EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Complaint No. 7/2000

International Federation of Human Rights Leagues against Greece

Documents

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The European Social Charter – an overview

The European Social Charter guarantees human rights and fundamental freedoms in the economic and social sphere. It is the counterpart to the European Convention on Human Rights.

The Social Charter, which was opened for signature on 18 October 1961 and entered into force on 26 February 1965, guarantees a series of rights grouped into 19 articles. The Additional Protocol of 5 May 1988, which entered into force on 4 September 1992, added four rights to the Charter.

After a thorough revision, the 1961 Charter is being gradually replaced by the revised European Social Charter[1], which was opened for signature on 3 May 1996 and entered into force on 1 July 1999, and which amended and extended the list of rights guaranteed[2].

Compliance with the commitments set out in the Charter and the revised Charter is subject to international supervision by an independent body - the European Committee of Social Rights. There are two procedures for carrying out this supervision.

Supervision procedure based on reports

Under Article 21 of the charter, states submit periodic reports on the "hardcore" provisions[3] every two years and on the non-hardcore provisions every four years. The Committee of Ministers has set a precise timetable for the submission of reports.

The supervision procedure functions as follows:

– the *European Committee of Social Rights*, made up of 12 independent experts elected by the Committee of Ministers and assisted by an observer from the International Labour Organisation, examines the reports submitted by states and issues a ruling on whether states have complied with their

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[1] As at 1 July 2001, the Contracting Parties to the Charter are: Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Iceland, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain, Turkey and the United Kingdom. The parties to the revised Charter are: Bulgaria, Cyprus, Estonia, France, Ireland, Italy, Lithuania, Norway, Romania, Slovenia and Sweden.

[2] The revised Social Charter brings together in a single instrument the rights set out in the Charter (as amended), the rights set out in the Additional Protocol and a series of new rights grouped into eight articles.

[3] The Charter's core provisions are: freedom of work (Article 1), freedom of association and the right to bargain collectively (Articles 5 and 6), the right to social security (Article 12), the right to assistance (Article 13), the rights of the family (Article 16), the rights of migrants (Article 19). The core provision of the revised charter also include: the rights of children (Article 7) and the right of women and men to equal treatment and opportunities in employment (Article 20).

commitments. Its rulings are called "conclusions". These are forwarded to states, are public.[1]

– if a state fails to act on a ruling of non-compliance by the European Committee of Social Rights, the Council of Europe's *Committee of Ministers* may issue a recommendation to the state concerned, asking it to amend its legislation or practice in order to bring it into line with the charter. The work of the Committee of Ministers is prepared by a *Governmental Committee* made up of representatives of the governments of the states parties to the charter and assisted by representatives of both sides of industry in Europe.[2]

The collective complaints procedure

The Additional Protocol Providing for a System of Collective Complaints, which was opened for signature on 9 November 1995 and entered into force on 1 July 1998,[3] sets out a collective complaints procedure whereby allegations of breaches of the Charter or the revised Charter may be submitted to the European Committee of Social Rights. This procedure is not conditional upon the exhaustion of domestic remedies.

Who may lodge a collective complaint?

– the European employers' organisations and trade unions which participate in the work of the Governmental Committee: ETUC, UNICE and IOE;

– European non-governmental organisations having consultative status with the Council of Europe[4] and included on a list drawn up for this purpose by the Governmental Committee;[5]

– national employers' organisations and trade unions from the state concerned;

– national non-governmental organisations, if the state concerned has made a declaration authorising them to do so and if they are particularly competent in their field of activity.

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[1] The country reports and the decisions of the Committee are public and may be consulted on the website http://www.esc.coe.int.

[2] The European Trade Union Confederation (ETUC), the Union of Industrial and Employers' Confederations of Europe (UNICE) and the International Organisation of Employers (IOE).

[3] As at 1 July 2001, 11 states have accepted the collective complaints procedure: Bulgaria, Cyprus, Finland, France, Greece, Ireland, Italy, Norway, Portugal, Slovenia and Sweden.

[4] For further information on how to obtain consultative status, contact NGO-Unit@coe.int.

[5] Interested organisations should send a letter to the Secretariat of the European Social Charter, Directorate General of Human Rights - DG II, Council of Europe, F-67705 Strasbourg Cedex (France). The letter should be accompanied by detailed documentation covering in particular the status of the organisation and its field of activity, objectives and working methods. This dossier will be forwarded to the Governmental Committee for a decision. The list may be consulted on the website http://www.esc.coe.int.

In what form should a complaint be lodged?

A collective complaint must be lodged in writing and must be signed by an authorised representative of the complainant organisation.

Complaints lodged by the ETUC, the UNICE and the IOE or by European non-governmental organisations must be written in one of the official languages of the Council of Europe (English or French). Complaints lodged by national trade unions and employers' organisations and by national non-governmental organisations may be written in a non-official language.

The complaint file should contain the following information:

- the name and contact details of the organisation lodging the complaint;
- in the case of non-governmental organisations, a note stating whether the organisation has consultative status with the Council of Europe and is included on the Governmental Committee list, and details of the fields of activity in which the organisation is competent;
- the state against which the complaint is being lodged, which must have accepted the collective complaints procedure;
- the Charter provisions which are alleged to have been breached, which the state in question must have accepted;
- the object of the complaint - that is, the extent to which the state in question is alleged not to have complied with the charter, and relevant arguments to support the allegation. Copies of relevant documents are required.

How does the procedure function?

The complaint is examined by the European Committee of Social Rights, which first decides on its admissibility according to the criteria listed above and its rules of procedure.

The procedure is adversarial. If the complaint is admissible, a written procedure is followed, with an exchange of documents between the parties. The procedure may become an oral one and a hearing may be organised by the committee.

The Committee then decides on the merits of the complaint. Its decision is contained in a report which it forwards to the Committee of Ministers.

At the end of the procedure, the Committee of Ministers adopts a resolution. If appropriate, it may recommend that the state in question take specific steps to bring the situation into line with the Charter.

Introduction

The aim of this monograph is to reproduce in chronological order the original documents of the procedure that was followed on the examination of the seventh complaint under the Additional Protocol to the European Social Charter providing for a system of collective complaints.

Complaint No. 7/2000 was filed on 7 February 2000 by the International Federation of Human Rights Leagues. On 28 June 2000, the European Committee of Social Rights declared the complaint admissible. On 5 December 2000, the Committee adopted its decision on the merits and transmitted its report to the Committee of Ministers. On 5 April 2001, the Committee of Ministers adopted Resolution ChS (2001) 6.

Complaint filed by the International Federation of Human Rights Leagues against Greece

(registered at the Secretariat on 7 February 2000)

TRANSLATION

I. ADMISSIBILITY

1. State party to the European Social Charter and to the Additional Protocol providing for a system of collective complaints against which the International Federation of Human Rights Leagues (IFHR) submits the collective complaint:

GREECE

2. Article concerned:

Article 1 (2) of the European Social Charter: "With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake ... to protect effectively the right of the worker to earn his living in an occupation freely entered upon".

3. IFHR observance by the of the admissibility requirements:

The IFHR, convinced of the importance of proper observance of social rights worldwide and aware that the new collective-complaint machinery which the Council of Europe established on 9 November 1995[1] can contribute appreciably to attainment of that objective, has decided to submit a collective complaint to the Secretary General of the Council of Europe.

Under Article 1 (b) of the Additional Protocol, the High Contracting Parties recognise the right of international non-governmental organisations which have consultative status with the Council of Europe and have been put on a list established for that purpose by the Governmental Committee of the European Social Charter[2] to submit collective complaints. The IFHR has consultative status with the Council of Europe. It is also on the Governmental Committee list of international non-governmental organisations allowed to submit collective complaints[3]. The IFHR is on the list for a 4-year period running from the entry into force of the Additional

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[1] See Additional Protocol to the European Social Charter providing for a system of collective complaints, European Treaty Series No. 158 (hereinafter "the Additional Protocol").

[2] Decision of 22 June 1995, 541st meeting of the Committee of Ministers.

[3] See appendix, letter of 6 April 1998 to the IFHR from Régis Brillat, Head of Social Charter Section, and *Human Rights, Factsheets on the European Social Charter*, May 1999, Council of Europe, Factsheet No. 8, p. 28.

Protocol (1 July 1998). It accordingly has the right to submit a collective complaint of unsatisfactory implementation of the European Social Charter.

Unlike bodies coming under Article 1 (c) and Article 2 (1) of the Additional Protocol[1], international non-governmental organisations entitled to submit complaints need not come within the jurisdiction of the High Contracting Party. The IFHR is therefore entitled to bring a collective complaint against any of the countries bound by the European Social Charter, without prejudice to any other admissibility requirement.

In addition, under Article 3 of the Additional Protocol, international non-governmental organisations referred to in Article 1 (b) may submit complaints only in respect of those matters regarding which they have been recognised as having particular competence. The IFHR, founded in Paris in 1922, recognises the principles laid down in the 1948 Universal Declaration of Human Rights[2]. The principles and aims of the IFHR are defined as those set out in human rights leagues' common founding charter[3]. The common preamble states that any national league joining the international federation thereby recognises the principles laid down in the Universal Declaration of Human Rights. Among the principles of the Universal Declaration, Article 23 (1) states: "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment". In addition, the common preamble to the founding charter states that national league are to seek actively to bring about the abolition of unfair laws[4]. Consequently the purpose of the IFHR is to strive for effective implementation of the principles laid down in the Universal Declaration of Human Rights and for abolition of unfair laws.

In pursuit of these aims, the IFHR undertakes various kinds of action to promote the full recognition and the exercise of social rights internationally. It plays an active part in the United Nations Committee on Economic, Social and Cultural Rights by making oral and written reports to it.[5] The IFHR also carries out investigative assignments on economic, social and cultural rights[6] and presents position papers at international conferences on those types of right. In this

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1 Representative national organisations of employers and trade unions and national non-governmental organisations respectively.

2 Adopted and proclaimed by the United Nations General Assembly in Resolution 217 A (III) of 10 December 1948.

3 Article III of the IFHR statutes.

4 See appendix to the Statutes of the International Federation of Human Rights Leagues.

5 For example, the IFHR report on economic, social and cultural rights in Palestine, E/C.12/1998/NGO/6 and the joint written submission by the IFHR and the Centro de Estudios Legales y Sociales (CELS) (Argentina) on the situation in Argentina, E/C.12/1999/NGO/2.

6 Fact-finding missions to Chile concerning the Mapuche Indians and to Palestine concerning the economic and social consequences of encirclement of the autonomous Palestinian territories.

connection the IFHR International Bureau unanimously stated, in the context of the November 1997 Dakar Congress, that promoting economic, social and cultural rights was one of the IFHR's major concerns.

In addition, and this is in contrast to the rules of the European Convention on Human Rights machinery, the IFHR, as an international non-governmental organisation, does not have to give evidence of any particular interest in taking action since the Additional Protocol does not make admissibility conditional on any such requirement. The IFHR asks the European Committee on Social Rights to reject any objection by the Greek Government in this connection. The complainant is required to show in what respect a High Contracting Party has not satisfactorily applied a provision of the European Social Charter but is not required to give evidence of any personal interest in taking action.

Lastly, as regards Article 1 of the rules of procedure adopted by the European Committee on Social Rights, the complaint is signed by the President of IFHR, Mr Patrick Baudouin. Under Article XI of the IFHR Statutes, the president, who may delegate his powers to any other member of the Executive Bureau, represents the IFHR in all civil matters and is vested with all the powers necessary for that purpose.

4. Greece bound by the European Social Charter:

Greece signed the Council of Europe European Social Charter on 18 October 1961 and ratified it on 6 June 1984[1]. In the official declaration it made in depositing the instrument of ratification, it stated that it was bound by all the articles in Part II of the Charter except Articles 5 and 6[2]. It also signed and ratified the Additional Protocol of 18 June 1998 providing for a system of collective complaints. In lodging a collective complaint concerning Article 1 (2) of the European Social Charter, the IFHR accordingly meets the requirement laid down in Article 4 of the Additional Protocol.

It should also be pointed out that Greece has signed and ratified the 1930 ILO Convention 29 (on forced labour)[3] and the 1957 ILO Convention 105 (on abolition of forced labour[4]). Lastly Greece has signed and ratified both international covenants of the United Nations, which establish the right to freely chosen work (see Article 8, International Covenant on Civil and Political Rights[5] and Article 6, International Covenant on Economic, Social and Cultural Rights[6]). This right is likewise protected

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[1] Incorporated in domestic law by Law 1426 of 1984.

