

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



19 December 2016

Case Document No. 1

Confederazione Generale Italiana del Lavoro (CGIL) v. Italy
Complaint No 140/2016

**COMPLAINT
(Translation)**

Registered at the Secretariat on 17 November 2016

Department of the European Social Charter

**Directorate General Human Rights and Rule of Law
Council of Europe**

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Object: collective complaint by the Italian General Confederation of Labour (*Confederazione generale italiana del lavoro*, CGIL) alleging a violation of Articles 5 and 6 of the European Social Charter by the Italian State in relation to the circumstances of employees of the Italian Tax Police (*Guardia di Finanza*).

By this collective complaint filed pursuant to the 1995 Additional Protocol to the European Social Charter, the Italian General Confederation of Labour (CGIL), with registered office at Corso d'Italia 25, Rome, Italy, represented by its Secretary General and legal representative Susanna Lina Giulia Camusso, resident at Via Kramer 33, Milan, Italy, objects to the violation and insufficient implementation of Articles 5 and 6 of the 1996 version of the Charter by the Italian State with reference to the ban on the employees of the *Guardia di Finanza* on establishing trade unions and engaging in trade union activity and on exercising the right of collective bargaining.

1. Before embarking upon an examination of the violation, it is important to provide some background information concerning the representativeness of the complainant organisation and the other aspects relating to the admissibility of the complaint.
 - 1.1. The Italian General Confederation of Labour (CGIL), with registered office at Corso d'Italia 25, Rome, Italy, is a workers' representation organisation, which is the oldest and most representative in Italy, with more than 5 million members in 2015 (most recent available figure). The principles according to which its action is inspired include "*trade union freedom and the resulting pluralism*" (Article 2 of the CGIL Statute).

The CGIL is thus one of the "*representative national organisations of employers [...] within the jurisdiction of the Contracting Party against which they have lodged a complaint*" pursuant to Article 1(c) of the 1995 Protocol and thus has standing to file a collective complaint in relation to the violation of the European

Social Charter. It is not superfluous to recall that the European Committee of Social Rights has already concluded on several occasions that it has such standing (see for example the decision on complaint no. 91/2013, para. 82).

The present complaint has moreover been signed by Susanna Lina Giulia Camusso, the Secretary General and legal representative of the CGIL (Article 17 of the Statute), and has thus been filed in full accord with Article 23 of the *Rules of procedure* of the Committee (regarding this matter see again the decision on complaint no. 91/2013, para. 83).

- 1.2. As regards the respondent, the complaint has been filed against the Republic of Italy, which ratified the 1995 Additional Protocol without reservation on 3 November 1997 by Law no. 298 of 28 August 1997 concerning its ratification and implementation, and has therefore been bound by it since 1 July 1998 (regarding this matter see again the decision on complaint no. 1/2013, para. 75).

With regard to another aspect, the complaint is based on Articles 5 and 6 of the 1996 version of the European Social Charter, the provisions of which have been accepted by the Republic of Italy, which ratified the Charter on 5 July 1999 by law no. 30 of 9 February 1999 on its ratification and implementation.

It should be noted that the Republic of Italy is bound by the 1996 version of the European Social Charter, as it did not state any reservations except in relation to Article 25.

Therefore, the complaint is admissible also in this regard, as it “*relate[s] to a provision of the Charter accepted by the Contracting Party concerned*”, as required under Article 4 of the 1995 Additional Protocol.

2. Having thus examined the grounds for admissibility of the complaint, it is possible to set out the reasons why it is considered that the Italian State has not satisfactorily implemented Articles 5 and 6 of the European Social Charter, and is in fact rather violating both of these provisions with regard to the position of employees of the *Guardia di Finanza* who, as will be seen below, are denied both the right to organise and the right of collective bargaining.

In order to better appreciate the extent to which Italy has departed from the provisions of the Charter, it is important to provide several initial considerations concerning the nature and functions of the *Guardia di Finanza*.

The Guardia di Finanza is defined as a “military police force with general competence over economic and financial matters” (Article 1 of Legislative Decree no. 68 of 19 March 2001).

Pursuant to Article 1 of Law no. 189 of 23 April 1959, which makes provision for its regulation, the force “is answerable directly and for all purposes to the Ministry of Finance. It is an integral part of the armed forces of the State and the

law enforcement authorities and has the task of: preventing, investigating and reporting financial evasion and violations; patrolling the seas for financial policing purposes and contributing to maritime policing services; assistance and reporting; subject to the limits laid down in individual laws, overseeing compliance with rules of political and economic interest; contributing to the political and military defence of the borders and, during wartime, to military operations; contributing to the maintenance of public order and security; carrying out other supervisory and protection services for which its involvement is required by law”.

