
Recommendation CM/ResChS(2026)2 Confederación Sindical de Comisiones Obreras (CCOO) v. Spain, Complaint No. 218/2022

*(Adopted by the Committee of Ministers on 17 June 2026
at the 1564th meeting of the Ministers' Deputies)*

The Committee of Ministers,¹

Having regard to Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Taking into consideration the complaint registered on 18 November 2022 by *Confederación Sindical de Comisiones Obreras* (CCOO) against Spain;

Having regard to the report transmitted by the European Committee of Social Rights (the ECSR);

Having noted that the ECSR in its decision on the merits found that the situation in Spain is in violation of the following provision of the Revised European Social Charter (the Charter):

Article 24.b of the Charter with regard to compensation for unfair dismissal

The ECSR recalled that States Parties must recognise the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

The ECSR noted that the 2012 labour law reform in Spain reduced the compensation to be paid in cases of unfair dismissal from 45 to 33 days' wage per year of service with the maximum monthly wages reduced from 42 to 24 and additional compensation was usually not awarded because the courts considered the employment law rules *lex specialis* in comparison with civil law regulations and usually rejected the requests for additional compensation submitted in accordance with the Civil Code. This is in violation of Article 24.b of the Charter.

Article 24.b of the Charter with regard to reinstatement

The ECSR noted that while Article 24.b of the Charter does not explicitly refer to reinstatement, it refers to compensation or other appropriate relief. The ECSR considered that other appropriate relief should include reinstatement as one of the remedies available to national courts or tribunals in cases of termination of employment without a valid reason.

The ECSR stated that even though reinstatement is possible under domestic law in limited cases, the domestic courts cannot assess whether it is the most appropriate option in a given case. The ECSR considered that the domestic courts should be able to assess the appropriateness of a reinstatement in consultation with the parties to the proceedings. This is in violation of Article 24.b of the Charter.

¹ In conformity with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the Deputies in their composition restricted to the Representatives of States Parties to the European Social Charter or the Revised European Social Charter participated in the vote.

Article 24.b of the Charter with regard to compensation for unfair dismissal of temporary workers hired in fraud of law

The ECSR noted that in case of unfair dismissal or dismissal of a temporary worker that is null and void, the applicable provisions are identical to those for permanent workers. In these circumstances, the ECSR considered that the same considerations apply and that the ceilings set by Spanish legislation are not sufficiently high to make good the damage suffered by the victim in all cases and to be dissuasive for the employer. The real damage suffered by the worker concerned, linked to the specific characteristics of the case, may not be appropriately taken into account, not least because the possibility of additional compensation is very limited. This is in violation of Article 24.b of the Charter.

Having regard to the response provided by Spain in which the government emphasised notably the following:

The Government of Spain has recently adopted the 2024 Annual Policy Plan, which includes the modification of relevant provisions of the Workers' Statute to establish guarantees for workers against dismissal, in compliance with the Charter, reinforcing the requirement to justify the termination of an employment relationship and eliminating the possibility of automatic dismissal of workers who suffer from sudden disabilities.

Recommends that Spain:

- pursue the efforts to ensure that the amount of pecuniary and non-pecuniary damages awarded to victims of unlawful dismissal without valid reason, including for temporary workers hired in fraud of law, is deterrent and dissuasive for the employer in order to ensure the protection of workers from such unlawful dismissals;
- proceed to review and modify the relevant legislation as provided by the 2024 Annual Policy Plan in order to ensure that compensation awarded in unlawful dismissal cases, and any scale used to calculate it, takes into account the real damage suffered by the victim and the individual circumstances of their case;
- take measures to ensure that the domestic courts are able to assess the appropriateness of a reinstatement in consultation with the parties to the proceedings;
- indicate the actions taken to comply with this recommendation in the forthcoming report on follow-up to this decision.²

² Pursuant to the decision of the Committee of Ministers adopted on 27 September 2022 (CM(2022)114-final), such a report on follow-up will be due approximately two years after the adoption of the recommendation.