



European
Social
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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

DECISION ON ADMISSIBILITY

10 May 2017

Confederazione Generale Italiana del Lavoro (CGIL) v. Italy

Complaint No. 140/2016

The European Committee of Social Rights, a committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 292nd session, in the following composition :

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

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary,

Having regard to the complaint dated 15 November 2016, registered on 17 November 2016 as N°. 140/2016, which was lodged by the *Confederazione Generale Italiana del Lavoro* (CGIL) 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 Articles 5 and 6 of the Revised European Social Charter ("the Charter");

Having regard to the letter of the Italian Government ("the Government") registered on 13 February 2017;

Having regard to the documents appended to the complaint;

Having regard to the Charter, and in particular to Articles 5 and 6, which read as follows:

Article 5 - The right to organise

Part I: "All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests."

Part II: "With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations."

Article 6 - The right to bargain collectively

Part I: "All workers and employers have the right to bargain collectively."

Part II: "With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into."

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 revised on 6 July 2016 at its 286th session ("the Rules");

Having deliberated on 10 May 2017;

Delivers the following decision, adopted on the above date:

1. The CGIL alleges that Italy :
 - violates Article 5 of the Charter because it prohibits the members of the *Guardia di Finanza* from establishing professional trade unions or joining other trade unions;
 - violates Article 6§1 of the Charter because it does not promote joint consultations between the members of the *Guardia di Finanza* and the Ministry for the Economy/employer;
 - violates Article 6§2 of the Charter because it does not promote voluntary negotiations between the members of the *Guardia di Finanza* and the Ministry for the Economy/employer in order to regulate employment conditions by collective agreements;
 - violates Article 6§4 of the Charter because it prohibits members of the *Guardia di Finanza* from exercising the right to strike.
2. By letter registered on 13 February 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 Articles 5 and 6 of the Charter, provisions which were accepted by Italy when it ratified this treaty on 5 July 1999 and by which it has been bound since the treaty entered into force in its respect on 1 September 1999.
4. In addition, the grounds for the complaint are indicated.
5. The Committee recalls that it has already found in *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013 that, the CGIL is a national trade union organisation representing, inter alia, workers in the 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).
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 François VANDAMME 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 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, paragraph 2 of the Charter, and to make it public.

Requests the Executive Secretary to publish the decision on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 18 July 2017.

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 18 July 2017, 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 18 July 2017.



François VANDAMME
Rapporteur



Giuseppe PALMISANO
President



Henrik KRISTENSEN
Deputy Executive Secretary