



The right to strike in the public services

Italy



The right to strike in the public services – Italy

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This factsheet reflects the situation in July 2021. It was elaborated by Coralie Guedes (independent expert), updated by Diana Balanescu (independent expert) and reviewed by EPSU/ETUI; it was also sent for comments to EPSU's Italian affiliates.

1. Legal basis

International level

Italy has ratified:

UN instruments¹

International Covenant on Economic Social and Cultural Rights

(ICESCR, Article 8)

International Covenant on Civil and Political Rights

(ICCPR, Article 22)

ILO instruments²

Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise

(ratified on 13 May 1958);

Convention No. 98 concerning the Right to Organise and to Bargain Collectively

(ratified on 13 May 1958);

Convention No. 151 concerning Labour Relations (Public Service)

(ratified on 28 Feb 1985).

Italy did not ratify

Convention No. 154, Collective Bargaining Convention, 1981.

European level

Italy has ratified:

Article 11 (the right to freedom of assembly and association) of the European Convention on Human Rights³

(ratification and entry into force on 26 October 1955).

The Revised European Social Charter⁴ including Article 6§4 (the right to collective action)

(ratification on 05 July 1999).

The Additional Protocol Providing for a System of Collective Complaints.⁵

(ratification on 03 November 1997 and entry into force on 01 July 1998).

National level

The Constitution of Italy

Article 40 of the Italian Constitution guarantees that 'the right to strike shall be exercised in compliance with the law'. It recognises the right of the workers alone (there being no right of lockout) to withdraw their labour in order to promote their own interests.

Since no law has so far been passed on the subject and, therefore, in the absence of detailed legislation, the right to strike is interpreted by case law.

To be legitimate, a strike must:

- protect the direct and legitimate common interests of the participants;
- aim at the conclusion of a collective agreement;
- not violate the rights and interests of others, such as private property rights or the right to work;
- be decided upon freely and voluntarily by the employees as a group, acting on their own behalf or through a trade union;
- not aim at the overthrow of the Italian Constitution or the abolition of a democratic form of government.

The right to strike is defined as one of the means granted to workers to remove obstacles which hinder their effective equality and their full participation in the economic, social and political life of the country (Article 3(2) of the Constitution).

In 1993, a thoroughgoing reform of the public service led to Legislative Decree No. 29 (February 1993) which approved a change of the status of most public servants, bringing them under private law contracts governed by the Civil Code.

Some categories of personnel were not brought under private law in order to preserve their autonomy (judges and prosecutors, university professors, military personnel and police officers, diplomats and prefectural corps). These categories are defined as non-contractual public employees, as opposed to contractual/'privatised' employees.

But the public law regulations continue to apply in matters of recruitment, incompatibility and accumulation of posts.

2. Who has the right to call a strike?

In so far as the right to strike is considered an individual right of the worker (to be exercised collectively), both primary and secondary strikes can be called by any group of workers, as well as by trade union or company works councils.

3. Definition of a strike

Four types of strike action are permitted under Italian law:

- **articulated** (strategic combination of collective abstentions from work interspersed with periods of working)
- **picketing** (non-violent)
- **political**
- **solidarity**

In 1986, the Supreme Court made a landmark ruling stating that the only completely lawful form of stoppage in Italy is the all-out strike in which all employees abstain from working for a fixed or indefinite period of time. This means that workers must work fully or not at all.

The two main types of illegal work stoppages, in theory, are political and solidarity strikes.

The Constitutional Court has, however, recognised the principle of **political strikes**. Yet it has also recognised that these can be prohibited if their aim is to subvert the democratic system established by the Constitution. The Supreme Court decision No. 16515 of 2004, considers political strikes to be protected under civil law. Some criminal provisions regarding political strikes remain partially in force under Art. 503 and 504 of the Criminal Code, but the scope of their application is marginal. Only strikes aimed at overthrowing the constitutional order or at blocking or impeding the functioning of democratic institutions would be deemed unlawful.⁶

Article 505 of the Penal Code makes **solidarity strikes** a criminal offence. In relation to this form of strike, the Constitutional Court (Decision No. 123 of 1962) recognised the provision as legitimate, while nevertheless acknowledging that such strikes should not be subject to penal sanction when a genuine community of interest exists.

