REVISED EUROPEAN SOCIAL CHARTER

Statement of Arguments by the UGT

to the

Second National Report on the implementation of the ECS submitted by the Government of Spain (registered with the secretariat on 12 January 2026)

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2026 CYCLE

TABLE OF CONTENTS

1. PRELIMINARY ISSUE: LIMITING THE EXAMINATION OF THE REPORT SOLELY TO THE QUESTIONS REDUCES THE EFFECTIVENESS OF MONITORING THROUGH REPORTS, UNDERMINING THE SPIRIT OF THE REFORM

Following the submission by the Spanish Government of the Report on the Monitoring of Compliance with its legal and social commitments in relation to the first group of articles of the European Social Charter (1, 2, 3, 4, 5, 6, 8, 9, 10, 18, 19, 20, 21, 22, 24, 25, 28 and 29), the period for the submission of SUBMISSIONS by trade unions with the necessary standing to do so – such as the UGT in Spain – was opened. The deadline for submitting such SUBMISSIONS is **30 June 2026**.

There are 18 provisions affected by this system of monitoring, which stems from the reform introduced for this purpose by the Committee of Ministers, theoretically to improve the effectiveness of monitoring States' compliance with their regulatory commitments regarding the social rights enshrined in the Charter. The division into just two groups of articles/paragraphs made the system of monitoring through reports more streamlined. However, the Spanish Government has limited its report to just six articles (2, 3, 4, 5, 6 and 20).

The UGT is aware that, in practice, the new system allows the State's report to be limited to the specific questions posed by the European Committee of Social Rights (ECSR). At the same time, the questions that the compliance monitoring body may put to States are restricted. Furthermore, these questions must be approved by the Governmental Committee (which is a State body). Consequently, once the list of questions to be put to the Spanish State has been finalised (available at: https://rm.coe.int/questions-2025-eng/4880288419), the report submitted by the Spanish State provides very strict or brief answers to them.

However, this trade union wishes to emphasise, as a preliminary point, its criticism of and disagreement with this practical deviation from the reform. In line with the concerns raised by the ETUC, the European trade union confederation to which the signatory trade union belongs, the UGT wishes to state that this application of the reform may not only be unlawful but, in any case, severely undermines the practical effectiveness of the monitoring system. Formally, the system allows for the report to be examined in accordance with the division that was theoretically made, whilst also addressing the breaches identified by the CEDS in the monitoring system through collective complaints – a point of great relevance to Spain, which has accepted this system. However, in practice, only what is explicitly asked is examined; consequently, as is the case here, important legal and social issues fall outside the scope of this monitoring system, meaning that it does not provide a true and fair view of the current situation.

In the view of the trade union signing these Submissions, the practical outcome of the reform openly contradicts the spirit of the reform itself. This is for at least two reasons: one general and the other more specific, relating to the response model chosen by the Spanish Government. Namely:

1) Contrary to the stated aim of the reform of the monitoring system through reports, the actual effect is to limit the CEDS's oversight of the extent to which States effectively comply with the CSER, thereby making the monitoring task more subject to the decisions of the States.

This is a risk that is not merely possible but has already materialised in practice, and which we consider highly dangerous for the legal and socio-political effectiveness of the Social Constitution of Europe – namely the Charter – and, consequently, should be reviewed in the future. All the more so given that this 'spirit of simplification' leads to a refusal to request that Member States provide information in response to previous findings of non-compliance.

2) It is explained that the questions are based, in part, on previous issues and earlier findings of non-compliance. The report submitted by Spain highlights that the Government has confined itself to a brief, verbatim account of its laws, without providing information on actual experience.

Indeed, whilst acknowledging the "relatively limited number and scope of the questions", it is stated that "they faithfully reflect the spirit and form of the new simplified reporting procedure, and their content will allow for continuity in the reporting process". However, the reality is very different, even the opposite. The entire report by the Spanish Government consists solely of an uncritical reproduction of the wording of the relevant legal and regulatory provisions. Nothing more. There are no practical references whatsoever, and hardly any references to case law; consequently, the information provided is extremely formal and regulatory in nature, offering no real insight into the actual state of Spanish regulation and practice with regard to the provisions under review. The UGT wishes, respectfully, to bring to the attention of the CEDS the need for this type of response to be criticised, and to demand that States provide accurate, realistic information, as required, so that it may be useful when assessing the actual degree of conformity of national law with the Charter system.

This trade union's submissions have sought to conform to that limited structure, which we here question and denounce. Nevertheless, an effort has been made to include submissions on other relevant provisions of Group I, which, in the UGT's view, allow for a broader and more accurate picture of the discrepancies between the Spanish system and practice and that group of provisions. The picture and information provided by the Spanish State's report will scarcely enable the CEDS to form a reliable view of the current situation, revealing more discrepancies than those highlighted by the Spanish Government, which does not acknowledge any, as it ignores what the CEDS has stated in its preliminary conclusions.

Consequently, this type of report largely loses its meaning. This will become immediately apparent.

2. ON COMPLIANCE/NON-COMPLIANCE WITH ARTICLE 2 OF THE CSER: THE RIGHT TO FAIR WORKING CONDITIONS

2.1. Regarding the reasonable length of the daily and weekly working hours (Art. 2.1 CSER): the Spanish Government responds very generically to the questions and completely overlooks issues of health and safety at work in situations where working hours exceed the legal maximum.

The CEDS enquires about situations in Spain where, in practice, it is possible to exceed 60 hours' work per week, even though neither the law nor the collective agreement provides for this, but where it occurs in practice by 'any means'. Spain refers only to two sectors: road transport and maritime work. However, it concludes by stating that all this "is more of a theoretical possibility than a real one". To this end, it cites the collective agreement clauses on irregular working time arrangements, which are common in Spanish collective bargaining, considering that they set a limit on working hours under this arrangement.

It should be noted, however, that:

(i) Spain continues to give the same evasive answers as it has traditionally done, focusing solely on the strict legal provisions rather than on actual practice.

Although the CEDS has decided to exclude this question, it must be remembered that Spain has repeatedly been found to be in breach of the Charter's provisions on this point, and given the scant information provided by the Spanish Government, it is impossible for this situation to be resolved.

(ii) The Spanish Government fails to acknowledge that the legislative deadlock is having a critical and uneven impact across the sectors analysed in the INSST's technical study on the *'Analysis of the working conditions of professional drivers'* (based on the 6th EWCS).

The study shows that professional drivers work **more than 10 hours' worth** of overtime **per week three times as often as other groups, work almost six times as often during night shifts, work twice as often on Saturdays, and more than half do not have fixed working hours.** In the case of non-driving professionals (cleaning staff, healthcare workers, administrative staff, sales staff, legal professionals and construction workers), they work more than 10 hours a week beyond their standard working hours four times more often than the average, are three times more likely to work night shifts and work twice as many Saturdays.

(iii) However, the Spanish Government's report provides no information on what is being done to improve their health and safety in the workplace.

Indeed, in accordance with the Spanish Strategy for Health and Safety at Work 2023–2027, the Research and Information Department of the National Institute for Health and Safety at Work (INSST)—a public body the leading scientific and technical authority in Spain in this field, has produced a technical study on 'Hyperconnectivity and mental health in the workplace', which states **that the intensive use of ICT contributes to extending – even further, if that is possible – the working day beyond reasonable limits**. This excessive working time and the instability of working schedules infringe upon the right to leisure and recreation, enshrined in Article 24 of the Universal Declaration of Human Rights as the necessary counterpart to the right to work, in order to guarantee personal development and social inclusion.

(iv) Evidence of the worrying situation in Spain for these groups – where weekly working hours of 60 hours are indeed possible – is that drivers are among those groups entitled to take early retirement due to the 'arduous conditions' of their work.

Consequently, the only mechanism provided for their protection is a social benefit scheme, and a recent one at that. This means that Spain is not doing enough to comply with Article 2.1 of the CSER in relation to Article 3 of the CSER; yet, despite this, the Spanish Government has not provided any response to this specific question.

The problem is similar for seafarers. The Spanish Government merely cites the relevant legislation but says nothing further; it is therefore worrying that its response is so terse and formalistic, without addressing the practical situation. It is well known that life at sea involves long periods away from home and family. It is a way of life characterised by distance, loneliness and a renunciation of everyday life on land, in an environment where social and family isolation is not circumstantial but structural. Added to this human dimension is the inherent harshness of the maritime environment itself. Bad weather, storms, fatigue accumulated over long hours that are difficult to manage, and the uncertainty of navigation are all part of their living and working conditions.

