EUROPEAN COMMITTEE OF SOCIAL RIGHTS
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Case-document No. 3

European Organisation of Military Associations and Trade Unions (EUROMIL)
v. France
Complaint No. 253/2025

RESPONSE FROM EUROMIL TO THE GOVERNMENT'S SUBMISSIONS ON THE MERITS

Registered at the Secretariat on 3 July 2026

European Organisation of Military Associations and Trade Unions

Brussels, Belgium
http://euromil.org/

RESPONSE TO THE GOVERNMENT'S OBSERVATIONS

complaint No. 253/2025 EUROMIL v. France

Brussels, 3 July 2026

Preliminary remarks

Registered on 20 October 2025, European Organisation of Military Associations and Trade Unions (EUROMIL) launched a collective complaint against the French Republic. EUROMIL stated that France is violating Article 5 and 6 of the Revised European Social Charter (RESC) because it prohibits professional military associations from exercising activities of a trade union, fails to promote effective joint consultations and collective agreements, appropriate machinery for the settlement of labour disputes, and prohibits professional military associations as worker's organisations from exercising the right to strike.

On 16 March 2026, the European Committee of Social Rights declared the complaint admissible.

On 26 May 2026, the French Government submitted their observation on the merits. EUROMIL received the Government's submission on 28 May with a deadline to response by 9 July.

Legal argument

Regarding Article 5 of the Revised Charter

Contrary to what Respondent states in paragraph 24 of the Observations on the merits of the French Government (hereafter, Observations), by overregulating the professional organizations of military personnel and creating a framework in which said organizations cannot function effectively, the French Government establishes a so-called blanket prohibition on the freedom of association in relation to military personnel.

Article L4121-4 (2)-(3) of the Defence Code states that *"**the existence of military professional groups with a trade union character**, as well as, except under the conditions provided for in the third paragraph, the membership of active military personnel in professional groups, **are incompatible with the rules of military discipline**. Military personnel may freely create, join, and exercise responsibilities within a **national professional association** of military personnel governed by Chapter VI of this title."*

EUROMIL argues that it is important to distinguish professional associations from trade unions to understand the implications of "professional associations with a trade union character" which is referred to in the French legislation. Trade unions

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have the right to sign legally binding collective agreements which are the product of collective bargaining and formal social dialogue, meanwhile professional associations are functioning primarily as consultative bodies without any real negotiating power.

Respondent in paragraph 30 of the Observations underlines that *"no association, union, or federation has, to date, met the additional representativeness requirements (…) even though the representativeness threshold was set very low (1% of personnel represented)".*

In this regard, EUROMIL reaffirms that according to Article R4126-7 of the Defence Code, to be considered representative and to sit on the CSFM, APNMs' members must come from **at least three branches** of the armed forces [army, navy, air and space force, and national gendarmerie], and **at least two of the support services** and organizations, which cannot be framed as "low threshold". EUROMIL notes that a constant and total structural failure for more than ten years after the 2015 reform cannot be dismissed as "a single circumstance".

Furthermore, Recommendation No. 10 of the French National Assembly's National Defense and Armed Forces Commission's Information Report No. 1152 of 19 March 2025 on Recruitment and Retention[1]: winning the battle for human resources in the Ministry of the Armed Forces states *"Reform the system of representation of military personnel."* According to the Rapporteurs, *"**the criteria for an APNM to be represented on the CSFM**, which are distinct from the criteria for an APNM to be representative, **are so complex** that, to date, no APNM is represented on the CSFM. The coexistence of this system of representation, in a relatively competitive manner, **undermines the legitimate aspiration of military personnel to be properly represented**, while they are already constrained in this respect by the legal framework (the creation of the APNM being, moreover, the result of litigation brought before the ECHR)."*

In paragraphs 37 and 38 of the Observations, Respondent declares that National Professional Military Associations (hereafter, APNMs) can only form unions and federations amongst themselves based on Article L4126-6 of the Defence Code.

Article 5 of the ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize declares that *"workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers."*

Paragraph 5 of Part I of the RESC states that *"all workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests."*

[1] Information Report No. 1152 of 19 March 2025 on Recruitment and Retention, Link

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Article 5 of Part II of the RESC expresses that *"with a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations,* ***the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom****."*

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

According to the Council of Europe[2], Article 11 (2) of the European Convention on Human Rights (ECHR) contains three requirements for an interference: it must be in accordance with the law, pursue a legitimate aim and necessary in a democratic society. Necessary means that "*the government has to establish that there was a* ***"pressing social need"*** *for the interference and that* ***it was proportionate to the aim pursued****."*

EUROMIL argues that the limitations set out in Article G, namely "prescribed by law" and "necessary in a democratic society" are conditions that are must be fulfilled together, as the conjunctive term "and" between them creates a joint requirement. By legislatively isolating APNMs, France deprives them of any autonomous logistical support, independent funding capacity and shared legal expertise, essential for defending their members.

