EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

17 January 2019

Case Document No. 2

***Confédération Générale du Travail Force Ouvrière* (CGT-FO) v. France**
Complaint No. 160/2018

SUBMISSIONS OF THE GOVERNMENT ON THE MERITS

Registered at the Secretariat on 15 November 2018

SUBMISSIONS BY THE GOVERNMENT OF THE FRENCH REPUBLIC ON THE MERITS OF COMPLAINT No. 160/2018 *CGT-FO v. FRANCE*

1. In a letter dated 16 March 2018, the European Committee of Social Rights (hereinafter "the Committee") forwarded to the French Government the complaint lodged on 12 March 2018 by the Confédération Générale du Travail - Force Ouvrière (hereinafter "CGT-FO"), requesting the Committee to find that the situation in France is not in conformity with Article 24 of the revised European Social Charter ("the Charter").

2. On 11 September 2018, the Committee declared the aforementioned complaint admissible.

3. The French Government would like to make the following submissions to the Committee on the merits of this complaint.

I. – THE COMPLAINTS

4. The CGT-FO alleges that by establishing a mandatory scale setting an upper limit on compensation for damage incurred by employees dismissed without real and serious cause, Order No. 2017-1387 of 22 September 2017 on the predictability and increased security of employment relationships infringes Article 24 of the Charter as this scale does not meet the goal of fully making good the damage incurred by the employee and deterring employers**.** The CGT-FO also maintains that French legislation fails to include any alternative legal remedies providing for additional compensation for employees.

II – RELEVANT DOMESTIC LEGISLATION

A) Outline of the background

5. Firstly, the Government would point out that it was authorised by Law No. 2017-1340 of 15 September 2017 to adopt measures to strengthen social dialogue by order. This enabling law was found to comply with the Constitution by Constitutional Council Decision No. 2017-751 DC of 7 September 2017 (document 1, enclosed).

6. The aforementioned Order No. 2017-1387 of 22 September 2017 was the third pillar of this reform and its aim was to increase the predictability and security of employment relationships or the effects of their termination on employers and their employees (part I) and to amend the provisions on dismissals for economic reasons (part II).

7. Article 2 of the Order amends the rules that apply in the event of dismissal without real or serious cause by establishing a compensation scale.

8. The aim of this mechanism, which already exists in several European states, is to increase predictability and to make the employment relationship or the effects of a termination thereof on the employer and the employee more certain. The intention is not to deny employees fair compensation but to limit the amount that can arise from such terminations, sometimes after many years of judicial proceedings. By harmonising judicial practices, the aim is to establish greater legal certainty and more predictability for the parties to contracts when employment relationships break down.

9. The aforementioned Order No. 2017-1387 was ratified by the French Parliament on 29 March 2018 (Law No. 2018-217), thus assigning it legislative status.

10. The law was submitted to the Constitutional Council, which found Article L. 1235-3 of the Labour Code establishing the scale contested by the CGT-FO compatible with the Constitution (Decision No. 2018-761 DC of 21 March 2018 – document 2, enclosed).

11. The new rules introduced by Order No. 2017-1387 of 22 September 2017 apply to dismissals made since 23 September 2017.

B) <u>Relevant legislation</u>

12. Article L. 1232-1 of the Labour Code provides: "All dismissals on personal grounds … shall be justified by a real and serious reason".

13. Furthermore, in the amended wording arising from the aforementioned Order No. 2017-1387 of 22 September 2017, Article L. 1234-9 of the Labour Code provides: "Employees with indefinite-term contracts who are dismissed after eight months of uninterrupted service with the same employer shall be entitled to severance pay, save in cases of serious misconduct …".

14. An unlawful dismissal may be contested and punished under the procedure provided for in Articles L. 1235-1 to L. 1235-17 of the Labour Code.

15. In the absence of a real and serious reason for dismissal, Article L. 1235-3 of the Labour Code, as in force following the adoption of Order No. 2017-1387 of 22 September 2017, provides:

> "If an employee is dismissed for a reason that is not real and serious, the court may propose that he or she be reinstated, with the retention of all of his/her accrued benefits.
>
> If either of the parties objects to such reinstatement, the court shall award the employee compensation, to be covered by the employer, and whose amounts shall lie between the lower and upper limits set in the table below.

