

Ministers' Deputies

Notes on the Agenda

[CM/Notes/875/4.2](#) (restricted) 27 February 2004

875 Meeting, 10 March 2004

4 Human Rights

4.2 European Social Charter

Collective Complaint No. 13/2002 by Autisme-Europe against France

Reference documents

[CM/Del/Dec\(2004\)873/4.4](#)

Report from the European Committee of Social Rights to the Committee of Ministers

(confidential document distributed by the Chair of the Deputies)

<p>Action</p>

<p>To examine, with a view to its adoption, the attached draft Resolution.</p>
--

1. In application of Article 7 of the Protocol providing for a system of collective complaints, the European Committee of Social Rights transmitted its report on complaint No. 13/2002, *Autisme-Europe* against France, to the Committee of Ministers on 7 November 2003.
2. On 27 November 2003, the Chair of the Deputies transmitted the report of the European Committee of Social Rights to the representatives of the Contracting Parties to the Charter and the revised Charter.

States participating in the procedure

3. Under the terms of the Protocol, only those states having ratified the Social Charter are qualified to participate in this procedure. In the circumstances, the term "Social Charter" should be interpreted as the 1961 Charter and the 1996 revised Charter. The following States would therefore be concerned (as of 1 March 2004): Albania, Armenia, Austria, Belgium, Bulgaria, Croatia, 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.

Procedure

4. According to Article 9 of the Protocol:

“1. On the basis of the report of the [European Committee of Social Rights], the Committee of Ministers shall adopt a resolution by a majority of those voting. If the [European Committee of Social Rights] 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 [European Committee of Social Rights] raises new issues, by a two-thirds majority of the Contracting Parties to the Charter, to consult the Governmental Committee”.

5. It follows from this provision that the collective complaint procedure ends by the adoption of a resolution.

6. However, in the case where non-satisfactory application of the Charter has been found, the Committee of Ministers shall adopt a recommendation by a majority of two-thirds of those voting. The aim of the procedure is to recommend to the state concerned the measures to be taken with a view to bringing the situation into conformity with the Charter.

7. In accordance with Article 10 of the Protocol, the European Committee of Social Rights shall examine the situation again within the framework of the reporting system. The Contracting Parties shall, in their next reports, provide information on the measures taken to give effect to the Committee of Ministers’ recommendation.

Collective complaint No. 13/2002

8. The European Committee of Social Rights concluded that the situation in France constitutes a violation of Articles 15§1 (the right of persons with disabilities to guidance, education and vocational training) and 17§1 (the right of children and young persons to care, assistance, education and training) whether alone or read in combination with Article E (non-discrimination) of the revised European Social Charter.

9. In its decision on the merits, the European Committee of Social Rights first recalled:

“... as stated in its decision relative to Complaint No.1/1998 (International Commission of Jurist v. Portugal, § 32), that the implementation of the Charter requires the State Parties to take not merely legal action but also practical action to give full effect to the rights recognised in the Charter. When the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allows it to achieve the objectives of the Charter within a reasonable time, with measurable progress and

to an extent consistent with the maximum use of available resources. States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities as well as for others persons affected including, especially, their families on whom falls the heaviest burden in the event of institutional shortcomings” (para.53).

10. The European Committee of Social Rights therefore concluded that the situation in France is in violation of the Revised Charter for the following reasons:

“... In the light of the afore-mentioned, the Committee notes that in the case of autistic children and adults, notwithstanding a national debate going back more than twenty years about the number of persons concerned and the relevant strategies required, and even after the enactment of the Disabled Persons Policy Act of 30 June 1975, France has failed to achieve sufficient progress in advancing the provision of education for persons with autism. It specifically notes that most of the French official documents, in particular those submitted during the procedure, still use a more restrictive definition of autism than that adopted by the World Health Organisation and that there are still insufficient official statistics with which to rationally measure progress through time. The Committee considers that the fact that the establishments specialising in the education and care of disabled children (particularly those with autism) are not in general financed from the same budget as normal schools, does not in itself amount to discrimination, since it is primarily for States themselves to decide on the modalities of funding.

Nevertheless, it considers, as the authorities themselves acknowledge, and whether a broad or narrow definition of autism is adopted, that the proportion of children with autism being educated in either general or specialist schools is much lower than in the case of other children, whether or not disabled. It is also established, and not contested by the authorities, that there is a chronic shortage of care and support facilities for autistic adults” (para.54).

11. It is recalled that in previous collective complaints where the European Committee of Social Rights found the situation not to be in conformity with the Charter, the Committee of Ministers has adopted either a recommendation to the state against which the complaint was lodged or a resolution. The latter has been adopted when the state concerned made a commitment to take specific measures to bring the situation into conformity with the Charter.

