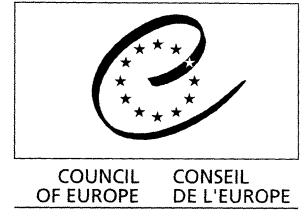


**EUROPEAN COMMITTEE OF SOCIAL RIGHTS**  
**COMITE EUROPEEN DES DROITS SOCIAUX**



**Complaint No. 8/2000**  
**Quaker Council for European Affairs**  
**against Greece**

**Documents**

**Secretariat of the European Social Charter**  
E-mail : [social.charter@coe.int](mailto:social.charter@coe.int)    <http://www.esc.coe.int>

March 2002



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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<sup>1</sup>, 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<sup>2</sup>.

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<sup>3</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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).

by states and issues a ruling on whether states have complied with their commitments. Its rulings are called “conclusions”. These are forwarded to states, are public.<sup>1</sup>

- 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.<sup>2</sup>

### **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,<sup>3</sup> 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<sup>4</sup> and included on a list drawn up for this purpose by the Governmental Committee;<sup>5</sup>
- 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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<sup>1</sup> The country reports and the decisions of the Committee are public and may be consulted on the website <http://www.esc.coe.int>.

<sup>2</sup> The European Trade Union Confederation (ETUC), the Union of Industrial and Employers’ Confederations of Europe (UNICE) and the International Organisation of Employers (IOE).

<sup>3</sup> 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.

<sup>4</sup> For further information on how to obtain consultative status, contact [NGO-Unit@coe.int](mailto:NGO-Unit@coe.int).

<sup>5</sup> 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 publication is to reproduce in chronological order the original documents of the procedure that was followed on the examination of the complaint No. 8/2000 under the Additional Protocol to the European Social Charter providing for a system of collective complaints. This Protocol came into force on 1 July 1998.

Complaint No. 8/2000 was filed on 10 March 2000 by the Quaker Council for European Affairs, an international non-governmental organisation. On 12 June 2000, the European Committee of Social Rights declared the complaint admissible. On 25 April 2001, the Committee adopted its decision on the merits and transmitted its report to the Committee of Ministers. On 6 March 2002, the Committee of Ministers adopted Resolution ResChS(2002)3.



# **Complaint filed by the Quaker Council for European Affairs (QCEA) against Greece**

*(filed with the Secretariat on 10 March 2000)*

1. The Republic of Greece ratified the European Social Charter of 1961 on 6 June 1996 and accepted Article 1.2. On 18 June 1998 Greece ratified the Additional Protocol of 1995 providing for a system of collective complaints. This submission seeks to demonstrate that the treatment by the Greek authorities of conscientious objectors to compulsory military service contravenes the letter and spirit of the Charter.

2. The European Social Charter Article 1.2 reads as follows:

... the Contracting Parties undertake:

1. ...
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. ...

3. We understand that this provision incorporates into the Social Charter the concept more clearly set out in the European Convention on Human Rights, whose Article 4.2 reads as follows:

No one shall be required to perform forced or compulsory labour.

Article 4.3 reads:

For the purpose of this Article the term "forced or compulsory labour" shall not include:

1. ...
2. any service of a military character or, in the case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service.
3. ...

It should be noted, however, that Greece reserved its position on Recommendation R(87)8 of the Committee of Ministers which specified (inter alia) that alternative service should not be of a punitive nature.

5. In the law 2510 of 1997, Greece for the first time enabled conscientious objectors to compulsory military service to undertake an alternative form of service. It is submitted, however, that the provisions of the law and the manner in which it has been and may in future be implemented are punitive. The provisions incorporate deterrent elements which are in breach of the concept of proportionality and thus invalidate the exclusion in article 4.3.b of the Convention.

6. It is further noted that the Greek Ombudsman for Citizens' Rights made representations to the Greek Government during 1999. All but one of his suggestions were considered and rejected. The only amendment made in response was to provide those performing alternative service with health insurance under the social security system.

7. In order to place his comments in context, it is necessary to summarise the relevant provisions of law 2510/97.

- L1. Greek men between the ages of 18 and 50 are liable for military service.
- L2. The 'full' length of service is twenty-four months.
- L3. Deferment is permitted:
  - a) in various educational circumstances
  - b) during the duration of service of a brother
  - c) for those who have lived continuously abroad since the age of 11
  - d) for prisoners, hospital patients, recent immigrants, those serving compulsorily in foreign military forces, those medically unfit
  - e) various other categories.
- L4. Certain categories of people serve shorter periods.
  - Three months only for:
    - a) Sons of deceased parents with living minor siblings
    - b) Widowed fathers of a minor child or fathers whose wife is incapacitated
    - c) Fathers of three or more minor children.
  - Six months for:
    - a) The three older brothers of a family of six siblings or more
    - b) The eldest brother of a family of five siblings
    - c) The only or eldest son or brother of a person who died while in military service
    - d) Permanent foreign residents
    - e) Those who have served six months in a foreign military force
    - f) Those who became Greek after the age of 31
    - g) Those who have moved to Greece from Turkey or a former Communist country after the age of 11.
  - Twelve months for;  
[Various other specific categories].
- L5. There are provisions not fully specified in the law of 1977 for reduction of the term of service in return for payment
- L6. "Those who invoke their religion or ideological convictions in order not to fulfil their draft obligation may be recognised as conscientious objectors." They can perform unarmed military service, in which case they serve twelve months more than would otherwise be the case, or an alternative civil and social service, in which case they serve an extra eighteen months.
- L7. No one may be treated as a conscientious objector;
  - a) who has borne arms in foreign armed forces or in security services
  - b) who has used a gun for sport or hunting
  - c) who has been convicted or charged with a violent crime

L8. Civilian service must be carried out in a public sector institution, but this must not be in the prefectures of Athens, Thessaloniki or the conscript's place of birth, origin or residence.

L9. Applicants for conscientious objector status are to be considered by a committee consisting of:

- a) two university professors specialising in philosophy, socio-political science or psychology
- b) an associate judge
- c) two senior officers, one from the recruitment service and one from the medical service.

A refused applicant has five days in which to appeal to a civil court.

L10. Conscientious objectors in civilian service are "quasi-enlisted in the armed forces", but are not subject to courts-martial. They receive board, lodging and clothes or payment in kind. They get two days leave a month. They may not be employed in a permanent job.

L11. They lose their status on a number of grounds, including trade union activity, strikes and outstaying leave. If they are imprisoned for draft evasion for a period as long or longer than the time they would have served as a conscientious objector, they are exempted from further service.

L12. There are transitional provisions covering those called up before the law enters into full force

By administrative decision, the "full" length of military service is reduced by varying amounts depending on the service, so that 18 to 21 months are served. Similarly, the alternative service lasts 36 months (18+18).

8. The issues raised by the Ombudsman are the following .

O1. By administrative decision, conscientious objectors are supervised by the Ministry of National Defence. A new or existing civilian organisation would be more in keeping with the principle of conscientious objection.

O2. The length of civilian service is punitive and should be no longer than 3/2 or 4/3 times the length of military service the objector is actually liable for, taking into account also the right of older citizens to buy off part of their service. Objectors' brothers should have the any deferment they are entitled to related to the term of the alternative service.

- O3. By administrative decision, conscientious objectors who do not provide documents to support their case by a time limit lose their rights. This should not be automatic. The same should apply if they legitimately cannot appear before the military doctors' committee within the specified 15 days.
  - O4. Conscientious objectors should have the right to be employed by NGOs and to move between employers.
  - O5. Conscientious objectors should be allowed to take permanent jobs.
  - O6. Conscientious objectors should not lose their status as a punishment.
  - O7. Conscientious objectors should have job descriptions so that they are not exposed to arbitrary requirements, and they should be free to express a preference as to where they work.
  - O8. Conscientious objectors should have the same working time regime as other employees in their workplace.
  - O9. The two days a month leave should not imply that conscientious objectors are denied weekends and holidays or accommodation for these times.
  - O10. Conscientious objection should be normally treated for health insurance. (This has now been implemented.)
9. It will be noted that submissions by individuals who are or who have sought to be conscientious objectors illustrate the punitive way the procedures and provisions for alternative service have been implemented in practice. A particular aspect is the absence of clear statements that an individual no longer faces the threat of being treated a draft evader.

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

*(filed with the Secretariat on 8 June 2000)*

In conformity with Article 6 of the Additional Protocol to the European Social Charter providing for a system of collective complaints and Rule 26 para 1 of the Rules of Procedure of the European Committee of Social Rights, we submit our observations on the admissibility of collective complaint No 8/2000 submitted against Greece by the "Quakers Council for European Affairs":

**We claim that the complaint is inadmissible for the following reasons:**

1. By virtue of article 3 of the Additional Protocol, the international NGOs which are referred to in article 1.b of the said Protocol may submit collective complaints only in respect of those matters regarding which they have been recognized as having particular competence. **It is not clearly showed by the complaint submitted by the Quakers Council for European Affairs against Greece that the afore-mentioned NGO has developed an activity that renders it particularly competent in the protection of the right to work.**

2. **We consider that the provisions for the alternate execution of military service are beyond the scope of application of Article 1 para 2 of the European Social Charter regarding the prohibition of forced labour.**

More specifically, the alternate fulfillment of the military service constitutes a way of fulfillment of the Constitutional requisition for catholic and compulsory draft, stated in Article 4 para 6 of the Constitution and providing that: "Every Greek capable of bearing arms is obliged to contribute to the Defense of the Fatherland, as provided by law".

