



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

12 January 2024

Case Document No. 1

Confederazione Unitaria di Base (CUB) v. Italy
Complaint No. 234/2024

COMPLAINT

Registered at the Secretariat on 2 January 2024

Department of the European Social
Charter
Directorate General Human Rights and
Rule of Law Council of Europe
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Subject: Collective complaint by Confederazione Unitaria di Base concerning the violation of the European Social Charter, Part I, Articles 1, 2, 4, 12 and 30 and Part II, Articles 1, 4, 12 and 30 by the Italian State in relation to the violation of the right of workers to sufficient remuneration (Article 4), the right to social security (Article 12) and the right to protection against poverty and social exclusion (Article 30).

By this collective complaint, submitted in accordance with the 1995 Additional Protocol to the European Social Charter, Confederazione Unitaria di Base, with registered office at Viale Lombardia 20, (20131) Milan, Italy, represented by its Secretary General and legal representative, Mr Marcelo Amendola, resident at Via Giuseppe Verdi 121, Grottaminarda (AV), Italy, with chosen service address at the law firm Libutti Trotta situated at Via Sardegna 29, (00187) Rome, represented by Counsel Giuseppe Libutti and Counsel Michele Trotta, and at the email address giuseppelibutti@stlegal.it, objects to the violation and insufficient implementation of Articles 1, 4, 12 and 30 of the 1996 version of the Charter by the Italian State with reference to the violation of the right of workers to fair remuneration (Article 4), the right to social security (Article 12) and the right to protection against poverty and social exclusion (Article 30).

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1. As a preliminary matter, it should be pointed out that all prerequisites for admissibility laid down by the 1995 Protocol to the European Social Charter have been met.

1.1. As regards the right to submit a complaint, there is no doubt that Confederazione Unitaria di Base (hereafter also "CUB") fulfils the prerequisite of

representativeness provided for under the Protocol. It is a representative association of workers which, on account of its representativeness, has been called to appear before the Employment Committees of the Chamber of Deputies and of the Senate. It had 228 947 members in 2022 (most recent available figure) (Annex 1).

The principles that inspire its activity include “*solidarity, social justice, equality and democracy*” as well as the “*full guarantee of essential rights to workers*” and the combating “*of any type of restriction on the right to strike*” (Article 3 Statute of the CUB).

The CUB is thus one of the “*representative national organisations of employers [...] within the jurisdiction of the Contracting Party against which they have lodged a complaint*” pursuant to Article 1(c) of the 1995 Protocol and thus has the right to submit a collective complaint concerning the violation of the European Social Charter.

In support of the above, it is important to point out that the European Committee of Social Rights has already concluded on several occasions that other national trade unions have such standing (see, for example, the decision on complaints no. 140/2016 and no. 91/2013, para. 82, in which it ruled that the complaint filed by the CGIL was admissible).

This complaint is signed by Mr Marcelo Amendola as the Secretary and legal representative of the CUB (Article 11 of the Statute of the CUB), in accordance with the provisions of Article 23 of the Committee’s Rules of Procedure (see again the decision on complaints no. 140/2016 and no. 91/2013, para. 83).

1.2. As regards the respondent, the complaint has been filed against the Italian Republic, which ratified the 1995 Additional Protocol without reservation on 3 November 1997 by Law no. 298 of 28 August 1997 concerning its ratification and implementation, which has been in force since 1 July 1998 (regarding this matter, see again the decision on complaint no. 1/2013, para. 75).

1.3. With reference to another distinct aspect, the complaint is also admissible pursuant to Article 4 of the 1995 Additional Protocol, which provides that the complaint shall “*relate to a provision of the Charter accepted by the Contracting Party concerned*”.

In this regard, it is sufficient to point out that the complaint objects to the violation

of Articles 12 and 30 of the 1996 version of the European Social Charter, the provisions of which have been accepted by the Italian Republic in ratifying the Charter on 5 July 1999 by Law no. 30 of 9 February 1999.

The Italian Republic has committed itself to complying with these provisions without lodging any reservations, with the sole exception of the reservation relating to Article 25.

As a result, the complaint is admissible, as it is based on provisions of the Charter which Italy has expressly undertaken to comply with.

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2. Having clarified the above issue of the admissibility of the complaint, on the merits it is evident that the Italian State has not satisfactorily ensured the implementation of Articles 1, 4, 12 and 30 of the European Social Charter, and is in fact violating those provisions. This is because, despite the high levels of poverty and social exclusion amongst the population residing on its territory, as well as a growing number of workers with incomes below the poverty threshold, the Italian State:

a) has not made provision for any form of universal basic income;

b) has not established a statutory minimum wage;

c) has not taken sufficient action to extend collective bargaining and to reduce so-called "pirate" collective agreements and forms of precarious employment. In order to better understand the violation of the provisions of the Charter which Italy is alleged to have committed, it is important to set out some preliminary considerations concerning the situation on the labour market in Italy as well as the growing swathes of the population that do not have sufficient income, and who therefore live in poverty.

