

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



European
Social
Charter

Charte
sociale
européenne



18 August 2026

Case Document No. 4

Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy
Complaint No. 258/2026

REPLY FROM THE GOVERNMENT TO SAESE'S RESPONSE ON ADMISSIBILITY

Registered at the Secretariat on 17 July 2026



Avvocatura Generale dello Stato

L'AGENTE DEL GOVERNO ITALIANO
THE AGENT OF THE ITALIAN GOVERNMENT
L'AGENT DU GOUVERNEMENT ITALIEN

European Committee of Social Rights (ECSR)

Collective complaint no. 258/26

Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy

**FURTHER OBSERVATIONS OF THE ITALIAN GOVERNMENT
ON ADMISSIBILITY OF COLLECTIVE COMPLAINT**

Our reference: CT 11339-26

Avv. Polli – Proc. Pilloni – Proc. D’Onofrio

I. INTRODUCTION

1. By letter dated 17 June 2026, the Secretariat of the Directorate-General for the European Social Charter requested the Italian Government to submit its response to the observations made by the Autonomous European Trade Union for Education and Ecology (SAESE) (“the applicant”) regarding the Government’s observations on the admissibility of the application.

2. In response to this request, these further observations are intended to challenge the admissibility of the complaint.

II. SUBJECT MATTER OF THE COMPLAINT

1. By the Complaint of 20 February 2026, the Complainant submitted a series of claims concerning the alleged inadequacy of publishing, in full and in a timely manner, the notices announcing, cancelling or postponing strikes in the public sector in the section entitled “*Public Sector Strike Dashboard*” on the website of the Department for the Civil Service.

2. Furthermore, the complainant alleges “*the failure of the National Anti-Corruption Authority to take effective remedial action in response to such conduct*”, noting that, despite the request for access to public documents submitted pursuant to Article 5(1) of Legislative Decree No. 33 of 14 March 2013, the Authority took no appropriate action to remedy the alleged breach of transparency.

3. In particular, in the Complainant’s view, the incomplete publication of data concerning strikes proclaimed in the public sector would conflict with the relevant national regulations, which, as clarified by the Civil Service Circular ref. no. DFP-0044693-P of 31 May 2022, entitled “*New procedure regarding the obligations of the Department of the Civil Service in relation to strikes pursuant to Law No. 146 of 12 June 1990, as amended*”, expressly requires the full publication of the acts of proclamation, revocation and the procedures for conducting strikes.

4. This omission would have a significantly negative impact on the education sector in which the complainant operates, undermining “*the planning of teaching and organisational activities and disrupting the proper balance between the right to strike, the right to information and the continuity of the public education service*”.

5. For all these reasons, the Complainant believes that the Committee's intervention is necessary, arguing that the conduct of the Department of Public Administration and the National Anti-Corruption Authority constitutes systematic violations of the European Social Charter.

6. In this regard, reference is made to what has already been stated in this Government's observations on the admissibility of the case.

III. FURTHER OBSERVATION ON THE ADMISSIBILITY.

7. In response to the reply submitted by the applicant on 9 June 2026, it is confirmed that the application is inadmissible.

8. As previously noted, **the complaint is inadmissible as the complainant lacks sufficient representativeness.**

9. In this regard, it should be noted that the complaint concerns the failure to publish details of the strike action organised by SAESE in the "Strike Dashboard" section of the institutional website of the Department of the Civil Service, which is dedicated **exclusively to providing information on strikes in the public sector.**

10. That being said, it should be noted that, pursuant to Article 1 of the Additional Protocol to the European Social Charter of 1995: *"The Contracting Parties to this Protocol recognise the right of the following organisations to lodge complaints alleging unsatisfactory implementation of the Charter: a) the international organisations of employers and workers referred to in Article 27(2) of the Charter; b) other international non-governmental organisations with consultative status with the Council of Europe and included in the list drawn up for this purpose by the Governmental Committee; c) national organisations representing employers and employees within the jurisdiction of the Contracting Party concerned by the complaint"*.

11. As clarified by the ECSR's decision of 16 August 2022 on complaint no. 208/2022, the Committee also assesses representativeness on the basis of *"the fact that the complainant trade union **represents, in the relevant sector, the vast majority of workers**"*. Furthermore, this ruling highlights that, for the purposes of assessing representativeness, *"the fact that **a trade union is representative at national level and is therefore able to negotiate collective agreements**"* is also relevant (Annex No. 1).