[2] Article 20 (1) (b) of the European Social Charter.

[3] Ratified by Greece on 13 June 1952 (Law 1532 of 1952).

[4] Ratified by Greece on 30 March 1962 (Legislative Decree 4221/1961).

[5] The International Covenant on Civil and Political Rights was incorporated into domestic law by Law 2462 of 1997.

[6] The International Covenant on Economic, Social and Cultural Rights was incorporated into domestic law by Law 1532 of 1985.

by Article 4 of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, of which Greece is also a party[1]. All these international treaties have been incorporated into domestic Greek law and, under the Greek Constitution[2], they have greater legal force than domestic law.

The explanatory report to the Additional Protocol states that the fact that the subject matter of a complaint has been examined under the "normal" procedure for considering government reports does not, in itself, make the complaint inadmissible[3]. Further, in ruling on the first collective complaint, by the International Commission of Jurists against Portugal[4], the European Committee on Social Rights stated: "Neither the fact that the committee has already examined this situation in the framework of the reporting system nor the fact that it will examine it again during subsequent supervision cycles in themselves imply the inadmissibility of a collective complaint concerning the same provision of the Charter and the same Contracting Party"[5]. It further stated: "The legal principles *res judicata* and *non bis in idem* relied on by the Portuguese Government do not apply to the relation between the two supervisory procedures"[6]. On the basis of the non-applicability here of *res judicata* and *non bis in idem*, the IFHR requests the European Committee on Social Rights to reject any objection on these grounds from the Greek Government given that the collective-complaints machinery is independent of and distinct from the regular machinery for dealing with national reports. Otherwise the new system would not have any point since all provisions accepted by a state party are examined periodically.

II. SUBJECT OF THE COMPLAINT

The IFHR regards as one of its major concerns the worldwide eradication of forced labour and accordingly submits the present complaint against Greece. It observes that, since ratification of the European Social Charter, Greece has had in force three laws and regulations on the right to freely undertaken work which contravene Article 1 (2) of the Charter.

Greek law is thus at odds with the prohibition on forced labour in the European Social Charter in respect of:

- A. Legislative Decree 17 of 1974;
- B. Article 64 of Legislative Decree 1400 of 1973;
- C. Articles 205, 207 (1), 208, 210 (1) and 222 of Legislative Decree 987 of 1973 and Article 4 (1) of Law 3276 of 1944

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1 Incorporated into domestic law by Law 2325 of 1953 and Legislative Decree 53 of 1974.

2 Article 28 (1) of the Greek Constitution.

3 Explanatory report to the Additional Protocol, para. 31.

4 Complaint No. 1/1998.

5 Admissibility decision on the first collective complaint, para. 10.

6 Idem, para. 13.

A. Decree 17 of 1974 regulates mobilisation of the civilian population in "any unforeseen situation causing disruption of the country's economy or society". The European Committee on Social Rights itself delivered an adverse conclusion on the decree, which the committee has criticised since the 11th supervision cycle for the looseness of its provisions, which do not make it clear in what circumstances the decree can be implemented[1]. The Greek Government has agreed with that observation. In its eighth report on implementation of the European Social Charter it said that the Ministry of Defence had requested a revision of the decree so as, in particular, to remove the imprecise provisions it contained, which were open to misinterpretation by various public bodies[2]. Since 1997, however, there has been no action in that direction despite the Greek Government's acknowledgement that the decree was incompatible with the Charter.

In two 1987 decisions[3], the Greek State Council held that mobilisation of striking civilians under the decree was not contrary to the Greek Constitution. Those decisions have, however, been severely criticised by Greek legal theorists, who have argued that the prohibition on forced labour in the 1975 Greek Constitution applies to mobilisation of striking civilians[4]. E Venizelos points out that the exceptions to the prohibition are exhaustively listed in Article 22 (3) () and therefore that the substantive requirements laid down in Decree 17 of 1974 are invalid in that they diverge from those in the Greek Constitution. Further, the right to strike is protected by Article 23 (2) of the Greek Constitution and Article 6 (4) of the European Social Charter, though Article 6 (4) is not one of the articles which Greece has accepted. The European Committee on Social Rights has, however, held that mobilisation of striking civilians is contrary to Article 1 (2) of the European Social Charter (prohibition on forced labour). The committee which the International Labour Organisation appointed to look into the matter likewise held that airline pilots and flight engineers had been requisitioned in a manner contrary both to Convention 105 and Convention 29[5]. More generally, the ILO committee of experts on application of conventions and recommendations has delivered several individual observations on the decree's incompatibility with Convention 105.

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1 The European Committee on Social Rights has held: "Given the general nature of its terms this decree cannot be considered to be in keeping with Article 1, paragraph 2 of the Charter, even if the provisions of Article 31 are taken into account" (Conclusions XI-1, Committee of Independent Experts of the European Social Charter, p. 42. The committee's conclusion on this provision has remained negative ever since. See Conclusions XII-1, p. 51, Conclusions XIII-1, p. 47 and Conclusions XIV-1, p. 349).

2 RAP/Cha/VII (97) 15.

3 Decisions 686 and 687, 1987.

4 E Venizelos, "Mobilisation civile et grève", *Revue du droit du travail*, Vol. 45, 1986, p. 731. See also the arguments of P D Dagtoglou, *Constitutional law, individual rights,* Vol. B, in Greek, ed. A N Sakkoula, 1991, p. 883, section 1183.

5 Report of the committee appointed to consider the complaint by the Greek Airline Pilots' Association (HALPA) under Article 24 of the ILO convention, alleging non-observance by Greece of Convention 29 (1930) on forced labour and Convention 105 (1957) on the abolition of forced labour, para. 35.

In addition, Decree 17/1974 on civilian planning in emergencies is considered to be imprecise and to undermine the coherence and consistency of Greek democratic institutions[1]. Moreover, Decree 17/1974 "unjustifiably widens the range of circumstances in which civilians can be mobilised and contains draconian criminal penalties for breach of its provisions"[2].

B. Secondly, Article 64 of Legislative Decree 1400 of 1973 is contrary to Article 1 (2) of the European Social Charter. It was brought in under the Colonels' dictatorship and was extensively amended by Law 2970 of 1992 modernising the conditions of career officers in the Greek army. However, Article 64 of the decree, under which career officers who have received several periods of training must remain in the army for up to 25 years is unamended. The European Committee on Social Rights noted that "under paragraph 17 of this provision, an officer is not allowed to leave the army without having completed the term of service rendered mandatory by his training, ie three or four times the duration thereof. Furthermore, where the officer has had a number of training periods, his resignation may be further delayed for a cumulative period not exceeding 25 years (except where health reasons are involved)"[3].

C. Articles 205, 207 (1), 208, 210 (1) and 222 of the Code of Public Maritime Law (Legislative Decree No. 987 of 1973) and Article 4 (1) of Law No. 3276 of 1944 on collective agreements in the merchant navy. Under Legislative Decree No. 987/73, offences such as unjustified absence, disobedience and refusal to carry out orders are punishable by imprisonment even when the safety of the vessel and the lives and health of those on board are not endangered. Article 4 (1) of Law 3276 of 1944 lays down criminal penalties for breach of these provisions or refusal to obey the

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[1] N K Alivizatos, *The Constitution and the armed forces. I. The principle of civilian supervision*, in Greek, ed. A N Sakkoula, 1987, p. 229.

[2] K Chryssogonos, *Public freedoms and human rights*, in Greek, ed. A N Sakkoula, 1998, p. 182.

[3] "A compulsory period of service of up to 25 years seemed to the committee to exceed those limits and to be contrary to freedom of employment as protected by this provision of the Charter, which implied freedom to choose and to leave an occupation" (Conclusions XI-1, Committee of Independent Experts of the European Social Charter, p. 43. The committee's conclusion has remained negative: see Conclusions XII-1, p. 51, Conclusions XIII-3, p. 63 and Conclusions XIV-1, p. 349). The Committee of the European Social Charter has unhesitatingly held that this compulsory service is not necessary to protection of national security, and it thereby refuted the Greek Government's argument, which turned on applicability of Article 31 of the Social Charter (see Conclusions XIV-1, p. 349). The Committee of Ministers of the Council of Europe has addressed three formal recommendations to Greece concerning Article 64 of Decree 1400/1973, asking the Greek Government to take appropriate account of the negative conclusions of the Committee of Independent Experts and requesting that its next report give information on the action it had taken for that purpose (see Recommendation No. RChS (93) 1, adopted by the Committee of Ministers on 7 September 1993 at the Ministers' Deputies 497th meeting, Recommendation No. RChS (95) 4, adopted by the Committee of Ministers on 22 June 1995 at the Ministers' Deputies 541st meeting and Resolution ChS (97) 1 adopted by the Committee of Ministers on 15 January 1997 at the Ministers' Deputies 581st meeting).

orders of the authority competent with regard to application of a collective agreement or arbitration decision. Those provisions are contrary to Article 1 (2) of the European Social Charter and the established case law of the European Committee on Social Rights, which has held that "penal measures ... could be justified in the case of an act endangering the safety of the vessel or the lives or health of those on board"[1]. In addition the provisions have been constantly criticised by the relevant bodies of the International Labour Organisation. The ILO committee of experts on application of conventions and recommendations once again held, in 1999, that the provisions had nothing to do with the safety of the vessel or those on board and expressed the firm hope that the government would shortly take the necessary steps to bring legislation into line with Convention 105 on abolition of forced labour[2]. Lastly, the Council of Europe Committee of Ministers has addressed three formal recommendations to Greece[3], and this likewise shows that the provisions are incompatible with the Charter.

CONCLUSIONS

The IFHR requests the European Committee on Social Rights to:

a. declare the collective complaint admissible;

b. on the merits, declare contrary to Article 1 (2) of the European Social Charter the legislative and regulatory provisions referred to in the complaint;

c. submit its conclusions to the Council of Europe Committee of Ministers, asking it to address a formal recommendation to Greece regarding the aforementioned provisions (Article 8 (1) of the Additional Protocol).

Paris, 2 February 2000
Patrick Baudouin,
President of the IFHR

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1 (Conclusions III, Committee of Independent Experts of the European Social Charter, p. 6). The European Committee on Social Rights has concluded that such provisions are contrary to Article 1 (2) of the European Social Charter and has called for their repeal (Conclusions X-1, p. 35. The provisions have been consistently criticised since the 10th supervision cycle – see Conclusions XI-1, p. 38, Conclusions XII-1, p. 53, Conclusions XIII-1, p. 47, Conclusions XIII-3, p. 63 and Conclusions XIV-1, p. 350).

2 Individual observation on Convention 105 on abolition of forced labour, published 1999.

3 Recommendation No. RChS (93) 1 adopted by the Committee of Ministers on 7 September 1993 at the Ministers' Deputies' 497th meeting; Recommendation No. RChS (95) 4, adopted by the Committee of Ministers on 22 June 1995 at the Ministers' Deputies' 541st meeting; and Resolution ChS (97) 1, adopted by the Committee of Ministers on 15 January 1997, at the Ministers' Deputies' 581st meeting.

Written observations by the Greek Government on the admissibility of the complaint

(registered at the Secretariat on 14 June 2000)

Observations made by the Greek Government on admissibility of collective complaint 7/2000

In conformity with Article 6 of the Additional Protocol to the European Social Charter providing for a system of collective complaints and in conformity with Rule 26 para 1 of the Rules of Procedure of the European Committee on Social Rights, we submit our observations on the admissibility of collective complaint No 7/2000 lodged against Greece by the "International Federation of Unions for Human Rights" for violation of Article 1 para 2 of the European Social Charter (ESC).

The Greek Government requests that the European Committee of Social Rights (ECSR) declare the above complaint inadmissible for the following reasons:

1)In relation to the **Legislative Decree 17/1974** and particularly the provisions of article 2 para 5 of the said decree, we note the following:

The competent Directorate of the General National Defense Staff has submitted a relevant proposal to the Legal services of the Ministry of National Defense for the elimination of the term "emergency need" which creates the relevant problem and the exercise of the necessary legislative initiative is expected.

2)In relation to **article 64 of the Legislative Decree 1400/1973** we note the following:

a.The obligation assumed by the officer regarding his stay in the army after a course of studies or training aims at utilizing the said studies or training to the benefit of the Armed Forces which cover the relevant expenses. A potential abolition of the stay obligation would render negative the reciprocal relation "training-expense" and would endanger national security which, it is worth noting, in accordance with Article 31 of the ESC, can justify restrictions on the rights of the workers, since the armed forces in such case would not have the possibility to organize their human potential with a long-term perspective providing the

required versatile training with a view to safeguarding the national security of the country.

b.In addition, we note that the enlistment for a career in the armed forces as well as the further training take place on the initiative of the person concerned who takes cognizance of the assumed obligations.