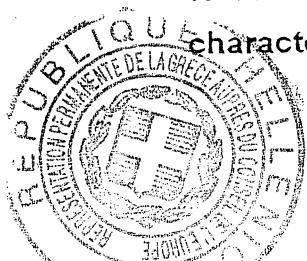


In pursuance of this Constitutional requisition, Act 1763/1988 provides for the Draft of Greeks, where, by virtue of Article 1, a catholic obligation is imposed on all Greeks regarding their draft in the Armed Forces of the country. Already, in Greece, the issue of conscientious objectors is dealt with, in terms of draft, by Act 2510/97 (articles 18-24). Moreover, in the framework of these provisions the conscientious objectors choose freely and voluntarily the alternate social service (unarmed service) in place of the normal (armed service) fulfillment of their military obligations and the alternate social service constitutes a **way of fulfillment of the compulsory military service**.

Therefore, the situation of the Greek citizens who fulfil their military obligations either through the armed service, as is the case with the majority of citizens, or through the unarmed service, as is the case with the conscientious objectors, is beyond the scope of application of Article 1 para 2 of the European Social Charter which regulates an issue of a different nature. Indeed, Article 1 of the European Social Charter regulates the social right to work and is linked to the capacity of the worker and not to the capacity of the person fulfilling his military service.

Consequently, the conscientious objectors, during the stage of fulfillment of their military service, cannot be considered as workers who work to secure their living; as a result they are beyond the scope of application of Article 1 of the European Social Charter.

This claim is also reinforced by the relevant provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In accordance with Article 4 para 2 of the said Convention "no one shall be required to perform forced or compulsory labor". However, the said Convention, in full awareness of the fact that **the fulfillment of a person's military obligations is a different state of things**, which is neither linked to nor should be confused with the right to work, **states explicitly** in para 3 section b of the same article that: "**for the purpose of this article the term forced or compulsory labor shall not include:...any service of military character or, in case of conscientious objectors, in countries where the**





objection of conscience is recognized, **service exacted instead of military service...**".

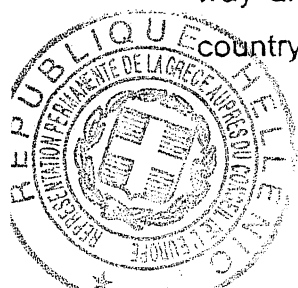
An equivalent provision is contained in the ILO Convention No 29 (Forced or Compulsory Labour) where article 2 explicitly provides that the meaning of the term forced or compulsory labor does not include: a) ....., b) **any type of work or service required by virtue of laws regarding compulsory military service.**

Moreover, the above provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and of the ILO Convention No 29 constitute an important interpretative instrument which cannot be ignored for the correct interpretation of the controversial provision of the European Social Charter and which supports the unified tackling of the issue of forced or compulsory labour within the frame of the International Social Law.

3. Nonetheless, even if the European Committee of Social Rights decides that the execution of alternate civilian service is within the scope of application of article 1 of the European Social Charter, both the provisions of our legislation and their application in no case violate the said provision of the ESC regarding forced labor for the following reasons:

a. **The relevant provisions** of the Greek legislation, which are in force as from 1/1/98, were enacted with respect to the constitutional requisition for compulsory and catholic draft and the human rights and took into consideration the increased needs of the armed forces of the country in terms of human potential due to the continuously worsening demographic problem.

b. It was expected that problems would arise from the application of the institution, problems that are so far dealt with in a systematic and successful way and are not able to alter the radical change that was realized by our country in the issue of religious freedoms and human rights.



**18** *Observations of the Greek Government on admissibility*

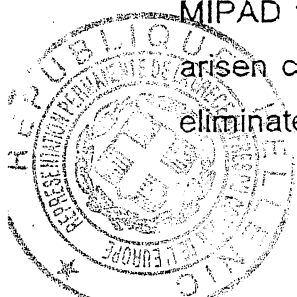
c. As to this day, 329 conscientious objectors (322 due to religious convictions and 7 due to ideological convictions) have been acknowledged and placed at bodies of the public sector executing alternate civilian social service, while none has requested to be submitted to the unarmed service. Already, another 49 applications are pending.

d. The possibility of free and voluntary choice by those recognized as conscientious objectors, of either an unarmed military service or an alternate civilian social service in place of the normal fulfillment of their military obligations, but also the course of application and of the way of execution of this alternate service in practice to the present day can in no case be considered as violating the provisions concerning the prohibition of forced labour.

e. The claim that the provisions are of a punitive nature is simply pompous and exaggerated, given that, to the extent that the alternate service is considered less onerous than the armed service, its respective longer time duration is justified, as provided for by law, on the basis of the proportional equality.

f. The Ombudsman, as an independent administrative body that has as its mission statement the protection of the rights of the citizen, the fighting of misgovernment and the observance of the law, but has no competence in the interpretation of the law, has addressed itself to our Ministry with an all-embracing integrated report, which constituted of course a scientific proposal and which was seriously taken into consideration and thoroughly studied.!

g. More specifically, the steady request for the establishment of a Committee regarding their administration by the Ministry of the Interior, Public Administration and Decentralization (MIPAD), is a definitely complicated matter that requires a previous examination of a relevant intention of the MIPAD to assume such a request, even though problems that so far have arisen concerning the conditions of work and the working hours, have been eliminated both through additional clarifications that were provided and



through the placement of conscientious objectors at other bodies (such as the Hellenic Post Offices, Tax Offices etc.) apart from the Health and Welfare Services, with evidently more comfortable conditions and working hours.

h. The administrative structure and operation of NGOs does not grant the possibility of supervision and control of the proper execution of the alternate service by the conscientious objectors possibly allocated to them.

i. The repeal of the prohibition regarding the coverage of operational posts must not be adopted because it leads to a completely unfair and discriminatory treatment of conscientious objectors against the rest Greek citizens **being in the same situation**, that is, in the fulfillment of their military obligations as **prescribed for the general total of the Greeks** in article 4 para 6 of the Constitution.

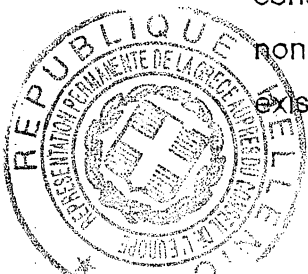
j. The maintenance of the necessary safety valves to avoid cases of infringement of the institution is rendered imperative and does not allow the replacement of the forfeiture of right by a separate system of sanctions.

ja. The collection and submission of the necessary documents before a certain deadline for the examination of the submission under the relevant regulations is absolutely feasible and is applied in practice without problems by the majority of the persons concerned.

jb. For the definite elimination of the very few cases of non smooth functioning of the institution a clarifying order was issued by the Minister of National Defense was issued, according to which:

(1) When a real need exists, the extension of the limits of working time to non working hours is possible and takes place in the framework of the conscientious objectors' duties, but it is not possible to have an uncontrolled and systematic extension of these limits.

(2) Given that the alternate civilian social service does not constitute a labour relation, their occupation during a certain number of non working days per month is in principle allowed, depending on the existing needs of the bodies, on the basis of their relevant



programming. On the contrary, it is not permissible to fully equate working days with non working days, because this interpretation directly comes up against to the generally accepted principles and convictions regarding the respect of the personality and the human rights.

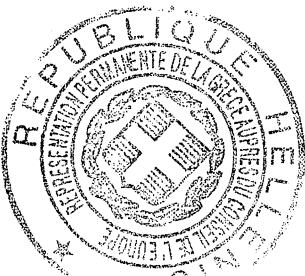
(3) The interpretation that, since they are entitled by law to only 2 days of leave per month, their occupation for the whole period of the remaining days of the month is required is not right. It is possible that they are granted leaves of absence that are less than 24 hours with the possibility of an overnight stay, irrespective of the leaves to which they are entitled.

(4) Generally, during the fulfillment of the alternate civilian social service, exclusions or restrictions of rights that are not tolerated by law and the general principles of law are not allowed.

jc. The claim of the union of the conscientious objectors that violations of their rights are encouraged by a group of officers who belong to the personnel of the Ministry of Defense and by the Orthodox Church, is completely unfounded and unsubstantiated.

4. Giving a general evaluation of the institution, it is our conviction that it functions smoothly, while the mentioned isolated "special", as they are called, cases of conscientious objectors have been created rather deliberately.

**For all the reasons stated above we request that the collective complaint submitted against Greece by the Quakers Council for European Affairs be declared inadmissible.**



**Decision on admissibility**



## **Decision on admissibility of Complaint No. 8/2000 by the Quaker Council for European Affairs 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 170<sup>th</sup> 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

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

Having regard to the complaint registered as number 8/2000, lodged on 10 March 2000 by the Quaker Council for European Affairs (hereafter referred to as "the QCEA"), represented by Mr Richard Seebohm, requesting that the Committee find that Greece fails to apply in a satisfactory manner Article 1 para. 2 (prohibition of forced labour) of the European Social Charter ("the Charter");

Having regard to the documents appended to the complaint;

Having regard to the observations presented on 8 June 2000 by the Greek Government;

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

## **24**    *Decision on admissibility*

### Part II

#### Article 1 – The right to work

“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;

[...]”

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

Having regard to the rules of procedure adopted by the Committee 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 QCEA indicates that, according to its statute, its objective is to bring to the attention of the European international organisations the concerns of the European members of the Religious Society of Friends (Quakers). These concerns cover the fields of peace, human rights and economic justice.

2.        It recalls that Act No. 2510/1997, which entered into force on 1 January 1998, permits conscientious objectors to perform civil service instead of military service. It alleges that the terms of this law and its application in practice are punitive. It draws attention to the conditions under which civil service is performed: a duration which exceeds the duration of normal military service by eighteen months, long working hours, denial of weekly rest period or holidays. It maintains that, carried out in these conditions, civil service amounts to forced labour and is, therefore, contrary to Article 1 para. 2 of the Charter.