12. In the subsequent decision of the ECSR dated 2 December 2024 on complaint No. 234/2024, it was reiterated that the Committee, in particular, examines representativeness in relation to the sector covered by the complaint, the trade union's objective and the activities it carries out (Annex No. 2).

13. It follows from the aforementioned Article 1, and in particular from point c), that an essential requirement for lodging a complaint is possession of representativeness in the relevant sector, in relation to the activities carried out.

14. Pursuant to Article 43(1) of Legislative Decree No. 165 of 30 March 2001, *“ARAN admits to national collective bargaining those trade union organisations which have a level of representativeness in the sector or area of not less than 5 per cent, taking into account for this purpose the average of the membership figures and the electoral figures. The membership figure is expressed as the percentage of authorisations for the payment of trade union dues relative to the total number of authorisations issued within the sector in question. The electoral figure is expressed as the percentage of votes obtained in elections for unified staff representatives, relative to the total number of votes cast within the sector in question”.*

15. Pursuant to paragraph 7 of the same Article 43, *“the collection of data on votes and authorisations is carried out by ARAN. Data relating to authorisations issued to each public administration during the year in question shall be collected and transmitted to ARAN by public administrations no later than 31 March of the following year, countersigned by a representative of the trade union concerned, in a manner that guarantees the confidentiality of the information. Public administrations are obliged to designate the official responsible for collecting and transmitting the data. For the supervision of electoral procedures and the collection of data relating to delegations, ARAN draws upon the cooperation of the Department of the Civil Service, the Ministry of Labour, and the representative bodies or associations of public administrations, on the basis of specific agreements”.*

16. However, based on the data published by ARAN, **the trade union organisation SAESE has not a single member** and, **by its own admission, has never put forward any direct candidates in Italy for the triennial renewal of the RSUs, and is therefore entirely lacking in representativeness within the public sector.**

17. This assertion is, moreover, confirmed by ARAN itself in its final assessment of representativeness for the three-year periods 2019–2021, 2022–2024 and 2025–2027. It is therefore self-evident that the claimant trade union is not in a position to lodge collective complaints, as it lacks the standing to bring legal proceedings.

18. Indeed, with regard to the specific public sector, **SAESE not only fails to meet the minimum representativeness threshold of 5 per cent established by Article 43 of Legislative Decree No. 165 of 30 March 2001, in any of the public sector sectors (sector or collective bargaining area), but has not even been registered by ARAN in the last three-year periods, as it holds no authorisation to collect trade union dues, from which recognition of representativeness might then derive** (see tables drawn up by ARAN Annexes Nos. 3, 4, 5 and 6).

19. As it is not a trade union organisation representing public sector workers, **SAESE has never been admitted to collective bargaining, has never participated in national bargaining negotiations and, consequently, has never even signed any national collective labour agreement.**

20. In this regard, it should also be noted that – even though the concept of representativeness referred to in Article 1, point (c), of the 1995 Protocol is autonomous and does not necessarily coincide with the national definition of representativeness – **the mere declaration by the claimant trade union organisation that it has a membership of 26,382 does not, in the absence of objective evidence, constitute proof for the purposes of demonstrating its representativeness** (Annex No. 7). **What is relevant, however, from an evidential point of view – as already highlighted above – is the fact that the organisation in question is not registered with ARAN and does not hold any authorisation to collect trade union dues, nor has it ever participated in the free elections for the RSUs.**

21. The RSUs are, in fact, bodies for the democratic representation of staff, elected by the community of public sector workers for each administration, by secret ballot, using a proportional system, and subject to periodic and mandatory renewal, with no provision for extension.

22. The right to submit candidate lists is also granted to trade union organisations that are not representative but are constituted as associations with their own statutes (Article 42(4) of the aforementioned Legislative Decree No. 165 of 2001). It is therefore

important to highlight that the trade union SAESE has never taken part in the aforementioned elections, thereby demonstrating, in this respect too, its lack of significant representativeness.

