

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

**DECISION ON ADMISSIBILITY**

**12 September 2017**

***Confédération générale du travail (CGT) and Confédération française de  
l'encadrement-CGC (CFE-CGC) v. France***

Complaint No. 149/2017

The European Committee of Social Rights, committee of independent experts (“the Committee”) established under Article 25 of the European Social Charter, during its 294<sup>th</sup> session attended by:

Giuseppe PALMISANO, President  
Monika SCHLACHTER, Vice-President  
Karin LUKAS, Vice-President  
Eliane CHEMLA, General Rapporteur  
Petros STANGOS  
Birgitta NYSTRÖM  
Marcin WUJCZYK  
Krassimira SREDKOVA  
Raul CANOSA USERA  
Marit FROGNER  
François VANDAMME  
Kristine DUPATE  
Barbara KRESAL  
Aoife NOLAN

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having regard to the complaint and registered on 4 April 2017 as number 149/2017, lodged by *Confédération générale du travail* (CGT) and *Confédération française de l'encadrement-CGC* (CFE-CGC) ("CGT and CFE-CGC") against France and jointly signed by the General Secretary of CGT, Philippe Martinez, and the President of CFE-CGT, François Hommeril, requesting the Committee to find that the situation in France amounts to a violation of Articles 2§§1 and 5 and 4§2 of the Revised European Social Charter ("the Charter");

Having regard to the documents appended to the complaint;

Having regard to the Charter and in particular to its Articles 2§§1 and 5 and 4§2 which read as follows:

**Article 2 – The right to just conditions of work**

Part I : " All workers have the right to just conditions of work."

Part II : " With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake :

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduces to the extent that the increase of productivity and other relevant factors permit ; (...)"

5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;

(...)"

**Article 4 – The right to a fair remuneration**

Part I : " All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families."

Part II : " With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake :

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases ;

(...)"

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 on 29 March 2004 at its 201<sup>st</sup> session and last revised on 6 July 2016 at its 286<sup>th</sup> session ("the Rules");

Having deliberated on 12 September 2017;

Delivers the following decision adopted on this date:

1. CGT and CFE-CGC, referring in particular to the Act No. 2016-1088 of 8 August 2016 on labour, modernisation of the social dialogue and professional careers security (Official Gazette of the French Republic of 9 August 2016), called “the Labour Law”, allege that:

- on-call periods, which have not led to any effective work, continue to be assimilated to rest periods, in breach with Articles 2§§1 and 5 of the Charter;

- French legislation on the working days system still does not ensure compliance with Articles 2§1 and 4§2 of the Charter; moreover, the new legislation made the management of the working days system even more uncertain and has diminished the protection of the workers concerned;

## **THE LAW**

2. The Committee notes 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 2§§1 and 5 and 4§2 of the Charter, provisions accepted by France when it ratified this treaty on 7 May 1999 and by which it has been bound since its entry into force on 1 July 1999.

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

4. Exercising their activities in France. CGT and CFE-CGC are both confederations of trade unions within the jurisdiction of this country as required by Article 1c of the Protocol.

5. The Committee has already considered that CGT and CFE-CGC are representative confederations of trade unions for the purposes of the collective complaints procedure (CGT v. France, Complaint No. 22/2003, decision on admissibility of 9 February 2004, §5 ; CGT v. France, Complaint No. 55/2009, decision on admissibility of 30 March 2009, §6 ; CFE-CGC v. France, Complaint No. 9/2000, decision on admissibility of 6 November 2000, §7; CFE-CGC v. France, Complaint No. 16/2003, decision on admissibility of 16 June 2003, §7; CFE-CGC v. France, Complaint No. 56/2009, decision on admissibility of 29 June 2009, §6). Since no significant change has taken place, the Committee maintains its position in this respect.

6. Moreover, the complaint submitted on behalf of CGT and CFE-CGC is jointly signed by Philippe Martinez, General Secretary of CGT, who, according to Article 38 of the CGT's statutes, is entitled to represent the organisation and by François Hommeril, President of CFE-CGC, who has the legal capacity to bring or defend legal proceedings on behalf of the CFE-CGC, in accordance with Article 27 of its statutes. The Committee, therefore, considers that the complaint complies with Rule 23 of the Rules.

7. On these grounds, 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 Karin LUKAS and without prejudice to its decision on the merits of the complaint;

### **DECLARES THE COMPLAINT ADMISSIBLE**

Pursuant to Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisations 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§2 of the revised European Social Charter, and to publish it on the Council of Europe's Internet site;

Invites the Government to make written submissions on the merits of the complaint by 15 November 2017;

Invites CGT and CFE-CGC 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§2 of the Revised European Social Charter to make comments by 15 November 2017, should they so wish;

Pursuant to Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the European Social Charter to make observations by 15 November 2017.

Karin LUKAS  
Rapporteur

Giuseppe PALMISANO  
President

Henrik KRISTENSEN  
Deputy Executive Secretary