Length of service of the employee with the company (in full years)	**Minimum compensation (in months of gross salary)**	**Maximum compensation (in months of gross salary)**
0	Not applicable	1
1	1	2
2	3	3.5
3	3	4
4	3	5
5	3	6
6	3	7
7	3	8
8	3	8
9	3	9
10	3	10
11	3	10.5
12	3	11
13	3	11.5
14	3	12
15	3	13
16	3	13.5
17	3	14
18	3	14.5

19	3	15
20	3	15.5
21	3	16
22	3	16.5
23	3	17
24	3	17.5
25	3	18
26	3	18.5
27	3	19
28	3	19.5
29	3	20
30 and over	3	20

In the event of a dismissal from a company ordinarily employing fewer than eleven employees, the minimum amounts below shall be applicable, by derogation from those set above:

Length of service of the employee with the company (in full years)	**Minimum compensation (in months of gross salary)**
0	Not applicable
1	0.5
2	0.5
3	1
4	1
5	1.5

6	1.5
7	2
8	2
9	2.5
10	2.5

When determining the amount of compensation, the court may take account of any severance pay awarded other than that referred to in Article L. 1234-9.

This compensation shall be combined, where they apply, with the amounts provided for in Articles L. 1235-12, L. 1235-13 and L. 1235-15, within the limits of the maximum amounts provided for in this article".[1]

16. On the other hand, when courts find that a dismissal is null and void pursuant to the legislation referred to above or that it is in breach of a fundamental freedom such as the right to strike, bring legal proceedings or organise, the lower and upper limits set by Article L. 1235-3 are not applicable.

17. Accordingly, Article L. 1235-3-1 of the Labour Code, as in force since 1 April 2018, provides:

"A*rticle L. 1235-3 shall not be applicable where the courts find that a dismissal is rendered null and void for one of the grounds set out in the second paragraph of this article. In such cases, where employees do not ask for their employment contract to continue or their reinstatement is impossible, the courts shall grant them compensation, payable by the employer, which must be no less than the last six months' wages.*

The grounds referred to in the first paragraph above are as follows:

1° the breach of a fundamental freedom;

2° psychological or sexual harassment in the circumstances described in Articles L. 1152-3 and L. 1153-4;

[1] Articles L. 1235-12, L. 1235-13 and L. 1235-15 of the Labour Code provide respectively that courts may award compensation to employees where their employers have failed to comply with the procedures for the consultation of staff representatives or to inform the relevant administrative authority of a collective redundancy on economic grounds; where they have failed to give former employees priority for re-employment; or in the event of a dismissal for economic reasons in a company which is required to set up an economic and social committee but has failed to do so and fails to produce an official statement to the effect that elections to such a committee were held but no candidates stood (*procès-verbal de carence*).

3° discriminatory dismissal of the type described in Articles L. 1132-4 and L. 1134-4;

4° dismissal following the initiation of legal proceedings in relation to gender equality at work in the circumstances described in Article L. 1144-3, or following the denunciation of crimes or offences;

5° dismissal of a protected employee, as described in Articles L. 2411-1 and L. 2412-1, as a result of the exercise of his or her office;

6° dismissal of an employee in breach of the protections referred to in Articles L. 1225-71 and L. 1226-13.

Compensation shall be payable without prejudice to the payment of the salary which would have been received during the period of invalidity, where it is owed pursuant to the provisions of Article L. 1225-71 and to the protected status granted to certain employees pursuant to Chapter I of Part I of Book IV of the second part of the Labour Code, and without prejudice to any severance pay provided for by statute, collective agreement or contract".

III – DISCUSSION OF THE MERITS OF THE COMPLAINTS

A) Applicable principles

18. Article 24 of the Charter, entitled "The right to protection in cases of termination of employment", states:

> "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".

19. In its decision of 8 September 2016 on the admissibility and the merits of Complaint No. 106/2014 *Finnish Society of Social Rights v. Finland*, the Committee stated:

> "45. … under the Charter, employees dismissed without valid reason must be granted adequate compensation or other appropriate relief. Compensation systems are considered appropriate, if they include for the following:
>
> - reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body;
> - the possibility of reinstatement;
> - compensation at a level high enough to dissuade the employer and make good the damage suffered by the employee.
>
> 46. Any upper limit on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive is in principle, contrary to the Charter. However, if there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation) (Conclusions 2012, Slovenia)".