23. Nor can the following circumstances be regarded as indicative of representativeness – contrary to the claimant’s assertions – namely, having a presence in certain Italian regions, possessing financial autonomy, having held discussions with certain educational institutions, or having called two national strikes and one regional strike during the two-year period 2024–2026 (strikes which, in any case, were not published on the ‘Cruscotto scioperi’ platform as they were regional rather than national in scope and, therefore, not subject to reporting requirements by the Department of Public Administration), given that, as is well known, any trade union in Italy may call a strike regardless of its level of representativeness.

24. In light of the above, **the complaint must be declared inadmissible on the grounds that the complainant lacks standing to bring the claim, as they do not possess the necessary level of representativeness required for the civil service.**

25. In any event, amongst the admissibility requirements set out in the Additional Protocol, Article 4 provides that *‘the application must [...] indicate to what extent the Contracting Party has failed to ensure the satisfactory application of this provision’*.

26. Even in his replies, the applicant fails to fulfil this obligation; in fact, **it is impossible to identify any link between the violations complained of by the complainant and the provisions of the Charter whose unsatisfactory application is alleged.**

27. With regard to the alleged breach of Article 5 of the European Social Charter, it should be noted that the full exercise of trade union rights has not been impeded and *“no withholding of official documentation”*, as otherwise claimed by the complainant, has been carried out by the Italian Government, which has always acted in full compliance with national provisions on strikes and the decisions of the Guarantee Commission.

28. Furthermore, with regard to the alleged breach of Article 6(4) of the European Social Charter, it should be noted that no right of workers or employers to take collective action in the event of disputes has been infringed, including the right to strike, given that in all cases where the protest action constituted a strike under Law No. 146 of 1990, based

on the assessment of the Guarantee Commission, the Italian Government has always notified the public of this through publication.

29. Nor, likewise, has there ever been any breach of Article 21 of the European Social Charter, as workers' right to information has always been guaranteed in the event of strikes called in the public sector falling within the scope of Law No. 146 of 1990.

30. It is no coincidence that notice was given of the strikes called by the complainant trade union organisation on all those occasions when the strike was deemed to serve collective interests and was not censured by the Guarantee Commission, as in the case of the strike called by the complainant organisation for 10 October 2025, which was subsequently withdrawn.

31. Indeed, on those occasions when the strike notice was not publicised, the lack of coverage stemmed from the fact that the action taken by the trade union was not considered a valid cause for a strike by the Guarantee Commission. In this regard, it is worth emphasising that reporting on an action deemed unlawful by the Guarantee Commission would certainly have constituted an abuse on the part of the Department of the Civil Service. It should not, in fact, be overlooked – as has already been clarified – that the news of the strike does not serve to publicise the union calling it, but to alleviate the inconvenience to service users, who must receive notification from the public authorities or service providers at least five days in advance regarding the arrangements and timing of service provision during the strike and the measures for resuming such services (Article 2(6) of Law No. 146 of 1990).

32. Finally, as already highlighted in the previous observations, with regard to the breaches specifically alleged by the complainant against the National Anti-Corruption Authority, it is clear that there is no connection whatsoever between the alleged breach of the principle of transparency and the provisions of the Charter cited.

IV. CONCLUSIONS

33. The complaint is inadmissible as it has been lodged by a subject that cannot be regarded as a representative trade union within the meaning of Article 1(c) of the Protocol and, in any event, because the link between the situation complained of and the material scope of application of the provisions of the Charter relied upon has not been sufficiently clarified and, therefore, demonstrated (Article 4 of the Protocol).

V. ANNEXES

- Annexe 1: CEDS decision of 16 August 2022 on complaint no. 208/2022;
- Annexe 2: CEDS decision of 2 December 2024 on complaint no. 234/2024;
- Annexe 3: tables drawn up by ARAN;
- Annexe 4: tables drawn up by ARAN;
- Annexe 5: tables drawn up by ARAN;
- Annexe 6: tables drawn up by ARAN;
- Annexe 7: statement by the trade union organisation lodging the complaint.

Rome, 16 July 2026

Drafted by

Marianna Polli – *Avvocato dello Stato*

Valentina Pilloni – *Procuratore dello Stato*

Angelo D’Onofrio – *Procuratore dello Stato*



Avv. Lorenzo D’Ascia – Avvocato dello Stato

The Agent of the Italian Government