Nor does the Government say anything about the non-application of the Decree on Special Working Hours to vessels in the maritime rescue fleet, which means, for the time being, that the regulatory provisions on hours of attendance and the extension of the working day beyond 12 hours due to force majeure—where there is a risk to human life at sea—do not apply to these workers; nor is this a viable option under Article 35.3 of the Workers' Statute, as assisting people at sea is not external to SASEMAR (Supreme Court Ruling of 20 November 2018). A regime such as that jointly established by the collective agreement and an internal memo from SASEMAR – 24 hours' time on board each day for 26.07 weeks a year, with a 37.5-hour working week in port and round-the-clock on-call duty, once the daily port shift has ended, with no possibility of refusing calls and with 20 or 30 minutes' notice to report for duty

– could be resulting in the Balearic Islands' coastguard personnel, who rescue small boats and pleasure craft, working 26.07 weeks with 24-hour shifts. Or 26.07 weeks of 168 hours. Or annual working hours totalling 4,379.76 hours, resulting in 2,553.49 hours of overtime.

2.2. Irregular distribution of working hours and on-call arrangements

We find the same evasive stance in question (point c) regarding on-call duty that does not involve actual work, but does require availability in the service of the company's interests. In its simplistic and laconic approach—characteristic of the entire Report—the Government merely states that this matter falls within the scope of collective agreements and that Spain complies with the requirements of the EU Directive, as interpreted by case law (CJEU).

However, it 'omits' the case-law of the Spanish Supreme Court (CEDS), which complements that of the CJEU. In this context, Spanish legislation and case-law undermine the concept of reasonable working hours through the doctrine of 'on-call time'. Judgments of the Supreme Court (such as those of 6 April, 18 June and 2 December 2020) rule that on-call duty not requiring physical presence does not constitute working time, thereby allowing the company to shift the operational risk onto the workforce by fragmenting their duties. This approach disregards the substantive ruling of the European Court of Social Rights (, CEDS) of 19 May 2021 (CGT and CFE-CGC v. France), which establishes that the right to reasonable working hours precludes the classification of all remote on-call time as rest time; such time must be treated predominantly as working time, particularly if the on-call duty occurs on days traditionally regarded as public holidays. Spain faces the same problem and says nothing, nor does it take any action to ensure that periods of actual on-call duty – particularly remote on-call duty – are treated as mere presence rather than time spent performing work, which results in a reduction in rest periods.

2.3. Nothing is said regarding the declaration of non-conformity in relation to the right to paid annual leave – paragraph 3 – and with regard to hazardous work and its compensatory measures

As it is not expressly asked, for the reasons briefly explained at the start of this document, the Spanish Government says nothing. However, the UGT cannot fail to point out that it is deeply worrying that the Government does not respond with due precision to the questions put to it, whilst doing nothing to rectify what it already knows to be in breach of the CSER;

- The Committee ruled that Spain was in breach of the Convention for failing to guarantee the mandatory right of all workers to take at least two weeks' uninterrupted annual leave during the year.

This breach has been confirmed by the Supreme Court itself in its judgement 1050/2025 of 12 November, in which it annulled a provision of *the 16th Collective Agreement for the hospitality sector in the Balearic Islands* that allowed companies to unilaterally set the holiday period for permanent part-time workers with a notice period of just five days.

- It also ruled that the provisions regarding compensatory measures for dangerous or unhealthy work – paragraph 4 – were non-compliant. Spanish labour law still fails to recognise compensatory measures such as a reduction in working hours or the granting of supplemen y paid rest days for dangerous or unhealthy occupations where it has not been possible to eliminate the risk.

It should be added that the CJEU judgment of 24 February 2022 (C-262/20) set out an interpretative framework which Spain deliberately ignores, by expressly recognising that, given the greater arduousness of night work, a reduction in working time is an appropriate and proportionate solution to safeguard health and safety – see also the CJEU judgment of 20 June 2024 (C-367/2024) –. Furthermore, the lack of a legal framework for a proportional reduction in the standard working day linked to the assessment of the job not only leaves staff health unprotected, but also acts as a negative economic incentive for companies, as it is more profitable for them to maintain the arduous nature of the work than to invest in risk prevention.

We shall address this issue in the arguments set out in the next article, which concerns health and safety at work, given their close connection and inexorable interaction. There, we shall highlight the significant shortcomings in the legislation and, above all, in the practice in Spain regarding these matters and, consequently, the non-compliance with the CSER.

3. ON COMPLIANCE/NON-COMPLIANCE WITH ARTICLE 3: THE RIGHT TO HEALTH AND SAFETY AT WORK

3.1. Regarding the declaration of non-compliance in relation to national policies on psychosocial risks and other emerging (climate-related) risks

The CEDS asks Spain, firstly, about compliance with regulations regarding psychosocial risks or new and emerging risks, expressly including situations linked to digitalisation (remote working and digital platforms), as well as in relation to more stressful situations. It also asks about climate-related risks.

The Spanish Government maintains that the general framework of Law 31/1995 (LPRL) and Royal Decree 39/1997 (RSP) covers, in general terms albeit indirectly, all potential risks, including therefore psychosocial and climate-related risks, without the need for further legislation. Furthermore, it considers that sufficient guides, guidelines, studies, reports, best practices, etc., have been published on these risks.

In the opinion of the union making the claim, the Spanish Government's response does not reflect reality either. Whilst the texts cited here are indeed very lengthy, they are, once again, limited to purely formal references; that is to say, **they merely refer to what should be the case in regulatory terms and to what is scientifically known to be necessary and feasible**.

However, it fails to mention that a very significant part of all this is not being complied with or put into practice. Several arguments can be put forward to support this criticism:

(i) Firstly, the rising number of sick leave cases linked to problems associated with psychosocial risks. It is an indisputable fact that a significant proportion of the increase in sick leave in Spain (which employers label as absenteeism, despite it being justified – a stance that is unacceptable both legally and socially) is due to the rise in sick leave for reasons linked to psychosocial factors. This very costly situation, in terms of both human suffering and financial cost, clearly demonstrates that psychosocial management is not being adequately addressed.

(ii) With regard to platform work, Spain has not yet transposed the EU Directive, Article 12 of which does indeed establish the obligation to include a preventive system adapted to algorithmic management with regard to psychosocial risks. Consequently, apart from purely technical and legally non-binding criteria, the Spanish regulatory framework for prevention – let alone its implementation in practice – lacks adequate measures to ensure that psychosocial prevention in general, and on digital platforms in particular, is provided with the necessary effective protection.

(iii) The Spanish Government completely fails to mention that Spain has no regulatory provision making protocols for the management of workplace bullying ( ) mandatory (although such provisions do exist for gender-based harassment). This constitutes a clear breach of ILO Convention 190, which Spain has ratified.

(iv) Clear evidence that our regulatory system lacks adequate regulatory instruments and that practice is deficient in this area is the fact that an agreement has been reached with the trade unions – but not with employers' organisations – to carry out legal reform and develop specific regulations covering both psychosocial and climate-related risks.

In short, the lack of a specific regulation mandating algorithmic transparency and health impact assessments is the direct cause of the record-breaking figure of over 3 million voluntary resignations due to the burnout resulting from this digital neo-Taylorism.

(v) Lack of preventive measures in remote working and high-intensity roles

The practical application of Law 10/2021 in the context of remote working has resulted in a worrying shift of the burden of prevention onto workers themselves. Companies are replacing objective assessments of the working environment with mere self-assessment questionnaires or simplistic information guides, leaving workforces unprotected against organisational risks.

For high-intensity or high-performance roles, the Government invokes Royal Decree 488/1997 on display screen equipment. This regulation is completely obsolete when it comes to addressing contemporary cognitive demands, constant performance monitoring and occupational burnout, treating these issues reactively as common contingencies or problems of individual psychophysical aptitude, rather than rectifying the organisation of work. Furthermore, on numerous occasions, the matter is taken to court to seek recognition of incapacity arising from work-related contingencies, such as the case decided by Las Palmas Social Court No. 5 in July 2024, concerning an airport worker suffering from burnout following work overload and marathon shifts. However, there are far more cases in which such incapacity is not recognised, despite claims by workers on sick leave due to anxiety or stress (e.g. Supreme Court of Justice of Extremadura 625/2023, 30 November; Supreme Court of Justice of Asturias 812/2024, 22 May – in the case of a self-employed worker).

(vi) Ineffectiveness of preventive measures against climate change

The government report relies on the application of Article 21 of the LPRL (serious and imminent risk) and on 'leave on climate-related grounds' as regulated in Article 37.3.g) of the Workers' Statute (ET) to provide protection against extreme climate risks. However, the reality on the ground in the labour market shows that the suspension of work or abandonment of one's post (Article 21.2 of the LPRL) is an impracticable right due to a well-founded fear of reprisals, disciplinary sanctions or dismissal. The gravity of this political inaction becomes evident when state bureaucracy is set against the scientific data from the Carlos III Health Institute (ISCIII),

Extrapolating the effects of climate change suggests that around 1,300 workers die each year in Spain from causes directly related, in this case, to heat. However, the cause for alarm is at its peak when analysing the situation in 2025, where between 16 May and 13 July alone, 1,180 deaths attributable to heatwaves were recorded, compared with just 114 deaths documented in the same period the previous year.