Article 10 of Law no. 189 of 1959 stipulates that “members of the Guardia di Finanza shall be subject to the military discipline applicable to the Army and to military criminal law”.

Although the functions performed by the *Guardia di Finanza* are strictly functions of economic and tax policing, the military nature of the force means that it is subject to the provisions of the **Military Code** laid down in **Legislative Decree no. 66 of 15 March 2010**, including in particular **Article 1475**, according to which: “1. The establishment of associations or clubs of military personnel shall be subject to prior approval by the Ministry of Defence. 2. *Military personnel may not establish professional trade union associations or join other trade union associations.* 3. Military personnel may not join associations considered to be secret according to law or associations that are incompatible with the duties resulting from the oath sworn. 4. *Military personnel may not exercise the right to strike*”.

Article 1476 provides for the establishment of “representation bodies for military personnel” with consultative tasks for command authorities and bodies from the military administration in some limited fields (for example, “the conservation of jobs during service in the military; professional qualification; the induction into employment of persons who have ceased to serve in the military”, “welfare, cultural, recreational and social promotional activities”, “conditions of health and hygiene”, “accommodation”, *excluding in any case matters such as* “regulations, training, operations, the logistical-operational sector, the hierarchical-functional relationship and the deployment of personnel”).

It is thus apparent from an examination of the national legislation that ordinary personnel and officers from the Guardia di Finanza cannot establish or join trade unions and cannot negotiate their own working conditions and exercise the right to strike.

The prohibition on trade union membership is not in any way offset by the provision for “*representation bodies for military personnel*”, which can certainly not be regarded as equivalent to a trade union established out of the free association of workers: first and foremost, their creation is not free and

voluntary but is rather provided for by law; in addition, military personnel cannot vest other bodies with the function of representing them, which has the consequence of denying pluralism within representation, which is the indefatigable corollary of trade union freedom; finally, those bodies have a merely consultative function, which is above all limited only to certain areas of law.

3. In entirely restricting the trade union freedom of members of the *Guardia di Finanza*, the Republic of Italy has violated Articles 5 and 6 of the European Social Charter.
 - 3.1. *Article 5, entitled "The right to organise", provides that: "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".*
 - 3.2. As this Committee has pointed out, this provision subjects states to a both a "negative" obligation and a "positive" obligation: the former requires that no legislation or national practice may contain any measure that impairs or restricts the right of workers and employers to establish or join a representative association; the latter requires states to take the necessary action in order to ensure that this freedom may be effectively exercised (see *Conclusions I, Statement of Interpretation on Article 5, p. 31*).

It has also been stressed that the right to organise implies that membership of a trade union is the result of a free choice by workers (see the decision of 15 May 2003 in the case *Confederation of Swedish Enterprise v. Sweden*, complaint no. 12/2002), whilst all forms of mandatory trade union membership are at odds with the Charter (*Conclusions III, Statement of Interpretation on Article 5, p. 30*).

Moreover, as a general matter, the right to organise is recognised by the Charter for all workers, including public sector workers or those performing public functions (see again *Conclusions I, Statement of Interpretation on Article 5, p. 31*).

Indeed, Article 5 itself provides that those rights apply to a different extent and in a different manner to members of the police and the armed forces.

On this point however, it must be clarified that the provision made in relation to the two categories is quite different: whilst for the armed forces it is the

“principle of the application of these guarantees” that can be regulated by national legislation (even though, as will be noted below, it is a principle that has recently been substantially toned down), for police forces states may only determine “the extent” to which the guarantees laid down in Article 5 apply, which means that they may restrict the exercise of trade union rights but cannot negate them completely and must in any case allow police officers to establish or join trade unions and to treat these organisations in the same manner as other trade unions (see the decision of 22 May 2002 in the case *European Council of Police Trade Unions (CESP) v. Portugal*, complaint no. 11/2001).

3.3. This Committee has applied this principle, *inter alia*, also to Italy.

In fact, since 1971 it has been observed that Italy has not been compliant with the obligations resulting from Article 5 as police officers and military personnel were prohibited from establishing or joining trade unions and, on this basis, it was recommended that the right to organise be extended to police officers (*Conclusions II, Italy*).