12. At the 873rd meeting, the French delegation circulated a paper indicating a series of measures the French authorities intend to take to bring the situation into conformity. On the basis of this information the Deputies requested the Secretariat to prepare a draft resolution with a view to examining it at one of their forthcoming meetings.

Financing assured: YES

DRAFT DECISIONS

875th meeting – 10 March 2004

Item 4.2

European Social Charter

Collective Complaint No. 13/2002 by Autism-Europe against France

([CM/Del/Dec\(2003\)873/4.4](#), Report from the European Committee of Social Rights to the Committee of Ministers (confidential document))

Decision

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 the Contracting Parties to the European Social Charter or to the Revised European Social Charter in the Committee of Ministers^[1] adopted Resolution No. ChS(2004) ... as it appears at Appendix .. to the present volume of Decisions. <see Appendix to the present Notes>

Appendix ..

(item 4.2)

Draft Resolution ResChS(2004) ...

Collective complaint No. 13/2002

Autisme-Europe against France

*Adopted by the Committee of Ministers on ...
at the ... meeting of the Ministers' Deputies)*

The Committee of Ministers[2],

Having regard to Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Taking into consideration the complaint lodged on 26 July 2002 by Autisme-Europe against France;

Having regard to the report transmitted by the European Committee of Social Rights, in which the situation in France as regards the right to education of children and adults with autism constitutes a violation of Articles 15§1 and 17§1 whether alone or read in combination with Article E of the Revised Charter for the following reasons:

“... the Committee notes that in the case of autistic children and adults, notwithstanding a national debate going back more than twenty years about the number of persons concerned and the relevant strategies required, and even after the enactment of the Disabled Persons Policy Act of 30 June 1975, France has failed to achieve sufficient progress in advancing the provision of education for persons with autism. It specifically notes that most of the French official documents, in particular those submitted during the procedure, still use a more restrictive definition of autism than that adopted by the World Health Organisation and that there are still insufficient official statistics with which to rationally measure progress through time.

[...] it considers, as the authorities themselves acknowledge, and whether a broad or narrow definition of autism is adopted, that the proportion of children with autism being educated in either general or specialist schools is much lower than in the case of other children, whether or not disabled. It is also established, and not contested by the authorities, that there is a chronic shortage of care and support facilities for autistic adults” (para.54).

1. Takes note of the statement made by the respondent Government indicating that the French Government undertakes to bring the situation into conformity with the Revised Charter and that measures are being taken in this respect (see Appendix to this resolution);
2. Looks forward to France reporting that, at the time of the submission of the next report concerning the relevant provisions of the Revised European Social Charter, the situation has improved.

Appendix to Resolution ResChS(2004)

Information provided by the Permanent Representative of France during consideration by the Committee of Ministers of the report transmitted by the European Committee of Social Rights concerning collective complaint No. 13/2002

“1. Overview of measures taken between 1995 and 2003

The need to increase national accommodation and provision capacity for autistic persons began to make itself felt in 1995. The financial efforts expended since 1995 have now led to an **increased supply in terms of establishments and services:**

- **the remedial plan implemented from 1995 to 2000** provided for a total of FF 262 million (€ 39 940 000) in the sickness insurance budget and led to the provision of 2 033 additional places;
- **the three-year plan for children, teenagers and adults with disabilities (2001-2003)** comprised specific planning for autistic persons, which was complemented in 2002 with a proportion of the funds from the 2002 dedicated additional budget of € 20 million. Over the three years, therefore, a total of € 31 700 000 was earmarked for provision of 1 170 new places for autistic persons (situation at September 2003);
- **six resource centres** have been opened since 1999 (Montpellier, Brest, Reims, Tours, Paris and Strasbourg). These centres provide for diagnosis and assessment, information for parents and professionals, research and the running of regional networks. In this way they foster knowledge about pervasive developmental disorders and good practice in terms of screening.

2. Submission in October 2003 - ie after consideration of the case by the European Committee on Social Rights - by Mr Jean-François CHOSSY, parliamentarian, of a report to the Prime Minister on the situation of autism in France

The French Government is fully aware that lacunae subsist in the system of provision for autistic persons, despite the measures adopted under the aforementioned programmes. This is why the Government mandated a parliamentarian, Mr Jean-François Chossy, to assess the current provision for autism and to formulate a strategy to improve these arrangements.

