



Re: Article 6 (paragraph 1 and 3) of the Revised European Social Charter

Military Professional Associations with Trade Union Characteristics (APCSM)



Collective Complaint Italy 2025



Da [Project officer](#) il 2025-07-18 08:57

 [Dettagli](#)  [Testo semplice](#)

Dear Colleagues,

referring to our previous conversations, EUROMIL is preparing a Collective Complaint against Italy based on Article 5 and 6 of the Revised European Social Charter. Concerning Article 5 we possess sufficient information but regarding the application of Article 6 (1)-(3) we do not have enough practical information. We include Article 6 (4) in the Complaint, but our focus remains on the abovementioned paragraphs.

Therefore, I would like to kindly ask to provide information on

- joint consultations with dates and brief descriptions,
- negotiations between employers or employers' organisations and workers' organisations,
- collective agreements in the last five years if there was any,
- the machinery for the settlement of labour disputes.

Please, also provide a list of relevant legislation that were executed in the last three years (since Law No. 46 of 28 April 2022).

Thank you in advance for your time and cooperation.

Best regards,
Imola

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"Re: Request for information on the application of Articles 5 and 6 of the Revised European Social Charter concerning military professional associations with trade union characteristics in Italy."

Dear EUROMIL colleagues,

Regarding your request received today, and following up on the productive discussions held during the Rome conference on June 5 and 6, 2025, at Caserma Pio IX, I would like to provide you with the requested information regarding the application of Articles 5 and, particularly, 6, paragraphs 1 and 3, of the Revised European Social Charter in the context of military professional associations with trade union characteristics in Italy.

As you know, Law no. 46 of April 28, 2022, represented a crucial moment for the Italian legal system, introducing a regulatory framework that allowed for the establishment and recognition of military professional associations with trade union characteristics. Although this law marked a significant step towards the full recognition of trade union rights for military personnel, the practical implementation and effective operation of some mechanisms provided for by the Revised European Social Charter are still in the consolidation phase or present specificities that warrant attention.

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Context of the security and defence sector in Italy and its composition

For a full understanding of the application of Articles 5 and 6 of the Revised European Social Charter in the Italian context, it is necessary to frame the discussion within the "Security and Defence Sector." This sector represents the entirety of the Armed Forces and military and civilian police forces, with their distinct organizational and functional peculiarities.

The Security and Defence Sector is primarily composed of the following Administrations and Corps, which represent the "employers" in the context of industrial relations with personnel:

- **Armed Forces:** Dependent on the Ministry of Defence, their primary task is the defence of the State and participation in international peace and security operations.
 - **Italian Army:** The land force.
 - **Navy:** The naval force.
 - **Air Force:** The air force.
 - **Carabinieri Corps (Arma dei Carabinieri):** While being an Armed Force (a foundational component of the Army), it also operates as a general and specialized police force. This dual nature makes it a unique actor in the trade union context.
- **Military-structured Police Forces:**
 - **Carabinieri Corps (Arma dei Carabinieri):** As already mentioned, in addition to being an Armed Force, it is also a military-structured Police Force, functionally dependent on the Ministry of Interior for public order and security duties.
 - **Guardia di Finanza (Financial Police):** Dependent on the Ministry of Economy and Finance, with duties of economic-financial policing and contribution to the internal and external security of the State.
- **Civilian-structured Police Corps:** Although having a distinct regulatory and trade union framework from the military one, they operate within the same Security Sector and are relevant for comparison regarding representation and negotiation dynamics. Their methods of unionization and collective bargaining have long been fully established and are primarily based on Law No. 121 of April 1, 1981, "New organization of the Public Security Administration," which provided for the demilitarization of the Public Security Guards Corps and its transformation into the State Police with the simultaneous introduction of trade union rights. This legislation

was subsequently integrated and complemented by Legislative Decree No. 195 of May 12, 1995, which governs the "procedure for determining the remuneration and conditions of employment of personnel of the Police Forces and Armed Forces." This Legislative Decree, although modified by Law 46/2022 for the military part, remains the reference for the collective bargaining of civilian police forces personnel.

