

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

17 March 2020

Case Document No. 1

Union Syndicale Solidaires SDIS v. France
Complaint No. 193/2020

COMPLAINT

Registered at the Secretariat on 13 March 2020

Lyon, 13 March 2020

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

By e-mail: social.charter@coe.int

Council of Europe
F – 67075 Strasbourg Cedex

Subject: Collective complaint - France's minor 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 minor volunteer firefighters which, in several respects, do not seem to us to comply with the European Social Charter (hereinafter “the Charter”).

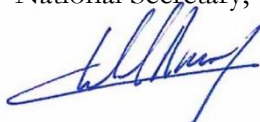
We condemn the practices of French lawmakers, who have institutionalised these infringements of the Charter and the rules of EU law for many years.

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

In relation to this complaint, we would earnestly request that an emergency measure be taken.

Yours faithfully

National Secretary,



Rémy CHABBOUH

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I – The trade union, its representativeness and the admissibility of the complaint

I – 1 Presentation of the union

1. 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”.
2. 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.
3. In early 2019, the statutes were amended again, primarily to set up elections to the Bureau based on a list system (see Article 9-2 of the statutes appended). Following these amendments, a new Bureau was elected. All the amendments were communicated to Nîmes Town Hall, which acknowledged receipt.

Document No. 1: Statutes adopted on 20 February 2019

Document No. 2: Composition of the Bureau following the elections

Document No. 3: Registration of the changes at Nîmes Town Hall

I – 2 Its representativeness

4. The 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.

I – 3 Admissibility of the Complaint

5. On 5 May 1949, France joined the Council of Europe as one of its ten founding members. On 18 October 1968, in Turin, it signed the European Social Charter of 1961. It deposited its instruments of ratification on 9 March 1973. The Charter came into force in respect of France on 8 April 1973.

France signed the 1995 Additional Protocol to the European Social Charter providing for a system

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](#)

of collective complaints on 9 November 1995 and ratified it on 7 May 1999, with the result that it came into force on 1 July 1999.

6. There is no doubt therefore that France has undertaken to guarantee the economic and social rights of European citizens.

II – Action taken by the union at European level

7. Showing respect both for the health and safety of French firefighters, whether professionals or volunteers, and for the legal rules of the European Union, the trade union has initiated several proceedings at European level.

- On 5 February 2019, it lodged a collective complaint with the European Committee of Social Rights (the Committee),³ in which it alleged a failure to comply with Articles 2, 3, 4, 11 and 24 of the Charter read alone or in conjunction with Article E.

The complaint was declared admissible on 6 December 2019. The French Government opted not to make any submissions on its admissibility. Its submissions on the merits of the complaint were registered on 28 February 2020. The trade union will reply to these by 30 April 2020.

- It presented a petition to the Petitions Committee of the European Parliament (petition No. 462/2019).⁴ In a letter of 30 October 2019, the Chair of the Petitions Committee, Ms Delors Montserrat, announced that the petition had been declared admissible.

She said that she had asked the European Commission to conduct a preliminary investigation on the various aspects of the problem on the basis of the information with which it had been provided. She also announced that the Petitions Committee had considered it necessary to forward the questions raised to the Committee on Employment and Social Affairs for opinion or information.

- In June 2019 it also filed a complaint with the European Commission, which was registered under the reference code CHAP(2019)01840.

III – The French legal framework for volunteer firefighters

III-1 Preamble on the organisation of justice in France

8. France has two distinct bodies of law which regulate its various sectors of occupational activity:⁵
 - the Labour Code, for private undertakings; and

³ Collective Complaint No. 176/2019

⁴ Petition No. 462/2019 on the status of French volunteer firefighters

⁵ [The organisation of the French justice system](#)

- the civil service regulations, divided into codes, laws, decrees, orders and circulars in each of its three facets: state, local government and hospitals.
9. Disputes within the first body are dealt with in the judicial law system by the civil courts, in which the highest authority is the Court of Cassation, and those within the second body, through the administrative law system, in which the highest authority is the *Conseil d'Etat*.
 10. In theory and up to the present, volunteer firefighters have always been covered by the administrative justice system, although it is stated in Article L. 723-8 of the Internal Security Code that neither the Labour Code nor the civil service regulations are applicable to them (see below).