The report on “The Situation of Autism in France”, which was submitted to the Government in October 2003, particularly stressed:

- the need to develop research;
- the need for early diagnosis and screening facilities;
- the need to intensify information and support for families affected;
- the need for training for all professionals involved, especially where early childhood is concerned;
- the need to improve support for adults suffering from autism;

- the need to increase the involvement of regional technical committees on autism;
- the need to develop autism resource centres.

3. The proposals put forward by the working group set up by the State Secretariat for Persons with Disabilities in June 2003

Concurrently, a **working group** was set up under the direction of the State Secretariat for Persons with Disabilities, comprising representatives of the departments concerned, professionals, including child psychiatrists, the main relevant associations and directors of resource centres. This group's recommendations have included:

- rewriting the 27 April 1995 Circular on specific provision for autistic persons;
- redefining the guidelines transmitted to regional and departmental administrations;
- implementing a new national programme in favour of autistic persons.

4. The immediate measures adopted by the French Government for 2004

The Government has decided to step up its efforts in 2004 to offer autistic persons and their families a whole range of solutions on the medical provision front, whereby the response can be tailored to the needs of each individual:

- the 2004 sickness insurance budget provides for **new funding of early medico-social action centres (CAMSPs)** [a minimum of one project for each region, with 22 CAMSP projects in all] in order to facilitate diagnosis and early provision for children with disabilities, including autistic children;
- **funding of places in special education and home care services (SESSADs)** has been increased to € 18 290 000, ie 50% more than originally foreseen in the three-year plan, in order to promote the integration of children with disabilities, including autistic children, into ordinary schools;
- **the number of assistants helping with the integration of disabled schoolchildren** was increased to 6 000 for the start of the 2003/2004 school year (whereas a report submitted in April 1999 to the relevant ministers by the General Inspectorates of Education and of Social Affairs noted that only half of all pupils with disabilities attended ordinary school classes, available statistics show that in 2003 two in three such children are in ordinary schools). These results will be further improved, with the level of staffing paid and managed by the National Education System increasing threefold in order to provide assistance with the integration of disabled schoolchildren;
- a budget of € 9 410 000 will be earmarked for **providing new places in medico-educational establishments and services for autistic children and teenagers**;
- **the budget for adults with serious disabilities** (€ 102 420 000, providing 2 200 new places in medical services) is to be specifically aimed at autistic persons as a public priority;
- **the average cost of a place in a medical service has been revised** in order to improve the level of assistance to persons with serious disabilities, including adults suffering from autism.

Moreover, the new Special Education Committees' information system (OPALES) will provide accurate information on the school and educational careers of such children and teenagers, enabling autistic pupils to be identified in the general school population. This system will be extended to the whole national territory during the course of 2004.

Lastly, where teacher training is concerned, the texts reforming specialised training for teachers were published at the beginning of 2004. The aim is not only to facilitate the training of more specialised teachers at primary level but also to introduced specialised training for secondary teachers. The reform will also give impetus to the nationally directed further training modules on priority fields, including autism, right from the start of the next school year.

5. Launching a new long-term action plan on autism

a) Action plan on autism

On 28 January 2004 the State Secretary with responsibility for people with disabilities, Ms Marie-Thérèse BOISSEAU, announced the adoption of a **new action plan on autism**, which provides for:

- **technological assessment of screening and early diagnosis** organised in 2004 by the National Agency for Certification and Assessment in the Health Field (ANAES);
- **promoting research** into autism;
- **support for the families of autistic persons**;

- **a general circular** aimed at improving the situation of persons suffering from an autistic syndrome or from pervasive developmental disorders and their families:
 - establishing a *national steering mechanism* run by the various ministries concerned in consultation with the representative associations and professional circles, as well as regional co-ordinators responsible for organising regional consultation;
 - *developing and diversifying the types of provision*, prioritising the principle of customising service provision;
 - *improving provision quality* by promoting small service-providers, adapting the rules on counselling, supporting professionals and improving further training;
 - *statutory support and development of resource centres on autism*.

b) Long-term amenities programme (2005-2007)

With a view to proactively meeting outstanding needs in terms of places and services for people with disabilities, it has been decided to launch a **long-term programme for the provision of new places in medico-social establishments and services** covering the period 2005-2007.

This programme will comprise **a specific strand for autistic persons** providing, over the three years in question, for:

- creating 750 new places for autistic children and teenagers;
- creating 1200 new places for autistic adults, providing specialised health care;
- on completion of the plan, opening one autism resource centre per region.

[1] Albania, Armenia, Austria, Belgium, Bulgaria, Croatia, 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.

[2] In accordance with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints the following Contracting Parties to the European Social Charter or the revised European Social Charter have participated in the vote: Albania, Armenia, Austria, Belgium, Bulgaria, Croatia, 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.