Italy’s non-compliance was also noted in 1977 when this Committee stated its appreciation for the measures that had been announced by the Italian Government - which had proposed to Parliament a reform aimed at extending the right to organise to police officers and to establish internal committees, including worker representatives, for negotiating financial conditions - but which in any case stressed that the obligations incumbent upon the State had not been complied with (*Conclusions V, Italy*).

The call for a more far-reaching reform was repeated two years later, and it was held that the establishment of joint internal committees was not sufficient in order to satisfy the requirements of Article 5, as they were not associative in nature, a characteristic which is by contrast one of the special features of trade unions, the freedom of which is guaranteed under the Charter (*Conclusions VI, Italy*).

The same conclusion was reached again in 1981, even though it was held that the reform of the rules governing the administration of public security, which had been approved precisely that year, would have brought the position in Italy closer to that required under Article 5 (*Conclusions VII, Italy*).

In the next report, which was published in 1984, the Committee noted with satisfaction that Law no. 121 of 1 April 1981 on the rules governing the administration of public security had granted numerous trade union rights to police officers, who since then had been able to establish or join trade unions (subject to the sole limit that they must be comprised exclusively of police officers) and that these organisations may negotiate numerous aspects of their terms of employment with the employer (*Conclusions VIII, Italy*).

The favourable opinion was reiterated two years later following the observation that the law had led to the effective establishment of police trade unions and to the conclusion of collective employment agreements between these and the employer ministries (*Conclusions IX-2, Italy*).

- 3.4. The Conclusions referred to are particularly interesting because, in contrast to other forces comprising the administration of public security, the provisions on the right to organise which is granted to members of the police were not extended to the *Guardia di Finanza*.

Such an exclusion cannot be considered to be justified by the fact that, according to Law no. 189 of 1959, the *Guardia di Finanza* “is an integral part of the armed forces of the State”.

This is not only because that assertion, which dates back to 1959, was not developed by the legislature in Legislative Decree no. 66 of 2010 laying down the Military Code, in which the *Guardia di Finanza* is considered separately from the four armed forces (Army, Navy, Airforce and Carabinieri) and, in contrast to them - to each of which a chapter of the Code is dedicated - is not specifically regulated in the Decree cited.

The status of the *Guardia di Finanza* as one of the armed forces, as asserted in 1959, cannot imply that its members are excluded from the benefit of the right to organise also because this Committee has always considered itself not to be bound by categories under national legislation when classifying situations for the purposes of the application of Article 5, and verifies itself whether, aside from formulae used under national law, the workers to whom the right to organise has been denied have the “status” of military personnel and whether or not they perform tasks of a military nature (*Conclusions 2006, France, p. 302*).

For example, when assessing the situation of the French *Gendarmerie*, this Committee recently held that, even though this force is classified as one of the armed forces and may carry out military activity if necessary, the predominant element of its powers, the authority to which it is hierarchically subordinate, the tasks effectively carried out, all of these elements lead to the conclusion that it is functionally equivalent to the police forces, with the consequence that its members must be free to establish or join trade unions in order to protect their interests with their employer (**see the decision of 27 January 2016 in the case *Conseil Européen des Syndicats de Police (CESP) v. France, complaint no. 101/2013*, para. 54-65**).

- 3.5. However, also in relation to Italy, an examination of the effective characteristics and tasks of the *Guardia di Finanza* indicates that a conclusion analogous to that set out above must be reached.

On the normative level in fact, Article 1 of Legislative Decree no. 68 of 2001 in

any case defines the *Guardia di Finanza*, more precisely compared to the 1959 text, as a “*police force*” which is vested with “*general competence over economic and financial matters*”: thus, even though it is organised according to a military structure, from the viewpoint of its tasks the force is essentially an administration with public security and specialist investigating police tasks and does not perform the function of defending the state, as is demonstrated also by the fact that it is not in any way answerable to the Ministry of Defence, but rather “*directly and for all purposes to the Ministry of Finance*” (Article 1 of Law no. 189 of 1959).

This may be confirmed by examining Article 1 of Law no. 189 of 1959, which defines the powers of the *Guardia di Finanza* as “*preventing, investigating and reporting financial evasion and violations*”, “*patrolling the seas for financial policing purposes and contributing to maritime policing services, assistance and reporting*”; “*subject to the limits laid down in individual laws, overseeing compliance with rules of political and economic interest*”; “*contributing to the maintenance of public order and security*”; these are strictly policing functions, which do not entail any military activity, as is confirmed also by Article 16 of Law no. 121 of 1981 which provides that, for the purposes of upholding public order and security, the police forces include, alongside the State Police, the Carabinieri and the *Guardia di Finanza*.