III-2 Firefighters are engaged in a dangerous occupation

11. Article L 723-1⁶ of the CSI provides:

“The dangerous nature of the occupation and assignments carried out by firefighters shall be acknowledged”.

12. This provision is found in the Internal Security Code at the beginning of Chapter III, on both professional and volunteer firefighters and applies to both categories.

III-3 Volunteer firefighters are not considered to be workers

13. The legal rules in France which exclude volunteer firefighters from the world of workers derive from three laws which shaped the French volunteer system, adopted in 1996,⁷ 2004⁸ and 2011.⁹ These rules are now set out in four articles of the Internal Security Code.
14. We have purposefully traced out the successive changes in these articles to show what direction France has been heading. The official titles of these laws are also revealing.

III-3-1 Article L 723-5¹⁰ of the Internal Security Code

15. “The activity of a volunteer firefighter, which is based on voluntary service, shall not be performed on a professional basis but under particular conditions.”
16. In its initial version, Article 1 of the Law of 1996, provided that “volunteer firefighters shall take part in the civil defence assignments of all types which are conferred throughout the country on the fire and rescue services”.

It was only subsequently that it was amended by Article 1 of Law No. 2011-851 of 20 July 2011 on the legal framework for the engagement of volunteer firefighters, to become “The activity of a volunteer firefighter, which is based on voluntary service, shall not be performed on a professional basis but under particular conditions. Under their conditions of engagement, volunteer firefighters shall take part throughout the country in the civil defence assignments of all types which are conferred

⁶ [Article L.723-1 of the Internal Security Code](#)

⁷ [Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades](#)

⁸ [Law No. 2004-811 of 13 August 2004 on the modernisation of civil defence](#)

⁹ [Law No. 2011-851 of 20 July 2011 on the legal framework for the engagement of volunteer firefighters](#)

¹⁰ [Article L.723-5 of the Internal Security Code](#)

mainly on the fire and rescue services, and may also carry out particular tasks or perform particular functions contributing to the organisation of these services.”

These provisions were incorporated into Articles L.423-4 and L.723-5 of the Internal Security Code by Order No. 2012-351 of 12 March 2012 on the legislative part of the CSI.

III-3-2 Article L 723-8¹¹ of the Internal Security Code

17. “The engagement of volunteer firefighters shall be governed by this Book and by Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades. **Neither the Labour Code nor the civil service regulations shall be applicable to them**, except when otherwise provided for by legislation and, in particular, by Articles 6-1 and 8 of Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades. Volunteer firefighters shall be subject to the same health and safety rules as professional firefighters.”
18. Article 1 of the Law of 1996 cited above was also supplemented by an Article 1-4, stemming from Law No. 2011-851 of 20 July 2011 on the legal framework for the engagement of volunteer firefighters: “The engagement of volunteer firefighters shall be governed by this law. **Neither the Labour Code nor the civil service regulations shall be applicable to them**, except when otherwise provided by legislation and, in particular, by Articles 6-1 and 8 of this law. Volunteer firefighters shall be subject to the same health and safety rules as professional firefighters. **The activity of volunteer firefighters shall not be for profit**. It shall give the right to hourly allowances and social and end-of-service benefits”.

When it was incorporated into the CSI by Order 2012-351 of 12 March 2012 cited above, this wording of Article 1 of the Law gave rise to the current Articles L.723-8 and L.723-9 of the CSI.

III-3-3 Article L 723-9¹² of the Internal Security Code

19. “**The activity of volunteer firefighters shall not be for profit**. It shall give the right to hourly allowances and social and end-of-service benefits.”

III-3-4 Article L 723-15¹³ of the Internal Security Code

20. “**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.**”
21. This provision did not exist in the first law of 1996. It appeared in the second law of 2004, Article 79 of which created a new Article 5-1 of the Law of 1996.

It is very interesting to see how this new article came about, on 28 July 2004, in the course of the parliamentary debates in the National Assembly.¹⁴

In his speech before the French parliamentarians during the debate on the bill, the Minister of the Interior of the time stated: “Rescue missions, by their very nature, are incompatible with the rules on working hours, and the *Conseil d’Etat* recently confirmed this”.¹⁵ Subsequently, the *Conseil d’Etat*

¹¹ [Article L.723-8 of the Internal Security Code](#)

¹² [Article L.723-9 of the Internal Security Code](#)

¹³ [Article L.723-15 of the Internal Security Code](#)

¹⁴ [National Assembly debates of 28 July 2004](#), see pages 7327 and 7328 of the Official Gazette (JO) (25 and 26 of the pdf document).