- **State Police (Polizia di Stato):** Dependent on the Ministry of Interior, it performs duties of public order and security, judicial police, and territorial control.
- **Prison Police (Polizia Penitenziaria):** Dependent on the Ministry of Justice, it ensures security and order in penitentiary institutions. The organization of the Prison Police Corps and related trade union rights are regulated by Legislative Decree No. 443 of October 30, 1992, "Organization of personnel of the Prison Police Corps," and subsequent integrations, also with reference to Legislative Decree No. 195/1995 for collective bargaining.
- **National Fire Department (Corpo Nazionale dei Vigili del Fuoco):** Although not strictly a police force, it falls within the Security Sector for its functions of public rescue and civil protection. The organization of personnel and industrial relations are governed by Legislative Decree No. 139 of March 8, 2006, "Reorganization of provisions relating to the functions and duties of the National Fire Department, pursuant to Article 11 of Law No. 154 of July 29, 2005," and by the Consolidated Act on Public Employment (Legislative Decree No. 165 of March 30, 2001) for collective bargaining.
- **Auxiliary and Similar Corps:**
 - **Port Authorities - Coast Guard (Capitanerie di Porto - Guardia Costiera):** Dependent on the Ministry of Infrastructure and Transport for functional aspects and on the Ministry of Defence for organizational/personnel aspects, they perform maritime policing and sea rescue duties.

Each of these Corps and Administrations has its own hierarchical structure, internal regulations, and operational specificities that influence the dialogue with the nascent professional associations with trade union characteristics (for military personnel) and with the consolidated trade union organizations (for civilian personnel). The "workers' organisations" to which EUROMIL refers are, in this context, the Professional Associations with Trade Union Characteristics among Military Personnel (APCSM) which have been established and recognized according to Law 46/2022. These associations represent the interests of military personnel from the various Armed Forces and military-structured Police Forces, each within its specific sphere or across multiple forces, depending on its statute and recognition.

Responses to EUROMIL Queries:

Therefore, I would like to kindly ask to provide information on

- joint consultations with dates and brief descriptions,
- negotiations between employers or employers' organisations and workers' organisations,
- collective agreements in the last five years if there was any,
- the machinery for the settlement of labour disputes.

Please, also provide a list of relevant legislation that were executed in the last three years (since Law No. 46 of 28 April 2022).

Article 6. Right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1 - to promote joint consultation between workers and employers;

2 - omitted

3 - to promote the establishment and utilisation of machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

JOINT CONSULTATIONS WITH DATES AND BRIEF DESCRIPTIONS BETWEEN THE CARABINIERI CORPS ADMINISTRATION AND RELATED APCSMs

- **January - April 2025:**
 - **Event:** Data collection for the verification of the representativeness of APCSMs. The Administrations interacted with the APCSMs to gather the membership data necessary to certify which associations met the requirements to participate in negotiation tables.
 - **Topic:** Ascertainment of the representativeness of APCSMs for participation in collective bargaining and information procedures.
- **June 9, 2025:**
 - **Event:** Signing of Ministerial Decrees for the identification of representative APCSMs.
 - **Topic:** Officialisation of APCSMs enabled to participate in negotiation tables for the bargaining area of managerial and equivalent personnel of the Armed Forces and military-structured Police Forces.
- **July 3, 2025:**
 - **Event:** Joint communication from several APCSMs (including NSC) to the Government and competent Ministries.
 - **Topic:** Urging for the immediate adaptation 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. This communication is the result of internal dialogue among APCSMs and an indirect, but clear, interlocution with the Administrations, requesting the recognition of trade union protection also for territorial trade union leaders below the regional level, adherence to the Statute of each individual APCSM regarding elective offices in terms of mandate duration and legal/economic status, as well as a resolution of the norm to allow easy tax assistance for members.

With the entry into force of Law 46/2022 and in relation to the implementing decrees (in particular Legislative Decree 195/1995 as amended by Legislative Decree 192/2023 where compatible), discussion tables have been foreseen, starting from 2025, at central and peripheral levels to discuss issues related to personnel, conditions of employment, workplace safety, and, more generally, all aspects falling within the scope of professional associations' competence.