3.        In its observations the Greek Government does not contest that the complaint meets the admissibility conditions laid down by Articles 1 b) and 4 of the Additional Protocol.

4.        However, the Greek Government maintains that the complaint is inadmissible on the following grounds:

- it is not clear from the complaint that the QCEA engages in any activity that makes it particularly qualified, within the meaning of Article 3 of the Protocol, in the field of the protection of the right to work;
- the provisions of Act No. 2510/1997, which entered into force on 1 January 1998, which provide for civil service instead of military service, do not come within the scope of Article 1 para. 2 of the Charter, which prohibits forced labour;



- the complaint is without foundation. The Government relies on several arguments and stresses in particular the fact that those who obtain the status of conscientious objector may freely choose between unarmed military service and civil service as an alternative to military service cannot, in any case, be considered a violation of Article 1 para. 2 of the Charter.

*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 relation to 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 QCEA is an international non-governmental organisation with consultative status with the Council of Europe. In addition, it is included on the list, established by the Governmental Committee, of international non-governmental organisations which are entitled to lodge complaints.

7. Moreover, the complaint lodged on behalf of the QCEA is signed by Mr. Richard Seebohm, who is the organisations' representative, as attested by an extract from the *Moniteur belge*, included in the file. The Committee considers that the condition set out in Rule 20 of its Rules of Procedure is fulfilled.

*As to the plea of inadmissibility raised by the Greek Government*

8. The Committee finds confirmation in the statute of the QCEA that it is an international non-governmental organisation whose objective is to promote the traditions of the Religious Society of Friends (Quakers). To this end, its task is to bring to the attention of the European institutions the concerns of the members of this society, which relate to peace, human rights and economic justice.

9. The Committee therefore considers that the QCEA has introduced a complaint in a field in which it has particular competence within the meaning of Article 3 of the Protocol.

10. The Committee further considers that the arguments relied on by the Greek Government according to which the complaint does not come within the scope of Article 1 para. 2 and that it is without foundation in this case pertain to the merits of the complaint.

11. Therefore, the Committee considers that the pleas of inadmissibility raised by the Greek Government cannot be sustained.

12. For these reasons, the Committee, on the basis of the report presented by Mr. Tekin AKILLIOĞLU, 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 QCEA 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.

  
Tekin AKILLIOĞLU  
Rapporteur

  
Matti MIKKOLA  
President

  
Régis BRILLAT  
Executive Secretary

**Observations provided by the Greek Government following the admission of the complaint introduced by the Quaker Council for European Affairs (article 7 para. 1 of the Additional Protocol to the European Social Charter, providing for a system of collective complaints)**

*(filed with the Secretariat on 4 September 2000)*

In accordance with the decision of the European Committee of Social Rights on the admissibility of the collective complaint 8/2000 lodged against Greece by the "Quakers Council for European Affairs" 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.

**We claim that the complaint is unfounded for the following reasons:**

**1. The provisions for the alternate execution of military service are beyond the scope of application of Article 1 para 2 of the European Social Charter regarding the prohibition of forced labour.**

More specifically, the alternate fulfillment of the military service constitutes a way of fulfillment of the Constitutional requisition for catholic and compulsory draft, stated in Article 4 para 6 of the Constitution and providing that: "Every Greek capable of bearing arms is obliged to contribute to the Defense of the Fatherland, as provided by law".

In pursuance of this Constitutional requisition, Act 1763/1988 provides for the Draft of Greeks, where, by virtue of Article 1, a catholic obligation is imposed on all Greeks regarding their draft in the Armed Forces of the country. Already, in Greece, the issue of conscientious objectors is dealt with, in terms of draft, by Act 2510/97 (articles 18-24). Moreover, in the framework of these provisions the conscientious objectors choose freely and voluntarily the alternate social service (unarmed service) in place of the normal (armed service) fulfillment of their military obligations and the alternate social service constitutes a way of fulfillment of the compulsory military service.

Therefore, the situation of the Greek citizens who fulfil their military obligations either through the armed service, as is the case with the majority of citizens, or through the unarmed service, as is the case with the conscientious

objectors, is beyond the scope of application of Article 1 para 2 of the European Social Charter which regulates an issue of a different nature. Indeed, Article 1 of the European Social Charter regulates the social right to work and is linked to the capacity of the worker and not to the capacity of the person fulfilling his military service.

Consequently, the conscientious objectors, during the stage of fulfillment of their military service, cannot be considered as workers who work to secure their living; as a result they are beyond the scope of application of Article 1 of the European Social Charter.

This claim is also reinforced by the relevant provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In accordance with Article 4 para 2 of the said Convention "no one shall be required to perform forced or compulsory labor". However, the said Convention, in full awareness of the fact that **the fulfillment of a person's military obligations is a different state of things**, which is neither linked to nor should be confused with the right to work, states explicitly in para 3 section b of the same article that: **"for the purpose of this article the term forced or compulsory labor shall not include:...any service of military character or, in case of conscientious objectors, in countries where the objection of conscience is recognized, service exacted instead of military service..."**.

An equivalent provision is contained in the ILO Convention No 29 (Forced or Compulsory Labour) where article 2 explicitly provides that the meaning of the term forced or compulsory labor does not include: a) ....., b) **any type of work or service required by virtue of laws regarding compulsory military service**.

Moreover, the above provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and of the ILO Convention No 29 constitute an important interpretative instrument which cannot be ignored for the correct interpretation of the controversial provision of the European

Social Charter and which supports the unified tackling of the issue of forced or compulsory labour within the frame of the International Social Law.

2. Nonetheless, even if the European Committee of Social Rights decides that the execution of alternate civilian service is within the scope of application of article 1 of the European Social Charter, both the provisions of our legislation and their application in no case violate the said provision of the ESC regarding forced labor for the following reasons:

a. **The relevant provisions of the Greek legislation, which are in force as from 1/1/98, were enacted with respect to the constitutional requisition for compulsory and catholic draft and the human rights and took into consideration the increased needs of the armed forces of the country in terms of human potential due to the continuously worsening demographic problem.**

b. It was expected that problems would arise from the application of the institution, problems that are so far dealt with in a systematic and successful way and are not able to alter the radical change that was realized by our country in the issue of religious freedoms and human rights.

c. As to this day, 329 conscientious objectors (322 due to religious convictions and 7 due to ideological convictions) have been acknowledged and placed at bodies of the public sector executing alternate civilian social service, while none has requested to be submitted to the unarmed service. Already, another 49 applications are pending.

d. The possibility of free and voluntary choice by those recognized as conscientious objectors, of either an unarmed military service or an alternate civilian social service in place of the normal fulfillment of their military obligations, but also the course of application and of the way of execution of this alternate service in practice to the present day can in no case be considered as violating the provisions concerning the prohibition of forced labour.

In accordance with the definition of forced or compulsory labour as this definition appears in the International Convention No 29 "forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (article 2 para1). This definition has been accepted by the European Court of Human Rights in its judgement of 23/11/1983 (case Van der Musselle v/Belgique).

e. The claim that the provisions are of a punitive nature is simply pompous and exaggerated, given that, to the extent that the alternate service is considered less onerous than the armed service, its respective longer time duration is justified, as provided for by law, on the basis of the proportional equality.

f. The Ombudsman, as an independent administrative body that has as its mission statement the protection of the rights of the citizen, the fighting of misgovernment and the observance of the law, but has no competence in the interpretation of the law, has addressed itself to our Ministry with an all-embracing integrated report, which constituted of course a scientific proposal and which was seriously taken into consideration and thoroughly studied.!

g. More specifically, the steady request for the establishment of a Committee regarding their administration by the Ministry of the Interior, Public Administration and Decentralization (MIPAD), is a definitely complicated matter that requires a previous examination of a relevant intention of the MIPAD to assume such a request, even though problems that so far have arisen concerning the conditions of work and the working hours, have been eliminated both through additional clarifications that were provided and through the placement of conscientious objectors at other bodies (such as the Hellenic Post Offices, Tax Offices etc.) apart from the Health and Welfare Services, with evidently more comfortable conditions and working hours.

h. The administrative structure and operation of NGOs does not grant the possibility of supervision and control of the proper execution of the alternate service by the conscientious objectors possibly allocated to them.

i. The repeal of the prohibition regarding the coverage of operational posts must not be adopted because it leads to a completely unfair and discriminatory treatment of conscientious objectors against the rest Greek citizens **being in the same situation**, that is, in the fulfillment of their military obligations **as prescribed for the general total of the Greeks** in article 4 para 6 of the Constitution.

j. The maintenance of the necessary safety valves to avoid cases of infringement of the institution is rendered imperative and does not allow the replacement of the forfeiture of right by a separate system of sanctions.

ja. The collection and submission of the necessary documents before a certain deadline for the examination of the submission under the relevant regulations is absolutely feasible and is applied in practice without problems by the majority of the persons concerned.

jb. For the definite elimination of the very few cases of non smooth functioning of the institution a clarifying order was issued by the Minister of National Defense was issued, according to which:

(1) When a real need exists, the extension of the limits of working time to non working hours is possible and takes place in the framework of the conscientious objectors' duties, but it is not possible to have an uncontrolled and systematic extension of these limits.

(2) Given that the alternate civilian social service does not constitute a labour relation, their occupation during a certain number of non working days per month is in principle allowed, depending on the existing needs of the bodies, on the basis of their relevant programming. On the contrary, it is not permissible to fully equate working days with non working days, because this interpretation directly comes up against to the generally accepted principles and

convictions regarding the respect of the personality and the human rights.

