

**DECISION ON ADMISSIBILITY**

**30 June 2015**

**European Committee for Home-Based Priority Action for the Child and the  
Family (EUROCEF) v. France**

Complaint No.114/2015

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 279<sup>th</sup> session attended by:

Giuseppe PALMISANO, President  
Monika SCHLACHTER, Vice-President  
Petros STANGOS, Vice-President  
Lauri LEPIIK, General Rapporteur  
Colm O’CINNEIDE  
Birgitta NYSTRÖM  
Elena MACHULSKAYA  
Karin LUKAS  
Eliane CHEMLA  
Jozsef HAJDU  
Marcin WUJCZYK  
Krassimira SREDKOVA  
Raul CANOSA USERA  
Marit FROGNER  
François VANDAMME

Assisted by Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 22 February 2015, registered on 27 February 2015 as number 114/2014, lodged by the European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) and signed by its President, Viviane Theys, requesting the Committee to find that France is not in conformity with Articles 7, 11, 13, 14, 17, 30 and 31, either alone or in conjunction with Article E of the revised European Social Charter (“the Charter”);

Having regard to the notification addressed to the French Government (“the Government”) on 30 March 2015;

Having regard to the documents appended to the complaint;

Having regard to the Charter, and in particular to Articles 7, 11, 13, 14, 17, 30, 31 and E which read as follows:

#### **Article 7 – The right of children and young persons to protection**

Part I: “Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.”

Part II: “With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;
8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.”

#### **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 14 – The right to benefit from social welfare services**

Part I: "Everyone has the right to benefit from social welfare services."

Part II: "With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services."

#### **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."

### **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 to 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");

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Having regard to the Rules of the Committee adopted on 29 March 2004 at its 201<sup>st</sup> session and last revised on 9 September 2014 at its 273<sup>rd</sup> session, ("the Rules");

Having deliberated on 30 June 2015;

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

1. The European Committee for Home-Based Priority Action for the Child and the Family ("EUROCEF") alleges that France does not fulfil its obligations under Articles 7, 11, 13, 14, 17, 30, 31 and E of the Charter towards unaccompanied foreign minors, residing irregularly or seeking asylum due to:

- problems in the process of assessing whether unaccompanied young foreigners are minors;
- shortcomings of initial reception arrangements;
- very long delays in care provision, which take no account of the vulnerability of young people and the need to satisfy their basic needs and provide them with social and educational support.

## **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 took effect in respect of that state on 1 July 1999, the complaint was lodged in writing and concerns Articles 7, 11, 13, 14, 17, 30, 31 and E of the Charter, which were accepted by France when it ratified this treaty on 7 May 1999 and by which it has been bound since the entry into force of the treaty in respect of it on 1 July 1999.

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

4. In respect of the scope *rationae personae* of the provisions invoked, the Committee recalls that it is a matter for the examination of the merits of the complaint (*European Roma Rights Centre (ERRC) v. Italy*, Complaint No. 27/2004, decision on admissibility of 6 December 2004, §§2 et 7).

5. The Committee notes that, in accordance with Articles 1 b) and 3 of the Protocol, EUROCEF is an international non-governmental organisation with participative status with the Council of Europe. It is included in the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints before the Committee.

6. The Committee has already considered that EUROCEF has particular competence for the purposes of the collective complaints procedure within the meaning of Article 3 of the Protocol (*EUROCEF v. France*, complaint No. 82/2012, decision on admissibility and the merits of 19 March 2013, § 18). It confirms this decision since no significant change has taken place.

7. The complaint, submitted on behalf of EUROCEF, is signed by Viviane Theys, the Chair of EUROCEF, who is empowered to represent the complainant organisation. EUROCEF has produced an extract from the minutes of the meeting of its Board, held in Paris on 7 February 2015, during which it charged Viviane Theys with the task of submitting the complaint.

8. The Committee considers therefore that the complaint complies with Rule 23 of its Rules.

9. For these reasons, the Committee, without finding it necessary to invite the Government to submit observations on admissibility (Article 6 of the Protocol and Rule 29§4), on the basis of the report presented by Colm O’CINNEIDE, 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 publish it on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 30 September 2015.

Invites EUROCEF 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 30 September 2015, 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 1961 Charter to make observations by 30 September 2015.



Colm O’CINNEIDE  
Rapporteur



Giuseppe PALMISANO  
President



Régis BRILLAT  
Executive Secretary