EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

11 February 2019

Case Document No. 1

***Union Syndicale Solidaires SDIS* v. France**
Complaint No.176/2019

COMPLAINT

Registered at the Secretariat on 5 February 2019

Union Syndicale Solidaires SDIS

They who fight may lose, they who do not fight have already lost.

Nîmes, 5 February 2019

The President of the European Committee of Social Rights
Department of the European Social Charter and the European Code of Social Security
Directorate General of Human Rights and Rule of Law
Council of Europe
F - 67075 Strasbourg Cedex

By e-mail: social.charter@coe.int
and by registered letter with acknowledgment receipt

Subject: Collective complaint - Situation of France's volunteer firefighters

Dear President,

We are a national trade union organisation grouping together the mainland and overseas trade unions of the French Fire and Rescue Service (SDIS).

Through this collective complaint, we would like to draw your attention to the provisions of French law on the situation of volunteer firefighters which, in several respects, do not seem to us to comply with the European Social Charter (hereinafter "the Charter").

We condemn the practices of French lawmakers, who have institutionalised these infringements.

These legislative practices have been a feature in France for many years and do not comply with the law of the European Union. Despite several interventions by the European institutions, there has been no change in the situation. France refuses to amend its legislation, which does not meet the requirements of the Charter, as we intend to show below.

The contents of our collective complaint relate to a subject which is dear to us, namely the right to health and safety at work and fair working conditions.

The health and safety of volunteer and professional firefighters who work together to protect people and property on our territory are at stake.

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I – Presentation of the union and its representativeness:

Our trade union filed its first statutes under registration No. 625 at Bordeaux Town Hall on 9 July 2008, under the title "the National, Solidarity-based, Unitarian, Democratic Union of Professional Firefighters and the Technical and Administrative Staff of the *Département* Fire and Rescue Services (SDISs) of mainland France and the overseas *départements* and territories".

Following an amendment to the union's statutes, a change of name to the "*Union Syndicale Solidaires des SDIS de France et DOM/TOM*" ("Solidarity-based Union of the SDISs of mainland France and the

overseas *départements* and territories"), and a change in head office made in Nantes on 3 April 2015, the statutes currently in force were registered by Nîmes Town Hall under No. 017001.

Document No. 1: Statutes adopted at the Nantes Congress on 3 April 2015
Document No. 2: Membership of the Bureau following the Nantes Congress of 3 April 2015
Document No. 3: Registration of statutes at Nîmes Town Hall

Our trade union is affiliated to the Union Syndicale Solidaires[1], which now has a seat on the National Local Government Service Board (CSFPT) following the workplace elections held at the end of 2018.[2]

The union's purpose is set out in Article 4 of the statutes: "*The union sets itself the purpose of studying and championing the collective and individual rights and the material and non-material interests of all the staff of the SDISs*".

Article 16 of the statutes gives the Secretary General the power to engage in legal proceedings: "The Secretary General shall be authorised to appear in court, whether as plaintiff, defendant or third party, in all proceedings and before all courts". Nonetheless, this complaint was submitted to the Bureau members, who agreed that it should be sent.

II- Brief presentation of the French civil defence model:

France's volunteer firefighters form an integral part of each of the country's *Département* Fire and Rescue Services (SDIS).[3] Alongside the professional firefighters whom we represent, they protect persons, their property and the environment.

According to the French Federation of Firefighters (FNSPF), there are 248 000 firefighters in France, 79% of whom are volunteers, 16% professionals and 5% military personnel. The FNSPF states that two-thirds of operations in France are carried out by volunteer firefighters.[4]

Professional firefighters generally work at their fire stations on 24-hour shifts under exceptional arrangements or on 12-hour shifts, while volunteer firefighters either work 24-hour or 12-hour shifts at their fire stations or on call at home, subject to the requirement that they will reach their station to go out on an operation within five to ten minutes of their personal beeper sounding, in accordance with the rules set by the managing authorities in each *département*.

Firefighters go out on 4 600 000 operations per year, in other words one operation every 6.8 seconds. These are largely carried out by mixed teams of professionals and volunteers.

Many professionals also work on a voluntary basis, under conditions which can vary from one *département* to the next. In many *départements* this is very common practice and is even encouraged by SDISs, for purely financial reasons.

1 See the Solidaires website

2 See the Order of 18 January 2018 on the distribution of seats allocated to trade unions on the CSFPT

3 Article R-1424-1 of the General Code on Local and Regional Authorities, "The fire and rescue services shall be made up of professional firefighters belonging to the occupational cadres set up pursuant to Law No. 84-53 of 26 January 1984 setting out statutory provisions on local government staff, and volunteer firefighters, who shall be subject to special rules established pursuant to Article 23 of Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades and may not therefore perform this activity full time".

4 See the website of the French Federation of Firefighters

III – French legislative practice for firefighters:

Before examining the instances of the non-conformity of the French law applied to firefighters with the Charter, it is important to show how the French legislation on professional and volunteer firefighters has built up over the last twenty years.

III – 1 – The transposition of Directive 93/104 into French law with regard to firefighters

With regard to professional firefighters, Directive 1993/104 of 23 November 1993 which was replaced by Directive 2003/88 of 4 November 2003 after revision, was transposed into French law by the following French laws:

- Decree No. 2000-815 of 25 August 2000 on the adjustment and reduction of working hours in the national public service and the judiciary;
- Decree No. 2001-1382 of 31 December 2001 on the working time of professional firefighters.

As to volunteer firefighters, three successive laws of 1996,[5] 2004[6] and 2011[7] and various decrees and orders fleshing out these laws should have transposed the directive into French law in respect of certain aspects of the organisation of working time. We shall see that this was not the case.

The first law is closely linked with the transfer of the organisation of fire services to *département* level from municipal (or intermunicipal) level,[8] which took place at the end of the 1990s.

It should be noted that the law of August 2004, which was adopted a few months after the appearance of Directive 2003/88, established Article 5-1 of the Law of 1996, which enshrines the non-worker status of volunteer firefighters in domestic law: "The activities of volunteer firefighters, members of civil defence associations and members of civil defence reserves shall not be subject to the legislation and regulations on working time".[9]

These laws were incorporated into the Internal Security Code (CSI) when it was established in 2012.

