

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



4 August 2025

**Case Document No. 6**

***Confederación Intersindical Galega (CIG) v. Spain***  
Complaint No. 231/2023

**REPLY FROM THE GOVERNMENT  
TO THE CIG RESPONSE ON THE MERITS**

**Registered at the Secretariat on 6 June 2025**





MINISTERIO  
DE LA PRESIDENCIA, JUSTICIA  
Y RELACIONES CON LAS CORTES

ABOGACÍA GENERAL DEL ESTADO

SUBDIRECCIÓN GENERAL  
DE ASUNTOS CONSTITUCIONALES  
Y DERECHOS HUMANOS

**TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS**

**THE KINGDOM OF SPAIN'S SUBMISSION**

**IN REPLY TO THE COMPLAINANT ORGANISATION'S RESPONSE TO  
THE OBSERVATIONS OF THE MERITS**

**COLLECTIVE COMPLAINT  
No. 231/2023**

**CONFEDERACIÓN INTERSINDICAL GALEGA (CIG)**

**v.**

**SPAIN**

The Kingdom of Spain has been notified of the letter submitted by CONFEDERACION INTERSINDICAL GALEGA (CIG) in response to the submissions on the merits of the present complaint made by the Government of Spain.

By means of the present observations, within the time-limit granted for this purpose – after a first extension granted by the Committee at the request of this party- we submit to the Committee, to which we respectfully address, our reply with regard to the allegations made by the complainant trade union – CIG- in relation to the written observations on the merits submitted by this party.

➤ **On the lack of object of the complaint in the light of the clarifications made by CIG in the written response on the object the denounce.**

The collective complaint submitted by complainant trade union, when describing the claim before the Committee, started by indicating<sup>1</sup> that “ *the Kingdom of Spain applies in an unsatisfactory manner Article 4.1 of the Charter*” formulating the complaint in general terms, although below<sup>2</sup> it specified that, in particular, the complaint sought a declaration by the Committee that the amount of the national minimum wage (SMI) for 2023 was not in accordance with that provision, as it was allegedly ‘*clearly less than 60% of the national average wage*’<sup>3</sup>.

In its written response, CIG specifies that the object of the complaint should be limited to the analysis of the situation corresponding to year 2023, since as the complainant organisation repeatedly points out, what is sought is that the Committee declares that the **national minimum wage set for 2023 by Royal Decree 99/2023 was less than 60% of the national average wage** in spite of what the preamble of the Royal Decree stated, regardless of the subsequent evolution of the national minimum wage growth in 2024 and 2025.

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<sup>1</sup> Section I.1 ‘Purpose’, §1.

<sup>2</sup> 2 y §3

<sup>3</sup> In this regard, the ‘Petition’ (claim) section states that the Committee is requested to “declare that the national minimum wage for 2023, set at €15,120 per year [...] by Royal Decree 99/2023 of 14 February, which sets the national minimum interprofessional wage for 2023, is not in accordance with Article 4.1 of the Charter [...]”.

Thus, in its response the complainant trade union includes a section entitled ‘Clarification on the subject matter of the collective complaint’ with the aim of clarifying this aspect, stating in it that the Spanish Government have incorrectly considered that the object of the claim is to have a general statement by the Committee on the adequacy of the national minimum wage currently in force in Spain, when in fact what CIG is seeking is, in a “ *much more specific manner*” a declaration that “the national minimum wage for 2023” was not in conformity with the Revised European Social Charter, regardless of the positive evolution of the national minimum wage amount or the situation after 2023.

We highlight the following passages from the complainant organisation’s response:

4. [...] *the object of the collective complaint **is not** a general declaration that the setting of the national minimum wage by Spanish legislation violates Article 4.1 of the Revised European Social Charter [emphasis added by the complainant].*
5. *More specifically, **what is sought** is a declaration that "the national minimum wage for **2023**, set at €15,120 per year [...] by Royal Decree 99/2023 of 14 February, which sets the minimum wage for 2023, is not in accordance with Article 4.1 of the Charter [...].*
6. [...].
7. *The specific subject matter of the proceedings concerns the amount of the national **minimum wage for 2023** [...]*

The complainant organisation therefore highlights this aspect, criticising the State for referring in their observations to the situation in 2024, when that year falls outside the time frame of the complaint<sup>4</sup>.