A solidarity strike may be considered fair if called to protest against the dismissal of one or more employees of a company or in a particular industry.

Solidarity strikes in support of workers abroad are legitimate provided there is some community of interest between the Italian workers and the others involved, and that the Italian action is in other respects lawful (judgment of the Supreme Court of 3 October 1979).

Lock-out: specific regulations on the employers' right to lockout do not exist in the Italian legal system. However, the case law – among others decision no. 5378/85 Supreme Court of Cassation – clarified that there is no breach of employment contract when an employer declares a lockout in response to a strike, and the industry is unable to continue production. Furthermore, in its decision no. 29/1960 the Constitutional Court declared against the Constitution the prohibition of lockout for contractual purposes foreseen in Article 502 of the Italian Criminal Code. In other two decisions, no. 141/1967 and 53/1986, the Constitutional Court declared as unlawful the lock-out for purposes other than those of the contract – such as the political lock-out, the lock-out for the purpose of solidarity or protest.⁷

4. Who may participate in a strike?

There are **no particular restrictions** on the trade union rights of **public servants**. The right to strike is prohibited only for military personnel and the state police and limited for other categories as shown below.

According to Article 84 of Law No. 121/1981, the State Police (*Polizia di Stato*) does not have the right to strike or take other industrial action that would affect the ability to ensure public safety or that could compromise the activities of the judicial police.

Article 1475(4) of Legislative Decree No. 66/2015 states that the military cannot exercise the right to strike and these include the army, navy and air force as well as *Carabinieri* and *Guardia di Finanza*. The Italian State Forestry Corps, that was not considered a military body, was merged and incorporated into the *Carabinieri*, and subsequently appeared to lose the right to strike. It was noted that the unions of the Italian State Forestry Corps made an inquiry in 2016 to the Commission of Guarantee regarding whether they could lawfully strike, but the Commission said that it is not up to the Commission of Guarantee to decide which bodies have the right to strike and instead it is in the power of Parliament to decide on the issue.⁸

Other **limitations** concern the following categories: (i) Decree No. 185 of 1964 limits the right to strike of employees working in **nuclear plants**; (ii) Law No. 242 of 1980 similarly limits the right to strike of **air traffic controllers**; (iii) **seafarers** do not have the right to strike during navigation and an industrial action on the sea would be a criminal offence under Article 1105 of the Navigation Code.⁹

Essential services

Law No. 146 of 12 June 1990 concerning the exercise of the right to strike in essential public services and the safeguarding of constitutionally protected human rights applies. It lists the constitutional rights that ought to be balanced with the right to strike: the right to life, the right to health and to personal freedom and security, the freedom to travel, the right to assistance and to social security, the right to education and the freedom to communication (Article 1 (1)).

Law No. 146/1990 also lists the essential services concerned: the health service, the service of waste collection and disposal, the supplying of energy and primary goods, the service of justice, protection of the environment and surveillance of museums, transports, payment by banks of pensions and wages, education, the postal services, telecommunication services and public information on radio and television (Article 1(2)). The list is open to any other service that may be instrumental for the protection of the fundamental rights already listed above. Following a dispute at the Colosseum in 2015, the law was amended to also include “the use of cultural assets” in the list of essential services.

Under international law, the ‘essential services’ in the strict sense of the term have been defined by the ILO as those services ‘the interruption of which would endanger the life, personal safety or health of the whole or part of the population’.¹⁰

Minimum services

Minimum service arrangements must be set out in collective agreements. The Commission of Guarantee is an independent body which assesses the appropriateness of the minimum services set out in collective agreements and, if necessary, orders further measures.

Article 2(2) of Law No. 146/1990 clarifies that the employer (or provider of the essential service) reaches an **agreement** with local union representatives or workers' representatives about the level of minimum services to be provided. The said level of service should suffice to guarantee rights constitutionally protected listed in Article 1(1) of the same law, in particular the right to life, health, freedom and security, freedom of movement, social security and assistance, education and freedom of communication.

