EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

16 February 2017

Case Document No. 1

***Fédération FIECI* and *Syndicat SNEPI CFE-CGC* v. France**
Complaint No.142/2017

COMPLAINT

Registered at the Secretariat on 23 January 2017

Department of the European Social Charter and the European Code of Social Security
Directorate General of Human Rights and the Rule of Law
Council of Europe
67075 STRASBOURG CEDEX

Paris, 23 January 2017

COMPLAINT OF A VIOLATION OF THE REVISED EUROPEAN SOCIAL CHARTER

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

THE APPLICANTS:

The *Fédération de syndicats des métiers de l'ingénierie, de l'informatique, du conseil, de la formation, des bureaux et d'études* (FIECI), whose headquarters are located at 35, rue du Faubourg Poissonnière (75009) PARIS**,** in the person of its legal representative, domiciled in this capacity at these headquarters.

The *Syndicat National de l'Encadrement du Personnel de l'Ingénierie* (SNEPI CFE-CGC), whose headquarters are located at 35, rue du Faubourg Poissonnière (75009) PARIS, in the person of its legal representative, domiciled in this capacity at these headquarters.

Acting through:
Mr Jérôme BORZAKIAN
Lawyer at the Paris Bar – Toque G242
27, rue de Lisbonne – 75008 Paris
Tel: 01 42 25 03 15 / Fax: 01 40 75 09 80

THE HIGH CONTRACTING PARTY:

The French State (France)

FOR THE INCORRECT APPLICATION OF ARTICLE 5 OF THE EUROPEAN SOCIAL CHARTER

The FIECI and the SNEPI CFE-CGC have the honour of presenting you with the following collective complaint, lodged on the ground that, in its view, French legislation fails to comply with the provisions of the European Social Charter.

I. THE ADMISSIBILITY OF THE COMPLAINT

Firstly, the complainant federation and trade union would like to show that the European Committee of Social Rights has jurisdiction to hear their complaint.

On 5 May 1949, France became one of the ten founding members of the Council of Europe.

On 7 May 1999, France ratified the revised European Social Charter of 5 March 1998 without any reservation and therefore found itself bound by all of its articles.

In addition, on the same date, France ratified the Additional Protocol to the European Social Charter of 9 November 1995 providing for a system of collective complaints.

The purpose of the protocol is to strengthen oversight of member states by means of a collective complaints system that is more effective than one based solely on annual reports prepared and submitted by the states party. Both texts came into force on 1 July 1999.

It has therefore been possible to lodge collective complaints with the European Committee of Social Rights since that date.

Article 1 c. of the Additional Protocol of 9 November 1995 entitles "representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint" to submit complaints alleging a failure to meet the requirements of the Charter.

Accordingly, the Protocol grants representative trade unions the right to bring actions before the European Committee of Social Rights.

Articles 22, 23 and 24 of the Rules of Procedure of the European Committee of Social Rights, adopted on 29 March 2004 and revised on 12 May 2005, state that complaints must be submitted to the Executive Secretary acting on behalf of the Secretary General of the Council of Europe, that they must be drafted in one of the Council of Europe's official languages, which includes French, and that they must be signed by the person or persons with competence to represent the complainant organisation.

The federation, the FIECI, and the trade union, the SNEPI CFE-CGC, which are the complainants, are unquestionably representative trade unions at national level and meet the conditions set by Article 1.c. of the Protocol of 9 November 1995.

In this connection, it should be noted that the Committee considers that representativeness within the meaning of Article 1§c of the Protocol is an **autonomous concept**, not necessarily identical to the national notion of representativeness (see, in this respect, ***Confédération française de l'Encadrement (CFE-CGC)* v. France, Complaint No. 9/2000, decision on admissibility of 6 November 2000, §6** and ***Confédération Générale du Travail Force Ouvrière (CGT-FO)* v. France, Complaint No. 118/2015**).

