



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

21 December 2023

**Case Document No. 1**

**Comisiones Obreras de Castilla y León (CCOO CyL) and Unión General de  
Trabajadores de Castilla y León (UGT CyL) v. Spain**  
Complaint No. 228/2023

**COMPLAINT**

**Registered at the Secretariat on 6 June 2023**

## **COLLECTIVE COMPLAINT**

**Executive Secretary of the European Committee of Social Rights  
Department of the European Social Charter  
Directorate General of Human Rights and Rule of Law  
Council of Europe  
F-67075 Strasbourg, Cedex  
[social.charter@coe.int](mailto:social.charter@coe.int)**

### **COMISIONES OBRERAS DE CASTILLA Y LEÓN (CCOO)**

Plaza Madrid, No. 4, 8 Planta, 47001, Valladolid  
[gjuridico@cleon.ccoo.es](mailto:gjuridico@cleon.ccoo.es)

### **UNIÓN GENERAL DE TRABAJADORES DE CASTILLA Y LEÓN (UGT)**

calle Gamazo, 13, 47004, Valladolid  
[sgeneral@castyleon.ugt.org](mailto:sgeneral@castyleon.ugt.org)

## **INDEX**

### **1.– PURPOSE.**

### **2.– GROUNDS.**

#### **I.– FAILURE TO COMPLY WITH AGREEMENTS RESULTING FROM SOCIAL DIALOGUE IN THE AUTONOMOUS COMMUNITY OF CASTILLA Y LEÓN.**

a).- Failure to comply with agreements.

b).- Challenge by the Government of the Autonomous Community of Castilla y León to the legitimacy of legally established representatives to engage in social dialogue.

#### **II.– FAILURE OF THE GOVERNMENT OF THE AUTONOMOUS COMMUNITY OF CASTILLA Y LEÓN TO COMPLY WITH THE EUROPEAN SOCIAL CHARTER ON THE BASIS OF THE FACTS DESCRIBED.**

#### **III.– UNLAWFULNESS OF FAILURES TO COMPLY BY THE GOVERNMENT OF THE AUTONOMOUS COMMUNITY OF CASTILLA Y LEÓN.**

### **3.– COMPLIANCE WITH FORMAL REQUIREMENTS.**

### **4.– PETITUM.**

ATTACHED EVIDENCE.

## 1.– PURPOSE

**D. VICENTE ANDRÉS GRANADO**, DNI [national identity document] no. 9.276.155-W, on behalf of and representing the trade union, **COMISIONES OBRERAS DE CASTILLA Y LEÓN**, CIF [tax ID] No. G-47061411, with registered office in Plaza Madrid no. 4, Floor 8, 47001, Valladolid (Spain), and **D. FAUSTINO TEMPRANO VERGARA**, on behalf of and representing the trade union, **UNIÓN GENERAL DE TRABAJADORES CASTILLA Y LEÓN**, CIF no. G-47317615, with address for service at Calle Gamazo, No. 13, 47004, Valladolid (Spain), who designate as addresses for notification purposes their own addresses indicated above and/or the email addresses [gjuridico@cleon.ccoo.es](mailto:gjuridico@cleon.ccoo.es) : [sgeneral@castyleon.ugt.org](mailto:sgeneral@castyleon.ugt.org) respectively, **STATE**:

That by means of this document and with regard to Part IV, Article D, paragraph 2, of the European Social Charter (revised), signed on 29 April 2021 by Spain, which accepts the supervision of its obligations under the Charter as established in the procedure set out in the Additional Protocol to the European Social Charter providing for a system of collective complaints, done in Strasbourg on 9 November 1995, a **COLLECTIVE COMPLAINT** is filed on the basis of the following:

## 2.– GROUNDS

### I. FAILURE TO COMPLY WITH AGREEMENTS RESULTING FROM SOCIAL DIALOGUE IN THE AUTONOMOUS COMMUNITY OF CASTILLA Y LEÓN.

Social Dialogue, recognised in the Statute of Autonomy of Castilla y León as a guiding principle of public policy (Art. 16.4) and regulated by law (Law 8/2008 of 16 October 2008 on the creation of the Consejo de Diálogo Social [Council for Social Dialogue]), is implemented in Castilla y León in **agreements** the effects and effectiveness of which stem from their adoption procedure within the tripartite body provided for in the relevant Law, the Council for Social Dialogue, and respect for the criteria, material scope and quorum provided for in that law for adopting such agreements (formal and material legitimacy).

The signing of such Agreements takes place furthermore at the highest level, i.e., by the President of the Regional Government, who signs them on behalf of the Administration of the Autonomous Community and consequently of the Government as a whole.

Such agreements contain specific measures and commitments made by the Administration, which by signing them expressly undertakes to comply with them, such as the provision of services to citizens and workers (vocational guidance), or to groups requiring special protection or attention (such as the immigrant population), and recourse to conflict management instruments as tools for improving the framework of labour relations (e.g. the SERLA foundation).

When the new bipartite Government of the Autonomous Community of Castilla y León came into office after the elections in February last, around 20 agreements on social dialogue were in force, some of which stopped being applied, or announcements to that effect were made, almost immediately. Some members of the new government (specifically the far-right Vox party) made explicit public statements to the effect that they did not consider themselves to be bound by

agreements signed by the previous government (whose President was furthermore the new President). This completely violates the spirit and objectives of the model of social dialogue of the Autonomous Community, the agreements from which, numbering over 100 thus far in over 20 years, have never been confined to the duration of a legislature and have always bound the signatory parties uninterruptedly beyond each of their elective mandates (see Document 18).

Failure to comply has occurred in two main ways to date: direct failure to comply with agreements in force on the one hand, and delegitimising of the social dialogue process itself, coupled with a weakening of institutional participatory bodies and their role in driving and following up on agreements, on the other.

#### **a.- Non-compliance with agreements:**

This involves failure to comply with specific commitments set out in existing agreements without there being any justificatory change in circumstances, and with no alternative means being put forward for ensuring the objectives such commitments were intended to achieve.

Some of those commitments are expressly recognised in existing law:

**Nominative subsidy** for Institutional Participation to ensure the functions, operation and participation of trade union and employers' associations in Autonomous Community consultation and institutional participatory bodies. This is recognised in Article 16.1 of Law 8/2008 of 16 October 2008 on the creation of the Council for Social Dialogue and regulation of institutional participation, <<1. *With the aim of encouraging the institutional participation regulated hereby, the General Budget Law of the Community of Castilla y León shall allocate on an annual basis a budget item which, as a nominative subsidy, will be provided to the most representative trade union and employers' associations, independently of the grants the latter receive to promote their activity as organisations of general interest in the economic and social sphere.*>> (Document 5) and in the Annual Budget Law, including the 2022 law, which carries over the 2021 budgets (Document 12), and which in assessing the subsidy lines of the Strategic Plan of the then Regional Ministry of Employment 2019-2021, includes the processing and granting of the subsidy. This is reiterated in the Strategic Subsidy Plan of the Regional Council/Ministry of Employment and Industry for 2022-2024 (Document 15). The objective and effect of this subsidy is to stimulate institutional participation, with a projected cost of €3 959 860 per annum from the Community's own funds. The grant procedure is direct since it has to be provided for by name in the General Budgets of the Autonomous Community. As has been pointed out, this occurred in previous financial years up to 2023, when the subsidy was no longer included in the General Budget Law of the Autonomous Community.