The so-called 'climate leave' in the face of official restrictions proves ineffective in the day-to-day reality of heatwaves or extreme weather events such as DANA, where meteorological authorities issue red or orange alerts but do not implement mandatory closures of workplaces. Measures taken by businesses remain reactive and unilateral. The publication of guidance notes by the INSST is a communication strategy that does not replace the need for automatic work bans.

There are already court rulings in Spain (Supreme Court of Justice of Castile and León, May 2026) which demonstrate how neither companies nor administrative bodies comply with regulations on air conditioning. In Spanish schools, extreme temperatures are reached without compliance with air conditioning standards, affecting both teaching staff and pupils. Several demonstrations and even strikes are highlighting this issue at present.

3.2. Regarding the statement of non-compliance in relation to health and safety regulations (digital disconnection and vulnerable groups) – paragraph 2 –

Once again, in the opinion of the union lodging the complaint, the Spanish Government is guilty of two serious shortcomings in its provision of information. Namely:

(i) it uses lengthy texts to avoid actually explaining the situation of non-compliance that exists, obscuring it with references to formally existing regulatory texts, whilst sidestepping the deficient practical situation (the CEDS follows the principle of assessing compliance with the Charter not only by reference to the literal wording of the regulation but also to its practical application).

(ii) It hides behind the existence of countless studies, reports and technical guidelines on how things should be done, even though in practice these are not followed, amongst other reasons because such guidelines and reports are not binding – if anything, they are merely 'soft law' – and not even that, as it refers to scientific articles in the Ministry's journal.

However, in the UGT's view, there is a lack of comprehensive information on the current regulatory and political situation in this area, which is precisely the issue at hand.

And what is truly worrying is that the right to digital disconnection is not actually being upheld, either in legislation or in the relevant policies. The fact is that, except where a collective agreement on the matter is in place – which is generally not the case – the **regulatory and practical situation in Spain is deficient and unsatisfactory. Once again, an attempt was made to resolve this through legislation, but that bill failed**.

The actual situation in Spain in this regard is:

(i) The right to digital disconnection – whilst legally recognised – is ineffective in practice, and regulatory protection against potential reprisals is also ineffective

Article 88 of Organic Law 3/2018 (LOPDGDD) requires digital disconnection protocols, but these have become purely bureaucratic formalities with no real impact. Given the lack of trade union representation in the vast majority of SMEs, companies unilaterally impose protocols that do not include technical measures to block servers or penalties for sending communications outside working hours.

The assertion that the law prohibits penalising or discriminating against workers for refusing to work outside their working hours is mere rhetoric. In the Spanish labour market, reprisals take subtle yet devastating forms (non-renewal of fixed-term contracts, poorer performance appraisals, stagnation in promotion or substantial changes to working conditions), where the reversal of the burden of proof is unattainable for the employee.

The severity of the lack of protection for this right is reflected in the judicial response itself, which entrenches corporate impunity through derisory compensation awards that lack any punitive effect. A prime example of this systemic failure is the Judgment of the High Court of Justice (STSJ) of Galicia 1158/2024, dated 4 March. Although this ruling is correct in doctrinal terms by explicitly recognising that the right to digital disconnection is a fundamental right, it imposes derisory sums – in this case, 300 euros – which completely negate the deterrent effect (Article 183 of the Labour Relations Act).

(ii) Occupational risk prevention in the context of domestic work, teleworkers and self-employed workers.

It is true, as the Spanish Government states, that, on paper, teleworkers have the same guarantees of protection as those who work on-site. Law 10/2021 on remote work even provides for protection in relation to ergonomic and psychosocial factors.

However, once again, the Spanish Government is merely scratching the surface of the regulatory framework. It says nothing about practical implementation or the relevant case law, sources which reveal significant shortcomings in regulation and, above all, in practical application. Indeed, in Spain, a significant number of legal disputes have arisen regarding the decisions by many major companies to adopt teleworking clauses as standard-form contracts, in which restrictions on protection are evident. In some cases, the courts are setting them aside, but in others, significant and worrying discrepancies are evident. For example, the Spanish Supreme Court does not recognise the right of these workers to ergonomic chairs unless this is expressly provided for in collective bargaining agreements, even though these workers face a higher incidence of ergonomic risks than those working on-site. By contrast, such rights are recognised for workers using display screen equipment in companies.

Nor are there any specific provisions regarding the monitoring of long working hours in this form of work, with judicial case law already recording numerous cases of workplace accidents linked to excessive working hours and prolonged online sessions. In other cases, this link cannot be proven in court due to practical difficulties, but it is very clear that there is a correlation between situations characterised by a lack of prevention and monitoring and instances of ill health or accidents.

The disconnect is far greater between what the Government claims happens in domestic work and what has actually been regulated in practice – and what is happening in the daily lives of hundreds of thousands of people in domestic work, the vast majority of whom are women. We have a Royal Decree (893/2024) regulating prevention in domestic work. However, what the Government fails to mention is that this regulation significantly undermines the preventive protection of women employed in this sector. Not only was it introduced late (two years after the commitment was made), but the tools needed to implement it (a state-funded digital platform and a protocol for managing violence and harassment) were also delayed compared to what had been planned.

Furthermore, not all domestic employers have registered on the platform, with preventative management relying heavily on SELF-ASSESSMENTS and on training whose effectiveness is not guaranteed. It is curious that, on this occasion, the Government makes no mention of the fact that most studies on this subject are highly critical of the system ultimately designed, as it constitutes, in a sense, a 'second-rate' form of prevention.

Although, of course, this does not strictly concern domestic employment, but rather home-help support staff – who do, however, work in people's homes – **the Government says** nothing **about the significant specific regulatory shortfall, and therefore the lack of practical application, regarding the Home Help Service (SAD**). Admittedly, it must be acknowledged that the Spanish Government sought to address this shortfall and, in the aforementioned Royal Decree, included a provision to strengthen psychosocial and ergonomic safeguards.

However, this has proved unsuccessful, perpetuating a structural lack of protection with a marked gender bias, leaving a predominantly female workforce exposed to extremely high levels of ergonomic and psychosocial hardship, isolation and high rates of verbal abuse. The Supreme Court declared that provision null and void on purely formal grounds, as its effects were not adequately explained in the Explanatory Memorandum (Supreme Court Judgment 1198/2025, 29 September). The Government undertook to rectify this regulatory shortcoming and to adopt a specific provision. Yet, several months after the public consultation closed, we still do not have such a provision. Consequently, the Spanish Government is delaying the resolution of a very significant problem of ergonomic and psychosocial vulnerability in a sector of great importance to our country, given the growing demand for these services, the increasing precariousness of working conditions and the sector's overwhelmingly female workforce, which creates a gender bias leading to indirect discrimination, not merely in terms of protection. The Government has the power to resolve this, as the trade unions are calling for, but it is resisting.

With regard to self-employed workers, the Government's own report explicitly acknowledges that they are formally excluded from the scope of the LPRL. Limiting their safety to an abstract 'duty of promotion' on the part of the public authorities and to the coordination of activities (Law 20/2007) perpetuates the vulnerability of more than three million professionals. This group bears the costs and risks to their occupational health alone, without a genuine public system of preventive protection.

3.3. Regarding the persistent shortcomings in Spain's system and practice concerning the supervision and effective enforcement of regulations, particularly with regard to especially vulnerable groups.

As is the case throughout this document, **the UGT** considers it necessary to denounce the evasive approach adopted by the Spanish Government in providing a comprehensive and effective response to the CEDS's questions, which, as has also been stated, already constitute

a reductive method of monitoring the effectiveness of Spain's compliance with the commitments set out in the Charter.

Indeed, the Government merely points out that it has an Independent Labour and Social Security Inspection Body (OITSS) – which is self-evident – and that this body operates, in these cases, to monitor health and safety protection for vulnerable groups through specific campaigns.

However, what the Government fails to do is:

(i) **Providing a genuine account of the effectiveness of these campaigns. It does not provide a single piece of data on their effectiveness, nor even on the actions taken** (except in the case of the letters regarding heatwaves, which are not even a requirement, merely a reminder**), whilst the reality demonstrates the blatant ineffectiveness of the specific campaigns targeting vulnerable groups**

Domestic workers and remote workers: The inclusion of this group in Line 3.4 of the 2025–2027 Strategic Plan is limited to information provision and technical assistance. The Labour Inspectorate lacks the legal authority to gain access to the private homes of both domestic employers and remote workers. Without prior judicial authorisation, supervisory work in these settings is non-existent.

Digital platforms and subcontracting: The publication in 2025 of a *Guide to Inspection Procedures for work on digital delivery platforms* or the design of automated cross-checks using the Anti-Fraud Tool does not prevent fraud. In subcontracting chains within the construction and hospitality sectors (particularly amongst chambermaids), outsourcing is used strategically to dilute the principal company's preventative responsibilities. The Labour Inspectorate acts reactively and on a case-by-case basis, penalising a lack of documentary coordination, but without eradicating the physical overexploitation that causes health problems.

Environmental and climate risks: The mass dispatch of 112,620 notifications or information letters to companies in 2025 represents an alarming bureaucratisation of inspection activities.