Nevertheless, Greece wishing to be in compliance with the provisions of the ESC, following the recommendations addressed to it by the Committee of Ministers of the Council of Europe regarding the relevant provision has set up an interdisciplinary committee in the Ministry of National Defense for the re-examination of the provisions of Article 64 of LD 1400/73 so that these provisions be harmonized with the provisions of Article 1 of the ESC. The proposals of this committee were put under the consideration of the competent services of the General Staffs for comments and the submission of a draft law by virtue of which the above provisions of LD 1400/73 will be replaced. The proposals of the General Staffs, which have recently come to the General Staff of National Defense, will be included, after the necessary staff processing, into a single proposal and will be put under the consideration of the Council of Chiefs of General Staffs, for the taking of the final decision.

The proposed legislative regulation constitutes an effort to harmonize the provisions contained in the controversial article with the conventional commitments assumed by our country following the ratification of the ESC.

The harmonization of the provisions of Article 64 of the LD 1400/73 with the ESC requires the reduction of the obligations of the permanent officers. With the proposed legislative regulation the initial obligation for the stay in the Army as well as the stay due to subsequent training is significantly reduced.

The obligation of stay in the Army, by virtue of article 64 of the LD 1400/1973, aims at the utilization of the officers to the benefit of the Armed Forces which cover the expenses of studies and training in the Military Schools and Educational Institutions. A potential total abolition of this stay obligation would

therefore cause an unjustifiable financial damage to the state, since the departing officers will be able to use their scientific- professional knowledge and skills acquired at the expense of the state for their own benefit, without a corresponding obligation for the coverage of the expenses of the state. Moreover, the abolition of the stay obligation for a specific time (even if the obligation for financial compensation of the state remains) would affect in a negative way the programming of the human potential of the Armed Forces and the provision to the said potential of the necessary training for the safeguard of the national interests, endangering National Security which can, by order of article 31 of the ESC, justify restrictions on the rights of the workers.

In addition, para 16 of the article in force which refers to the limit of 25 years of service is abolished, a provision which, even though it is beneficial for the officers, creates unfavorable impressions and is continuously mentioned in the Conclusions of ECSR.

Apart from the afore-mentioned issues, issues concerning the calculation of the period of attendance at the productive Schools and the stay obligation, due to training, are also clarified.

3)In relation to the claim regarding the violation of the ESC by **articles 205, 207 para 1, 208, 210 para1 and 222 of the Legislative Decree 187/73 respecting the Code of Public Maritime Law and by Article 4 para1 of Act 3276/44** respecting Collective Agreements in Maritime Employment, we note the following:

a.The European Social Charter as an international convention has, as from the date of its ratification and in accordance with the Greek Constitution (Article 28 para 1), increased formal force and prevails over any contrary provision of the domestic legislation.

b.Also, the Greek Constitution explicitly states that work constitutes a right (Article 22, para 1), prohibits any form of compulsory work (Article 22, para 3)

and states that any provision of the law which is contrary to the Constitution is abolished as from the date of its enforcement (Article 111,para 1).

c.The above provisions of the Code of Public Maritime Law and of Act respecting the Collective Agreements in Maritime Work have not been found to be contrary to the Constitution. Moreover, we consider that these provisions contribute to the safe activation of merchant vessels, securing the right of workers in the maritime sector to safety and health at work, as provided for in Part I para 3 of the ESC.

d.Despite all mentioned above, our country, wishing to eliminate problems concerning the application of Article 1 para 2 of the ESC and taking into consideration the terms and restrictions of Article 31 of the Charter, has stated its intention to promote a legislative regulation according to which:
"The penal sanctions of articles 205, 207 para 1, 208, 210 para1 and 222 of the Legislative Decree 187/73 "On the Public Maritime Law Code" as well as the penal sanctions of Article 4 para 1 of Emergency Act 3276/44 "On Collective Agreements in Maritime Work" are imposed when, as a result,
I.the safety of the vessel, passengers, cargo, man or property at sea are placed in danger, or
II.pollution or other damage to the marine environment is caused,
III.the public order, national defense, public health or moral standards are disturbed".
In order to introduce before the Greek Parliament the above regulation, we have requested and expect any specific comments from the competent committees of the Council of Europe, in order to promote, on the basis of these comments, the procedures of adoption and enactment of a legislative provision, in accordance with the Greek Constitution.

In the light of all that have been stated above, the intention of the Greek Government to adapt its legislation to the provisions of the ESC is clear. Moreover, the procedures which are necessary for the amendment of our legislation have already started. However, one should not overlook the fact that the above issues constitute, at the same time, complex, sensitive and

complicated problems for the legislative tackling of which, the promotion of appropriate and complete alternate solutions within the frame of many bodies concerned is imperative, for reasons of basic national interest. Indeed, these issues refer to sensitive sectors concerning national defense and national security and for which the ESC itself provides for the possibility of exceptions (Article 31) and it is therefore understood that the relevant procedures require increased attention and reasonable time for their completion.

Therefore, the controversial complaint overlooks completely the particularity of the above issues, does not treat it and is not interested in it, which renders it excessively alleged.

For the afore-mentioned reasons we request that the collective complaint lodged by the International Federation of Unions for Human Rights be declared inadmissible as being excessive, given that the Greek Government has stated its intention to adapt its above legislation to the provisions of the ESC and the review process has already started.

Decision on admissibility

2000

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COMITE EUROPEEN DES DROITS SOCIAUX

Decision on the admissibility of Complaint No. 7/2000 by the International Federation of Human Rights Leagues against Greece

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (hereafter referred to as "the Committee"), during its 170th session attended by:

Messrs Matti MIKKOLA, President
Rolf BIRK, First Vice-President
Stein EVJU, Second Vice-President
Konrad GRILLBERGER
Alfredo BRUTO DA COSTA
Ms Micheline JAMOULLE
Messrs Nikitas ALIPRANTIS
Tekin AKILLIOĞLU

Assisted by Mr Régis BRILLAT, Executive Secretary of the European Social Charter

And in the presence of Ms Anna-Juliette POUYAT, observer from the International Labour Organisation

Having regard to the complaint registered as number 7/2000, lodged on 7 February 2000 by the International Federation of Human Rights Leagues (hereafter referred to as "the IFHR"), represented by its President, Mr Patrick Baudouin, requesting that the Committee find that Greece fails to apply in a satisfactory manner Article 1 para. 2 of the European Social Charter;

Having regard to the observations submitted on 19 June 2000 by the Greek Government;

Having regard to the European Social Charter and in particular to Article 1 para. 2, which reads as follows:

Article 1 – The right to work

"With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:
[...]

2. protect effectively the right of the worker to earn his living in an occupation freely entered upon;"
[...]

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Having regard to the Committee's rules of procedure, adopted on 9 September 1999 at its 163rd session;

After having deliberated on 28 June 2000;

Delivers the following decision, adopted on the above date:

1. The IFHR is an organisation which has as its objective the effective implementation of the principles laid down in Universal Declaration of Human Rights and the abolition of unfair laws. The promotion of economic, social and cultural rights is one of its major concerns. It alleges that Greece does not comply with Article 1 para. 2 of the Charter as regards the prohibition of forced labour, because of the following provisions of national law:

2. Legislative Decree No. 17/1974, which provides for the mobilisation of the civilian population "in any unforeseen situation causing disruption of the country's economy and society". This provision, the IFHR recalls, has been found by the Committee to violate the Charter. It further observes that although the Greek Government accepts that the legislation is not compatible with the Charter, it has not taken any steps to bring the violation to an end;

3. Section 64 of Legislative Decree No. 1400/1973, according to which career officers in the Greek army who have received several periods of training may be refused permission to resign their commissions for up to twenty-five years. The IFHR recalls that this provision has been found by the Committee to violate the Charter and was the subject of several recommendations of the Committee of Ministers of the Council of Europe.

4. Articles 205, 207 (1), 208, 210 (1) and 222 of the Code of Public Maritime Law (Legislative Decree No. 187 of 1973) and Article 4 (1) of Law No. 3276 of 1944 on collective agreements in the merchant navy. These provide for sanctions against seafarers who refuse to carry out their duties. The IFHR recalls that these provisions have been found to violate the Charter and have been the subject of several recommendations of the Committee of Ministers of the Council of Europe.

As to the conditions of admissibility laid down by the Protocol and the rules of procedure of the Committee

5. The Committee notes that, in accordance with Article 4 of the Protocol, which was ratified by Greece on 18 June 1998 and which entered into force in respect of Greece on 1 August 1998, the complaint has been lodged in writing and relates to Article 1 para. 2, a provision accepted by Greece on 6 June 1984 upon its ratification of the Charter.

6. It further notes that, in accordance with Article 1 b) and Article 3 of the Protocol, the IFHR is an international non-governmental organisation with consultative status with the Council of Europe. It is in addition included on the list, established by the Governmental Committee, of international non-governmental organisations which are entitled to lodge complaints.

7. The complaint lodged on behalf of the IFHR is signed by its President who, according to the statutes of the organisation, represents the organisation in all civil matters and is vested with all powers necessary for that purpose. The Committee considers that the complaint therefore complies with Rule 20 of its Rules of Procedure.

8. The Committee considers, on the basis of the information provided by the complainant, that this organisation has lodged a complaint in a field in which it has particular competence within the meaning of Article 3 of the Protocol. The Greek government does not contest this.

9. The Committee informed the Greek Government by letter dated 18 February 2000 of the lodging of the present complaint and requested the latter's observations as to admissibility before 31 March 2000. This deadline was subsequently changed to 31 May 2000, at the request of the Greek authorities, whose observations were received on 19 June 2000. The Greek Government argues that the complaint should be declared inadmissible because it not only intends to amend the provisions cited above so as to fully comply with Article 1 para. 2 of the Charter, but has already initiated the relevant procedures. The Committee takes the view that these considerations relate to the merits of the complaint, and not its admissibility.

10. For these reasons, the Committee, on the basis of the report presented by Mr Konrad GRILLBERGER, and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE,

In application of Article 7 para. 1 of the Protocol, requests the Executive Secretary to inform the Contracting Parties to the Charter and the Revised Charter that the present complaint is admissible,

Invites the Greek Government to submit in writing by 30 August 2000 all relevant explanations or information.

Invites the Contracting Parties to the Protocol to communicate to it by the same date any observations which they wish to submit,

Invites the IFHR to submit in writing by a deadline which it shall fix all relevant explanations or information in response to the observations of the Greek Government,

In application of Article 7 para. 2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in

Article 27 para. 2 of the Charter and to invite them to submit their observations by 30 August 2000

Konrad GRILLBERGER
Rapporteur

Matti MIKKOLA
President

Régis BRILLAT
Executive Secretary

Explanations and information provided by the Greek Government following the admission of the complaint introduced by the International Federation of Human Rights Leagues (Article 7 para. 1 of the Additional Protocol to the European Social Charter, providing for a system of collective complaints)

(registered at the Secretariat on 4 September 2000)

Observations made by the Greek Government on the merits of collective complaint 7/2000

In accordance with the decision of the European Committee of Social Rights on the admissibility of the collective complaint 7/2000 lodged against Greece by the "International Federation of Unions for Human Rights" for violation of Article 1 para 2 of the European Social Charter (ESC), we submit our observations on the merits of the above collective complaint.

The Greek Government requests that the European Committee of Social Rights (ECSR) declare the above complaint unfounded for the following reasons:

1)In relation to the **Legislative Decree 17/1974** and particularly the provisions of article 2 para 5 of the said decree, we note the following:

The competent Directorate of the General National Defense Staff has submitted a relevant proposal to the Legal services of the Ministry of National Defense for the elimination of the term "emergency need" which creates the relevant problem and the exercise of the necessary legislative initiative is expected.

2)In relation to **article 64 of the Legislative Decree 1400/1973** we note the following:

a.The obligation assumed by the officer regarding his stay in the army after a course of studies or training aims at utilizing the said studies or training to the benefit of the Armed Forces which cover the relevant expenses. A potential abolition of the stay obligation would render negative the reciprocal relation "training-expense" and would endanger national security which, it is worth noting, in accordance with Article 31 of the ESC, can justify restrictions on the rights of the workers, since the armed forces in such case would not have the possibility to organize their human potential with a long-term perspective providing the required versatile training with a view to safeguarding the national security of the country.

b.In addition, we note that the enlistment for a career in the armed forces as well as the further training take place on the initiative of the person concerned who takes cognizance of the assumed obligations.