¹⁵ This was probably a reference to *Conseil d’Etat* decision [No. 242858 of 31 March 2004](#), in which the high court ruled as follows: “This

amended its case law on the subject ...

This provision was incorporated into the CSI through Order No. 2012-351 of 12 March 2012, cited above, giving rise to the current Article L.723-15.

III-5 Establishment of the status of volunteer firefighter and developments

22. It is important to situate the three French laws which have created the current non-worker status of firefighters. The official titles of these laws are also revealing.

Whereas the European Social Charter came into force in France on 8 April 1973, the laws of 1996, 2004 and 2011 completely overlooked it, both in respect of adult volunteer firefighters and of minors.

III – 5 – 1 Law No. 96-370 of 3 May 1996 on the development of a voluntary service in the fire brigades

23. This law was adopted during the period of transposition into French law of Directive 1993-104/EC of 24 November 1993, which provided, in Article 18 on final provisions, that it should be transposed by 23 November 1996 at the latest.

For the civil service, the directive was transposed through Decree No. 2000-815 of 25 August 2000 on the adjustment and reduction of working hours in the national public service. France was called to order for this delay by the Court of Justice of the European Union.¹⁶

To date, neither the directive of 1993 nor that of 2003 has been transposed with regard to volunteer firefighters. See the lists on the official Légifrance site of legislation transposing the 1993 directive¹⁷ and the 2003 directive.¹⁸

24. This law could also have transposed Directive 94/33/EC of 22 June 1994 on the protection of young people at work, but this was not the case. It is true that the deadline for transposition was 22 June 1996.
25. This law also ignored the Charter.

III – 5 – 2 Law No. 2004-811 of 13 August 2004 on the modernisation of civil defence

26. This second law arrived just after the revision of Directive 2003/88, in which there had been discussion of explicitly including volunteer firefighters in the revision of the 1993 Directive.

Its main effect was to change the status of volunteer firefighters by:¹⁹

- acknowledging the dangerous nature of the occupation and the tasks of firefighters (Article 67);
- establishing the future Article L. 723-15 of the CSI, which removed the activities of volunteer firefighters from the regulatory and legislative framework on working hours;

directive is not applicable where the inherent features of some specific civil service activities, such as the armed forces or the police, or other specific activities such as the civil defence services inevitably rule it out; it follows from these provisions that the inherent features of the activities which are designed to preserve public order and safety and are essential for the smooth running of life in society carried out by professional firefighters inevitably rule out the application of the minimum requirements set by the directive with regard to working hour adjustments”.

¹⁶ [Case C-46/99 of 8 June 2000](#), failure by a Member State to fulfil its obligations

¹⁷ [Directive 1993/104 – transposition legislation](#)

¹⁸ [Directive 2003/88 – transposition legislation](#)

¹⁹ [Explanatory memorandum to Law No. 2004-811 of 13 August 2004](#)

- placing professional and volunteer firefighters on an equal footing where it came to civil defence duties: “Civil defence duties shall be performed primarily by the professional and volunteer firefighters of the fire and rescue services and by the staff of the state departments and the military personnel of the units in whom these are permanently invested.”;
- setting up financial incentive measures to foster the loyalty of volunteer firefighters which can reach up to €150 per month after 35 years’ service.

27. This law did not transpose Directives 2003/88/EC and 94/336/EC.

28. Nor did it take account of the provisions of the Charter.

III – 5 – 3 Law No. 2011-851 of 20 July 2011 on the legal framework for the engagement of volunteer firefighters

29. This law was adopted when an attempt was made to revise Directive 2003/88/EC. Many French parliamentarians were concerned about the possibility that the activity of volunteer firefighters might be assimilated with work. The European Commission’s response was very clear:²⁰

“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”.

30. In response, the Law of 2011 established a new provision for volunteer firefighters (including minors) so that they would be subject neither to the Labour Code nor to the civil service regulations. These two large bodies of law are those that are concerned when EU directives are transposed.