20. In its submissions to the Committee, the Finnish Government argued that it was possible for employees who were victims of wrongful dismissal to claim additional compensation to that provided for by the scale on the basis of other legal remedies, particularly the anti-discrimination law, the gender equality law and the law on civil liability. However, the Committee found that if the wrongful dismissal did not include any discrimination, it was impossible to claim compensation on the basis of these laws.

21. The Committee found in this case that there was a violation of Article 24 by Finland because "in some cases of unfair dismissal an award of compensation of 24 months as provided for under the Employment Contracts Act may not be sufficient to make good the loss and damage suffered" (§49 of the decision) and "the Tort Liability Act does not provide a fully-fledged alternative legal avenue for the victims of unlawful dismissal not linked to discrimination" (§52). The Committee also noted that there was no possibility for the courts to order an employee's reinstatement.

22. The French Government notes that it is not the finding of this decision, cited by the CGT-FO, that setting an upper limit on the compensation that may be awarded by the courts in some cases of wrongful dismissal would necessarily result in inadequate or inappropriate compensation, regardless of the national legal framework of which it forms part. The assessment in the case of Finland was made in the light of all the existing rules in this state with regard to sanctions for wrongful dismissal (compensation, reinstatement, alternative remedies) and entitlements for persons laid off.

23. The Government also notes that the Committee has never said that the very principle of placing an upper limit on compensation is by nature in breach of Article 24 of the Charter, or that such limited compensation is incompatible with the Charter because it does not provide a sufficient deterrent.

24. Only the lack of any possibility of gaining compensation for damage outside the scope of this limited compensation, assuming that it is not commensurate with the damage incurred, is censured.

B) <u>Application of these principles to the situation in France</u>

25. Firstly, the Government would like to point out that, unlike Finnish law, French legislation gives the court the possibility of deciding to reinstate employees in their jobs or an equivalent job if they so request. Compensation is only paid if the employee does not wish to be reinstated or the employer objects to reinstatement. Furthermore, in the case of invalid dismissals, which are linked to the most serious offences, if the court orders reinstatement at the employee's request, employers may not object, except where reinstatement is materially impossible.

26. Material impossibility to reinstate employees is interpreted very narrowly by courts. Most frequently, it is the result of the company having closed down or the employee having reached retirement age. The fact that the post occupied by the employee before his/her dismissal has been done away with or is now occupied by another employee is not considered to constitute material impossibility.

27. Reinstatement therefore is one of the means of reparation available to French domestic courts even if, in practice, it is very rarely implemented because employees often do not want it.

28. The Government would also point out that Order No. 2017-1387 of 22 September 2017 provides for several exceptions to the application of the scale set out in Article L. 1235-3 of the Labour Code relating to the most serious cases of wrongful dismissal.

29. The scale is not applicable where the dismissal is rendered null and void by the infringement of a fundamental freedom (right to strike, right to withdraw, right to bring legal proceedings, freedom to organise, etc.), psychological or sexual harassment, dismissal that is discriminatory or follows legal proceedings relating to gender equality or the denunciation of crimes or offences, or if it relates to employees who are protected because they are performing a representative function or because of pregnancy, maternity or paternity status or who have been victims of an employment injury or occupational disease. In such cases, if employees do not ask for their employment contract to continue or reinstatement is impossible, the courts award them compensation, payable by the employer, which must be no lower than the total wages paid to the employee for the last six months, regardless of his/her length of service and the size of the company, and for which there may be no upper limit (Article L. 1235-3-1 of the Labour Code, as cited in paragraph 17 above).

30. Furthermore, in the event of collective redundancy on economic grounds (involving at least ten employees over the same period of thirty days in a company with at least fifty employees), which has not been validated or authorised by the authorities, the compensation awarded by the courts must also be no less than 6 months' salary, with no upper limit (if the employees concerned have at least two years' service with the company) (Article L. 1235-11 of the Labour Code).