Whereas professional and volunteer firefighters work together on the same assignments, only professional firefighters are regarded as workers and subject to the rules of Directive 2003/88.

In France, volunteer firefighters are not considered to be workers.

III – 2 – Legal situation of French firefighters

Whereas the situation of professional firefighters with regard to the requirements of Directive 2003/88 has tended to improve as a result in particular of a formal notice issued by the European Commission on 27 September 2012[10] and the judgments of various French courts which have brought a halt to certain flagrant breaches,[11] [12], the situation of volunteer firefighters seems to us to be totally incompatible firstly with the requirements of the European regulations on the protection of the health

5 Law No. 96-370 of 3 May 1996 on the development of voluntary service in fire brigades
6 Law No. 2004-811 of 13 August 2004 on the modernisation of civil defence
7 Law No. 2011-851 of 20 July 2011 on the legal framework for hiring volunteer firefighters
8 Law No. 96-369 of 3 May 1996 on fire and rescue services
9 The origins of this article can be found in the debates of the National Assembly of 28 July 2004, see pages 25 and 26.
10 Decree No. 2001-1382 was amended on 18 December 2013 (Decree No. 2013/1186)
11 Judgment No. 12LYO1139 of 8 January 2013 of the Lyon Administrative Court of Appeal put a definitive end to rules on the working conditions of professional firefighters accommodated in fire stations, which provided for annual working times of 2 600 hours.
12 Judgment No. 17NT00382 of 19 October 2018 of the Nantes Administrative Court of Appeal put a definitive end to rules on the working conditions of professional firefighters accommodated in fire stations, which provided for annual working times of 2 696 hours.

and safety of workers at work and secondly with the definition of what is a worker, a concept which according to settled EU case law, "may not be interpreted differently according to the law of the Member States but has an autonomous meaning specific to EU law", but one which France deliberately fails to apply to volunteer firefighters.

Therefore, in breach of Community law, French law considers that "the activity of a volunteer firefighter, which is based on voluntary service, shall not be performed on a professional basis but under particular conditions" (Article L.723-5 of the Internal Security Code).[13] Furthermore, "neither the Labour Code nor the civil service regulations shall be applicable" (Article L.723-8 of the Internal Security Code).[14]

Yet, it is through the Labour Code, for the private sector, and the civil service regulations, for the public sector, that France implements the provisions of Directive 2003/88 for its public and private employees.

The Conseil d'Etat, which is France's highest administrative court, considers that "volunteer firefighters are contractual, part-time public employees who perform the same work as professional firefighters under particular conditions".[15] This opinion was borne out by a recent decision of 12 May 2017.[16]

However, although the Conseil d'Etat, confirmed the non-worker status of volunteer firefighters when examining the bill that would become Law No. 2011-851 of 20 July 2011 on the legal framework for hiring volunteer firefighters,[7] it did so with certain reservations, including the interpretation that might be made of it by the CJEU: "Furthermore, while the status assigned by national legislation to the activity of volunteer firefighters may only be extended subject to the interpretation thereof by the Court of Justice of the European Union and a potential reclassification, particularly as regards the relationship of volunteer firefighters with the authority with which they have entered into an agreement and in the context of which they perform their work, along with the stipulations of international conventions such as ILO Convention No. 151 and its interpretative case law, this activity cannot be subjected to all the rules that apply to a professional activity since it is not performed on a professional basis".[17]

As a result, France does not regard volunteer firefighters as workers and does not apply the effects of Directive 2003/88 to them save where, on very rare occasions, a volunteer firefighter replaces a professional one.[18]

III – 3 – Reactions in France following the Matzak judgment of 21 February 2018[19]

On 21 February 2018, the CJEU gave a preliminary ruling on a request by the Brussels Higher Labour Court (Case C-518/15). It pointed out that volunteer firefighters should be regarded as workers and categorised their stand-by duties, called "garde à domicile" in Belgium, as working time, bearing in mind the very short time (8 minutes) that they had to reach their station before going out on operations.

The CJEU found that the obligations which weighed on the firefighter concerned prevented him from going about his personal business and social activities and, as a result, made it impossible to consider that the periods for which he or she was on stand-by were rest periods, it being recalled that Europe recognises only two types of period, which are mutually exclusive, namely working time and rest periods.

13 Article L.723-5 of the Internal Security Code
14 Article L.723-8 of the Internal Security Code
15 Opinion No. 353 155 of the Conseil d'Etat of 3 March 1993
16 Decision No. 390 665 of the Conseil d'Etat of 12 May 2017
17 Report No. 3331 of 2011 of the National Assembly prepared by Mr PIERRE MOREL-A-L'HUISSIER, see pages 27 et seq.
18 Decree No. 2009-1208 of 9 October 2009 on the recruitment of volunteer firefighters under contract
19 Case C-518/15 of 21 February 2018, Rudy Matzak (Belgian firefighter) v. Ville de Nivelles (Belgium)

In France, volunteer firefighters' on-call periods are comparable to the periods of stand-by ("garde à domicile") of the Belgian firefighter in question.

At *département* level, several trade unions and individual volunteer firefighters have issued alerts to their supervisory authorities (chairs of boards or prefects). The answers they have received, when there have been any at all, have all referred to French law, which is in breach of EU law. Appeals were then made to the administrative courts. These should result in a decision in accordance with EU law, but only after a delay, which we consider likely to be somewhere between 5 and 15 years.

Union Syndicale Solidaires SDIS drew the attention of the elected members of the governing boards of the SDISs to the consequences for France of the Matzak judgment at the 31 May 2018 session of the National Conference of Fire and Rescue Services (CNIS). This was in vain, because no decision was taken, nor any work undertaken, to bring the situation of France's volunteer firefighters into line with Community law.