31. This third law did not transpose Directives 2003/88/EC or 94/336/EC any more than the previous two had.

32. Nor did it take any account of the provisions of the Charter.

III-6 Minor volunteer firefighters

33. France allows its minor volunteer firefighters to carry out operations in the field, even though it acknowledges the dangerous nature of the occupation through Article L723-1 of the Internal Security Code,²¹ deriving from Article 67 of Law No. 2004/811 of 13 August 2004.²²

34. Article 2 of Decree No. 2003-1141 of 28 November 2003, incorporated subsequently into Article R 723-6²³ of the Internal Security Code, made it possible to recruit volunteer firefighters from the age of 16 on if they presented the written consent of their legal representative. Formerly, Article 5 of Decree No. 99-1039 of 10 December 1999 had authorised recruitment from the age of 18 onwards only.²⁴

²⁰ [Commission’s answer to Mr Vlasto’s question in 2012.](#)

²¹ [See Article L723-1 of the Internal Security Code](#)

²² [See Article 67 of Law No. 2004-811 of 13 August 2004 on the modernisation of civil defence](#)

²³ [See Article R 723-6 of the Internal Security Code](#)

²⁴ [See Article 5 of Decree No. 99-1039 of 10 December 1999](#)

35. Article R723-10²⁵ of the Internal Security Code stems from Article 9 of Decree No. 2013-412²⁶ of 17 May 2013. For a volunteer firefighter under the age of 18 to be able to take part in a fire or rescue operation, he or she must be placed for the entire duration of the operation under the supervision of another firefighter with the status of team leader or, failing that, at least five years of effective service.

This is the only “protection” afforded minor volunteer firefighters!

36. In France, the situation of the various *Département* Fire and Rescue Services (SDISs) is diverse. Some prohibit minor volunteer firefighters from taking part in operations altogether²⁷ while others only exclude them from fire operations. Others authorise them to join all operations, without restriction.
37. However, some SDISs use minor volunteer firefighters as full-time professional staff. At the SDIS of the *Département* of the Rhône and the Lyon Metropolitan Area (SDMIS), a young volunteer firefighter born on 12 September 2000, who joined the service on 1 January 2018, worked on ten 12-hour day shifts in July 2018 and twelve in August 2018 before he turned 18. Over the two months, he took part in 140 operations. These working hours are identical to those of a professional firefighter.

Document No. 4: Work schedule of minor volunteer firefighter with the SDMIS

38. Another example is the case of a volunteer firefighter under the age of 17, born on 16 August 2002, who was called up as a reinforcement to a highly active professional fire station in the SDMIS, to make up for missing staff on the evening of 14 July 2019, i.e. on Bastille day, which is always a very busy night for fire and rescue services.

Document No. 5: 16 year-old minor on night duty on 14 July 2019

39. In another *département*, the Drôme, Article 421-6 of the internal regulations of the fire and rescue service adopted by deliberation No. 27/2019 of 9 July 2019 describes the limits on the activities of minors and learners in the following terms:

“To be permitted to take part in a fire and rescue operation, volunteer firefighters under the age of 18 must be placed, throughout the entire duration of the operation, under the supervision of another firefighter with at least five years of effective service or team leader status.

A learner firefighter may take part in an operational activity under the authority of the battalion chief. Rescue vehicles may carry only one learner firefighter, subject to compliance with the provisions of the vehicle registration certificate. Lastly learners may not take any action with a direct impact on the operation.”

Document No. 6 : Deliberation No. 27/2019 of the Bureau of the Governing Board of the Drôme SDIS

Document No. 7: Internal regulations of the Drôme SDIS

40. Circular No. 01/2020 of the Drôme SDIS on the rules for the reception and the operational engagement of minors within the Drôme *département* fire brigade shows the desire to include minors in operational teams save for certain assignments such as forest fires²⁸ or road safety operations (responding to traffic accidents for example). It should be noted that they are not excluded from “conventional” fire duties such as house or industrial fires.

Document No. 8: Circular No. 01/2020 of the Drôme SDIS

²⁵ See Article R 723-10 of the Internal Security Code

²⁶ See Article 9 of Decree No. 2013-412 of 17 May 2013 on volunteer firefighters

²⁷ See Article 176 of the internal regulations of the Ille et Vilaine SDIS

²⁸ See the memorandum from the Drôme prefecture on awareness raising concerning forest fires

41. Unfortunately, the dangerous nature of the occupation of firefighter is borne out regularly and does not spare young workers (i.e. those under 18 years of age, as defined in Directive 94/33/EC on the protection of young people at work).
42. For instance, a young volunteer aged 16 died on 3 November 2012 in the course of an operation to extinguish a fire caused by a wood-burning stove in Digne-les-Bains in the Alpes-de-Haute-Provence.²⁹ And an adolescent born on 9 June 1982 died on 6 April 2000 at the age of 17 when he got stuck behind some bails of straw during on operation on a fire in a field.³⁰

III-7 Working minors in the business world

43. In France, since the Jules Ferry Law of 28 March 1882, education has been compulsory from the age of three onwards for all French or foreign children residing in France.