Nevertheless, Greece wishing to be in compliance with the provisions of the ESC, following the recommendations addressed to it by the Committee of Ministers of the Council of Europe regarding the relevant provision has set up an interdisciplinary committee in the Ministry of National Defense for the re-examination of the provisions of Article 64 of LD 1400/73 so that these provisions be harmonized with the provisions of Article 1 of the ESC. The proposals of this committee were put under the consideration of the competent services of the General Staffs for comments and the submission of a draft law by virtue of which the above provisions of LD 1400/73 will be replaced. The proposals of the General Staffs, which have recently come to the General Staff of National Defense, will be included, after the necessary staff processing, into a single proposal and will be put under the consideration of the Council of Chiefs of General Staffs, for the taking of the final decision.

The proposed legislative regulation constitutes an effort to harmonize the provisions contained in the controversial article with the conventional commitments assumed by our country following the ratification of the ESC.

The harmonization of the provisions of Article 64 of the LD 1400/73 with the ESC requires the reduction of the obligations of the permanent officers. With the proposed legislative regulation the initial obligation for the stay in the Army as well as the stay due to subsequent training is significantly reduced.

The obligation of stay in the Army, by virtue of article 64 of the LD 1400/1973, aims at the utilization of the officers to the benefit of the Armed Forces which cover the expenses of studies and training in the Military Schools and Educational Institutions. A potential total abolition of this stay obligation would therefore cause an unjustifiable financial damage to the state, since the departing officers will be able to use their scientific- professional knowledge and skills acquired at the expense of the state for their own benefit, without a

corresponding obligation for the coverage of the expenses of the state. Moreover, the abolition of the stay obligation for a specific time (even if the obligation for financial compensation of the state remains) would affect in a negative way the programming of the human potential of the Armed Forces and the provision to the said potential of the necessary training for the safeguard of the national interests, endangering National Security which can, by order of article 31 of the ESC, justify restrictions on the rights of the workers.

In addition, para 16 of the article in force which refers to the limit of 25 years of service is abolished, a provision which, even though it is beneficial for the officers, creates unfavorable impressions and is continuously mentioned in the Conclusions of ECSR.

Apart from the afore-mentioned issues, issues concerning the calculation of the period of attendance at the productive Schools and the stay obligation, due to training, are also clarified.

3)In relation to the claim regarding the violation of the ESC by **articles 205, 207 para 1, 208, 210 para1 and 222 of the Legislative Decree 187/73 respecting the Code of Public Maritime Law and by Article 4 para1 of Act 3276/44** respecting Collective Agreements in Maritime Employment, we note the following:

a.The European Social Charter as an international convention has, as from the date of its ratification and in accordance with the Greek Constitution (Article 28 para 1), increased formal force and prevails over any contrary provision of the domestic legislation.

b.Also, the Greek Constitution explicitly states that work constitutes a right (Article 22, para 1), prohibits any form of compulsory work (Article 22, para 3) and states that any provision of the law which is contrary to the Constitution is abolished as from the date of its enforcement (Article 111,para 1).

c.The above provisions of the Code of Public Maritime Law and of Act respecting the Collective Agreements in Maritime Work have not been found to be contrary to the Constitution. Moreover, we consider that these provisions contribute to the safe activation of merchant vessels, securing the right of workers in the maritime sector to safety and health at work, as provided for in Part I para 3 of the ESC.

d.Despite all mentioned above, our country, wishing to eliminate problems concerning the application of Article 1 para 2 of the ESC and taking into consideration the terms and restrictions of Article 31 of the Charter, has stated its intention to promote a legislative regulation according to which:

"The penal sanctions of articles 205, 207 para 1, 208, 210 para1 and 222 of the Legislative Decree 187/73 "On the Public Maritime Law Code" as well as the penal sanctions of Article 4 para 1 of Emergency Act 3276/44 "On Collective Agreements in Maritime Work" are imposed when, as a result,

I.the safety of the vessel, passengers, cargo, man or property at sea are placed in danger, or

II.pollution or other damage to the marine environment is caused,

III.the public order, national defense, public health or moral standards are disturbed".

In order to introduce before the Greek Parliament the above regulation, we have requested and expect any specific comments from the competent committees of the Council of Europe, in order to promote, on the basis of these comments, the procedures of adoption and enactment of a legislative provision, in accordance with the Greek Constitution. **The Ministry of Mercantile Marine wishes to emphasize that it has the intention to promote a legislative regulation for the elimination of the problems regarding the application of article 1 para 2 of the ESC.**

In the light of all that have been stated above, the intention of the Greek Government to adapt its legislation to the provisions of the ESC is clear. Moreover, the procedures which are necessary for the amendment of our legislation have already started. However, one should not overlook the fact that the above issues constitute, at the same time, complex, sensitive and

complicated problems for the legislative tackling of which, the promotion of appropriate and complete alternate solutions within the frame of many bodies concerned is imperative, for reasons of basic national interest. Indeed, these issues refer to sensitive sectors concerning national defense and national security and for which the ESC itself provides for the possibility of exceptions (Article 31) and it is therefore understood that the relevant procedures require increased attention and reasonable time for their completion.

Therefore, the controversial complaint overlooks completely the particularity of the above issues, does not treat it and is not interested in it, which renders it excessively alleged.

For the afore-mentioned reasons we request that the collective complaint lodged by the International Federation of Unions for Human Rights be declared unfounded as being excessive, given that the Greek Government has stated its intention to adapt its above legislation to the provisions of the ESC and the review process has already started.

Observations of the European Trade Union Confederation (ETUC) (Article 7 para. 2 of the Protocol providing for a system of collective complaints)

(registered at the Secretariat on 3 October 2000)

Before submitting its observations, the ETUC would like to express its congratulations to the government of Greece, for not only ratifying the Social Charter but also the Additional Protocol providing for a system of collective complaints. In this way, the government contributes in re-enforcing the Social Charter and the fundamental social rights as well as its effectiveness.

ETUC further acknowledges that Greece has signed the Revised European Social Charter on 03/05/96.

I. General Observations

The international trade union movement has always been active in the system of control of international working standards. It is in this perspective that the ETUC contributes a large importance to the European Social Charter (hereinafter 'the Charter') in general and its system of control in particular. Hereby the ETUC wants to contribute so that the Charter is a lively instrument which re-enforces fundamental social rights in the daily live. The ETUC therefore wants to ensure that the interpretation and the application of the Charter are efficient.

The role of the ETUC

The Charter is inspired on the experiences emerging from the International Labour Organisation (ILO). In the whole system of control of the Charter, the participation of the ETUC is important and this is well shown by Article 27 of the Charter.

The procedures of complaints that are developed in the framework of the ILO have again been at the basis of the improvements of the control mechanisms for the Charter. Here we see how the trade unions do not only use the complaints before the Freedom of Association Committee, but also the possibilities of complaints as foreseen article 24 and 25 of the Constitution of the ILO. The Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158, hereinafter 'the Protocol') transposes this trade union participation.

Already in the beginning of the "relaunch of the Social Charter", dating from the beginning of the nineteen nineties, the "Final Resolution" of the Governmental Conference of the Council of Europe on the Charter (Turin, 21-22 October 1991) has clearly expressed the importance of the largest possible participation of the social partners.

The Preamble of the Protocol expresses also clearly that the collective complaints procedure also re-enforces the participation of social partners and non-governmental organisations.

Finally, the Protocol itself shows in its Article 7 para. 2 how the procedure is re-enforced by the participation of the ETUC whereby the explanatory report underlines the privileged role of the international employers and workers organisations in the control mechanism foreseen by the Charter by giving them the possibility to submit observations in relation to the collective complaints introduced by other organisations.

II. The relevant international standards

The Universal Declaration of Human Rights (1948)

This declaration states in its article 4 that :

"No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."

Furthermore it states in Article 23, §1 that :

"1. Everyone has the right to work, to free choice of employment. to just and favourable conditions of work and to protection against unemployment (...)"

The International Covenant on Civil and Political Rights (1966)

This Covenant states in its article 8:

"1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term 'forced or compulsory labour' shall not include:

i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life of well-being of the community;

(iv) Any work or service which forms part of normal civil obligations."

The International Covenant on Economic, Social and Cultural Rights (1966)

This social rights convenant specifies in its article 6, §1, that :

"1. The States Parties to the present Covenant recognize the right of work. which incluces the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts. and will take appropriate steps to safeguard this right. (...)"

The International Covenant on Civil and Political Rights (1966)

This covenant states in its article 8 the following :

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term 'forced or compulsory labour' shall not include:

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life of well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

ILO Convention 29 concerning forced or compulsory labour

This international standard, which lays down fundamental and at the same time minimum standards, defines in article 2 forced or compulsory labour as follows :

1. For the purposes of this Convention the term "forced or compulsory labour shall mean all work or service which is exacted from a person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2. Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include :
(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon, the members of the community, provided that the members

of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Forced and compulsory work is furhter regulated in detail by this convention, more in particular aspects such as imposition of forced labour for the benefit of private individuals and companies (article 4 and 5), who can take the decision to have recourse to forced or compulsory labour and the conditions to be observed thereby (article 8 and 9) , who can be forced to do this kind of work (article 11), the maximum period of forced or compulsory work (article 12), what the normal working hours are during this period of forced work (article 13), what the rates of remuneration should be (article 14), the safeguarding of healthy and safe working environment (article 17), etc.

The ILO convention N° 105 concerning the abolition of forced labour (1957)

This convention regulates in its article 1 that

"Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour. :

(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
(b) as a method of mobilising and using labour for purposes of economic development;
(c) as a means of labour discipline;
(d) as a punishment for having participated in strikes;
(e) as a means of racial, social, national or religious discrimination."

In its article 2 it calls for that :

"Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention."

The ILO Declaration on Fundamental Principles and Rights at Work (1998)

This recent international instrument reiterates the importance that the ILO attends to the prohibition of forced labour by stating that it :

"Delcares that all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the organisation to respect, to promote and to realise, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are subject of those Conventions, namely:

a) (...)

b) the elimination of all forms of forced or compulsory labour, (...)"

The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

This European standard, adopted within the Council of Europe and which has to obligatory ratified by applicant member states to the Council of Europe states in article 4:

"1. No one shall be held in slavery or servitude
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term "forced or compulsory labour" shall not include :

> a. any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
> b. any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
> c. any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
> d. any work or service which forms part of normal civic obligations."

The European Community Charter of Fundamental Social Rights of Workers (1989)

This EC/EU charter specifies in paragraph 4 that :

"4. Every individual shall be free to choose and engage in an occupation according to the regulations governing each occupation."

Conclusion:

This extensive list shows that the prohibition of forced or compulsory labour or otherwise the freedom to engage in a freely choosen occupation is a universal recognised and protected fundamental principle.

III. Interpretation of Article 1 para. 2 ESC

General

Article 1 ESC reads as follows:

"Article 1 - The right to work

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1. ...

2.to protect effectively the right of the worker to earn his living in an occupation freely entered upon;

3. ..."

The Committee of Fundamental Rights already recognised in the first cycle of supervision that "this provision was closely bound with two particularly important problems, viz. :

- The prohibition of forced labour; and
- The eradication of all forms of discrimination in employment"[1]

The general definition has been given in Conclusions III

"In the course of this examination the Committee reaffirmed its previous view that the coercion of any worker to carry out work against his wishes, and without his freely expressed consent, is contrary to the Charter. The same applied to the coercion of any worker to carry out work he had previously freely agreed to do, but which he subsequently no longer wanted to carry out ..."[2]

It also has to be noted that the Charter does not provide for any express restriction in general or in particular. Neither the text nor the Appendix are referring to any possibility of restriction.

