



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

10 June 2024

Case Document No. 3

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

RESPONSE FROM CUB TO THE GOVERNMENT'S OBSERVATIONS ON ADMISSIBILITY

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Department of the European Social Charter
Directorate General Human Rights and Rule of Law
Council of Europe
F-67075 Strasbourg Cedex
e-mail address: social.charter@coe.int

Subject: Confederazione Unitaria di Base (CUB) v. Italy

Complaint no. 234/2024

The purpose of this document is to respond to the observations made by the Italian State concerning the admissibility of the collective complaint submitted by the Confederazione Unitaria di Base (hereinafter CUB).

1. On the Alleged Inadmissibility of the Complaint

The Italian State alleges that the CUB does not meet the eligibility requirements. The Italian State further asserts that the requirement of representativeness must be assessed according to national parameters, as indicated by national case law and the interpretative note of the Ministry of Labour and Social Security of 11 January 1995 No. 14. This is not the case.

1.1 It is hardly necessary to point out that there is substantial case law from this court, which states that representativeness is an autonomous concept, not necessarily identical to the national notion of representativeness. It goes beyond national considerations and the context of national collective labour relations (see *Confédération Française de l'Encadrement CFE-CGC v. France*, Complaint No. 9/2000, decision on admissibility of 6 November 2000; *Complaint No. 6/1999, Syndicat National des Professions du Tourisme v. France*, decision on admissibility). The Italian State's comments are therefore completely wrong, as there is no similarity between national representativeness and that envisaged for the purpose of this action.

1.2 At the same time, the assertion that representativeness must be verified territorially is incorrect. In this regard, it should be noted that, while the exceptions set out in section 1.1 remain valid, the Court of Cassation has ruled on principles opposite to those set out by the other party. Specifically, it has been ruled, with regard to the spread of trade union structures over the territory, that it is not identified 'which

presence is to be considered the minimum'; it follows that this indicator, if it implies the existence of a very extensive organisation, does not require carrying out activities in every area of the national territory (see Court of Cassation 1256/1984). Consequently, the reference made by the Italian State, according to the note of the Ministry of Labour (No. 14/95), that organisations must prove they have their operational headquarters in at least half of the provinces is without legal merit.

1.3 It is further noted that the Constitutional Court has intervened on the issue, stating that "the inability of the model set out in Article 19 of Law No. 300/1970 to reflect the effectiveness of representativeness has gradually diminished" and for this reason it is necessary to "lay down new rules capable of reversing in the changed situation the principles of freedom and trade union pluralism set out in paragraph 1 of Article 39 of the Constitution, by providing instruments for verifying the actual representativeness of the associations" (Constitutional Court 26.1.1990, no. 30). On the other hand, it is worth noting that the CUB is legitimised to defend workers in the Italian Courts, precisely because of its undisputed representativeness. In fact, there are many rulings by Italian courts in which the trade union has been recognised as having the legitimacy to defend workers. It is almost impossible to file all the appeals in which such active legitimacy in the defence of workers has been recognised, therefore, only some of the aforementioned judicial rulings will be filed (All. 1 judicial rulings).

1.4 It should also be noted that the CUB has been heard several times by the competent labour committees of the Senate of the Republic and the Chamber of Deputies on issues relating to the present action, and specifically on 20.4.2023, and numerous other times on issues relating to workers' rights (ad abundantiam 7.2.2024, Commission of Inquiry on working conditions in Italy, on exploitation and safety in public and private workplaces; 20.4.2021 Chamber of Deputies Committee on Transport) (All. 2).

In light of the foregoing, we insist on the admissibility of this complaint.

Rome - Strasbourg, 21.5.2024

Marcelo Amendola

Secretary General of the CUB



SEGRETARIO NAZIONALE

C.U.B.

CONFEDERAZIONE UNITARIA DI BASE
AMENDOLA MARCELO