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EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX



23 June 2003

COMPLAINT N° 16/2003

**Confédération Française de l'Encadrement – “CFE CGC”
v. France**

Observations from the French Government on the admissibility

registered on 18 June 2003

(TRANSLATION)

**French Government's observations on the admissibility of the
collective complaint lodged by the Confédération Française de l'Encadrement
(French Managerial Staff Trade Union Confederation - CFE CGC)
before the European Committee of Social Rights**

In a letter dated 21 May 2003, the European Committee of Social Rights drew the Government's attention to the complaint lodged with it on 14 May 2003 by the Confédération Française de l'Encadrement (CFE CGC) and asked for its observations on the admissibility of the complaint by 16 June 2003

The question of admissibility calls for the following comments.

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The complainant confederation asks the Committee, firstly, to find that certain provisions of Act No. 2003-47 on wages and salaries, working time and employment promotion are incompatible with Articles 2, 4, 6 and 27 of the revised European Social Charter and, secondly, to order France to reimburse it for non-recurring expenses, which it estimates at EUR 9 000.

The Government does not challenge the complainant federation's right to be considered a representative national organisation of employers and trade unions within the jurisdiction of the Contracting Party against which it has lodged a complaint under Article 1c of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.

The confederation's complaint also appears to satisfy all the formal requirements laid down by the Protocol, particularly in Article 4, and by the Committee's Rules of Procedure.

At this stage, which is concerned with the admissibility of the complaint, it would be premature to consider the merits of the claims that Articles 2, 4, 6 and 27 of the Charter have been violated. However the Government reserves the right to present detailed arguments concerning the merits of these claims at a later stage, should the complaint be declared admissible.

However it does from the outset ask the Committee to reject the confederation's request for reimbursement for non-recurring expenses. Such a request cannot be justified by any provision of the Additional Protocol to the Charter, Articles 9 and 10 of which simply refer to the Committee's power to issue recommendations concerning states whose legislation does not permit a satisfactory application of the Charter, with no reference to any machinery for granting compensation. The Committee implicitly acknowledged this in its report of 11 December 2001 on the CFE CGC's previous complaint (paragraph 58). At all events in the absence of any express provisions to the contrary, Article 41 of the European Convention on Human Rights cannot be held to apply here.

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In the light of all these considerations the Government invites the Committee forthwith to reject as inadmissible the complainant trade union's request for reimbursement for non-recurring expenses and leaves it to the Committee's discretion to rule on the admissibility of the remainder of the complaint.

The Under-Director of Human Rights
Antoine Buchet