

24 August 2026

Case Document No. 2

**Federación Estatal de Trabajadores de la Administración Pública de la CGT
(FETAP-CGT) v. Spain**
Complaint No. 261/2026

**OBSERVATIONS BY THE GOVERNMENT
ON ADMISSIBILITY
(TRANSLATION IN ENGLISH)**

Registered at the Secretariat on 16 July 2026



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

OBSERVATIONS ON ADMISSIBILITY

COLLECTIVE COMPLAINT

No. 261/2026

Federación Estatal de Trabajadores de la Administración Pública-
CGT
v.
Spain

CORREO ELECTRÓNICO:

aeceds@abogaciadelestado.gob.es

C/ MARQUÉS DE DUERO,4
28015 MADRID



By letter dated 26 May 2026, the Kingdom of Spain has been notified by the Committee of the collective complaint lodged by FEDERACIÓN ESTATAL DE TRABAJADORES DE LA ADMINISTRACIÓN PÚBLICA (FETAP-CGT), registered on 18 May 2026 to which reference number 261/2026 was assigned.

In said letter, the Government of Spain was invited to submit observations on the admissibility of the complaint.

Accordingly, on behalf of the Kingdom of Spain we hereby submit observations on the admissibility of the complaint lodged.

I. DESCRIPTION OF THE COMPLAINT

The complainant organisation requests the Committee to find a violation of several provisions of the Revised European Social Charter¹ allegedly arising from the situation of temporary workers in the public sector in Spain, on account of a purported lack of employment stability, discrimination and insufficient protection against dismissal, as set out and developed in the complaint.

II. ON THE ADMISSIBILITY OF THE COMPLAINT

In the opinion of the Government of Spain, **the complainant organisation lacks standing to lodge the present complaint on account of its insufficient representativeness within the field to which the claims relate**, which should lead to the complaint being declared inadmissible.

Indeed, as will be explained below, the organisation FETAP-CGT lacks *the representative* character required for the purposes of Article 1(c) of the Additional Protocol, which confers standing on “representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint”.

¹ Articles 1§1, 20 and 24 of the Charter are alleged to have been violated.

Committee doctrine on the requirement of “representativeness” of the trade union lodging a collective complaint.

It is established doctrine of the Committee, dating back to the decisions on admissibility adopted in Complaints Nos. 6/1999 and 9/2000, *Syndicat national des Professions du tourisme v. France* and *Confédération française de l’Encadrement (CFE-CGC) v. France*² and consistently reaffirmed ever since, that **the concept of “representativeness” used in Article 1(c) of the Additional Protocol is an autonomous concept which does not coincide with the notion of representativeness under the domestic law of each State.**

In this respect, according to the Committee’s doctrine, the representative character of a trade union organisation may, for the purposes of lodging a collective complaint before it, be denied in certain cases notwithstanding the fact that it enjoys “representative” status—at least for certain purposes—under domestic law. Conversely, under the Committee’s approach, a trade union organisation may be regarded as representative even where it has not been formally recognised as such within a particular sphere at the national level.

Given the absence of any further elaboration, whether in the Additional Protocol itself or in the Committee’s Rules, of the concept of “representativeness” referred to in Article 1, and considering that this is a broad concept capable of being defined in different ways, reference is commonly made to the Explanatory Report to the Additional Protocol, which provides the following with regard to Article 1(c):

“c. national organisations of employers and trade unions [...]

23. To ensure the efficient functioning of the procedure established by the Protocol and in view of the very large number of trade unions operating in some states, it was deemed necessary to stipulate that the organisation must be "representative". The Committee of Independent Experts will judge whether the organisation meets this criterion when examining whether the complaint is admissible, in the light of information and observations submitted by the state and the organisation concerned (see Article 6). In the absence of any criteria on a national level, factors such as the number of members and the organisation’s actual role in national negotiations should be taken into account. [...]

² “As regards the representative character of the trade union as referred to in Article 1 para. c, the Committee underlines that the representativity of national trade unions is an autonomous concept, beyond the ambit of national considerations as well the domestic collective labour relations context”

On the basis of these explanations contained in the Explanatory Report, when assessing the representativeness of a trade union organisation for the purposes of the collective complaints procedure, the Committee takes into account various factors relating to the union's actual presence within the field affected by the complaint, foremost among them the number of members affiliated to the union³, as well as the role it plays in collective bargaining (see, among the most recent examples, the Decision on Admissibility of 28 January 2020 in *Syndicat CGT YTO France v. France*, Complaint No. 174/2019).

Application to the present case of the committee's doctrine on the requirement of trade union "representativeness".

In the present case, the trade union organisation FETAP-CGT has only a very limited actual presence at the national level, which is manifestly insufficient for it to be regarded as having standing, on its own, to lodge collective complaints before the European Committee of Social Rights.

More specifically, according to the information provided by the Ministry for Digital Transformation and the Civil Service, the average representativeness of FETAP-CGT across all trade union elections is **1.97%** (718 representatives out of a total of 36,437). An annex to the present observations contains a report issued by that Ministry, setting out in a detailed and precise manner the information relating to this matter.

Although the Additional Protocol does not establish a minimum threshold of representativeness within the field to which the collective complaint relates, it is clear that its intention is to exclude, as entities entitled to lodge collective complaints before the Committee, trade union organisations that do not have a significant, or at least appreciable, presence at the national level. It is equally clear that a level of representativeness of 1.97% does not meet that requirement.

This does not, however, prevent FETAP-CGT, in absolute terms, from making use of the collective complaints mechanism established by the 1995 Additional Protocol to challenge national policies, legislation or practices which it considers to be in breach of the Revised European Social Charter, since it could do so jointly or in cooperation with other organisations possessing the requisite representative character.

³ While not automatically denying representativeness, for the purposes of the collective complaints procedure, to smaller organisations established more recently, as compared with larger organisations that have been established for many years (see, for example, *Fellesforbundet for Sjøfolk (FFFS) v. Norway*, Complaint No. 74/2011, Decision on Admissibility of 23 May 2012

In conclusion, the limited level of representativeness demonstrated across the public administration sector in Spain precludes the conclusion that the organisation represents a significant body of workers, and consequently prevents it from being regarded as an entity with standing for the purposes of these proceedings.

Therefore, compliance with the requirement laid down in Article 1(c) of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints is not established. That provision confers standing to lodge complaints upon “*representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint*”.

For the foregoing reasons, the Government of Spain respectfully REQUEST the Committee:

To declare the collective complaint lodged by the trade union FEDERACIÓN ESTATAL DE TRABAJADORAS DE LA ADMINISTRACIÓN PÚBLICA (FETAP-CGT) inadmissible.

In the event that the complainant organisation responds to the present observations, it is requested that this response be communicated to the Kingdom of Spain, in order to enable it, where appropriate, to submit its reply, in accordance with Rule 29§3 bis of the Rules of the Committee.

Done in Madrid for Strasbourg, on 7 July 2026



The Co-Agent of Spain

Heide-Elena Nicolás Martínez