



European
Social
Charter

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

24 July 2020

Case Document No. 3

Syndicat CFDT des Transports de l'Aube v. France
Complaint No. 181/2019

**OBSERVATIONS BY THE GOVERNMENT OF FINLAND
ON THE MERITS**

Registered at the Secretariat on 17 July 2020



17 July 2020

Mr Henrik Kristensen
Deputy Executive Secretary
European Committee of Social Rights

Complaint No. 181/2019
Syndicat CFDT des Transports de l' Aube v. France

and

Complaint No. 182/2019
Syndicat CFDT de la Métallurgie de la Meuse v. France

Sir,

With reference to your letter of 25 May 2020, I have the honour, on behalf of the Government of Finland, to submit the following comments on the complaints *Syndicat CFDT des Transports de l' Aube v. France* (No. 181/2019) and *Syndicat CFDT de la Métallurgie de la Meuse v. France* (No. 182/2019).

COMMENTS

1. In the collective complaints under the Revised European Social Charter in cases *Syndicat CFDT des Transports de l' Aube v. France* (No. 181/2019) and *Syndicat CFDT de la Métallurgie de la Meuse v. France* (No. 182/2019), it is considered, *inter alia*, that French legislation does not meet the requirements of the Charter because

- the legislation does not guarantee several public holidays with pay, but only one (Article 2§2);
- workers' claims are only partially protected in the event of the employer's insolvency, and the amount secured by law has been halved (Article 25);
- the legislation requires a real and serious cause for dismissal, instead of a valid reason in accordance with the wording of Article 24 of the Charter (Article 24);
- the employer's redeployment or reinstatement obligation does not apply to redeployment or reinstatement to the employer's branches outside France (Article 29).

2. The Government is of the view that Article 2§2 of the Revised European Social Charter cannot be considered to require several public holidays with pay. According to the case law of the European Committee of Social Rights (see *Digest of the case law of the European Committee of Social Rights*, 2018), the Charter does not specify the number of public holidays, which varies from State to State. No violations of the Charter have been found on the grounds that there are too few paid public holidays under national practice.
3. The Government notes that the case law of the Committee on Article 25 does not require the protection of all claims of workers in the event of the employer's insolvency. According to the specific case law of the Committee, the protection of workers' claims in the event of insolvency may be limited nationally to a prescribed amount, which must nevertheless be socially acceptable (see *Digest of the case law of the European Committee of Social Rights*, 2018).
4. The Government holds that Article 24 of the Revised European Social Charter cannot be considered to require a verbatim wording as regards the reason for terminating employment.
5. According to the case law of the European Committee of Social Rights, Article 29 concerns the employer's obligation to consult workers' representatives, and the purpose of the consultation (see *Digest of the case law of the European Committee of Social Rights*, 2018). As far as is known, the Committee, in its case law, has not taken a stand on the redeployment or reinstatement of workers to be dismissed or its extent.
6. Therefore, the Government is of the view that Article 29 of the Charter cannot be considered to require that the extent of redeployment or reinstatement be regulated by legislation in the manner suggested in the collective complaint.

Accept, Sir, the assurance of my highest consideration.



Krista Oinonen
Agent of the Government of Finland
before the European Committee of Social Rights
Director, Unit for Human Rights Courts and Conventions