These automated notifications to sectors such as street trading, construction and agriculture effectively serve as a shield against liability for the Administration, but do not result in an increase in on-site visits to workplaces during the hours of greatest heat exposure.

Once again, the Spanish Government is content to state that it has guidelines covering most of these measures. However, it fails to acknowledge that the resources allocated to the ITSS remain clearly insufficient to carry out more effective campaigns, as the labour inspectors' organisations themselves have pointed out.

4. ON COMPLIANCE/NON-COMPLIANCE WITH ARTICLE 4 OF THE CSER: THE RIGHT TO FAIR REMUNERATION

4.1. The practical limitations of the concepts of work of equal value in Spanish law and case law (Article 4(3) of the CSER) in a context of various non-compliance issues, including those relating to gender, with regard to the right to fair remuneration.

It is well known that Spain continues to fail to comply with Article 4 of the CSER in several respects, as stated in numerous Conclusions of the ECSR and pending confirmation in various Decisions on the Merits, one of which is , submitted by this trade union. The aforementioned collective complaint highlights the habitual non-payment of overtime and how this affects women more severely. Given that this approach is formally excluded from these reports – something we have already criticised in this submission and denounced – and given that it is pending resolution by a substantive decision of the CEDS, we shall not dwell on it further; however, it is important to bear in mind this broader context in order to properly assess the more specific and limited issues that are actually being addressed.

With regard to the right to fair remuneration, the first question put to the Spanish Government concerns the legal and/or case-law status of the concepts of 'equal work' and 'work of equal value'. 'True' to its purely formal and legalistic response, the Spanish Government points out that Article 28 of the Workers' Statute defines what is to be understood by 'work of equal value'. The Government says nothing further. This is surprising and must be addressed by the CEDS, both in general terms – so that these reports do not end up being vacuous, useless, mere formalistic recitations of a list of lifeless rules – and specifically in relation to this matter, as it has serious consequences.

Indeed, due to practical limitations, interpretative restrictions imposed by the Spanish Supreme Court, and the failure to transpose the relevant Directive, disputes over this issue are on the rise in Spain. The deadline for EU Member States to transpose the **Pay Transparency Directive** expired on 7 June 2026. The aim is to make progress towards effectively reducing the **persistent pay gap.**
Spain has, once again, **failed** to meet **the** transposition **deadline**. Admittedly, it is well known that compliance could be enforced through the courts, thereby giving the legislation horizontal effect, given that it is unconditional in certain requirements regarding equal pay. However, this places a procedural burden on workers – in this case, women – or, more commonly, on trade unions, through collective action. Consequently, in addition to the limitations on the application of rules and instruments designed to guarantee the principle of equal pay for work of equal value, this situation of non-compliance creates legal uncertainty for businesses. The Spanish Government would therefore be well advised to comply.

We are aware that the provisions of the Charter and the monitoring of compliance with them, and those of EU law and the monitoring of compliance with it, are distinct and autonomous. However, it is no less true that there are significant elements of continuity and convergence, in accordance with the principle of indivisibility and progress enshrined in the CEDS; it is therefore clear that the regulation of this matter in Spain falls significantly short of Article 4(3) of the CSER in relation to Article E of the Charter.

4.2. The greatest limitations still lie in the measures to effectively reduce the gender pay gap, particularly in relation to part-time work.

The information provided by the Government regarding the quantifiable measures it is adopting to reduce the gender pay gap within a reasonable timeframe is also purely regulatory and formal in nature. It is particularly striking here, and extremely worrying, that the Spanish Government merely lists the two legal instruments – the pay register and the pay audit – without providing a single piece of data on how they actually operate. It merely states that the pay gap has been reduced by 1.4 percentage points.

However, it acknowledges that a key factor in the persistence of a high gender pay gap (which in turn has very significant consequences in other areas, such as gender gaps in pensions) is part-time work. This is indeed the case, but it says nothing about the problems posed in Spain by the failure to take any measures whatsoever to reduce 'involuntary' part-time work. Spain has the highest rate of involuntary part-time work in the EU and, although we in the trade unions have been calling for reform in this area and for measures to be adopted, employers' resistance to such reform is leading to the maintenance of a highly damaging status quo, as it undermines the effectiveness of any measure aimed at tackling gender pay gaps

In Spain, women continue to make up the vast majority of part-time workers. Consequently, these shortcomings in regulation and practical safeguards have negative impacts on women, resulting not only in e injustices but also in indirect discrimination. Added to this is the existence of 'complementary hours' which function as overtime, despite the fact that such hours are prohibited in this context, etc. The CEDS is therefore called upon to highlight the real, practical shortcomings of Spanish law and its application in this area, and to encourage the adoption of regulatory measures.

5. ON COMPLIANCE WITH ARTICLE 5. THE RIGHT TO ORGANISE.

5.1. On the promotion of positive freedom of association in sectors with low unionisation rates: with particular reference to domestic and agricultural work.

The Government's report confines itself to a formal description of the legal framework for freedom of association, with a single sector-specific reference relating to performers in public entertainment (Additional Provision 28 of the Workers' Statute). Consequently, it does not truly answer the questions, as it does not provide a detailed account of the legal criteria for promoting freedom of association—which entails an assessment of the situation based on various sources—but focuses solely on strictly legal aspects. The Spanish Government, therefore, fails to report with due precision on the practical state of affairs regarding an issue of such fundamental importance to a democratic model of labour relations as that promoted by the Spanish Constitution and reinforced by the Charter.

Thus:

- For example, the recognition of workers on digital delivery platforms as employees (Article 23 of the Workers' Statute) has certainly led to the signing of collective agreements in companies such as Just Eat.

However, **this does not remedy the persistent shortcomings affecting the right to organise in this and other sectors**, which hinder our practical, effective implementation through a higher rate of trade union membership – which, in turn, would result in greater collective countervailing power.

As the CEDS noted in CGIL v. Italy (2019), Article 5 of the CSE imposes both an obligation to refrain from restricting freedom of association **and a duty to guarantee its effective exercise**.

It should be noted, once again, that Spain has not yet transposed the specific Directive on work on digital platforms and that the very recent ILO Convention No. 193 on this matter is still awaiting ratification. Article 24.1 of the Convention provides that

> *"Each Member shall give effect to the provisions of this Convention, in consultation with the **most** representative organisations of employers and workers, through legislation, collective agreements, judicial decisions, a combination of these means, or in any other manner consistent with national practice*".

Consequently, new EU and international regulations require greater commitments from Member States to promote trade unions as key partners, not only in collective bargaining but also in the broader social dialogue.

In any case, whilst the focus is more on commitments relating to Article

- domestic and agricultural work continue to reveal significant shortcomings.

In the former, factors such as the inviolability of the home or the extreme fragmentation of the employer side hinder both the establishment of bodies for unitary representation and the existence of a suitable counterpart for collective bargaining. **The Supreme Court itself (Supreme Court Judgment, 4th Chamber, 386/2025, 7 May) has recently handed down a ruling which effectively shields this denial of access to collective rights such as the right to collective bargaining.**

The second sector presents similar difficulties, characterised by high levels of temporary employment and staff turnover. Article 69.2 of the Workers' Statute (ET) requires a minimum length of service of six months — reducible to three months by collective agreement — to be eligible to stand in elections, thereby excluding numerous workers on very short-term contracts.

Consequently, **it is difficult to argue that the Spanish legal system fully satisfies the positive aspect of the right to organise** guaranteed by Article 5 of the CSEr in certain sectors.

5.2. On the legal criteria for determining the recognition and representativeness of trade unions for the purposes of social dialogue and collective bargaining.

Far from imposing a specific model of representativeness, Article 5 of the ICESCR merely prohibits the legislature from hindering the exercise of freedom of association. However, the CEDS noted in its Conclusions on Serbia (2014) that the granting of exclusive powers to the most representative trade unions is only compatible with Article 5 of the ICERL when the criteria for representativeness are objective, reasonable and do not unduly hinder the effective participation of trade unions in collective bargaining.

From our perspective, Article 6.2(b) of the LOLS raises no doubts as to its compatibility with Article 5 of the CSEr, insofar as, whilst it extends the status of 'most representative trade union' to organisations affiliated to, federated with or confederated with others holding such status—thereby enabling organisations with a smaller presence in the sector to gain negotiating standing—it does facilitate trade union participation for structures that would otherwise not have it. The same assessment must be made with regard to Article 87(2) of the ET, which reserves sectoral collective bargaining — the core of trade union activity — for the most representative trade unions. In any event, as the ILO Committee on Labour Standards (CLS) noted in its Report No. 358, Unión de Uniones de Agricultores y Ganaderos (UUAG) v. Spain, Spain ensures that the distinction between organisations holding the status of 'most

representative' and those that do not provides *'the essential means to defend the professional interests of their members'.*

Thus, the apparent neutrality of the provision may, in practice, amount to a restriction incompatible with Article 5 of the CSEr.