2.1 As regards the issue of poverty, in 2022 ISTAT [Italian National Institute of Statistics] concluded that, during the year before the investigation was carried out, 20.1% of the population in Italy were at risk of poverty (around 11 800 000 people) on the grounds that they had net equivalent incomes, not including notional components or income in kind, below 60% of median income (i.e., 11 155 euros). At national level, the proportion of the population at risk of poverty thus remained at the same level as the previous year (20.1%).¹

¹ ISTAT – Report of 14 June 2023 (Annex 2)

4.5% of the population (around 2 613 000 people) are living in a state of major material and social deprivation, i.e., displaying at least seven deprivation items of the thirteen identified by the new indicator (Europa 2030).

In addition, 9.8% of people are living in families with low work intensity (Europa 2030 indicator), i.e., with people in the age bracket 18-64 with working time of less than 20% in 2021.

In other words, 24.4% of the population (around 14 304 000 people) are at risk of poverty or social exclusion (Europa 2030 composite indicator), i.e., the proportion of people affected by at least one of the above factors (relating to income, deprivation and work intensity), a figure which has remained practically stable compared to 2021 (25.2%).

The above data refer to 2022 and on the one hand provide a snapshot of a – slight and uneven – improvement in the overall situation compared to 2021 as a result of the post-Covid economic recovery, although on the other hand do not yet fully reflect the negative effects of inflation and interest rate rises.²

Nevertheless, the figures published by ISTAT cast light on the extremely critical situation in Italy which, since it affects such a large number of people, in itself constitutes a reason for finding that the commitments under the Social Charter have been violated.

This is also in consideration of the policies adopted by the legislature and the Italian Government, which are moving away from the recognition of some form of universal basic income and initiatives to counter downward pressure on salaries.

2.3 Indeed, alongside the problem of poverty and social exclusion, there is also the issue of “in-work poverty”.

According to the INPS [Italian National Institute for Social Security], 2 841 000 workers earn less than 9 euros per hour (including the 13th monthly salary). Moreover, 172 000 people in active employment have applied for “citizenship income”, a scheme which was cancelled by Article 13 of Decree-Law 48/2023.

This figure in itself is capable of demonstrating the inefficient nature of the system adopted in Italy to guarantee adequate minimum wages, namely national collective

² Hearing of Ms Nicoletta Pannuzi, Head of the Integrated Labour, Education and Training System Service at the Italian National Institute of Statistics, 11th Committee, page 17 (Annex 3).

bargaining without any statutory minimum wage.

Although that choice is permitted under Directive 2022/2041 of 19 October 2022, it has only been made by six EU Member States, as against the other 21 which provide for a statutory minimum wage. Thus, as far as Italy is concerned, the Directive is being violated not due to the choice in favour of collective bargaining in itself, but rather due to the lack of supplementary measures capable of ensuring that the goal set out in the Directive is met, namely an adequate minimum wage for all workers. To date, almost 3 million people working under a full-time employment contract do not receive an adequate wage in Italy, and as such it is clear that the Directive has been violated.

2.4 As will be highlighted in greater detail below, the reasons underlying the phenomenon of “in-work poverty” are not exclusively dependent upon the economic cycle, but are rather due to structural transformations in the labour market which the Italian State has failed to address through appropriate measures aimed at preventing downward pressure on salaries.

Examples include, although are not limited to, the following:

- “pirate” collective agreements concluded by trade unions which are not sufficiently representative, incorporating terms that are detrimental for workers;³
- the failure to update the terms of the most widely applied national collective agreements;⁴
- the absence of mechanisms for adjusting salaries in line with inflation;
- the excessive recourse to part-time or fixed-term contracts.⁵

³ Only 21.6% have been signed by the CGIL [Italian General Confederation of Labour], the CISL [Italian Confederation of Workers’ Unions] or the UIL [Italian Labour Union] (as against 57% in 2011); the remainder have been signed by other trade unions. Some trade unions have essentially been invented ad hoc for the purpose of signing “pirate” contracts of convenience in order to pay wages lower those provided for in the sectoral national collective labour agreements (CNEL [National Economic and Labour Council], *Elementi di riflessione sul salario minimo in Italia*, 4 October 2023) (Annex 4).

⁴ At present, 50% of employee workers are working under contracts that have expired, on average, almost three years ago. These delays would be enormous even in normal times, but are all the more so during a period of record inflation (<https://www.istat.it/it/archivio/276692>) (Annex 5).

⁵ National agreements do not provide for any guarantees in relation to precarious employment (such as project-based contracts) or self-employed workers. National agreements guarantee higher salaries, but at the price of excluding a growing number of people. Italy is the country with the highest proportion of “excluded” workers, at 13%, although there are spikes above 40% in the agriculture sector, 30% in the construction sector and 20% in the artistic and entertainment sector as well as the hotel and hospitality sectors (Committee resolution 7-00886 tabled by Claudio COMINARDI on 19 January 2016, session no. 550).

This legislative inertia has been compounded by measures which deprive workers of wage guarantee mechanisms, rather than promoting such mechanisms.

For instance, Decree-Law 48/2023 abolished "citizenship income" (RdC) with effect from 1 January 2024, replacing it with very different measures, neither of which is universal: inclusion benefit (*assegno di inclusione*, AdI) and training and employment support (*supporto per la formazione e il lavoro*, SFL).