A trade union can be considered representative for the purposes of the collective complaints procedure **if it exercises, in the geographical area in which it is based, activities in defence of the material and moral interests of personnel in a given sector, of which it represents a considerable number, and this in total independence from the employing authorities (see in this respect, *Syndicat occitan de l'éducation* v. France, Complaint No. 23/2003, decision on admissibility of 13 February 2004, §5)**.

The Committee came to a similar finding in its decision on **Unione Italiana del Lavoro U.I.L. Scuola – Sicilia v. Italy, Complaint No. 113/2014, §11**.

It should be noted in this respect that the SNEPI (**Document No. 1: Statutes of the union**) is a member of the FIECI.

The FIECI is a federation of trade unions (**Document No. 2: Statutes of the Federation**), governed by the provisions of Articles L.2111-1 et seq. of the Labour Code and its purpose is to bring together engineers, management staff, foremen and technicians exercising functions involving responsibility, command and initiative; **it is affiliated to the Confédération Française de l'Encadrement (CFE-CGC)**.

In this connection and by extension, it should be stressed that the Committee has always declared admissible complaints submitted by the CFE-CGC, which is thus clearly recognised as being qualified to do so (**see the Committee's decisions of 9 November 2000 on Complaint No. 9/2000 and 16 June 20003 on Complaint No. 16/2003**).

This complaint has been signed by **Monsieur Michel de la Force**, who is the person authorised by the organisation's statutes to give undertakings on behalf of the Federation and by **Monsieur Jean-Louis PORCHER**, who is also authorised by the statutes to give undertakings on behalf of the SNEPI CFE-CGC trade union.

In all respects, therefore, this complaint is admissible.

II. THE VIOLATIONS OF THE CHARTER

A- The revised European Social Charter

On this matter, it should be pointed out, with regard to trade union representation, that it was the intention of European lawmakers, particularly through the revised European Social Charter but also through the European Convention on Human Rights, to do everything possible to ensure **both the freedom to join a trade union but also to ensure that such organisations were fully representative**.

Accordingly, Article 5 of the revised European Social Charter (the revised Charter) is worded as follows:

> "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**. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations."

Article 11 of the European Convention on Human Rights also makes it clear that:

> "Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
>
> No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

B- <u>French domestic law</u>

In French domestic law, Article 8 of the preamble to the Constitution of 27 October 1946 provides:

> "Every worker shall participate through his/her delegates in the collective settlement of working conditions and in corporate management".

It is also stated in the Law of 20 August 2008 that every representative trade union within a company or establishment of fifty or more employees which sets up a trade union branch must appoint one or more trade union representatives to represent it in dealings with the employer from among the candidates in workplace elections who have received at least 10% of the votes cast in the first round of the last elections for the works council, the single staff delegate or the staff delegation, irrespective of the number of voters, within the limits set by Article L. 2143-12.

These provisions were taken from **Article L. 2143-3 of the Labour Code**, which provides as follows:

> "Each representative trade union in a company or an establishment with fifty employees or more, constituting a trade union branch, shall appoint one or more trade union representatives to represent it in dealings with the employer from among candidates to the workplace elections, who have received, in their personal capacity and in their category, at least 10% of the votes cast in the first round of the last elections for the works council, the single staff delegate or the staff delegation and irrespective of the number of voters, although within the limits set by Article L. 2143-12, .
>
> If none of the candidates put forward by the trade union for workplace elections satisfies the conditions set out in the first paragraph above or if there is no longer any candidate to the workplace elections in the company or establishment who satisfies these conditions, a representative trade union may appoint a trade union representative from among the other candidates or, failing that, from among its members within the company or establishment.
>
> A trade union representative may be appointed once the minimum staff number of fifty has been attained for twelve months, whether successive or not, over the last three years.
>
> An appointment of this type may be made within an establishment bringing together employees under the management of a representative of the employer and constituting a workforce with its own interests, liable to give rise to joint and specific claims."