31. Consequently, the relevant French legislation is not the same as the corresponding Finnish legislation found to be in breach of Article 24 of the Charter, because it provides for the possibility both of reinstatement and of compensation exceeding the upper limit in a number of cases of unlawful dismissal which are considered the most serious and are not limited to cases of discrimination.

32. In addition to these preliminary comments, the Government intends to show that the compensation mechanism provided for by French legislation is appropriate and meets the criteria set forth by the Committee in the decision on *Finnish Society of Social Rights v. Finland* cited above.

1. Compensation of losses incurred between the date of dismissal and the decision of the appeal body

33. In the complaint, the CGT-FO submits that the French compensation system does not properly ensure reimbursement of financial losses between the date of dismissal and the decision of the appeal body because of procedural delays before industrial tribunals of 15 to 17 months, which deter employees from bringing proceedings. In support of this argument, the CGT-FO submits that there has been a decline in the number of applications to industrial relations tribunals since 2017.

34. Firstly, the Government would point out that the reduction in the number of new cases before industrial relations tribunals (150 000 in 2016 and 127 000 in 2017, or a 15% drop), is a trend which had begun before the entry into force of the contested scale. The decline therefore is the result of aspects other than the implementation of this measure, as the CGT-FO does in fact mention, particularly the growing use of termination by mutual agreement, which is a form of friendly settlement set up in 2008, and the reforms relating to the functioning of tribunals (new arrangements for the appointment of members, reorganisation of functioning and procedures, etc.), introduced with a view to making the appeal system more efficient.

35. It should also be pointed out that one of the objectives of the legislation is to make the cost of legal proceedings against unlawful dismissal more predictable and for it no longer to vary according to the overall length of the proceedings. The aim of the scale is to cover the damage incurred by the employee both before the judicial decision and after.

36. Secondly, after the termination of the employment contract and until former employees find another job, they are not entirely without an income. Under French law, they are entitled to unemployment benefit, the amount of which will depend on the employee's reference wage, which is calculated on the basis of the gross salary received over the last 12 months of employment (Article L. 5421-1 and seq. of the Labour Code). The minimum daily amount of unemployment benefit on 1 July 2018 was €29.06,[2] or €900.86 per month (for a 31-day month) for a full-time employee. The maximum amount payable is 75% of the reference wage. On average, employees earn about 60% of their former salary as unemployment benefit. The entitlement period is proportionate to the length of affiliation, within a limit of 24 months if the employee is less than 53 years old. In contrast with Finnish law, French law does not provide for unemployment benefit or any other remuneration received by former employees since their dismissal to be deducted from the compensation awarded by courts on the basis of the scale.

[2] UNEDIC Circular No. 2018-14 of 16 July 2018 (document 3, enclosed).

2. Whether the amounts of compensation provided for by the scale provide adequate reparation and act as a sufficient deterrent

37. In the complaint, the CGT-FO submits that because the upper limit set by Order No. 2017-1387 of 22 September 2017, which is 20 months of gross salary, is lower than the 24 months of gross salary held to be inadequate by the Committee in the Finnish case, there is inevitably a violation of Article 24 of the Charter.

38. It also alleges that the relief afforded is not appropriate because the compensation set by the scale does not take account of applicants' personal circumstances (age, social vulnerability, difficulty in finding work again, for example).

39. It also objects to the fact that courts may take account of other payments awarded to employees on termination of their contract when establishing the amount of compensation for dismissal without real or serious cause. According to the complainant organisation, this process of "lumping payments together" is an invitation to courts to adjust the compensation they award.

40. Lastly, it considers that the compensation scale established by Article L. 1235-3 of the Labour Code does not act as a deterrent for employers because they can calculate in advance what the cost of unlawful dismissal will be.

i. Whether the compensation proposed provides sufficient relief for employees

41. Firstly, the Government would point out that the French scale sets lower and upper limits on compensation, not fixed amounts of compensation, which is the case, for example, with the Italian scale impugned in Collective Complaint No. 158/2017, *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*.

42. As a result, the French scale enables courts to take account of criteria other than length of service, connected with the employee's particular circumstances and the damage incurred (age, health and family situation, for example) when establishing the amount of the payment within the lower and upper limits. The courts do retain their power, in view of the circumstances of the case, to adjust the amount of compensation awarded in keeping with the actual damage incurred and provide appropriate relief.