Document No. 4: Alert issued at the CNIS of 31 May 2018, by the Union Syndicale solidaire des SDIS

At national level, many members of the French National Assembly and Senate have put questions to the Minister of the Interior or the Government, most to ask what measures were being taken to preserve the French civil defence model. The first questions were put in November 2017 following the publication of the opinion of the Advocate General in the Matzak case.[20] [21]

The answer was published on 15 January 2019, 14 months after the questions were put: "The French civil defence is based on a model which shows its pertinence and strength every day. Through its organisation and its well-knit local and regional presence, this model enables us to deal both with day-to-day accidents and exceptional crises. As the day-to-day guardian of the safety of French citizens, it must be protected and reinforced. It should be pointed out first of all that the aim of the European Directive concerning certain aspects of the organisation of working time (2003/88/EC) is to guarantee all the workers of the European Union a harmonised, protective body of common rights. The judgment of the Court of Justice of the European Union known as the "Matzak judgment" has given rise to concern among volunteer firefighters, who fear that it may undermine the French civil defence model, as the unequivocal assimilation of voluntary service with work may limit its compatibility with any other salaried employment because the combination of activities resulting from this assimilation may potentially result in upper limits being exceeded, making a person unemployable after a period of activity as a volunteer firefighter. Consequently, the Government, which heeds and shares the volunteer firefighters' and elected representatives' concerns, immediately expressed its desire to protect our civil defence system, which is reliant for the most part precisely on the civic commitment of volunteer firefighters. Several lines of enquiry have been opened to protect the voluntary model – firstly, through representations to the European authorities for the special nature of the activity of volunteer firefighters to be recognised in the directive and secondly, through an investigation of the ways in which the extensive possibilities of including derogations in the law that transposes the directive into domestic law might be exploited. Elected representatives and volunteer firefighters can count on the Government to rally round to preserve the French civil defence model".

Subsequently, in autumn 2018, the FNSPF organised a communication campaign to defend the French civil defence model. It gave rise to numerous press articles and over forty parliamentary questions, to which the Government's answers are now beginning to arrive, and are all identical to the answer above.

[20] Question 15-2727QE to the National Assembly, put by Mr Kasbarian on 7 November 2017– answered on 15 January 2019

[21] Question No. 06750 to the Senate, put by Mr François Pillet, answer pending.

The Senate has been particularly active in the drive to preserve the current status of volunteer firefighters. During the session of the European Affairs Committee,[22] [23] the Senate issued a political opinion on European rules and the status of volunteer firefighters.[24]

At European level, in October 2018, an MEP questioned the European Commission on the subject of counting volunteer firefighters' on-call duties as working time. In its written reply of 21 November 2018,[25] the Commission reiterated the EU's definition of a worker. This recent reply by the Commission has been completely ignored by France.

It has to be concluded that France persists in refusing to assign volunteer firefighters the status of worker, with all the risks that that entails for their health and safety at work.

III – 4 – France and the improvement of the health and safety of workers at work

It is interesting to note how France has conducted itself when setting up Community law measures designed to protect workers' health and safety at work.

Council Directive No. 89/391 of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work "has been the subject of a number of measures of transposition into French law, particularly through various additions and amendments to the relevant provisions of the Labour Code".[26]

In the judgment of the CJEU from which this quotation comes it was clear that France had not sufficiently or properly transposed this directive into its law, particularly where it came to the provision of information to workers about the risks they ran when they were at work, as provided for by the directive.

It should be noted that France's volunteer firefighters are not given any information about the risks they run when they are on duty at their fire station or on night shifts, and this is not of course to mention the failures to respect the provisions of Directive 2003/88, such as working hours in excess of 48 hours over 7 days or in excess of the annual upper limit of 2256 hours.

As stated previously, France did not properly transpose Directive 2003/88[27] for professional firefighters as it provided that they could exceed the upper limit of 2256 working hours per year and that the reference period for the application of the various articles of the directive could be a whole year. It is for this reason that on 27 September 2012 the European Commission issued a formal notice to France to bring Decree 2001-1382 2001 on the working time of professional firefighters into line with EU law.[28]

As to the transposition of Directive 2003/88 to the French Police, this has not been properly carried out either as, in 2014, the European Commission sent the French Republic a reasoned opinion, on the

22 See the report of the session of 15 November 2018
23 See the video of the session of 15 November 2018
24 Political opinion of the Senate of 15 November 2018
25 Answer of the Commission of 21 November 2018
26 Judgment of the CJEU of 5 June 2008 (Case C-226/06), Commission v. France
27 According to the 2nd paragraph of the preamble to the Directive, "Article 137 of the Treaty provides that the Community is to support and complement the activities of the Member States with a view to improving the working environment to protect workers' health and safety".
28 Infringement No. 2006/4581, notice to members of the European Parliament

basis of Article 258 of the TFEU. The opinion noted a failure to transpose Articles 3, 5, 6 and 17 of Directive 2003/88 concerning certain aspects of the organisation of working time correctly into national law where it came to the working time of the command corps of the national police force.[29]

As to the failure to transpose Directive 2003/88 properly or at all with regard to French volunteer firefighters, regardless of what has already been said, France had already been aware of Europe's position on this subject for a long time.

In 2010 to 2012, French MEPs put questions to the Commission when a second revision of Directive 2003/88 was being discussed. In its replies, the Commission stated as follows:

- "The Working Time Directive applies to 'workers' and does not contain any reference to volunteer activities.": Answer of 17 November 2010 by the Commission to Mr Abad, who had questioned it on the inclusion of volunteer firefighters within the scope of Directive 2003/88/EC on working time in the European Union.[30]
- "However, even if specific consideration is given to the status of voluntary fire-fighters, the Commission does not currently intend to exclude this group from the scope of the directive": Answer of 27 May 2011 by the Commission to Mr Vlasto, who had questioned it on the status of professional and volunteer firefighters.[31]
- "As it indicated in its 2010 communication on the review of the Working Time Directive, the Commission sees a need to give particular consideration to the situation of volunteer firefighters. Excluding them from the scope of EU working-time rules would, in its view, be inappropriate, having regard in particular to Article 31 of the Charter of Fundamental Rights of the European Union": Answer of 21 February 2012 by the Commission to Mr Vlasto, who had questioned it on the classification of volunteer firefighters' activities as an occupation.[32]

The examples concerning the law enforcement services show clearly that France has been repeatedly called to order by Europe where it comes to promoting improvements to the safety and health of workers at work.

