



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**

**DECISION ON ADMISSIBILITY**

**3 July 2019**

***Confédération Générale du Travail (CGT) v. France***

Complaint No. 171/2018

The European Committee of Social Rights, a committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 307<sup>th</sup> session attended by:

Giuseppe PALMISANO, President  
Karin LUKAS, Vice-President  
Eliane CHEMLA, General Rapporteur  
Petros STANGOS  
József HAJDU  
Krassimira SREDKOVA  
Raul CANOSA USERA  
Barbara KRESAL  
Kristine DUPATE  
Aoife NOLAN  
Karin Møhl LARSEN  
Yusuf BALCI  
Ekaterina TORKUNOVA  
Tatiana PUIU

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having regard to the complaint registered on 7 September 2018 as No. 171/2018, lodged by the *Confédération Générale du Travail* (CGT) against France and signed by its Secretary General, Philippe Martinez, requesting the Committee to find that the situation in France amounts to a violation of Article 24 of the Revised European Social Charter (“the Charter”).

Having regard to the documents appended to the complaint;

Having regard to the Charter and, in particular, to its Article 24 which reads as follows:

**Article 24 – The right to protection in cases of termination of employment**

Part I: “All workers have the right to protection in cases of termination of employment”.

Part II: “With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;

b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.”

Having regard to the 1995 Additional Protocol to the European Social Charter providing for a system of collective complaints (“the Protocol”);

Having regard to the Rules of the Committee adopted on 29 March 2004 at its 201<sup>st</sup> session and last revised on 26 January 2018 at its 297<sup>th</sup> session (“the Rules”);

Having deliberated on 3 July 2019;

Delivers the following decision adopted on this date:

1. The CGT alleges that Order No. 2017-1387 of 22 September 2017 on the predictability and increased security of employment relationships amended the Article L.1235-3 of the French Labour Code relating to financial compensation for dismissals without a valid reason, by setting mandatory compensation ranges, according to the employee’s length of service and the undertaking’s size. The CGT claims that these provisions of the Labour Code as amended in 2017 constitute a violation of Article 24 of the Charter in that they deprive employees who are dismissed without a valid reason of the right to adequate compensation or appropriate relief, and in that they do not guarantee a right of effective remedy against the unlawful dismissal. The CGT further claims that compensation for damage no longer fulfills its deterrent function with the employer.

2. The Government of France (“the Government”) was invited to present observations on admissibility of the complaint, if it so wished, by 19 October 2018. No observations were registered.

## **THE LAW**

3. The Committee notes that in accordance with Article 4 of the Protocol, which was ratified by France on 7 May 1999 and entered into force for this State on 1 July 1999, the complaint has been submitted in writing and concerns Article 24 of the Charter, a provision accepted by France when it ratified this treaty on 7 May 1999 and by which it has been bound since its entry into force on 1 July 1999.

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

5. Exercising its activities in France the CGT is a confederation of trade unions within the jurisdiction of this country as required by Article 1 (c) of the Protocol.

6. The Committee has already considered that the CGT is a representative confederation of trade unions for the purposes of the collective complaints procedure (CGT v. France, Complaint No. 22/2003, decision on admissibility of 9 February 2004, §5; CGT v. France, Complaint No. 55/2009, decision on admissibility of 30 March 2009, §6; CGT and CFE-CGC v. France, Complaint No. 149/2017, decision on admissibility of 12 September 2017, §5; CGT v. France, Complaint No. 154/2017, decision on admissibility of 23 January 2018, §5; CGT v. France, Complaint No. 155/2017, decision on admissibility of 23 January 2018, §5). The Committee maintains its position in this respect.

7. The complaint submitted on behalf of the CGT is signed by Philippe Martinez, General Secretary of the CGT, who, according to Article 38 of the CGT’s Statutes, is entitled to represent the organisation. The Committee, therefore, considers that the complaint complies with Rule 23 of the Rules.

8. On these grounds, the Committee, on the basis of the report presented by Barbara KRESAL and without prejudice to its decision on the merits of the complaint,

## **DECLARES THE COMPLAINT ADMISSIBLE**

Pursuant to Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the States having submitted a declaration pursuant to Article D§2 of the Charter, and to publish it on the Council of Europe’s Internet site;

Invites the Government to make written submissions on the merits of the complaint by 6 September 2019;

Invites the CGT to submit a response to the Government's submissions by a deadline which it shall determine;

Invites parties to the Protocol and the States having submitted a declaration pursuant to Article D§2 of the Charter to make comments by 6 September 2019, should they so wish;

Pursuant to Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the 1961 Charter to make observations by 6 September 2019.



Barbara KRESAL  
Rapporteur



Giuseppe PALMISANO  
President



Henrik KRISTENSEN  
Deputy Executive Secretary