Article 12 of Law No. 146/1990 establishes a **Commission of Guarantee** aimed at supporting the effective balancing of the exercise of the right to strike in essential services with the guarantee of the constitutional rights to life; health; freedom and safety; free circulation; social protection; education and communication. The Commission takes into consideration all relevant aspects in order to assess the lawfulness of the parties' agreement on the essential services. The Commission may also support in the determination of adequate minimum services and in the classification of a certain service as essential. The powers of the Commission of Guarantee have been strengthened through the amendments brought by Law No. 83/2000. The Commission can also penalise the conduct of trade unions, employers and self-employed workers in connection with collective action.¹¹

The Law No. 83 of 11 April 2000 (amending the Law No. 146 of 12 June 1990) requires a balance between the right to strike and the continuity of public services. An explanatory memorandum states that "the purpose of the Law is not to deprive anyone of the right to strike but to guarantee the operation of a minimum service in essential public services."

Administrative injunction ("*precettazione*")

If the conflict persists between the parties, it is still possible to avoid or postpone the strike by issuing an administrative injunction ("*precettazione*").

The authorities¹² allowed to issue administrative injunctions are the Prime Minister (*Presidente del Consiglio dei Ministri*) and Ministers in case of national or interregional conflicts and the Prefect or the corresponding body in special administrative regions, in case of local conflicts.

Whenever the interruption or the reduction of an essential service risks damaging fundamental rights listed in Article 1 of Law No. 146/1990 (see above), the authority has the duty to issue an injunction ordering the performance of whatever service is necessary in order to avoid any damage to constitutional rights.¹³

The authority must invite parties to a hearing and has the duty to promote conciliation between them before the issuing of the injunction. Civil courts have been very inflexible in interpreting these legal duties as all to be performed necessarily before the issuing of the injunction, so that the authority can issue the injunction only if the conciliation fails.¹⁴

The injunction may set out the activities that ought to be performed during the strike (minimum services), but it can also suspend or shorten the strike (Article 8 (2), Law No. 146/1990).¹⁵

The injunction is immediately enforceable, but recipients are allowed to file a claim against it within seven days. The administrative tribunal may suspend the injunction only if the claim is based upon reasonable arguments in order to allow the industrial action to continue. The tribunal can also limit the suspension in regard only to the part of the injunction that exceeds what is necessary to protect fundamental rights (Article 10(2) of Law No. 146/1990).¹⁶

5. Procedural requirements

Peace obligations resulting from collective agreements, as well as conciliation procedures, have to be respected.

There is no general provision in the labour legislation requiring parties to enter into conciliation or mediation procedures before initiating a strike action. However, with respect to the regulations concerning **essential services**, Article 2(2) of the Law No. 146/1990 provides that collective agreements, which are applicable to establishments considered to be providing essential services, need to have provisions setting a **conciliation procedure** and **cooling off period**, which is mandatory for both parties. This cooling-off period needs to be undertaken before strike proceedings begin, in line with Article 2(1) of Law No. 146/1990.¹⁷

An **advance notice** of at least **ten days** has to be respected for each strike in essential services (Law No. 146 of 1990). According to the same Law, minimum services to be performed by workers in a series of sectors, regarded as of general interest, have to be established through collective agreements.

Article 2 (5) of Law No. 146/1990 provides that in order to allow the administration or undertaking providing essential services to adequately prepare for the exercise of the right to strike and ensure basic rights (as for example protection of life, health, freedom and security, public hygiene, supply of energy, administration of justice, freedom of movement, social assistance and social security, education, freedom of communication) and to facilitate the carrying out of any attempts to settle the dispute, to guarantee minimum services, the notice period shall be not less than ten days (agreements, collective agreements and service regulations can extend the number of days needed to provide advance notice).

The parties have the obligation to notify, in writing, the length of the notice period, the method of implementation and the reasons for the strike.