Furthermore, certain limitations on fundamental rights, such as access to working time records—as established by the Supreme Court ruling of 28 May 2026—can undoubtedly constitute real obstacles to the effective exercise of the right to organise and to meaningful collective action by trade unions. The same applies to case law that denies access to pay information, restricting it solely to averages.

Furthermore, whilst this commentary directly concerns Article 22 of the CSER – which has also been omitted from the report due to the restrictive nature of the new monitoring model – **it must be borne in mind that Spain still lacks a law on institutional participation, which is strongly demanded by the applicant trade union.** *Although the recent Supreme Court rulings, 3rd (Contentious-Administrative) of 19 and 28 May 2026***,** *have strengthened the institutional participation of social organisations***, the fact remains that there are still shortcomings in regulation and enforcement that should be rectified.**

The CEDS should not miss this opportunity to highlight these limitations and shortcomings and to call for a regulatory commitment and a more robust framework of guarantees and incentives to ensure effectiveness

5.3. Regarding the exclusion or restriction of the right of members of the armed forces to form organisations for the protection of their interests or to join such organisations.

With regard to the right of members of the armed forces to organise, the CEDS requested that the next report provide the required information. If such information is not provided, there will be no way of determining whether the situation complies with the Charter. In response to this request, the Government merely refers to Article 28.1 of the Spanish Constitution, which empowers the legislature to limit or exclude the exercise of freedom of association with regard to the Armed Forces and armed bodies subject to military discipline. Article 5 of the CSEr itself refers the determination of the scope of these guarantees in relation to the armed forces and police forces to national legislation, without this implying absolute freedom to shape them as one sees fit.

In any event, any restriction must satisfy the three-part test derived from Article G of the Charter of Fundamental Rights of the European Union: statutory provision, pursuit of a legitimate aim and proportionality.

From this perspective, the exclusion of the right to organise from the Armed Forces (Article 1.3 of the Organic Law on the Armed Forces) is compatible with the doctrine of the European Committee on the Rights of the Soldier (ECRS) in EUROMIL v. Ireland (2017), given the requirements of military discipline and the safeguarding of national security. ***The assessment must, however, be different in the case of the prohibition applicable to the Civil Guard*** (Article 11 of Organic Law 11/2007), which, although of a military nature, primarily performs police functions, bringing it closer to the French Gendarmerie. With regard to the latter, the ECSR stated, in *CESP v. France* (2016), that, as it is "functionally equivalent to a police force, the Defence Code restricts the right to organise guaranteed by Article 5 of the Charter".

Nor are some of the restrictions imposed on the National Police Force free from criticism, such as the prohibition on membership of trade unions not composed exclusively of members of the force and on its federation with organisations outside the force (Article 8.2 of Organic Law 9/2015). This restriction is substantially similar to that examined by the ECSR in EuroCop v. Ireland (2013), where it criticised "the prohibition on police representative associations joining national employees' organisations".

In any event, it should finally be noted that the absence of a specific analysis of Articles 21, 22 and 28 of the Charter of Fundamental Rights in the Government's Reports casts a shadow over this matter, making it difficult to verify the conformity of the Spanish legal system with the requirements of the Charter. Nevertheless, account must be taken, on the one hand, of the repeated findings that the Spanish system and practice are not in conformity with Articles 21 and 22. On the other hand, Spanish law presents certain points of friction with Article 28 of the ECHR (on which there has not yet been a specific ruling by the ECSR), which should be taken into account by the ECSR in its comprehensive report, even though the Government has sidestepped the issue entirely, having not been asked directly about it, despite it being an underlying concern.

6. ON COMPLIANCE/NON-COMPLIANCE WITH ARTICLE 6. THE RIGHT TO COLLECTIVE BARGAINING.

6.1. On the current status of joint consultation (and social dialogue)

In its restrictive interpretation of a monitoring system as significant as that of state reports – now submitted no less than every four years – the CEDS first enquires about the current status of joint consultation. Although the Government's Report confuses social dialogue with collective bargaining – two instruments of the principle of collective autonomy that have very different legal natures – and, of course, the mechanisms for implementing them are also very different, with very distinct legal natures, the most significant aspect of its comments is the proper functioning of social dialogue since 2018, with particular effectiveness in managing labour reform and, prior to that, in relation to the COVID-19 pandemic (the 'social shield').

In essence, one can agree with the positive – albeit laconic – picture painted by the report.

However, where agreement cannot be reached – and where it is worth emphasising the need to make further progress in this direction, both through social dialogue and collective bargaining – is in the governance of the two transitions referred to in the question:

(i) Digital transition

(ii) Ecological transition.

Of course, these transitions have been addressed in the significant Agreement on Employment and Collective Bargaining (2023–2025), which has now expired. The significance of this agreement—which, despite being a framework collective agreement, lacks legal binding force by the parties' own decision—cannot be underestimated. However, it cannot be denied either that there are limitations to its recommendations becoming standard practice at all levels of negotiation. It would therefore be appropriate to have further legal safeguards to underpin the robustness of these contributions arising from social dialogue.

Similarly, it is worth recalling that in Spain, **SOCIAL DIALOGUE is not enshrined in law** and therefore depends heavily on the will of each government. The Committee on Freedom of Association has highlighted this on more than one occasion; we therefore need greater guarantees of robustness, so that its effectiveness does not depend on mere political will. This is a dangerous issue in the current climate of great uncertainty and political and ideological upheaval, as demonstrated in some Autonomous Communities where ideologies opposed to freedom of association and collective action have come to power. This danger is not addressed in Spanish legislation and therefore constitutes a shortcoming and a risk that must be taken into account; in the opinion of the union submitting this submission, the CEDS should reflect this adequately.

The Spanish report cites, as an example of progress in joint consultation and negotiation regarding the digital transition, a small sample of collective agreements that require information on algorithmic management**. However, it must be borne in mind that this does not strictly constitute consultation, let alone negotiation, but rather the passive provision of information to employee representatives. It is therefore understood that legislation should go further, within the framework of the consultation required by Article 6.2**. With regard to this last aspect highlighted in the collective agreement for the chemical industry, Article 10 of the agreement sets out verbatim the legal obligation — established by the aforementioned Law 12/2021 — to inform works councils of the

> 'parameters, rules and instructions on which the algorithms or AI systems affecting decision-making are based, insofar as they may have an impact on working conditions, access to employment and job retention, including profiling, with a view to assessing their impact on employment and working conditions'.

As can be seen, this involves only passive information or consultation; it is never a matter of consultation in the strict sense, let alone collective bargaining regarding the impact on employment of the decision-making process using algorithms or AI.

Furthermore, the Spanish Government's Report makes no mention of this – admittedly, it was drawn up after the report was submitted, it must be acknowledged—about the uncertainty that has arisen regarding the fate of algorithmic subordination due to the request for a preliminary ruling submitted to the CJEU by the order of the Central Court of First Instance (Contentious-Administrative Section, National High Court) of 5 May 2026 (Case No. 61/2024). This chamber casts doubt on the classification of employment relationships on digital platforms as 'labour-based', giving free rein to the platforms' strategies of creating the appearance of self-employment through new tactics, which nevertheless remain forms of subordination. However, it is well known that the CJEU does not have sufficiently precise criteria in this regard and, consequently, this gives rise to situations of legal uncertainty.

In any case, where we must be even more critical is with regard to the ecological transition. The Government has made no mention of this in its report, no doubt because, despite the will and activism of the trade unions, this issue is not easy to include in the Social Dialogue Forums, due to resistance from employers. **Proof of this is that employers' organisations have been excluded from the agreements reforming the Labour Risk Prevention Act (LPRL) and the associated regulations, which were intended to include, alongside psychosocial risks, specific provisions on climate change and its impact on occupational health.** Therefore, further guarantees and incentives from the State are needed in this area in order to make progress. The fact that it is included as a minimum requirement for collective bargaining (Article 85.1 of the Workers' Statute) does not, in itself, guarantee that joint decision-making will be implemented on an issue as crucial as the fight against

climate change. Nor do we have any regulation, whether statutory or contractual, that recognises specific representative structures for environmental management, unlike the situation in other countries (e.g. France). Consequently, green collective bargaining has remained stuck in routine clauses for years, and social dialogue on the matter is not sufficiently fluid to reach agreements – whether bipartite or tripartite – that guarantee a democratic and participatory model of governance for the ecological transition.

Consequently, a shortcoming is identified here which the Government has failed to address (agreements have only been adopted in certain sectors, such as the cement sector, but the aim is more about protecting competitiveness and promoting employment than a shared vision of the ecological transition).

6.2. What the report fails to mention – because it has not been asked directly – but which would be essential to understanding the reality of the shortcomings in Spanish law, is the persistent non-compliance with Article 6(2)

It is well known that the CEDS has concluded that Spain is not in compliance with Article 6(2) of the ECSR, for several reasons. One is that national legislation allows employers to unilaterally fail to apply the conditions agreed in collective agreements.
This issue could not be addressed by the labour reform agreed in 2021, as it was a condition imposed by the employers' organisation on the trade unions as a prerequisite for signing the agreement.