Accordingly, the Law of 20 August 2008 added extra requirements for the appointment of a trade union representative, stating that the **representative must now be chosen from among candidates who stood at the last workplace elections and received at least 10% of the votes cast in the first round irrespective of the number of voters,** this score being calculated solely in relation to the category in which his or her candidature was registered, the understanding being that what counts is the candidate's personal score.

Therefore, it has been found that as soon as a trade union has candidates who have received at least 10% of the votes cast in the first round, the trade union is obliged to pick its representative from among these (Court of Cassation, Social Affairs Division (*Cass. Soc.*) 29 June 2011, No. *10-60394*).

III. THE FACTS

On 28 May 2013, a pre-electoral agreement was drawn up with a view to appointing a works council (**Document No. 3 – Pre-electoral agreement**) and staff representatives within the social and economic unit ENERGIES NOUVELLES.

The SNEPI CFE-CGC presented two candidates at the workplace elections, Mr Miani and Mr Bailet, both of whom received over 10% of the votes cast in their electoral college (**Document No. 4 – Official results of the elections**).

As this meant that the trade union was representative within the social and economic unit, they were offered the post of trade union representative.

However, both candidates explicitly refused to perform such functions (**Document No. 5 – the 2 withdrawal letters**).

Following these withdrawals, to which the persons concerned undoubtedly have the right, the trade union was forced, for want of any other candidates satisfying the requisite conditions, to appoint one of its members as trade union representative, namely Mr Bruno Lecaille, whose "candidature" was supported by the two candidates who had withdrawn.

It was under these circumstances that on 13 April 2015, the companies EDF ENERGIES NOUVELLES, EDF EN SERVICES, EDF EN OUTRE-MER, EDF EN FRANCE and EDF EN DEVELOPPEMENT considered it justified to bring an action before the Puteaux district court to set aside Mr Bruno Lecaille's appointment as trade union representative of the SNEPI CFE-CGC within the economic and social unit EDF ENERGIES NOUVELLES.

In a judgment of 24 June 2015, the Puteaux district court exceptionally found the appointment of Mr Bruno Lecaille to be unlawful and set it aside accordingly (**Document No. 6 – Puteaux district court judgment of 24/06/2015**).

In response, Mr Bruno Lecaille and the SNEPI CFE-CGC **lodged an appeal in cassation.**

In a judgment of 24 May 2016 (No. 15-21410), the Court of Cassation rejected the appeal in the following terms:

> "However, whereas the obligation imposed by Article L. 2143-3 of the Labour Code on representative trade unions to choose their trade union representative firstly among candidates who have obtained at least 10% of the votes is not incompatible with any prerogative inherent in freedom of association and in attempting to ensure that the employees themselves determine which persons are most capable of defending their interests in the company and negotiating on their behalf, it does not constitute any arbitrary interference in trade union operations;
>
> Whereas having found that the SNEPI CFE-CGC had candidates who had obtained 10% of the votes cast in the first round of the last workplace elections, the district court, which was not expected to carry out an investigation into the fraudulent nature of these candidates' withdrawal and was not asked to do so, inferred precisely from this that the trade union could not rely on the provisions of Article L. 2143-3, paragraph 2, of the Labour Code to appoint a trade union representative who did not meet the criteria set out in paragraph 1 of the same article" (**Document No. 7 Judgment of the Court of Cassation of 24/05/2016**)

It is in this context that the SNEPI CFE-CGC and the FIECI have decided to submit a complaint today to the European Committee of Social Rights (ECSR) calling on it to declare that the aforementioned provisions and their application by the French courts breach the terms of Article 5 of the revised European Social Charter.

As will be demonstrated below, it is clear that, in considering that an employee who is a member of a trade union could not be appointed as a trade union representative in cases where previously appointed employees had withdrawn without leaving the company, the Court of Cassation had substantially infringed the provisions of the European Social Charter.

In the instant case, the question was whether the trade union had the possibility of being represented by a union representative, in other words to appoint another of its members <u>if the trade union representatives previously appointed had expressly withdrawn from their functions and there were no other candidates who had received 10% or more of the vote</u>.

