRILLAT
Executive Secretary