Originally school was compulsory up to the age of 13, then up to 14 with the adoption of the Law of 9 August 1936. Since Order No. 59-45 of 6 January 1959, it has been extended up to the age of 16.³¹

44. From the age of 16 onwards young people can be employed by companies carrying out dangerous work. It is worth seeing therefore how the Labour Code protects these working minors and to compare this with what is provided for by the French regulations with regard to minor volunteer firefighters.
45. Article L 3162-1 of the Labour Code³² limits working hours to 8 hours per day and 35 hours per week. For apprentices the same rule applies, as Article L 6222-25 of the Labour Code refers to the same article.

Minor firefighters may work shifts of up to 12 hours, or even more, because there is nothing to prohibit this. The example of the firefighter at the Rhône SDIS speaks volumes as, between 2 July 2018 and 29 August 2018, before he turned 18, he worked 22 shifts of 12 hours (10 in July and 12 in August). Over this period he took part in 224 operations. On several occasions over the two months, he worked 48 hours over a span of 7 days.

And under Circular No. 01/2020 of the Drôme SDIS, provision is made for staff to be present for 16 hours between 6 a.m. and 10 p.m. although it is possible to derogate from this hourly schedule (Point 1.4 of the circular).

46. Article L 3162-3 of the Labour Code³³ makes it obligatory to allow workers a 30-minute break after four and a half hours of work.

For minor firefighters, no such provision is made. The work schedule of the minor firefighter working for the Rhône SDIS referred to above shows that he was replacing a professional on annual leave and as a result it was impossible for him to take any breaks during his shifts.

47. Article L 3164-1 of the Labour Code³⁴ requires workers under the age of 18 to be given a daily break of at least 12 hours. This is increased to 14 hours for workers under the age of 16.

²⁹ [See article in the news magazine l'Express, of 5 November 2012](#)

³⁰ [See the list of deaths while on service ordered from the site of the fire brigade orphans fund](#)

³¹ [Ministry of National Education and Youth Affairs](#)

³² [Article L 3162-1 of the Labour Code](#)

³³ [Article L 3162-3 of the Labour Code](#)

³⁴ [Article L 3162-3 of the Labour Code](#)

It is effectively impossible for minor volunteer firefighters to enjoy this right, because they are expected to be wearing their uniforms and ready for call out from the very beginning of their duty period right up to the end. Dressing and undressing, which forms part of their working time, increases the length of their shifts beyond 12 hours, making it impossible for them to enjoy a daily rest of at least 12 hours.

48. Article L 3164-2 of the Labour Code³⁵ requires employers to grant workers under the age of 18 a weekly rest period of 2 consecutive days.

No comparable provision is made for young volunteer firefighters.

49. Article L 3163-2 of the Labour Code³⁶ prohibits night work for young workers.

No comparable provision is made for young volunteer firefighters.

In a case in which a 16-year old volunteer firefighter was brought in as a reinforcement to cover for staff at a professional fire station in Lyon, it was clear that SDISs may make minors work at night and moreover, may do so on a public holiday.

50. Article L 3164-6 of the Labour Code³⁷ prohibits the employment of young workers on public holidays recognised by the law.

No comparable provision is made for young volunteer firefighters.

Despite the fact that Article L723-1 of the CSI states that “the dangerous nature of the occupation and assignments carried out by firefighters shall be acknowledged”, no measures have been taken by the French authorities to protect minor volunteer firefighters.