As to volunteer firefighters, this is a deliberate refusal, which has been going on for far too many years, to the detriment of their health and safety at work.

29 Petition No. 1616/2008, notice to members of the European Parliament
30 Commission's answer to Mr Abad's question in 2010
31 Commission's answer to Mr Vlasto's question in 2011
32 Commission's answer to Mr Vlasto's question in 2012

IV – Violations of the Charter

IV.1 The right to just conditions of work (Article 2 of the Charter)

Article 2 of the Charter provides that to comply with the definition of just conditions of work, the Parties undertake:

1. *to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;*
2. *to provide for public holidays with pay;*
3. *to provide for a minimum of four weeks' annual holiday with pay;*
4. *to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;*
5. *to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;*
6. *to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;*
7. *to ensure that workers performing night work benefit from measures which take account of the special nature of the work.*

We shall see that there is a violation of paragraphs 1, 2, 3, 4, 5, and 7 of Article 2 with regard to volunteer firefighters.

IV 1 – 1 Reasonable daily and weekly working hours

As mentioned above, French law considers that "the activity of a volunteer firefighter, which is based on voluntary service, shall not be performed on a professional basis but under particular conditions" (Article L.723-5 of the Internal Security Code).[13]

And, furthermore, "neither the Labour Code nor the civil service regulations shall be applicable" (Article L.723-8 of the Internal Security Code).[14]

Yet it is precisely through the Labour Code, for the private sector, and the civil service regulations, for the public sector, that France applies the provisions of Directive 2003/88 which set daily and weekly working hours to workers in the public and private sectors.

The status of volunteer firefighters excludes them from the world of workers despite the fact that some carry out an annual volume of work which far exceeds that of their professional colleagues, that they carry out the same task as professionals, and professionals are recognised as workers.

Consequently, every possible excess is permitted by French law as neither working time at fire stations or on call is regarded as working time and such time is not included in the calculations that make it possible to guarantee reasonable daily and weekly working hours, as provided for in Article 2 of the Charter.

One example is the extract below from an application to the Administrative Court by a volunteer firefighter in the département of the Rhône, which shows that in addition to his main job, in which he performs 1607 working hours per year, he completed 19 089 hours of work as a volunteer firefighter

from 2014 to 2017, in other words an average of 4772 hours per year on top of the 1607 hours per year in his main job.[33]

Ce tableau omet cependant d'indiquer le volume d'heures effectuées en formation : il convient donc de rajouter ces données, l'ensemble de l'activité de Monsieur étant résumé dans le tableau ci-dessous :

	Garde Postée	Disponibilité programmée	Alertable en complément	Stage	**Total**
2014	579	324	1 824	91	**4 832**
2015	585	293	2 513	21	**5 427**
2016	583	249	2 108	35	**4 991**
2017	484	244	1 073	21	**3 839**
Total	**2231**	**1110**	**7518**	**168**	**19 089**

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16/23

TRANSLATION of the ABOVE: This table does not indicate, however, how many hours Mr. A… spent on training courses. This information should be added. Mr A.'s entire activities [as a volunteer firefighter] are set out in the table below:

	Fire station duties	**Scheduled availability**	**Additional periods on call**	**Training**	**Total**

…

Béatrice Arnould – member of the Lyon Bar …

Similarly, it emerges from Judgment No. 1700145 of Strasbourg Administrative Court of 2 November 2017, and the submissions of the public rapporteur in this case, that a decision by the SDIS of the *département* of Bas-Rhin set the number of hours other than on-call duties that volunteer firefighters could be paid for at 2 850 hours and the number of weeks that they could be on call each year at 50.

Document No. 5: Judgement No. 17000145 of the Strasbourg Administrative Court (TA Strasbourg) of 02/11/2017
Document No. 6: Submissions of the public rapporteur in TA Strasbourg Case No. 17000145

At this stage, it should be pointed out that on-call duties carried out by volunteer firefighters should be regarded as working time, as they cannot go about their personal business and social activities freely during these periods. This is what emerges from the judgment of the Court of Justice of the European Union of 21 February 2018[19] and the opinion of the Advocate General.[34]

[33] Application lodged on 8 November 2018 by Ms Béatrice Arnould, representing Mr A. …, volunteer firefighter in the Rhône *département* SDIS.

[34] Opinion of the Advocate General, Ms Eleanor SHARPSTON, Case C-518/15

In the case of the Belgian firefighter on "garde à domicile", which is the expression used in Belgium for the on-call duties in the home referred to in France as "astreintes", the firefighter in question had 8 minutes to reach his station before going out on operations. For French firefighters the time they are expected to take varies between 5 and 10 minutes depending on the different rules in each département. It is clear therefore that the situation of Belgian and French volunteer firefighters is similar and comparable.

It should also be pointed out that French volunteer firefighters should be regarded as workers and this is not always the case, even though paragraph 27 of the judgment of the CJEU cited above points out that the CJEU has been coming to this finding for many years[35] and despite the calls to order by the European Commission cited above in 2010[30], 2011[31], 2012[32] and 2018[25].

It is clear from this legal situation that after completing a working day in their main occupational activity as lorry or bus driver for instance, French volunteer firefighters may be required, immediately after this activity, and even when they are still officially on a safety break, to work as a volunteer for their SDIS on night duty, drive SDIS vehicles and drive their colleagues to fire and rescue operations. After their night shift, they may even be required to resume their main work as a lorry or bus driver the next morning.

It transpires therefore that the working conditions of volunteer firefighters are not fair in the light of various provisions of the Charter:

1. **No reasonable daily or weekly working hours have been set.**

2. **No pay is awarded for public holidays.**

3. **No annual paid leave is granted.**

4. **No reduction in working hours or additional paid leave is granted to them despite the fact that the occupation is acknowledged to be dangerous.[36]**

5. **They are not guaranteed a weekly rest period.**

7. **They do not benefit from measures which take account of the special nature of night work.**

IV.2 The right to safe and healthy working conditions (Article 3 of the Charter)

Article 3 of the Charter provides that with a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake:

1. *to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;*
2. *to issue safety and health regulations;*
3. *to provide for the enforcement of such regulations by measures of supervision;*
4. *to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.*

35 Order of the Court of 14 July 2005, Personalrat der Feuerwehr Hamburg, Case C-52/04, paragraph 52.

36 Article L723-1 of the Internal Security Code: "The dangerous nature of the occupation and assignments carried out by firefighters shall be acknowledged".