(3) The interpretation that, since they are entitled by law to only 2 days of leave per month, their occupation for the whole period of the remaining days of the month is required is not right. It is possible that they are granted leaves of absence that are less than 24 hours with the possibility of an overnight stay, irrespective of the leaves to which they are entitled.

(4) Generally, during the fulfillment of the alternate civilian social service, exclusions or restrictions of rights that are not tolerated by law and the general principles of law are not allowed.

jc. The claim of the union of the conscientious objectors that violations of their rights are encouraged by a group of officers who belong to the personnel of the Ministry of Defense and by the Orthodox Church, is completely unfounded and unsubstantiated.

3. Giving a general evaluation of the institution, it is our conviction that it functions smoothly, while the mentioned isolated "special", as they are called, cases of conscientious objectors have been created rather deliberately.

**For all the reasons stated above we request that the collective complaint submitted against Greece by the Quakers Council for European Affairs be declared unfounded.**



**Observations of the European Trade Union Confederation (ETUC) (article 7 para. 2 of the Additional Protocol to the European Social Charter, providing for a system of collective complaints)**

*(filed with the Secretariat on 28 September 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.

### **1. 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.

### **2. The special feature of this case**

Although it might appear that trade unions should refrain from engaging in military questions the history of the cases before the Committee clearly shows that this area

has for many years been neglected from the human rights aspect. At present, there are three types of human rights at issue

- trade union rights in the military service (cases 2, 4 and 5/1999 - and if Greece had accepted Articles 5 and 6 of the ESC the complaint 3/1999 on the same grounds would have most probably declared admissible by the Committee),
- even more specifically i.a. the prohibition of forced labour in the military service in Greece (cases 7/2000) and, finally,
- the conscientious objectors' legal and practical situation in Greece (the instant case 8/2000).

These cases are leading to a more in-depth examination of situations where human rights until now are in danger not to be seen as general framework of protection.

In this case ETUC is especially aware of the human rights aspect: conscientious objectors should not be treated in any discriminatory way.

## **II. The relevant international standards**

Generally speaking ETUC is relying on the indivisibility and the interdependence of international standards. The use of international standards in this case by the Greek Government require a more precise analysis on the impact of these standards on the interpretation of the ESC.

### **1. *Prohibition of restriction of internationally guaranteed human rights by other international standards***

#### **a. The reference to international standards by the Greek Government**

In this context, it is very interesting to note that the Government is referring itself to international standards:

"Moreover, the above provisions of the European Convention for the protection of Human Rights and Fundamental Freedoms and the the ILO Convention No 29 constitute an important interpretative instrument which cannot be ignored for the correct interpretation of the controversial provision of the European Social Charter and which supports the unified tackling of the issue of forced or compulsory labour within the frame of the International Social Law."<sup>1</sup>

Furthermore, the Government states:

"In accordance with the definition of forced or compulsory labour as this definition appears in the International Convention No 29 'forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (article 2 para1). This definition has been accepted by the European Court of Human Rights in its judgment of 23/11/1983 (case Van der Musselle v/Belgique)."<sup>2</sup>

In summing up the Government is relying on the ECHR and ILO Convention No. 29 in order to restrict the scope of Art. 1 para. 2 ESC.

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<sup>1</sup> Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 3; Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 2 seq.

<sup>2</sup> Observations made by the Greek Government on the admissibility of collective c omplaint 8/2000 dated 8<sup>th</sup> june 2000 p. 4

b. The principle of international social law: safeguarding existing human rights

In contrast to these observations, restrictions in international social instruments should not be used to narrow down the protection guaranteed by the relevant instrument. This general principle is guaranteed in particular explicitly in respect of the Conventions cited by the Greek Government:

The *Convention for the Protection of Human Rights and Fundamental Freedoms*<sup>3</sup> clearly states:

**Article 53<sup>4</sup> – Safeguard for existing human rights**

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

Also the *ILO Constitution* is very clear on the principle:

**Article 19 para. 8 [Effect of Conventions and Recommendations on more favourable existing provisions]**

"In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation."

This principle has been summarised by the former Judge of the European Court of Human Rights Valitcos:

"Il est en effet bien admis qu'une norme internationale en matière de travail ne constitue qu'un minimum par rapport aux lois nationales et que celles-ci peuvent aller au-delà des termes d'une convention en matière. Le même principe devrait être aussi admis dans les rapports des normes internationales de travail entre elles."<sup>5</sup>

In the instant case, furthermore, it does not seem possible to refer to older instruments (ECHR: 1950; ILO Convention No. 29: 1930) in order to restrict the content of the guarantees of the ESC.

If the Committee, nevertheless, would not follow this principle of international social law, it is not self-evident that the arguments of the Greek Government are convincing.

## **2. Strengthening of internationally guaranteed human rights by other international standards**

On the contrary, international standards should be used in order to strengthen and to further protect human rights standards.

This principle has been recognised by the ECourtHR by interpreting the ECHR 'as living instrument' with adaption to today's needs. In this respect we refer to the developments in other international organisations:

<sup>3</sup> as amended by Protocol No. 11

<sup>4</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

<sup>5</sup> *Valitcos*, Droit international du travail, 2ème ed. Paris 1983, page 179, para. 227; see also *Sciotti*, La concurrence des traités relatifs aux droits de l'homme devant le juge national, Bruxelles 1997, avec une 'Liste des clauses issues d'instruments internationaux de protection des droits de l'homme et relatives à leurs coexistence (clauses de rapport)', p. 105 seq.

a. United Nations

*Commission on Human Rights* resolution 1995/83. Conscientious objection to military service<sup>6</sup>

"The Commission on Human Rights, ...

6. Emphasizes that such forms of alternative service should be of a non-combatant or civilian character, in the public interest and not of a punitive nature; ..."

b. Council of Europe

*Committee of Ministers*, Conscientious objection to compulsory military service (Recommendation No. R (87) 8)

c. European Union

*European Parliament*, Resolution on respect for human rights in the European Union (1996)<sup>7</sup>

"126. Calls on Greece, therefore,

- a) to release imprisoned conscientious objectors immediately and treat them in accordance with the new law, which provides for alternative civilian service,
- b) to exempt those who refused military service prior to the entry into force of that law from civilian service, either completely or partly, depending on individual circumstances, as many of them have already had their freedom restricted,
- c) to grant a full amnesty to all those who refused military service in the past, and
- d) to grant all conscientious objectors full civil rights, in particular by giving them the right to a passport, allowing them, like all other European citizens, to move freely about the EU, and making acceptable provisions for Greek conscientious objectors living outside Greece;

127. Calls therefore on all the Member States to respect the recommendation of the Council of Europe and Resolution 1993/84 of the UN Commission on Human Rights, by fully recognizing conscientious objection and the option of an alternative non-military service; all persons presently disadvantaged by the judicial system should be amnestied and rehabilitated with full civil rights; ..."

### III. Interpretation of Article 1 para. 2 ESC

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. ..."

<sup>6</sup> UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, E/CN.4/RES/1995/83, 8 March 1995 Original: ENGLISH, 62nd meeting, 8 March 1995 [Adopted without a vote. See chap. XIV.]

<sup>7</sup> *European Parliament*, Final Edition : 17/02/1998, Human rights in European Union in 1996, A4-0034/1998

## 1. The scope

### a. The absence of specific restrictions

The Charter does not provide for any express restriction concerning military service in general or conscientious objection service in particular. Neither the text nor the Appendix are referring to any possibility of restriction.

In contrast to Article 1 ESC Article 5 ESC provides for a restriction (and the scope of this restriction is at the core of the cases 2, 4 and 5/1999) and ETUC is referring to its observations asking the Committee in the end to narrow down this restriction.

Consequently, the Committee has applied Art. 1 para. 2 ESC to the military service as such,

"Finally, the Committee held that the peculiar status of the military may justify penal sanctions for breach of a voluntary engagement without constituting a breach of the prohibition of forced labour."<sup>8</sup>

not the least in respect to Greece (see Compliant No. 7/2000):

"2. Prohibition of forced labour ...

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."<sup>9</sup>

This clearly shows that military service is not as such excluded from the scope of Article 1 para. 2 ESC

### b. No restriction by the term 'worker'

The Greek Government is denying that conscientious objectors could be regarded as 'workers' in respect of Article 1 para. 2 ESC.

The ESC is using the word 'worker' in a very broad sense. It is quite obvious that the interpretation of the European standards cannot be based on the internal definition of the legal status of a person who performs work. It is well known that e.g. civil servants are defined as 'workers' in respect of the Charter.

Consequently, the Committee has found no problems in applying Article 1 para. 2 ESC to (career) officers in the armed forces.

Under the framework of Article 1 para. 2 ESC one might, in a certain way, compare the work of conscientious objectors with prison work; this is also not as such excluded from the scope of 'prohibition of forced labour'.

### c. No restriction by being given the choice between unarmed service and alternative civil social service

One main element in the argumentation of the Greek Government is

"The possibility of free and voluntary choice by those recognized as conscientious objectors, of either unarmend military service or an alternate civilian social service in place of fulfilment of their military obligations"<sup>10</sup>

<sup>8</sup> Conclusions III (1973) p. 5

<sup>9</sup> Conclusions XV-1; Chapter 7 – Conclusions concerning Articles 1, 12, 13, 16 and 19 of the Charter in respect of Greece

This 'choice' is no real choice. At first, it is to be seen in the framework of the whole military structure. But the more important point is that, in general, conscientious objectors never will serve 'voluntarily' in the military structure 'unarmed' (and this is confirmed at least indirectly by the Government by admitting that until now "none has requested to be submitted to the unarmed service"<sup>11</sup> ; their 'choice' is thus restricted to one alternative (civil social service), and, consequently, losing the substantial character of a choice.

