

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



5 February 2004

**Collective Complaint No. 20/2003  
World Organisation against Torture (OMCT)  
v. Portugal**

**Case Document No. 3**

**OBSERVATIONS FROM THE  
EUROPEAN TRADE UNION CONFEDERATION  
(ETUC)  
ON THE MERITS**

registered at the Secretariat on 29 January 2004



Au  
Président du Comité européen des Droits Sociaux  
Conseil de l'Europe

F-67075 Strasbourg Cedex

## Réclamations No. 17/2003 – 21/2003

Monsieur,

Je vous adresse les observations de la CES sur les cinq réclamations mentionnées ci-dessus dont je souhaite bonne réception.

Avec mes considérations distinguées

Klaus Lörcher  
Conseiller juridique

### Annexes :

*5 observations concernant les réclamations*

- *17/2003 contre la Grèce*
- *18/2003 contre l'Irlande*
- *19/2003 contre l'Italie*
- *20/2003 contre le Portugal*
- *21/2003 contre la Belgique*

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28/01/2004

**Complaint No. 20/2003  
from the  
World Organisation against Torture (OMCT)  
against  
Portugal**

**Observations  
by the  
European Trade Union Confederation (ETUC)**

## **1 Introduction**

Before submitting its observations, the ETUC would like to repeat its congratulations to the government of Portugal for having ratified the Revised European Social Charter (the Charter) and the Additional Protocol providing for a system of collective complaints. In this way, the government contributes in reinforcing the European Social Charter and the fundamental social rights as well as their effectiveness.

In respect of the specific role of ETUC in the collective complaints procedure ETUC would like to refer to the general observations in previous cases<sup>1</sup>.

## **2 On the merits**

The complaint alleges that Portugal does not comply with Article 17 of the Charter because the law has not effectively prohibited corporal punishment of children, not has it prohibited other form of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The OMCT has rightly referred to the human rights character of the right involved and to the other international instruments, in particular United Nations Convention on the Right of the Child and the International Covenant on Economic, Social and Cultural Rights, instruments to which ETUC also pays particular attention.

ETUC would like to stress the link, which often exists between poor social conditions of families in respect of poverty, low level of education etc. and behaviours, which are at stake in this complaint. That is why this complaint is rightly centred in the context of Article 17 of the Charter obliging Contracting Parties to social and economic protection.

Acknowledging the political good will of the Government in general, the Government should give real priority to the full respect and protection of the children's fundamental right for physical integrity by

- accelerating the process of legislation in order to bring the law into full compliance with the Charter at the earliest stage possible and by
- guaranteeing the full application of the Charter also in practice bearing in mind that the improvement of the social environment of the families as a whole and of the children in particular as well as their effective social and economic protection will largely contribute to the elimination of the causes of such misbehaviour.

## **3 Conclusion**

In conclusion ETUC considers that Portugal has not ensured the satisfactory application of Article 17 of the Charter.

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<sup>1</sup> Starting from complaint No. 1/1998