DECISION ON ADMISSIBILITY

COMPLAINT No. 14/2003

From the International Federation of Human Rights Leagues
against France

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (hereafter referred to as “the Committee), during its 194th session attended by :

Messrs Jean-Michel BELORGEY, President
Nikitas ALIPRANTIS, Vice-President
Messrs Stein EVJU, General Rapporteur
Rolf BIRK
Matti MIKKOLA
Konrad GRILLBERGER
Tekin AKILLIOĞLU
Alfredo BRUTO DA COSTA
Ms Polonca KONCAR, Vice-President
Ms Csilla KOLLONAY LEHOCZKY
Messrs Lucien FRANÇOIS
Andrzej SWIATKOWSKI

Assisted by Mr Régis BRILLAT, Executive Secretary of the European Social Charter

Having regard to the complaint registered as number 14/2003, lodged on 3 March 2003 by the International Federation of Human Rights Leagues (hereafter referred to as “the IFHR”), represented by its President, Mr Sidiki KABA, requesting that the Committee find that France fails to apply in a satisfactory manner Articles 13§1 and §4, 17§1, E and G of the revised European Social Charter (hereafter referred to as “revised Charter”) ;

Having regard to the documents appended to the complaint ;
Having regard to the observations on admissibility submitted on 16 May 2003 by the French Government;

Having regard to the revised Charter and in particular Articles 13§1 and §4, Article 17§1, E and G which read as follows:

Article 13 – The right to social and medical assistance

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;

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

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;

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.

Article G – Restrictions

1 The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those parts, except such as are prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

2 The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints;
Having regard to the Committee’s rules of procedure, adopted on 9 September 1999 at its 163rd session;

After having deliberated on 16 May 2003;

Delivers the following decision, adopted on the above date:

1. The IFHR alleges that the introduction in the framework of the state medical assistance (AME) of a flat rate charge (ticket modérateur) and of a daily charge (forfait journalier) for in-patient hospital treatment for illegal immigrants and for nationals who usually reside outside French territory in the framework of the state medical assistance (AME), the exclusion from the Universal Medical Coverage (CMU) of minors and of “isolated minors” (les mineurs isolés) is contrary to Article 13§1 and §4 and to Article 17§1 combined with Articles E and G of the revised Charter.

2. The French Government does not contest that the complaint respects the conditions for admissibility laid down in the Additional Protocol.

3. 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 1st July 1999, the complaint is submitted in writing and concerns Articles 13§1 and §4, Article 17§1 combined with Articles E and G of the revised Charter, provisions accepted by France at the time of ratification of the revised Charter. In addition, the grounds for the complaint are indicated.

4. The Committee also observes that, in accordance with Article 1 b) and Article 3 of the Protocol, the IFHR is an international non-governmental organisation with consultative status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations which are entitled to lodge complaints.

5. The Committee considers that the IFHR submitted a complaint in a field in which it has particular competence within the meaning of Article 3 of the Protocol. It is a non-governmental organisation which aims to promote the implementation of the Universal Declaration of Human Rights as well as of other instruments of human rights protection, including the European Social Charter and to contribute to the enforcement of the rights guaranteed by these instruments.

6. Finally, the complaint submitted on behalf of the IFHR is signed by its President, Mr. Sidiki KABA, President of the Organisation who, according to the statute, represents the organisation in all civil matters and is vested with all powers necessary for that purpose. The Committee considers therefore that the complaint complies with Rule 20 of its Rules of Procedure.

7. For these reasons, the Committee, on the basis of the report presented by Ms Polonca KONCAR, 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 inform the Contracting Parties to the Charter and the revised Charter that the present complaint is admissible,

Invites the French Government to submit in writing before 30 September 2003 all relevant explanations or information.

Invites the Parties to the Protocol and the States having made a declaration under Article D of the revised Charter to the effect that they accept the procedure provided for in the Protocol, to communicate to it by the same date any observations that they wish to submit.

Invites the IFHR to submit in writing by a deadline which it shall determine all relevant explanations or information in response to the observations of the French Government.

In application of Article 7§2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27 para. 2 of the Charter and to invite them to submit any observations by 30 September 2003.

Polonca KONCAR Jean-Michel BELORGEY Régis BRILLAT
Rapporteur President Executive Secretary