## 2. The definition of 'forced or compulsory labour'

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 ..."<sup>12</sup>

An overview on situations having been criticised by the Committee may be found in the General introduction to Conclusions XIV-1<sup>13</sup>. These examples show that the Committee is dealing with this issue on an individual case basis. There are no general rules on the criteria being used by the Committee. Although penal sanctions clearly demonstrate main elements in the definition of forced labour the Committee found situations in breach of the Charter where 'workers are obliged to obtain permission from the director of the regional employment office to termination their occupation'<sup>14</sup>. The Committee is actually studying the situation where 'beneficiaries who refuse to accept a suitable job offer are liable to have their social assistance benefit reduced by at least 25% of the standard rate'<sup>15</sup>.

## IV. Information on the situation in Greece

### 1. Informations given by the Government

#### a. Description of the factual situation

The Government is denying vigorously

- the 'punitive' character of the provisions ('simply pompous and exaggerated')
- the possibilities as well as any concrete situation of abuse of working conditions

for conscientious objectors. In a more concrete approach the Government is describing

- the number of persons concerned as "329 conscientious objectors (322 due to religious convictions and 7 due to ideological convictions) ... another 49 applications are pending"<sup>16</sup>

<sup>10</sup> Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 4 [without emphasis]; Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 3.

<sup>11</sup> Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 4; Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 3

<sup>12</sup> Conclusions III (1973) p. 5

<sup>13</sup> Conclusions XIV-1 (1998) p. 36 seq.

<sup>14</sup> Conclusions XIV-1 (1998) p. 38 (Netherlands with reference to negative conclusions since cycle X-1)

<sup>15</sup> Conclusions XIV-1 (1998) p. 293

<sup>16</sup> Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 4 ('as to this day'); Observations made by the Greek Government on the admissibility of collective



- the number of conscientious objectors haven 'chosen' the unarmed service: none,
- that the "problems that so far have arisen concerning the conditions of work and the working hours, have been eliminated both through additional clarifications that were provided and through the placement of conscientious objectors at other bodies (such as the Hellenic post Offices, Tax Offices etc.) apart from the Health and Welfare Services, with evidently more comfortable conditions and working hours."<sup>17</sup>

Besides these informations there is no real further description of the concrete factual situation.

#### b. Observations on the informations

It is to be regretted, in general, that the Government does not give further details on many issues brought up by the complaint.

Even in those areas where the Government is referring to positive actions there are no concrete evidences like texts, references, wording e.g. of

- the 'order... issued by the Minister of Defence'<sup>18</sup>
- 'additional clarifications'<sup>19</sup>.

Furthermore, all figures concerning conscientious objectors who still work in the Health and Welfare Services are missing as well as those under which conditions concretely.

## **2. Information from other sources**

Looking at other reliable and available (recent) information, the description of the situation by the Government does not seem to be correct, at least not to be complete:

#### a. Amnesty International

AI-report 2000 is referring to the 'punitive' character of the length of the alternative civil social service and telling that working conditions are - at least in some respects - beyond any justification from an international perspective:

Greece - Conscientious objection

"Provisions of the law on conscription fell short of international standards, for example, the length of alternative civilian service remained punitive, and its application was discriminatory. Applications for conscientious objector status were rejected in cases where the applicants alleged they were unable to submit their documents in time because the relevant authorities refused to provide them with the certificate requested or because applicants were given unreasonably short deadlines. Applicants were subsequently charged with insubordination, which carries a sentence of up to four years' imprisonment. In at least 25 cases, conscientious objectors who performed alternative civilian service in health institutions were subjected to punitive measures which included working up to 68 hours a week, no right of leave and threats of revocation of their right to alternative service if they refused to comply with such conditions."

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complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 3 ('as to this day'; one may doubt that there has been no change between those two dates)

<sup>17</sup> Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 4 seq.; Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 4.

<sup>18</sup> Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 5 (point 2. jb); Observations made by the Greek Government on the admissibility of collective complaint 8/2000 dated 8<sup>th</sup> june 2000 p. 5 (point 2. jb).

<sup>19</sup> See footnote 17

b. Greek Helsinki Monitor (GHM) / Minority Rights Group - Greece (MRG-G)

The two groups in their Joint Concise Annual Report for 1999 (7 January 2000) give the following informations on the situation in respect of Conscientious Objection:

"Law 2510/97 stipulates that the status of conscientious objector (CO) and civilian alternative service or unarmed military service are available to conscripts who declare that they oppose the personal use of arms for fundamental reasons of conscience based on religious, philosophical, ideological or moral convictions (Art.18.1-3). Some of the law's provisions -including the punitive length of the service, twice as long as the military one-still fall short of international standards, and its application since 1998 remains unsatisfactory. In some cases, COs were treated abusively by the state institutions where they work, including working long hours and having hardly any days off, as if they were serving in the military. In at least one case, an institution even addressed two COs as 'soldiers of special duty.'<sup>20</sup>

**3. The legislative text**

The relevant law provides for two main areas where conscientious objectors are put in a different situation. Both elements are seen by the Government as being part of equality requirements.

a. The framework for alternate civil social service

There are

- the length of service
- the place where to offer the service
- the documents required and the time-limits to be respected

which are of substantial nature in order to assess whether there is forced labour. These elements have been described very well by the complainant organisation.

b. The working conditions

These observations will deal more in detail with the aspect of working conditions. That is why the following provisions of the law are quoted as follows:

Art. 21 para. 3<sup>21</sup>

"Those who serve an alternative civil social service: ...

c. do not cover operational positions of the agents to which they are disposed, however they rank with the employees of that agent as regards their medical and the administrative welfare in general.

d. are entitled to housing and food by the agent to which they are disposed and in case that such agent is unable to offer them, a salary is paid to them, equal to the amount spent for the boarding, the housing, the clothing and transportation of the soldiers. The amount of the salary as well as all the details regarding the payment of it are settled by a common decision of the Ministers of National Defence, Finance and of the competent, as the case may be, Minister.

e. Are entitled to two (2) days leave of absence for each month of service."

Art. 21 para. 5

"They forfeit from the right to fulfil an unarmed service or an alternative civil social service, those who ...

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<sup>20</sup> GREEK HELSINKI MONITOR (GHM) / MINORITY RIGHTS GROUP-GREECE (MRG-G), HUMAN RIGHTS IN GREECE: JOINT CONCISE ANNUAL REPORT FOR 1999 7 January 2000

<sup>21</sup> Articles without any further reference are taken from the translation of Law 2150 (Government Gazette of the Hellenic Republic, First Bulletin, Issue No. 136/27 June 1997) as appended to the complaint (Appendix II); in the text it is referred to as 'the Law';

- c. commit disciplinary or criminal offences, which may have as a result, for the personnel of the agent to which they had been disposed, dismissal or termination of the work contract.
- d. have a syndicalistic activity or participate in a strike during their period of alternative service
- e. are sentenced during the period of their alternative civil social service to any punishment, because of violation of the provisions regarding leaves of absence, in force for the employees of the agent to which they have been disposed."

## V. Conclusions

### 1. Introduction

The following two elements are dealing with the - excessive - working conditions (2.) and - the prohibition of - trade union rights (3.). Although violating in itself international standards, they might as such, not yet amount to 'forced labour'.

But they are linked directly to penal and other similar sanctions: this is the core of the problem under Article 1 para. 2 ESC: if conscientious objectors are violating one of those provisions they are faced with heavy sanctions (4.) amounting to 'forced labour'.

### 2. The working conditions

AI as well as GHM/MRG-G support the statement by the complainant organisation on sometimes excessive and abusive working conditions. There are two elements to be looked upon more closely: the working time and the leave. Furthermore, it is a question of law and practice.

Amnesty International: "In at least 25 cases, conscientious objectors who performed alternative civilian service in health institutions were subjected to punitive measures which included working up to 68 hours a week, no right of leave and threats of revocation of their right to alternative service if they refused to comply with such conditions."

Greek Government: "problems that so far have arisen concerning the conditions of work and the working hours, have been eliminated both through additional clarifications that were provided and through the placement of conscientious objectors at other bodies (such as the Hellenic post Offices, Tax Offices etc.) apart from the Health and Welfare Services, with evidently more comfortable conditions and working hours."

#### a. Working time

The Greek Government admits that there have been problems with working conditions in general and the working time in particular in the Health and Welfare Services. The Ombudsman directly spells out 'the great deal of problems' in this respect.

No statutory provisions are to be found in Law about the framework of working time; the only 'clarifications' that are reported are as follows:

"When a real need exists, the extension of limits of working time to non working hours is possible and takes place in the framework of conscientious objectors' duties, but it is not possible to have an uncontrolled and systematic extension of these limits."

But they do not show any concrete limits; more precisely:

- a 'real need' in Health and Welfare Services very often (if not in a systematic way) exists,

- the normal (maximum) working hours are not defined
- the limits of extensions are not defined, neither.

Furthermore, the statement that no conscientious objector is any more engaged in the Health and Welfare Services is missing (as well as the statement that conscientious objectors have absolutely the same working conditions as state employees in the other bodies).

b. Leave

The Greek Government states:

"The interpretation that, since they are entitled by law to only 2 days of leave per month, their occupation for the whole period of the remaining days of the month is required is not right. It is possible that they are granted leaves of absence that are less than 24 hours with the possibility of an overnight stay, irrespective of the leaves to which they are entitled."

