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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

DECISION ON ADMISSIBILITY

13 September 2011

Médecins du Monde - International v. France

Complaint No. 67/2011

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 252nd session attended by:

Mr Luis JIMENA QUESADA, President
Mrs Monika SCHLACHTER, Vice-President
Mr Jean-Michel BELORGEY, General Rapporteur
Mrs Csilla KOLLONAY LEHOCZKY
Messrs Andrzej SWIATKOWSKI
Lauri LEPPIK
Mrs Birgitta NYSTRÖM
Messrs Rüçhan IŞIK
Petros STANGOS
Alexandru ATHANASIU
Mrs Jarna PETMAN
Elena MACHULSKAYA
Mr Giuseppe PALMISANO
Mrs Karin LUKAS

Assisted by Mr Régis BRILLAT, Executive Secretary,

Having regard to the complaint dated 14 April 2011, registered on 19 April 2011 as number 67/2011, lodged by *Médecins du Monde – International* (“*Médecins du Monde*”) and signed by its President, Mr Olivier BERNARD, requesting the Committee to find that France is not in conformity with Articles 11, 13, 16, 17, 19§8, 30 and 31 of the Revised European Social Charter (“the Revised Charter”) read alone or in conjunction with Article E;

Having regard to the notification of the complaint to the French Government (“the Government”) on 2 May 2011 which invited it to submit observations on the admissibility of the complaint before 17 June 2011 and indicated that a lack of response by that date would be interpreted as meaning that the Government does not dispute that the admissibility requirements are satisfied. No comments had been filed as of 17 June 2011;

Having regard to the documents appended to the complaint;

Having regard to the Revised Charter, and in particular to Articles 11, 13, 16, 17, 19§8, 30, 31 and E which read as follows:

Article 11 – The right to protection of health

Part I: “Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.”

Part II: “With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

- 1 to remove as far as possible the causes of ill-health;
- 2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
- 3 to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.”

Article 13 – The right to social and medical assistance

Part I: “Anyone without adequate resources has the right to social and medical assistance.”

Part II: “With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

- 1 to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
- 2 to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
- 3 to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;

- 4 to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.”

Article 16 – The right of the family to social, legal and economic protection

Part I: “The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.”

Part II: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

Article 17 – The right of children and young persons to social, legal and economic protection

Part I: “Children and young persons have the right to appropriate social, legal and economic protection.”

Part II: “With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- 1 a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
b) to protect children and young persons against negligence, violence or exploitation;
c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family’s support;
- 2 to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.”

Article 19 – The right of migrant workers and their families to protection and assistance

Part I: “Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party.”

Part II: “With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

(...)

- 8 to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

(...)”

Article 30 – The right to protection against poverty and social exclusion

Part I: "Everyone has the right to protection against poverty and social exclusion."

Part II: "With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b. to review these measures with a view to their adaptation if necessary."

Article 31 – The right to housing

Part I: "Everyone has the right of housing."

Part II: "With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- 1 to promote access to housing of an adequate standard;
- 2 to prevent and reduce homelessness with a view to its gradual elimination;
- 3 to make the price of housing accessible to those without adequate resources."

Article E – Non-discrimination

"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

Having regard to the Additional Protocol to the European Social 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 at its 201st session and revised on 12 May 2005 at its 207th session, on 20 February 2009 at its 234th session and on 10 May 2011 at its 250th session ("the Rules");

Having deliberated on 13 September 2011;

Delivers the following decision, adopted on the above-mentioned date:

1. *Médecins du Monde* alleges that France does not respect the rights to housing, education for children, social protection and health care of Roma, mostly from countries of the European Union, living in France in extreme poverty, in violation of Articles 11, 13, 16, 17, 19§8, 30 and 31 of the Revised Charter, read alone and/or in conjunction with Article E.

THE LAW

2. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by France on 7 May 1999 and entered into force for this state on 1 July 1999, the complaint has been submitted in writing and concerns Articles 11, 13, 16, 17, 19§8, 30, 31 and E of the Revised Charter, provisions accepted by France when it ratified this treaty on 7 May 1999 and to which it is bound since the entry into force of this treaty in its respect on 1 July 1999.

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

4. The Committee also observes that, in accordance with Articles 1 b) and 3 of the Protocol, *Médecins du Monde* is an international non-governmental organisation having participatory status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints before the Committee.

5. As regards the particular competence of *Médecins du Monde* in the matters of the complaint, which is not contested by the Government, the Committee has examined the statute of the organisation and noted that *Médecins du Monde* is an organisation working for international solidarity and its mission is to provide care to the most vulnerable populations in situations of crisis and exclusion, and to draw attention to human rights violations and, more particularly, constraints upon access to health care. The Committee therefore considers that the organisation has submitted a complaint which falls within its field of competence and has thus particular competence within the meaning of Article 3 of the Protocol.

6. The complaint is signed by Mr Olivier BERNARD, President of *Médecins du Monde* who, according to Article 10 of the organisation's statute, is entitled to represent the complainant organisation. The Committee, therefore, considers that the condition provided for in Rule 23 of the Rules is fulfilled.

7. 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 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 paragraph 2 of the Revised Charter, and to make it public.

Requests the Executive Secretary to publish the decision on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 28 October 2011.

Invites *Médecins du Monde* 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 28 October 2011, should they so wish.

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 28 October 2011.



Csilla KOLLONAY LEHOCZKY
Rapporteur



Luis JIMENA QUESADA
President



Régis BRILLAT
Executive Secretary