In its previous conclusions, the CEDS declared this power to be contrary to Article 6(2) of the ECSR. **However, the Government omits any reference to this objection in its report**, thereby implicitly confirming the absence of regulatory changes regarding the situation that led to the declaration of non-compliance. Admittedly, as it is not being asked, it can formally justify not responding. But we have already questioned this way of implementing the reform of the monitoring procedure through the reporting system.

We at the UGT have strongly criticised the possibility of unilaterally amending company agreements following a mere consultation period, without agreement, as

The 2021 labour reform, which was agreed upon, did manage to amend a significant aspect of the priority of company-level agreements under Article 84.2 of the Workers' Statute, namely remuneration. Other issues, however, remain unchanged. In its 2018 Conclusions, the CEDS requested that the next report provide comprehensive information on the circumstances in which a company-level agreement may take precedence over a sectoral or national agreement, and to what extent. **Neither the 2021 nor the 2026 reports provided a satisfi , with the latter merely outlining the amendments introduced by Royal Decree-Law 32/2021**.

Admittedly, this reform represented a significant step forward by removing the priority of company-level agreements on pay matters, thereby preventing the alteration of the pay conditions set out in sectoral agreements. However, fundamental issues remain.

Nor is anything mentioned regarding the CEDS's request, set out in other Conclusions, for information on the measures adopted or planned to guarantee the right to collective bargaining for self-employed workers and those who do not fit the usual definition of dependent workers. In response to the CEDS's request, the Government limits its reply to the TRADE and professional interest agreements (AIP), omitting any reference to ordinary self-employment. It is clear that the non-compliance persists **(**ICTU v. Ireland, 2018).

Nor does the regulation of TRADEs satisfy the requirements of Article 6(2) of the ECHR. The *inter partes* effect of AIPs places them outside the logic of collective bargaining guaranteed by Article 37(1) of the Spanish Constitution and the *erga omnes* effect recognised for collective agreements by Article 82(3) of the Spanish Labour Code. Added to this is the particularly restrictive conception of the TRADE, based on a 75 per cent threshold of economic dependence, which is significantly higher than the 50 per cent criterion adopted by the European Commission.

The result is a system that formally recognises scope for negotiation, but whose effectiveness falls far short of meeting the requirements of Article 6(2) of the CSEr.

6.3. The Spanish Report provides hardly any useful information on how collective bargaining is coordinated across the different levels of negotiation, the operation of the principle of favourability, or the extent to which local or company-level agreements may establish exceptions to legislation or to collective agreements agreed at a higher level.

Indeed, as always, the Government confines itself to setting out the relevant statutory provisions verbatim (Articles 82, 84 and 87 of the Workers' Statute), without any reflection, analysis or commentary, leaving in the dark the whole issue raised in current practice by the rules on the concurrence of collective agreements and their many and complex exceptions, as well as the **opt-out clauses** that remain unchanged in Article 82(3) of the Workers' Statute (the possibility of amending the regulatory content of a collective agreement through decisions by a public authority, in the absence of a prior collective agreement).
The CEDS requires information to be provided on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (for example, the decentralisation of collective bargaining). The Government's Report merely states that the only obstacle that may hinder collective bargaining in certain areas or sectors of the economy **is the lack of bargaining partners with sufficient legitimacy in that sector,** for example, due to the lack of

legal representation for workers (sectors in which high levels of temporary employment and staff turnover prevent trade union elections from being held), as in the case of performers in public entertainment.

However, there are other groups, such as domestic workers, which the Government's Report fails to mention.

Furthermore, the CEDS calls for specific details to be provided on the measures adopted or planned to address these obstacles, as well as the timeframes set for such measures and the results achieved or expected from them. The Spanish Government provides no information on this matter, presumably because it neither acknowledges that such obstacles exist – which is not true – nor has it adopted any specific, effective measures.

It merely points out that the two issues with the system arising from the 2012 labour reform – the primacy of company-level collective agreements over sectoral ones and the abolition of so-called 'ultra-activity' – have already been resolved by the 2021 labour reform, and therefore considers this to be a model that is both stable and flexible. Of course, Spain's collective bargaining model is quite effective and has a very high coverage rate (over 90 per cent).
However, a highly simplified and uncritical picture is presented of the current state of affairs regarding the general rule for coordinating bargaining units, the prohibition on conflicting agreements – giving priority to the earlier one (prior tempore) – and its various, and not always easily reconcilable, rules of exception:

- Principle of the more favourable collective agreement
- Principle of giving priority to company-level agreements in certain areas

Once again, despite the fact that the CEDS has requested precise, practical information from the Spanish Government – rather than merely being reminded of the legal texts – the report submitted appears entirely flat and descriptive, lacking any reference whatsoever to the disputes surrounding these matters. Consequently, Spanish case law is currently experiencing a period of some unease or uncertainty. Supreme Court Judgment 1281/2025 of 18 December appeared to create, through case law, a rule—undoubtedly an artificial one—to circumvent the application of the general provision of Article 84(1) of the Workers' Statute (ET), which, in practice, disrupts the complex framework governing the concurrence of agreements by forcibly introducing a criterion that gives rise to a significant degree of legal uncertainty. By contrast, Supreme Court Judgment 392/2026 of 16 April incorporated an interpretative clarification that appears to seek to restore the aforementioned general rule on the concurrence of collective agreements set out in its first paragraph (the 'prior in tempore, prior in iure' principle) in relation to company-level collective agreements.

The problem of a certain degree of interpretative instability also arises from the reform introduced in Article 84 of the Workers' Statute, which grants priority to regional collective agreements, giving them precedence even over national sectoral agreements – provided, that is, that they are more favourable than the national ones. This reform has been the subject of fierce criticism from the main trade unions, insofar as it was introduced without any social dialogue, solely for reasons of political and parliamentary expediency. This also creates a factor of uncertainty in the dynamics of industrial relations.

None of this is mentioned in the Report. Nor has the Spanish Government 'deigned to provide information on the measures adopted or planned to guarantee the right to collective bargaining for: (i) economically dependent persons (self-employed workers) who have characteristics similar to those of employed workers, and (ii) self-employed workers'. It merely refers to the agreements of professional interest for TRADE workers, a provision which, as has already been stated, does not meet the Charter's requirement for collective bargaining in this group. Consequently, the Government's Report remains entirely oblivious to these shortcomings.

6.4. On the voluntary nature of arbitration as a means of resolving collective disputes.

Paragraph 3. To promote the establishment and use of appropriate voluntary conciliation and arbitration procedures for the resolution of labour disputes.

In its preliminary conclusions, the CEDS requests information on collective disputes that may or must be referred to arbitration; the authority or authorities responsible for conducting such arbitration**;** and whether referral to arbitration is voluntary or compulsory**.** The absence of any reference in the Government's Report to the questions raised by the CEDS highlights the lack of legislative changes in this area.

Indeed, Article 82.3 of the Workers' Statute (ET) continues to provide for compulsory arbitration in proceedings concerning the non-application of working conditions agreed in a collective agreement (opt-out), thereby imposing a heteronomous solution that supersedes the outcome of collective bargaining

Its compatibility with Article 6.3 of the ECHR is questionable, as this article requires States to promote 'voluntary' conciliation and arbitration mechanisms. Consistent with this, the ECSR stated in its 2006 Conclusions on Moldova that 'any form of compulsory arbitration is contrary to this provision'. This objection is not new; in its 2023 Conclusions, the ECSR considered the power conferred on the Government by Article 10 of Royal Decree-Law 17/1977 to impose arbitration in order to end a strike to be contrary to Article 6.4 of the ESC. Against this background, it constitutes a significant step forward that Article 86.4 of the Labour

Code, following the 2021 reform, makes submission to arbitration conditional upon the express consent of the parties, in line with the principle of collective autonomy. However, the Government's Report adds nothing to this.

6.5. Collective Action. On the prohibition or restriction of the right to strike in certain sectors, and the obligation to maintain a minimum service.

In line with its previous positions, the CEDS considers that the situation does not comply with Article 6(4) of the CSEr, given that the absolute prohibition of the right to strike for certain groups, such as the police, exceeds the limits established in the Charter. However, the new Report says nothing on this matter. Once again, it confines itself to a list of situations based purely on the literal wording of the law. And although the CEDS requests that practical information be provided, including case law, the Government makes not a single practical reference, nor does it cite any court rulings.

In its report, the Government merely lists the groups for which the right to strike is restricted or prohibited, without further elaboration. The Spanish Government completely sidesteps the CEDS's question, which asks for detailed information on the current situation, including practices and case law. It merely provides the following list:
Sectors in which the right to strike is prohibited:

- **Armed Forces**
- **Civil Guard**
- **Judges, magistrates and prosecutors**
- **Members of the State Security Forces and Corps**

It is claimed that this prohibition is based on Article 28.2 of the Spanish Constitution, which recognises workers' right to strike, and the Constitutional Court has interpreted that these groups are not considered workers in the strict sense, given their essential functions in maintaining constitutional order. But this greatly oversimplifies the reality.