**Occupational risk prevention programme (*"Nominative subsidy for the Funding of Advisory and Information Measures in the area of Occupational Risk Prevention"*)**, which is managed by the signatory organisations, together with the Confederación de Empresarios de Castilla y León, by means of a nominative subsidy in the Annual Budget Law of Castilla y León. In 2021 an appropriation of €2 779 999.00 was available, from which the sum of €681 133 was granted to CC.OO CyL, with the same amount going to UGT CyL (Document 14), as in 2022. This reflects the Agreement on Social Dialogue which approved the 3rd Integrated Strategy on Employment, Vocational Training,

Occupational Risk Prevention and Equality, Co-Responsibility and Youth Employment 2021-2024, including the 6th Agreement on Occupational Risk Prevention in Castilla y León (Documents 6 and 8). At that time, the subsidy formed part of the Strategic Grants Plan of the then Department of Employment for 2019-2021, which was assessed positively, as shown in the Order of the Department of Employment and Industry of 26 November 2021 which approved the Strategic Subsidy Plan of that Department for 2022-2024 (Document 14). In its subsidy lines in the area of occupational risks, that Strategic Plan refers to number 21, a “Nominative subsidy for the funding of advisory and information measures in the area of Occupational Risk Prevention”. This therefore involved renewal of the Plan linked to the above-mentioned 3rd Strategy and 6th Agreement on Occupational Risk Prevention in Castilla y León. These actions were implemented via a programme of advisory visits to companies, workers and prevention delegates by the beneficiary body’s technical staff and also involved advisory, information and follow-up visits in the forestry sector. There was also an individual and collective advisory programme on occupational risk prevention designed to resolve technical and/or legal issues relating to preventive management and those arising from practical application in companies and places of work in Castilla y León, including in the construction sector. This also made it possible to consolidate a service which is very useful both because of its work with companies and its role of providing technical assistance to works councils and workforce delegates tasked with ensuring workplace safety and health. It has also ensured management and worker training and the gradual extension of a prevention culture that has made a decisive contribution to reducing occupational accidents in Castilla y León. The continuation of this programme, which has run for over two decades, is now under threat: the Administration no longer guarantees the implementation of measures, or a minimum level of services (apart from the question of who should provide them) as from the ending of the subsidy. In addition to the ending of the subsidy to the trade unions, the subsidy for the same purpose to the Fundación Laboral de la Construcción, has also been discontinued.

The subsidy has not yet been paid for the 2022 financial year and is not included in the 2023 budgets of the Community of Castilla y León.

Other commitments are not set out in laws, although they are set out specifically in the agreements.

Some of these commitments, which also involve services to citizens or services provided directly to the working population, beyond training and selection of providers, have been abolished unilaterally by the Administration:

**Action programme for social and vocational integration of the immigrant population**, which was implemented by means of a direct grant by the three signatory organisations of the specific Agreement that was designed to ensure their social and vocational integration. According to data from the Public Employment Service of Castilla y León in the annual report on this programme, 3 000 immigrants and emigrants were provided with guidance. Funding came in the form of appropriations made available from the own funds of the Community of Castilla y León. This programme responded to the 4th Strategic Plan for Social Cohesion with Immigrants and Intercultural Coexistence for 2018-2021, approved on 15 February 2018 under the Agreement of the Council for Social Dialogue of Castilla y León on migration for socio-vocational integration, social cohesion and intercultural coexistence for 2018-2021. Its general objective was to integrate the population of foreign origin with the local population in a society in which differences are managed positively and equal treatment prevails

(Document 9). This, in turn, found expression in the order of the Council for Employment and Industry, which on 10 June 2021 approved the Strategic Support Plan of the Public Employment Service of Castilla y León for 2021-23, which includes the programme as an area of activity within the automatic training and vocational integration programmes for that period (Document 16). That programme was not funded in the 2023 financial year budget, while in the budgets of the Community of Castilla y León for 2021 and for 2022, the appropriations available amounted to €926 000 (Documents 12 and 15). Lack of funding led to its discontinuation, without any grounds being provided to the organisations that were managing it. Furthermore, there is no alternative solution for providing such services to the immigrant community. This removed their protection, in breach of the objectives proclaimed in State and Autonomous Community employment and social policies, and withdrew consolidated rights and services from them without any basis whatsoever.

**Vocational Training Programmes for employment and assistance for self-employment (PROA).**

These were delivered by selected professional bodies on a competitive basis, the beneficiaries being people who were active in the Community of Castilla y León in providing vocational guidance for employment and assistance for self-employment, and prospecting, intermediation and monitoring services for vocational integration. According to the Public Employment Service of Castilla y León, the measure covered 22 230 jobseekers in Castilla y León, without forgetting the most disadvantaged priority groups. Both CCOO and UGT benefited from the grants, in the following amounts: Fundación Formación y Empleo Castilla y León – FOREMCYL (linked to CCOO CyL) €1 210 602.66, and UGT de Castilla y León €1 210 602.66. Their State funded budget allocation, which in the 2021 and 2022 budgets amounted to an available sum of €11 000 000 (Documents 12 and 16), was cancelled without reason and without proposals for any alternative to ensure the continuation of such services to workers, and more particularly to the most vulnerable unemployed people who find it more difficult to integrate, at whom the existing guidance programme was targeted. The programme was also a necessary adjunct to services provided by the Community itself, such as the PIE programme, which provided guidance programmes for its beneficiaries, who will now be unable to benefit from that service. This commendable programme provided support for the unemployed who were feeling the effects of the socio-economic crisis, improving their employability and their inclusion in the labour market. It ensured that they had minimum incomes that allowed them to support themselves while they pursued activities that improved their occupational skills and therefore made them better placed to enter the labour market. This subsidy line forming part of the 2021-2023 Strategic Subsidy Plan of the Public Employment Service of Castilla y León, which, as stated, had a target group of 22 230 unemployed persons (Document 15), has been cancelled.

Nor is there any planned increase in the staffing of the Public Employment Service to provide these services directly, and there is no information on how the Community of Castilla y León will use the over €29 million allocated by the State to ensure vocational guidance in connection with active employment policies during the financial year.

**A strategic capacity development programme focusing on improving the skills of representatives of workers and companies in performing their social dialogue and collective bargaining functions by means of a grant by competitive tendering.** The closure of this programme entailed the automatic return to the State of the relevant funding, giving rise to a direct loss for the trade union and employers' organisations responsible for collective bargaining in the Community and depriving them

of the resources required to train their representatives in companies and in different sectors, on no grounds and with no aim on the part of the department of employment other than to hinder and undermine our activity in that area, whereas it is the one we specialise in.

It should also be noted that this programme already existed in Castilla y León before the State set it in motion and financed it.

**Funding of Chairs in Public Universities promoted via social dialogue**, some of which have run for over seven years and have their own diplomas. There was no reason or motivation given for the removal of this funding, which brought them to a complete standstill. The Government body responsible for social dialogue justified the decision by maliciously including this funding among that received by business and trade union organisations, even though the only beneficiaries were the Community's Public Universities.

**Funding of labour dispute out-of-court mediation and conciliation mechanism ("Direct grant for technical assistance under the Inter-Trade Agreement on Autonomous Resolution Procedures for Labour Disputes – ASACL")**, a well-structured legally recognised scheme that has operated for some time and resembles those adopted by all Autonomous State Communities (SERLA), and which was involved in a process of expanding from collective to individual disputes. Its disappearance will place Castilla y León outside the model of labour dispute resolution established throughout the State as a whole.

It involved a direct grant for the signatory parties to the 3rd Interprofessional Agreement on Autonomous Work Conflict Resolution Procedures (ASACL), i.e. both the signatory parties of this CCOO and UGT complaint, and the Employers' Confederation (Confederación de Empresarios de Castilla y León), which in the budgets of the Community of Castilla y León for 2021 and 2022 had available appropriations of €232 500.00 (Documents 19 and 20). The aim was to fund the expenditure that might arise out of the provision of technical assistance provided within the Fundación del Servicio de Relaciones Laborales [labour relations service foundation (SERLA)]. This involved advisory and assistance functions provided for in the 3rd Agreement and its dissemination. This subsidy line was set out in the Strategic Support Plan for Employment and Industry for 2022-2024 (Document 14), and had also been set out in the Strategic Grant Scheme of the Consejería de Empleo e Industria [Ministry for Employment] for 2019-2021.

That subsidy line has been removed from the budget of the Community of Castilla y León for 2023 (Document 16).

**Elimination of programmes by Municipalities and Town Councils for the recruitment of equality officers** to activate equality and gender non-discrimination policies within such administrations, and **elimination from training programmes of criteria that assess the attention paid to policies promoting equality between men and women** and reconciliation of family and working life, and the **removal from some of those programmes of women as priority groups**, together with the **systematic replacement of the concept of victims of gender violence with that of victims of intra-domestic or domestic violence**, both of which are devoid of legal value and will not strictly enable any person to invoke a condition that would designate them as a priority beneficiary of those policies.

This tendency to remove equality policies also became apparent in the general policy of the Autonomous Community of Castilla y León in the statement by the two political parties that currently form its Government in relation to the drafting of a law on intra-family violence. This is difficult if not impossible to reconcile within the State and autonomous region frameworks governing gender violence, and ultimately does not appear to be achievable. Vox, a far-right party and one of the two governing parties in this Autonomous Community, is particularly blatant in its declarations against women and the laws that defend them, constantly provoking controversy, including in Parliament, by denying recognition to gender violence victims and calling into question the proper use by women victims of opportunities for reporting and the protection offered to them by the State legal system.