As will be demonstrated below, in rejecting the universal approach taken for "citizenship income", neither measure provides support to people who are considered to be employable in a broad sense, as if being "employable" meant being able to find a job with ease, and as if being employed meant automatically no longer being poor.

It is quite clear from the above that Italy is not complying with Article 4 of the Social Charter in that it is not currently guaranteeing remuneration sufficient to ensure that workers and their families lead dignified lives, thereby also violating Article 36 of the Constitution of the Italian Republic.

It is also unable to guarantee a satisfactory level of social security in accordance with Article 12 of the Social Charter and, indeed, pursues policies which undermine the right to protection against poverty enshrined in Article 30 of the Charter.

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3. In failing to provide for any form of universal basic income, the Italian Republic is violating Article 12 and Article 30 of the European Social Charter. This is also the case having regard to the persistent presence of sections of society living in poverty. Article 12 of the European Social Charter, entitled "*The right to social security*", provides, insofar as is of interest here, that "*With a view to ensuring the effective exercise of the right to social security, the Parties undertake: (1) to establish or maintain a system of social security; (2) to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security; (3) to endeavour to raise progressively the system of social security to a higher level [...]*".

On the other hand, Article 30 of the Charter, entitled "*The right to protection against poverty and social exclusion*", provides that "*With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties*

undertake: (a) to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance; (b) to review these measures with a view to their adaptation if necessary”.

Both of the provisions contained in the Charter set out the legal framework for the right to social protection, or to social security. This fundamental right is defined as that body of policies and programmes designed to reduce and prevent poverty and vulnerability amongst workers throughout their entire lives.⁶ In particular, in addition to prescribing a co-ordinated, global approach – not to speak of a universal approach – the European Committee of Social Rights of the Council of Europe has clearly endorsed the view that the articles referred to establish an obligation for States Parties to adopt policies to enhance social security mechanisms, without leaving any scope for reforms that reduce protection.

3.1 Thus, when ruling specifically in relation to Italy in its Conclusions 2017, the Committee observed that *“Article 12§3 requires states parties to improve their social security systems. [...] Examples of progress include extended provision and facilities, protection against new risks or increased benefit levels.”*

According to the Committee, the assessment of the legitimacy of changes to social security systems must not be limited to an analysis of individual measures, but must concentrate on their cumulative effect. Thus, although it is the case that one single restrictive measure may not in itself result in a violation of the principle referred to above, it is also clear that *“if the cumulative effect of the restrictions is to bring about a significant deterioration in the standard of living and living conditions of certain groups of the population, this could entail a violation of Article 12§3.”*

Moreover, according to the Committee, it cannot be argued that measures which restrict social security may be justified by the need to strengthen the public finances. The report clarifies specifically in relation to Italy that cuts aimed at pursuing objectives related to the public finances *“must not be to the detriment of citizens’ protection against social and financial risks, and must not reduce the social security*

⁶ See also ILO, https://www.ilo.org/rome/approfondimenti/WCMS_631353/lang--it/index.htm#:~:text=La%20protezione%20sociale%2C%20o%20la,tutto%20il%20ciclo%20di%20vita

system to a mere social assistance scheme. In all cases, any changes to the social security arrangements must ensure the continued existence of a basic, and sufficiently comprehensive, social security system.”

On the basis of these observations, the Committee concluded as early as 2017 that the situation in Italy was not compliant with Article 12(3) of the Charter, as Italy had not demonstrated that it had taken action to raise the system of social security to a higher level.

3.2 Having made this observation, it must be clear to all that Italy is still not complying with Article 12 of the Charter.

In fact, as was noted in the previous section, in enacting Article 13 of Decree-Law 48/2023, the Italian State abolished “citizenship income” with effect from 1 January 2024, replacing it with two distinct measures, “inclusion benefit” (AdI) and “training and employment support” (SFL).

By analysing the new legislation introduced, it is possible to identify several aspects that are decisive for the purposes of a decision on this complaint which, insofar as of interest, are listed below in bare summary form.

- **Recipients. Citizenship income** was paid to families falling below certain income and “Equivalent Economic Situation Indicator” (ISEE) limits where some of their members were fit for work but unemployed or unoccupied. **Inclusion benefit** is only paid to families at least one member of which is disabled, younger than 18 or older than 60 years of age. The benefit is increased if the family includes any person over the age of 67 or if another family member has a serious disability. Any person aged between 18 and 59 who does not have any medical condition which renders him/her incapable of working and who is not a family member of a disabled person, a child or a dependent person aged 60 or over is deemed to be “fit for work” – and thus has no entitlement to inclusion benefit. Any person deemed to be fit for work who is living in absolute poverty – ISEE not higher than 6 000 euros per annum – is entitled to **employment and training support**. The payment of this benefit is conditional upon participation in projects involving vocational training, qualification and re-qualification, guidance, assistance in finding work and active employment policies.