There are two exceptions when the above obligation of advance notice of ten days does not apply, namely in the event of a strike declared to defend the constitutional order or to protest against serious events affecting the integrity and safety of workers.¹⁸

According to Article 4 Aviation Reform Law No. 242/1980, the Minister of Transportation must be given advance notice at least **five days** before the date of the strike. Notice should be given by the organisers of the strike action and is meant to ensure that international connections are maintained in line with for what prescribed by the international Civil Aviation Organization (ICAO).¹⁹

It is considered **unfair practice** to call a strike and then to cancel it without a reason (Article 6(2) of the Law No. 146/1990). The cancelation of the action is fair when is communicated before the employer has already informed the public, and is always fair when, after calling a strike, unions and employers find an agreement that settles the dispute of the Commission of Guarantee or the authority with the power to issue an injunction invites the parties to suspend the strike (Article 6(2) of Law No. 146/1990).²⁰

6. Legal consequences of participating in a strike

If the strike remains within the **limits** laid down by **law** or by the **courts**, participation does not, in principle, constitute a breach of contract, but it does suspend the individual employment contract. Therefore, the employer cannot dismiss strikers during the period of a strike.

Strikers cannot be replaced by other workers recruited from outside. Employers may not offer financial inducements to employees not to take part in the strike.

The recruitment of fixed-term or agency workers in order to replace strikers is considered as an anti-union practice and forbidden according to Articles 20 and 32 of the Legislative Decree No. 81 of 2015.²¹

There are no sanctions provided in legislation for **unlawful strikes**. Nonetheless employees may be sanctioned, held personally accountable for any damage caused. Trade union leaders may be held personally accountable for the financial consequences of an unlawful strike.

Failure to comply with the rules governing strikes in **essential services** is also subject to of monetary or disciplinary sanctions. According to Article 4 (1) of Law 146/1990, disciplinary sanctions are only possible if they do not entail the termination or the permanent modification of the employment relationship (e.g. a transfer to another work unit would be unlawful).²² The sanctions for unions are civil and administrative (Article 4(2) and (4) bis of Law 146/1990). The law provides for economic administrative sanctions against public and private managers (Article 4 (4) of Law 146/1990), and economic administrative sanctions for the self-employed, and associations of self-employed (Article 4 (4) of Law 146/1990).²³

7. Case law of international/European bodies

International Covenant on Economic, Social and Cultural Rights (ICESCR)

In its Concluding observations on the fifth periodic report of Italy²⁴ adopted on 9 October 2015, the Committee on Economic, Social and Cultural Rights (CESCR) stated that:

32. The Committee regrets the absence of a law on trade union rights in the State party and the lack of information on the right to strike (art. 8).

33. The Committee recommends that the State party adopt a legal framework governing trade union rights and the right to strike in line with article 8 of the Covenant and that it provide information in its next periodic report on the actual enjoyment of those rights.

There are no recent observations adopted by the CESCR, but the examination of the sixth periodic report submitted by Italy on 29 June 2021 is pending.²⁵

International Labour Organisation (ILO)

There are no comments from Committee of Freedom of Association (CFA) or Committee of Experts on the Application of Conventions and Recommendations (CEACR) relevant to the right to strike.

European Social Charter

Conclusions of the European Committee of Social Rights (ECSR)

In its **Conclusions 2014**²⁶, the ECSR concluded that the situation was not in conformity with Article 6§4 of the Charter on the grounds that:

- it has not been established that the Government's power to issue injunctions or orders restricting strikes in essential public services falls within the limits of Article G of the Charter;
- the requirement to notify employers of the duration of strikes affecting essential public services prior to strike action is excessive.

In its **Conclusions 2016**²⁷, the Committee took note of the information submitted by Italy in response to the conclusion that it had not been established that the Government's power to issue injunctions or orders restricting strikes in essential public services falls within the limits of Article G of the Charter (Conclusions 2014, Italy).

The Committee recalled that under Article 6§4 the right to strike may be restricted provided that any restriction on the rights guaranteed by the Charter meets the conditions in Article G which provides that they are prescribed by law, serve a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals (Conclusions X-1 (1987), Norway (regarding Article 31 of the Charter)). The expression "prescribed by law"

means, not only statutory law, but also case-law of domestic courts, if it is stable and foreseeable (ETUC/CGSLB/CSC/FGTB v. Belgium, Complaint No. 59/2009, decision on the merits of 13 September 2011, §43-44).