In relation to the case concerned:

In relation to Legislative Decree N° 17/1974 which provides for the mobilisation of the civilian population "in any unforeseen situation causing disruption of the country's economy and society", it appeared to the Committee that this expression was too wide in its meaning as it could result in some forms of compulsory labour not admissible under article 1, para. 2 in the light of Article 31 of the Charter. [3]

In relation to Section 64 of Decree No. 1400/1973, under which career army officers may be denied permission to resign from their posts for up to twenty-five years, the Committee considered that this duration exceeded all reasonable limits and was not justified by the specific nature of a military career and the high cost of training . The Committee of Ministers therefore addressed a recommendation to Greece for the first part of the twelfth cycle and for the first part of the thirteenth cycle.[4]

In relation to the Legislative Decree N° 187 of 1973 on the Code of Public Maritime Law and Article 4(1) of the Law N° 3276 of 1944 on collective agreements in the merchant navy which provide for sanctions against seafearers who refuse to carry out their duties, the Committee found that these provisions violated the Charter and have been subject of several recommendations of the Committee of Ministers.[5]

IV Concerning the observations of the Greek government

In relation to Legislative Decree N° 17/1974 which provides for the mobilisation of the civilian population "in any unforeseen situation causing disruption of the country's economy

[1] Conclusions I, p. 15
[2] Conclusions III (1973) p. 5
[3] Conclusions XIII-3, p 62
[4] Conclusions XIII-3, p 62
[5] Conclusions XIII-3, p 64

and society", the report supervised in the fiftheenth cycle indicates that there have been no changes in the situation. The committee has consistently held that this legislation is not in conformity with Article 1, para. 2 of the Charter. A hope was expressed that the authorities would revise the legislation without delay. Currently, according to the observations of the Greek government, the competent bodie to the legal services only submitted a proposal to the Legal Service of the Ministry of National Defense; so no definitive solution has been adopted yet.[6]

In relation to Section 64 of Decree No. 1400/1973, under which career army officers may be denied permission to resign from their posts for up to twenty-five years, the report states that the administration has launched a review of the legislation in order to bring it into compliance with the Charter. During the reference period, though, the situation remained unchanged. (...) As the situation did not change during the reference period, the Committee concludes that Greece is still not in conformity with Article 1 para. 2 of the Charter in respect of the prohibition of forced labour."[7] Currently, there is apparently no change either since the observations of the Greek government of 31 August 2000 only mention that in the mean time a interdisciplinary committee has been established in the Ministry of National Defense which led to the submission of a draft law which is currently still under consideration.[8]

In relation to the Legislative Decree N° 187 of 1973 on the Code of Public Maritime Law and Article 4(1) of the Law N° 3276 of 1944 on collective agreements in the merchant navy which provide for sanctions against seafearers who refuse to carry out their duties, the report supervised in the fiftheenth cycle indicates that the revision of the relevant articles is in progress. According to the observations of the Greek government, today no definitive solution has been adopted.[9]

IV. Conclusions

As already mentioned the extensive list of international instruments quoted above clearly shows that the prohibition of forced or compulsory labour or otherwise the freedom to engage in a freely choosen occupation is a universal recognised and protected fundamental principle.

The Committee has several times ruled on the three concerned pieces of Greek legislation that they violate the Article 1, § 2 of the Charter and in this light several recommendations have been addressed to the Greek government.

Apparently, and this based on the observations submitted by the Greek government on 31 August 2000, and as indicate in the report supervised in the fiftheenth cycle, the three situations have not been resolved yet by a definitive solution. Legislative proposals are still in the pipe-line.

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[6] Observations of the Greek government of 31 August 2000
[7] Conclusions XV-1; Chapter 7 – Conclusions concerning Articles 1, 12, 13, 16 and 19 of the Charter in respect of Greece
[8] Observations of the Greek government of 31 August 2000
[9] Observations of the Greek government of 31 August 2000

V. Recommendations

Based on these conclusions, the ETUC recommends to the Greek Government to speed up the procedures to bring its national legislation into full conformity with the Charter in general and the previous as well as the actual conclusions of the European Committee of Social Rights and the previous Recommendations by the Committee of Ministers.

Response of the International Federation of Human Rights League to the written observations submitted by the Government of Greece on the merits of the complaint

(registered at the Secretariat on 12 October 2000)

TRANSLATION

Having regard to the decision of the European Committee on Social Rights concerning the admissibility of collective complaint no. 7/2000 brought against Greece by the IFHR alleging violation of Article 1 (2) of the European Social Charter (ESC);

Having regard to the observations submitted by the Greek government on the merits of this complaint, the IFHR wishes to respond with the following clarifications and information.

1. <u>Concerning Legislative Decree No. 17/1974, with particular reference to the provisions of Article 2 (5)</u>

The IFHR notes that the Greek government has submitted a proposal to the legal services of the Ministry of National Defence for the deletion of the term "emergency need", which is at the root of the problem.

The text submitted for consideration would appear to use the broader phrase "any unforeseen situation". Since the action taken by the Greek government does not cover all such situations, the problem of civilians' mobilisation could persist in situations which, although not emergencies, are unforeseen. This initiative should therefore be extended.

Furthermore, the IFHR would point out that, although the Greek government acknowledged in 1997 (on the occasion of its eighth report on the ESC's implementation) that the decree was incompatible with the Charter, it has still not revised the text.

2. <u>Concerning Legislative Decree No. 1400/73</u>

There are several grounds for objecting to the obligation placed on all career officers who have received training to remain in the army so that their training may be exploited for the benefit of the army and of national defence and the expenditure may be recouped.

a) With regard to the necessary reciprocity between training and expenditure, which would be endangered by abolition of the obligation to remain in service:

- These restrictions on the freedom of employment cannot be justified as long as another solution is available.

Such a solution does exist and has been introduced in other countries which have ratified the ESC. In France, for example, reciprocity may be reinstated through the possibility of "redeeming" these years of study by reimbursing training costs (such payment is made either by the individual concerned or by his/her new employer). This solution applies even in military colleges along the lines of the system in operation at the *Ecole Polytechnique* (the senior State institution of higher education), graduates of which may cut short their compulsory ten-year period of State employment in exchange for reimbursing the cost of their education.

Consequently, the Greek government's argument that "a potential abolition of the stay obligation would render negative the reciprocal relation "training-expense" is, to say the least, debatable.

- With regard to the claim that restrictions are justified by the threat to national security and the argument that it would be impossible to organise a long-term human defence force:

The Greek government repeatedly refers to Article 31 of the ESC, which permits restrictions to the rights and obligations set forth in the Charter where these are deemed "necessary", especially for reasons of national security.

However, in this case the issue is simply that of the services' internal organisation, which is not relevant to the condition of "necessity" evoked in Article 31 of the ESC.

In this connection, the IFHR draws attention to the case-law in respect of Articles 8-11 of the European Convention of Human Rights, which clarifies the meaning of "necessity" as relating to restrictions "prescribed by law" and "necessary in a democratic society" for the accomplishment of various general interests including "national security". In particular, the notion of necessity implies interference corresponding to a pressing social need and proportionate to the legitimate aim pursued[1].

In the case of *Van der Mussele v. Belgium*[2], the European Court of Human Rights defined the notion of necessity within the context of the prohibition on "forced or compulsory labour", which it described by reference to a "disproportionate [...] burden", "excessive [...] prejudice" and "a considerable and unreasonable imbalance between the aim pursued and the obligations undertaken in order to achieve that aim". In the case in question, given that the compulsory period of service that §17 of the decree stipulates for all career officers who have received training is calculated as three or four times the length of that training, it conforms exactly to the description of "excessive" and "disproportionate" prejudice in relation to the aim pursued.

It is entirely natural that the Greek government should wish to establish a coherent long-term national defence policy. However, such a policy must not overlook

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[1] Series A Vol. 130, pp. 31-32 §67.

[2] Judgment of 23 November 1983, Series A Vol. 70, pp. 16-21, §§32-41.

the distinction essential to all military law between requirements in peacetime and those in time of war.

b) With regard to the argument that enlistment for a career in the armed forces entails the awareness and acceptance of certain obligations:

these obligations cannot extend to a commitment to remain in the army where to do so would amount to forced labour;

persons wishing to leave the armed forces continue to meet their obligations and the need to carry them out from the moment they assume them by means of a substitutionary financial payment.

With regard to the interdisciplinary committee set up at the Ministry of National Defence to re-examine the provisions of Article 64 of this decree, the IFHR notes:

that no reference has been made to a deadline for presenting draft legislation;

that this body has received no clear instructions concerning its activity which would indicate the strategy chosen by the Greek government and permit the committee to assess the conformity of this strategy with Article 1 of the ESC.

Given the above, the Greek government's proposed "effort to harmonise" appears too vague for any comment at present.

With regard to the period of compulsory service in the armed forces, the Greek government's proposal to reduce it "significantly" is likewise still too vague to merit consideration.

With regard to the considerable financial loss which Greece would incur, by virtue of the cost of training, through abolition of the obligation to remain in the army, the Greek government could make good this loss by adopting the solution introduced by certain other signatory states to the Charter – namely, that those who had received training would pay compensation in exchange for their departure.

The Greek government does not adequately explain (page 3) why it rejects this solution and considers it unsuitable. It therefore fails to convince that the solution cannot be implemented.

The IFHR also notes that the paragraph referring to a maximum of 25 years' compulsory service has been repealed. Nonetheless, since it provides that this period shall be calculated as three or four times the length of training received, §17 creates an imbalance between the aim pursued and the obligations imposed on officers and remains at variance with Article 1 (2) of the ESC.

3. Concerning Articles 205, 207 (1), 208, 210 (1) and 222 of Legislative Decree No. 187/1983 relating to the Code of Public Maritime Law and Article 4 (1) of Law No. 3276/1944 on collective agreements in the merchant navy

a) and b) The IFHR notes that the Greek government respects the hierarchy of legislation. Nonetheless, its explanations regarding these provisions' conformity with the Constitution and its prohibition of forced labour are not sufficiently clear. At no point is a source or date given for this decision on conformity.

c) With regard to the argument that the safety and health of other workers on shipping is secured as provided for in Article 1 (3) of the ESC, the IFHR fails to understand how the penalties criticised (prison terms for offences such as unjustified absence, disobedience and refusal to carry out orders, even when the safety of the vessel and the lives and health of those on board are not endangered) contribute to the aims of this article to implement "a coherent national policy on occupational safety, occupational health and the working environment"[1]. The policy in question is preventive rather than punitive.

d) With regard to the reference to Part 1 paragraph 2 of the ESC, which guarantees the right of all workers to just conditions of work, the IFHR takes note of the Greek government's intention to press for a regulation revising the criteria for applying the penalties mentioned above, which would henceforth be imposed only in cases of danger to persons or property, pollution or a threat to public order, national defence, public health or moral standards.

Quite apart from the possibility of uncertainty due to the imprecision of a number of these criteria (especially that of "moral standards"), which is sufficient to raise doubts concerning the fundamental principle in criminal law that the terms of accusation must be lawful and unambiguous, the IFHR would draw the Committee's attention to the need to complete the legislative procedure ensuring compliance within a fixed time period. The Greek government has made no such provision. The IFHR wonders whether it would be possible in this field, on the pattern of Article 6 of the European Convention of Human Rights, which stipulates that reasonable time forms part of the right to a fair trial, to introduce a reasonable time period in respect of the procedure for compliance with the ESC. Moreover, in Article 30 (2) the Charter itself requires a reasonable lapse of time.

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[1] Translator's note: the article quoted is Article 3 (1) of the revised Social Charter. The provision referred to in the Greek observations is Part 1 paragraph 3 of the ESC.

On the basis of these observations, the IFHR again asks the European Committee on Social Rights to declare contrary to Article 1 (2) of the European Social Charter the legislative and regulatory provisions referred to in collective complaint no. 7/2000.

Paris, 11 October 2000
Patrick Baudouin
IFHR President

Additional observations by the Greek Government (Article 7 para. 3 of the Additional Protocol to the European Social Charter providing for a system of collective complaints)

(registered at the Secretariat on 16 November 2000)

HELLENIC REPUBLIC
MINISTRY OF LABOUR
AND SOCIAL SECURITY

TO: Mr Regis BRILLAT
THE EXECUTIVE SECRETARY

DIRECTORATE GENERAL OF
HUMAN RIGHTS-DG II

SECRETARIAT OF THE
EUROPEAN SOCIAL CHARTER

COUNCIL OF EUROPE
Strasbourg
France

Complaint No 7/2000

Dear Mr Brillat,

Further to your letter of 19 October 2000, I would like to thank you, as well as the European Committee of Social Rights, for the invitation to the Greek government to submit any additional observations on the merits of the above complaint.

Additionally, the Greek Government would like to note the following:

A) In relation to the penal sanctions against seamen: the Ministry of Mercantile Marine underlines the fact that the comments made by the ECSR in the frame of the informal consultations of the Committee with the Greek State for the final formulation of the legislative provision concerned are under processing with a view to eliminate existing problems regarding compliance with article 1 para 2 of the Charter.

B) During cycle XV-1, the Governmental Committee of the Council of Europe, examining the situation in Greece in relation to career officers and penal sanctions against seamen, decided not to propose a recommendation against Greece, but to give time to the Greek Government to proceed to the necessary legislative changes.