In this respect and pursuant to Article L. 2143-3 of the Labour Code, France's courts have believed it necessary to find that it is **only when such elected representatives have <u>left the company</u>** that the trade union is authorised to extend its choice, as the trade union no longer materially has any candidates capable of legally performing the function of trade union representative (*Cass., Soc., 27.02.2013, No. 12 -18828*)
It was in this context that, when setting aside the appointment of Mr Bruno Lecaille as trade union representative within the economic and social unit EDF ENERGIES NOUVELLES, the Puteaux district court noted, firstly, that:

> "from the point at which a trade union has candidates who have received 10% or more of the votes cast during the first round, it is obliged to appoint a trade union

representative from among these" and, secondly, that "it is only when these elected representatives have left the company that the trade union is allowed to broaden its choice" bringing it to the conclusion that "the Syndicat National de l'Encadrement du personnel de l'Ingénierie (SNEPI - CFE-CGC) did not have the right to appoint Mr Bruno Lecaille instead of his colleagues, who satisfied the legal conditions and were still members of the company's staff".

In other words, the Puteaux district court and, even more so, the Court of Cassation, in rejecting the appeal against its decision, found that because the employees initially appointed had not left the company's staff, although they had refused to accept the appointment, the trade union could not appoint as a trade union representative another employee who had not received 10% of the votes in his name, thus depriving the trade union of any representation within the economic and social unit.

However, in a specific case where the trade union no longer had, within the company or establishment, a candidate to the workplace elections who had received a sufficient percentage of the votes, the Court of Cassation found that a mere member could be appointed in place of the candidates put forward for the workplace elections by the trade union.

As the trade union had presented candidates in accordance with the appointment criteria, the priority principle could not have the intention or the effect of depriving the representative trade union of the right to have a representative (*Cass. Soc., 27 February 2013, Bull V Nos. 65 and 66*).

Yet, it is precisely this question of the possibility for the trade union to exercise the right to have a representative which is at issue here.

In this respect, it should be pointed out – once again – that with regard to trade union representation, it was the intention of European lawmakers, particularly through the revised European Social Charter but also through the European Convention on Human Rights, to do everything possible to ensure both the freedom to join a trade union but also to ensure that such organisations are fully representative.

Accordingly, Article 5 of the revised European Social Charter reads as follows:

> "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**. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations."

Article 11 of the European Convention on Human Rights also makes it clear that:

> "Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
>
> No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Consequently, doing as the Court of Cassation has done, and interpreting the provisions of Article L. 2143-3 of the Labour Code in an excessively restrictive manner as preventing a trade union objectively faced with the refusal of candidates which it has presented and have obtained 10% of the votes cast to be appointed as trade union representatives from appointing one of its members, clearly and objectively constitutes an unjustified and disproportionate infringement of the substance of the fundamental principles cited above.

For it is true that for the trade union, the effects of it being impossible for it to appoint one of its candidates are objectively the same whether they have left the company or refuse to be appointed.

To claim the contrary would also be tantamount, and this time from the candidates' viewpoint, to placing too heavy a burden on their freedom to refuse to be appointed, which is **protected by Article 11 of the European Convention on Human Rights**, which guarantees the right to participate in trade union activities and collective bargaining but also not to do so.

The district court's decision and all the more so, that of the Court of Cassation are tantamount to finding that in such a situation, **a trade union quite simply loses its right to have a trade union delegation** and to exercise the powers granted it by the principle of trade union representativeness and the law, standing completely at odds with all the fundamental principles cited above.

It should be noted, in passing that this interpretation of the aforementioned legal provision would also infringe the principle of equality between trade unions, which also has constitutional status (**Cass. Soc., 5 May 2004, No. 03-60175, Bull. V, No. 119;**
Cass. Soc., 19 November 2008, No. 08-60395;
Cass. Soc., 28 May 2008, No. 07-60376).
For by denying the trade union its right, deeming it impossible for it to appoint one of its other members when its candidates who have received 10% of the votes have withdrawn, one would be establishing a difference in treatment vis-à-vis the other representative organisations in the company that would be disproportionate to the difference in the situation and unjustified by any adequate ground of general interest.