IV – Failure to comply with Article 7 of the Charter

IV-1 Preamble

51. Article 7 of the Charter provides that with a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

1. *to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;*
2. *to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;*
3. *to provide that persons who are still subject to compulsory education shall not be employed in such work as*

³⁵ [Article L 3162-3 of the Labour Code](#)

³⁶ [Article L 3164-2 of the Labour Code](#)

³⁷ [Article L 3164-2 of the Labour Code](#)

would deprive them of the full benefit of their education;

4. *to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;*
5. *to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;*
6. *to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;*
7. *to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;*
8. *to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;*
9. *to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;*
10. *to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.*

52. We shall see that there is a violation of paragraphs 2 and 4 to 10 of Article 7 with regard to volunteer firefighters under the age of 18.
53. Generally speaking, minor volunteer firefighters are not regarded as a specific at-risk group, as defined in Directives 89/391/EEC of the Council of 12 June 1989 and 94/33/EC of 22 June 1994.
54. No protection is provided by the regulations on volunteer firefighters for workers under the age of 18 save for parental authorisation (Article R 723-6 of the Internal Security Code), and the requirement to be accompanied on operations by a mentor (Article R 723-10 of the Internal Security Code³⁸), if indeed these provisions can actually be regarded as providing protection.
55. Therefore, subject to these two reservations, a volunteer firefighter aged between 16 and 18 may work in all the spheres of the occupation (rescuing persons, fire, technological operations, etc.), and may do so day and night, as no measure has been taken to prohibit them from engaging in night work!

<p>It has to be said that the minimum age for a volunteer firefighter is 16 whereas for a professional firefighter it is 18 and yet they perform the same tasks.</p>

IV – 2 Article 7 point 2, minimum age for dangerous or unhealthy occupations

56. As stated above, Articles R 723-6 and R 723-10 of the Internal Security Code provide respectively as follows:

“The engagement of volunteer firefighters shall be subject to the following conditions: 1° The candidate must be aged 16 or over. Candidates who are minors must provide the written consent of their legal representative. Candidates for the function of volunteer fire officer must be aged 21 or over;

“Volunteer firefighters under the age of 18 shall, when taking part in a fire or rescue operation, be placed, throughout the entire duration of the operation, under the supervision of another firefighter with team leader status or, failing that, at least five years of effective service”.

³⁸ [Article R723-10 of the Internal Security Code](#) was set up by Article 2 of Decree No. 2003-1141 of 28 November 2003, before being incorporated into the Internal Security Code by Decree No. 2014-1253 of 27 October 2014.

57. And there is no doubt that the occupation of firefighter must be regarded as dangerous or unhealthy as Article L 723-1 of the Internal Security Code provides:

“The dangerous nature of the occupation and assignments carried out by firefighters shall be acknowledged”.

58. There is a clear violation of Article 7, point 2, of the Charter.

IV – 3 Article 7, point 4, limits on the working hours of children under the age of 18:

59. There is no provision in French legislation to *limit the working hours* of volunteer firefighters *under the age of 18 to meet the needs of their development and, in particular, their need for vocational training*.

IV – 4 Article 7, point 5, right to a fair remuneration:

60. The problem for young volunteer firefighters is exactly the same as that for all volunteer firefighters. The system of remuneration for volunteers was described in section IV-3 on the “Right to fair remuneration (Article 4 of the Charter)” of our previous collective complaint.
61. There is no provision in the French regulations covering young volunteer firefighters with regard to the undertaking *to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances*.

IV – 5 Article 7, point 6, vocational training hours:

62. There is no provision in the French regulations covering volunteer firefighters with regard to the undertaking *to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day*.

IV – 6 Article 7 point 7, right to no less than 4 weeks’ annual holiday with pay:

63. As with their elders, there is no provision in the French regulations covering young volunteer firefighters with regard to the undertaking *to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks’ annual holiday with pay*.

IV – 7 Article 7 point 8, prohibition of night work:

64. The French regulations on volunteer firefighters does not in the least prohibit *persons under 18 years of age from being employed in night work with the exception of certain occupations provided for by national laws or regulations*.
65. This is despite the provisions of Article L 723-1 of the Internal Security Code, which provides as follows: “The dangerous nature of the occupation and assignments carried out by firefighters shall be acknowledged”.

IV – 8 Article 7 point 9, medical supervision of minors:

66. There is no specific measure in the French regulations providing that *persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control.*
67. French volunteer firefighters under the age of 18 are subject to the same rules on medical supervision as adults.