The provision in the law is perfectly clear:

"Are entitled to two (2) days leave of absence for each month of service." (Art. 21 par. 3 lit. e)

By law: no weekends, no holidays, and only at discretion (of the agent to whom they are disposed (?)) they are allowed to certain very restricted leaves. One should bear in mind Art. 19 para. 4

"The alternative civil social service ... consists in the rendering of public benefit services, in areas out of the Prefectures of Athens, Thessaloniki, the ones of the interested parties' birth, origin or residence, as well as out of the large population density of the urban centres, which are designated by decision of Minister of National Defence, not [!] published in the Government Gazette."

Besides the general discriminatory character of this specific provision, it is in this precise context that it shows concrete impact: in most cases there will be no real chance to stay overnight during this extremely short period under 24 hours.

c. General remarks

These two examples have shown how easily working conditions of conscientious objectors may turn out to be excessive. Bearing in mind the further elements such as:

- these excessive working conditions are of special nature in respect of forced labour in the sense that if they are not accurately followed by the conscientious objector (see Art. 21 para. 5 lit. b: "are declared draft-evaders on the grounds that they did not appear to ... the agent to which they had been disposed within the prescribed term" and lit. e below - with all consequences),
- the other working conditions are not defined at least not in general (in the Law itself e.g. in the way that they should be the same as those enjoyed by the other employees in the same place),
- the comparison with the European standards (in particular, Articles 2 and 3 ESC),
- there are no indications on the (effective) control of the agents who are responsible for the working conditions,

it is obvious that these working conditions easily may amount to a 'punitive' character of working conditions.

**3. Trade union rights**

This is a substantial element for ETUC.

a. Prohibition of trade union activity

The general prohibition of trade union activity is clearly defined in the Law and is also mentioned by the complainant organisation:

"have a syndicalistic activity or participate in a strike during their period of alternative service" (Art. 21 para. 5 lit. d)

This fundamental principle being violated, this is a further element which is discriminating without any justification conscientious objectors.

b. Possibility of being used as strike breaker

The Ombudsman is referring to the situation that conscientious objectors could have to 'work overtime during strikes' which means in clear that they may be used as strike breakers (he therefore asks that 'the labor rights of these other employees should be respected').

This situation is not tolerable because this possibility is not only discriminating again the conscientious objectors, it is also infringing trade union rights of the employees who are on strike.

#### 4. **Sanctions**

As pointed out earlier, there are many sanctions in the Law.

a. Forfeiture from the right to fulfil an unarmed or alternative civil social service

This sanction (Art. 21 para. 5) is of extreme importance because it is contrary to the very substance of conscientious objection (and in this way even worse than 'normal' penal sanctions). This sanction is linked to violations of working conditions. But in a more general way all disciplinary misconduct:

"c. commit disciplinary or criminal offences, which may have as a result, for the personnel of the agent to which they had been disposed, dismissal or termination of the work contract.

....

e. are sentenced during the period of their alternative civil social service to any punishment, because of violation of the provisions regarding leaves of absence, in force for the employees of the agent to which they have been disposed." (Art. 21 para. 5)

The sanction goes even further:

"In case of forfeiture from the right to fulfil an unarmed or alternative civil social service, the remainder of their obligations is service in arms. In such case, the period of unarmed or civil service is calculated as period of service in arm at the half." (Art. 21 para. 6)

b. All penal and other sanctions

The Law is not quoting all sanctions because they seem to have been regulated in other laws (e.g. the 'punishability of draft-evasion which is referred to in Article 2 para. 3). But it seems quite clear that there are many (penal) sanctions. This could be studied more in detail if the Government would provide for more concrete information.

#### 5. **Summary**

The provisions of the Law (in particular in Art. 21) as well as the application in practice show that they amount to 'forced labour' which is prohibited under Article 1 para. 2 ESC.

## **VI. Recommendations**

Concerning working conditions the Committee could in many respects follow the suggestions of the Ombudsman, in particular as concerns working conditions and sanctions:

### WORKING CONDITIONS

- "Working hours for the objector should be equal to those of the other employees in the same places and the labour rights of these other employees should be respected fully (i.e. objectors should not work overtime during strikes), etc.
- The vacation of two days per month does not mean that the objector should work all the other days of the month including weekends and holidays ..."

### SANCTIONS

- "A recognised objector should not be deposited from the CO status and asked to perform military service, for these kind of infringements. Instead there should be a specific penal system for people performing civilian service."

What is missing in the Suggestions of the Ombudsman and what should, consequently, be included in the Recommendations of the Committee is that

- trade union activities should be allowed (at least not sanctioned at all)
- the rights of objectors should be defined
  - in accordance with international and european standards
  - clearly either by law or by regulation with a clear legal basis in the Law.

## **Respons of the Quaker Council for European Affairs to the written observations submittend by the Greek Government on the merits of the complaint**

*(filed with the Secretariat on 12 October 2000)*

We wish to state at the outset that the complaint we have made is driven by the evident distress of Greek citizens liable under Greek law for alternative service, and not by any wish to show disrespect for Greece or her elected Government.

1. We note that Article 4 para 2 of the Social Charter of 1961 provides that military service and alternative service in lieu are not in themselves to be regarded as forced labour<sup>1</sup>. It is our contention that the Charter confers a right on states to certain freedoms in drafting their citizens for service, but not an unlimited right. As stated in our earlier submission, we believe that it is proper, for example, to call for a test of proportionality.

2. We note further that the International Covenant on Civil and Political Rights of 1976, to which Greece has acceded, again excludes military service and alternative service from the definition of forced labour. Nevertheless, the (UN) Human Rights Committee in its Views of 1 August 2000 on Communications 690 and 691 of 1996 ruled that the rights of French complainants had been violated in requiring them to perform alternative service of double the length required for military service. Similar conclusions were reached in an earlier case against France and a case against Finland

3. The fact that Greece reserved her position on the inadmissibility of punitive forms of alternative service in agreeing to Recommendation 87/8 of the Council of Europe Committee of Ministers does not, we hope, prevent the Committee of Social Rights from considering the issue on its merits.

4. We find the concept that conscientious objectors 'freely and voluntarily' choose alternative service an inadequate description of the option available to them. Their objections of conscience are not matters of discretion to them, and indeed the conditions set by the Greek law (for example, never having used a hunting weapon) require a lifelong consistency of conviction. With due diffidence we would refer to the International Labour Organisation's Abolition of Forced Labour Convention (C105 of 1957), ratified by Greece, which requires member states not to use forced labour:

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<sup>1</sup> The International Labour Organisation's Worst Forms of Child Labour Convention (C182 of 1999), not yet ratified by Greece, includes in Article 3, its definition of the worst forms of child labour:

(a) all forms of slavery or practices similar to slavery, such as the trafficking in children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(a) as a means of political coercion or education or as a punishment for holding or expressing views ideologically opposed to the established political, social or economic system;

...

(e) as a means of racial, social, national or religious discrimination.

We note that it is certain religious organisations other than the Orthodox Church which abhor the deliberate taking of human life - we, the Quakers, align ourselves with the Jehovah's Witnesses in this, if not in all articles of faith. We note, however, that not all Greek conscientious objectors base their position on religious convictions.

5. Several authorities have acquiesced in a period of alternative service one and a half times the length of military service. If this is a defensible norm, presumably on the grounds that military service implies a greater risk of death or injury (we have seen no evidence that the alternative forms of service available in Greece are less onerous in terms of living conditions or activities required), we can see no rationale for denying to those opting for alternative service the same privileges (pro rata) to those offered to the military in terms of shorter service obligations on account of various family and social circumstances. The loss of capacity on account of these privileges seems to militate against the concept that demographic pressures oblige Greece to maximise the size of her forces. If the privileges are a recognition of the fact that that many of those drafted are breadwinners, how can this not apply to conscientious objectors? In particular, the damage to Greece's human capital by keeping young adults out of their career paths for periods as long as 39 months must surely be a consideration (military service can be as short as 3-4 months, which is far less of a career handicap).

6. We also note that those in military service are frequently allowed to spend up to half their terms of service near their homes rather than in remote postings. We can see no rationale for denying such privileges to conscientious objectors.

7. Finally, there is the matter of pay and conditions of service. The military get accommodation, food and clothing, plus 73 000 drachma a month. Conscientious objectors receive either food and accommodation (not clothing) OR 60 000 drachma a month. The Greek minimum wage is 165 000 drachma a month.

8. We have suggested that there is no rationale for denying conscientious objectors some proportional parity with the military. The Greek provision for alternative service appears to us to be framed so that only those with a sense of mission too overwhelming to do otherwise can afford to choose that option. However, the implementation of this policy, in our view, need not be such that conscientious objection is hedged around with obstacles that virtually force young people into behaviour which the state allows itself to treat as criminal. It is not a free and voluntary choice. We contend that both the law and the way it is implemented require appraisal by the international human rights community.



**Additional observations of the Greek Government on the observations of the Quaker Council for European Affairs on the merits of the complaint (article 7 para. 3 of the Additional Protocol to the European Social Charter, providing for a system of collective complaints)**

*(Filed with Secretariat on 9 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 8/2000**

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. Although, I have the honor to inform you that the Greek government confirmed that the execution of the alternative military service, in the way that it is executed in our country, does not infringe the provisions of the European Social Charter concerning forced labour, it insists on the observations which have already been submitted on the merits of the above complaint and awaits, with great interest, the decision of the European Committee of Social Rights.

**THE SECRETARY GENERAL**

**IOANNA PANOPOULOU**



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



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

*(Strasbourg, 25 April 2001)*

### **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. 8/2000. The report contains the decision of the Committee on the merits of the complaint (adopted on 25 April). 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 27 August 2001.