Furthermore, the continuity of other programmes provided for in the Employment Plan for Castilla y León 2021-24 (Document 7) is currently in doubt, since the Annual Employment Policy Plan (PAPECyL 2022) has not been approved and the Council for Industry, Trade and Employment is not expected to be willing to agree to PAPECyL 2023 and its various components: Programmes of the Local Employment Plan, Personal Integration and Employment Programme (PIE), Assistance to workers in temporary employment adjustment measures (ERTE), Programme for the vocational development of women, etc.

Finally, the dismantling of the Self-Employed Workers' Round Table and failure to comply with the agreement on the creation of the Self-Employed Workers' Council also must be mentioned.

**b.- Challenge by the Government of the Autonomous Community of Castilla y León to the legitimacy of legally established representatives to engage in social dialogue:**

Meanwhile, together with the above-mentioned failings, the legitimacy of the signatory parties has been called into question and undermined, despite the precision of the law in determining which stakeholders are empowered to take part in social dialogue procedures (see Documents 18 and 22).

Such delegitimation is conducted openly by the Council for Industry, Trade and Employment, which is headed by the Vox party, when it proposes opening new 'negotiating processes' with which to address matters without the necessary prior agreement of the three organisations legitimately called upon to agree the framework for and content of social dialogue in the Community. This is compounded by the fact that the matters selected for the new committees that are beginning to be announced are already subject to existing agreements.

In addition, together with the most representative corporate and trade union organisations, other business bodies and trade unions have been invited to join these new committees, the sole objective being to dilute and undermine our role and the role of social dialogue itself.

An example is the recent convening of a round table to "negotiate and agree" a new Occupational Risk Prevention Plan, unilaterally by the Administration, whereas a prior agreement on the same matter is in still force, which in practice it is hoped to rescind.

Other agreements have been undermined by ignoring the rationale behind their development envisaged for them, as has already occurred this year with the refusal to negotiate the Annual Plan of



Employment Policies (PAECYL), which the Administration is required to implement under the Employment Plan 2021-25, within the framework of Integrated Strategy III (Document 6).

Similarly, infringements have begun to have an effect on institutional participation itself, which has gradually been eroding. The notice to convene the participating bodies has not been issued and the Administration has not fulfilled obligations in those bodies. An example was the recent refusal to submit this year's Public Employment Service Action Plan to the General Council for Employment.

The infringements described above are furthermore taking place in a very aggressive manner, with some members of the regional government and senior representatives of the Community Administration systematically making false and defamatory statements in the Regional Parliament of Castilla y León and in the media, particularly against trade union organisations. This upward spiral has in less than six months led to the almost total breakdown in social dialogue on many key issues due to their link with labour and employment policies. In so doing, the Administration has seriously undermined social dialogue in general by calling into question its very configuration and fundamental principles.

By way of example, the following statements were made in the Parliament of Castilla y León (Documents 23 and 24):

Report of Proceedings 2022, no. 9, second item of the Questions Agenda, reply from the Regional Minister for Industry, Trade and Tourism, pages 518 to 520 << *Thank you, Mr Chairman. Two clarifications: a smile saves us from many things. Said a... a... (thank you) ... said a survivor of the Nazi extermination camps who, thanks to their smile alone, managed to survive the Holocaust. And regarding the recommendations of the ESC (Economic and Social Council), I can tell you that you are right. And, yes, I also co-operated in drafting that specific recommendation. What I will not co-operate in is the funding of the... the trade union and management organisations for their own benefit. One thing is one thing, and another is another; and we have to know how to differentiate them.../... The truth must be told, and must be told very clearly: Agenda 2030 is no more than a tax on industry and on private initiative to fund the welfare of politicians in Brussels. And you are slavishly pursuing that policy. Ladies and gentlemen, to make industry grow, you have to cut public expenditure and ensure ... and ineffective political expenditure, such as, for example, the 20 billion for useless gender issues, another fine scam! You have to set an example, as this Government does, by reducing ineffective institutional expenditure, such as expenditure that was going to trade union and management organisations, and ensuring that investment efforts in infrastructure and the industrial fabric get back to minimally acceptable levels.../... This Government exercises power with institutional loyalty and we congratulate ourselves that this way of being and behaving is a factor of stability for industrial companies and workers in Castilla y León. And all of this is despite the spanners thrown into the works by the Spanish Government and by some trade unions whose only concern is to slavishly follow the policies of 'sanchismo' and independentism, proposed by a management organisation that supports labour reform...>>*

Report of Proceedings 2022, no. 14, first item of the Agenda, reply from the Minister for Industry, Trade and Tourism, page 842 << *But ladies and gentlemen, let us focus on what is important. The consequences of decades of socialist policies include labour insecurity and the destruction of jobs in key sectors of our economy. It was you who created mickey mouse contracts in nineteen eighty-four, in nineteen eighty-four, and together with that the insecurity and duality of the labour market. You and the great trade unions – the subsidised trade unions – that only defend their privileges and the ruinous policies of Agenda 2030. You lot are a useful and well-paid crutch to justify the imposition of...>>*

Report of Proceedings 2022, no. 16, second item on the Agenda, reply from the Minister for Industry, Trade and Tourism, page 1044 << *Thank you, Mr Chairman, Ladies and Gentlemen, active employment policies in Castilla y León are now in the best possible hands. I do not say that for myself, I say it because, thanks to us, there will be no more squandering of €20 million of superfluous political spending that only served the interests of the trade unions, and that will now be dedicated every year to active employment policies.* >>

Report of Proceedings 2022, no. 18, first item on Agenda, reply from the Minister for Industry, Trade and Tourism, page 1213 << *And in answer to your question, our obligation is to ensure that jobs are filled by Spanish workers or legal immigrants, since uncontrolled immigration leads to a lack of job opportunities, the underground economy, the precariousness of wages and the importation of violence that has been unknown in Spain thus far. Having said that ... [applause] ... this Ministry will rigorously comply with the existing rules concerning foreigners in matters within its responsibility. Thank you.* >> [Applause].

Report of Proceedings 2022, no. 21, first item on the Agenda, reply from the Minister for Industry, Trade and Tourism, pages 1435 to 1439 << *Thank you, Mr Chairman, ladies and gentlemen, the trade union SERLA body is yet another whim of the trade unions to manage their monopoly of labour intermediation, but which is funded with the money of everyone in Castilla y León. [Applause] .../... The trade union SERLA body has... is very badly managed, it is very ineffective and, furthermore, it duplicates the functions of the Regional Government's temporary-staff placement agencies. In conclusion: it is a trade union whim to hold a monopoly of labour mediation. [Applause]. The trade unions run SERLA as they please, but, of course, with public money. We, the Administration, defend our free and more effective public service. It is incomprehensible that you, you who complain so much about privatisations and who say that you protect the public interest, you do not complain about the trade union privatisation that benefits some trade unions which, as was seen this Sunday, only go on demonstrations to demand money. [Applause].>>*

Report of Proceedings 2022, no. 23, first item on the Agenda, reply from the Minister for Industry, Trade and Tourism, page 1661 << *What this centre-right Government does is to bank on effective policies, without squandering public money on ineffective political expenditure to finance certain trade unions that only seek to hold social peace hostage and that don't have the slightest concern for employment...>>*

Report of Proceedings 2023, no. 28, second item on the Agenda, reply from the Minister for Industry, Trade and Tourism, pages 2156 and 2159 << *Most definitely, ladies and gentlemen, what has been done in Castilla y León is to purge unnecessary political expenditure on trade union grants, while strongly promoting effective and efficient employment policies. The results can be seen. Thank you very much. [Applause].../... Ladies and gentlemen, you, in the light of this objective data, all you do ... is present a narrative, a narrative that is intended merely to spread confusion and muddle things up, where everything is a matter of prevarication; you are not interested in the figures, whether official or not, no figure is important to you. You continue to be glued to your roadmap, a roadmap that favours the trendy caste and the trade union caste, that takes advantage of the money. Yes, yes, a trade union caste that takes advantage of the money for employment policies, and then does not return what it has stolen. [Applause] .../... Ladies and gentlemen, in twenty twenty-two we had to face a really poor reform of contract arrangements, which prevented the Administrations from doing their job well; and in addition, the constant spanners in the works from trade unions and management, which have deliberately sought to undermine the changes made by this Administration, with the sole objective of recovering their grants. But we have made a virtue out of necessity, and the data back that up.>>*

Such declarations against the trade unions are made in Parliament and also reproduced in the media (Document 18), such as on the webpage of the Regional Government of Castilla y León

(link

[https://communication.jcyl.es/web/jcyl/Communication/es/Plantilla100Detalle/1284663638052/\\_/\\_/1285178875611/Comunicacion](https://communication.jcyl.es/web/jcyl/Communication/es/Plantilla100Detalle/1284663638052/_/_/1285178875611/Comunicacion)), which, under the title “*The Regional Government of Castilla y León announces a reduction in grants to trade unions, management and other social stakeholders of over 20 million euros*”, sets out what implementation of this measure provided for in the government agreement between the People’s Party (PP) and Vox means, i.e. in some cases reducing subsidy lines and in others eliminating them altogether. This is what we have described above.

