



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**

18 July 2016

**Case Document No. 3**

***Fellesforbundet for Sjøfolk (FFFS) v. Norway***  
Complaint No. 120/2016

**RESPONSE FROM FFFS TO THE GOVERNMENT'S  
OBSERVATIONS ON ADMISSIBILITY**

**Registered at the Secretariat on 8 July 2016**





# Advokatfirmaet Øivind Østberg

P.b. 40 Ullern, 0311 Oslo  
Tlf 92 61 56 68/479 64 386  
Fax 21 92 80 29  
Org. nr. 983436099  
www.familierettadvokaten.no

The Executive Secretary of The European Committee of Social Rights  
Department of the European Social Charter  
Directorate General, Human Rights and Rule of Law, Council of Europe  
F-67065 Strasbourg Cedex  
**France**

Oslo, 8. juli 2016  
Lawyer in charge: Øivind Østberg

**YOUR REFERENCE: 72/2016 LV/KOG.**  
**FELLESFORBUNDET FOR SJØFOLK (FFFS) - KINGDOM OF NORWAY**  
**Complaint no 120/2016**

Reference is made to the observations submitted on behalf of the Kingdom of Norway in letter from the Attorney General of 6 June of this year and to the letter from the Directorate General of 16th of June, inviting FFFS to submit a response by 8 July.

On behalf of FFFS the following is submitted.

1. As to the representativeness of FFFS (point 2 in the government's submission)

It is maintained by FFFS that they can represent the Spanish seafarers in question in the present complainant. It is up to FFFS themselves whether the organization should require membership or not of the persons directly affected by the complaint. The substance matter falls within the purpose of the organization, which is to work for the interests of seafarers. It can, according to its by-laws §§ 2 and 4 (annex 2 to the complaint), have as members "anyone who works at sea". This wording would indicate that the retired Spanish seafarers cannot be accepted as members, but this is not to say that the organization does not take an interest in the pension rights of people who have formerly worked as seamen, especially on Norwegian ships, as in the present case. It is in the nature of things that pension rights directly concern those who are no longer working, but still it would seem pretty obvious that this generally speaking is a matter of interest for those who are today in active service, as they expect, God willing, one day to be in a position to themselves receive pensions.

It is correct, as pointed out by the Attorney General of the Norwegian Government, that Asociacion Longhope has represented, and continues to represent, the Spanish Seafarers in this matter, including in a lawsuit against Norway currently pending at Oslo City Court. Asociacion Longhope is, however, excluded from submitting a complaint against Norway to the European Committee of Social Rights as this is reserved for "representative national organizations of employers and trade unions within the jurisdiction of the contracting Party". Asociacion Longhope is registered

as a non-profit organization in accordance with the laws of Galicia, Spain, and thus operates outside of the jurisdiction of Norway, the addressee of this complaint.

As legal counsel to Asociacion Longhope (AL) in the said lawsuit, as well as representing FFFS in the present complaint, I confirm that AL has been happy to accept the offer of FFFS to formally represent their members in the complaint.

It is held that this is sufficient for accepting FFFS as representative, given that its general representativeness has been established, despite the opposition of Kingdom of Norway, in the decision on admissibility of 23 May 2012 as the Attorney General kindly recalls (point 2.6).

2. As to the reservation made by Norway (point 3 in the government's submission)

It is noted that the Attorney General submits that the Kingdom of Norway has made a reservation to the effect that the provisions in article 12 paragraph 4, alleged to be violated in the complaint, do not cover workers in the position of the Spanish seafarers. It is for the Committee to rule on whether this reservation effectively means that Norway is under no obligation whatsoever under the Charter to secure even a minimum of old age and disability pension rights for seamen working on Norwegian ships.

It is from this side, maintained that article 12 paragraph 1-3 in the Charter, taken in conjunction with the general formulations in the preamble and part I, is violated notwithstanding the reservation made by Norway.

The complaint therefore cannot be held inadmissible, and it should be upheld in substance.

Sincerely

Øivind Østberg  
attorney