Article R 1424-1 of the General Code on Local and Regional Authorities provides: "The fire and rescue services shall be made up of professional firefighters belonging to the occupational cadres set up pursuant to Law No. 84-53 of 26 January 1984 setting out statutory provisions on local government staff, and volunteer firefighters, who shall be subject to special rules established pursuant to Article 23 of Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades and may not therefore perform this activity full time". And at no point is it specified what full time amounts to for a volunteer firefighter.

Under French law, the governing boards of SDISs are free to set the limits on hours on shifts at fire stations or on call at home.

There are no rules which take account of the combination of hours worked in a main job and work carried out as a volunteer firefighter for an SDIS, including with regard to hours worked at fire stations which are not recorded in any cumulative account, in defiance of the European Commission's recommendation in the event of concurrent employment contracts.[37]

No regulations enable French firefighters to benefit from rules on their health, safety or hygiene at work, with the result that none of the 4 paragraphs of Article 3 is respected.

IV.3 The right to a fair remuneration (Article 4 of the Charter)

Article 4 of the Charter provides that with a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

1. *to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;*
2. *to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;*
3. *to recognise the right of men and women workers to equal pay for work of equal value;*
4. *to recognise the right of all workers to a reasonable period of notice for termination of employment;*
5. *to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.*
   The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

We shall see that not one of the paragraphs of Article 4 is respected with regard to volunteer firefighters.

It should be pointed out initially that professional and volunteer firefighters are both an integral part of SDISs and carry out the same tasks for the same public employer:

- Article R 1424-1 of the General Code on Local and Regional Authorities: "The fire and rescue services shall be made up of professional firefighters belonging to the occupational cadres set up pursuant to Law No. 84-53 of 26 January 1984 setting out statutory provisions on local government staff, and volunteer firefighters, who shall be subject to special rules established

[37] In its Interpretative Communication of 24 May 2017 on Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, the European Commission stated as follows: "As indicated in previous reports (44), the Commission considers that, in the light of the Directive's objective to improve the health and safety of workers, the limits on average weekly working time and daily and weekly rest should as far as possible, apply per worker. Taking into account the need to ensure that the health and safety objective of the Working Time Directive is given full effect, Member States' legislation should provide for appropriate mechanisms for monitoring and enforcement".

pursuant to Article 23 of Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades and may not therefore perform this activity full time".

- Article L 723-6 of the Internal Security Code:[38] "Volunteer firefighters shall undertake freely to place themselves in the service of the community. They shall perform the same tasks as professional firefighters. In this way, they shall contribute directly, according to their availability, to the civil defence assignments of all types conferred on the fire and rescue services or on the state departments in which these are permanently invested referred to in the first paragraph of Article L. 721-2. They shall contribute to the aims set in Article L. 112- 1".

However, the situation is quite different where it comes to the subject of pay, where there is a clear distinction between the two categories:

- for professionals the rules on pay are laid down by the French civil service regulations[39] and the rules relating to their status as firefighters;
- volunteers used to be paid fees, which were rendered compulsory by Law 96-370 of 3 May 1996 on the development of a voluntary service in the firefighter corps. Subsequently, these fees were retitled "allowances" under Law No. 2011-851 of 20 July 2011 on the legal framework for hiring volunteer firefighters.

The amount of these fees or allowances for volunteer firefighters has been stipulated by specific texts which have changed over time.[40] [41] [42] Although the hourly rate is set at national level for each of the ranks concerned, each SDIS may discuss and adopt provisions on the payment of volunteer firefighters' fees. Accordingly, under Article 7 of Decree No. 2012-492 of 16 April 2012 on volunteer firefighters' allowances,[42] "on-call duties may give rise to the payment of allowances amounting to no more than 9% of the basic hourly allowance for the grade concerned. The number of weeks of on-call services which may be carried out by the same volunteer firefighter in a year shall be decided on by the governing board of the *département* fire and rescue service, based on the opinion of the département advisory committee on volunteer firefighters".

Article 1 of the Order of 28 September 2018[43] setting the amount of the basic hourly allowance for volunteer firefighters states that the hourly rates are €7.74 for a regular firefighter, €8.30 for a corporal, €9.38 for a petty officer and €11.63 for an officer.

In each *département* therefore the pay for on-call duties lies between €0 and 9% of the basic hourly rates cited above, i.e. €0.70 for a regular, €0.75 for a corporal, €0.84 for a petty officer and €1.05 for an officer (when not on operations).

There is also a dual paradox about volunteer firefighters' pay, which can be resumed as follows:

- In 2009, a decree was adopted which made it possible for volunteer firefighters to be recruited under contract on professional posts in certain circumstances (such as seasonal requirements). In such cases, they are regarded as workers and receive similar pay to the professional they are replacing. As a result they can work a shift in a fire station under similar rules to a professional then work a shift the very next day in the same station under the orders of the same officers but under the fee or allowance arrangements described above with non-worker status!
- In 2013, another decree was adopted[44] which provided that for seasonal work, volunteer firefighters could be recruited under contract but under the general status of a volunteer who is paid fees or allowances and in the capacity of non-worker.

[38] Article L 732-6 of the Internal Security Code
[39] Article 20 of Law No. 83-634 of 13 July 1983
[40] Decree of 22 November 1996 on volunteer firefighters' hourly fees (repealed)
[41] Circular No. 98-420 of 4 May 1998 on the implementation of the Decree of 22 November 1996 on volunteer firefighters' hourly fees
[42] Decree No. 2012-492 of 16 April 2012 on volunteer firefighters' allowances
[43] Order of 28 September 2018 setting the amount of the basic allowance for volunteer firefighters

Looking at the entire range of French legislation on pay for volunteer firefighters, it is clear that:

- **the system of remuneration for volunteer firefighters does not enable them to *give themselves and their families a decent standard of living* (Article 4, paragraph 1, of the Charter);**
- **overtime does not exist (Article 4, paragraph 2, of the Charter);**
- **a male professional firefighter carrying out the same duties for the same employer in similar circumstances will receive much higher pay than that of a female volunteer (Article 4, paragraph 3 of the Charter);**
- **there are no periods of notice for volunteer firefighters (Article 4, paragraph 4, of the Charter);**
- **there is no legislation on deductions from wages (Article 4, paragraph 5 of the Charter).**

IV.4 The right to protection of health (Article 11 of the Charter)

Article 11 of the Charter provides that with a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia*:

1. *to remove as far as possible the causes of ill-health;*
2. *to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;*
3. *to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.*

The failure to respect this right laid down in the Charter is the consequence of the various provisions of French law applicable to volunteer firefighters described above.