## **II.– FAILURE OF THE GOVERNMENT OF THE AUTONOMOUS COMMUNITY OF CASTILLA Y LEÓN TO COMPLY WITH THE EUROPEAN SOCIAL CHARTER ON THE BASIS OF THE FACTS DESCRIBED:**

The facts described in point 1 constitute a failure to comply with the provisions of the European Social Charter set out below and with the conclusions and decisions of the Committee which interprets them.

### **Article 3. The right to safe and healthy working conditions**

Under Article 3(1), occupational health and safety policy must include strategies for making occupational risk prevention an integral aspect of the public authorities’ activity at all levels. To comply with this provision, States must ensure:

- The assessment of work-related risks and the introduction of a range of preventive measures taking account of the particular risks concerned. The effectiveness of those measures must be monitored and **information and worker training** must be provided.
- The development of an appropriate public monitoring system – often the responsibility of the labour inspectorate – to maintain standards and ensure worker safety.
- The establishment and further development of programmes in areas such as: **training (qualified staff), information (statistical systems and dissemination of knowledge)**; quality assurance (vocational qualifications, certification systems for facilities and equipment); and, where appropriate, research (scientific and technical expertise).

Cessation of the funding of the occupational risk prevention programme which the complainant organisations were providing suggests that there will be no further provision of an essential public service that has been provided for over two decades. This will leave all companies and workers in Castilla y León without that essential information and training in occupational risk prevention, with, furthermore, no action being taken to compensate for the cessation of the provision of that service.

In the light of Article 3.1 ESC, this could also give rise to a breach by the regional authorities of **Article 22, The right to take part in the determination and improvement of the working conditions and working environment**). Specifically, since it would entail the undermining of the “undertaking to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute to: b) the protection of health and safety within the undertaking”. As established by the Committee in its conclusions on Latvia (2018/def/LVA/22/EN), workers and/or their representatives (trade unions, workers’ delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-

making process and the supervision of the observance of health and safety protection standards within the undertaking.

Meanwhile, the provisions of Article 3 of the Charter have been breached since the supervision of occupational risk prevention in terms of both national and company policy by means of consultation with representatives of workers, which the State is required to carry out under this article of the Charter, has been discontinued because the Regional Government of Castilla y León has removed the subsidised programme which enabled Autonomous Community trade unions to ensure that function, thereby making it impossible for them to perform the essential function of consultation and co-operation conferred on them by Article 3 of the Charter.

Article 3 of the Charter requires consultation between the authorities, employers' organisations and trade unions to find ways to improve occupational safety and health conditions and the work environment. However, that is not the only purpose of the consultation. It must also co-ordinate the activities of the authorities, employers and workers and ensure co-operation in the area of health and safety. Such consultation mechanisms should also be implemented at national and sectoral level. The right to consultation is respected when specialised bodies are set up comprising representatives of the government and employers' and trade union organisations, which are consulted by the public authorities. These consultations may take place on a permanent or ad hoc basis, but they must in any event be sufficiently efficient to ensure the promotion of social dialogue in the area of health and safety.

In this respect, the Committee has laid down the following in **Conclusions 2017 – Ukraine – Article 3-1 2017/def/UKR/3/1/EN**:

*“Consultation with employers’ and workers’ organisations.*

*In its previous conclusion (Conclusions 2013), the Committee noted that there was a system for consulting social partners at public authority level. It also noted that the General Agreement was not truly tripartite as it allied the Cabinet of Ministers and employers’ organisations and asked for information on consultation with the competent occupational health and safety bodies within enterprises, in particular enterprises where there are no workers’ representatives. The report does not provide any information on these points. The Committee reiterates its request and considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Ukraine is in conformity with Article 3§1 of the Charter in this respect.*

*The Committee recalls that Article 3§1 requires consultation not only for tripartite co-operation between authorities, employers and workers to seek ways of improving their working conditions and working environment but also for the co-ordination of their activities and co-operation on key safety and prevention issues. Mechanisms and procedures of consultation with employers’ and workers’ organisations must be set up at national and sectoral level. The right to consultation is satisfied where there are specialised bodies made up of representatives of the government and of employers’ and workers’ organisations, which are consulted by the public authorities. If these consultations may take place on a permanent or ad hoc basis; they must in any case be efficient with regard to powers,*

*procedures, participants, frequency of meetings and matters discussed, in promoting social dialogue in occupational safety and health matters.”*

**Article 5. The right to organise** (extendable to employers’ organisations)

The obstacles to the exercise of the right to organise undermine the role of the most representative trade union and employers’ organisations in the Autonomous Community.

In accordance with the above-mentioned article of the European Social Charter, trade unions and employers’ organisations must be in a position to carry out their activities effectively and to draw up a work programme. Consequently, any excessive State interference constitutes an unjustified incursion into the autonomy of the trade unions, which must be substantial both at the level of their internal structure and also at operational level.

The above considerations were reaffirmed by the Committee in **Conclusions 2014 – Serbia – Article 5 2014/def/SRB/5/EN**:

***“Trade union activities***

*The report contains no information on this point. The Committee notes from another source that for trade unions “restrictions on the right to elect representatives and self-administer in full freedom” exist and that “leaders of company-level trade unions must be full-time employees at the time of registration and provide a certificate issued by their employer” (see ITUC – Survey of violations of trade union rights, *ibid.*). The Committee wishes to obtain the Government’s comments on the information obtained from this source.*

*Concerning trade union activities the Committee recalls that unions and employers’ organisations must have broad autonomy regarding their internal structure or functioning. They must be entitled to perform their activities effectively and devise a work programme (see Conclusions XII-2 (1992), Germany). Consequently, excessive State interference constitutes a violation of Article 5. Such autonomy has different facets: a) trade unions are entitled to choose their own members and representatives; b) severely restricting the grounds on which a trade union can lawfully discipline members constitutes an unjustified incursion into the autonomy of trade unions inherent in Article 5 (see Conclusions XVII (2004), United Kingdom); c) union leaders must have the right to access the workplace and union members must be able to hold meetings there, within limits linked to the interests of the employer and business needs (see Conclusions XV-1 (2000), France).*

*The Committee asks that the next report provide detailed information on implementation of the above rules.”*

In the present case, the government of the Autonomous Community is taking action that focuses on undermining if not eliminating social dialogue between the legitimate stakeholders. Another clear aim is simply to undermine the purposes for which trade union organisations have been created, the first of which is to protect workers’ rights. This is done by means of the intentional and unjustified elimination of economic resources, assistance and programmes through which the aims specific to those organisations were carried out, and by means of the public discrediting of social dialogue and of these trade union organisations in the media.

In the above-mentioned Conclusions, the Committee ruled that excessive government interference constitutes a violation of Article 5 of the Charter, since it involves an unjustified incursion into trade union autonomy. This violation is blatant in the present case because the trade unions are being prevented from carrying out work programmes and activities that they have carried out for decades by depriving them of the necessary material resources. They are in addition being sidelined from one of their main objectives, which is to engage in social dialogue with employers' organisations and the government of the Autonomous Community.

