



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

25 April 2023

Case Document No. 4

Sindacato Autonomo Comitato Nazionale Pompieri (CO.NA.PO.) v. Italy
Complaint No. 214/2022

**REPLY FROM THE GOUVERNMENT
TO CO.NA.PO.'S RESPONSE ON ADMISSIBILITY**

Registered at the Secretariat on 17 April 2023



*Ufficio dell' Agente del Governo
davanti alla Corte europea dei diritti dell' uomo*

AVVOCATURA GENERALE DELLO STATO

European Committee of Social Rights (ECSR)

Collective complaints nn. 214/2022 and 215/2022

Sindacato Autonomo Comitato Nazionale Pompieri (Co.Na.Po) vs. Italy

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

Ct 41192/2022

Avv. Monica De Vergori



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1. With the letter dated 2 March 2023, the Secretariat of the General Directorate of the European Social Charter requested the Italian Government to present its replies on the admissibility of the collective complaints nn. 214/2022 and 215/2022 (“the complaints”), submitted by Sindacato Autonomo Comitato Nazionale Pompieri (CO.NA.PO.) (“the complainant”).
2. In compliance with the Secretariat of the European Social Charter request, the present observations are limited to the reply to the union's counterclaims on the admissibility of the appeal.
3. As concerned the representativeness, the Italian Government take note of the union's points made in its replies and in the attached documentation, from which the recognition of representativeness for bargaining purposes would emerge.
4. However, it is considered appropriate to point out that the documentation filed in court by the union is not suitable to prove the latter's representativeness in view of the criteria dictated by the Court. The complaint is clearly inadmissible.
5. In fact, even if the complainant organisation exercises functions which can be considered as trade union prerogatives (as stated in the statutes), the complainant union does not fulfil the requirement of being representative of the majority of the workers in the sector concerned.
6. As also clarified in the “Decision on admissibility” of 28 January 2020, para 11 (relating to Reclamation No. 174/2019) “*in determining representativeness, the Committee takes into account the number of members a trade union represents and the role it plays in collective bargaining, including its role in national negotiations (see §23 of the Explanatory Report to the Protocol)*” (par. 11).
7. Furthermore, in the same decision it was made explicit (para 17) that representativeness “*in accordance with domestic law at the level of a single enterprise, does not possess representativeness for the purposes of the collective complaints procedure*”; this since, according to the Committee, for the purposes of the collective complaints procedure,



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representativeness is an autonomous concept, not necessarily identical to the national notion of representativity.

8. This does not mean, as the counterpart would like to argue, that the requirement of representativeness is necessarily achieved when 50 per cent of the employees in a given category are registered.

9. At the same time, the small number of registered members - as pointed out in the Italian government's observations of 25 November 2022 - does not allow this requirement to be considered fulfilled..

10. The above considerations lead to the conclusion that the counterparty complaint should be declared inadmissible.

CONCLUSIONS

In light of the present observations, the Italian Government requests the Committee to dismiss the case by declaring the Complaint inadmissible, pursuant to Article 1 of the Additional Protocol of 1995 for a system of collective complaints, since the Complainant's lack of representativeness.

Rome, 17 April 2023

Drafted by

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