



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

4 July 2018

Case Document No. 3

Unione Sindicale di Base (USB) v. Italy
Complaint No. 153/2017

**RESPONSE FROM *UNIONE SINDICALE DI BASE* TO
THE GOVERNMENT'S SUBMISSIONS ON THE MERITS**

Registered at the Secretariat on 14 June 2018



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Complaint No. 153/2017

USB v. Italy

Usb's observations on the merits of the above mentioned complaint

With these notes, we reply to the observations made on the merits by the Italian Government on March 31, 2018.

First of all, it is specified that the workers whose conditions have been reported are not socially useful workers (LSU), but normal temporary employees even if these futures contracts are the continuation of an initial LSU relationship that took place up to the years 2000.

In its observations the Government recalls the prohibition of conversion in force in the Italian legal system pursuant to art. 97 of the Constitution, forgetting that the EU Directive 1999/70 aims to eliminate abuses in the use of the fixed-term contract.

it is evident that National law can not be used to circumvent the community dictum. It follows that, having verified the abuse, as confirmed by the data reported in the complaint, we have the following situation:

- a) In the Sicilian municipalities we have temporary workers that emply vacant positions available at the administrative structure of the institution;
- b) The use of their short - term contracts has lasted almost twenty years (to which the period originally performed as LSU must be added).

The aforementioned situation is not fixed by the legislation referred in the Government's observations.

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In fact, both Legislative Decree No. 101 of 2013 and Legislative Decree 75 of 2017 provide for a stabilization process, but this legislation is insufficient.

On the one hand there is a direct stabilization (at the discretion of the user) only those who have already passed a competition and can not understand why, for the latter, a specific law was required having already passed the competition (d.lgs 75/2017, Article 20, paragraph 1).

In any case, this hypothesis concerns a minimum part of precarious workers.

The majority are admitted to a competition for only 50% of the available places; concerns only those who have more than three years of insecurity and provides for the mere possibility of users and not the obligation (Article 20, paragraph 2 of Legislative Decree 75/2017), with the result that there is no idea how many will be the subjects admitted to access the stabilization procedures.

This legislation does not solve, if not in a minimal way, the future situation of most of the precarious workers.

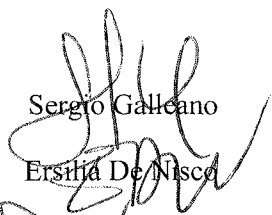


The same applies to the 2015 Law of 2017, which however concerns a very limited number of subjects, since it does not in any way provide for their stabilization.

The school operators referred to in paragraph 622, as the law says, are in service, always on term, since 1999; the workers referred to in paragraph 626, employees of cooperatives (but always used in educational institutions) are included in a list from which they can draw companies that need staff: that is, no one, because such institutions should proceed with the stabilization of the precarious workers who works in their offices therefore, it is clear that the violations of the European Social Charter denounced in the complaint still exist.

It is therefore requested that the Committee decides on the proposed complaint.

However, we remain for any further clarification.

Rome, 13.06.2018


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