

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COMITE EUROPEEN DES DROITS SOCIAUX



30 October 2003

COMPLAINT No. 17/2003

World Organisation against Torture (OMCT)

v. Greece

**Observations from the Greek Government
on admissibility**

registered on 27 October 2003



**HELLENIC REPUBLIC
MINISTRY OF LABOR AND SOCIAL
SECURITY
GENERAL DIRECTORATE OF
ADMINISTRATIVE SUPPORT
DEPARTMENT OF INTERNATIONAL
RELATIONS
SECTION II**

Postal Address: Pireos 40
Post Code: 101 82
TELEFAX : 0030210 5295179
Information: Paraskevi Kakara
Tel. No: 0030 210 5295161
e-mail yperg07a@otenet.gr

Athens: 27/10/03
Ref. No: 70554

27 OCT. 2003

TO:
Council of Europe
General Directorate of Human
Rights -GD II
Secretariat of the European
Social Charter
F-67075 Strasbourg Cedex
Tel. 0033 3 88412208
Fax. 0033 3 88413700
To the attention of Mr Regis
Brillat
Secretary General of the ESC

NB

COMM.:

1) Permanent Delegation of Greece
in the Council of Europe
21 Place Broglie
67000 STRASBOURG
tel. 0033 3 88328818
fax. 0033 3 88231246

2) Ministry of Foreign Affairs
Directorate for the Council of
Europe
Vas. Sofias 1
100 27 ATHENS
tel. 0030 210 3684150/1
fax. 0030 210 3684146

Collective Complaint 17/2003

"World Organization Against Torture" against Greece

Dear Mr Brillat,

We have the honour to inform you that we forward you with the attached written observations of the Greek Government on the admissibility of the Collective Complaint 17/2003 lodged against Greece by the International NGO "World Organization Against Torture" within the set deadline, and we kindly ask you to transmit them to the European Committee of Social Rights.

In addition, we hereby notify you that we kindly request that all documentation concerning the said Complaint 17/2003 is sent as from now directly also to the Department of International Relations of the Ministry of Labor and Social Security and in particular to the following address:

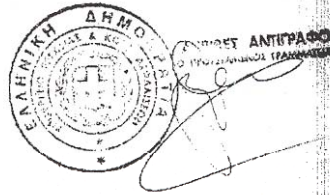
MINISTRY OF LABOUR AND SOCIAL SECURITY
GENERAL DIRECTORATE OF ADMINISTRATIVE
SUPPORT
DEPARTMENT OF INTERNATIONAL RELATIONS
SECTION II
Pireos 40
101 82 ATHENS

tel. 0030 210 5295422, 160, 161
fax. 0030 210 5295179
e-mail: yperg07a@otenet.gr

Yours sincerely,

Maria Laiou - Spanopoulou,
Director,
Department of Int. Relations
Ministry of Labor and Social Security

Documents attached: 1



**Observations of the Hellenic Government on the admissibility of the Collective
Complaint 17/2003 submitted by the "World Organisation against Torture" versus
Greece**

In accordance with article 6 of the Additional Protocol to the European Social Charter of 9 November 1995 providing for a System of Collective Complaints, and under rule 26 para 1 of the Rules of Procedure of the European Committee of Social Rights, we hereby submit our observations on the admissibility of the Collective Complaint number 17/2003, submitted versus Greece by the international non governmental organisation "World Organisation against Torture" for violation of articles 7 and 17 of the European Social Charter (ESC).

In accordance with the relevant provisions (articles 1-6) of the Additional Protocol to the European Social Charter of 9 November 1995 providing for a System of Collective Complaints (hereinafter referred to as Additional Protocol), the Rules of Procedure of the European Committee of Social Rights and its case-law, in order for the European Committee of Social Rights to decide on the admissibility of such complaint, it will examine the following points:

- a) whether the complaint is lodged in writing (article 4 of the Additional Protocol to the ESC), in one of the official languages of the Council of Europe (rule 21 of the Rules of Procedure), whether it is addressed to the Secretary of the European Committee of Social Rights (article 5 of the Additional Protocol, Rule 19 of the Rules of Procedure) and whether it is signed by a person with the competence to represent the above organisation (rule 20 of the Rules of Procedure);
- b) whether the state versus which the complaint is made is passively validated to accept it, i.e. whether the complaint concerns a provision of the Charter which has been accepted by the state in question (article 4);
- c) whether the complainant non governmental organisation is actively validated to submit a complaint, i.e. whether:
 - i) it has consultative status with the Council of Europe (article 1b);
 - ii) it has been put on a list established for this purpose by the Governmental Committee (article 1b);
 - iii) the complaint concerns those matters regarding which it has been recognised as having particular competence (article 3).

The complaint was made in writing by the international non governmental organisation "World Organisation against Torture", which has consultative status with the Council of Europe and

is on the list established for this purpose by the Governmental Committee for a period of four years, from 01/07/02 to 30/06/06. In addition, our country has ratified both the Collective Complaints Protocol and articles 7 and 17 of the European Social Charter, the violation of which is alleged by the complainant organisation.