For example, it includes **judges and magistrates**. However, in practice, judges and magistrates have already staged several 'strikes', although the General Council of the Judiciary denies that they have done so. The result is a complete lack of legal certainty regarding this highly significant situation. The CEDS should clarify whether or not this group can be excluded from the right to strike

Nor does the Spanish Government mention that the prohibition on the right to strike imposed on members of the National Police and the Civil Guard raises serious doubts as to its compatibility with Article 6(4) of the European Convention on Human Rights, since in *EuroCOP*

v. Ireland (2013), the ECSR rejected a total prohibition on their right to collective action, requiring sound reasons to justify it. It is precisely this issue that forms the subject of Complaint No. 225/2023, *Federal Police Union v. Spain*, pending before the ECSR.

The situation regarding the Armed Forces warrants a different assessment, as in *EUROMIL v. Ireland* (2017), the ECSR considered this prohibition to be legitimate in view of the nature of military functions. In the case of judges, the acceptance of restrictions would not legitimise an absolute ban where, as in Spain, this is not expressly laid down but is inferred from the ban on trade union membership, which conflicts with the requirements of statutory provision under Article G of the European Charter of Social Rights and with the doctrine of *EUROMIL v. Ireland* (2017), which makes any restriction on the right to strike subject to specific conditions. However, as has been pointed out, the major problem is that judges already go on strike when they deem it appropriate, but outside any legal framework, acting unilaterally. Hence the need for the CEDS to clarify this issue with regard to Article 6.4 of the CSE.

The regulation of minimum services under Article 10.2 of Royal Decree-Law 17/1977 is also not without controversy. Whilst the CEDS acknowledged in USB v. Italy (2025) its legitimacy in essential sectors, it warned that an excessively broad definition could infringe upon the right to strike. This objection is particularly relevant to the Spanish legal system, whose regulations bear notable parallels with those analysed by the CEDS. However, despite there being a question on this subject, the Spanish Government's Report completely avoids addressing this issue and confines itself, once again, to reiterating that minimum services may be set by the government authority.

The Government sidesteps or glosses over the considerable controversy in Spanish practice regarding the setting of minimum services in essential sectors. Trade union challenges are constant because there is a systemic 'abusive' use of this prerogative by government authorities.

Nor does it say anything about the possibility of prohibiting or restricting strikes through interim injunctions. It fails to mention that there have already been some cases in this regard, such as that of the professional football league, where the right to interim relief took precedence over the right to strike. Admittedly, this was years ago, not in recent months, but it is clear that the possibility exists and has already been utilised.

7. ON COMPLIANCE WITH/CONFORMITY TO ARTICLE 20 (Right to equal opportunities and treatment in matters of employment and occupation, without discrimination)

With regard to this provision, the Government's Report, following the statistical bias inherent in the CEDS questions, alongside a linear or literal exposition of the regulations on equal treatment between women and men, incorporates numerical data. These figures, of course, reveal a marked improvement in gender gaps in employment, focusing primarily on quantitative rather than qualitative aspects. Once again, emphasis is placed on the existence of instruments such as Equality Plans, in respect of which no qualitative analysis or assessment of actual effectiveness is carried out. Nor is this instrument incorporated into the right to collective bargaining, despite the fact that, in Spain, these are matters that must be negotiated in companies with more than 50 employees.

The underlying reality is somewhat different from that assumed by the Government's Report. To analyse the shortcomings relating to this article, a comprehensive assessment will be carried out of the 2026 State Report on the Labour Market for Women, presented with data from 2025.

7.1. Article 20(a), concerning access to employment, protection against dismissal and professional reintegration

In Spain, there is a robust regulatory framework governing equality and non-discrimination in access to employment, particularly through the Workers' Statute (Articles 17 and 55), Royal Decree-Law 32/2021, Organic Law 3/2007 of 22 March on effective equality between women and men, and Organic Law 2/2024 of 1 August on equal representation and a balanced presence of women and men. **However, material breaches of Article 20(a) of the CSER persist, as formal equality does not fully translate into real equality of access to and stability in employment.**

With regard to access to employment, data from the SEPE show that, despite the progress made in recent years, a clear inequality between men and women continues to exist. In 2025, the female employment rate stood at 48.19 per cent, whilst the male rate reached 58.24 per cent, representing a difference of ten percentage points. Furthermore, women accounted for only 46.55 per cent of the total number of people in employment, compared with 53.45 per cent for men. Similarly, female participation in the labour market remains lower, with women making up only 47.24 per cent of the country's labour force, maintaining a gender gap which, although it has narrowed, remains significant.

As regards indirect barriers to women's entry into the labour market, the economically inactive population accounts for 57.10% of the total; amongst the causes of inactivity, domestic chores stand out, where there is a marked gender imbalance. For every man engaged in these tasks, there are approximately six women, reflecting an unequal distribution of family and domestic responsibilities.

This situation is a factor that limits women's access to and retention in employment. Furthermore, women continue to be under-represented in sectors such as industry and, in particular, construction, where their presence stands at barely 28.68 per cent and 10.32 per cent respectively.

7.2. Article 20(b), concerning the guidance and training of professionals, retraining and vocational rehabilitation.

There is clear segmentation based on educational attainment and career opportunities. In 2025, 33.44 per cent of women in employment had completed primary education or had no formal qualifications, constituting the largest group among female employees. Furthermore, the majority of female contracts continue to be concentrated in low-skilled roles, replicating a situation observed in previous years. This situation reveals that women do not have equal access to qualification, retraining and professional adaptation processes that would enable a more balanced presence in occupations with higher added value.

Added to this is the persistence of significant occupational segregation. The jobs most in demand and most commonly taken up by women continue to be linked to traditionally 'feminised' activities, such as cleaning, childcare and customer service. **This concentration in such activities highlights the existence of structural barriers that hinder a balanced distribution of men and women across all professional fields**.

7.3. Article 20(c), concerning conditions of employment and work, including pay (see Article 4 of the Charter in this regard)

Non-compliance is particularly evident in relation to conditions of employment and work. The report itself expressly concludes that

> "this group continues to be affected by a higher incidence of temporary employment and a rate of part-time work far higher than that of men, which makes equality in the workplace between the two sexes impossible".

In this regard, the profile of female members was that of a worker on a temporary part-time contract in the service sector. Furthermore, women account for 59.50 per cent of temporary memberships and 66.90 per cent of part-time memberships, percentages which highlight a situation of greater job insecurity compared to men. Indeed, this trade union has already had the opportunity to argue, with regard to Article 4 of the Charter, that unintended bias is very prevalent in Spain and that this lies at the root of a very significant part of the gender pay gap, having a notable impact on its persistence.

The same situation is reflected in recruitment. 62.92 per cent of contracts signed by women were fixed-term, whilst only 37.08 per cent were permanent. The report expressly states that female recruitment 'continued to be characterised by a higher proportion of fixed-term and

part-time contracts, which continued to place female workers in a more precarious situation than men'.

Furthermore, women account for 62.33 per cent of part-time contracts in Spain, which demonstrates an unequal distribution of contract types and greater exposure to instability and lower earnings.

As regards pay, the most recent data published in 2026 by the National Statistics Institute, relating to the 2024 financial year, put the gender pay gap in Spain at 16.1 per cent. Men earned an average annual salary of 32,057 euros, whilst women earned 26,905 euros, representing a difference of approximately 5,152 euros per year. By age, although gaps exist across all age groups, in 2023 the widest gap was found in the 55–59 age group, and the narrowest in the 25–29 age group. In general, the pay gap increases with age, reaching its highest levels in the 45–59 age group; this highlights a progressive widening of pay inequalities throughout the working life cycle.

7.4. Article 20(d) on career development, including promotion

An analysis of women's career development in Spain reveals the persistence of a structural phenomenon known as the 'glass ceiling', which limits their access to positions of responsibility, management and internal promotion, even against a backdrop of a general improvement in female employment. Firstly, data from the SEPE show significant vertical and sectoral segregation: although women account for almost half of total employment, their presence decreases significantly at levels of greater responsibility. In this regard, according to the *Women in Business 2025* report, the proportion of women in management positions in Spain stands at around 38.4 per cent, having even experienced a slight decline in recent years. Furthermore, other recent studies reinforce this conclusion.

The *Esade Gender Monitor 2025* report indicates that, although women account for more than 50 per cent of new recruits in companies, only 22 per cent reach senior management positions, highlighting a significant barrier to vertical promotion.

This stagnation is compounded by financial disincentives and biases in internal recruitment processes. Women who do manage to be promoted continue to face a pay gap of 12.9 per cent in senior management roles and 11.6 per cent in middle management compared with men. Furthermore, there is a clear perception of indirect discrimination, as four in ten women state they have been disadvantaged in promotion processes, whilst six in ten men acknowledge having been favoured in these decisions.