The *Guardia di Finanza* is also vested with tasks that are strictly military in nature, such as that of “*contributing*” to the defence of the borders (which are however monitored also by the State Police) and “*during wartime*” to military operations; however, it is evident that these are not core tasks, but ancillary and merely incidental activities of a force which performs policing functions principally and on a clearly predominant basis.

3.6. The above assertions are clearly confirmed in practice.

If the annual reports on the activities actually carried out by the *Guardia di Finanza* and its strategic objectives are examined, it will be noted that they concern: the combating of tax evasion, avoidance and fraud; the combating of public spending offences and illegality within the public administration; the combating of economic and financial crime, both in Italy and internationally (see the annual reports for 2015, 2014, 2013, 2012, 2011 and 2010 annexed to this complaint); moreover, the “*contribution to the internal and external security of the country*” translates in practical terms into the activity - which is typical of the police - of “*economic control of the territory*” in order to ensure “*constant vigilance over a vast range of economic and financial offences that may emerge in various parts of the country (undeclared work and illegal immigration; smuggling and illegal gambling; the sale of counterfeit and hazardous products; fraud, etc.)*” (see the annual report for 2015, pp. 28-29).

Even the “*Anti-Terrorism and Rapid Reaction*” (*Anti Terrorismo e Pronto Impiego*, ATPI) specialist military officers - better known as the “*Green Berets*” - carry out activity to combat economic and financial crime and smuggling, providing support to highly complex investigating police operations, along with mountain rescue activity (see the annual report for 2015, p. 30).

Finally, also the international operations of the *Guardia di Finanza* always involve economic and financial policing activity, including efforts to combat excise and VAT fraud, counterfeit goods, drug smuggling and human trafficking (see the annual report for 2015, pp. 35-39).

This is confirmed by the fact that, within the military missions in which Italy has been involved in recent years, the *Guardia di Finanza* has not carried out military tasks but rather, again, policing activity: in Afghanistan its involvement was limited to the provision of training to the local border police; in Libya, a country to which six coastal surveillance vessels have been sold in order to combat illegal migratory flows, officers from the *Guardia di Finanza* have been sent as “*observers*” and are also tasked with maintaining the naval units transferred (see the annual report for 2011, p. 34, and the annual report for 2010, pp. 26-27). As decisive confirmation of the above, the White Paper published by the Ministry of Defence in July 2015, which sought to elaborate a national security strategy, does not dedicate one single line to the *Guardia di Finanza* and expressly includes amongst the armed forces only the Army, the Navy, the Airforce and the Carabinieri (see for example p. 88).

In other words, the tasks vested by law in the *Guardia di Finanza*, the activities actually carried out by it and finally the fact that it is answerable to the Ministry for the Economy point to the conclusion that, although this force is organised under the “*Military Code*”, it does not carry out activity of a military nature but policing activity, with the consequence that the state may regulate “the *extent*” to which the trade union rights provided for under Article 5 apply to its members, but cannot completely negate such rights, as by contrast occurs in Italy.

- 3.7. Moreover, even were the *Guardia di Finanza* to be considered to have military status pursuant to Article 5 of the European Social Charter, this could not in any case legitimise the complete negation of the right to organise to which the members of this force are subject in Italy.

In fact, in the decision of 27 January 2016 in the case on the French *Gendarmerie*, this Committee recalled that the European Social Charter - and thus Article 5, which would at first sight appear to allow an absolute exclusion of the right of military personnel to organise - must be interpreted in the light of the context and aim pursued, in line with the criteria laid down in the 1969 Vienna Convention.

One thus cannot ignore the provisions contained in the European Convention

on Human Rights (ECHR), as interpreted by the Strasbourg Court. With reference to Article 11, which protects freedom of association, including through trade unions, the Court held that, as much as the special nature of the tasks vested in the armed forces may justify restrictions on the trade union freedoms of military personnel, these restrictions must not in any case deprive military personnel and their trade unions of the general right of association in order to uphold their interests with their employer, and in particular cannot exclude entirely the right to establish or join a trade union (see the judgments of 2 October 2014 in cases *Matelly v. France*, para. 58 and 71, and *ADEFDROMIL v. France*, para. 44 and 55).