- **Amount. Citizenship income** was payable up to a figure of 780 euros per

month, in addition to a rental component up to a maximum of 280 euros for each household that was entitled to receive it. The ISEE equivalence factor, i.e., the criterion for determining income, took account of any adult members of the applicant's household aged between 18 and 59 irrespective of disability, thereby expanding access to this support. **Inclusion benefit** varies between 40 and 500 euros per month, as it has an annual value not lower than 480 euros and not higher than 6 000 euros, multiplied by the ISEE equivalence factor,⁷ to which a maximum of 3 360 euros per annum (280 euros per month) may be added for those living in rented accommodation. If all members of the household are aged 67 or over, or if some members are aged 67 or over and all other family members have a serious disability and are not self-sufficient, for those living in rented accommodation the amount paid as inclusion benefit may be increased to a maximum of 7 560 euros per annum (630 per month) multiplied by the equivalence factor. In contrast to the position with citizenship income, the calculation for inclusion support disregards from the equivalence factor any adult members of the applicant household aged between 18 and 59 who are not disabled and do not have any dependent children, thereby limiting the range of recipients and the amount of the benefit. **Training and employment support** consists of an allowance of 350 euros per month.

- **Duration.** Under its original version, **citizenship income** was paid for up to a maximum of 18 months starting from the day after it was applied for. It was renewable, subject to a 1-month suspension. **Inclusion benefit** is paid each month for a consecutive period not exceeding 18 months. It may be renewed, subject to a 1-month suspension, for a further period of 12 months. **Training and employment support** is available for a maximum period of 12 months and is not renewable. In the light of the provisions laid down by Decree-Law 48/2023, compared to the repealed measures provided for under Decree-Law 4/2019, as amended, establishing citizenship income, it is absolutely clear that Article 12 has been

⁷ In relation to both citizenship income and inclusion benefit, **the ISEE figure must not exceed 9 360 euros, and the value of the family benefit must be lower than 6 000 euros per annum** multiplied by the respective equivalence factor. This results in a maximum of 10 000 euros, namely 1 000 euros for each child after the second child, 5 000 euros for any children with a moderate disability and 7 500 euros for any children with a severe disability, all up to the maximum limit. However, inclusion benefit does not consider any persons who are deemed to be "fit for work", who thus do not increase the benefit received by the household, as by contrast occurred with citizenship income up to the maximum amount payable.

violated: indeed, there has been a shift from a universal measure of income support towards a logic of segmentation, which excludes from the scope of inclusion benefit (AdI) all those who are considered to be “employable” in a broad sense, as if being “employable” meant being able to find a job with ease, and as if being employed meant automatically no longer being poor.

The compartmentalised approach pursued by the new decree stands in opposition to the previous universal approach, in providing a “guarantee of inclusion” to some disadvantaged persons and not to others. This results in unjustified discrimination, consisting in the illegitimate watering down of the measures previously adopted.

3.3 In addition, the measures in question are not even capable of guaranteeing a satisfactory level of social security, thereby violating Article 30 of the Social Charter.

This fact is clear also in the light of the principles enshrined by the European Pillar of Social Rights (EPSR) adopted in 2017 by the three highest EU institutions, the Parliament, the Council and the Commission. The EPSR expresses “*principles and rights essential for fair and well-functioning labour markets and welfare systems in 21st century Europe*” (Annex 6).

Principle 14 (out of a total of 20) states that: “*Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services. For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market.*”

This principle was embraced in the recent Council Recommendation to the Member States “*On adequate minimum income ensuring active inclusion*” (January 2023),⁸ which states that “*Member States are recommended to ensure that all persons lacking sufficient resources are covered by minimum income set by law.*”

It is apparent from both of these instruments that, alongside their firmly universalist approach, in stark contrast to the compartmentalised approach followed by the AdI and the SFL, both of these instruments refer implicitly to absolute poverty, which actually represents the minimum level recommended to the Member States:

⁸ Council Recommendation to the Member States on adequate minimum income ensuring active inclusion, January 2023 (Annex 7)

“income support – including minimum income benefits and other accompanying monetary benefits – (...) should gradually increase the income of persons lacking sufficient resources, to a level which is at least equivalent to (...) the monetary value of necessary goods and services, including adequate nutrition, housing, healthcare and essential services, according to the national definitions.”

The Recommendation enters into the technical detail of the analytic instruments which should be used to determine the minimum level of income, where it prescribes *“thresholds that reflect the standard of living in a Member State for different types and sizes of households.”*

However, it will be apparent to all that, also in this regard, the so-called *“equivalence factor”* under the AdI established by Decree-Law 48/2023 disregards this requirement in not taking account of all of the household’s actual members, but only of those deemed to be worthy of support according to an arbitrary and discriminatory criterion.

On the one hand, this discriminatory approach results in the unjustified exclusion from the recipients and from the calculation of the equivalence factor of any persons who have received final criminal convictions during the 10 years prior to the application, without drawing any distinction among the types of offence concerned. On the other hand, it unduly distorts in a restrictive and discriminatory manner the presentation of proof of resources, to the detriment of potential recipients of AdI. This is demonstrated by the fact that, were the minimum income scheme to be based on a linear and transparent criterion such as the ISEE, without imposing any artificial maximum limits, the benefit would undoubtedly be more consistent with the recommendations referred to.

3.4 Moreover, leaving aside the above considerations, the maximum income thresholds above which no support is provided are in any case too low and are not sufficient to cover the needs of any household.