Moreover, in reference to State intrusion into trade union activities, the Committee, in interpreting the provisions in Article 5 of the Charter of Social Rights, has ruled that that article also embodies the right of trade unions to carry out their activities effectively, since they are essential for protecting the economic and social interests of workers. With this in mind, it considered that States should ensure trade union representativeness by appropriate means. In that respect, we quote the following case:

**Conclusions XII-2 – Germany - Article 5 XII-2/def/DEU/5/EN:**

*“Article 5 - Right to organise.*

*As concerns the question of access to an enterprise by trade union representatives, the Committee took note of the information contained in the German report and the observations of the DAG (Deutsche Angestellten-Gewerkschaft – German Salaried Employees' Trade Union) and the DGB (Deutsche Gewerkschaftsbund – Confederation of German Trade Unions) on this issue. It further noted the 1989 and 1991 Observations of the ILO Committee of Experts under Convention No. 87 (Freedom of Association and Protection of the Right to Organise, 1948).*

*On the basis of the above information, as well as from a judgement of the Federal Constitutional Court on 17 January 1981, the Committee noted that trade union representatives not employed by an enterprise had only a limited right of access to that enterprise, restricted to the specific cases provided for in the 1972 Act (“Betriebsverfassungsgesetz”). These cases do not include the trade union activities of information, advice, or recruitment. According to the Constitutional Court decision, trade unions have no right of access for such activities where one or more of their members is employed within the enterprise. Where none of their members is employed within the enterprise, the Court decision does not dismiss the possibility that a right of access might be accorded to trade union representatives, but considers that it is up to the legislators to address this issue.*

*The Committee noted that as at present there existed no such regulation, which had given rise to litigation in a number of cases, with the employers concerned.*

*Unlike the German government, which maintains that a right of access to workplaces for trade union representatives not belonging to an enterprise cannot be based on Article 5 of the Charter, the Committee considered that the right of access for trade unions to an enterprise is covered by this provision, which protects not only the right of workers to join or not to join a trade union, but also the right of trade unions to organise freely and to perform their activities effectively, which is essential for “the protection of workers' economic and social interests.”*

*The Committee therefore considered that states are obliged to ensure, by appropriate means, that trade union representatives can have access to firms for the purpose of their trade union activities. The Committee considered, however, that this right should be exercised taking account of the employer's rights and interests, such as the efficient operation of the firm and the requirements of confidentiality and safety.*

*The Committee therefore asked the German Government to indicate in its next report the measures taken or planned in order to protect the right of access to trade union representatives to workplaces. Pending receipt of this information, the Committee decided to defer its conclusion on this point. The Committee also noted that in German public services civil servants had on several occasions been requisitioned to replace striking employees and manual workers in those services. On this point, the Committee, regardless of the implications of such measures in terms of respect for the right to strike (see the conclusion on Article 6 para. 4), considered that intervention of this kind by the public authorities in the conduct and organisation of a lawful strike could constitute a restriction on the rights and freedoms guaranteed by Article 5, particularly in cases where unionised civil servants were required to replace employees or manual workers belonging to the same trade union. However, the Committee noted that there was a case pending before the Federal Constitutional Court on this matter and before reaching a conclusion wished to see the Court's decision. Finally, the Committee wished to receive an answer to the general question relating to international maritime registers."*

In the case examined above, the Committee ruled that Article 5 protects the right of trade unions to carry out their activities effectively, and therefore if the Government of the Autonomous Community of Castilla y León is implementing measures such as eliminating economic resources which allow these organisations to perform many of their tasks and publicly discrediting social dialogue, it is failing to comply with Article 5 of the Charter.

#### **Article 6. The right to bargain collectively (directly related to the above)**

The exercise of collective bargaining and collective action, guaranteed by this article of the Charter, establishes an essential basis for the enjoyment of other fundamental rights guaranteed by the latter, such as fair working conditions, occupational health and safety, fair remuneration, improvements in working conditions, protection of trade union representatives, etc.

To ensure that these rights are exercised effectively, States must promote joint consultation between workers and employers. To that end, the Committee's interpretation is that States must take positive measures to encourage consultation between trade unions and employers' organisations, and argues that if it does not take place, States must establish agreements and regulations to ensure that trade unions and employers' organisations are represented on a balanced and equal footing in that bargaining space. Such bargaining must take place at state, regional, sectoral and company level, in both the public and private sectors. In this connection, reference is made to the following Decision of the Committee:

#### **Decision on the merits: Centrale générale des services publics (C.G.S.P.) v. Belgium, Collective Complaint No. 25/2004:**

##### **B - Assessment of the Committee**

*36. Since the complaint is directly related to the functioning of the State and in particular the relation between the Government and the Parliament, the Committee has examined the situation in parties to the Charter which impose a statutory requirement to consult various categories of authorities or bodies representing social groups or interests before initiating legislation.*

37. It finds that it is established practice in these states that to be valid such consultation must concern the texts actually considered by the legislative assemblies concerned and not some other texts. It is also the case that when the legislative procedure authorises either members of Parliament or the Government to table amendments there cannot then be a requirement for every amendment, even those tabled by the Government, to be the subject of further consultation. Such a requirement would paralyse the legislative process.

38. In contrast to practice regarding consultation on executive actions and decisions, and subject to requirements imposed by certain constitutional courts, further consultations are not generally considered necessary, even when an amendment concerns a matter other than the one initially under debate.

39. It is traditional legal practice in democratic states to consider parliamentary debate, particularly in an assembly elected by universal suffrage, as cancelling out any failure to engage in mandatory prior consultation with authorities or bodies with less broad-ranging legitimacy. It is of course assumed that interest groups have access to members of elected bodies in order to influence their debates.

40. Therefore, the Committee considers that, despite its broad scope, Article 6§1 of the Charter cannot be regarded as requiring states to submit amendments tabled during their parliamentary proceedings for consultation with trade unions.

41. The Committee interprets Article 6§1 to mean that States must take positive steps to encourage consultation between trade unions and employers' organisations. If such consultation does not take place spontaneously, the State should establish permanent bodies and arrangements in which unions and employers' organisations are equally and jointly represented (Conclusions XVI-2, Hungary, pp. 408-409). These bodies and arrangements must allow the social partners to discuss and submit their views on all issues of mutual concern. In the case of officials bound by regulations laid down by the public authorities, such consultation will particularly concern the drafting and implementation of these regulations (Conclusions III, p. 33). The Charter, and in particular Article 6§1, cannot be regarded as permitting interference with the rules for drafting legislation as provided for by constitutional provisions. This process is the prerogative of sovereign States.

It is clear from the above Decision, that the Committee holds that Article 6 of the Charter must be interpreted as meaning that States must promote collective bargaining between trade union and employers' organisations. If such consultation does not take place spontaneously, States should establish bodies and arrangements in which the two parties are equally and jointly represented to ensure that collective bargaining can take place.

In addition, according to the Committee: *"The expression 'joint consultation' is to be interpreted as being applicable to all kinds of consultation between the two sides of industry –with or without any government representatives –on condition that both sides of industry have an equal say in the matter. 863) In some States Parties, consultation takes place within the framework of joint bodies in which the government representative often acts as chairman. 864) This form of joint consultation has been deemed to comply with the requirements of Article 6§1."*

In this case, not only is the Government of Castilla y León failing to fulfil this obligation to promote collective bargaining but it is also seeking to restrict such bargaining between trade unions and employers' organisations by eliminating the most powerful and important common instrument for promoting collective bargaining in the Autonomous Community: social dialogue. Therefore, far from



meeting the obligation imposed, the regional Government is taking a step backwards in terms of collective bargaining.

To this end, it is publicly discrediting the usefulness of this instrument (Documents 18, 23 and 24) and is clearly attempting to undermine the funding of our organisation to prevent it from continuing its activities in the Autonomous Community of Castilla y León, including the promotion of collective bargaining and peaceful labour dispute resolution.

The importance the Committee attaches to collective bargaining and the need for employers and the trade unions to be represented on an equal and balanced footing is therefore plain to see. It is clear that if the promotion of this essential activity is hindered by the Regional Government of Castilla y León, the latter's obligation to facilitate and promote that activity is violated.

However, not only does this hinder collective bargaining by eliminating social dialogue, but it also means that measures are actively being taken by that government to stifle the functioning of the Servicio Regional de Relaciones Laborales [Regional Labour Relations Service] (SERLA). According to the 3rd Inter-Trade Agreement on Autonomous Resolution Procedures for Labour Disputes in Castilla y León, this Foundation, established in 1997, deals with the autonomous resolution of labour disputes and particular aspects of collective bargaining (Document 19). Its constituent members which have acceded to the Agreements of the Foundation are the Confederación de Organizaciones Empresariales de Castilla y León (CECALE), the Unión Sindical de Comisiones Obreras de Castilla y León (CCOO) and the Unión General de Trabajadores de Castilla y León (UGT), as organisations which have the required representativeness under Title III of the consolidated version of the Law on the Workers' Statute, for the purpose of the provisions of Articles 83 and 91 of that law. These organisations undertake mediation and arbitration work between companies and workers at both collective and individual level, and are very active, with 3 534 reconciliation procedures conducted in individual disputes in 2022.