We await with great interest the decision of the European Committee of Social Rights.

THE SECRETARY GENERAL

IOANNA PANOPOULOU

Report of the European Committee of Social Rights to the Committee of Ministers

2000

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COMITE EUROPEEN DES DROITS SOCIAUX

Report by the European Committee of Social Rights to the Committee of Ministers

(Strasbourg, 5 December 2000)

1. Introduction

1. In accordance with Article 8 para. 2 of the Protocol providing for a system of collective complaints, the European Committee of Social Rights, committee of independent experts of the European Social Charter (hereafter referred to as "the Committee") transmits to the Committee of Ministers its report in respect of complaint No. 7/2000. The report contains the decision of the Committee on the merits of the complaint (adopted on 5 December 2000). The decision as to admissibility (adopted on 28 June 2000) is appended.

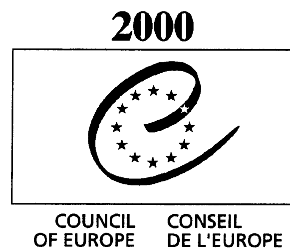
2. The Protocol entered into force on 1 July 1998 and has been ratified by Cyprus, Finland, France, Greece, Italy, Norway, Portugal and Sweden. Bulgaria, Ireland and Slovenia are also bound by this procedure, in accordance with Article D of the revised European Social Charter of 1996.

3. When examining this complaint, the Committee followed the procedure laid down in the rules of procedure adopted on 9 September 1999.

4. It is recalled that in accordance with Article 8 para. 2 of the Protocol, the present report will not be published until the Committee of Ministers adopts a recommendation or, at the latest, four months after its transmission to the Committee of Ministers on 12 April 2001.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COMITE EUROPEEN DES DROITS SOCIAUX



2. Decision on the merits of Complaint No. 7/2000 against Greece by the International Federation of Human Rights Leagues

The European Committee of Social Rights (ECSR), committee of independent experts established under Article 25 of the European Social Charter (hereafter referred to as "the Committee"), during its 174th session attended by:

Messrs. Matti MIKKOLA, President
Rolf BIRK, Vice- President
Stein EVJU, Vice-President
Ms Suzanne GRÉVISSE, General rapporteur
Mr Konrad GRILLBERGER
Ms Micheline JAMOULLE
Messrs. Nikitas ALIPRANTIS
Alfredo BRUTO DA COSTA
Tekin AKILLIOĞLU

Assisted by Mr Régis Brillat, Executive Secretary to the European Social Charter

After having deliberated on 5 December 2000;

On the basis of the report presented by Mr. Konrad GRILLBERGER;

Delivers the following decision adopted on the same date:

PROCEDURE

1. On 28 June 2000 the Committee declared the complaint admissible.

2. In accordance with Article 7 paras. 1 and 2 of the Protocol providing for a system of collective complaints and with the Committee's decision of 28 June 2000 on the admissibility of the complaint, the Executive Secretary communicated, on 4 July 2000, the text of its admissibility decision to the Greek Government, to the International Federation of Human Rights Leagues (IFHR), the complainant organisation, to the Contracting Parties to Protocol as well as to the European Trade Union Confederation (ETUC) and the Union of the Confederations of Industry and

Employers of Europe (UNICE), inviting them to submit their observations on the merits of the complaint. The Executive Secretary also communicated the text of the decision to the Contracting Parties to the Charter and revised Charter for their information.

3. The Greek Government submitted its observations on the merits on 4 September 2000. The ETUC submitted its observations on 3 October 2000. The complainant organisation submitted its observations on 12 October 2000. The Greek government submitted supplementary observations following an extension of the time limit on 16 November 2000.

4. In accordance with Article 7 para. 3 of the Protocol, each party received the observations of the other, as well *as those of the ETUC.*

SUBMISSIONS OF THE PARTICIPANTS IN THE PROCEDURE

a) The complainant organisation, IFHR

5. The IFHR considers that Greece is in violation of Article 1 para. 2 of the Charter on account of a series of provisions of national law which violate the prohibition of forced labour. Article 1 para. 2 reads as follows:

"With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

...

> *2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon"*

...

6. As stated at paragraphs 2-4 of the admissibility decision, the provisions of national law at issue are:

7. Legislative Decree No. 17/1974, which provides for the mobilisation of the civilian population "in any unforeseen situation causing disruption of the country's economy and society". This provision, the IFHR recalls, has been found by the Committee to violate the Charter. It further observes that although the Greek Government accepts that the legislation is not compatible with the Charter, the text is still not revised. The draft amendment under consideration by the Greek authorities is, it asserts, insufficiently precise to comply with the Charter.

8. Section 64 of Legislative Decree No 1400/73, according to which career officers in the Greek army who have received several periods of training may be refused permission to resign their commissions for up to twenty-five years. The IFHR recalls that this provision has been found by Committee to violate the Charter and was the subject of several recommendations and resolutions of the Committee of Ministers of the Council of Europe (see Recommendation N° R ChS (93) 1, adopted on 7 September 1993, Recommendation N° R ChS (95) 4, adopted on 22 June 1995, Resolution ChS (97) 1, adopted on 15 January 1997 and Resolution ChS (99)2, adopted 4 March 1999). The IFHR contends that this situation cannot be

justified, since other solutions are available to ensure reciprocity between public expenditure on training and the service performed by the beneficiaries of such investment. The possibility of reimbursing training costs is one such solution, as is the case in other Contracting Parties to the Charter, for example in France. This restriction cannot be justified, the IFHR maintains, either by national security or the long-term staffing needs of the defence forces. The IFHR refers to a judgment of the European Court of Human Rights (*Van der Mussele v. Belgium*, 23 November 1983, Series A, Vol. 70 pp 16 – 21, §§ 32 – 41). It considers that, in the light of this decision, the compulsory period of service for the officers concerned, which is calculated as three or four times the length of the training received, should be viewed as excessive and disproportionate in relation to the aim pursued. As to the efforts by the Greek Government to bring Decree 1400/73 into conformity with Article 1 para. 2 of the Charter, the IFHR states that the plans are too vague to merit consideration.

9. Articles 205, 207 (1), 208, 210 (1) and 222 of the Code of Public Maritime Law (Legislative Decree No 187 of 1973) and Article 4 (1) of Act No 3276 of 1944 on collective agreements in the merchant navy. These provide for penal sanctions against seafarers who refuse to carry out their duties, even when the safety of the vessel and the lives and health of those on board are not endangered. The IFHR recalls that these provisions have been found to violate the Charter and have been the subject recommendations and resolutions of the Committee of Ministers of the Council of Europe (Recommendation No R ChS (93) 1 adopted on 7 September 1993; Recommendation No R ChS (95) 4, adopted 22 June 1995, Resolution ChS (97) 1 adopted 15 January 1997 and Resolution ChS (99)2, adopted 4 March 1999). It further states that the intention of the Greek Government to revise the law concerned in order to comply with the Charter does not merit consideration because, first, the amendment under consideration refers to imprecise criteria, and second, there is no clear timetable for ensuring compliance.

b) Observations by the Greek Government

10. In its observations on the merits of the complaint concerning Legislative Decree No. 17/1974, the Greek Government stresses the fact that the General National Defence Staff has submitted a proposal to the legal services of the Ministry of National Defence to eliminate the term "emergency need" and that the "necessary legislative initiative is expected".

11. As to Section 64 of Legislative Decree No.1400/1973, the Government states that the obligation to stay in the Greek army for up 25 years covers the expenses for the training provided. Furthermore, it asserts, abolishing that obligation would endanger national security. The Government considers the current law justified under Article 31 of the Charter. In addition, the Government notes that enlistment for a career officer in the armed forces, as well as further training, takes place on the initiative of the person concerned. However, the Greek Government states that it wishes to be in compliance with the provisions of the Charter and therefore proposals are under consideration to replace the provisions in question of Legislative Decree 1400/73.

12. As to the Articles 205, 207 (1), 208, 210 (1) and 222 of the Code of Public Maritime Law and Article 4 (1) of Act No 3276/44 the Government of Greece states its intention to promote a legislative regulation to eliminate the problems regarding the application of Article 1 para. 2 of the Charter. It points out that the Governmental Committee decided during cycle XV-1 not to propose a recommendation against Greece, but to give time to proceed to the necessary legislative changes.

13. The Greek authorities consider that the complaint should be declared unfounded in view of their intention to bring the abovementioned legislation into conformity with the Charter, and the fact that the review process has already started.

c) Observations by the ETUC

14. The ETUC welcomes the fact that Greece has signed and ratified the Protocol providing for a system of collective complaints, thereby contributing to the effectiveness of the Charter and the protection of fundamental social rights.

15. In its observations, the ETUC quotes various international legal instruments prohibiting forced labour. The prohibition of forced or compulsory labour is a universally recognized and protected fundamental principle.

16. The ETUC recalls that the European Committee of Social Rights has on several occasions found the Greek legislation at issue to be in violation of Article 1 para. 2 of the Charter. Moreover, there are several recommendations by the Committee of Ministers in that context. According to the observations of the Greek Government, the problems identified have not yet been resolved. The ETUC considers that the Greek Government should act rapidly to bring its national legislation into full conformity with the Charter.

ASSESSMENT OF THE COMMITTEE

17. Under Article 1 para. 2, the Contracting Parties to the Charter undertake to protect effectively the right of the worker to earn his living in an occupation freely entered upon. This wording ("freely entered upon") provides for a guarantee against forced labour. Forced labour is understood as "coercion of any worker to carry out work against his wishes and without his freely expressed consent" (see Conclusions III, p. 5). The Committee has also consistently interpreted this provision as prohibiting "the coercion of any worker to carry out work he had previously freely agreed to do, but subsequently no longer wanted to carry out" (*ibid.*). It therefore protects the freedom of workers to terminate employment (see for example Conclusions XIII-3, p. 71).

18. The Committee recalls that it has consistently held "the non-application of national legislation containing elements which are in conflict with Article 1 para. 2 of the Charter does not suffice to demonstrate a states compliance with this provision" (Conclusion XIII-3, p. 66). Such legislation has to be amended (Conclusion V, p. 6).

19. As the complainant organisation correctly points out, the Committee has since the eleventh supervision cycle concluded that Legislative Decree N°17/1974 violates Article 1 para. 2 of the Charter (see Conclusions XI-1, p. 42; XII-1, p. 51; XIII-1, p. 47; XIV-1, p. 349; XV-1, p. 295). The wording of this regulation ("in any unforeseen situation causing disruption of the countries economy or society") is of such a general nature that it "cannot be considered to be in keeping with Article 1 para. 2 of the Charter, even if the provisions of Article 31 of the Charter are taken into account" (Conclusion XI-1, p. 42).

20. In its observations, the Government of Greece accepts these conclusions. It admits that the terms used raise a problem of compatibility with the Charter and indicates that the necessary legislative initiative to remedy the situation is expected. The Committee underlines the fact that it first found this legislation to violate the Charter in 1989. Eleven years later, the legislation remains in force.

21. As for Article 64 of Legislative Decree No. 1400/73 concerning career officers in the Greek army, who have received several periods of training, the Committee has similarly concluded since the eleventh supervision cycle that this provision violates Article 1 para. 2 of the Charter. A compulsory period of service of up to 25 years is excessive and contrary to the freedom to choose and to leave an occupation (Conclusion XI-1, p. 43; most recently Conclusion XV-1, p. 294). In addition, the Committee of Ministers has addressed to the Government of Greece two Recommendations, which were reiterated in two subsequent Resolutions. Again, the Committee wishes to underline that the provision at issue has not been amended after eleven years of consistent criticism.

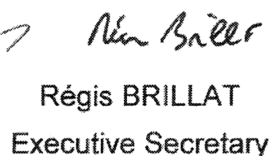
22. Regarding penal sanctions against seafarers (Legislative Decree No. 987/1973 and Act No. 3276/1944) the Committee recalls its established case law, according to which Article 1 para. 2 prohibits the application of penal sanctions to seafarers who cease to perform their duties where neither the safety of the vessel nor the lives or health of persons on board are endangered (Conclusion XI-1, p. 43; most recently XV-1, p. 295). There are also two Recommendations and two Resolutions by the Committee of Ministers on this matter. Nevertheless the provisions concerned remain in force.

23. The Committee takes note of efforts by the Greek authorities to amend the provisions of national law cited above. It considers that these efforts should be intensified so as to bring the situation into conformity with Greece's obligations under Article 1 para. 2 of the Charter without further delay.