In this respect, it cannot be overlooked that an employee who has joined one trade union or another may well wish to make him or herself useful in the workplace by performing

a representative function so as to put forward the workers' claims or to help to guarantee safety in the workplace by exercising his or her right to highlight problems, but not necessarily wish to occupy a trade union post, whose functions and duties are quite different.

Likewise, trade unions putting forward candidates for workplace elections should not be constrained by their candidates' choices, **purely and simply losing their right to have a trade union delegation when their candidates subsequently refuse to be appointed as representative.**

It can be inferred from this that unless the party who disputes the appointment demonstrates, and it is duly confirmed by the courts, that it was as the result of an organised fraud that the trade union found itself deprived of candidates who obtained the requisite level of votes and agreed to be appointed, in other words that the situation stemmed from an intention to avoid the application of a mandatory legal rule (Cass.3rd legal division **12 October 1982, Bull III No. 198**), it should be considered that the trade union all of whose candidates received 10% of the votes and were thus likely to be appointed as trade union representatives but refused to be so, **may then appoint a mere member, as it could if its candidates had left the company.**

In other words, it is obvious therefore that the Court of Cassation's decision was tantamount to finding that, in such circumstances, the trade union purely and simply loses its right to have a trade union delegation and to exercise the powers granted to it by the principle of trade union representativeness and the law, which, it is worth reiterating, places it completely at odds with all the fundamental principles cited above.

Consequently, it is established that by denying the trade union any representation by prohibiting it from appointing a union member who had not received 10% of the votes cast when the candidates who had obtained such a score had withdrawn, the Court of Cassation did not just go against the spirit of the rules deriving from the Law of 5 March 2014 because, in so doing, it also undermined freedom of association and the freedom to be able to be represented within a company.

Therefore, for all these reasons, the European Committee of Social Rights can only find that by adopting such an interpretation, the French state has infringed Article 5 of the revised European Social Charter.

The arguments put forward by the complainants are all the more founded in view of the fact that in a decision of 23 March 2016 the International Labour Office fully agreed with these views, calling on France to revise its legislation without delay on precisely the subject under examination by the European Committee of Social Rights.

> "Lastly, the CGT–FO refers to two court decisions which, on the basis of the Act in force (article L2143-3 of the Labour Code), deny the CGT–FO the possibility of appointing the trade union delegate of its choice, even though it is representative in the enterprises concerned, having obtained more than 10 per cent of the vote at the election of the works committee. Yet, in both cases, the CGT–FO simply wanted to freely appoint one of its members, who was not elected to the works committee, as the trade union delegate after the members of the works committee had openly made it known that they did not wish to take on the duties of trade union delegate, in addition to those of elected representative to the works committee, which is a different role. (…)