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<sup>4</sup> It should be noted at this point that, although the organisation itself had specified that the collective complaint referred to 2023, thereby limiting the Committee's examination to the situation corresponding to year 2023, this representation considered that it was appropriate to make a broad interpretation of the subject matter of the complaint, not limited in time exclusively to the situation in 2023, taking into account that at the time the observations were made, 2023 had already passed, and the Committee would be interested in knowing how the situation had evolved after the complaint was submitted.

That is why we included in our reply an analysis of the situation not only in 2023, but also in 2024, updating the information to the date on which the observations on the merits of the complaint were submitted

Taking into account the clear and unambiguous delimitation that the complainant organisation has made of the complaint submitted, to the situation corresponding to 2023, and its insistence that the **subsequent situation should be “left out” of the complaint insofar as CIG does not question in the present proceedings the adequacy of the minimum wage amount in the years after 2023, nor the regulations that establish it, the State considers that the complaint should not be decided on the merits as become, in a supervening manner, devoid of interest.**

This has to be so since, according to the **Committee's doctrine**, on cases submitted to it through collective complaint procedure , the Committee must rule **on the situation under examination on the date of the decision on the merits of the complaint** and not on the existing situation in a determined point on the past. This means that in the event that, before the collective complaint is submitted, or after it is submitted but before the Committee issues its decision, the regulations are amended or the circumstances relating to the situation subject of the complaint change, it is the new regulations or the new circumstances relating to that situation that must be analysed. In this regard, for all, Decision on the merits of the Committee of 1/12/2010 in the case of European Council of Police Trade Unions (CESP) v. France, Collective Complaint No. 57/2009, §52, Decision on admissibility of the Committee of 3/12/2024 in the case of Associazione Nazionale per l'Industria e il Terziario (ANPIT) and Confederazione Italiana Sindacati Autonomi Lavoratori (CISAL) v. Italy, nº 232/2023.

The doctrine of the Committee on this point is consistent with the nature and purpose of the collective complaints instrument which, according to the very preamble of the *Additional Protocol to the European Social Charter Providing for a System of Collective Complaints* aims at *improving* the effective enforcement of the social rights guaranteed by the Charter within member States when in a case it is found that a Charter right is not being satisfactorily implemented. It is not an instrument designed to determine potential responsibilities arising from a State's failure to comply with the rights recognised in the Charter, but an instrument designed to encourage the adoption by the States of the necessary measures to ensure the satisfactory implementation of social rights, which is to be achieved through the State compliance with the recommendations following a decision on the merits which identifies a violation of a right in a given case brought before the Committee.

Given that the complainant organisation has specified, having done so in an indubious manner throughout its written response , that it does not wish to extend beyond 2023

the object of its claim and therefore does not address its complaint to the conformity of the amount of the Spanish National Minimum Wage with the Charter in 2024 and 2025, the complaint must necessarily be declared inadmissible.

#### Additional clarification of the subject matter of the claim

The complainant organisation in addition to limiting to 2023 the temporal scope of the situation referred to in its complaint before the Committee, excluding the period thereafter, also clarifies in its response that it is not in fact **the setting** of the national minimum wage for 2023 **that it puts under question**, but **rather the statement contained in the preamble to the Royal Decree setting the minimum wage for 2023** in which it is affirmed that through that provision the target of the national minimum wage reaching the 60% of the national average wage was being reached, thereby complying with the revised European Social Charter.

The complainant organisation explains, in that sense, that what it seeks with the complaint is a pronouncement in which the Committee rules that “the statement made in the Preamble of the Royal Decree 99/2023 is not correct”. This is stated in §7 of its response and insisted upon in §§24 where it is stated (reproduced verbatim for clarity): “*CIG’s complaint focuses on challenging that statement and seeks a ruling from the ECSR as to whether or not it is correct*”. The complainant organisation explains that the Committee should review such statements since the “*citizens should not be told “party versions” on the compliance with the treaty*”.