24. On the above grounds, the Committee has reached the following:

CONCLUSION

the situation in Greece is not in conformity with Article 1 para. 2 as regards each of the provisions complained of.



Konrad GRILLBERGER	Matti MIKKOLA	Régis BRILLAT
Rapporteur	Chairman	Executive Secretary

Annexe
Decision on admissibility. The text of the decision on admissibility which is annexed to the Report by the European Committee of Social Rights to the Committee of Ministers can be found on page 29 of this monograph.

Resolution ResChS (2001) 6 of the Committee of Ministers

Resolution ResChs(2001)6
Collective Complaint No. 7/2000
International Federation of Human Rights against Greece

(Adopted by the Committee of Ministers on 5th April 2001at the 749th meeting of the Ministers' Deputies)

The Committee of Ministers, [1]

Having regard to Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints,

Considering the complaint lodged on 7 February 2000 by the International Federation of Human Rights against Greece,

Considering the report submitted to it by the European Committee of Social Rights, in which Greece is found not to be in conformity with Article 1 para. 2 of the Charter on each of the grounds raised in the complaint;

1. takes note that as regards the first ground (Legislative Decree No. 17/1974) the Greek Government has advanced additional considerations not relied on during the examination of the merits of the complaint by the European Committee of Social Rights, i.e. the provisions of Act No. 2344 of 1995, but that it will give a full account of these in its next report on the implementation of the Charter, to be submitted by 30 June 2001.

2. takes note that as regards the second and third grounds (the restrictions on the right of career officers in the army to resign their commissions for up to 25 years, and the possibility of applying penal sanctions to seafarers who cease to perform their duties where neither the safety of the vessel nor the life and health of those on board are endangered), which have already been the subject of recommendations[2] by the Committee of Ministers, the Greek Government undertakes to bring the situation into conformity with the Charter in good time.

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[1] In conformity with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the Deputies in their composition restricted to the Representatives of Contracting Parties to the European Social Charter or the revised European Social Charter participated in the vote, i.e. Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

[2] Recommendation N° R ChS (93) 1, Recommendation N° R ChS (95) 4, renewed by Resolution ChS (97) 1and Resolution ChS (99) 2

Appendices

Appendix I

Additional Protocol to the 1995 European Social Charter providing for a system of collective complaints

Preamble

The member States of the Council of Europe, signatories to this Protocol to the European Social Charter, opened for signature in Turin on 18 October 1961 (hereinafter referred to as "the Charter");

Resolved to take new measures to improve the effective enforcement of the social rights guaranteed by the Charter;

Considering that this aim could be achieved in particular by the establishment of a collective complaints procedure, which, *inter alia*, would strengthen the participation of management and labour and of non-governmental organisations,

Have agreed as follows:

Article 1

The Contracting Parties to this Protocol recognise the right of the following organisations to submit complaints alleging unsatisfactory application of the Charter:

a. international organisations of employers and trade unions referred to in para. 2 of Article 27 of the Charter;

b. other international non-governmental organisations which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee;

c. representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint.

Article 2

1. Any Contracting State may also, when it expresses its consent to be bound by this Protocol, in accordance with the provisions of Article 13, or at any moment thereafter, declare that it recognises the right of any other representative national non-governmental organisation within its jurisdiction which has particular competence in the matters governed by the Charter, to lodge complaints against it.

2. Such declarations may be made for a specific period.

3. The declarations shall be deposited with the Secretary General of the Council of Europe who shall transmit copies thereof to the Contracting Parties and publish them.

Article 3

The international non-governmental organisations and the national non-governmental organisations referred to in Article 1.b and Article 2 respectively may submit complaints in accordance with the procedure prescribed by the aforesaid provisions only in respect of those matters regarding which they have been recognised as having particular competence.

Article 4

The complaint shall be lodged in writing, relate to a provision of the Charter accepted by the Contracting Party concerned and indicate in what respect the latter has not ensured the satisfactory application of this provision.

Article 5

Any complaint shall be addressed to the Secretary General who shall acknowledge receipt of it, notify it to the Contracting Party concerned and immediately transmit it to the Committee of Independent Experts.

Article 6

The Committee of Independent Experts may request the Contracting Party concerned and the organisation which lodged the complaint to submit written information and observations on the admissibility of the complaint within such time-limit as it shall prescribe.

Article 7

1. If it decides that a complaint is admissible, the Committee of Independent Experts shall notify the Contracting Parties to the Charter through the Secretary General. It shall request the Contracting Party concerned and the organisation which lodged the complaint to submit, within such time-limit as it shall prescribe, all relevant written explanations or information, and the other Contracting Parties to this Protocol, the comments they wish to submit, within the same time-limit.

2. If the complaint has been lodged by a national organisation of employers or a national trade union or by another national or international non-governmental organisation, the Committee of Independent Experts shall notify the international organisations of employers or trade unions referred to in para. 2 of Article 27 of the Charter, through the Secretary General, and invite them to submit observations within such time-limit as it shall prescribe.

3. On the basis of the explanations, information or observations submitted under para.s 1 and 2 above, the Contracting Party concerned and the organisation

which lodged the complaint may submit any additional written information or observations within such time- limit as the Committee of Independent Experts shall prescribe.

4. In the course of the examination of the complaint, the Committee of Independent Experts may organise a hearing with the representatives of the parties.

Article 8

1. The Committee of Independent Experts shall draw up a report in which it shall describe the steps taken by it to examine the complaint and present its conclusions as to whether or not the Contracting Party concerned has ensured the satisfactory application of the provision of the Charter referred to in the complaint.

2. The report shall be transmitted to the Committee of Ministers. It shall also be transmitted to the organisation that lodged the complaint and to the Contracting Parties to the Charter, which shall not be at liberty to publish it.

   It shall be transmitted to the Parliamentary Assembly and made public at the same time as the resolution referred to in Article 9 or no later than four months after it has been transmitted to the Committee of Ministers.

Article 9

1. On the basis of the report of the Committee of Independent Experts, the Committee of Ministers shall adopt a resolution by a majority of those voting. If the Committee of Independent Experts finds that the Charter has not been applied in a satisfactory manner, the Committee of Ministers shall adopt, by a majority of two-thirds of those voting, a recommendation addressed to the Contracting Party concerned. In both cases, entitlement to voting shall be limited to the Contracting Parties to the Charter.

2. At the request of the Contracting Party concerned, the Committee of Ministers may decide, where the report of the Committee of Independent Experts raises new issues, by a two-thirds majority of the Contracting Parties to the Charter, to consult the Governmental Committee.

Article 10

The Contracting Party concerned shall provide information on the measures it has taken to give effect to the Committee of Ministers' recommendation, in the next report which it submits to the Secretary General under Article 21 of the Charter.

Article 11

Articles 1 to 10 of this Protocol shall apply also to the articles of Part II of the first Additional Protocol to the Charter in respect of the States Parties to that Protocol, to the extent that these articles have been accepted.

Article 12

The States Parties to this Protocol consider that the first paragraph of the appendix to the Charter, relating to Part III, reads as follows:

"It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof and in the provisions of this Protocol."

Article 13

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the Charter, which may express their consent to be bound by:

    a. signature without reservation as to ratification, acceptance or approval; or

    b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. A member State of the Council of Europe may not express its consent to be bound by this Protocol without previously or simultaneously ratifying the Charter.

3. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 14

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 13.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 15

1. Any Party may at any time denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of such notification by the Secretary General.

Article 16

The Secretary General of the Council of Europe shall notify all the member States of the Council of:

a. any signature;

b. the deposit of any instrument of ratification, acceptance or approval;

c. the date of entry into force of this Protocol in accordance with Article 14;

d. any other act, notification or declaration relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 9th day of November 1995, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Appendix II

Rules of Procedure of the European Committee of Social Rights (extract relating to the collective complaints procedure)

Part VII: Collective complaints procedure

Rule 19: Lodging of complaints

Collective complaints submitted under the 1995 Additional Protocol providing for a system of collective complaints shall be addressed to the Secretary to the Committee acting on behalf of the Secretary General of the Council of Europe.

Rule 20: Signature

Complaints shall be signed by the person(s) with the competence to represent the complainant organisation. The Committee decides on any questions concerning this matter.

Rule 21: Languages

1. Complaints made by the organisations listed in Article 1 paras. a and b of the Protocol shall be submitted in one of the official languages of the Council of Europe.

2. Complaints made by organisations listed in Article 1 para. c and Article 2 para. 1 of the Protocol may be submitted in a language other than one of the official languages of the Council of Europe. For these complaints, the Secretary to the Committee is authorised in his correspondence with the complainants to use a language other than one of the official languages of the Council of Europe.

Rule 22: Representatives of the States and of the complainant organisations

1. The states shall be represented before the Committee by the agents they appoint. These may have the assistance of advisers.

2. The organisations referred to in paras. 2 and 3 of the Protocol shall be represented by a person appointed by the organisation to this end. They may have the assistance of advisers.

3. The names and titles of the representatives and of any advisers shall be notified to the Committee.

Rule 23: Order in which to handle a complaint

Complaints shall be registered with the Secretariat of the Committee in chronological order. The Committee shall deal with complaints in the order in which they become ready for examination. It may, however, decide to give precedence to a particular complaint.

Rule 24: Rapporteurs

1. For each complaint a member of the Committee shall be appointed by the President to act as Rapporteur.

2. The Rapporteur shall follow the proceedings. He or she shall inform the Committee at each of its sessions of the progress of the proceedings and of the procedural decisions taken by the President since the previous session.

3. The Rapporteur shall elaborate a draft decision on admissibility of the complaint for adoption by the Committee, followed by, as the case may be, a draft report for the Committee of Ministers as provided for in Article 8 of the Protocol.

Rule 25: Role of the President

1. The President shall take the decisions provided for in Rules 26 to 29.

2. The President shall set the time limits mentioned under Article 6 and under Article 7 paras. 1, 2 and 3 of the Protocol. He or she may grant, in exceptional cases and following a well-founded request, an extension of these time limits.

3. The President may, in the name of the Committee, take any necessary measures in order that the procedure may be correctly carried out.

4. The President may especially, in order to respect a reasonable time limit for dealing with complaints, decide to convene additional sessions of the Committee.

Rule 26: Observations on the admissibility

1. Before the Committee decides on admissibility, the President of the Committee may ask the State concerned for written information and observations, within a time limit that he or she decides, on the admissibility of the complaint.

2. The President may also ask the organisation that lodged the complaint to respond, on the same conditions, to the observations made by the State concerned.

Rule 27: Admissibility assessment

1. The Rapporteur shall within the shortest possible time limit elaborate a draft decision on admissibility. It shall contain:

   a. a statement of the relevant facts;

   b. an indication of the issues arising under the Charter in the complaint;

   c. a proposal on the admissibility of the complaint.

2. The Committee's decision on admissibility of the complaint shall be accompanied by reasons and be signed by the President, the Rapporteur and the Secretary to the Committee.

3. The Committee's decision on admissibility of the complaint shall be made public.

4. The States party to the Charter or the revised Charter shall be notified about the decision.

5. If the complaint is declared admissible, copies of the complaint and the observations of the parties shall be transmitted, upon request, to States party to the Protocol and to the international organisations of employers and trade unions referred to in para. 2 of Article 27 of the Charter. They shall also have the possibility to consult the appendices to the complaint at the Secretariat.

Rule 28: Assessment of the merits of the complaint - written procedure

1. If a complaint has been declared admissible, the Committee asks the State concerned to make its observations on the merits of the complaint within a time limit that it decides.

2. The President then invites the organisation that lodged the complaint to respond, on the same conditions, to these observations and to submit all relevant written explanations or information to the Committee.

3. The States party to the Protocol as well as the States having ratified the revised Social Charter and having made a declaration under Article D para. 2 shall be invited to make comments within the same time limit as that decided above under para. 1.

4. The international organisations of employers and trade unions referred to in Article 27 para. 2 of the Charter shall be invited to make observations on complaints lodged by national organisations of employers and trade unions and by non-governmental organisations.

5. The observations submitted in application of paras. 3 and 4 shall be transmitted to the organisation that lodged the complaint and to the State concerned.

6. Any information received the by the Committee in application of Article 7 paras. 1, 2 and 3 of the Protocol shall be transmitted to the State concerned and to the complainant organisation.

Rule 29: Hearing

1. The hearing provided for under Article 7 para. 4 of the Protocol may be held at the request of one of the parties or on the Committee's initiative. The Committee shall decide whether or not to act upon a request made by one of the parties.