It is understood that where volunteer firefighters' activities (on fire station duty, on call at home, in training, etc.) are on such a small scale that they can be regarded as purely marginal and ancillary, they may be regarded as non-workers, as is clear from the established case law of the CJEU.[45] [46] These principles were reiterated in paragraphs 27 and 28 of the Matzak judgment.[19]

In truth, the situation of volunteer firefighters is quite different. Although a few rare volunteer firefighters might potentially be considered not to be workers because of the marginal, ancillary nature of their work, a very large majority should be considered as workers.

On page 45 of its report of November 2011 on the SDISs,[47] the French Court of Audit stated as follows: "Volunteer firefighters make up about 80% of all firefighters, although this figure varies from *département* to *département*. On 1 January 2010, 10 *départements* had fewer than 200 volunteer firefighters per 100 000 inhabitants whereas 16 *départements* had over 500.
This extensive use of volunteers is characteristic of French fire and rescue services and reflects a civic commitment which is solidly anchored in the history of the civil defence system. It also makes it possible to substantially reduce the cost of operations. The wage bill of the 200 000 volunteer firefighters is ten times less than that of the 39 200 professional firefighters. In Moselle, whereas volunteer firefighters take part in two-thirds of operations, the direct expenditure allocated to their remuneration accounts for only 20% of staff costs".

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[44] See Article 81 of Decree No. 2013-412 of 17 May 2013 on volunteer firefighters

[45] Judgment of 14 October 2010, Union syndicale Solidaires Isère, C-428/09, paragraph 28

[46] Judgment of 26 March 2015, Fenoll, C-316/13, paragraph 27

[47] Report of the Court of Audit of November 2011 on SDISs

It is clear therefore that the proper functioning and continuity of fire and rescue services depends to a great extent on the presence of volunteer firefighters, who:

- are not regarded as workers by the French state;[13] [14]
- nonetheless, perform the same tasks as professional firefighters;[48]
- are not permitted to work full time, but their work is not actually quantified;[3]
- are not covered by any limit on the hours they work as volunteer firefighters or on the combined hours of their main occupational activity and their activity as volunteer firefighters, in breach of the requirements of EU law.[37]

The failure to respect the right to protection of health derives mainly from the fact that volunteer firefighters are not regarded as workers by France and therefore it does not grant them the protection of all the measures contained in Directive 2003/88, which was introduced to improve the health and safety of workers at work.

On this subject, the European Commission pointed out to a French MEP who questioned it in 2012 on the classification of volunteer firefighters' activities as an occupation that "excluding them from the scope of EU working-time rules would, in its view, be inappropriate, having regard in particular to Article 31 of the Charter of Fundamental Rights of the European Union".[32]

It is clear from the legislation that French volunteer firefighters:

- **are not protected by the measures provided for by Directive 2003/88, which makes it possible, among other things, to remove the causes of ill health (Article 11, paragraph 1, of the Charter);**
- **are not covered by any measure to improve health or develop a sense of individual responsibility in matters of health (Article 11, paragraph 2, of the Charter);**
- **are not covered by any measure for the prevention, as far as possible, of accidents (Article 11, paragraph 3, of the Charter).**

IV.5 The right to protection in cases of termination of employment (Article 24 of the Charter)

Article 24 of the Charter provides that 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:

1. *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;*
2. *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.

We will demonstrate that volunteer firefighters do not enjoy the protection provided for by the Charter in the event of termination of employment.

Currently French volunteer firefighters are recruited on contracts, on the basis of the provisions of Article L.1424-5[49] and L. 1424-10[50] of the General Code on Local and Regional Authorities and Articles L. 723-3[51] et seq. and R 723-9[52] of the Internal Security Code.

[48] Article L 723-6 of the Internal Security Code

[49] Article L1424-5 of the General Code on Local and Regional Authorities: "The *département* fire brigade shall be made up of: 1° Professional firefighters; 2° The following volunteer firefighters: – volunteer firefighters from the municipal or intermunicipal brigades working for central or local fire and rescue centres; volunteer firefighters from municipal or intermunicipal brigades working for first response centres whose municipalities or public intermunicipal co-operation establishments have asked, on a

The rules on the dismissal of volunteer firefighters are set out in Article R723-54 of the Internal Security Code.[53] Local and regional authorities take such decisions after the volunteer has had a hearing, if he or she so requests, and/or after his or her case has been examined by the advisory committee for volunteer firefighters (CCDSPV). The functioning of the CCDSPVs with regard to dismissal is described in Article R723-75 of the Internal Security Code.[54]

As the employment contracts of volunteer firefighters are limited to five years, they should therefore be regarded as fixed-term contracts under both French law and Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.[55]

Yet, as the Court of Audit has highlighted,[47] volunteers are used extensively. This extensive use is clearly not just provisional but permanent and enduring.

This practice of using fixed-term contracts to meet permanent needs is incompatible with Directive 1999/70/EC and the related case law.[56] Consequently, volunteer firefighters are not covered by the guarantees that would apply to them if they had an indefinite-term contract.

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decision by their deliberative body for them to join the *département* brigade; 3° Auxiliary firefighters from the civil defence service".

[50] Article L1424-10 of the General Code on Local and Regional Authorities: "Volunteer firefighters who are members of the *département* brigade and volunteers on civic service duties shall be hired and managed by *département* fire and rescue services. Officer-grade volunteer members of the *département* brigade and, when they are appointed from among non-officer volunteer firefighters in the *département* brigade, heads of fire and rescue centres shall be appointed to their functions and, with regard to officers, in their grade, jointly by the relevant state authority and the Chair of the governing board of the *département* fire and rescue service".