Since the entry of Vox into the autonomous government, however, the Foundation has seen its funding reduced by the Regional Government of Castilla y León, to the extent that Vox announced in the media that SERLA would be dissolved due to lack of funding (Document 18).

#### **Article 9. The right to vocational guidance**

As established by the Committee in its 2012 Conclusions concerning Montenegro (2012/def/MNE/9/EN):

*Vocational guidance is provided in the forms of professional counselling, workshops and professional informing.*

*The Committee takes note also of the several projects that ran during the reference period and the participation results.*

*The Committee recalls that Article 9 imposes on states to set up and operate a service that helps all persons, free of charge, to solve their problems relating to vocational guidance. The right to vocational guidance must be guaranteed:*

- *within the school system (information on training and access to training);*

- *within the labour market (information on vocational training and retraining, career planning, etc.).*

*The indicators taken into consideration to assess vocational guidance are objectives, organisation, operation, overall expenditure, number of staff and number of beneficiaries. Vocational guidance must address in particular school-leavers, jobseekers and unemployed persons.*

*Vocational guidance must be provided:*

- *free of charge;*
- *by qualified (counsellors, psychologists and teachers) and sufficient staff;*
- *to a significant number of persons.*

*The Committee asks the next report to indicate how the right to vocational guidance is guaranteed within the school system (expenditure, staffing and beneficiaries). It asks also how the qualifications and competence criteria for councillors are monitored, as well as the amount of funding allocated to vocational guidance in the labour market.*

*Equal treatment with respect to vocational guidance must be guaranteed to everyone, including non-nationals. According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training. To this purpose, length of residence requirements or employment requirements and/or the application of the reciprocity clause are contrary to the provisions of the Charter.*

The obligations this right imposes on the public authorities have been blatantly violated by the Government of Castilla y León through the ending of programmes such as vocational guidance for employment and assistance for self-employment (PROA), without grounds being given and without any replacement mechanism being put in place by the Administration and without any objective reason. And this despite the fact that the State has transferred sufficient funds to the Autonomous Community for implementation.

It should be noted in this respect that the PROA Programme was expected to benefit 22 230 unemployed persons in 2022, as can be seen from the information provided by the Regional Government of Castilla y León itself in the Strategic Subsidy Plan of the Public Employment Service for 2021-2023 (Document 15).

This is therefore yet one more backward step in a programme to restrict rights and cut services on ideological grounds (when there is capacity in the budget to maintain the schemes). This is taking place in record time in this Community, since it is not only a matter of not putting services into operation but also of cutting those that already exist, as has happened in some cases. One of the principal tasks of the complainant organisations is to provide vocational guidance to migrant workers and the unemployed. Eliminating assistance and grants for carrying out programmes which were implemented

on an annual basis to provide these services means that they can no longer be continued due to a lack of resources to hire the personnel required.

### **Article 19. The right of migrant workers and their families to protection and assistance**

Specifically, Article 19.1 is deemed to have been infringed. According to that article, *“With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other party, the parties undertake to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration”*.

The Committee has held that migrant workers and their families should be provided with protection and assistance in the territory of the Charter signatory country in which they are living. The main corollary of this right is the obligation to provide precise and accurate information on matters such as **vocational guidance**, housing, European Union citizenship, education and health. Such guidance and advisory services must be free, effective and accessible.

The action programme for the social and vocational integration of the immigrant population, which the complainant organisations had been implementing with funding from the Regional Government of Castilla y León, provided such information and advice effectively and free of charge. This is evidenced by the fact that, according to Regional Government data in the balance sheet presented in the 2018-2021 Agreement on Migration, the corresponding subsidy lines financed 62 integrated immigration centres that benefited 118 276 immigrants and 21 partial intervention projects that benefited 10 232 immigrants (Document 9).

If these trade union organisations were providing a service to migrant workers and their families in line with those to be provided under the terms of the Charter, thanks to the economic assistance provided by the State for its implementation (by means of hiring qualified personnel), it follows that the Government of Castilla y León is breaching the rights of migrants as a whole by cancelling the support earmarked for the roll-out of the programme. Moreover, that is State aid which will have to be returned in full if it is not used for the intended purposes.

For that reason, the withdrawal of the above-mentioned programme for advising migrant workers, without any apparent justified reason and without it being replaced with any similar scheme provided directly by the administration, is, in the opinion of the complainant organisations, a breach of Article 19.1 of the Revised European Social Charter.

### **III.- UNLAWFULNESS OF FAILURES TO COMPLY BY THE GOVERNMENT OF THE AUTONOMOUS COMMUNITY OF CASTILLA Y LEÓN**

The principal aim of the complainant trade unions is to defend the rights of workers, which they do via a range of measures focused on protecting their particular economic and social rights:

- Institutional participation in over 56 separate institutional bodies;
- Preparation of a range of information material, reports and press conferences;

- Activities in terms of collective bargaining and trade union elections, including negotiation of a large number of collective agreements applicable throughout our Autonomous Community that benefit working people as a whole, even if they are not members of any trade union organisation;
- Advice and support for working people – whether nationals or not – in the area of training, labour rights, social security, trade union advice, organisation and communication, among others.

On 2 June 2021, the Regional Government of Castilla y León, the employers’ organisation, CEOE CyL, and the trade union organisations, CCOO CyL and UGT CyL, entered into the Agreement of the Castilla y León Social Dialogue Council, which approved the Annual Employment Plan for Castilla y León for 2021 (PAECYL 2021). In addition, the following agreements have been concluded as part of social dialogue:

- Employment Plan for Castilla y León 2021-2024;
- 6th General Vocational Training Plan for Castilla y León 2021-2024;
- 6th Agreement on the Prevention of Occupational Risks in Castilla y León;
- Plan for Gender Equality, Co-responsibility and Youth Employment;
- 3rd Integrated Strategy on Employment, Vocational Training, Occupational Risk Prevention and Equality, Co-responsibility and Youth Employment 2021-2024;
- 2nd Agreement on Social Dialogue to promote a fair transition in Castilla y León to tackle climate change in 2021-2023;
- 4th Framework Agreement on Competition and Business Innovation in Castilla y León 2021-2027;
- 2nd Agreement on Social Dialogue in Education for the 2021-2022 and 2023-2024 academic years;
- Agreement of the Council for Social Dialogue on combating gender violence in Castilla y León;
- Social Dialogue Agreement on care for dependent persons.

These agreements only serve to justify the importance that social dialogue has had, still has and will continue to have in the Autonomous Community of Castilla y León, which is a global benchmark in this area. The three signatory parties have exported this model to various countries wishing to experience a model of “industrial peace” that has undoubtedly led to a significant improvement in people’s living and working conditions and in the competitiveness of companies covered by the agreements negotiated as part of social dialogue.

Since this process was initiated in 2001, over 60 agreements have been signed in the Autonomous Community of Castilla y León in various areas of social dialogue. Standing out among these as a whole are the frequent measures focusing on employment, whether directly or indirectly, with employment policy being regarded as a priority in all respects.

Such activity in the area of social dialogue, as has already been said and shown, came to an abrupt halt following the entry into the government of the Autonomous Community of Vox, the far-right party which governs the Community in coalition with the People’s Party. The clearest proof of this is the report on social dialogue for the year 2020, prior to the formation of the coalition. As can be seen in that report (see attached Document 13), in that year a large number of agreements were concluded

between the parties, covering a wide range of areas: employment, training, occupational risk prevention, immigration, etc.

Following the entry into office of the current government of the Autonomous Community, the webpage of the Regional Government of Castilla y León shows that no social dialogue agreements have been signed recently. The few listed by the Regional Government on its webpage and which are currently in force were signed by the parties before the current government took office.

<https://dialogosocial.jcyl.es/web/jcyl/DialogoSocial/es/Plantilla100Detalle/1284192819287/Noticia/1284714683252/Comunicacion?plantillaObligatoria=17PlantillaContenidoNoticiaHome>

The striking disappearance of agreements on social dialogue and measures to promote it among the social partners and institutions in the Autonomous Community of Castilla y León has been brought about by the current Government, which seems intent on taking social dialogue back to a time prior to its emergence, with a regression in the social rights that have been so dearly won in this country since the birth of our current democracy.

