

**Doc. 11044**  
2 October 2006

## **Collective Complaint 21/2003 under the Social Charter against Belgium**

Written question No 493 to the Committee of Ministers

Reply from the Committee of Ministers  
adopted at the 974<sup>th</sup> meeting of the Ministers' Deputies (27 septembre 2006)

### **I. Written Question No. 493 by Mrs Bargholtz (Doc. 10952)**

In a decision first reported to the Committee of Ministers in January 2005 and made public in May 2005, the European Committee of Social Rights concluded in relation to Collective Complaint no. 21/2003 against Belgium that there was a violation of Article 17 of the Charter.

The Committee noted that its case-law is to the effect that the prohibition of all forms of violence must have a legislative basis. The prohibition must cover all forms of violence regardless of where it occurs or of the identity of the alleged perpetrator. Furthermore the sanctions available must be adequate, dissuasive and proportionate.

The Committee concluded that none of the provisions in the Belgian Constitution, penal law or civil law, taken together or in isolation, is set out in sufficiently precise terms to suffice to enable parents and "other persons" (such as those working with children in non-institutional childcare facilities and arrangements) to model their conduct on Article 17 of the Charter and to attain the result required by that provision.

Mrs Bargholtz

To ask the Committee of Ministers,

What action is the Committee of Ministers taking to ensure that children in Belgium are effectively protected from all corporal punishment in the home and in non-institutional childcare facilities and arrangements, as required by the Social Charter?

In view of the fact that this decision concerns the basic protection of the rights of children, whom the human rights mechanisms of the Council of Europe have recognized as particularly vulnerable, what action does the Committee of Ministers propose to take to expedite action?

### **II. Reply by the Committee of Ministers**

1. The Committee of Ministers wishes to inform the Honourable Parliamentarian that on 8 June 2005, it adopted Resolution ResChS(2005)10 in relation to Collective complaint No. 21/2003 introduced by the World Organisation against Torture (OMCT) against Belgium. In this resolution, having regard to the report transmitted by the European Committee for Social Rights (ECSR), containing its decision, in which the latter found that Belgian law does not explicitly prohibit corporal punishment of children by parents and other persons, which constitutes a violation of Article 17 of the European Social Charter, it

took note of the information communicated by the Belgian delegation during its 924th meeting (20 April 2005).

2. In the framework of the reporting system provided for under the Charter, states are invited to provide information on developments following the decision on the complaint. The ECSR will examine any developments and decide whether the situation is in conformity with the Charter.

3. Finally, the Committee of Ministers draws the attention of the Honourable Parliamentarian to the Council of Europe three-year action programme "Building a Europe for and with Children" (2006-2008), which was launched at a conference organised in Monaco in April this year. This programme aims, *inter alia*, at combating all forms of violence against children. Given that the member states of the Council of Europe have entered into numerous commitments under general human rights conventions and specific conventions on children's rights and that human rights treaties of the Council of Europe (as well as the UN Convention on the Rights of the Child) require states to prohibit and fight all forms of violence and ill-treatment of children, the programme will assist member states in fulfilling their obligations under such treaties. It will be done in particular by implementing integrated prevention policies and alerting professional circles and the general public to the problem. The programme will address all forms of violence, wherever it takes place (family, school, resident institutions, the community, media and cyberspace) with a special attention to fighting sexual abuse and corporal punishment. The programme will also focus on new forms of violence stemming from the use of the new information technologies, namely child pornography and grooming via Internet and mobile phones.