Prohibiting strikes in sectors which are essential to the community is deemed to serve a legitimate purpose since strikes in these sectors could pose a threat to public interest, national security and/or public health (Conclusions I (1969), Statement of Interpretation on Article 6§4). However, simply banning strikes even in essential sectors – particularly when they are extensively defined, i.e. “energy” or “health” – is not deemed proportionate to the specific requirements of each sector. At most, the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4 (Conclusions XVII-1 (2004), Czech Republic).

The national report stated that Italian law seeks to strike a balance between the rights of employees to strike and the rights of others who may be affected by the strike in essential services. A commission, central government or competent territorial prefects may issue a decree adopting the necessary measures to ensure the rights protected by the Constitution. The report provided a list of the services in which the right to strike may be restricted. The Committee noted that public transport services, post and telecommunications, garbage disposal are *inter alia*, included on that list, and, referring to its case law cited above, it asked whether strikes may be prohibited completely in these sectors or whether decrees simply require that certain minimum services be maintained.

So that the Committee can assess whether the restrictions imposed are in conformity with Article G of the Charter, it asked that the next report provide details of the decrees issued during the reference period prohibiting or restricting strikes. Meanwhile, it deferred its conclusion.²⁸

ECSR decisions under the collective complaints procedure

- Complaint No. 140/2016 Confederazione Generale Italiana del Lavoro (CGIL) v. Italy regarding, *inter alia*, Article 6(4) of the Charter. The complainant trade union, CGIL, alleges that, in Italy, members of the Guardia di Finanza are prohibited from exercising the right to strike in violation of the aforementioned provision.

By its decision on the merits of 22 January 2019²⁹, the European Committee of Social Rights (ECSR) found a violation of Article Article 6(4) of the Charter in this case.

When examining whether the complete ban on the right to strike of the members of the *Guardia di Finanza* was proportionate to the aim pursued and therefore necessary in a democratic society, the ECSR considered that measures to compensate the prohibition must be found that are compatible in practice with the exercise of the missions. Minimum services may be imposed in the defence sector in the event of a strike. Other measures may be provided for by law, such as an effective and regular procedure of negotiation at the highest level between the members of the *Guardia di Finanza* and the command authority regarding not only material and salary conditions but also work organisation, or the conciliation or arbitration procedure. With such measures – minimum services and/or an effective

procedure of negotiation or conciliation – the prohibition on the exercise of the right to strike would be proportionate.

However, in the absence of such measures, the ECSR considered that the absolute prohibition of the right to strike imposed on members of the *Guardia di Finanza* is not proportionate to the legitimate aim pursued and is not necessary in a democratic society. It therefore held that there is a violation of Article 6§4 of the Charter.

Pending collective complaints declared admissible by the ECSR (alleging a violation of Article 6(4) of the Charter)³⁰:

- 152/2017 Unione sindacale di base – settore pubblico impiego (USB) v. Italy. It relates to various articles including 6§4. The USB complains about the situation of precarious workers employed by the Ministry of Justice in Italy, especially the violation of their career rights.
- 153/2017 Unione sindacale di base – settore pubblico impiego (USB) v. Italy. It relates to various articles including 6§4. USB complains about the situation of precarious workers in the public sector service in Sicily, employed under fixed-term contracts for vacant posts.
- 159/2018 Associazione Professionale e Sindacale (ANIEF) v. Italy various articles including 6§4. The ANIEF alleges that, as a result of a change in the case-law of the Council of State in 2017, people with a primary school teaching certificate obtained before 2001-02 are excluded from the reserve lists from which teachers in primary school and preschool are recruited.
- 170/2018 Unione sindacale di base (USB) v. Italy. It relates to various articles including 6§4. USB complains about the abuse of 'socially useful workers' contracts by municipalities and public bodies in Sicily and Campania, making the situation of these public sector employees more precarious.
- 192/2020 Confederazione Generale Sindacale CGS, Federazione GILDA-UNAMS and Sindacato Nazionale Insegnanti Di Religione Cattolica v. Italy. It relates to various articles including 6§4 and discrimination against teachers of Catholic religious education who have been working under fixed-term contracts for more than 36 months in comparison to other categories of teachers, with an equivalent length of service under fixed-term contracts, as regards access to indefinite duration contract through the recruitment competition procedure provided under Decree-Law No. 126 of 29 October 2019, converted by Law No. 159 of 20 December 2019.

