

24 July 2006

**Confederation of the Independent Trade  
Unions in Bulgaria (CITUB) /  
Confederation of Labour "Podkrepa" /  
European Trade Union Confederation  
v. Bulgaria**  
Collective Complaint No. 32/2005

**Case Document No. 4**

**RESPONSE FROM THE BULGARIAN GOVERNMENT  
TO THE SUBMISSION OF THE COMPLAINANT  
ORGANISATIONS ON THE MERITS**

(TRANSLATION)

**registered at the Secretariat on 19 July 2006**

**Bulgarian government response to the submission of the Confederation of Independent Trade Unions in Bulgaria, the Confederation of Labour “Podkrepa” and the European Trade Union Confederation, in connection with collective complaint No. 32/2005**

**The legislation amending and extending the Settlement of Collective Labour Disputes Act**

In its submission on collective complaint No. 32/2005, the Bulgarian government noted that under the Bulgarian constitution, legislation must be debated and voted on twice, in different sessions of Parliament. Between the two parliamentary sessions, members of parliament may make written proposals to amend particular sections of, or add to, the version approved during the first session. The proposals are examined by the parliamentary committee that first tabled the legislation. The relevant committee then submits a report to Parliament setting out the proposals made by the members of parliament, its opinion on them and its own proposals. The draft legislation to amend and extend the Settlement of Collective Labour Disputes Act has not yet been debated by Parliament a second time. The draft legislation represents a proposal in its own right and a basis for future discussion on how this matter should be settled. In this context, the complainants' comments can be seen as constructive criticism and may be taken into account by members of parliament when they debate the draft legislation to amend and extend the Settlement of Collective Labour Disputes Act. Having regard to the foregoing arguments, the Bulgarian government considers that the European Committee of Social Rights should not take any decision before the draft legislation has been enacted by Parliament.

In response to the complainants' statement that the right to strike should be the subject of a single statute, we wish to point out that Article 50 of the Bulgarian constitution grants manual and non-manual employees the right to strike to defend their economic and social interests. The right is exercised in accordance with conditions established by law. This means that the right to strike must be embodied in primary legislation, but not necessarily a single statute. From a legal standpoint, whether a particular form of activity in the public sphere should be governed by one or several instruments is a technical matter, and does not concern the law itself. Moreover, compatibility of domestic legislation with the Bulgarian constitution is subject to internal oversight.

**The Railway Transport Act**

The provisions of section 51 of the Railway Transport Act are based on the fact that the purpose of rail strikes is to impede or block passenger traffic, which would result in a strong public reaction and have a harmful effect on the economy. The main reason for setting the limit at 50% is to protect rail-based economic activities from long-term stoppages and disruptions to the system and to make it possible to re-establish services rapidly. The limit concerns the operation of trains and not of carriages or wagons. The same locomotives are used on several trains and strikes may have an uncontrollable multiplier effect. Reference should also be made to the social dimension of the problem. In 2006, the state allocated 74 million levas to support the continued provision of so-called social transport. Various social groups would be adversely affected by strikes: mothers with children, disabled persons, retired persons, students and so on. Each day, 90 000 persons travel by train. The repeal of section 51 of the Railway Transport Act could have unexpected consequences for rail transport and for the country's economy in general.

A request for a written guarantee of a minimum service might lead to changes to the current legislation, involving repeal of section 51 of the Railway Transport Act.