43. In addition, if it emerges from the investigation that the employee was dismissed for an invalid reason, this circumstance immediately precludes the application of the disputed scale, as pointed out in paragraph 29 above. The compensation awarded by the courts may therefore be a larger amount than 20 months' gross salary.

44. Moreover, as mentioned in paragraph 10 above, the Government would reiterate that the French Constitutional Council has validated the system disputed by the CGT-FO. In Decision No. 2018-761 DC of 21 March 2018 (document 2, enclosed), it held that the upper limit "did not establish disproportionate restrictions" on the rights of victims of wrongful acts in relation to the public interest objective of increasing the predictability of the consequences of the termination of employment contracts (paragraph 88 of the decision).

45. In this decision, it was clearly acknowledged that:
- the predictability of the consequences of the termination of an employment contract are a public interest objective justifying adjustments to the right to compensation;
- the way in which this right has been adjusted is not such as to disproportionately infringe this right given that the amounts match the "recorded average sums" of compensation awarded by courts before the reform, and that the scale is not applicable in a number of scenarios corresponding to the most serious situations, in which the penalty is for the dismissal to be declared null and void.

46. Furthermore, length of service in the company, which is the criterion adopted to determine the minimum and maximum amounts in the scale, was recognised by the Constitutional Council to be in keeping with the purpose of the measure as this criterion was linked directly with the employee (Decision No. 2018-761 DC cited above, paragraph 89, and Decision No. 2015-715 DC of 5 August 2015 on the Law to promote economic growth, activity and equal opportunities, paragraph 152 – document 4, enclosed).

47. Secondly, contrary to what the CGT-FO claims, the French system does not introduce a "lumping together" mechanism which requires courts to subtract the amount of compensation provided for in collective agreements paid by employers at the time of the termination when determining the amount of compensation. While the law does state that such amounts may be taken into account, courts are not bound to do so. The aim of the disputed measure is simply to guide courts when they are exercising their discretion, by pointing out to them that they may take account of payments which employees have been awarded in compensation for dismissal if they exceed what is prescribed by the law, particularly if they work in a sector of activity where the social partners have established higher amounts.

48. The CGT-FO also objects to the fact that the sum total of compensation for dismissal without real or serious cause and compensation payments specifically designed to compensate for failure to abide by certain rules connected with economic redundancies (failure by employers to comply with procedures for the consultation of staff representatives or the notification of administrative authorities, infringement of re-recruitment priority and dismissal from a company in which no social and economic committee has been set up and no official document to justify this (*procès-verbal de carence*) has been produced) still may not exceed the upper limit set by the new law. However, this general application of the upper limit is necessary to give the scale its full effect of ensuring predictability and stems from the one-off nature of the action which caused the damage, namely the dismissal, whatever other wrongful acts are combined with the lack of a real or serious cause.

ii. Whether the compensation acts as a sufficient deterrent for employers

49. Contrary to what the CGT-FO argues, the Government believes that being able to quantify the amount of compensation likely to be awarded by the courts in advance does not in any way diminish its deterrent effect on employers. This deterrent effect does not arise from the unknown and unpredictable nature of the amount, but from the sum itself.

50. In addition, the prospect of a conviction will inevitably have some degree of a

deterrent effect, depending on the company's financial capacity. This aspect has been taken into account in some countries, particularly in Italy, whose scale adjusts amounts of compensation according to the size of the company concerned.

51. In the case of France, the criterion of the size of the company has been taken into account for the lower limits but not for the upper limits. In Decision No. 2015-715 DC of 5 August 2015 cited above, the Constitutional Council invalidated a previous proposal for a scale, holding that the size of the company could not be taken into account when setting the upper limits on compensation awards as this criterion was unconnected with the damage incurred by the employee (see document 4, enclosed). Consequently, the upper limits in the French scale are set to enable a balance to be struck whatever the company's situation.

52. With regard to the lower limits, the Constitutional Council has accepted that they may be geared to the size of the company (Decision 2016-582 QPC of 13 October 2016 – see document 5, enclosed). Before the reform, there was already a lower limit of six months' wages for companies with 11 employees or more, but not for smaller companies. In this respect the Constitutional Council held that "compensation corresponding to the damage incurred alone, set without a minimum amount, acts as a sufficient deterrent in itself" (paragraph 9 of the decision cited above). The Government did wish to enhance this deterrent effect, however, by introducing a minimum amount, even for the smallest companies. The complainant organisation's argument that this amount is "ridiculously low" is an error of appreciation.