EUROMIL notes that Respondent did not provide sufficient legal argument to prove that there was a pressing social need for the restriction on the right to establish and join federations and confederations, and that the limitation was proportionate to the aim pursued, thus the prohibition conflicts with Article 5 of the RESC.

Regarding Article 6 of the Revised Charter

In paragraph 29 of the Observations, which is reaffirmed in paragraph 55, Respondent notes that *"****recognized representative APNMs*** *are also* ***entitled to participate*** *in the dialogue* ***organized at the national level by the Ministers*** *of Defense and Interior, as well as by the military authorities, on general issues concerning the military condition."* Furthermore, Article L4126-9 (2) of the Defence Code states that APNMs "***may request to be heard*** *by the Committee on any general issue concerning the military condition."*

[2] Council of Europe: ECHR Toolkit for professionals, Articles 8-11. Link

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In paragraph 56 of the Observations, Respondent states that *"French law guarantees the existence of permanent consultation and dialogue bodies, as well as the participation of **representative APNMs** in this dialogue."*

EUROMIL recalls Respondent's words in paragraph 47 of the Observations, namely, *"the Committee has further clarified, in the military context, that **representative associations** must be recognized as interlocutors in social dialogue and be able to participate in it to an appropriate extent",* and notes that in paragraph 68 of the referenced Decision (Complaint No. 199/2021), the Committee considered that *"under Article 6§1 **military associations** should be recognised as social partners and be enabled to participate to an appropriate extent in social dialogue and consultations."*

EUROMIL notes that social dialogue means meaningful and equal participation in the consultation of employers and workers on issues of common interest relating to economic, employment and social policy. Furthermore, based on the wording of the Committee's assessment in the abovementioned case, the Committee didn't distinguish representative associations from non-representative associations, it declared that *"military associations should be recognized as social partners".*

In addition, EUROMIL reaffirms its claim, namely that Article R4126-6 of the Defence Code sets **hardly achievable requirements to be recognized** as a representative association, however, based on Respondent's statement, to be recognized as interlocutors in social dialogue, an association must be representative.

Contrary to Respondent's argument in paragraph 55 of the Observations, the conditions to access the High Council of the Military Function (hereafter, CSFM) and the requirements to be a representative association are depriving military personnel of any effective consultation.

In this regard, EUROMIL notes that Respondent in paragraphs 14, 16, 29, 56, 63 and 64 of the Observations repeatedly reaffirms that to be invited to speak before the High Committee for the Evaluation of the Military Condition (hereafter, HCECM), to participate in consultation and social dialogue in CSFM, to participate in the dialogue organized by the Ministers of Defence and Interior, as well as by the military authorities, to gain allocated time credit (based on ministerial instruction of 24 July 2019) and substantial subsidies, **APNMs must be recognized**.

Regarding Article 6 (2) of RESC, Respondent states in paragraph 65 of the Observations that *"the determination of essential conditions of service is primarily governed by legislative and regulatory standards"* and there are no *"collective agreements, as defined by general labour law"*.

EUROMIL notes that collective bargaining requires a joint mechanism aimed at negotiated and contractually binding outcomes for both parties. Within the CSFM

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or during hearings before the National Assembly's Defence Committee, military representatives have no co-decision-making power. At no stage does any mechanism exist allowing the APNMs to compel the command to sign a legally binding collective agreement on for example, remuneration, rest periods or working conditions. Therefore, the State's unilateral power remains absolute.

Article 6 (3) of RESC declares that with the aim ensuring the effective exercise of the right to bargain collectively, the Parties undertake to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes. However, there is no appropriate mechanism established (e.g. possibility of prior conciliation attempt, dedicated courts for disputes between military personnel and the State, appellate body), therefore, in case of dispute, APNMs cannot submit complaints on the concerning issue to the dedicated juridical body, **they must file a complaint to the Council of State to proceed amendments of a law or decree**. The administrative judge validates or annuls a regulatory act; they do not reconcile or arbitrate economic and social interests, nor can they resolve a deadlock in collective bargaining. The French system is entirely devoid of a joint mechanism for resolving collective disputes.

Regarding Article 6 (4) of RESC, EUROMIL notes that on 21 May 2026, the International Court of Justice in its Advisory Opinion confirmed that **the right to strike is protected under ILO Convention No. 87.** Article 9 of the Convention extends its scope to the armed forces and notes that restrictions may be imposed by national laws or regulations.

EUROMIL recalls that restrictions on the right to strike may be acceptable under specific circumstances and conditions, namely when social dialogue and the right of collective bargaining are sufficiently organised and effective which was reaffirmed in paragraph 94 of Decision on the merits in Complaint 199/2021.

Conclusions

EUROMIL in the light of the circumstances set out above, to guarantee the positive implementation of the Revised Charter in France and to protect military personnel, asks the European Committee of Social Rights, acting within the scope of its competence to find that France is violating Article 5 and 6 of the European Social Charter.

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