

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



8 September 2025

**Case Document No. 1**

**European Organisation of Military Associations and Trade Unions (EUROMIL)  
v. Italy**  
Complaint No. 252/2025

**COMPLAINT**

**Registered at the Secretariat on 5 September 2025**



European Organisation of  
Military Associations and  
Trade Unions

Brussels, Belgium  
<http://euromil.org/>

## COLLECTIVE COMPLAINT

**European Organisation of Military Association and Trade Unions** (EUROMIL), with registered office at Boulevard du Jardin Botanique 20, 1000 Brussels, Belgium, represented by Emmanuel Jacob, President and Johan Öhlén, 2nd Vice-President of EUROMIL

against

**Italian Republic**, represented by the President of the Republic, Sergio Mattarella  
on the grounds of

the violation and inadequate application by the Republic of Article 5 (The right to organise) and Article 6 (The right to bargain collectively) of the Revised European Social Charter (hereafter, Revised Charter)

requests

that Article 1475, 1476, 1476-ter, 1476-quarter, 1477 and 1477-ter of Legislative Decree No. 66 of 15 March 2010 (hereafter, Military Code), as well as any executive act, whether known or unknown, related to, associated with or resulting from the foregoing be declared as not compliant with the abovementioned Articles of the Revised Charter and consequently, that the Italian Republic bring its legislation into line with the Revised Charter.

### **Admissibility**

The European Organisation of Military Associations and Trade Unions (EUROMIL) is a European non-governmental organisation which has participatory status at the Council of Europe since 2003. EUROMIL is included in the [List](#) of International Non-Governmental Organisations Entitled to Submit Collective Complaints under the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (hereafter, Collective Complaints Protocol).

Founded in 1972, EUROMIL is an umbrella organisation composed of military associations and trade unions. It is the main Europe-wide forum for cooperation among professional military associations on issues of common concern. EUROMIL has for the moment two member and two observer associations in Italy, namely Association Solidarity Rights and Progress (ASSODIPRO), Guardia de Finanza's Workers Union (SILF), Sindacato Italiano Autonomo Militare Organizzato Esercito (S.I.A.M.O Esercito) and Associazione Sindacale Libera Rappresentanza Militare (LRM) and is working in close collaboration with Nuovo Sindacato Carabinieri (NSC).



EUROMIL aims to secure and advance human rights, fundamental freedoms and socio-professional interests of military personnel of all ranks in Europe. It promotes the concept of "Citizens in Uniform" as a soldier is entitled to the same rights and obligations as any other citizen. EUROMIL particularly calls for recognition of the right of servicemen and -women to form and join trade unions and independent associations, and for their inclusion in a regular social dialogue by the national authorities.

Italian Republic ratified the European Social Charter on 22 October 1965, the Revised Charter on 5 July 1999, and the Collective Complaints Protocol on 3 November 1997<sup>1</sup>.

### Statement of Facts

In 2017, the Council of State raised the question of the constitutional legitimacy of Article 1475 (2) of the Military Code, for conflict with Article 117 (1) of the Constitution of the Italian Republic in relation to Article 11 and 14 of the European Convention on Human Rights (ECHR), and Article 5 of the Revised Charter.

On 13 June 2018, the Constitutional Court declared in Judgement 120/2018 that *"the unconstitutionality of art. 1475, paragraph 2, of Legislative Decree 15 March 2010, n. 66 (Military Code), as it provides that "Military personnel may not form professional associations of a trade union nature or join other trade union associations" instead of providing that "Military personnel may form professional associations of a trade union nature under the conditions and within the limits established by law; they may not join other trade union associations."*

In September 2018, Defence Minister Trenta issued a decision (Circ. Min. 36019/2018 of 12 September 2018) to grant the right to organise in the form of military associations with a trade union character, based on the judgement of the Constitutional Court.