2. The State concerned and the complainant organisation as well as the States and organisations referred to under Article 7 of the Protocol that have submitted written observations during the proceedings shall be invited to the hearing.

3. The hearing shall be public unless the President decides otherwise.

Rule 30: The Committee's decision on the merits

1. The Committee's decision on the merits of the complaint contained in the report provided for in Article 8 of the Protocol shall be accompanied by reasons and be signed by the President, the Rapporteur and the Secretary to the Committee. Any dissenting opinions shall be appended to the Committee's decision at the request of their authors.

2. The report containing the decision in question shall be transmitted to the Committee of Ministers and to the Parliamentary Assembly.

3. The Committee's decision on the merits of the complaint shall be made public at the moment of the adoption of a resolution by the Committee of Ministers in conformity with Article 9 of the Protocol or at the latest four months after the report was transmitted to the Committee of Ministers.

4. When the Committee's decision has become public, all documents registered with the Secretariat shall be accessible to the public unless the Committee decides otherwise following a proposal by the Rapporteur.

Part VIII: Amendment to the Rules of Procedure

Rule 31: Amendments

Any rule may be amended upon motion made after notice by one of its members when such motion is carried, at a session of the Committee, by a majority of all its members. Notice of such a motion shall be delivered in writing at least two months

before the session at which it is to be discussed. Such notice of motion shall be communicated to all members of the Committee at the earliest possible moment.

Appendix III

Signatures and ratifications of the Charter, its Protocols and the revised Charter – the situation as of 1 July 2001

Member states	European Social Charter 1961		Additional Protocol 1988		Amending Protocol 1991		Collective Complaints Protocol 1995		Revised European Social Charter 1996	
	Signature	*Ratification*	*Signature*	*Ratification*	*Signature*	*Ratification*	*Signature*	*Ratification*	*Signature*	*Ratification*
Albania	(1)	—	(1)	—	(1)	—	(1)	—	21/09/98	—
Andorra	(1)	—	(1)	—	(1)	—	(1)	—	4/11/00	—
Armenia	—	—	—	—	—	—	—	—	—	—
Austria	22/07/63	29/10/69	04/12/90	—	07/05/92	13/07/95	07/05/99	—	07/05/99	—
Azerbaïjan	—	—	—	—	—	—	—	—	—	—
Belgium	18/10/61	16/10/90	20/05/92	—	22/10/91	21/09/00	14/05/96	—	03/05/96	—
Bulgaria	(2)	(2)	(3)	(3)	(2)	(2)	(4)	(4)	21/09/98	07/06/00
Croatia	08/03/99	—	08/03/99	—	08/03/99	—	08/03/99	—	—	—
Cyprus	22/05/67	07/03/68	05/05/88	(3)	21/10/91	01/06/93	09/11/95	06/08/96	03/05/96	27/09/00
Czech Republic	27/05/92*	3/11/99	27/05/92*	17/11/99	27/05/92*	17/11/99	—	—	4/11/00	—
Denmark	18/10/61	03/03/65	27/08/96	27/08/96	—	**	09/11/95	—	03/05/96	—
Estonia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	04/05/98	11/09/00
Finland	09/02/90	29/04/91	09/02/90	29/04/91	16/03/92	18/08/94	09/11/95	17/07/98	03/05/96	—
France	18/10/61	09/03/73	22/06/89	(2)	21/10/91	24/05/95	09/11/95	07/05/99	03/05/96	07/05/99
Georgia	(1) —	(1)	—	(1)	—	(1)	—	30/06/00	—	
Germany	18/10/61	27/01/65	05/05/88	—	—	**	—	—	—	—
Greece	18/10/61	06/06/84	05/05/88	18/06/98	29/11/91	12/09/96	18/06/98	18/06/98	03/05/96	—
Hungary	13/12/91	08/07/99	—	—	13/12/91	**	—	—	—	—
Iceland	15/01/76	15/01/76	05/05/88	—	—	**	—	—	04/11/98	—
Ireland	18/10/61	07/10/64	(3)	(3)	14/05/97	14/05/97	4/11/00	4/11/00	4/11/00	4/11/00
Italy	18/10/61	22/10/65	05/05/88	26/05/94	21/10/91	27/01/95	09/11/95	03/11/97	03/05/96	05/07/99
Latvia	29/05/97	—	29/05/97	—	29/05/97	—	—	—	—	—
Liechtenstein	09/10/91	—	—	—	—	—	—	—	—	—
Lithuania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	08/09/97	29/06/01
Luxembourg	18/10/61	10/10/91	05/05/88	—	21/10/91	**	—	—	11/02/98	—
Malta	26/05/88	04/10/88	—	—	21/10/91	16/02/94	—	—	—	—
Moldova	(1)	—	(1)	—	(1)	—	(1)	—	03/11/98	—
Netherlands	18/10/61	22/04/80	14/06/90	05/08/92	21/10/91	01/06/93	—	—	—	—
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/03/97	20/03/97	07/05/01	07/05/01
Poland	26/11/91	25/06/97	—	—	18/04/97	25/06/97	—	—	—	—
Portugal	01/06/82	30/09/91	(1)	—	24/02/92	08/03/93	09/11/95	20/03/98	03/05/96	—
Romania	04/10/94	(2)	(3)	(3)	(2)	(2)	(2)	—	14/05/97	07/05/99
Russia	(1)	—	(1)	—	(1)	—	(1)	—	14/09/00	—
San Marino	—	—	—	—	—	—	—	—	—	—
Slovakia	27/05/92*	22/06/98	27/05/92*	22/06/98	27/05/92*	22/06/98	18/11/99	—	18/11/99	—
Slovenia	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	07/05/99
Spain	27/04/78	06/05/80	05/05/88	24/01/00	21/10/91	24/01/00	—	—	23/10/00	—
Sweden	18/10/61	17/12/62	05/05/88	05/05/89	21/10/91	18/03/92	09/11/95	29/05/98	03/05/96	29/05/98
Switzerland	06/05/76	—	—	—	—	—	—	—	—	—
"The former Yugoslav Republic of Macedonia"	05/05/98	—	05/05/98	—	05/05/98	—	—	—	—	—
Turkey	18/10/61	24/11/89	05/05/98	—	—	**	—	—	—	—
Ukraine	02/05/96	—	(1)	—	(1)	—	(1)	—	07/05/99	—
United Kingdom	18/10/61	11/07/62	—	—	21/10/91	**	—	—	07/11/97	—

* Date of signature by the Czech and Slovak Federal Republic.

** State whose ratification is necessary for the entry into force of the protocol.

(1) State having signed the revised Social Charter.

(2) State having ratified the revised Social Charter.

(3) State having accepted the rights (or certain of the rights) guaranteed by the Protocol by ratifying the revised Charter.

(4) State having accepted the collective complaints procedure by a declaration made in application of Article D para. 2 of Part IV of the revised Social Charter.

Appendix IV

International non-governmental organisations entitled to submit collective complaints[1]

Conference of European Churches (CEC)
Conférence des églises européennes (KEK)

Council of European Professional Informatics Societies (*1 January 2001*)
Conseil des associations européennes des professionnels de l'informatique (CEPIS) (*1 janvier 2001*)

Education International (EI) (*1 January 1999*)
Internationale de l'éducation (IE) (*1 janvier 1999*)

Eurolink Age

European Action of the Disabled (*1 January 2000*)
Action européenne des handicapés (AEH) (*1 janvier 2000*)

European Antipoverty Network
Réseau européen des associations de lutte contre la pauvreté et l'exclusion sociale (EAPN)

European Association for Palliative Care
Association européenne de soins palliatifs (EAPC-Onlus)

European Association for Psychotherapy (EPA) (*1 January 2001*)
Association européenne de psychothérapie (EAP) (*1 janvier 2001*)

European Association of Railwaymen
Association européenne des cheminots (AEC)

European Centre of the International Council of Women (ECICW)
Centre européen du Conseil international des femmes (CECIF)

European Council of Police Trade Unions
Conseil européen des syndicats de police

European Council of WIZO Federations (ECWF) (*1 January 2000*)
Conseil européen des fédérations WIZO (CEFW) (*1 janvier 2000*)

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[1] List established by the Governmental Committee following the decision of the Committee of Ministers on 22 June 1995 (see para. 20 of the explanatory report to the Protocol). The organisations are registered on this list - in English alphabetical order - for a duration of four years as from the date of entry into force of the Protocol (1 July 1998), with the exception of five NGOs for which it is indicated that the duration of four years begins on 1 January 1999 or 1 January 2000.

European Disability Forum (EDF) (*1 January 2001*)
Forum européen des personnes handicapées (FEPH) (*1 janvier 2001*)

European Federation of Employees in Public Services
Fédération européenne du personnel des services publics (EUROFEDOP)

European Federation of National Organisations Working with the Homeless
Fédération européenne d'associations nationales travaillant avec les sans-abri (FEANTSA)

European Federation of the Elderly (*1 January 1999*)
Fédération européenne des personnes âgées (EURAG) (1 *janvier 1999*)

European Forum for Child Welfare
Forum européen pour la protection de l'enfance (EFCW)

European Movement
Mouvement européen

European Non-Governmental Sports Organisation (*1 January 1999*)
Organisation européenne non gouvernementale des sports (ENGSO) (*1 janvier 1999*)

European Ombudsman Institute
Institut européen de l'Ombudsman (EOI)

European Organisation of Military Associations
Organisation européenne des associations militaires (EUROMIL)

European Regional Council of the World Federation for Mental Health
Conseil régional européen de la Fédération Mondiale pour la santé mentale

European Union Migrant's Forum (*1 January 2001*)
Forum des migrants de l'Union européenne (EMF) (*1 janvier 2001*)

European Union of Rechtspfleger (*1 January 1999*)
Union européenne des greffiers de justice (EUR) (*1 janvier 1999*)

European Women's Lobby
Lobby européen des femmes

Eurotalent

International Association Autism-Europe (IAAE)
Association internationale Autisme-Europe (AIAE)

International Association of the Third-Age Universities
Association internationale des universités du 3e âge (AIUTA)

International Catholic Society for Girls
Association catholique internationale de services pour la jeunesse féminine (ACISJF)

International Centre for the Legal Protection of Human Rights (INTERIGHTS)

International Commission of Jurists (ICJ)
Commission internationale de juristes (CIJ)

International Confederation of Catholic Charities (*1 January 2000*)
Confédération internationale des charités catholiques (CARITAS INTERNATIONALIS) (*1 janvier 2000*)

International Council of Environmental Law (ICEL) (*1 January 2000*)
Conseil international du droit de l'environnement (CIDE) (*1 janvier 2000*)

International Council of Nurses (ICN)
Conseil international des infirmières (CII)

International Council on Social Welfare (ICSW)
Conseil international de l'action sociale (CIAS)

International Federation of Educative Communities
Fédération internationale des communautés éducatives (FICE)

International Federation of Human Rights Leagues
Fédération internationale des ligues des Droits de l'Homme (FIDH)

International Federation of Musicians
Fédération internationale des musiciens (FIM)

International Federation of Settlements and Neighbourhood Centres
Fédération internationale des centres sociaux et communautaires (IFS)

International Federation for Hydrocephalus and Spina Bifida
Fédération internationale pour l'hydrocéphalie et le spina bifida (IFHSB)

International Federation for Parent Education (IFPE) (*1 January 1999*)
Fédération internationale pour l'éducation des parents (FIEP) (*1 janvier 1999*)

International Human Rights Organization for the Right to Feed Oneself (*1 January 2001*)
Organisation internationale des droits de l'homme pour le droit à l'alimentation (FIAN) (*1 janvier 2001*)

International Humanist and Ethical Union (IHEU)
Union internationale humaniste et laïque (UIHL)

International Movement ATD - Fourth World
Mouvement international ATD - Quart Monde

International Planned Parenthood Federation – European Network
Fédération internationale pour le planning familial – Réseau européen (IPPF)

International Road Safety
La prévention routière internationale

International Scientific Conference of Minorities for Europe of Tomorrow
Conférence scientifique internationale sur les minorités dans l'Europe de demain (ISCOMET)

Marangopoulos Foundation for Human Rights (MFHR) (*1 January 2000*)
Fondation Marangopoulos pour les droits de l'homme (FMDH) (*1 janvier 2000*)

Public Services International (PSI)
Internationale des services publics (ISP)

Quaker Council for European Affairs
Conseil quaker pour les affaires européennes (QCEA)

Standing Committee of the Hospitals of the European Union
Comité permanent des Hôpitaux de l'Union européenne (HOPE)

World Confederation of Teachers
Confédération syndicale mondiale de l'enseignement