53. It should also be noted that, where a court finds that a dismissal was without real or serious cause, it may in some cases (where the employee has at least two years' service in a company customarily employing at least 11 employees) and without the employee having to make a request to the effect, order the employer to reimburse the employment office (*Pôle emploi*) with all or part of the unemployment benefit paid to an employee up to a limit of six months (Article L. 1235-4 of the Labour Code). For employers, such reimbursements are a substantial extra cost, particularly where it relates to employees with only a short length of service, to be added to the sum awarded to employees to compensate for a dismissal without real or serious cause.

3. The existence of alternative legal remedies

54. In the complaint, the CGT-FO submits that there is no provision in French law for alternative legal remedies allowing for additional compensation. In its view, the special proceedings to compensate for unlawful dismissal rule out the application of ordinary civil liability law, which it claims can only be implemented in very limited cases (of vexatious dismissal).

55. Yet, the Government would point out that the purpose of the French scale, unlike the Italian system, is not to cover by itself all the damage deriving from wrongful dismissal. Article L. 1235-3 of the Labour Code relates only to damage caused by unjustified loss of employment (dismissal without real or serious cause), and no other form of damage is covered by the scale. Provided that employees are able to demonstrate that another form of damage exists, they may be granted separate relief, based on ordinary civil liability law.

56. In particular, employees can claim compensation in view of the circumstances in which the dismissal was ordered (vexatious dismissal) (see, for example, Court of Cassation, Social Affairs Division, 27 September 2017, No. 16-14040 – document 6, enclosed). This possibility, which trial courts frequently avail themselves of, unlike what was noted in relation to the relevant Finnish law, was left untouched by Order No. 2017-1387 of 22 September 2017, as cited above.

57. Likewise, it is entirely possible, on the basis of ordinary liability law and regardless of the actual circumstances of the termination, to remedy a specific item of damage, separate from unjustified loss of employment. For instance, in cases of dismissal on the ground of the employee's unsuitability, an employer may be sentenced both to pay compensation for dismissal without real or serious cause and to remedy the damage arising from a deterioration in the employee's health if it can be attributed to the employer (Court of Cassation, Social Affairs Division, 2 March 2011, No. 08-44977 – document 7, enclosed). It is also possible to make good non-pecuniary damage to the employee if it is not the sole result of the unjustified nature of the dismissal (Court of Cassation, Social Affairs Division, 25 February 2003, No. 00-42031, a case in which it was found that the employee's dignity had been undermined – document 8, enclosed). Employees may also be awarded compensation outside the scale on the ground of loss of opportunity (Court of Cassation, Social Affairs Division, 31 May 2011, No. 09-71350, loss of opportunity to benefit from the retirement benefits available within the company – document 9, enclosed).

58. The foregoing makes it clear that French legislation provides employees dismissed without valid reason with appropriate relief in keeping with the criteria identified by the Committee in its interpretation of Article 24 of the Charter.

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59. In the light of all the foregoing, the Government considers that domestic legislation on compensation for employees for dismissal without real or serious cause is in conformity with Article 24 of the Charter.

APPENDICES

Document 1: Constitutional Council, Decision No. 2017-751 DC, 7 September 2017

Document 2: Constitutional Council, Decision No. 2018-761 DC, 21 March 2018

Document 3: UNEDIC Circular No. 2018-14 of 16 July 2018

Document 4: Constitutional Council, Decision No. 2015-715 DC, 5 August 2015

Document 5: Constitutional Council, Decision No. 2016-582 QPC, 13 October 2016

Document 6: Court of Cassation, Social Affairs Division, 27 September 2017, No. 16-14040

Document 7: Court of Cassation, Social Affairs Division, 2 March 2011, No. 08-44977

Document 8: Court of Cassation, Social Affairs Division, 25 February 2003, No. 00-42031

Document 9: Court of Cassation, Social Affairs Division, 31 May 2011, No. 09-71350