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS**

**COMITE EUROPEEN DES DROITS SOCIAUX**



## **2. Decision on the merits of Complaint No. 8/2000 by the Quaker Council for European Affairs againsts Greece**

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 177th session attended by:

Messrs.	Stein EVJU , President Nikitas ALIPRANTIS, Vice- President Matti MIKKOLA, General Rapporteur
Mr.	Rolf BIRK
Ms	Micheline JAMOULLE
Messrs	Alfredo BRUTO DA COSTA Tekin AKILLIOĞLU Jean-Michel BELORGEY
Ms.	Csilla KOLLONAY LEHOCZY

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

After having deliberated on 13 February, 13 March, 14 March and 25 April 2001

On the basis of the report presented by Mr Tekin AKILLIOĞLU;

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 Quaker Council for European Affairs (QCEA), the complainant organisation, to the Contracting Parties to Protocol as well as to the European Trade Union Confederation (ETUC), the Union of the Confederations of Industry and Employers of Europe (UNICE) and the International Organisation of Employers (IOE), 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 of the complaint on 4 September 2000. The ETUC submitted its observations on 28 September 2000. The complainant organisation submitted its observations on 12 October 2000, along with appendices supplied on the same date.

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.

## **SUBJECT OF THE COMPLAINT**

5. The Quaker Council for European Affairs (QCEA) asks the Committee to declare that Greece does not ensure satisfactory application of Article 1 para. 2 of the European Social Charter, which reads as follows:

“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;

[...]”

The QCEA alleges in its complaint, as set out in para. 2 of the decision on the merits, that the provisions of Act No. 2510/1997 which allows conscientious objectors to perform civilian service instead of military service, as well as their application in practice, are of a punitive nature. It contends that the modalities and conditions for the performance of this civilian service amount to forced labour.

## **ARGUMENTS OF THE PARTIES TO THE PROCEDURE**

a) *The complainant organisation (QCEA)*

6. The QCEA illustrates its allegations with the following elements, based on Act No. 2510/1997 as well as practice. It also refers to the recommendations made on this subject in 1999 by the Greek Ombudsman for Citizens' Rights.

– *Administrative Formalities for obtaining the status of conscientious objector*

7. A person who wishes to obtain the status of conscientious objector on account of his religious or ideological beliefs must produce a large number of certificates within 20 to 30 days: a certificate from the police station where he resides, where he was born and where he is on the electoral register stating that he never applied for a firearm licence; a certificate from the Hunters' Association stating that he has never hunted; and a court certificate stating that he has never been convicted of a violent offence. The QCEA maintains that these certificates are not always delivered in time, leading to loss of the right to perform alternative civilian service.

– *Length of civilian service and place of performance*

8. The QCEA states that alternative civilian service is 18 months longer than normal military service or reduced military service. Normal military service in the army lasts 18 months, 19 months in the air force and 21 months in the navy. Reduced military service may last for 12, 6 or 3 months. The QCEA contends that imposing a length of service twice that of military service is disproportionate and, furthermore, deprives young adults of a career for up to 39 months. The QCEA refers to Recommendation No. R(87)8 of 9 April 1987 of the Committee of Ministers of the Council of Europe according to which alternative service should not be punitive in nature and should be of reasonable duration, compared to military service.

The QCEA further contends that while conscripts perform half of their military service in border posts and the other half near their place of birth or origin, conscientious objectors may not perform their service in the prefecture of Athens and Thessalonica, or in their place of birth, origin or residence (Section 19 para. 4), aggravating the punitive nature of this service.

– *Conditions in which civilian service is performed*

9. The QCEA states that Act No. 2510/1997 provides for 2 days of holiday per month of service (Section 21 para. 3e). The Act does not therefore provide for weekly rest or other holidays. It does not set maximum daily or weekly limits to working time either. The QCEA contends, relying on concrete examples, that in certain medical establishments, conscientious objectors work between 11 and 15 hours per day, 7 days per week.

It adds that conscientious objectors who are active in trade unions, take part in a strike or are absent without permission from their civilian service lose their status as a conscientious objector and are required to perform ordinary military service (Section 21 para. 5d and e). Lastly, the QCEA states that conscientious objectors who do not receive food and accommodation (from their employer) during their alternative service receive “a salary... equal to the amount spent for the boarding, the housing, the clothing and the transportation of the soldiers” (Section 21 para. 3d). It contends that conscripts are provided with accommodation, food and clothing and receive 73,000 drachma (GRD) per month while conscientious objectors either receive accommodation and food (but not clothing) or are paid 60,000 GRD per month. The QCEA recalls that that the minimum wage in Greece is 165,000 GRD per month. It further contends that certain public services do not pay this amount on a regular basis to conscientious objectors.

– *Sanctions which may apply to conscientious objectors*

10. The QCEA underlines that conscientious objectors who do not fulfil their obligations of civilian service for various reasons, some of which are indicated above (Section 21 para. 5) may lose their status and be obliged either to perform unarmed military service or ordinary military service, which they refuse on the basis of their beliefs. They may then be subject to serious criminal penalties for failure to report for duty. The QCEA provides examples of individual cases to illustrate its allegations.



b) *The European Trade Union Confederation (ETUC).*

11. The ETUC cites a series of legal instruments prohibiting forced labour. It underlines the unique nature of Article 1 para. 2 of the Charter, which, unlike other relevant legal instruments, does not contain any express restriction concerning military service in general or conscientious objection in particular. It maintains that in the present case the European Social Charter should be used to reinforce and protect human rights.

12. It takes the view that the abusive working conditions described in the complaint do not in themselves amount to forced labour. However, the serious criminal penalties which may be applied to conscientious objectors who do not fulfil their obligations of civilian service are such that it may be considered forced labour.

13. Therefore, in light of the facts described in the complaint of the QCEA and the information provided by the government, the ETUC considers that the provisions of Act No. 2510/1997 as well as their application in practice should be considered as a form of forced labour in violation of Article 1 para. 2 of the Charter.

c) *The Greek Government*

14. The Government contends first that the provisions concerning the performance of an alternative to military service falls outside the scope of Article 1 para. 2 of the Charter. In support of this argument, it invokes Article 4 para. 3 b)<sup>1</sup> of the European Convention of Human Rights which does not consider as forced labour "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". The Government is of the view that Article 1 para. 2 of the Charter should be interpreted in the light of other international texts on the prohibition of forced labour, in particular the European Convention of Human Rights.

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<sup>1</sup> Article 4 para. 3 reads as follows:

"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."

15. In support of this argument, it explains that the performance of military service is a constitutional duty. Greek citizens who satisfy this obligation by performing armed military service or, as with conscientious objectors, unarmed service, cannot be considered as persons working for a living.

16. Second, should the European Committee of Social Rights decide that alternative civilian service comes within the scope of Article 1 para. 2, the Government strenuously contests that the modalities and conditions of such service could be considered forced labour.

17. The main arguments invoked in support of this view are:

– in order to comply with their duty of service, conscientious objectors may freely choose to perform unarmed military service or alternative civilian service. Thus, conscientious objectors take on the work involved in civilian service of their own volition. Moreover, the certificates required within a certain deadline to obtain the status of conscientious objector are easily obtained by the individual.

– The longer duration of alternative civilian service is justified by the more onerous constraints imposed on conscripts by military service.

– Working time and conditions raised problems in very rare cases, which were resolved following supplementary clarification and the placement of conscientious objectors in public service establishments such as the post office or tax office where working time and conditions are less restrictive than in health establishments. The Minister of National Defence issued an order to the effect that “When a real need exists, the extension of the limits of working time to non working hours is possible and takes place in the framework of the conscientious objector’s duties, but it is not possible to have an uncontrolled and systematic extension of these limits”;

– The sanctions applicable to conscientious objectors who do not fulfil their obligations under civilian service are justified because they provide a necessary safety valve to prevent the undermining of the institution.

## **ASSESSMENT OF THE COMMITTEE**

18. The Committee notes that Act no. 2510/1997 provides for alternative civilian service for conscientious objectors as well as unarmed military service. The subject-matter of the complaint concerns alternative civilian service only, and not unarmed military service, which conscientious objectors do not choose in practice.

19. The Committee acknowledges that the introduction of alternative civilian service for persons who, for compelling reasons of conscience, refuse to perform military service represents progress, in particular in the implementation of Recommendation R(87)8 of the Committee of Ministers of the Council of Europe.

20. The Contracting Parties to the Charter who have accepted Article 1 para. 2 undertake “to protect effectively the right of the worker to earn his living in an occupation freely entered upon”. According to the Committee’s interpretation of this

provision, the right to earn one's living through an occupation freely entered upon entails the elimination of all forms of discrimination in employment and the prohibition of forced labour.

21. The Government contends that the provisions concerning the performance of civilian service instead of military service do not come within the scope of Article 1 para. 2. It recalls that the relevant international instruments, especially the European Convention on Human Rights, at Article 4 para. 3b), expressly exclude all military service and any other alternative service from the scope of this prohibition. It further contends that conscientious objectors who perform alternative civilian service do so to comply with the obligation of military service and cannot be considered as workers who earn their living in an occupation freely entered upon.

22. The Committee states in response that it takes account of Article 4 para. 3 b) of the European Convention on Human Rights when interpreting Article 1 para. 2 of the European Social Charter. Accordingly, the obligation to perform military service or, for conscientious objectors, the obligation to perform civilian service instead of military service cannot, as such, be considered a form of forced labour, contrary to Article 1 para. 2. The Committee further states that conscientious objectors who perform alternative civilian service are not workers who earn their living in an occupation freely entered upon within the meaning of Article 1 para. 2 of the Charter.