This point has also been made in Italian case law, which has set at €839.00 per month the ISTAT poverty threshold – equal to 10 077.00 euros per annum – as the minimum figure below which the monthly remuneration of a full-time worker must not fall (Court of Milan, judgment no 633/2022) (Annex 8).

The principle established in relation to salaries can be transposed to the present

case, as the very judgment referred to held that a free and dignified existence cannot be guaranteed below that amount.

However, in this case, the AdI is subject to a maximum limit of €500.00 per month, and not only has this figure been lowered below that previously applicable for citizenship income purposes (€780.00) but it is also lower than the ISTAT poverty threshold. As such, it does not enable the right to protection against poverty enshrined in Article 30 of the Social Charter to be upheld.

The impact of the spread of poverty throughout Italy is not difficult to predict.

In its Conclusions **2018**, the Committee previously found that Italy had violated Article 30 of the European Social Charter on account of the Eurostat indicators, which had identified an increase in the rate of people at risk of poverty from 19.3% in 2013 to 19.9% in 2015, pointing to a significant North-South divide, with poverty rates in some northern regions amongst the lowest in Europe, as against an extremely high rate (close to 60%) in Sicily, for instance.

Against that backdrop, the Committee called for extraordinary measures, criticising the absence in Italy of a co-ordinated, global approach which was adequate for tackling the problem and noting the lack of resources allocated by Italy to combat poverty.

The conclusions reached in relation to this complaint cannot be any different. The adoption of citizenship income in Italy was followed by a decline in poverty in the country. This was certified by the ISTAT 2022 report, which identified a reduction of one million in the number of citizens living in absolute poverty.⁹

These effects have not been taken into account by the Italian State which, despite high inflation, has not increased that support, but has rather reduced the amounts paid out, thereby violating the obligations taken on under the Charter.

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4. The Italian Republic is also in breach of Article 4 of the European Social Charter in failing to adopt measures to guarantee an adequate and sufficient level of remuneration.

Article 4, entitled "*The right to a fair remuneration,*" provides that "*With a view to*

⁹ ISTAT 2022 Report, 8 July 2022 (Annex 9)

ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

(1) to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living; (2) to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases; [...] The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions."

Here too, owing to the special relationship between EU law and the system of the European Social Charter within the Council of Europe, it is important to refer to the provisions of EU law from which the European Committee of Social Rights has on various occasions inferred an obligation for States Parties to comply with directives dealing with issues falling within the scope of the Charter and to promote the values of the Charter within the EU institutions (cf. Conclusions, XIV1, p. 27).

The reference made in terms of a guarantee of adequate wages to Directive 2022/2041 of 19 October 2022, cited above, is significant for the purposes of this complaint.

Specifically, Article 1 sets out the main objective for the Member States of achieving *"the adequacy of minimum wages for workers in order to contribute to upward social convergence and reduce wage inequality."*

In the light of the above provisions, it can be concluded that the States Parties to the European Social Charter which are also Member States of the European Union have undertaken to guarantee, through specific measures to be adopted at their own discretion, wages at levels which are adequate in order to achieve dignified living and working conditions. This objective is, moreover, of primary significance for Italy by virtue of the guarantee laid down by Article 36 of the Constitution, which provides that *"Workers have the right to a remuneration proportional to the quantity and quality of their work and, in any case, sufficient for ensuring them and their families a free and dignified existence."*

4.1 Having clarified the legislative framework, the data set out in paragraph 2 demonstrating the merciless spread of poverty amongst workers resident in Italy, affecting almost 3 million people, themselves show a clear violation of Article 4 of

the European Social Charter.

Specifically, it has been pointed out that Italy is characterised by extremely precarious employment, not as a function of the economic cycle but rather due to structural labour market transformations, which have been exacerbated by the policy of inertia pursued by the Italian authorities.

In this regard it is important to refer once again to the data provided by ISTAT, which are decisive in assessing this complaint.

Vulnerability in employment exists in Italy, first of all, due to the widespread recourse to non-standard forms of employment, such as employment relationships which are lacking one or more of those features which characterise traditional work, such as regularity, minimum insurance requirements and general insurance cover, an adequate level of social protection in the event of the loss of employment, as well as appropriate pension contributions.

Therefore, non-standard forms of employment are not only prevalent across a wide and disparate range of jobs, but also entail greater vulnerability for the workers involved, including in terms of their risk of social exclusion. According to ISTAT figures, in 2022 a total of 59.9% of all workers were in standard employment, as against around 65% in 2000 and the years immediately after.

During this period of time, there has been a decline in the number of self-employed workers who, having accounted for almost one third of workers in the 1990s, now make up only one fifth of all workers.

In parallel, the number of fixed-term employees has progressively increased, doubling between the start of the 1990s and 2019 from around 1.5 million (10% of employees and 7% of workers) to over 3 million (17% of employees and 13% of workers) and, following the sharp fall in 2020 (-402 000), rising back above 3 million in 2022.¹⁰

In addition, the proportion of short-term positions has increased steadily over the years: in 2022, 46.7% fixed-term employees were working under a contract with a term of six months or less, and it is precisely this type of activity that made the largest contribution to the growth in fixed-term employment seen in 2021.