[51] Article L723-3 of the Internal Security Code: "Anybody, whether employed or not and regardless of their occupation, may become a volunteer firefighter provided that they meet the conditions of employment".

[52] Article R723-9 of the Internal Security Code: "Volunteer firefighters shall be hired for a period of five years, which may be tacitly renewed. The initial appointment of volunteer firefighters shall take effect on the date on which the person concerned is notified of his or her appointment".

[53] Article R723-54 of the Internal Security Code: "Managing authorities which do not wish to renew a volunteer firefighter's contract are required to inform the person concerned by registered letter with acknowledgment of receipt six months at least before the end of the five-year employment period. The firefighter concerned may ask to be heard by the managing authority and, within two months of receiving the aforementioned letter, ask for his/her case to be examined by the relevant advisory committee, mentioned in Articles R.723-73 and R.723-75. The latter shall issue its opinion within two months. The managing authority's reasoned decision not to renew the volunteer firefighter's contract shall be announced to the person concerned one month at least before the end of the current period of employment".

[54] Article R723-75 of the Internal Security Code: "Municipal and intermunicipal advisory committees on volunteer firefighters, set up respectively for municipalities and public intermunicipal co-operation establishments, shall have the authority to give their opinion on all issues related to volunteer firefighters in municipal and intermunicipal brigades, save for disciplinary matters. They shall be consulted in particular on the appointment and the refusal to reappoint volunteer firefighters to municipal and intermunicipal brigades and changes of grade other than those referred to in Article R. 723-78, and shall be informed of appeals against the decisions not to appoint or reappoint such staff referred to in Article R. 723-54. They shall be asked for their opinion on the internal rules of the municipal or intermunicipal brigade. They shall be presided over by the relevant local or regional authority and comprise an equal number of representatives of the management and elected representatives of the volunteer firefighters of the municipal or intermunicipal brigade. When they are required to give an opinion on the individual situation of a volunteer firefighter, they may not include volunteer firefighters on a lower grade to the volunteer firefighter whose situation is being examined. The composition and operating procedures of municipal and intermunicipal advisory committees on volunteer firefighters and the appointment of their members shall be established by order of the minister responsible for civil defence issues".

[55] Council Directive 1999/70/EC of 28 June 1999

[56] Case C-16/15 CJEU of 14 September 2016, paragraph 48: "The renewal of fixed-term employment contracts or relationships in order to cover needs which, in fact, are not temporary in nature but, on the contrary, fixed and permanent is not justified for the purposes of clause 5(1)(a) of the framework agreement, in so far as such use of fixed-term employment contracts or relationships conflicts directly with the premise on which the framework agreement is founded, namely that employment contracts of indefinite duration are the general form of employment relationship, even though fixed-term employment contracts are a feature of employment in certain sectors or in respect of certain occupations and activities (see, to that effect, judgments of 26 January 2012, *Kücük*, C-586/10, EU:C:2012:39, paragraphs 36 and 37, and of 26 November 2014, *Mascolo and Others*, C-22/13, C-61/13, C-63/13 and C-418/13, EU:C:2014:2401, paragraph 100)".

From the foregoing it is clear that firefighters who have been dismissed may only be heard by the authority that dismissed them and/or by the CCDSPV, which is presided over by the authority that dismissed them.

As a result workers who consider that their employment has been terminated without a valid reason do not have the right to appeal to an impartial body as the authority responsible for their dismissal is present at every stage in their appeal.

Furthermore, there is no means whereby a volunteer firefighter whose employment is terminated without a valid reason can claim adequate compensation or other appropriate relief.

IV.6 Non-discrimination (Part V, Article E of the Charter)

Article E of Part V of the Charter on non-discrimination provides that:

"The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status".

Yet we have seen in the preceding section that professionals and volunteers work together at the same fire stations under the authority of the same superiors, carrying out the same tasks on the same operations at the same time, but they are not paid in the same way. This gives rise to disparities and situations of discrimination.

In her submissions on behalf of Mr A….., referred to above[33], barrister Béatrice Arnould argued as follows:

"The non-remuneration of hours worked by volunteer firefighter is rendered illegal by the unjustified discriminatory distinction that it makes between professional and volunteer firefighters depending on whether they are replacing a professional or not.

Article 14 of the European Convention on Human Rights grants everyone the right to enjoy the rights and freedoms enshrined in the Convention 'without discrimination on any ground such as sex, race, … birth or other status'.

The European Court of Human Rights holds that Article 14 safeguards individuals placed in similar situations from any discriminatory differences of treatment (ECHR, 18/02/1991, No. 12313/86) and that, while it does not prohibit any difference in treatment in the exercise of the rights and freedoms enshrined in the Convention, a difference of treatment is discriminatory if it has no objective and reasonable justification (see for example the Rasmussen v. Denmark judgment, 28/11/1984, Series A No. 87).

The Court also considers that discrimination can result from a general policy or measure (ECHR, 04/05/2001, Hugh Jordan v. the United Kingdom, paragraph 154; 06/01/2005, Hoogendijk v. the Netherlands) or even from a *de facto* situation (ECHR, 20/06/2006, Zarb Adami v. Malta, paragraph 76).

In the instant case, the result of the legislation in force is that although, even according to the legislation itself, all firefighters perform the same tasks under the same material circumstances, managed by the same superiors and in the same places of operation, some receive remuneration while others only receive allowances.

This difference in treatment cannot be considered objectively and reasonably justified by the fact that for some this is their principal occupation and for others it is an ancillary one.

The principle of equality requires that for the same work or for work assigned equal value, workers should receive equal pay. This principle is applied when it comes to equal pay for women and men and there is no reason not to apply it to all workers, regardless of their sex.

Under the established case law of the Conseil d'Etat, the principle of equality requires persons placed in the same situation to be treated in the same manner, particularly members of the same civil service corps (see judgment of the Conseil d'Etat, 26/10/1979, MILLAN). From this viewpoint, it is wrong to take account of the special legal status of volunteer firefighters, which, as has been seen previously, must be rejected as a reason not to grant these persons the status of worker.

