

DECISION ON ADMISSIBILITY

7 November 2005

**Confederation of Independent Trade Unions in Bulgaria, Confederation
of Labour “Podkrepa” and European Trade Union Confederation
v. Bulgaria**

Complaint No. 32/2005

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 211th session attended by :

Messrs	Jean-Michel BELORGEY, President Andrzej SWIATKOWSKI, Second Vice-President Stein EVJU, General Rapporteur Matti MIKKOLA Nikitas ALIPRANTIS Tekin AKILLIOĞLU
Mrs	Csilla KOLLONAY LEHOCZKY Polonca KONČAR
Messrs	Lucien FRANÇOIS Lauri LEPPIK
Mrs	Beatrix KARL

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

Having regard to the complaint registered as number 32/2005, lodged on 16 June 2005 by the Confederation of Independent Trade Unions in Bulgaria ("CITUB") represented by its President, Dr. Jeliazgo HRISTOV, the Confederation of Labour "Podkrepa" ("CL "Podkrepa") represented by its President, Dr. Konstantin TRENCHEV, and the European Trade Union Confederation ("ETUC") represented by its General Secretary, Mr John MONKS, requesting that the Committee find that Bulgaria fails to apply in a satisfactory manner Article 6§4 of the Revised European Social Charter ("the Revised Charter");

Having regard to the documents appended to the complaint;

Having regard to the transmission of the complaint to the Bulgarian Government by letter dated 4 July 2005 including an invitation to submit observations on the admissibility of the complaint before 30 September 2005 to which the Government did not respond;

Having regard to the Revised Charter and, in particular, to Article 6§4 which reads as follows:

Article 6 – The right to bargain collectively

Part I: "All workers and employers have the right to bargain collectively."

Part II: "With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

...

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into."

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

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 during its 201st session ("the Rules");

After having deliberated on 7 November 2005;

Delivers the following decision, adopted on the above date:

1. CITUB, CL "Podkrepa" and ETUC allege that Bulgarian legislation restricts the right to strike in the health, energy and telecommunications sectors as well as for civil servants and railway workers in a way that is not in conformity with Article 6§4 of the Revised Charter.

AS TO THE LAW

2. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Bulgaria on 7 June 2000, and entered into force for this State on 1 August 2000, the complaint is submitted in writing and concerns Article 6§4 of the Revised Charter, a provision accepted by Bulgaria at the time of the ratification of this treaty. In addition, the grounds for the complaint are indicated. The grounds are as follows:

- Strikes are unlawful in the health, energy and telecommunications sectors (Section 16 (4)) of the Settlement of Collective Labour Disputes Act);
- Civil servants have the right to take part only in symbolic strike actions and are banned from collectively withdrawing their labour (Section 47 of the Civil Servant Act);
- Railway workers are unjustifiably deprived partly of the right to strike (Art. 51 of the Railway Transport Act).

3. The Committee notes that CITUB and CL “Podkrepa” are trade union confederations exercising their activities within the jurisdiction of Bulgaria in accordance with Article 1 c) of the Protocol.

4. Furthermore, each of CITUB and CL Podkrepa are recognised under Bulgarian law as being representative organisations of workers and employees on the national level. The Committee recalls that, for the purpose of the collective complaints procedure, representativeness is an autonomous concept, not necessarily identical to the national notion of representativeness (Complaint No. 9/2000, *Confédération française de l'Encadrement* “CFE-CGC” v. France, decision on admissibility of 6 November 2000, paragraph 6). Having made an overall assessment of the information at its disposal, the Committee considers that CITUB and CL “Podkrepa” are representative confederations of trade unions for the purpose of the collective complaints procedure.

5. The Committee also notes that, in accordance with Article 1 a) of the Protocol, the ETUC is an international organisation of trade unions referred to in paragraph 2 of Article 27 of the Charter and thus being entitled to lodge collective complaints.

6. The Committee notes that the complaint lodged in the name of CITUB is signed by its President, Dr. Jeliazgo HRISTOV, who represents the confederation pursuant to Article 27§1 of its statute. The complaint lodged in the name of CL “Podkrepa” is signed by its President, Dr. Konstantin TRENCHEV, who is entitled to represent the confederation according to Article 10 of its statutes.

7. The complaint submitted on behalf of ETUC is signed by its General Secretary, Mr John MONKS, who pursuant to Article 23§2 of the ETUC’s constitution shall be the spokesperson of the Confederation and the coordinator of all its activities.

8. The Committee therefore considers that with respect to each of CITUB, CL "Podkrepa" and ETUC the formal requirement of Rule 23 of the Rules has been met.

9. For these reasons, the Committee, on the basis of the report presented by Mrs Csilla KOLLONAY LEHOCZKY, and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE.

In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisations and the defending State of the present decision, to transmit it to the Parties to the Protocol and the States having submitted a declaration pursuant to Article D paragraph 2 of the Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 10 February 2006.

Invites CITUB, CL "Podkrepa" and ETUC to submit a response to the Government's submissions by a deadline which it shall determine.

Invites Parties to the Protocol and the States having submitted a declaration pursuant to Article D paragraph 2 of the Revised Charter to make comments by 10 February 2006, should they so wish.

In application of Article 7§2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27§2 of the Charter and to invite them to make observations by 10 February 2006.


Csilla KOLLONAY LEHOCZKY
Rapporteur


Jean-Michel BELORGEY
President


Régis BRILLAT
Executive Secretary