Another form of work which has become particularly widespread over the years has

¹⁰ ISTAT - Annual Report 2022 (Annex 9)

been part-time work: at the start of the 1990s, this accounted for 11% of workers, at the start of the 2000s slightly over 12%, and in 2022 a total of 18.2% workers. This is an atypical type of work which reflects a twofold need: it enables the employer to gain organisational flexibility, whereas it facilitates employment for workers who only wish to dedicate part of their time to work, either by choice or because of family and care commitments. However, in most cases (56.2% in 2022), part-time work is involuntary in the sense that it is performed due to a lack of opportunities for full-time employment, and it is precisely this type of work which has grown most strongly (the proportion of total workers increased from 5% in the early 2000s to 10.2% in 2022).

It must be added that, from 2011 onwards, the guarantees previously associated with full-time, permanent employment contracts have progressively been eroded (cf. *inter alia*, the "Jobs Act" which abolished the real guarantee against dismissal on economic grounds).

To sum up, it can be noted that, in 2022, 59.9% of employees were classified as standard (permanent employees and self-employed workers with employees), with the remaining 40.1% made up of 19.1% quasi-standard workers (self-employed workers without employees, part-time permanent employees or part-time self-employed workers), 17.6% of vulnerable workers (10.8% fixed-term workers and 6.8% involuntary part-time workers) and 3.5% workers who were vulnerable on two counts.

Overall, therefore, almost 5 million workers (21% of the total) are non-standard and, out of these, 802 000 are vulnerable on two counts.¹¹

Lastly, to complete the picture, it should be pointed out that vulnerability in employment is much more prevalent for certain sub-groups:

First of all, amongst young persons under the age of 34, almost four out of ten of whom are non-standard workers (in 2022 fewer than two out of every 10 people aged 35-49 and just over one out of every 10 people aged over 50).

Non-standard employees account for 16.2% (almost 2 million) people with parental responsibility, 17.5% of childless couples and 18.8% of people living alone; these rates are significantly higher amongst women, reaching around 24% for all three

¹¹ ISTAT - Annual Report 2022 (Annex 9)

categories.

27.7% of women in work are non-standard workers (as against 16.2% of men), along with 33.5% of foreign nationals (19.6% of Italian nationals), around one quarter of low-educated workers (17.3% of graduates) and 27.3% of residents of the southern *Mezzogiorno* regions (21.7% in central regions and 17.6% in the north).

Any overlap between these characteristics aggravates labour market weakness: the proportion of non-standard workers reaches 45.7% amongst young women (33.9% amongst young men), 36.1% amongst women in the *Mezzogiorno* regions (22.1% amongst their male counterparts), 36.4% amongst women who left education after completing middle school (18.6% amongst men with the same level of education) and 40.7% amongst foreign women (28.3% amongst foreign men).¹²

Having painted this picture of the labour market in Italy, an emblematic feature is the wide risk of poverty amongst employee workers, again identified within the ISTAT report.

In 2022, a total of 20.1% of people resident in Italy were living in families at risk of poverty (around 11 800 000 people) with equivalent family income during the year before the survey lower than 60% of median income.

The rate falls to 11.4% if only employees are considered (the figure for which is more than 5 percentage points lower than the figure for self-employed workers, at 16.5%, and around 4 points lower than the figure for pensioners, at 15.8%), affecting a total of around 2.4 million workers.

If employee workers only are considered, in 2022 the proportion at risk of poverty was highest amongst young people (aged under 35) (13.7%), being 5 percentage points higher than the rate for older workers (aged 50 and above), as a result of salaries that tend to increase over time in line with career progression, professional advancement and length of service.

In addition, the risk of poverty is inversely related to the level of education, and is more than twice as high for foreign workers as for Italians (24.6% compared to 9.8%). The risk for an employee worker resident in the *Mezzogiorno* regions is three

¹² Hearing of Ms Nicoletta Pannuzi, Head of the Integrated Labour, Education and Training System Service at the Italian National Institute of Statistics (Annex 3, cited above).

and a half times higher than for an employee worker from the north, and more than twice as high as for those from central Italy.

Gender differences are evident when family types are considered: amongst employees, single women aged under 35 are twice as likely to be poor and in work as single men in the same age bracket, and there is also a difference of almost 3 percentage points amongst older single men and women (35-64 years). The rate is much higher for single parents, almost all of whom are women, reaching 18.5%, and increases to 23.6% if the family includes at least one underage child.¹³ The risk of poverty falls in line with increasing work intensity, an indicator that varies between 0 and 1 and is obtained from the total number of months actually worked by all members of the family of working age as a proportion of the months during which they could potentially have worked; in other words, the higher the work intensity within a family (the closer people are to being fully occupied), the lower the likelihood of being at risk of poverty. The risk actually varies between 57% in families with a low work intensity of 0.2 and 3.5% in those with a high work intensity of 0.85. This is due to the fact that the risk of poverty is higher than average for fixed-term employees (20.4%), being twice as high as it is for permanent employees. It is also higher for part-time employees, whose risk of poverty is two and a half times higher than for full-time employees (21.8% against 8.1%).

In terms of composition, i.e., if the specific impact of each characteristic is computed for employees at risk of poverty, it must, however, be stressed that 65% of employees in families at risk of poverty are permanent employees, 56.3% work full-time and around three quarters are Italian citizens (75.6%).