Pay claims are regarded as a property right protected by Article 1 of the First Additional Protocol to the Convention, such that when this article is combined with Article 14, every person may claim to enjoy such rights without discrimination.

In the instant case, the principle underlying the payment of volunteer firefighters creates differences with professional or contractual firefighters that are irreconcilable with the principle of equal treatment, from the viewpoint both of domestic law and of the European Convention on Human Rights.

Such a difference in treatment would also warrant censure in the light of the case law of the Court of Justice of the European Union with regard to discrimination … (Case C-148/02 of 2 October 2003 CJEU) - Case C-176/09 of 12 May 2001, Grand Duchy of Luxembourg / Parliament and Council).

This principle was also applied in a recent judgment concerning discrimination against workers on fixed-term contracts (CJEU, Case C- 574/16 of 5 June 2018, Grupo Norte Facility SA / Angel Manuel Moreira Gómez)".

This discrimination is made still worse by the relative numbers of professional and volunteer women firefighters. According to the latest statistics in the Ministry of the Interior's 2018 report,[57] women account for about 16% of the staff of SDISs in France. According to the figures set out on pages 22 and 30 of the document, there are 18 times more volunteer women firefighters than professional women firefighters, if we discount the health services.

Every day, during the same shift at a fire station or on the same operation, there will be professional male firefighters and volunteer women firefighters working together, and the latter will not be paid the same as their male colleagues although they are doing the same work, thus giving rise to further discrimination.

The fact that there are two different laws that have different effects on the pay of firefighters employed to meet seasonal needs (Decree No. 2009-1208 of 9 October 2009[18] and Decree No. 2013-412 of 17 May 2013, Article 81[44]), and it is impossible to understand or determine to which circumstances they are supposed to relate, also creates potential cases of discrimination.

Lastly, professional firefighters are granted paid leave while volunteers are not, and volunteers do not benefit from the same arrangements as professionals to make pension contributions.

It is clear from the foregoing that although volunteer firefighters do the same work as professional firefighters,[38] the differing treatment applied to them in so many fields, not all of

[57] See pages 22 and 30 of the 2018 statistics on SDISs

which have been highlighted in this collective complaint, does not enable them to enjoy the rights enshrined in the Charter without discrimination.

In conclusion:

As things stand, France has clearly expressed its desire to preserve the current status of volunteer firefighters through its reply to questions from National Assembly members:

"Elected representatives and volunteer firefighters can count on the Government to rally round to preserve the French civil defence model"[20].

In practice, since 1996, the way in which the status of French volunteer firefighters has been built up and consolidated over the years has been at odds with the requirements of EU law.

On this subject, the Court of Audit recognises on page 48 of its report that "the extensive use of volunteer firefighters … makes it possible to substantially reduce the cost of operations". However, this practice fails to deal with the volumes of their annual working hours, which they carry out to the detriment of their health and security, nor does it take account of the 4th paragraph of the preamble to Directive 2003/88.[58]

Today, in 2019, it seems impossible to us to retain the status of non-worker of French volunteer firefighters any longer as it was set up in the light of purely economic considerations. It is high time therefore to grant such firefighters all the guarantees to which they are entitled since France ratified the 1961 Charter, its protocols and the revised Social Charter[59] along with those deriving from Directive 1993/104 of 23 November 1993 and Directive 2003/88 of 4 November 2003, on health and safety at work.

This is all the more so given that in the field, some volunteer firefighters who have asked for the provisions of Directive 2003/8 to be applied to them are beginning to be subject to unacceptable pressures and retaliatory measures which are totally prohibited by Community law.[60]

For instance, in one *département*, the Director of the *Département* Fire and Rescue Service summoned the entire station to "teach them a lesson". He discredited a firefighter who had asked for EU law to be applied, stating that he was unworthy to be a firefighter and to be a member of the station management team. Responsibility for the team he managed was subsequently withdrawn from him, in connection with his appeal. A complaint of defamation has been filed and a second of harassment is being drawn up for a repetition of these facts.

[58] 4th paragraph of the preamble to Directive 2003/88: "The improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations".

[59] See table of ratifications per country

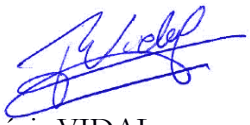
[60] Case C-243/09, 14 October 2010, Günter Fuß v. Stadt Halle paragraph 66: "In addition, as the Commission correctly pointed out, the fundamental right to effective judicial protection, guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union, which, according to the first subparagraph of Article 6(1) EU, has 'the same legal value as the Treaties', would be substantially affected if an employer, in reaction to a complaint or to legal proceedings brought by an employee with a view to ensuring compliance with the provisions of a directive intended to protect his safety and health, were entitled to adopt a measure such as that at issue in the main proceedings. Fear of such a reprisal measure, where no legal remedy is available against it, might deter workers who considered themselves the victims of a measure taken by their employer from pursuing their claims by judicial process, and would consequently be liable seriously to jeopardise implementation of the aim pursued by the directive (see, by analogy, Case C-185/97 Coote [1998] ECR I-5199, paragraphs 24 and 27)".

Regularly, volunteer firefighters or professional ones with "dual status" (who also have a contract as a volunteer) are wounded or killed during periods in which they should have been on safety breaks following work in their main occupation.

This is why we have decided to draw attention to this situation, which has been going on for too many years, and complain to the European Committee of Social Rights about the French legislation on volunteer firefighters, which we consider to be in breach of the European Social Charter, the Charter of Fundamental Rights of the European Union and EU law in general.

Yours faithfully

The National Secretary,



Régis VIDAL

Documents enclosed

Document No. 1: Statutes adopted at the Nantes Congress on 3 April 2015

Document No. 2: Composition of the Bureau following the Nantes Congress on 3 April 2015

Document No. 3: Registration of the statutes at Nîmes town hall

Document No. 4: Alert issued at the CNIS of 31 May 2018, by the Union Syndicale solidaire des SDIS

Document No. 5: Judgment No. 17000145 of the Strasbourg Administrative Court (TA Strasbourg), 02/11/2017

Document No. 6: Submissions of the public rapporteur in TA Strasbourg Case No. 17000145