



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

20 June 2017

Case Document No. 3

UGL-CFS and SAPAF v. Italy
Complaint No 143/2017

**FURTHER RESPONSE FROM UGL-CFS AND SAPAF TO
THE GOVERNMENT'S OBSERVATIONS ON
ADMISSIBILITY**

Registered at the Secretariat on 22 May 2017

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European Committee of Social Rights
Council of Europe
F-67075 Strasbourg CEDEX (France)

Rome, 22 May 2017

For the attention of the Committee,

We have examined the observations made by the Italian Government (hereafter, the "Government") on the admissibility of Complaint No. 143/2017 lodged by our clients, the trade unions UGL-CFS and SAPAF, against Italy. Based on its interpretation of the facts, the Government considers the complaint inadmissible since, by law, on the date when the complaint was registered at the Committee Secretariat – 9 February 2017 – the complainant unions no longer represented staff formerly employed by the State Forestry Corps, who became part of the Carabinieri Force on 1 January 2017.

We consider the objection of inadmissibility unfounded both legally and in view of the facts.

I.

Above all, from a legal standpoint, we consider it impossible to accept the theory that a signatory state of the European Social Charter (hereafter the "Charter") can evade examination on the merits in relation to a complaint lodged by organisations representing individuals harmed by state measures, when it has passed a law eliminating future union representation for these individuals, whereas such representation was recognised until the legislative changes which violated the Charter came into force. It is worth pointing out that one of the issues raised in the complaint is the very deprivation of the right to union representation, as recognised by the Charter. It would seem clearly illogical that, due to this elimination of union representation, the complainants should be denied the opportunity to ask the Committee whether such deprivation is justified.

II.

The Government's objection of inadmissibility is, moreover, also unfounded with regard to the facts. As noted by the Committee, our clients, the trade unions, had already taken the necessary steps to lodge the complaint on 30 December 2016 (and therefore before the entry into force of Legislative Decree No. 177/2016, which led, among other things, to the regulatory change that prevents former members of the State Forestry Crops from benefiting from union rights and union representation, as

recognised by the Charter), sending it on the same date to the Committee by registered post (registered letter RA 8951435251T, sent through the Italian postal system Poste SpA, a copy of which has already been provided and which is enclosed again herewith). Through a mere error, the envelope containing the complaint, which was correctly addressed to the "European Committee of Social Rights, Council of Europe, F67075 Strasbourg Cedex France", was delivered to the Registry of the European Court of Human Rights (hereafter the "European Court"), which, upon receiving it, followed the procedure as if the document in the envelope, along with the attachments, were an application submitted to the Court. On 6 February 2017, the Registry, as has already been explained, accordingly informed the undersigned lawyer that the complaint submitted to the European Court in this way was inadmissible since it had not been made using the appropriate form.

Consequently, only when the undersigned lawyer was contacted by the European Court did he realise that a mishap beyond his control had occurred, upon which he re-sent the same complaint from the trade unions dated 30 December 2016 to the Committee (providing copies in advance via email on 9 February 2017), having kept two originals thereof in his office.

The undersigned lawyer having protested, the Registry of the Court acknowledged and assumed responsibility for the mistake in a letter dated 14 February 2017, which can be found enclosed.

It must also be noted that, according to the first communication received from the Secretariat of the Committee dated 15 March 2017, the complaint was transmitted to the Committee itself, which determined the date of submission. In view of the circumstances set out above, we maintain that the date of submission of the complaint can only be 30 December 2016, when the trade unions took the correct steps to sign it and send it to the Committee.

In any event, based on the arguments set out in points I and II, we consider that the Committee must reject the objection of inadmissibility lodged by the Italian Government.

Yours sincerely,

Marco Lo Giudice, lawyer

Egidio Lizza, lawyer



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Rome, 9 February 2017

Subject: UGL - CFS and SAPAF vs. Italy

For the attention of the Committee,

By a registered letter sent on 30 December 2016, which we have forwarded, on behalf of our clients (the trade unions UGL-CFS and SAPAF, the subjects thereof) we submitted a complaint against Italy by reason of the entry into force of Legislative Decree No. 177/2016 and the subsequent administrative measures taken by the competent bodies, which led to the transfer of members of the State Forestry Corps, considered as a civilian police force, to the Carabinieri Force, whereby the individuals concerned were by law given the legal status of military staff against their wishes.

Only on 6 February 2017 did we learn to our astonishment that, although the transmission slip was correctly filled out (see copy enclosed), not only was the envelope delivered to the Registry of the European Court of Human Rights (instead of to the Committee to which it was addressed), but the Registry dealt with the complaint and the enclosed documents according to its procedure and decided to issue an inadmissibility ruling regarding the complaint. We would request the Registry of the European Court to offer us an explanation, while at the same time returning the incorrectly handled documentation.

In the meantime, we are again submitting this complaint against Italy on behalf of our clients, the trade unions, this time accompanied by a request to adopt emergency measures, as seems appropriate.

The complaint contains a deliberately brief description of the harm done by this reform, but we are ready to provide the Committee with any further appropriate clarifications.

We hope that the time needlessly wasted will not adversely affect the complaint's effectiveness and the measures that the Committee may adopt, given the exceptional seriousness of the breach of the social rights of the individuals concerned by this case.

We look forward to hearing from you.

Yours sincerely,

Marco Lo Giudice, lawyer

Egidio Lizza, lawyer