

**DECISION ON ADMISSIBILITY**

**20 March 2018**

***Confederazione Generale Italiana del Lavoro (CGIL) v. Italy***

Complaint No.158/2017

The European Committee of Social Rights, a committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 298<sup>th</sup> session, in the following composition:

Giuseppe PALMISANO, President  
Monika SCHLACHTER, Vice-President  
Karin LUKAS, Vice-President  
Eliane CHEMLA, General Rapporteur  
Birgitta NYSTRÖM  
Petros STANGOS  
József HAJDU  
Marcin WUJCZYK  
Krassimira SREDKOVA  
Raul CANOSA USERA  
François VANDAMME  
Barbara KRESAL  
Kristine DUPATE

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary,

Having regard to the complaint of 6 October 2017, registered on 16 October 2017 as number 158/2017, lodged by *Confederazione Generale Italiana del Lavoro* (CGIL) against Italy and signed by its Secretary General, Ms Susanna Lina Giulia Camusso, requesting the Committee to find that the situation in Italy is not in conformity with Article 24 of the Revised European Social Charter (“the Charter”);

Having regard to the letter of the Italian Government (“the Government”) registered on 29 November 2017;

Having regard to the documents appended to the complaint;

Having regard to the Charter, and in particular to Article 24, which reads as follows:

**Article 24 – The right to protection in cases of termination of employment**

Part I: “All workers have the right to protection in cases of termination of employment”.

Part II: “With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.”

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints (“the Protocol”);

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201st session and last revised on 26 January 2018 at its 297th session (“the Rules”);

Having deliberated on 20 March 2018;

Delivers the following decision, adopted on this date:

1. CGIL alleges that the situation in Italy constitutes a violation of Article 24 of the Charter on the grounds that the predefined compensation mechanism set up by Legislative decree No. 23/2015 does not allow victims of unlawful dismissals to obtain through the domestic judicial procedure a compensation which would be adequate to cover the damage suffered and dissuasive for employers.
2. By letter registered on 29 November 2017, the Government indicated that it had no objections to the admissibility of this complaint.

## **THE LAW**

3. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Italy on 3 November 1997 and entered into force for this State on 1 July 1998, the complaint has been submitted in writing and concerns Article 24 of the Charter, provision accepted by Italy when it ratified the Charter on 5 July 1999. Italy is bound by this provision since the entry into force of this treaty in its respect on 1 September 1999.

4. Moreover, the grounds for the complaint are indicated.

5. The Committee recalls that it has already found that the CGIL is a national trade union organisation representing workers in the private and public sector. It has more than 5 million members. On the basis of the information at its disposal, the Committee finds that in accordance with Article 1 c) of the Protocol, CGIL is a representative national trade union for the purposes of the collective complaints procedure (*Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013, decision on admissibility and the merits of 12 October 2015, §82; *CGIL v. Italy*, Complaint No. 140/2016, decision on admissibility of 10 May 2016, §5).

6. The complaint submitted on behalf of the CGIL is signed by its Secretary General, Ms Susanna Lina Giulia Camusso who, according to Article 17 of its statute, represents the organisation in all civil matters and is vested with all powers necessary for that purpose. The Committee therefore considers that the complaint complies with Rule 23.

7. For these reasons, the Committee, on the basis of the report presented by Petros STANGOS, and without prejudice to its decision on the merits of the complaint,

## **DECLARES THE COMPLAINT ADMISSIBLE**

In application of Article 7§1 of the Protocol, requests the Deputy Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Charter, and to publish it on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 31 May 2018.

Invites the CGIL to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the States having submitted a declaration pursuant to Article D paragraph 2 of the Charter to make comments by 31 May 2018, should they so wish.

Pursuant to Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the European Social Charter to make observations by 31 May 2018.



Petros STANGOS  
Rapporteur



Giuseppe PALMISANO  
President



Henrik KRISTENSEN  
Deputy Executive Secretary