On 11 September 2019, the Committee of Ministers of the Council of Europe regarding Complaint No. 140/2016 recalled that *"trade unions must be free to organise without prior authorisation, and initial formalities such as declaration and registration must be simple and easy to apply (Conclusions 2010, Georgia, Article 5). There must also be provision in domestic law for a right of appeal to the courts to ensure that these rights are upheld (Conclusions 2016, Malta, Article 5)."*

In March 2023, the European Committee of Social Rights (ECSR) published its Conclusions regarding Italy noting that Law No. 46 of 28 April 2022 (Law 46/2022) recently entered into force which permits military personnel to form and join a trade union. Although the new legislation was outside the reference period, the ECSR concluded that *"the situation is not in conformity with the Charter."*

<sup>1</sup> Link: <https://rm.coe.int/table-of-signatures-and-ratifications>





On 28 April 2023, EUROMIL submitted its Resolution on Law on the Representation of the Italian Armed and Military Enforcement Forces concerning the 22nd National Report on the implementation of the European Social Charter regarding Italy. EUROMIL noted that Italy recognized trade union rights under the name of "*professional associations with a trade union character*" which terminology is unprecedented and expressed regret that the existing law fails to establish an adequate framework for granting trade union rights to military personnel.

On 2 July 2023, Sindacato Italiano Lavoratori Finanziari (SILF) submitted its Comments concerning the 22nd National Report on the implementation of the European Social Charter regarding Italy and noted that the Italian Government replaced prior consent to the constitution of the trade union with the obligation to register.

On 6 November 2023, four Members of the European Parliament submitted their [question](#) to the European Commission regarding trade union rights for military personnel in Italy. They highlighted that Law 46/2022 "*poses a number of problems that risk undermining the freedom, democratic nature and transparency of the trade union representatives of the armed forces and military police.*" In their [answer](#) on 20 December 2023, the Commission emphasized the importance of "*participation of social partners in policy decision-making, including through the effective recognition of the right to collective bargaining.*"

On 21 February 2025, Legislative Decree No. 14 of 19 February 2025 (hereafter, Legislative Decree 14/2025) was published. Legislative Decree 14/2025 contains provisions to regulate the specific limitations on the exercise of trade union activity by personnel employed in operational, training, educational and exercise activities, even outside the national territory, included in contingents or on board naval units or seconded individually, pursuant to Article 9, paragraph 15, of Law No. 46 of 28 April 2022.

## Statement of Claims

### Regarding Article 5 of the Revised Charter

Art. 5 of the Revised Charter states that "*with a view to ensuring or promoting **the freedom of workers and employers to form** local, national or international organisations for the protection of their economic and social interests **and to join those organisations**, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. (...) The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.*"

Trade union rights are foreseen in Article 8 (1) of the International Covenant on Economic, Social and Cultural Rights, Article 11 of the European Convention on





Human Rights, Article 12 (1) and 28 of the Charter of Fundamental Rights of the European Union, Article 22 of the International Covenant on Civil and Political Rights, and Article 23 (4) of the Universal Declaration of Human Rights.

The articles declare that **everyone has the right to form and join trade unions** and no restrictions may be placed on the exercise of these rights other than those *"prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others"*.

Article 2 of the ILO Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise declares that *"workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, **to join organisations of their own choosing without previous authorisation.**"*

Article 39 (1)-(2) of the Constitution of the Italian Republic declares that **"trade unions shall have the right to organize themselves freely"** and *"No obligations shall be imposed on trade unions other than **registration at local or central offices**, according to the provisions of law."*

Meanwhile Article 1475 (1)-(2) of the Military Code stipulates that *"the establishment of associations or clubs between military personnel is subject to the **prior consent** of the Minister of Defence" and "military personnel may establish **professional associations of a trade union nature** for each Armed Force or Police Force with a separate organisation."*

Article 1476 (2)-(3) of the Military Code declares that *"members of the Armed Forces and of the Police Forces with military organization may not **join professional associations** of a trade union nature other than **those established** pursuant to the provisions of this chapter" and "members of the Armed Forces and the Police Forces with military organization **may join only one professional association** of a trade union nature among military personnel, hereinafter "APCSM"."*

Article 1476-quater (1) g) of the Military Code declares that *"APCSM are **prohibited from join trade union associations other than those established** pursuant to the provisions of this chapter or federate, affiliate or have organizational or conventional relations, including through other bodies or organizations, with the same associations"*.

The abovementioned articles of the Military Code completely disregard the freedom to form and join a trade union established in international standards and legislation and contradict the relevant articles of the Constitution of the Italian Republic.





It is accepted that Article 5 of the Revised Charter allows member states to impose restrictions upon the right to organise of military personnel and grants them a wide margin of appreciation in this regard, however, these restrictions may not go as far as to suppress entirely the right to organise.