Trade union and employers' organisations are recognised in **Article 7 of the Spanish Constitution** as bodies that contribute to the protection of economic and social interests. They represent the general interests of workers as a whole and of companies as legal entities. They are jointly responsible for social and economic policy and other matters, both in the Autonomous Community of Castilla y León and in the State as a whole.

The Spanish Constitution recognises trade unions as exercising the generic function of representing and defending the interests of workers, based not only on membership, but also on the very nature of the trade union. In assigning trade unions the task of defending workers' interests, the Constitution and laws give them capacity to act and exercise those rights which, although they strictly speaking belong to each worker *uti singulis*, are necessarily rights to be exercised collectively, by virtue of a function of representation belonging to the trade union in its own right.

As a result of this constitutional recognition and the Statute of Autonomy, **Law 8/2008 was passed in Castilla y León to establish the Council for Social Dialogue and Regulation of Institutional Participation** in the Autonomous Community. The Council for Social Dialogue is recognised as the highest body for meetings, consultation and institutional participation, and its functions and competences include the approval of economic and social agreements such as those referred to in the statement of facts.

Article 16(4) and (5) of the **Statute of Autonomy of Castilla y León (Organic Law 14/2007 of 30 November 2007 on the reform of the Statute of Autonomy in Castilla y León)** establishes as the guiding principles of public policies:

*"4. The promotion of social dialogue as a factor of social cohesion and economic progress, recognising the role of trade unions and employers' organisations as representatives of their own economic and social interests by means of permanent institutional frameworks bringing the Regional Government of Castilla y León together with social partners. To that end, the law may regulate a Council for Social Dialogue in Castilla y León.*

*The development of all forms of business activity, particularly in relation to small and medium-sized companies and the self-employed, and the encouragement of initiatives in the social economy, particularly co-operatives and their promotion.”*

**Article 16.1 of Law 8/2008 of 16 October 2008, on the creation of the Council for Social Dialogue and Regulation of Institutional Participation**, recognises and expressly regulates a nominative subsidy to facilitate social dialogue, stating the following:

*“1.- With the aim of encouraging the institutional participation regulated hereby, the General Budget Law of the Community of Castilla y León shall allocate on an annual basis a budget item which, as a nominative subsidy, will be provided to the most representative trade union and employers’ associations, independently of the grants the latter receive to promote their activity as organisations of general interest in the economic and social sphere.”*

The budget item to promote the institutional participation of the trade unions, COMISIONES OBRERAS and UNIÓN GENERAL DE TRABAJADORES de Castilla y León, is specifically regulated in the budgets extended by virtue of Decree 36/2021 of 30 December 2021, which regulates the conditions of the extension of the General Budgets of the Community of Castilla y León for 2021 into the 2022 financial year, with the extended budgets expressly including the amount of the grant recognised and which was previously requested by those trade union organisations, both of which are recorded as beneficiaries of a grant of €1 237 702 in the following heading of the extended budgets:

*“9.- Detailed economic and territorial breakdown by services and subprogrammes EMPLOYMENT AND SERVICE INDUSTRY SECTION – D.G. LABOUR AND OCCUPATIONAL RISK PREVENTION PROGRAMME 241C HEALTH AND SAFETY AT WORK LABOUR AND SOCIO-ECONOMIC SUBPROGRAMME 241C02 LABOUR HEALTH AND SAFETY AND LABOUR RELATIONS  
480-A8: UNIÓN REGIONAL DE COMISIONES OBRERAS - €1 237 702.”*

That subsidy was finally disbursed following a formal notice submitted by the Workers’ Commissions, though it is not known whether or not the Government of Castilla y León will pay the grant for social dialogue for the 2023 financial year, since there is no provision to that effect in the Autonomous Community’s budget texts for that financial year. Non-payment of the nominative subsidy expressly included in the regulations would constitute a breach by the Regional Government of Castilla of Article 16 of the Statute of Autonomy, Articles 7, 28 and 37 of the Spanish Constitution and the provision in Article 16.1 of Law 8/2008 of 16 October 2008 on the creation of the Council for Social Dialogue and Regulation of Institutional Participation.

Such non-compliance by the Regional Government of Castilla y León constitutes not only a clear breach of the principle of legality set out in Articles 9.1, 25 and 101.3 of the Spanish Constitution and Article 25 of Law 40/2015 of 1 October 2015 on the Public Sector Legal System, but also a breach of the principles of accountability of public authorities, prohibition of arbitrary action on the part of public authorities and legal certainty established in Article 9.3 of the Spanish Constitution.

The omission by the Regional Government of Castilla y León violates those principles, since without announcing or giving reasons for the decision to render inactive the subsidy described, it involves a clear loss for the citizens of the Autonomous Community, the ultimate beneficiaries of the social and not-for-profit activities of our organisation. Clearly this Administration’s approach is the exact

opposite of what the authorities have done in previous financial years, and over a long period, i.e. publishing the order awarding the grant and subsequently paying it. This clashes with what could legitimately be expected of the authorities and could undermine the principle of legitimate expectations.

The inactivity described, which collides head-on with the Administration's usual practice, is the result, as we have seen, of a decision for which no reasons were given and of which no prior announcement was made. This indirectly harms the groups that benefited from the not-for-profit activities carried out by our trade union organisations in order to achieve their own social objectives. Faced with this illegal, unfair and arbitrary decision, those affected have also been left defenceless.

The same can be said for the other assistance and subsidies received annually by these organisations from the Autonomous Community's budgets. These formed the basis for hiring staff to provide advisory programmes for immigrant workers and their families, vocational advice and guidance, advice to women, etc. These items have now disappeared from the Autonomous Community's Budget Law, and these organisations have received none of the assistance they received in previous financial years to carry out such programmes.

Similarly, there has been disregard in the present case for two general principles of law, this being a point that must be clarified on the basis of the development of relations between States or particular governments in different branches of law, including commercial law, i.e.:

– *Pacta sunt servanda*

– The principle of good faith (prohibition of bad faith) and legitimate expectations.

It is essential to start out with these two basic legal principles established as standards. They are the foundation of any society based on legal rules.

As precedents illustrating their operational nature, reference may be made to the very creation of international law, as well as other situations where it is difficult to establish the legal nature of certain commitments, pacts or agreements (the case of State contracts, not covered by international law when the application of the law of the State party does not settle the dispute, the contract having been modified by means of its own domestic law). In such situations, the starting point is what applied in the first instance, namely the agreement and the basic principles: *pacta sunt servanda* and good faith, to seek out how to confer legal status on the commitment and both principles. Reference to these two examples here seeks solely to illustrate the reasoning followed on the basis of those historical experiences. It is not just a case of rambling.

The fact is that, insofar as pacts and agreements exist on the basis of both principles (the obligation to comply with agreements and to act in good faith), it is a matter of determining their legal status on the basis of their binding nature and their enforceability.

As shown above, formalised agreement adoption procedures exist. These are legal rules that govern the adoption of such agreements and the legitimacy of the social partners. This is a procedure governed by specific legal rules, subject to the law, which one party, the Administration, is unilaterally seeking to disregard, breaching the principle of *pacta sunt servanda* and the principle of good faith.

Such agreements also involve a fixed period of validity, so that deciding unilaterally no longer to comply with them or to renegotiate them, while disregarding the period of validity, is an arbitrary act of bad faith by the Government of the Autonomous Community.

Although the Government of Castilla y León has been given administrative notice to comply with these understandings and agreements (Document 17), there has as yet been no response.

### **3.- COMPLIANCE WITH FORMAL REQUIREMENTS.**

**1.- Active legitimacy.**- Comisiones Obreras de Castilla y León and Unión General de Trabajadores de Castilla y León are the most representative regional trade unions at the level of the Autonomous Community. In accordance with Article 1(c) of the Protocol, therefore, they are duly authorised to bring collective complaint proceedings.

It follows from the Decision of 28 January 2020 on the admissibility of Complaint 175/2019 (§§ 7-8), which was based on a previous decision regarding Complaint 23/2003 (§§ 4-5) that regional trade unions are also entitled to bring collective complaints insofar as they are entities which are sufficiently representative for the purposes of the Committee.

