



**DECISION ON ADMISSIBILITY**

**COMPLAINT No. 6/1999**

From the *Syndicat national des Professions du tourisme*  
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 168<sup>th</sup> session attended by:

Messrs Matti MIKKOLA, President  
Rolf BIRK, Vice-President  
Stein EVJU, Vice-President  
Ms Suzanne GRÉVISSE, General Rapporteur  
Mr. Alfredo BRUTO DA COSTA  
Ms Micheline JAMOULLE  
Messrs Nikitas ALIPRANTIS  
Tekin AKILLIOĞLU

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

Having regard to the complaint registered as number 6/1999, lodged on 30 August 1999 by the *Syndicat national des Professions du tourisme*, member of the French Confederation of non-manual employees – *Confédération générale des cadres* (CFE-CGC) represented by its Vice-President for interpreter guides (*guides interprètes*) and lecturers (*conférenciers*), Mr Christian Sterkers, requesting that the Committee find that France fails to apply in a satisfactory manner Article 1 paras. 1, 2 and 4 as well as Article 10 paras. 1, 3a and b (part II) in combination with Article E (part V) of the Revised European Social Charter;

Having regard to the documents appended to the complaint;

Having regard to the observations submitted on 22 December 1999 by the French Government represented by the Director of Legal Affairs of the Ministry of Foreign Affairs;

Having regard to the observations in reply submitted on 31 January 2000 by the *Syndicat national des Professions du tourisme*;

Having regard to the Revised European Social Charter and in particular Article 1 paras. 1, 2 and 4, Article 10 paras. 1, 3a and b (part II) and Article E (part V) which read as follows:

## Part II

### Article 1 – The right to work

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

- 1 to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
- 2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon;  
[...]
- 4 to provide or promote appropriate vocational guidance, training and rehabilitation.”

### Article 10 – The right to vocational training

“With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

- 1 to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers’ and workers’ organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;  
[...]
- 3 to provide or promote, as necessary:
  - a adequate and readily available training facilities for adult workers;
  - b special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;  
[...]

## Part V

### Article E – Non-discrimination

“The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

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

Having regard to the Rules of Procedure adopted by the Committee on 9 September 1999 during its 163<sup>rd</sup> session;

After having deliberated on 10 February 2000;

Delivers the following decision, adopted on the above date:

1. The *Syndicat national des Professions du tourisme* states alleges that France does not comply with Article 1 paras. 1, 2 and 4 and Article 10 paras. 1, 3a and b (part II) in combination with Article E (part V) of the Revised European Social Charter as all the bodies within the remit of the Ministry for Culture discriminate between interpreter guides and national lecturers with a state diploma (*conférenciers nationaux diplômés d'Etat*) on the one hand and approved lecturers (*conférenciers agréés*) on the other hand, and that this discrimination results in a denial of the right to work and to vocational training for

interpreter guides and national lecturers with a state diploma. The complaint is based *inter alia* on Act No. 92-645 of 13 July 1992 and its orders and implementing regulations.

2. The French Government does not contest that the complaint respects the conditions for admissibility laid down in Articles 1 para. c and 4 of the Additional Protocol. It observes that under the protocol the *Syndicat national des Professions du tourisme* is an organisation entitled to lodge complaints.

3. However, the French Government maintains that the complaint is inadmissible as it does not comply with Rule 20 of its Rules of Procedure is so far as the person signing the complaint has not shown that he is empowered to represent the *Syndicat national des Professions du tourisme* and to lodge a complaint on its behalf.

4. In its observations in reply, the *Syndicat national des Professions du tourisme* contests the French Government's objection to admissibility. It underlines that the complaint has been signed by its Vice-President for interpreter guides and lecturers who is a person empowered to act on behalf of the trade union for the professions he represents and for the defence of whose particular interests he is responsible. This capacity derives from the statutes of the union and is confirmed in a certificate issued by its President.

5. The Committee notes 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 lodged in writing. It relates to Article 1 paras. 1, 2 and 4 and Article 10 paras. 1, 3a and b, provisions accepted by France on 7 May 1999 upon its ratification of the Revised Charter. The complaint alleges that interpreter guides and national lecturers with a state diploma are the victims of discrimination resulting in a denial of the right to work and to vocational training.

6. It further notes that the *Syndicat national des Professions du tourisme* is a trade union within the French jurisdiction in the meaning of Article 1 para. c of the Protocol. As regards the representative character of the trade union as referred to in Article 1 para. c, the Committee underlines that the representativity of national trade unions is an autonomous concept, beyond the ambit of national considerations as well the domestic collective labour relations context.

7. Having made an overall assessment of the documents in the file, the Committee considers that the *Syndicat national des Professions du tourisme* is a representative trade union for the purposes of the Protocol. It notes, moreover, that its representative character has not been contested by the Government.

8. The Committee considers the issue of observance of Rule 20 of its Rules of Procedure, which is contested by the Government.

9. The Committee observes, upon examination of its statutes, that the *Syndicat national des Professions du tourisme* is an interprofessional trade union organised into four sections, each comprising certain tourism professions. The purpose of this structure is to share responsibility for the defence of the particular interests of the different professions between the sections. Each section is represented by the Vice-President appointed for the

professions concerned. The Committee notes that in the present case, the complaint lodged on behalf of the *Syndicat national des Professions du tourisme* is signed by the Vice-President appointed for the professions of interpreter guides and lecturers, who, in accordance with its statutes, is responsible for representing these professions.

10. The Committee concludes that in view of the particular structure of the trade union, the Vice-President for interpreter guides and lecturers is, within the meaning of Rule 20 of its Rules of Procedure, a person empowered to represent the trade union for the said professions, whose interests they defend. This capacity is confirmed in a certificate issued by the trade union's president.

11. Consequently, the Committee considers that the French Government's objection to admissibility cannot be sustained.

12. 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 para. 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 15 March 2000 all further relevant explanations or information.

Invites the Contracting Parties to the Protocol to communicate to it by the same date any observations which they wish to submit.

Invites the *Syndicat national des Professions du tourisme* 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 para. 2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27 para. 2 of the Charter and to invite them to submit their observations by 15 March 2000.

Nikitas ALIPRANTIS  
Rapporteur

Matti MIKKOLA  
President

Régis BRILLAT  
Executive Secretary