EUROMIL stresses that limiting the participation in more than one professional association deprives military personnel from their right to freedom of association as it disregards Article 5 which states "***the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations***".

EUROMIL argues that based on the ECSR's observation, national umbrella organisations of employees often possess more significant bargaining power in national negotiations. Thus, prohibiting the participation and connection with national and international trade union associations prevents APCSMs from building alliances and networks with the broader world of civil trade unionism, could isolate military trade unions and limit their ability to influence general labour policies. Furthermore, contradicts the guarantees enshrined in Article 5 of the Revised Charter.

Moreover, Article 1477-ter (1) and (3) of the Military Code declare that the leadership positions "*respect the principle of **gender equality**, and can only be held by **active military personnel** who have completed at **least five years of service** in the Armed Forces or in the military police forces*" and "*the term of office for executive positions is **four years and may not be split**. Re-election for more than two consecutive terms is not permitted*" which beside being too restrictive, is a clear interference in the internal affairs of the associations.

Article 1477 (1) and (5) of the Military Code declares that "*for the purposes of carrying out the activities provided for in the statute and collecting union dues in the forms established by Article 1480-quater, a **specific register** for the registration of APCSM is **established at the Ministry of Defense***" and "*in the event of a subsequent finding of the **loss of even one of the requirements or a violation of the legal provisions**, the competent **Ministry** shall (...) **notify the APCSM**, which may submit its written observations within fifteen days. Within the following thirty days, the competent Ministry shall adopt the **final decision**, informing the Minister for Public Administration thereof, **in the case of a cancellation from the register referred to in paragraph 1***".

Based on the abovementioned paragraphs, the Ministry of Defence has the power to verify the conformity of the association's activity with its statute and with the law, being able to order its removal from the register in case of serious violations. EUROMIL stresses that this "ministerial control" is unnecessarily intrusive and a potential minefield for trade union autonomy.

Article 1477 (2) of the Military Code states that "*the APCSM, within five working days of their constitution, deposit the statute with the Ministry of Defense which,*





(...) within the following sixty days **arrange for their registration** in the relevant register."

Establishing associations requires prior consent from the Minister of Defence, which limitation is not considered as being proportionate and necessary in a democratic society, furthermore, it disregards the ascertainment of the Committee of Ministers (ECSR) regarding Complaint No. 140/2016: "trade unions must be free to organise **without prior authorisation**".

In Recommendation CM/Rec(2010)4 on human rights of members of the armed forces, the Committee of Ministers of the Council of Europe underlined that "members of the armed forces should have the **right to join independent organisations** representing their interests and have the **right to organise and to bargain collectively**. Where these rights are not granted, the continued justification for such restrictions should be reviewed and unnecessary and disproportionate restrictions on the right to assembly and association should be lifted."

In light of the Recommendation, in EUROMIL v. Portugal (case No. 199/2021), the European Committee of Social Rights (ECSR) considered that "Article 5 of the Charter allows States Parties to impose restrictions upon the right to organise of members of the armed forces (...) However, **these restrictions may not go as far as to suppress entirely the right to organise, such as the blanket prohibition of professional associations of a trade union nature** and the affiliation of such associations to national federations/ confederations".

The terminology of "professional association with a trade union character", introduced in Law 46/2022 (in force since 31 December 2023) is unprecedented and impose restrictions upon the right to organise. EUROMIL argues that the right to freedom of association is theoretically granted to military personnel, however, the role and competences of military associations have been restricted.

Considering the above, EUROMIL believes that the regulation of professional associations is clearly insufficient to defend their members' rights, resulting in professional military associations being impeded from collectively representing the "Workers in Uniform" as a professional category for the protection of their economic and social interests.

Regarding Article 6 of the Revised Charter

**Article 6 (1)** promotes **joint consultation** between workers and employers.

Article 1476-ter (4) of the Military Code disregards Article 6 (1) of the Revised Charter altogether as it states "APCSM may: **submit observations** and proposals to the competent Ministries on the application of laws and regulations and report any amendment initiatives they deem appropriate", "**be heard** by the Parliamentary Committees of the Senate of the Republic and the Chamber of Deputies" and "**ask to be received** by the competent Ministers and the top bodies





of the Armed Forces and the military police forces". The initiation of joint consultations is restrictive and imbalanced as the Government can disregard the observations and decide on "hearing" and "receiving" the associations. EUROMIL argues that the Article doesn't allow military associations to efficiently participate in joint consultations.