IV – 10 Article 7 point 10, protection against physical and moral dangers:

68. It should be pointed out firstly that French firefighters are regularly attacked on fire and rescue operations.
69. There has been a reaction from the authorities because for instance a recent decree³⁹ allows both professional and volunteer firefighters to experiment with body cameras designed to make video recordings of their activities.
70. On 11 December 2019, the Senate Law Committee made 18 proposals⁴⁰ to combat violence against firefighters more effectively. The introduction to this document includes the following description of the context:

"Attacks on firefighters have been steadily rising. Over the ten years between 2017 and 2008, they increased by 1914 cases, which is a rise of 213%. The figures for the first five months of 2019, which were 50% higher than those for the same period in 2018, confirm this upward trend."

71. The physical and psychological violence endured by firefighters, which can result directly or indirectly from their work, is proven therefore and constantly on the increase.
72. To counter this societal phenomenon, which is not isolated to France, the country's lawmakers should have taken measures to help volunteer firefighters under the age of 18, in accordance with Article 7, point 10 of the Charter, but this has not been the case. Conversely, in the measures intended to prevent violence, the Senate's 2nd proposal talks of:

"Increasing young people's awareness of and involvement in the activities of civil defence organisations to create close links and mutual understanding between firefighters and the public".

73. Clearly, there is no intention to go back on the fact that a volunteer firefighter under the age of 18 may take part in operations or work at night. Consequently, there is no desire or any provision already existing in the French regulations or being prepared to *ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.*

No regulation in France allows French volunteer firefighters under the age of 18 to enjoy the rights established in Article 7 of the Charter under points 2 and 4 to 10.

³⁹ [Decree No. 2019-743 of 17 July 2019](#) on the arrangements for experimenting with the use of body cameras by firefighters in the course of their activities.

⁴⁰ [Violence against firefighters – Law Committee takes action to stop these unacceptable incidents](#)

V – Emergency measures

74. Our trade union is well aware that the arguments made in the initial complaint and this one relating firstly to the parliamentary debate on the status of France’s volunteer firefighters since the Matzak judgment and secondly to the compatibility of France’s national measures with EU law are not points on which the European Committee of Social Rights can give an opinion, as it quite rightly pointed out in its decision on admissibility of 6 December 2019.
75. However, we wished to make it possible for the members of the Committee to understand the confusion which reigns in France over changes to the status of volunteer firefighters to bring them into conformity with the Charter and Community directives.
76. These considerations also make it possible to gauge the true extent of the commitment in France to bringing the status of volunteer firefighters into line with European law (in the form of the Charter and directives) and within what sort of time frame it might be expected to do so.
77. In this context and whereas:
- France ratified the European Social Charter of 1961 on 9 March 1973 and the revised European Social Charter of 1996 on 7 May 1999, accepting 98 paragraphs thereof, and ratified the 1995 Additional Protocol providing for a system of collective complaints on 7 May 1999.
 - Article 55 of the French Constitution⁴¹ assigns precedence over national legislation to ratified treaties, meaning that the Charter and, more specifically all of Article 7 thereof are applicable to France;
 - the dangerous nature of the occupation and assignments of firefighters is acknowledged;
 - volunteer firefighters under the age of 18 are authorised to work at night;
 - volunteer firefighters under the age of 18 are not afforded any special protection;
 - France is not preparing in any respect to bring its regulations into conformity with the Charter;
 - Since 2011, the Rules of Procedure of the European Committee of Social Rights have provided that, following the adoption of the decision on the admissibility of a collective complaint, the Committee may indicate to the parties any immediate measure the adoption of which seems necessary.
78. We request that the following emergency measures be introduced with regard to minor volunteer firefighters:

- 1. A prohibition on minors (under the age of 18) working at night.**
- 2. A prohibition on minors (under the age of 18) participating in operational activities.**

⁴¹ [Article 55 of the French Constitution](#): “Treaties or agreements duly ratified or approved shall, upon publication, prevail over Acts of Parliament, subject, with respect to each agreement or treaty, to its application by the other party.”

Attachments

Document No. 1: Statutes adopted on 20 February 2019

Document No. 2: Composition of the Bureau following the elections

Document No. 3: Registration of the changes at Nîmes Town Hall

Document No. 4: Work schedule of minor volunteer firefighter with the SDMIS

Document No. 5: 16 year-old minor on night duty on 14 July 2019

Document No. 6 : Deliberation No. 27/2019 of the Bureau of the Governing Board of the Drôme SDIS

Document No. 7: Internal regulations of the Drôme SDIS

Document No. 8: Circular No. 01/2020 of the Drôme SDIS on the rules for the reception and the operational engagement of minors within the Drôme *département* fire brigade