> The Committee takes note of the detailed information provided by the complainant organization and by the Government. It recalls that, in its previous examinations of the case, the Committee had declared that the right of workers' organizations to elect their own representatives freely was an indispensable condition for them to be able to act in full freedom and to promote effectively the interests of their members. For this right to be fully acknowledged, it is essential that the public authorities refrain from any intervention which might impair the exercise of this right, whether it be in determining the conditions of eligibility of leaders or in the conduct of the elections themselves … The public authorities should therefore refrain from any interference which might restrict the exercise of this right, whether as regards the holding of trade union elections, eligibility conditions or the re-election or removal of representatives. While noting that, except for the CGT–FO and the CFTC, the HCDS as a whole did not want to call into question the principle of the appointment of the trade union delegate as set out in the Act of 20 August 2008, the Committee must recall that it considers the right of workers' organizations to organize their administration and activities in accordance with Article 3 of Convention No. 87 includes the freedom for organizations recognized as representative to choose their trade union delegates for the purposes of collective bargaining, as well as the possibility of being assisted by advisers of their choice. The Committee expects the Government to ensure that the system established under the Act of 20 August 2008 does not exclude such possibilities. Taking into account the above, the Committee invites the Government to continue an open dialogue with the social partners to revise the legislation in light of this principle without delay.
>
> (…)
>
> During the previous examination of the case, the Committee recalled that, pursuant to Article 3 of Convention No. 87, the appointment and duration of the mandate of a union branch representative should be freely determined by the union concerned in accordance with its constitution. The Committee had thus concluded that it was for the union to decide on the person who was best equipped to represent it within the enterprise and to defend its members in their individual claims, even when that person had failed to obtain 10 per cent of the votes cast in occupational elections. Noting that this matter could be discussed in relation to the necessary adjustments, the Committee hopes that the analysis of the HCDS on the matter will be presented to the Parliament and that discussions will be held, with the participation of the social partners, on the revision of the legislation in light of the abovementioned principle without delay." (**Document No. 15, ILO Decision**)

This decision, which is extremely symbolic and shows how ardently the matter was being discussed in France, was used as an argument by the trade union Force Ouvrière (FO) in a press release of 10 April 2016, setting out the main terms of the decision:

> "The Committee on Freedom of Association of the ILO (International Labour Organisation), in its conclusions approved by the Governing Body of the ILO on 23 March 2016, asks France "to revise [its] legislation … without delay".
>
> According to this committee, "the right of workers' organizations to organize their administration and activities in accordance with Article 3 of Convention No. 87

includes the freedom for organizations recognized as representative to choose their trade union delegates for the purposes of collective bargaining, as well as the possibility of being assisted by advisers of their choice".

In this connection, "the public authorities should therefore refrain from any interference which might restrict the exercise of this right, whether as regards the holding of trade union elections, eligibility conditions or the re-election or removal of representatives".

Lastly, the Committee, which had previously concluded that "it was for the union to decide on the person who was best equipped to represent it within the enterprise and to defend its members in their individual claims, even when that person had failed to obtain 10 per cent of the votes cast in occupational elections" also hopes that the Government will also examine, in consultation with the social partners, the question of the duration of the mandate of the union branch representative" (**Document No. 16 – FO press release**)

Consequently, in the light of this decision, which is a reaction to the French Government's inertia on the subject, as it refuses to review the application of the Law of 20 August 2008, there is no doubt that the European Committee of Social Rights can only align itself with the ILO's position on the subject, it being recalled that the application by France of the provisions of Article L. 2143-3 of the Labour Code patently infringes the very principle of freedom of association and the free choice of a trade union representative.

For all these reasons, the disputed legal provisions and their application by the Court of Cassation through its judgment of 24 May 2016 breach the terms of the revised European Social Charter, and the current complaint is well founded in all respects.

IV. THE OBJECT OF THE COMPLAINT AND THE COMPLAINANT ORGANISATION'S CLAIMS FOR JUST SATISFACTION:

The above-mentioned Additional Protocol of 9 November 1995 providing for a system of collective complaints and the Committee's Rules of 29 March 2004 have nothing to say on the question of compensation for expenses incurred in connection with collective complaints.

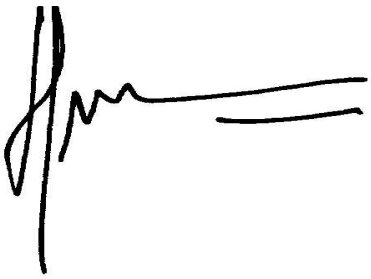
However, it is now accepted that, because of the quasi-judicial nature of proceedings before the Committee, in the event of a finding that the Social Charter has been violated the defending state should meet at least some of the costs incurred (decision of 13 October 2004 on Complaint No. 16/2003).
In that case the Committee acknowledged the amount of work that had gone into the complaint itself and the subsequent memorials throughout the proceedings.