In this regard, as provided for in Article 6 of Organic Law 11/1985 of 2 August 1985, on Trade Union Freedom, the Confederación Sindical de Comisiones Obreras is the most representative trade union of the Spanish State, as can be seen from the Ministry of Labour Certificate, which is attached as Document 21.

That is because Article 6 of that Organic Law provides that: *“1. The greater representativeness of certain trade unions gives them a special legal position in terms both of institutional participation and of trade union action. 2. The most representative trade unions at State level shall be deemed to be:*

- a) Those with a certain level of support, expressed by obtaining 10% or more of the total number of employee delegates at this level, as well as members of works councils and the corresponding bodies of public authorities.*

***b) The trade unions or trade union bodies affiliated, federated or confederated in a state-wide trade union organisation which is regarded as more representative, as provided for in letter a).***

*3. Organisations which are regarded as the most representative trade unions according to the previous paragraph shall have legal capacity to be represented at all territorial and functional levels in order to:*

- a) provide institutional representation to public administrations or other entities or bodies of a State or Autonomous Community nature which have made provision for such institutional representation;*
- b) engage in collective bargaining under the conditions provided for in the Workers’ Statute;*
- c) participate as discussion partners in determining working conditions in public administrations by means of appropriate consultation and negotiation mechanisms;*
- d) participate in non-judicial systems for settling industrial disputes;*
- e) promote elections for staff delegates, works councils and corresponding bodies in public administrations;*
- f) obtain temporary transfers of use of public property under the conditions laid down by law;*
- g) perform any other representative function which may be established.”*

Comisiones Obreras Castilla y León, as reflected in Article 1 of the Articles of Association of the Organisation, which are attached as Document 1, is an integral part of the Confederación Sindical de Comisiones Obreras de España, in the organisational structure of which it participates as a territorial organisation and accepts its binding decisions. It accordingly has the status of the most representative



trade union organisation and is entitled to lodge this collective complaint. As stated in Document 1, the current Secretary General in Castilla y León is D. Vicente Andrés Granado.

UGT Castilla y León has full standing (active legitimacy) to submit this collective complaint, as it is a member of the territorial organisation of the Confederación Sindical de la Unión General de Trabajadores. The complaint is made through the body assigned responsibility for the representation of the union by virtue of the Articles of Association which are attached as Document 2, namely the Secretary General. The duties of Secretary General in the Community of Castilla y León are currently performed by D. Faustino Temprano Vergara.

**2.- Passive legitimacy. Applicability of the European Social Charter to Spain.**- The European Social Charter came into force in respect of Spain on 5 June 1980, 30 days after the date of deposit of the Spanish ratification instrument, in accordance with Article 35.

Interpretation in Spain: as recorded in the instrument of ratification of 29 April 1980, Spain will interpret and apply Articles 5 and 6 of the European Social Charter in conjunction with Article 31 and the Appendix to the Charter in such a way that their provisions are compatible with those of Articles 28, 37, 103.3 and 127 of the Spanish Constitution.

Spain signed the revised version of the European Social Charter, done in Strasbourg on 3 May 1996, and ratified it on 29 April 2021. It has also ratified the Additional Protocol to the European Social Charter providing for a System of Collective Complaints, done in Strasbourg, and the collective complaints procedure came into force in our country on 1 July 2021.

The Instrument of Ratification of the European Social Charter (revised), done in Strasbourg on 3 May 1996, was published in the BOE (Spanish Official Gazette) of 11 June 2021. The revised Charter came into force on a general basis on 1 July 1999 and has been in force in Spain since 1 July 2021, as provided for in Part VI, Article K(2) and (3) of the Charter. The same Instrument of Ratification provides that, in relation to Part IV, Article D, paragraph 2, of the European Social Charter (revised), Spain declares that it accepts the supervision of its obligations under the Charter in accordance with the procedure set out in the Additional Protocol to the European Social Charter providing for a System of Collective Complaints, done in Strasbourg on 9 November 1995.

**3. Formal requirements of the document.**- This collective complaint has been addressed in writing to the Executive Secretary of the Committee and complies with the other conditions specified in the Additional Protocol to the Charter providing for a System of Collective Complaints and, in particular, sets out the specific infringements of the provisions of the Social Charter committed by the Government.

#### **4.- PETITUM**

**COMISIONES OBRERAS DE CASTILLA Y LEÓN and UNIÓN GENERAL DE TRABAJADORES CASTILLA Y LEÓN REQUEST** that

1) this **COLLECTIVE COMPLAINT** against the breaches of the Revised European Social Charter by the Government of the Autonomous Community of Castilla y León described in this document be declared admissible, and that it be processed in accordance with the provisions of the 1995 Protocol.

2) it be declared that the acts or omissions of the Regional Government of Castilla y León described in this document are in breach of Articles 3, 5, 6, 9 and 19 of the European Social Charter and, specifically, that:

- cessation of the budget funding of a nominative subsidy for Institutional Participation to ensure the tasks, functioning and participation of trade unions and employers' organisations in the various consultation and institutional participation bodies of the Autonomous Community creates a situation incompatible with Article 3 and Article 5 ECSr;

- cessation of the budget funding for the Occupational Risk Prevention Programme which was being provided by the complainant organisations creates a situation incompatible with Article 3 ECSr;

- cessation of the budget funding for the Labour Relations Service (SERLA) creates a situation incompatible with Article 6 ECSr;

- ending of the PROA programme creates a situation incompatible with Article 9 ECSr;

- cessation of the budget funding for the action programme for the social and vocational integration of the immigrant population creates a situation incompatible with Article 19 ECSr.

3) that all reasonable measures provided for in the ECSr be made to ensure that the Spanish State remedies the breaches complained of.

Strasbourg, 5 June 2023.

**I FURTHER AVER:** The following documents are attached in evidence:

Document 1. – Articles of Association of Comisiones Obreras.

Document 2. – Articles of Association of Unión General de Trabajadores Castilla y León.

Document 3. – CC.OO notary document.

Document 4. – UGT CyL notary document.

Document 5. – Law 8/2008 of 16 October 2008 on the creation of the Council for Social Dialogue and regulation of institutional participation.

Document 6. – 3rd Integrated Strategy for Employment, Vocational Training, Occupational Risk Prevention and Equality, Co-responsibility and Youth Employment, 2021-2024.

Document 7. – Employment Plan for Castilla y León, 2021-2024.

Document 8. – 6th Agreement on the Prevention of Occupational Risks in Castilla y León.

Document 9. – Social Dialogue Agreement of Castilla y León in the area of Migration for Socio-Vocational Integration, Social Cohesion and Intercultural Coexistence for 2018-2021.

Document 10. – 6th General Vocational Training Plan, academic years 2021/2022-2024/2025.

Document 11. – Plan for Gender Equality, Co-responsibility and Youth Employment, 2021-2024.

Document 12. – Budget Law of the Autonomous Community of Castilla y León for 2021.

Document 13. – Report on Social Dialogue Activities 2020.

Document 14. – Strategic Grant Scheme for 2022-2024.

Document 15. – Public Employment Service Strategic Grant Scheme for 2021-2023.

Document 16. – Budget Law of the Autonomous Community of Castilla y León 2023.

Document 17. – Formal notices to the Government of the Autonomous Community CyL to comply with its obligations.

Document 18. – Declarations by the Autonomous Government of Castilla y León in the media.

Document 19. – 3rd Inter-Trade Agreement on Autonomous Resolution Procedures for Labour Disputes in Castilla y León.

Document 20. – Partial agreement amending the 3rd Inter-Trade Agreement on Autonomous Resolution Procedures for Labour Disputes in Castilla y León.

Document 21. – Certificate of the Ministry of Labour confirming the Representativeness of the Confederación Sindical de Comisiones Obreras.

Document 22. – Electoral programme of the Vox party.

Document 23. – Extracts from the 2022 Plenary Assembly.

Document 24. – Extracts from the 2023 Plenary Assembly.

Document 25. – Certificate of the Ministry of Labour confirming the representativeness of the Confederación Sindical de UGT España.

**09276155** Signed  
**W VICENTE** digitally by

**11721285W** Signed digitally  
**FAUSTINO** by 11721285W

**ANDRÉS (R:  
G47061411  
)** 09276155W  
VICENTE ANDRÉS  
(R: G47061411)  
Date: 2023.06.05  
10:52:15 +02'00'

**TEMPRANO  
(R:  
G47317615)** FAUSTINO  
TEMPRANO (R:  
G47317615)  
Date: 2023.06.05  
11:38:58 +02'00'