In the light of Article 11 ECHR, as interpreted by the European court, this Committee has thus held that **whilst Article 5 can justify restrictions to the right to organise of military personnel, those restrictions cannot in any case negate entirely those rights, and in particular cannot go so far as to result in a general and absolute prohibition on establishing or joining trade unions**. The pure and simple abolition of trade union rights is in fact not a measure that is necessary to guarantee national security within a democratic society (see the decision of 27 January 2016 in the case *Conseil Européen des Syndacats de Police (CESP) v. France*, complaint no. 101/2013, para. 84-93).

- 3.8. For the sake of completeness, it should be pointed out that the presence of “*representation bodies for military personnel*” within the *Guardia di Finanza* cannot be regarded as sufficient implementation of the Charter because their establishment is not voluntary, but rather mandated by law, and because the members of the force cannot choose whether to be represented by them or to establish different trade unions. This results in a further violation of Article 5 which, as mentioned above, implies that membership of a trade union is the result of a free choice by workers and that a trade union has an associative nature (precisely for this reason, the establishment of analogous bodies within the State Police was not considered to be sufficient in order to satisfy the requirements laid down by Article 5: see *Conclusions VI, Italy*).

Thus, this Committee is asked to rule that the complaint is well founded, concluding that:

- the Republic of Italy has violated and is continuing to violate Article 5 of the European Social Charter because it prohibits the members of the *Guardia di Finanza* from establishing professional trade union associations or joining other trade union associations, even though that force is substantially equivalent to a police force from the viewpoint of the functions assigned to it and carried out;

or, in the alternative, that:

- the Republic of Italy has violated and is continuing to violate Article 5 of

the European Social Charter because it prohibits in a general and absolute manner the members of the *Guardia di Finanza* from establishing professional trade union associations or joining other trade union associations, irrespective of the nature of the force as a military or a police force and the functions assigned to it and carried out;

4. The arguments set out above point to the conclusion that also **Article 6** of the European Social Charter has been violated.

4.1. This provision, which is entitled “The right to bargain collectively”, provides that: “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”.

4.2. As has been held by this Committee, the provision requires states to promote negotiations between employers and workers or between the organisations that represent them in relation to all matters of common interest, including for example productivity, efficiency, workplace health and safety or welfare (see *Conclusions I, Statement of Interpretation on Article 6§1, pp. 34- 35*). In these negotiations the parties must have equal status and act on an equal footing (see *Conclusions V, Statement of Interpretation on Article 6§1, p. 41*).

As for Article 5, also Article 6 applies to both private and public sector workers (see *Conclusions III, Denmark, Germany, Norway, Sweden, p. 33*). Under the latter scenario, the right of collective bargaining may be regulated and limited by law, although civil servants must in any case be granted the right to participate in any decision making process relating to them (see the decision of 21 May 2002 in the case *European Council of Police Trade Unions (CESP) v. Portugal*, complaint no. 11/2001).

As regards the right to strike, it may be limited to certain categories of civil servant or persons responsible for providing public services, including members of the police, the armed forces or the judiciary; however, a complete and

absolute ban on strikes cannot be regarded as compatible with the Charter (see *Conclusions I, Statement of Interpretation on Article 6§4, pp. 38-39*).

With specific reference to Italy, in 2000 this Committee stressed that members of the armed forces and of the police are subject to a general and absolute exclusion of the right to strike (see *Conclusions XV-1, Italy*).

Finally, it must be stressed that, in contrast to the provision previously applicable, Article 6 does not in itself permit the states to restrict bargaining rights (with the result that any restrictions must comply with the requirements laid down by Article G of the Charter) and does not distinguish between police and military forces (see the decision of 27 January 2016 in case *Conseil Européen des Syndacats de Police (CESP) v. France*, complaint no. 101/2013, para. 118).

- 4.3. If the circumstances of members of the *Guardia di Finanza* are considered, it may be noted that the Republic of Italy has violated and is continuing to violate Article 6 in various respects.

First, paragraphs 1 and 2 have been violated because Italy does not in any way promote joint consultations between the members of the *Guardia di Finanza* and the public sector employer and does not promote any machinery for voluntary negotiations between trade unions representing the former (which as noted above are banned) and the latter in order to regulate working conditions through collective agreements.

It has been noted that the only, limited form of worker participation in decisions relating to them is that allowed to “*military representation bodies*”, although that these cannot constitute satisfactory implementation of Article 5.

