

Additional Protocol
to the European Social Charter
Providing for a System
of Collective Complaints

Protocole additionnel
à la Charte sociale européenne
prévoyant un système
de réclamations collectives

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 paragraph 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 paragraph 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 paragraphs 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.

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

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.

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

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.

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

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

Article 14

- 1 This Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 13.
- 2 In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 15

- 1 Any Party may at any time denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of such notification by the Secretary General.

Article 16

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

- a any signature ;
- b the deposit of any instrument of ratification, acceptance or approval;
- c the date of entry into force of this Protocol in accordance with Article 14;
- d any other act, notification or declaration relating to this Protocol.

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

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

En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé le présent Protocole.

Fait à Strasbourg, le 9 novembre 1995, en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire Général du Conseil de l'Europe en communiquera copie certifiée conforme à chacun des États membres du Conseil de l'Europe.

For the Government
of the Republic of Albania:

Pour le Gouvernement
de la République d'Albanie :

For the Government
of the Principality of Andorra:

Pour le Gouvernement
de la Principauté d'Andorre :

For the Government
of the Republic of Austria:

Pour le Gouvernement
de la République d'Autriche :

For the Government
of the Kingdom of Belgium :

Pour le Gouvernement
du Royaume de Belgique:

Strasbourg, le 14 mai 1996

sous réserve de ratification ou d'acceptation

Theo L.R. LANSLOOT

Cette signature engage également la Communauté flamande, la
Communauté germanophone, la Région flamande, la Région wallonne
et la Région de Bruxelles-Capitale.

For the Government
of the Republic of Bulgaria:

Pour le Gouvernement
de la République de Bulgarie :

For the Government
of the Republic of Cyprus:

Pour le Gouvernement
de la République de Chypre :

*with reservation in respect
of ratification or acceptance*

Alecos SHAMBOS

For the Government
of the Czech Republic :

Pour le Gouvernement
de la République tchèque :

For the Government
of the Kingdom of Denmark:

Pour le Gouvernement
du Royaume de Danemark :

*with reservation in respect
of ratification or acceptance*

Henrik WØHLK

For the Government
of the Republic of Estonia:

Pour le Gouvernement
de la République d'Estonie :

For the Government
of the Republic of Finland :

Pour le Gouvernement
de la République de Finlande :

*with reservation in respect
of ratification or acceptance*

Tarja HALONEN

For the Government
of the French Republic:

Pour le Gouvernement
de la République française :

*sous réserve de ratification
ou d'acceptation*

Michel LENNUYEUX-COMNÈNE

For the Government
of the Federal Republic of Germany:

Pour le Gouvernement
de la République fédérale d'Allemagne :

For the Government
of the Hellenic Republic :

Pour le Gouvernement
de la République hellénique :

For the Government
of the Republic of Hungary:

Pour le Gouvernement
de la République de Hongrie :

For the Government
of the Icelandic Republic:

Pour le Gouvernement
de la République islandaise :

For the Government
of Ireland :

Pour le Gouvernement
d'Irlande :

For the Government
of the Italian Republic:

Pour le Gouvernement
de la République italienne :

*sous réserve de ratification
ou d'acceptation*

Walter GARDINI

For the Government
of the Republic of Latvia:

Pour le Gouvernement
de la République de Lettonie :

For the Government
of the Principality of Liechtenstein :

Pour le Gouvernement
de la Principauté de Liechtenstein :

For the Government
of the Republic of Lithuania:

Pour le Gouvernement
de la République de Lituanie:

For the Government
of the Grand Duchy of Luxembourg:

Pour le Gouvernement
du Grand-Duché de Luxembourg:

For the Government
of Malta :

Pour le Gouvernemen t
de Malte :

For the Government
of the Republic of Moldova:

Pour le Gouvernemen t
de la République de Moldova:

For the Government
of the Kingdom of the Netherlands:

Pour le Gouvernement
du Royaume des Pays-Bas :

For the Government
of the Kingdom of Norway :

Pour le Gouvernement
du Royaume de Norvège :

For the Government
of the Republic of Poland :

Pour le Gouvernement
de la République de Pologne:

For the Government
of the Portuguese Republic:

Pour le Gouvernement
de la République portugaise :

*sous réserve de ratification
ou d'acceptation*

Francisco SEIXAS DA COSTA

For the Government
of Romania :

Pour le Gouvernement
de la Roumanie:

For the Government
of the Republic of San Marino:

Pour le Gouvernement
de la Republique de Saint-Marin :

For the Government
of the Slovak Republic:

Pour le Gouvernement
de la Republique slovaque :

For the Government
of the Republic of Slovenia:

Pour le Gouvernement
de la Republique de Slovenie:

For the Government
of the Kingdom of Spain :

Pour le Gouvernement
du Royaume d'Espagne :

For the Government
of the Kingdom of Sweden :

Pour le Gouvernement
du Royaume de Suede:

*with reservation in respect
of ratification or acceptance*

Jan ELIASSON

For the Government
of the Swiss Confederation :

Pour le Gouvernement
de la Confédération suisse :

For the Government
of the Turkish Republic :

Pour le Gouvernement
de la République turque :

For the Government
of the United Kingdom of Great Britain
and Northern Ireland :

Pour le Gouvernement
du Royaume-Uni de Grande-Bretagne
et d'Irlande du Nord :

Certified a true copy of the sole original
document, in English and in French, de-
posited in the archives of the Council of
Europe.

Copie certifiée conforme à l'exemplaire
original unique en langues française et
anglaise. déposé dans les archives du
Conseil de l'Europe.

Strasbourg, 20 août 1996

The Director of the Legal Affairs
of the Council of Europe,

Le Directeur des Affaires juridiques
du Conseil de l'Europe,



Guy DE VEL