Lastly, employees at risk of poverty include a high proportion of people with low educational qualifications (49.7%) or who are resident in the *Mezzogiorno* regions (54.3%).

Another significant category alongside workers at risk of poverty is that of low-paid employee workers.

According to UNIEMENS figures held by the INPS covering more than 14 million people in 2021, the threshold below which a worker is deemed to be low-paid is

¹³ Hearing of Ms Nicoletta Pannuzi, Head of the Integrated Labour, Education and Training System Service at the Italian National Institute of Statistics (Annex 3, cited above).

12 093 euros per annum (60% of the median salary). Just under 4.6 million employees (30% of the total) fall into this category. In the light of the figures provided by the INPS, it can be concluded that three factors have an impact on low pay: the hourly wage, the monthly work intensity and the period worked under the contract throughout the year.

The analysis shows that the effect of shorter employment contracts and a limited number of working hours is a key factor in establishing status as a low-paid worker, in addition to the – also relevant – impact of low hourly wages.

Full-time, permanent employees, who account for a little over half of the category of employees, receive gross annual pay – the median figure for which is higher than 25 000 euros – which is significantly higher than that of part-time employees, whether working under permanent contracts (around 12 000 euros) or fixed-term contracts (around 3 000 euros), but also compared to full-time, fixed-term employees (7 000 euros). Moreover, almost all part-time or fixed-term employees earn less than the median annual salary of full-time, permanent employees. In terms of the hourly wage, too, the median figure for full-time, permanent positions (above 12 euros per hour) is around three euros higher than the figure for fixed-term positions.

Having set out the factors which impinge upon the determination of salary levels in Italy, it can be concluded, in summary, that in 2022 almost one fifth of all jobs involved an hourly wage below 9 euros gross (18.2%, around 3.6 million jobs), affecting around 3 million workers. On the other hand, 30.6% of workers earn less than 10 euros per hour (out of a total of just over 6 million jobs), affecting almost 5.2 million workers.¹⁴

4.2 The data set out above demonstrate that Italy is violating the commitments made under Article 4 of the European Social Charter, both with regard to the system of national collective bargaining applied by Italy as well as with regard to the absence of any form of income support for the millions of vulnerable workers.

In this respect it is important to point out that, at first sight, the figures seem to be at odds with the position as it appears to be under the national collective agreements

¹⁴ Hearing of Ms Nicoletta Pannuzi, Head of the Integrated Labour, Education and Training System Service at the Italian National Institute of Statistics, cited above.

lodged with the National Economic and Labour Council (CNEL).

As noted in the previous sections, Italy is one of the small group of six EU Member States to have adopted collective bargaining without any statutory minimum as a system for regulating salaries.

In formal terms, Italy appears to be complying with Directive 2022/2041 of 19 October 2022 as, according to CNEL-UNIEMENS figures, 94.3% of workers are covered by collective bargaining mechanisms.

According to the system applied in Italy, the National Collective Labour Agreement (NCLA) is recognised under Italian law as the mechanism used by trade union organisations and associations of employers for jointly agreeing upon the rules governing employment relationships. NCLAs signed by trade union organisations are lodged with the CNEL.

In this context it must be noted that, although the principal national contracts signed by the most representative trade union organisations apply to a majority of workers and provide for minimum wages above the threshold of 9 euros per hour, these contracts currently make up only 22% of the 300 lodged with CNEL, as compared to 57% in 2011. The remaining contracts which have not been signed by the above organisations include so-called "pirate" contracts, i.e., those which have been signed by organisations created on an ad hoc basis in order to sign contracts of convenience enabling wages to be paid at a level lower than those provided for under sectoral NCLAs.

Most of these new contracts apply to a very small number of workers. A quarter of the contracts indicated in the UNIEMENS-INPS figures apply to fewer than one hundred workers, and half apply to fewer than one thousand people. Some NCLAs apply to just two or three workers.

However, whilst they are confined to a very limited number of workers, "pirate" contracts exert downward pressure on other collective agreements, given that the mere possibility of signing one undeniably undermines the bargaining process.

As regards this aspect therefore, the national legislation appears to be clearly deficient in that it does not contain any provisions capable of preventing forms of downward pressure exerted by the distortions in the collective bargaining system highlighted above.

4.3 These critical aspects are also compounded by the problem of the failure to renew national collective agreements in good time.

At present in fact, 50 percent of employee workers are working under contracts that have expired, on average, almost three years ago.

This fact, which is serious in itself, becomes particularly pressing if one considers the inflation levels over the last two years, which have eroded workers' salaries.

In this respect, too, Italy appears to be violating the provisions of the Social Charter, having failed to put in place sufficient mechanisms to ensure the adequate and timely renegotiation of salary adjustments.

4.4 It must lastly be considered that, as has been amply demonstrated above, collective bargaining does not provide any guarantees in relation to precarious forms of employment, such as project-based contracts, or self-employed workers. In other words, national agreements guarantee higher salaries, but at the price of excluding a growing number of people.

In this regard, the increasing prevalence of precarious employment noted above, which has not been adequately countered through legislation, is not at present accompanied by ongoing, universal income support systems which can at least ensure that workers are protected against pressure to erode their rights induced by low levels of work intensity or short-term contracts.