It further strengthens our argument that on 11 November 2024, a **written opinion was requested** by some of the APCSMs regarding a draft law containing "*provisions for the exercise of trade union freedom for personnel of the Armed Forces and military-structured Police Forces, as well as the extension of the delegation referred to in Article 9, paragraph 15, of Law No. 46 of April 28, 2022*". Furthermore, **no preliminary consultations** were foreseen with the nascent professional associations for the definition of the implementing decrees of Law 46/2022, particularly those relating to recognition and operational procedures.

On 3 July 2025, several APCSM had a meeting with the Government's and competent Ministries' representatives. The representatives of APCSMs urged for the immediate amendment of the Military Code (COM) and the Consolidated Text of Regulatory Provisions on Military Organization (TUOM) to ensure the full effectiveness of trade union activities and prerogatives.

On 22 July 2025, in Rome a meeting was held between the Minister of Defence, and the APCSM represented by S.I.A.M.O Esercito. Mauro Palmas, Secretary General of S.I.A.M.O Esercito presented several proposals concerning promotion procedures, housing, social security and payment of overtime amongst others. Closing his presentation, he remarked "*the proposals put forward are not corporate demands but rather **reasonable requests***".

EUROMIL stresses that while the ultimate decision is in the hands of the employer, joint consultations cannot be organized with the idea of one social partner being above the other. Joint consultations should be held between equal social partners, based on effective, regular discussions and information exchange.

**Article 6 (2)** promotes, where necessary and appropriate, machinery for **voluntary negotiations** between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of **collective agreements**.

Article 39 (4) of the Constitution of the Italian Republic states that "**registered trade unions have legal status. They may, through a unified representation proportional to their membership, enter into collective labour contracts which shall be mandatory for all persons belonging to the industry referred to in the contract.**"

Article 46 (2) of Legislative Decree No. 95 of 29 May 2017, states that "**the subjects of the negotiation procedures for civil and military managerial personnel are: the ancillary treatment; measures to encourage service**





*efficiency; ordinary leave, extraordinary leave or permits; leave of absence for health and family reasons or leave of absence due to infirmity and for private reasons; short-term permits for personal needs; expectations, detachments and union permits; mission and transfer treatment; the general criteria for professional training and updating; the general criteria for the management of personnel assistance bodies.*

EUROMIL underlines that matters related to the organization of operational units, the deployment of personnel in operations, and military discipline in the strict sense remain, by their nature, excluded from the scope of trade union negotiation.

EUROMIL stresses that there are no collective agreements in the strict sense of the term as in the civilian sector, however, several economic-normative contracts have been finalized in consultation with the professional associations with trade union characteristics (Decree of the President of the Republic (DPR) No. 56 and No. 57 of 20 April 2022, and DPR No. 52 and No. 53 of 24 March 2025).

Article 1477-bis (3) of the Military Code establishes that the peripheral articulations of APCSMs relate to military administrations "*competent at the area level and in any case not lower than the regional level*" for local issues, **"without any negotiating role"**.

This limitation severely undermines trade unions' role, eliminating its widespread territorial presence and direct contact with the "trade union base". The province, and even more so the section, represent the first level of contact for military personnel with daily problems. The absence of a provincial and section trade union interlocutor means that many local issues, requiring immediate and direct interaction with local commands, may not find adequate representation or resolution, making trade union action less effective and responsive to the concrete needs of personnel.

**Article 6 (3)** promotes the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the **settlement of labour disputes**.

Article 1481 (1) of the Military Code declares that "*disputes relating to **the exercise of trade union freedom** by personnel of the Armed Forces and military police forces, even when anti-union conduct affects the prerogatives of the APCSM, as well as disputes concerning the measures to remove the APCSM from the register referred to in Article 1477 and those relating to the exercise of the right to assembly referred to in Article 1480-bis, are devolved to the **exclusive jurisdiction of the administrative judge.***"

Article 1482-bis (1) a) of the Military Code states that "*for the purposes of carrying out the conciliation attempt (...) the following are established: for disputes of national importance, the **Central Conciliation Commission at the Ministry of Defence***".





