



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

DECISION ON ADMISSIBILITY

22 January 2019

Sindacato autonomo Pensionati Or.S.A. v. Italy

Complaint No. 167/2018

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 304th session attended by:

Giuseppe PALMISANO, President
Karin LUKAS, Vice-President
Eliane CHEMLA, General Rapporteur
Petros STANGOS
József HAJDU
Krassimira SREDKOVA
Raul CANOSA USERA
François VANDAMME
Barbara KRESAL
Kristine DUPATE
Aoife NOLAN
Karin MØHL LARSEN
Yusuf BALCI
Ekaterina TORKUNOVA

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having regard to the complaint registered on 10 May 2018 as No. 167/2018, lodged by the *Sindacato autonomo Pensionati Or.S.A.* against Italy and signed by Daniele Gorfer, General Secretary of the trade union, requesting the Committee to find that the situation in Italy is not in conformity with Article 12§3 of the Revised European Social Charter (“the Charter”);

Having regard to the documents appended to the complaint;

Having regard to the Charter, and in particular to Article 12§3, which read as follows:

Article 12 – The right to social security

Part I: “All workers and their dependents have the right to social security.”

Part II: “With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

...

3. to endeavour to raise progressively the system of social security to a higher level;...”

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints (“the Protocol”);

Having regard to the Rules adopted by the Committee on 29 March 2004 at its 201st session and last revised on 26 January 2018 at its 297th session (“the Rules”);

Having deliberated on 22 January 2019;

Delivers the following decision, adopted on this date:

1. The *Sindacato autonomo Pensionati Or.S.A* alleges that the situation in Italy is in breach of Article 12§3 of the Charter. It contends that, as a consequence of the provisions introduced by Legislative Decree No. 65/2015 and Law No. 147/2013, the pension indexation mechanism has been circumscribed, or even halted, and that this has resulted in a substantial drop in statutory retirement pensions and their purchasing power in violation of the principle of progressivity of Article 12§3 of the Charter.

2. The Government does not object to the admissibility of the complaint.

THE LAW

3. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Italy on 3 November 1997 and entered into force for this State on 1 July 1998, the complaint has been submitted in writing and concerns Article 12§3 of the Charter, provision accepted by Italy when it ratified the Charter on 5 July 1999, as well as Article E. Italy is bound by this provision since the entry into force of this treaty in its respect on 1 September 1999.

4. With regard to the allegations, the Committee notes that the complaint relates to a provision of the Charter accepted by Italy and the grounds for the complaint are indicated. The complaint therefore satisfies Article 4 of the Protocol for the purposes of admissibility.

5. As regards the union's representativeness within the meaning of Article 1 (c) of the Protocol, the Committee points out that the representativeness for the purposes of the collective complaints procedure is an autonomous concept, not necessarily identical to the national notion of representativeness (see *Confédération Française d'Encadrement CFE-CGC v. France*, Complaint No. 9/2000, decision on admissibility of 6 November 2000, §6). The Committee also observes that, in accordance with Articles 1 (b) and 3 of the Protocol, the *Sindacato autonomo Pensionati Or.S.A.* is a trade union which is engaged in activities within the jurisdiction of Italy, and that the Government does not contest this. According to Article 3 of its Statute, its purpose is to protect the legal, moral and financial interests of its members, with particular attention to pension issues.

6. The *Sindacato autonomo Pensionati Or.S.A.* represents the interests of pensioners within Confederation *Or.S.A.* which has among its main objectives to protect active and retired workers and to organise pensioners in order to strengthen their economic protection, ensure equal dignity and equal protection for all generations (Article 2 (a) of its Statute). The Committee recalls that it has already considered as representative trade unions complainant organisations representing pensioners of public and private Greek enterprises (see, among others, *Panhellenic Association of Pensioners of the OTE Group Telecommunications (FPP-OTE) v. Greece*, Complaint No. 156/2017, decision on the admissibility of 22 March 2018).

7. On the basis of the information at its disposal, the Committee finds that in accordance with Article 1 c) of the Protocol, *Sindacato autonomo Pensionati Or.S.A.* is a representative national trade union for the purposes of the collective complaints procedure

8. Lastly, the Committee observes that the complaint is signed by Daniele Gorfer, General Secretary of the *Sindacato autonomo Pensionati Or.S.A.*, and legal Representative who has capacity to bring or defend legal proceedings on behalf of the trade union, in accordance with Article 16 of its statutes. The Committee therefore considers that the complaint complies with Rule 23.

9. For these reasons, the Committee, on the basis of the report presented by François VANDAMME,

DECLARES THE COMPLAINT ADMISSIBLE

In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the States having submitted a declaration pursuant to Article D, paragraph 2, of the Charter, and to publish it on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 29 March 2019.

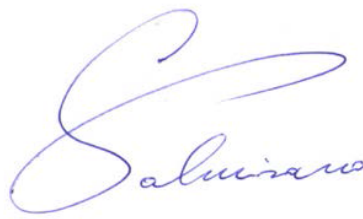
Invites the *Sindacato autonomo Pensionati Or.S.A* to submit a response to the Government's submissions by a deadline which the Committee shall determine.

Invites Parties to the Protocol and the States having submitted a declaration pursuant to Article D, paragraph 2, of the Charter to make comments by 29 March 2019.

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the European Social Charter to make observations by 29 March 2019.



François VANDAMME
Rapporteur



Giuseppe PALMISANO
President



Henrik KRISTENSEN
Deputy Executive Secretary