8. Recent developments

State of emergency and Covid-19

Under Article 78 of the Italian Constitution (1948), the Parliament has the authority to declare a state of war and vest the necessary powers into the Government. No other public emergency is regulated by the Constitution.³¹ The Civil Protection Code provides for the declaration of a state of emergency (Article 24) for emergencies of natural or human causes requiring an immediate response for a limited and predetermined time.³²

On 31 January 2020, a Council of Ministers decision declared a state of emergency for a period of six months. This period may be extended to 12 months and renewed only once (Civil Protection Code Article 24(3)).³³ The most important limitations have regarded freedom of movement (Article 16 Constitution), of religion (Article 19 Constitution), of assembly (Article 17 Constitution), and of economic initiative (Article 41 Constitution).³⁴

Italy has not derogated from the European Convention of Human Rights according to Article 15 of the Convention.³⁵ Italy has not used either the possibility to derogate from its obligations under the European Social Charter as provided by Article F of the Charter.³⁶

Industrial relations during Covid-19

The social partners played a key role in ensuring the implementation of a comprehensive framework to safely resume economic activities in the workplace.³⁷

Reports show that the pandemic triggered some conflicts in early March 2020, essentially to demand safe working conditions. Spontaneous protests emerged and sometimes evolved into strikes. Social distancing, personal protection equipment, sanitary procedures and work organisation were at the centre of workers' demands in sectors such as metalworking or Amazon warehouses.³⁸ For other reasons, trade unions called strikes for sectoral renewals in November 2020 for the metalworking sector, as negotiations stalled, and in December 2020 for the public administration, to demand more resources. Similarly, in October and November 2020, the mobilisation and strike for the long overdue multiservice collective agreement, which expired seven years ago, were regarded by trade unions as significant successes.³⁹

In a Statement on COVID-19 and social rights adopted on 24 March 2021, the European Committee of Social Rights (the ECSR) recalled that Article 6§4 of the European Social Charter entails the right of workers to take collective action (e.g. work stoppage) for occupational health and safety reasons. The ECSR pointed out that strikes in response to a lack of adequate personal protective equipment or inadequate distancing, disinfection and cleaning protocols at the workplace would fall within the scope of the protection afforded by the Charter.⁴⁰

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- Miscellaneous:
https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:ITA,,2019:NO (updated May 2021)
<https://www.isdc.ch/media/1488/e-2017-17-14-172-right-to-strike.pdf>

