

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX



10 November 2003

COMPLAINT No. 21/2003
World Organisation against Torture (OMCT)
v. Belgium

Observations from the Belgian Government
on admissibility

registered on 29 October 2003

(TRANSLATION)

Federal Public Service
Foreign Affairs, Foreign Trade and
Development Co-operation

Mr Jean-Michel Belorgey
President of the European Committee of Social Rights
Secretariat of the European Social Charter
Directorate General of Human Rights
Council of Europe
F-67075 Strasbourg Cedex
France

**Observations on the admissibility of the complaint against Belgium
lodged by the World Organisation against Torture under the 1995
Additional Protocol to the European Social Charter**

Dear Sir,

As Agent of the Belgian Government, I attach the original signed observations on the admissibility of the aforementioned complaint.

Yours ...,

The Director General

(signed) JAN DEVADDER

Federal Public Service
Foreign Affairs, Foreign Trade and
Development Co-operation

To Mr Jean-Michel Belorgey
President of the European Committee of Social Rights
Secretariat of the European Social Charter
Directorate General of Human Rights
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F-67075 Strasbourg Cedex

France

**Observations on the admissibility
of the complaint against Belgium
lodged by the
World Organisation against Torture
under the 1995 Additional Protocol to the European Social Charter**

Y/REF: 21.2003

Dear Sir,

Belgium takes note of the complaint lodged against it on 23 September 2003 by the World Organisation against Torture (OMCT) under the 1995 Additional Protocol to the European Social Charter and submits the following observations on its admissibility.

Although it satisfies the admissibility requirements laid down in Articles 1.b and 3 of the Additional Protocol, the complaint is inadmissible because it fails to satisfy the conditions set out in Article 4.

In accordance with Article 4, the complaint must relate to a provision of the Charter accepted by the Contracting Party concerned. In this case, the OMCT's complaint against Belgium is based on Article 17, but with reference both to the Social Charter of 1961 and to that of 1996 (see page 2: Applicability of Articles 7 and 17 of the European Social Charter of 1996 to Belgium). Belgium has not in fact as yet ratified the Revised Social Charter of 1996. None of its provisions can therefore be set up against it or form the basis of any complaint against it.

It should also be noted that there is a major difference in the wording of the two versions of Article 17, with the Revised Social Charter imposing much more detailed requirements on states. In particular Article 17 paragraph 1.b of the Revised Charter requires parties to protect children and young persons against negligence, violence or exploitation. The wording of Article 17 of the 1961 Social Charter is much more concise and simply refers to the effective exercise of the right of mothers and children to social and economic protection. In view of its more stringent requirements, the revised article cannot be relied on against a party that has not yet incorporated it into its domestic legal system.

Alternatively, the Belgian Government wishes to draw attention to the fundamental principle of the rights of the defence whereby all defendants have the right to be informed precisely of the exact legal grounds of any case brought against them. Yet it is clear from the foregoing that the grounds for the complaint against the Belgian Government are a source of confusion. The rights of the defence have therefore not been respected.

Having regard to these arguments, the Belgian Government asks for the collective complaint lodged against it by the World Organisation against Torture to be declared inadmissible.

(signed) Jan Devadder
Director General