This failure by the Italian State to act amounts to a clear violation of the Charter. This is the case, in particular, when one considers that, as highlighted above, a benefit such as citizenship income – which was designed also to operate as an income supplement – has been abolished without being replaced by similar measures.

The points made above in relation to the two new measures, inclusion benefit and training and employment support, are emblematic of the issue. The former is not intended in any way for workers. On the other hand, the training and employment support allowance is clearly intended to provide support for initiatives to improve employability, and not as a form of income support for in-work poverty.

4.5 Notwithstanding the above, as previously mentioned, even full-time employment contracts covered by national collective bargaining are not immune to the very widespread forms of exploitation.

Numerous references have been made to the recent case involving the NCLA for private security firms, which was declared unlawful by the Court of Milan in judgment no. 673/2022.

As regards this aspect, it is important to refer once again to the legal principle enshrined in the judgment concerned. Specifically, it concluded that the remuneration actually paid to workers was lower than the threshold of €900.00 per month, and in many cases lower than the ISTAT poverty threshold of €839.75 and that, accordingly, the pay *"is not commensurate with the quality of the work performed by the claimants, and is not sufficient to ensure a free and dignified existence for workers and their families."* Accordingly, the court held that the remuneration provided for under the NCLA was *"specifically at odds with the constitutional principle enshrined in Article 36 of the Constitution,"* and thus disapplied the contract at issue and applied the more favourable conditions provided for in other contracts.

The ruling is not only relevant in that it involves the application of Article 36 of the Constitution to national law, but is also emblematic of the legislative vacuum in the field of minimum wage scales, which are not backed up by adequate legislation or – as is clear – strong bargaining processes.

From this point of view, it is even more evident that Italy is violating Article 4 of the European Social Charter also, and above all, insofar as Italian law does not provide for any form of adequate minimum wage which can guarantee respect for Article 36 of the Constitution and a dignified life free from poverty. In this connection, it is important once again to refer to the ISTAT data concerning the potential effect on pay which could result from the introduction of some form of minimum wage.

The increase in the minimum hourly wage to 9 euros net would thus entail an increase in annual pay for 3.6 million workers (if apprentices are disregarded, the figure falls to just over 3.1 million, 2.8 million of whom are classified as labourers). The average annual increase for these contracts would amount to around 804 euros per worker, resulting in an estimated overall increase in wages paid of more than 2.8 billion euros. Setting a minimum threshold of 9 euros would result in an increase in average annual pay of 0.9% for all workers, and of 14.6% for those affected by the measure. The most significant percentage increases would be achieved – as may

be expected – in the fields of other service activities (+8.9% of the total and +20.2% amongst those affected) and rental activities, travel agencies and business support services (+2.8% and +14.3%), for apprentices (+8% and +21.8%), for young people under the age of 30 (+3% and +18%), and also for workers in the south of the country (+2% and +16.7%) and the islands (+1.5% and +15.1%).

Depending upon the applicable NCLA, just over 6 million workers would receive an increase in annual pay if the minimum hourly wage were to be increased to 10 euros net, spread over 13 or 14 monthly payments (if apprentices are disregarded, the figure falls to just over 5.4 million, 4.7 million of whom are classified as labourers). The average annual increase for these contracts would amount to around 1 069 euros per worker, resulting in an estimated overall increase in wages paid of around 6.4 billion euros. Setting a minimum wage of 10 euros would result in an increase in average annual pay of 1.9% for all workers, and of 18.3% for those affected by the measure. Again in this case, the most significant percentage increases would be achieved for jobs in the fields of other service activities (+15.5% of the total and +28.9% amongst those affected) and rental activities, travel agencies and business support services (+5.9% and +20.1%), for apprentices (+15% and 27.9%), for young people under the age of 30 (+6.1% and 21.1%), and also for workers in the south of the country (4% and 21.2%) and the islands (3.3% and 18.5%).

It is clear from these data that the failure by Italy to adopt policies capable of ensuring salaries at a sufficient level, in accordance with Article 4 of the Social Charter, is still today forcing millions of workers to live in extreme financial difficulty without any form of income support.

*

In view of the above, the undersigned, Mr Marcelo Amendola, acting in his capacity as Secretary General and legal representative of the CUB, asks the Committee to declare this complaint admissible and well founded and to rule that:

- the Italian Republic has violated and is violating Article 12 of the European Social Charter in having failed to provide for any form of universal basic income, while on the contrary having adopted policies to restrict the social security measures previously put in place;

- the Italian Republic has violated and is violating Article 30 of the European Social Charter in having failed to provide for any form of universal basic income aimed at ensuring the effective exercise of the right to protection against poverty and social exclusion;

- the Italian Republic has violated and is violating Article 4 of the European Social Charter in having failed to provide for any form of statutory minimum wage or any form of supplement for income from employment, despite the high levels of workers living in poverty.

Along with the adoption of any appropriate resulting measure.

The complainant also asks that it be able to use the Italian language in these proceedings and, in particular, in all written documentation.

Rome – Strasbourg, 14 December 2023

Marcelo Amendola
The Secretary General of the CUB