The Hellenic Government considers that the procedural conditions are not met in their entirety in order for the complaint to be admissible, for the following reasons:

A) The Hellenic Government has not been informed of the validating documents which prove that the complaint is signed by a person with the competence to represent the complainant organisation. In particular, the text of the complaint was notified to the Hellenic Government (to the Permanent Greek Delegation at the Council of Europe) by the letter of the Executive Secretary of the European Social Charter dated 25 July 2003. However, the complaint did not have the signature of any representative of the complainant organisation, in violation of rule 20 of the Rules of Procedure, nor any drawing up date. As stated in the letter of the Executive Secretary of the ESC dated 25 July 2003, "the text of the complaint recorded on 23 July 2003 under protocol number 17/2003, submitted to the European Committee of Social Rights" is forwarded to the Hellenic Government. The text of the complaint, forwarded to the Hellenic Government by the said letter dated 25 July 2003, is the official text of the complaint submitted to the European Committee of Social Rights and has substantial flaws in form. First, it is unsigned: whereas the text states that the complaint is signed by the Director of the World Organisation against Torture, Eric Sottas, there is no signature of such person, i.e. the text is not followed by the signature of the purported representative of the complainant organisation, nor any seal or other logotype indicating the identity thereof. In addition, no date is mentioned anywhere in the text and no indication of time is established by the text itself. It is noted that the signature of the representative of the complainant organisation, just as any signature on a text with legal validity, should be put exactly at the end of the text, thus delimitating its limits and indicating origin, validity, force and intention of legal commitment of the preceding text. On the contrary, the official text submitted to the Secretariat of the European Social Charter and forwarded to the Hellenic Government does not have any signature or date. In all cases, the existence of a letter accompanying the complaint bearing the signature of the director of the complainant organisation (a letter which in any case was not notified to the Hellenic Government together with the complaint by the afore-mentioned letter dated 25 July 2003 of the Executive Secretary of the ESC) does not nullify the unsigned status of the complaint as this letter constitutes a document forwarding the complaint and does not form an integral part of its text. This is confirmed by the fact that the said letter concerns the forwarding of two collective complaints to

the Executive Secretary of the ESC, one of which is lodged against Greece and the other against Ireland, as well as the presentation of the credentials of the complainant organisation before the Executive Secretary of the ESC and forms an entirely separate part from the text of the complaint. The complaint remains unsigned and given that the signing of the text of the complaint by a person with the competence to represent the complainant organisation is an essential procedural condition for validity and force of the complaint, the absence of such a signature constitutes an insuperable reason of inadmissibility of the complaint.

B) The complaint is not addressed to the Secretary of the European Committee of Social Rights, as provided for by article 5 of the Additional Collective Complaints Protocol and rule 19 of the Rules of Procedure, and there is no such reference anywhere in the text. Therefore, apart from the sender (lack of signature), the text of the complaint seems to also lack recipient, the particulars of whom should be stated at the beginning of the text and, in any event, be distinct and in sequence to the text of the complaint. All that was mentioned above under point (A) concerning the forwarding letter of the complainant organisation also applies in this case: no recipient is mentioned in the text of the complaint and in particular the recipient provided for by article 5 of the Additional Collective Complaints Protocol and by Rule 19 of the Rules of Procedure and any reference made to such a recipient included in the forwarding letter of the Director of the complainant organisation does not remedy the lack of this essential procedural condition because the text of the complaint remains without recipient. The fact that the complaint is not addressed to the Secretary General constitutes another reason of its inadmissibility, which weakens its validity as a legal text of a complaint made in the framework of the procedure provided for by the European Social Charter.

C) The Statute of the complainant organisation does not clearly establish that it has particular competence over matters concerning child abuse. Besides, the title itself of the complainant organisation does not specify its action in the field of the child (World Organisation Against Torture). In particular, article 2 of the Statute of the World Organisation against Torture invoked in the complaint, states that its objective is to "contribute to the struggle against torture, summary executions, disappearances, arbitrary detention, psychiatric internment for political reasons and other cruel, inhuman and degrading treatment". Therefore, according to the said article of its Statute, it is not an organisation with particular competence in matters of child abuse; its objectives and activities cover a broad scope of protection and control of the respect by the authorities of the individual and political rights, in the field of tortures, mass executions, disappearances, arbitrary detentions etc. Child abuse in the family does not seem to be included in its particular competence, since the said organisation is mainly involved, as stated in its Charter, in violations of human rights by state authorities or agencies included in their scope of responsibility. Therefore, as regards this matter, the authority and particular competence of the complainant organisation, being requisite

under article 3 of the Additional Protocol to the European Social Charter providing for a System of Collective Complaints, is contested.

For all the above reasons (under A, B and C), the Hellenic Government requests that the collective complaint number 17/2003, submitted by the "World Organisation against Torture" versus Greece, be found **INADMISSIBLE** by the European Committee of Social Rights because it does not meet the procedural conditions provided for by:

- a) rule 20 of the Rules of Procedure of the European Committee of Social Rights;
- b) article 5 of the Additional Collective Complaints Protocol and rule 19 of the Rules of Procedure of the European Committee of Social Rights;
- c) article 3 of the Additional Collective Complaints Protocol.

Athens, 27 October 2003

THE GENERAL SECRETARY

IOANNA PANOPOULOU