Notes

- 1 Status of ratification by Italy of UN instruments, available at: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en>.
- 2 The status of Italy's ratification of all ILO conventions can be viewed at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102709 (accessed on 14 July 2021).
- 3 Status of ECHR ratifications: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?module=signatures-by-treaty&treatynum=005> (accessed on 14 July 2021).
- 4 Status of ratifications of the Revised European Social Charter: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?module=signatures-by-treaty&treatynum=163> (accessed on 14 July 2021); see also ESC, Country profile: Italy (<https://www.coe.int/en/web/european-social-charter/italy>).
- 5 Status of ratifications of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158/signatures?module=signatures-by-treaty&treatynum=158> (accessed on 14 July 2021); Italy has not yet made a declaration enabling national NGOs to submit collective complaints.
- 6 IRLEX, Country profile, Italy, 2019, https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:ITA,,2019:NO
- 7 IRLEX, Country profile, Italy, 2019.
- 8 Topo, A., p. 312; see also ECSR, Decision on the merits: *Unione Generale Lavoratori - Federazione Nazionale Corpo forestale dello Stato* (UGL–CFS) and *Sindacato autonomo polizia ambientale forestale* (SAPAF) v. Italy, Complaint No. 143/2017, available at: <http://hudoc.esc.coe.int/fre/?i=cc-143-2017-dmerits-en>
- 9 Topo, A., p. 311.
- 10 Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6th edition, 2018, Chapter 10, paras. 836 - 841 – ILO CFA has defined and listed as “essential services in the strict sense of the term” where the right to strike may be subject to restrictions or even prohibitions, the following: the hospital sector, electricity services, water supply services, the telephone service, the police and armed forces, the fire-fighting services, public or private prison services, the provision of food to pupils of school age and the cleaning of schools, air traffic control. The ILO CFA has stressed that compensatory guarantees should be provided to workers in the event of prohibition of strikes in essential services and the public service, see paras. 827, 853 - 863; See also Schlachter, M. ‘Regulating Strikes in Essential Services from an International Law Perspective’ in Mironi, M. and Schlachter, M (eds) 2019, *Regulating Strikes in Essential Services: A Comparative 'Law in Action' Perspective*, Netherlands: Wolters Kluwer International, pp. 29-50.
- 11 Topo, A., pp. 300-302
- 12 Article 8 (1) of Law No. 146/1990
- 13 Article 8 (1) of Law No. 146/1990, in IRLEX, Country profile, Italy, 2019; see Topo, A., pp. 299-300
- 14 Topo, A., p. 300
- 15 Article 8 (2) of Law No. 146/1990; see Topo, A., p. 300
- 16 Article 10 (2) of Law No. 146/1990; see Topo, A., p. 300
- 17 IRLEX, Country profile, Italy, 2019, https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:ITA,,2019:NO
- 18 <https://www.isdc.ch/media/1488/e-2017-17-14-172-right-to-strike.pdf>
- 19 Article 4 of Law of 28 May 1980 on the reform of aviation services.
- 20 Topo, A., p. 296.
- 21 IRLEX, Country profile, Italy, 2019.
- 22 IRLEX, Country profile, Italy, 2019.
- 23 Topo, A., pp. 300-302.
- 24 Adopted by the Committee at its fifty-sixth session (21 September-9 October 2015); available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fITA%2fCO%2f5&Lang=en
- 25 See all documents submitted to the CESCR including the list of issues and the state report at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=ITA&Lang=EN (accessed on 14 July 2021).
- 26 ECSR, Conclusions 2014 on Article 6(4), Italy, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/ITA/6/4/EN>.
- 27 ECSR, Conclusions 2016 on Article 6(4), Italy, available at: <http://hudoc.esc.coe.int/eng/?i=2016/def/ITA/6/4/EN>.
- 28 The next evaluation of the compliance with Article 6(4) by Italy will be carried out during the monitoring cycle 2022.
- 29 See decision on the merits of the ECSR in collective complaint No. 140/2016 at: <http://hudoc.esc.coe.int/fre/?i=cc-140-2016-dmerits-en>.
- 30 See the list of pending complaints lodged against Italy at: <https://www.coe.int/en/web/european-social-charter/pending-complaints>.
- 31 Venice Commission, Observatory on emergency situations, Italy (<https://www.venice.coe.int/files/EmergencyPowersObservatory/ITA-E.htm>).

32 European Parliamentary Research Service, States of emergency in response to the coronavirus crisis: Situation in certain Member States, Italy, June 2020

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649408/EPRS_BRI\(2020\)649408_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649408/EPRS_BRI(2020)649408_EN.pdf)

33 [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649408/EPRS_BRI\(2020\)649408_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649408/EPRS_BRI(2020)649408_EN.pdf)

34 <https://www.venice.coe.int/files/EmergencyPowersObservatory/ITA-E.htm>

35 See <https://www.venice.coe.int/files/EmergencyPowersObservatory/ITA-E.htm>; Article 15 of ECHR 'Derogation in time of emergency' provides that: "In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law."

36 European Committee of Social Rights, Statement on COVID-19 and social rights, 24 March 2021

<https://rm.coe.int/statement-of-the-ecsr-on-covid-19-and-social-rights/1680a230ca>

37 Eurofound, 'Living and working in Italy', 22 July 2021 <https://www.eurofound.europa.eu/country/italy>

38 Eurofound, Roberto Pedersini, 'Italy: Working life in the COVID-19 pandemic 2020', 23 March 2021

<https://www.eurofound.europa.eu/sites/default/files/wpef21020.pdf>

39 <https://www.eurofound.europa.eu/sites/default/files/wpef21020.pdf>

40 European Committee of Social Rights, Statement on COVID-19 and social rights, adopted on 24 March 2021, 'Right to organise and collective bargaining', pp. 5-6, <https://rm.coe.int/statement-of-the-ecsr-on-covid-19-and-social-rights/1680a230ca>