In this regard it should be pointed out that with its approach CIG is seeking to turn the European Committee of Social Rights into a review body of programmatic declarations on social rights made by the political bodies or authorities of the States, thus incurring a clear error regarding the nature of the instrument of collective complaints’ procedure and the role of the Committee<sup>5</sup>.

➤ **Compliance of the Spanish minimum national wage with the requirements of the Revised European Social Charter.**

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<sup>5</sup> In fact, not even before national courts can the content of the explanatory memoranda or preambles of the rules be challenged. On this point, see the Report of the Technical Secretary General of the Ministry of Economy, Trade and Business provided with this letter.

**a) Insufficient substantiation of the complaint to reach the conclusion that the SMI in Spain does not comply with the Charter.**

In the event that the Committee, in contrast to what we have set out above, should consider it appropriate to examine the merits of the case, this party insists that, as we explained in our observations on the merits, it is clear that the complaint cannot be accepted, as it has been raised.

Even if it were true *-quod non-* that the national minimum wage in Spain does not reach 60% of the national average wage, or hypothetically didn't reach it in 2023 -which the complainant insists on sticking to-, this circumstance does not determine *per se* that the commitment derived from Article 4.1 of the Charter is not being complied with.

In our observations on the merits we stirred attention to the fact that the complainant organisation did not provide any further data or assessment – apart from the figure of the percentage of the minimum wage in relation to the national average- to support its conclusion that the national minimum wage in force in Spain does not comply with the Charter. However, according to the Committee's doctrine, it is essential to consider various economic, social and cultural factors - notably, the social welfare system of a given State-, being all these factors disregarded by the complainant trade union in its complaint.

CIG has been given the opportunity to supplement its initial submission in its response to the submissions on the merits, thus incorporating additional information on these aspects to support its conclusion that Spain is allegedly in breach of the provision of Article 4(1) of the Charter, thereby remedying its initial lack of rigour.

However, far from doing so, it has merely stated in its response to the submissions on the merits that in the present case it would not be necessary to assess that set of factors which -it admits -, must generally be taken into account when determining whether the wage in a State meets the requirements of Article 4(1) of the Charter, given that its approach to the complaint only involves analysis of the statement, in the preamble to the Royal Decree setting the national minimum wage for 2023, that with that Royal Decree Spain would have reached 60% of the national average wage.

The refusal of the complainant organisation to provide any further information on economic, social and cultural factors in Spain from which it could be inferred that the amount of the minimum interprofessional wage, whether in 2023 or now, is insufficient for the purposes of Article 4(1) of the Charter, on the basis that the 'perspective' it wishes to



give to the debate does not involve taking into account any of those factors - §24 of its response to the submissions of the merits - reveals the manifestly unfounded nature of the complaint.

We must insist on the fact -as above stated- that it is not the Committee's role to determine whether or not a given public statement made by a government authority of a State, or by the legislator in the preamble of a norm, is correct or not. And, therefore, the debate, whatever the particular perspective or preference of the complainant trade union, involves determining whether the national minimum wage in Spain respects the requirement deriving from Article 4.1 of the Charter in the light of the interpretation of that provision given by the Committee, and not determining whether a sentence in the preamble of a Royal Decree is correct or not.

**b) Spain's minimum wage reaches the threshold of 60% of the national average wage.**

It reaches it currently.

And it reached it indeed in 2023.

In the observations on the merits of the State, to which we refer here, we explained in detail and illustrated with graphs, the significant increase in the amount of the national minimum wage in Spain in recent years.

This effort to increase the amount of the national minimum wage has continued after the submission of the collective complaint that gave rise to these proceedings. Thus:

- **At the time the collective complaint was filed i.e., 3 October 2023**, Royal Decree 99/2023 of 14 February set the national minimum wage for 2023<sup>6</sup> at €15,120 per year (€1,080 per month in 14 payments, or €1,260 per month in 12 payments).