23. The Committee considers, however, that alternative civilian service may amount to a restriction on the freedom to earn one's living in an occupation freely entered upon. Such a situation comes therefore within the scope of Article 1 para. 2 of the Charter. It is accordingly for the Committee to determine whether, in the present case, the conditions and modalities for the performance of alternative civilian service, compared to military service, constitute a disproportionate restriction on the freedom guaranteed by Article 1 para. 2 of the Charter.


24. As regards the duration of alternative civilian service, the Committee accepts the Government's view that the less onerous nature of civilian service justifies a longer duration than that of military service. The Contracting Parties to the Charter indeed enjoy a certain margin of appreciation in this area.

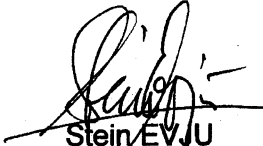
25. In the present case, the Committee observes however that the duration of civilian service is 18 months longer than that of the corresponding military service, be it of 18, 19 or 21 months, or reduced to 12, 6 or 3 months. A conscientious objector may therefore perform alternative civilian service for a period of up to 39 months. The Committee considers that these 18 additional months, during which the persons concerned are denied the right to earn their living in an occupation freely entered upon, do not come within reasonable limits, compared to the duration of military service. It therefore considers that this additional duration, because of its excessive character, amounts to a disproportionate restriction on "the right of the worker to earn his living in an occupation freely entered upon", and is contrary to Article 1 para. 2 of the Charter.

26. In view of the conclusion reached above, the Committee decides not to rule on the other modalities and conditions in which alternative civilian service is performed, which the complainant organisation contests.

## CONCLUSION

27. The Committee concludes by six votes against three that the situation in Greece is not in conformity with Article 1 para. 2 of the Charter.

  
Tekin AKILLIOĞLU  
Rapporteur

  
Stein EVJU  
Président

  
Régis BRILLAT  
Secrétaire exécutif

### Appendix

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 21 of this publication.

### **3. Dissenting opinion of Mr Nikitas ALIPRANTIS**

In its decision the committee dismisses the complainant organisation's argument that alternative civilian service amounts to forced labour and rules on the basis of a new and unprecedented interpretation of Article 1 para. 2 which has unacceptable implications. If it is accepted that the duration of civilian service, because of its excessive character, may infringe the right of the worker to earn his living in an occupation freely entered upon, the same would have to apply to military service - for which civilian service is no more than an alternative - and to custodial sentences as specified in criminal codes or handed down in practice by the courts. Such an interpretation is clearly unacceptable because it gives the committee the right to substitute its own assessment for that of domestic lawmakers concerning the necessary duration of military service for the purpose of national defence or the necessary duration of imprisonment for the purpose of punishing crimes and misdemeanours. When establishing these time periods, domestic lawmakers take account of the political and psychosocial situation in the respective country - something the committee cannot possibly judge. Consequently, the committee should dismiss the complaint on its merits, concluding that there has been no breach of Article 1 para. 2, especially since it has accepted neither the claim that the duration of alternative service is punitive in nature nor the other allegations made by the complainant organisation.

### **4. Opinion dissidente de Mr Rolf BIRK**

The decision of the majority of the European Committee of Social Rights is not convincing and not sufficiently motivated. Therefore I disagree with its result as well as with the motivation thereof.

1. Article 1 para. 2 of the European Social Charter is not applicable *rationae materiae* to this case. Neither the literal nor the historical or teleological interpretation can justify the pronouncement of the verdict of the Committee.

2. Article 1 para. 2 of the European Social Charter does not cover the conscientious objectors' service exacted instead of compulsory military service. There is no doubt that this kind of service is neither a case of forced or compulsory labour according to Article 4 para. 3 lit. b of the European Convention on Human Rights, nor according to Article 1 para. 2 of the European Social Charter.

3. The wording of Article 1 para. 2 of the European Social Charter does not mention forced or compulsory labour. In a very early period of its supervision activities the Committee interpreted the wording "in an occupation freely entered upon" as covering the question of prohibition of forced labour but without making any reference to Article 4 of the European Convention on Human Rights (Conclusions I, p. 15). This interpretation only refers to a situation in which the occupation is entered upon by a free decision of the worker. This is of course not the case in the compulsory service exacted by the conscientious objectors. Article 1 para. 2 covers only cases of an originally free entered occupation. This means its applicability depends on a freely established employment relationship or on a freely established self-employment. If we have as here a service replacing the ordinary compulsory

military service, then only Article 4 of the European Convention on Human Rights is to apply. And if Article 4 para. 3 lit. b of the European Convention on Human Rights states that such a kind of military service is not considered as compulsory or forced labour, this occupation cannot be considered as forced labor under Article 1 para. 2 of the European Social Charter. At the time of the adoption of the European Social Charter the Contracting Parties did not intend Article 1 para. 2 of the European Social Charter to cover the service exacted instead of the compulsory military service. Article 1 para. 2 of the European Social Charter does not apply to all activities which consist in the execution of any work or labour. Therefore the question of the length of this compulsory service being excessive or not does not play a role under Article 1 para. 2 of the European Social Charter.

4. This interpretation is also justified by a teleological view of Article 1 para. 2 of the European Social Charter. This provision intends to guarantee the worker to right to earn his living. Not every work is an occupation in this sense as we can see in the case of the compulsory military service or of the service exacted instead of it. The function of such a service is not to earn one's living.

Therefore Greece has not violated the European Social Charter in any respect.

## **Resolution ResChS(2002)3 of the Committee of Ministers**

### **Resolution ResChS(2002)3 on Collective complaint No. 8/2000 – Quakers' Council for European Affairs against Greece**

*(adopted by the Committee of Ministers on 6 March 2002, at the 786th meeting of the Ministers' Deputies)*

The Committee of Ministers,<sup>1</sup>

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 10 March 2000 by the Quakers' Council for European Affairs against Greece,

Considering the report submitted to it by the European Committee of Social Rights, in which the length of civilian service served by conscientious objectors in Greece is found not to be in conformity with Article 1, paragraph 2 of the Charter,

1. takes note that the report of the European Committee of Social Rights has been circulated to the competent authorities including the Parliament and is being translated into Greek;
2. takes note of the recent measures including the revision of the Greek Constitution (Official Gazette 84/4/17-4-2001) and the decrease of the length of military service (Official Gazette 1407 – 22 October 2001);
3. takes note that the Greek Government undertakes to take the matter into consideration with a view to bring the situation into conformity with the Charter in good time.

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<sup>1</sup> 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, that is Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.





## **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 9<sup>th</sup> 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

### Member States of the Council of Europe and the European Social Charter

Situation at 22 February 2002

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98		
Andorra	04/11/00		
Armenia	18/10/01		
Austria	07/05/99	<b>29/10/69</b>	
Azerbaijan	18/10/01		
Belgium	03/05/96	<b>16/10/90</b>	
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	<b>08/03/99</b>		
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	<b>03/11/99</b>	
Denmark	* 03/05/96	<b>03/03/65</b>	
Estonia	04/05/98	11/09/00	
Finland	03/05/96	<b>29/04/91</b>	17/07/98 X
France	03/05/96	07/05/99	07/05/99
Georgia	30/06/00		
Germany	* <b>18/10/61</b>	<b>27/01/65</b>	
Greece	03/05/96	<b>06/06/84</b>	18/06/98
Hungary	* <b>13/12/91</b>	<b>08/07/99</b>	
Iceland	04/11/98	<b>15/01/76</b>	
Ireland	04/11/00	04/11/00	04/11/00
Italy	03/05/96	05/07/99	03/11/97
Latvia	* <b>29/05/97</b>	<b>31/01/02</b>	
Liechtenstein	<b>09/10/91</b>		
Lithuania	08/09/97	29/06/01	
Luxembourg	* 11/02/98	<b>10/10/91</b>	
Malta	<b>26/05/88</b>	<b>04/10/88</b>	
Moldova	03/11/98	08/11/01	
Netherlands	<b>18/10/61</b>	<b>22/04/80</b>	
Norway	07/05/01	07/05/01	20/03/97
Poland	<b>26/11/91</b>	<b>25/06/97</b>	
Portugal	03/05/96	<b>30/09/91</b>	20/03/98
Romania	14/05/97	07/05/99	
Russian Federation	14/09/00		
San Marino	18/10/01		
Slovak Republic	18/11/99	<b>22/06/98</b>	
Slovenia	11/10/97	07/05/99	07/05/99
Spain	23/10/00	<b>06/05/80</b>	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland	<b>06/05/76</b>		
«the former Yugoslav Republic of Macedonia»	<b>05/05/98</b>		
Turkey	* <b>18/10/61</b>	<b>24/11/89</b>	
Ukraine	07/05/99		
United Kingdom	<b>07/11/97</b>	<b>11/07/62</b>	
Number of states	11 + 32 = 43	19 + 12 = 31	11

The **dates in bold** correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

\* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.



## **Appendix IV**

### **International non-governmental organisations entitled to submit collective complaints<sup>1</sup>**

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

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<sup>1</sup> 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 4 years as from the date of entry into force of the Protocol (1<sup>st</sup> July 1998), with the exception of NGOs for which it is indicated that the duration of 4 years begins on 1<sup>st</sup> January 1999, or on 1<sup>st</sup> January 2000, or on 1<sup>st</sup> January 2001, or on 1<sup>st</sup> January 2002.

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

Federation of Catholic Family Associations in Europe (*1 January 2002*)  
Fédération des Associations familiales catholiques en Europe (FAFCE) (*1 janvier 2002*)

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



International Association of the Third-Age Universities  
Association internationale des universités du 3<sup>e</sup> 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 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