Finally, the lack of effective work-life balance and the burden of care responsibilities act as insurmountable structural barriers.

Women continue to account for the vast majority of part-time contracts, which reduces their availability and hinders the accumulation of the key experience required to apply for senior

positions. In conclusion, the combination of the glass ceiling, the pay gap at the top and internal biases perpetuates discrimination that prevents women from developing their professional careers on an equal footing.

8. CROSS-CUTTING ISSUE: THE REJECTION BY THE SPANISH COURTS OF THE LEGAL VALIDITY OF THE CEDS DOCTRINE AND THE AFFIRMATION OF THE PROGRAMMATIC NATURE OF THE CSER

It is the established doctrine of the European Committee of Social Rights that the European Social Charter, as a system of legal rules and guarantees, is binding not only on States, through their laws and regulations, and on the social partners, by virtue of collective bargaining, but also on the courts, through the various procedures for the interpretation and application of the law established in the States Parties. For this reason, **the UGT** considers it essential, in the case of Spain, to address **a cross-cutting issue** that affects the full legal and practical effectiveness of the Charter system: **the refusal of Spanish social case law to accord legal weight to the decisions of the ECSR, thereby reducing the Charter to a set of programmatic mandates** that would be binding only on the Government and Parliament, whilst their failure to bring Spanish law and practice into line with the Charter's mandates cannot be subject to any form of scrutiny by the national courts.

In accordance with the model of legal safeguards espoused by the European Committee of Social Rights, and in line with the case law of the European Court of Human Rights, the Revised European Social Charter cannot be assessed solely from the perspective of the formal existence of sources that formally regulate social and labour standards, including the existence of professional sources (collective bargaining) and administrative controls (ITSS). The genuine effectiveness of social rights also requires that they be backed by guarantees of effective judicial protection, a right recognised as fundamental in the Spanish Constitution (Article 24 CE) and which, in turn, reflects the right to a fair or equitable trial (Article 6 of the European Convention on Human Rights), so that when these social and labour rights enshrined in the Charter are infringed, the rights holders – whether workers, recipients of social benefits or trade unions – have access to judicial remedies that are not only accessible and efficient in securing protection, redress and enforcement without undue delay, but also ensure the application of the rules that are actually applicable.

Today, in addition to the significant delays in the protection of the labour rights enshrined in the Charter – which constitute a serious flaw in the Spanish system of judicial protection – **we must also note the Spanish Supreme Court's refusal to accord direct legal effect to the Charter and to the case law of the European Committee of Social Rights**.

The **UGT** finds the situation created in Spain by several Supreme Court rulings to be extremely worrying, as it leaves in limbo the legal and social significance not only of ratifying the European Social Charter, but also of accepting the procedure for monitoring collective complaints. **The UGT** considers it a serious failure in the application of the Charter and the doctrine of the ECSR that its highest ordinary judicial authority, Chamber IV of the Supreme Court, rejects the direct legal force of the Charter and denies even the slightest interpretative weight to the positions held by the ECSR, whether in decisions on the merits or, even less so, in its conclusions. Therefore, should this case law persist, the entire system for monitoring compliance with the Charter in Spain would be undermined; indeed, it would collapse like a house of cards.

We find this situation deeply worrying; it is comprehensive and systemic in nature and affects the principles of this Group, but also, more broadly, everyone. One question immediately springs to mind: what is the point of reporting properly on compliance or non-compliance with the provisions of the European Social Charter when its value lies solely in the political decision adopted at any given time by a government or parliament in Spain, without the courts having any power to monitor anything? Why make the effort to report in detail on the data, criteria, indicators and actual practices if, for the Spanish Supreme Court, it is sufficient merely to have a formal framework that minimally conforms to the literal provisions of the European Social Charter? This tough question is being raised across broad sectors in Spain, **which concerns us greatly and, in this trade union's view, demands an explicit statement from the CEDS highlighting the profound discrepancy between this situation and the European Social Charter.**

This is not merely a matter of the Supreme Court's refusal to accord even the slightest legal weight to Article 24 of the ECHR and to the ECSR's doctrine, which has consistently declared non-compliance; it also concerns the Council of Ministers of the Council of Europe. That doctrine already applies to all provisions, such as Article 4 of the CSER. To illustrate in practical terms this deeply troubling position adopted by the Supreme Court in Spain, let us cite Supreme Court Judgment No. 4, 294/2026, of 25 March**.** This Chamber has established the following doctrine [judgment of the Plenary Session of the Social Chamber of the Supreme Court 736/2025, of 16 July (rcud 3993/2024)]:

A) **The decisions of the CEDS are not directly applicable as they lack enforceable effect**. They cannot be binding on this Chamber in the exercise of its judicial authority.

B) **The CEDS report is addressed to political bodies, not to judges.** There is no legal mechanism in Spain to ensure that its reports and conclusions – which are always merely recommendations – are binding on the states concerned.

C) With certain exceptions, the provisions of the Social Charter are programmatic mandates directed at public authorities, the Government and the Legislature, not at the

courts, particularly where they are formulated in general terms or using indeterminate legal concepts, such as Article 24 of the Social Charter or Article 4. These provisions do not offer the necessary clarity and certainty to be binding on the courts, meaning that their application would entail legal uncertainty.

As can be seen, the Spanish Supreme Court not only undermines the ECSR's provisions and doctrine on unlawful dismissals, but does so in a general manner, affecting all provisions, both potentially and currently. **It is therefore a veritable 'Trojan horse' within the system for ensuring compliance with the European Social Charter**, because the value of the ECSR's reports, conclusions and decisions will amount to nothing more than a laudable recommendation, subject to the whims of each political decision. Indeed, depending on the government in power and the parliamentary majority at any given time (which is currently highly uncertain in Spain – as evidenced by the failure to pass the law on the reduction of working hours, agreed with the trade unions) – what the ECSR says will either carry weight or it will not.

Consequently, we regard this situation as highly dangerous and contrary to the very raison d'être of compliance monitoring systems, including those based on reporting. We therefore expressly call upon the CEDS to adopt a decision rejecting this approach and to require the Spanish n State to urgently remedy this situation, through legislative or other institutional measures, in order to correct this systemic failure to comply with the Charter, which affects the set of provisions in question here.

9. FINAL REQUEST REGARDING THE CEDS' CONCLUSIONS

In light of the reasons, data and considerations set out on the preceding pages, and in view of the foregoing, UGT submits these submissions to the CEDS regarding the Second Report presented by the Spanish Government in the 2026 monitoring cycle, and requests that the Committee, within the framework of its functions to oversee the implementation of the Revised European Social Charter, take note of these observations and acknowledge*:*

1) The persistence of situations of non-compliance with the Revised European Social Charter (RESC) as set out in these submissions, insofar as the breaches already identified in previous CEDS conclusions remain, almost in their entirety, unrectified.

2) The marked inadequacy of the information provided by the Spanish Government to demonstrate the full effectiveness of the rights recognised in the articles under review, in that the Spanish Government has confined itself to stating, in the strictest literal terms, the existence of regulatory frameworks consistent with the Charter's provisions; however, it generally fails to provide significant data on their practical application. The CEDS is respectfully urged to remind the Spanish Government that the rights enshrined in the Charter are not

symbolic or formal, but effective, with practical applicability, and require guarantees of implementation.

3) Nevertheless, as has been set out in detail, albeit succinctly and specifically, in the previous submissions, Spain continues to have regulatory shortcomings, as well as shortcomings in implementation (regarding inspectors and the widespread application of collective bargaining), which are inconsistent with the Charter.

We therefore respectfully request that the CEDS not only seek further and more precise information on this matter, but also issue statements of non-compliance, in the terms set out herein, to encourage more proactive action.

4) The need for the Spanish State to provide much more comprehensive, disaggregated and verifiable information on the matters covered by these allegations—including statistical data, inspection activities, measures adopted, results achieved and monitoring mechanisms, must not, therefore, detract from the imperative that the Spanish State adopt the legislative, administrative, inspection, preventive, budgetary and enforcement measures (judicial, administrative and through collective bargaining) necessary to effectively guarantee the labour and social rights recognised in the Revised European Social Charter.

5) The UGT also requests that the Committee take into account, as a cross-cutting issue affecting effectiveness, the shortcomings in judicial protection in Spain of the rights set out in the Charter, not only due to the structural delays in the Spanish labour courts, but also – and, in the UGT's view, very significantly – the refusal of Spanish case law to accord even the slightest legal weight to the views of the CEDS, thereby reducing its reports to mere recommendations of moral authority and relegating the rights in question to the status of a programme or political charter for governments and parliaments.

Consequently, it is in the interest of the CEDS to declare, in the appropriate terms, as has been argued in detail in the preceding submissions, the non-compliance or, alternatively, the inadequacy of the State's information in the aspects highlighted, and to require the Government of Spain to adopt appropriate measures to ensure the full and effective implementation of the Revised European Social Charter.

Madrid, 30 June 2026