As we explained in our observations on the merits, with that amount, the 60% of the average wage was reached.

- **In 2024**—after the filing of the complaint—a new royal decree set the minimum wage for this year, with retroactive effect from 1 January. It increased the amount

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<sup>6</sup> Royal Decree 99/2023 of 14 February setting the national minimum wage for 2023

by **5%** compared to **2023**<sup>7</sup>, as we explained in our observations on the merits. In particular, the amount is set at €15,876 per year (€1,134 per month in 14 payments, or €1,323 per month in 12 payments).

- In **2025**, after the submission of the observations on the merits of the State, the national minimum wage has undergone a new increase, as its amount has been raised, with retroactive effect from 1/01/2025, **by 4.41%** compared to **2024**<sup>8</sup>. Thus, in 2025 the minimum interprofessional wage is set at 16,576 euros per year (1,184 euros per month in 14 payments, or 1,381 euros per month in 12 payments)..

Through this process of progressive increase of the national minimum wage, Spain has reached the target set by the Government for the national minimum wage to reach 60% of the national average wage, which it did already in 2023, and has exceeded in the following years, with a significant increase in the amount set.

In order to avoid unnecessary repetition, we refer to the explanations on the calculations made in the State's written observations on the merits and in the supplementary reports provided with them..

We submit herewith reports from the Ministry of Labour and Social Economy and the Ministry of Economy, Trade and Business, which contain various considerations in response to the explanations given in the response submitted by the complainant trade union.

Without prejudice to this referral, we highlight the following ideas contained in these reports:

- At the time of the adoption of the decision to set the national minimum wage for a given year, it is not known what the average wage will be for the year for which the national minimum wage is set.

Therefore, average wage data for the previous year must be used.

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<sup>7</sup> Royal Decree 145/2024 of 6 February setting the national minimum wage for 2024

<sup>8</sup> Royal Decree 87/2025 of 14 February setting the national minimum wage for 2025

This is also reasonable insofar as the minimum wage on 1 January of any given year is closer to 31 December of the previous year than to 31 December of the year in progress.

- The complainant organisation maintains that the gross wage figure published by Eurostat should be used instead of the net wage, since the Government does not provide information on the average net salary, whereas Eurostat also publishes the average net salary figure for Spain.
- In any case, the Minimum Wage Advisory Committee (CAASMI), a group of experts in charge of defining, on the basis of an analysis of the available statistical sources, a rigorous and appropriate methodology for the calculation of the minimum wage, calculates the national wage in net terms through a solid and consistent methodology, based on the application of homogeneous criteria to data extracted from national statistics.
- The complainant organisation, rather than calculating 60% of the net average wage, to compare with the net national minimum wage figure, calculates the net wage corresponding to 60% of the gross average wage. Methodological nuance that allows the tax gap between gross and net amounts to be significantly reduced, artificially increasing the amount of net salary to be taken into account.

As explained in the reports to which we refer, **in 2023** the amount of the national minimum wage - 1.010,34 euros in 14 payments - was significantly above 60% of the 2022 average net wage of 967.61 euros. In fact, this amount is precisely equivalent to 60% of the average net wage estimated at the end of 2023, i.e. 1,010.05 euros.

For its part, in 2024 the amount of the national minimum wage can be checked to have exceeded 60% of the average net wage with Eurostat data - which is the source of data used by the complainant – making it 62.9% of the average net wage in 2023.

Accordingly, **the Government of Spain REQUEST the Committee:**

**To declare the collective complaint submitted by Confederación Intersindical Galega to be manifestly unfounded, for the reasons set out in these Observations and, in any**

**event, to declare that the setting of the minimum wage in Spain is in conformity with Article 4 § 1 of the Revised European Social Charter.**

In Madrid for Strasbourg, 5 June 2025

THE CO-AGENT OF SPAIN



Heide-Elena Nicolás Martínez