



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

4 July 2018

**Case Document No. 3**

***Unione Sindicale di Base (USB) v. Italy***  
Complaint No. 152/2017

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

**Registered at the Secretariat on 14 June 2018**





**STUDIO LEGALE GALLEANO**

**20135 MILANO**  
C.so Lodi 19  
tel. 02 59902379 r.a.  
fax 02 59902564  
milano@studiogalleano.it

**00192 ROMA**  
Via Germanico 172  
tel. 06 37500612  
fax 06 37500315  
roma@studiogalleano.it

---

**sergio.galleano@milano.pecavvocati.it**  
**www.studiogalleano.it**

**Directorate general**

**Human Rights and Rule of Law**

**Department of the European Social Charter**

**F-67075, Strasbourg Cedex**

**Complaint No. 152/2017**

**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.

At point 4 of the observations, the Italian Government declares that access to employment in the public administration can take place exclusively through a competition.

It is not like that because both in the first area - economic position F1 - in the case with the status of judicial auxiliary, and in the second area - economic position F1 - with the status of judicial operator, access is currently carried out through the procedures referred to in Law 56/1987 and subsequent amendments, that is, by direct call from the Employment Office: in this sense, see the sentence of Tar Lazio no. 1412/2011 (see doc.6).

In this regard, it is specified that for the qualification of Judicial Operator the license of lower secondary school is required, while for the qualification of Judicial Auxiliaries, inexplicably, the compulsory school license is required, which in Italy is reached when the sixteenth year of age (see annex n. 1 - table "A").

In point 7 of the observations, the Italian Government appoints Articles 24 and 26 of D. LG. 150/2009, regarding economic progressions, according to which 50% of the places placed in the competition should be reserved for internal personnel.

Even this circumstance has never been implemented, in fact, almost ten years after the Decree, there has never been any need to redevelop even a Judicial Auxiliary from the first to the second area.

Not even after the agreements established by the art. 36 of the CCNL of September 14, 2007, which provided for the passage of 270 Judicial Assistants in the profile of Judicial Operator, with an economic allocation of €.

**STUDIO LEGALE GALLEANO**

140.022,00, already provisioned and deriving from the 2009 FUA (Single Administration Fund), the redevelopment procedures have never been implemented (see document no. 2).

Moreover, with the agreement signed by the Ministry of Justice with the various trade unions on April 26, 2017, also published in the Official Bulletin No. 21 of November 15, 2017, the Ministry of Justice undertook to start, from October 2017, the implementation of the art. 64 - paragraph 1 - letter B of the CCNL of 29 July 2010, for the passage of the judicial auxiliary area, keeping open the ranking of the suitable until 31 December 2018.

Furthermore, the preservation of the place of employment was guaranteed.

These procedures were started, only for some professional profiles, while the judicial auxiliaries were in fact forgotten (see attachment n° 3).

It is noted that in the various years, in the Ministry of Justice took place various assumptions of personnel from outside: ex quarterly, ex LSU, stretcher and other staff of the Italian Red Cross; these assumptions have merged into the profile of the Judicial Operator, now considered "the entry level" of the Ministry of Justice not only bypassing the Auxiliaries, excluded from any possibility of growth, both economic and professional, but without any reserve of posts, as already mentioned above.

This immobility of the Auxiliaries dates back to the year 2001, when a competition announcement was published for 3204 Operators reserved for Auxiliary personnel.

The competition was blocked, due to appeals made by staff of other qualifications and from that date, almost 20 years have passed; no redevelopment procedure for judicial auxiliaries has been announced, which are the only employees of the Ministry of Justice to retire with the same professional profile with which they were recruited more than thirty years ago (see annex n° 4).

Lately, with the Decree of 24 April 2018, the Public Function has authorized the recruitment of personnel in the public administration, in particular 300 Judicial Operators in the Ministry of Justice, with direct headquarters for employment, to further demonstrate that the Judicial Operator is, now, the qualification of access to the ministry, which is a profile reserved for a number of "invisible employees", in service for the Administration, which has never been given the possibility of professional development (see annex n° 5).

It follows, from what has been said, that all the violations of the European social card have been reported, denounced with the complaint, whose decision is therefore requested.

**STUDIO LEGALE GALLEANO**

The following documents are annexed:

- Annex n. 1- Table A
- Annex n. 2- FUA (Administration Found)
- Annex n. 3- ( Professional profile procedure)
- Annex n. 4- (Auxiliary personnel auxiliary Judiciary)
- Annex n. 5- (Judicial operators' recruitment)
- Annex n. 6- (Sentence of Tar Lazio no. 1412/2011)

Rome, 13.06.2018



Sergio Galleano



Ersilia De Nisco



Federico D'Elia

