

DECISION ON ADMISSIBILITY

7 September 2009

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

Complaint No. 57/2009

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 238th session attended by:

Mrs Polonca KONČAR, President
Mssrs Andrzej SWIATKOWSKI, Vice-President
Colm O'CONNOR, Vice-President
Jean-Michel BELORGEY, General Rapporteur
Mrs Csilla KOLLONAY LEHOCZKY
Mr Lauri LEPPIK
Mrs Monika SCHLACHTER
Birgitta NYSTRÖM
Lyudmilla HARUTYUNYAN
Mssrs Rüçhan IŞIK
Petros STANGOS
Alexandru ATHANASIU
Luis JIMENA QUESADA
Mrs Jarna PETMAN

Assisted by Mr Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 7 May 2009, registered on the same day as number 57/2009, lodged by the European Council of Police Trade Unions ("CESP") and signed by its President, Mr Branko 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 notification addressed to the French Government ("the Government") on 18 May 2009;

Having regard to the documents appended to the complaint ;

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 and on 20 February 2009 at its 234th session ("the Rules");

Having deliberated on 7 September 2009;

Delivers the following decision, adopted on the above-mentioned date:

1. The CESP claims that the new regulations introduced by the French government on 27 February 2008 (Decree No. 2008-199 modifying Article 3 of Decree No. 2000-194 of 3 March 2000), laying down the conditions for the granting of a payment for extra services to operational members of the national police force, are in breach of Article 4§2 because it establishes - regardless of the grade and step - a fixed compensation system.

THE LAW

2. 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, provisions 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.

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, 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.

5. 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; complaint n°54/2008, decision on admissibility of 17 February 2009, §6). It confirms this decision since no significant change has taken place.

6. The complaint is signed by Mr Branko 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; complaint n°54/2008, decision on admissibility of 17 February 2009, §7).

7. For these reasons, the Committee, without finding it necessary to invite the Government to submit observations on admissibility (Article 6 of the Protocol and Rule 29§3), on the basis of the report presented by Mr Petros STANGOS 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.

Requests the Executive Secretary to publish the decision on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 30 October 2009.

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 30 October 2009, should they so wish.

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 30 October 2009.

Petros STANGOS
Rapporteur

Polonca KONČAR
President

Régis BRILLAT
Executive Secretary