It should also be noted that although the complainant organisation is not being formally represented by a lawyer in the proceedings before the Committee, the technical nature of the subject matter has obliged the complainant organisation to make use of a lawyer's services, namely those of Mr Jérôme BORZAKIAN.

Under these circumstances, the complainant organisations consider it justified in asking for reimbursement of the expenses incurred, which come to a total of **€7 000 before tax**.

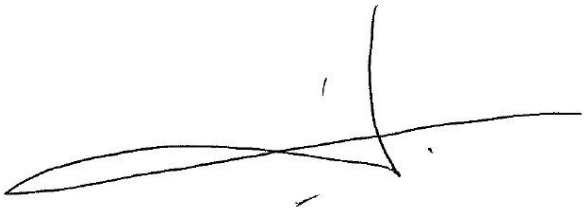
For the Federation, the FIECI **For the trade union, the SNEPI CFE-CGC**

Mr Michel de la Force **Mr Jean-Louis PORCHER**



Mr Jérôme BORZAKIAN

Lawyer at the Paris Bar



FOR THESE REASONS

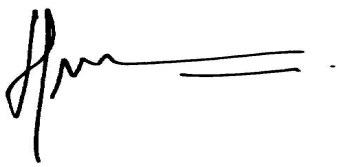
AND SUBJECT TO ANY THAT MIGHT BE RAISED IN ADDITIONAL MEMORIALS OR MENTIONED AT A HEARING,

The European Committee of Social Rights is asked:

- To confirm the competence of the trade union, the SNEPI CFE-CGC, and the Federation, the FIECI, to lodge this collective complaint;
- To confirm that the complaint is well-founded;
- To hold that the failure by France to comply with the provisions on freedom of association and the freedom to appoint a trade union representative are in breach of Article 5 of the revised European Social Charter;
- To order the French Government to pay directly to the trade union, the SNEPI CFE-CGC, and to the federation, the FIECI, the overall sum of €7 000 before tax to cover the time spent with and costs incurred by Mr Jérôme BORZAKIAN in connection with these proceedings.

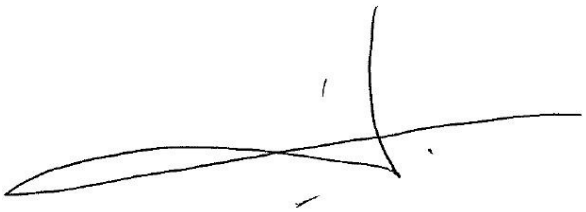
For the Federation, the FIECI **For the trade union, SNEPI CFE-CGC**

Mr Michel de la Force **Mr Jean-Louis PORCHER**



Maître Jérôme BORZAKIAN

Lawyer at the Paris Bar



DOCUMENTS PRODUCED IN SUPPORT OF THE COMPLAINANT ORGANISATIONS' CLAIMS

Document No. 1	Trade union statutes
Document No. 2	Federation statutes
Document No. 3	Pre-electoral agreement
Document No. 4	Official results of the elections
Document No. 5	Withdrawal letters
Document No. 6	Judgment of the Puteaux district court of 24/06/2015
Document No. 7	Judgment of the Court of Cassation of 24/05/2016
Document No. 8	Article L. 2143-3 of the Labour Code
Document No. 9	Judgment of the Court of Cassation of 29 June 2011
Document No. 10	Judgment of the Court of Cassation of 27 February 2013
Document No. 11	Judgment of the Court of Cassation of 29 June 2011
Document No. 12	Judgment of the Court of Cassation of 19 November 2008
Document No. 13	Judgment of the Court of Cassation of 5 May 2004
Document No. 14	Judgment of the Court of Cassation of 28 May 2008
Document No. 15	Extract from the ILO's decision of 23 March 2016
Document No. 16	Press release from Force Ouvrière
Document No. 17	Official appointment of Mr Jérome Borzakian by the FIECI and SNEPI CFE-CGC