

DECISION ON ADMISSIBILITY

9 September 2015

Matica Hrvatskih Sindikata v. Croatia

Complaint No. 116/2015

The European Committee of Social Rights, committee of independent experts (“the Committee”) established under Article 25 of the European Social Charter, during its 280th session attended by:

Giuseppe PALMISANO, President
Petros STANGOS, Vice-President
Lauri LEPPIK, General Rapporteur
Birgitta NYSTRÖM
Elena MACHULSKAYA
Karin LUKAS
Eliane CHEMLA
József HAJDU
Marcin WUJCZYK
Krassimira SREDKOVA
Raul CANOSA USERA
Marit FROGNER
François VANDAMME

Assisted by Régis Brillat, Executive Secretary

Having regard to the complaint dated 16 March 2015, and registered as No. 116/2015, on 24 March 2015, lodged by *Matica Hrvatskih Sindikata* and signed by its President Vilim Ribić, requesting the Committee to find that the situation in Croatia is in violation of Articles 5 and 6 of the European Social Charter (“the 1961 Charter”).

Having regard to the documents appended to the complaint;

Having regard to the notification addressed to the Government of Croatia (“the Government”) on 8 April 2015;

Having regard to the 1961 Charter and in particular to Articles 5 and 6 which read as follows:

Article 5 – The right to organise

Part I : “All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.”

Part II : “With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.”

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:

1. to promote joint consultation between workers and employers;
 2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers’ organisations and workers’ organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
 3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;
- 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 1995 Additional Protocol to the 1961 Charter providing for a system of collective complaints (“the Protocol”);

Having regard to the Rules of the Committee adopted on 29 March 2004 at its 201st session and last revised on 9 September 2014 at its 273rd session (“the Rules”);

Having deliberated on 9 September 2015;

Delivers the following decision adopted on this date:

1. *Matica Hrvatskih Sindkata* alleges that the situation in Croatia is in violation of Articles 5 and 6 of the 1961 Charter as a consequence of the adoption on 20 December 2012 and the further implementation of the Act on Withdrawal of Certain Material Rights of the Employed in the Public Services (Official Gazette No.143/2012).

2. By letter dated 8 April 2015, the Government was invited to submit written observations on the admissibility of the complaint by 28 May 2015. It was pointed out that the absence of a response after this date would be interpreted by the Committee as implying that the Government did not contest that the admissibility conditions are met. No observations on admissibility were received from the Government.

THE LAW

3. The Committee notes that in accordance with Article 4 of the Protocol, which was ratified by Croatia on 26 February 2003 and entered into force for this State on 1 April 2003, the complaint has been submitted in writing and concerns Articles 5 and 6 of the 1961 Charter, provisions accepted by Croatia when it ratified this treaty on 26 February 2003 and by which it has been bound since its entry into force on 28 March 2003.

4. Moreover, the grounds for the complaint are indicated.

5. The Committee notes that *Matica Hrvatskih Sindkata* is a higher level group of 11 trade unions in the field of health care, preschool, primary and secondary education, science and higher education, the judiciary, police and banking activities, pursuant to the Act on Representativeness of Employer's and Trade Unions. It is the third largest group of unions in Croatia. It promotes the rights and interests of more than 65,000 members. *Matica Hrvatskih Sindkata* is a social partner at the national level and together with other representative associations, the Croatian Employers' Association and the Government, is a member of the Economic and Social Council. Making an overall assessment of the information in its possession (see *Fellesforbundet for Sjøfolk* (FFFS) v. Norway, complaint No. 74/2011, decision on admissibility of 23 May 2012, §20), the Committee holds that *Matica Hrvatskih Sindkata* is a representative trade union within the meaning of Article 1§c of the Protocol.

6. As regards the signature of the complaint, the Committee notes that the complaint has been signed by Vilim Ribić, President of *Matica Hrvatskih Sindkata* with the power, under Article 5 of the trade union's statutes to represent it. Therefore the Committee holds that the complaint satisfies the requirements of Rule 23.

7. For these reasons, the Committee, on the basis of the report presented by Marit FROGNER and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE

Pursuant to Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the Respondent 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§2 of the Revised European Social Charter, and to publish it on the Council of Europe's Internet site;

Invites the Government to make written submissions on the merits of the complaint by 17 November 2015;

Invites *Matica Hrvatskih Sindikata* 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§2 of the Revised European Social Charter to make comments by 17 November 2015, should they so wish;

Pursuant to Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the 1961 Charter to make observations by 17 November 2015.

Marit FROGNER
Rapporteur

Giuseppe PALMISANO
President

Régis BRILLAT
Executive Secretary