Article 6 (3) of Decree No. 75 of 9 April 2024 on the establishment and functioning of the central and peripheral commissions responsible for the conciliatory resolution of disputes declares that **"for labour disputes of national and local significance arising from conduct, actions, or measures attributable to members of the Armed Forces, including the Carabinieri, and the Guardia di Finanza, the central conciliation commissions referred to in Article 3, paragraph 1, meeting in joint session at the Ministry of Defense, have jurisdiction to handle the related conciliation requests."**

EUROMIL remarks that the issue of jurisdiction for disputes concerning military personnel and APCSMs is a crucial point in Italian administrative and labour law. Traditionally, the employment relationship of military personnel has remained under public law which means that decisions made by the Ministry of Defence affecting for example the career, assignments, transfers, or disciplinary sanctions of military personnel are considered as administrative acts. Protection against such acts is entrusted to the Administrative Judge. The military legal system, with its peculiarities linked to hierarchy, discipline, and operational needs, has always justified this devolution to the Administrative Judge for disputes concerning the status and progression of military personnel.

Notwithstanding, in Italy, union-related cases are heard before ordinary judges, acting as labour tribunals to ensure the impartiality of the judging panel. Only the cases of the military unions are heard before an administrative judge.

The ruling of the Court of Milan (Judgement No. 244/2021 of 28 January 2021) affirmed the jurisdiction of the ordinary judge in anti-union conduct disputes involving military personnel (in this specific case, a Carabinieri trade unionist). The decision overturned previous rulings that referred such disputes to the administrative judge, recalling decisions of the Court of Cassation (such as Order No. 20161 of 24 September 2010 and Judgment No. 2359 of 09 February 2015) which indicate the jurisdiction of the ordinary judge for disputes brought by trade unions concerning anti-union conduct of public administrations, pursuant to Article 63 (3) of Legislative Decree No. 165 of 30 March 2001.

Furthermore, the Central Conciliation Commission that was mentioned in Article 1482-bis (1) a) of the Military Code as of today is still not established.

**Article 6 (4)** recognises the right of workers and employers to **collective action** in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Article 40 of the Constitution of the Italian Republic states that *"the right to strike shall be exercised in compliance with the law."*

Meanwhile Article 1475 (4) of the Military Code states that **"Military personnel cannot exercise the right to strike."**





European Organisation of  
Military Associations and  
Trade Unions

Brussels, Belgium  
<http://euromil.org/>

EUROMIL stresses that the right to strike must be considered alongside the right to collective bargaining and should only be used as an instrument of last resort to defend workers' rights. However, it is an essential trade union right that must be guaranteed to all workers as it is the most effective mean to achieve a favourable result from a bargaining process.

EUROMIL argues that an absolute prohibition cannot be justified either by the requirements of military discipline or by the public nature of the service. Nevertheless, restrictions on the right to strike may be acceptable under specific circumstances and conditions, namely when social dialogue and the right of collective bargaining are sufficiently organised and effective. As this is not the case in Italy, EUROMIL considers that the prohibition of the right to strike prescribed in the Military Code, is not necessary in a democratic society and should be replaced by a partial prohibition.

### Conclusions

EUROMIL in the light of the circumstances set out above to guarantee the positive implementation of the Revised Charter in Italy and to protect military personnel requests that the European Committee of Social Rights, acting within the scope of its competence:

- accept and rule admissible this collective complaint filed by EUROMIL,
- find that Article 1475, 1476, 1476-ter, 1476-quater, 1477 and 1477-ter of Legislative Decree No. 66 of 15 March 2010 is not compliant with Article 5 and 6 of the Revised Charter,
- find that Italy is violating Article 5 of the European Social Charter because it prohibits professional military associations from exercising activities of a trade union,
- find that Italy is violating Article 6 of the European Social Charter because it fails to promote effective joint consultations and collective agreements, sets an inappropriate machinery for the settlement of labour disputes, and prohibits professional military associations as worker's organisations from exercising the right to strike.

Brussels, 6 September 2025

Respectfully,

**Emmanuel Jacob**

President of EUROMIL

**Johan Öhlén**

2nd Vice-President of EUROMIL