These bodies, as they are structured, do not even reflect a correct implementation of Article 6, both because they have a merely advisory role (whilst the Charter requires that the parties may conclude “*collective agreements*”, i.e. agreements concerning the substance of the matters arising: on this point see the decision of 27 January 2016 in the case *Conseil Européen des Syndacats de Police (CESP) v. France*, complaint no. 101/2013, para. 138), and also because their competence is limited to particular matters, which do not include for example remuneration as a whole.

This is the main difference compared to the similar bodies established within the French *Gendarmerie*, which may state their position in relation to a much broader and more significant range of issues, including also career development, operation of services, occupational health and safety, remuneration, vocational training and the drafting of and amendments to staff regulations (see the decision of 27 January 2016 in the case *Conseil Européen des Syndacats de Police (CESP) v. France*, complaint no. 101/2013, para. 124-

125 and 132).

4.4. Article 6 has been violated also in relation to the right to strike.

This violation is clear because Article 1475 of Legislative Decree no. 66 of 2010 provides as a general matter, in absolute terms and without exception, that “*military personnel may not exercise the right to strike*”.

4.5. The violations of Article 6 described cannot be considered to be justified pursuant to Article G of the Charter: in fact, whilst they are provided for by law, they are not necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

This is clear with regard to the violation of paragraphs 1 and 2 of Article 6: as this Committee held in relation to the *Gendarmerie*, a total denial of the right of collective bargaining cannot be justified either by the requirements of military discipline or by the public nature of the service (see the decision of 27 January 2016 in the case *Conseil Européen des Syndicats de Police (CESP) v. France*, complaint no. 101/2013, para. 141).

The same may also be said in relation to the right to strike: past experience precisely in Italy shows that it is fully possible to reconcile the essential nature of a public service with the right of workers to strike, providing for a procedure for calling strikes and guaranteeing minimum service levels. Consequently, an absolute prohibition is not “*necessary in a democratic society*”, and may be replaced by a partial prohibition.

Thus, this Committee is asked to rule that the complaint is well founded, concluding that:

- the Republic of Italy has violated and is continuing to violate Article 6 of the European Social Charter because it has not promoted and is not promoting joint consultations between the members of the *Guardia di Finanza* and the Ministry for the Economy/employer;
- the Republic of Italy has violated and is continuing to violate Article 6 of the European Social Charter because it has not promoted and is not promoting machinery for voluntary negotiations between the members of the *Guardia di Finanza* (or their trade unions) and the Ministry for the Economy/employer in order to regulate employment conditions by collective agreements;
- the Republic of Italy has violated and is continuing to violate Article 6 of the European Social Charter because it prohibits members of the *Guardia di Finanza* from exercising the right to strike.

5. In witness whereof, the undersigned Susanna Lina Giulia Camusso, acting as

the Secretary General and legal representative of the Italian General Confederation of Labour (Confederazione generale italiana del lavoro, CGIL), asks this Committee to find that this complaint is well-founded, asserting that:

- the Republic of Italy has violated and is continuing to violate Article 5 of the European Social Charter because it prohibits the members of the *Guardia di Finanza* from establishing professional trade union associations or joining other trade union associations, even though that force is substantially equivalent to a police force from the viewpoint of the functions assigned to it and carried out;

or, in the alternative, that:

- the Republic of Italy has violated and is continuing to violate Article 5 of the European Social Charter because it prohibits in a general and absolute manner the members of the *Guardia di Finanza* from establishing professional trade union associations or joining other trade union associations, irrespective of the nature of the force as a military or a police force and the functions assigned to it and carried out;

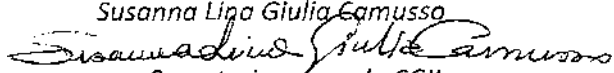
it also requests a ruling that:

- the Republic of Italy has violated and is continuing to violate Article 6, §1 of the European Social Charter because it has not promoted and is not promoting joint consultations between the members of the *Guardia di Finanza* and the Ministry for the Economy/employer;
- the Republic of Italy has violated and is continuing to violate Article 6, §2 of the European Social Charter because it has not promoted and is not promoting machinery for voluntary negotiations between the members of the *Guardia di Finanza* (or their trade unions) and the Ministry for the Economy/employer in order to regulate employment conditions by collective agreements;
- the Republic of Italy has violated and is continuing to violate Article 6, §4 of the European Social Charter because it prohibits members of the *Guardia di Finanza* from exercising the right to strike.

The complainant also asks that it be able to use the Italian language in these proceedings and in particular in all written documentation.

Rome-Strasbourg 15 November 2016

Susanna Lina Giulia Camusso

Susanna Lina Giulia Camusso


CGIL Secretary General