- **April 17, 2025 - May 28, 2025 - July 3, 2025 (ongoing)**
 - **Event:** Opening of the Carabinieri Corps and APCSM technical table.
 - **Topics addressed so far:** Weekly rests, review of weekly service scheduling and the time interval between consecutive shifts, leave planning, criteria and application criticalities, food treatment, conventions, meal vouchers, direct management, personnel equipment, guest houses.
-

Institutionalized Consultations:

- **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, but exclusively a request received by this APCSM in which a written opinion was requested regarding:
 - 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” - November 11, 2024.

NEGOTIATIONS BETWEEN EMPLOYERS OR EMPLOYERS' ORGANISATIONS AND WORKERS' ORGANISATIONS, COLLECTIVE AGREEMENTS IN THE LAST FIVE YEARS IF THERE WAS ANY

In Italy, for military personnel, Law no. 46 of April 28, 2022, at Article 11, explicitly attributed negotiating powers to the Professional Associations with Trade Union Characteristics among Military Personnel (APCSMs) recognized as nationally representative, for the purpose of national sector-level collective bargaining. This marks a clear move beyond the previous system of "concertation" with the former military representation.

The "bargaining" process for military personnel, although now formally recognized, nonetheless retains some specificities that differentiate it from collective bargaining in the civilian public sector:

- **Bargaining Levels:** Within the scope of their specific nature, the Security and Defence Sector negotiates the 1st level (economic-normative contract) directly with the Department of Public Function (DFP) of the Presidency of the Council of Ministers. The related agreements, defined at the negotiating table, then lead to normative acts (Decrees of the President of the Republic for economic treatment). Second-level bargaining, however, takes place directly with the Administration, and the only experience, after the enactment of Law 46/2022 and thus with the participation of APCSMs, was the negotiation of the Institutional Services Efficiency Fund (FESI) in 2025, referring to the year 2024.
- **Limits and Specificities:** It is important to underline that bargaining for military personnel presents objective limits on negotiable matters. Aspects 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. Furthermore, unlike the civilian public sector, the following persist:
 - **Prohibition of strikes** for military personnel, which impacts the negotiating power of APCSMs and for which no alternative methods are legally foreseen.
 - **Prohibition of joining associations other than those registered in the Register of the Ministry of Defence** and referring to the originating Administration.

- **Prohibition of being registered with more than one APCSM** (whereas members of Italian civilian police forces – State Police and Prison Police – belonging to the same Security and Defence Sector, can join multiple trade unions, thus having the possibility of achieving a greater representativeness quorum).

As anticipated, in the Italian military context, there are no "collective agreements" in the strict sense of the term as in the civilian sector. However, in the last five years, and particularly after the entry into force of Law 46/2022, the first economic/normative contract (three-year period 2022-2024) has been negotiated with the professional associations with trade union characteristics.

- **Economic and Normative Bargaining Provisions:** The main "agreements" or "concertations" have materialized in the provisions that have defined the economic treatment and normative conditions of personnel of the Armed Forces and military-structured Police Forces. These are generally implemented through Decrees of the President of the Republic (D.P.R.) that incorporate the understandings reached. The regulations issued with these D.P.R.s have a three-year validity.
 - **Year 2021 (bargaining for the 2019-2021 three-year period)**
 - **Event:** Start and definition of the economic bargaining for the Security and Defence Sector with the issuance of D.P.R. 20 April 2022, no. 56 (for non-managerial personnel of the Armed Forces) and D.P.R. 20 April 2022, no. 57 (for non-managerial personnel of civilian and military-structured Police Forces).
 - **Topic:** Economic and normative definitions incorporating the agreements from the bargaining table relating to the 2019-2021 three-year period.
 - **Year 2024 (bargaining for the 2022-2024 three-year period)**
 - **Event:** Start and definition of the economic bargaining for the Security and Defence Sector with the issuance of D.P.R. 24 March 2025, no. 52 (for non-managerial personnel of the Armed Forces) and D.P.R. 24 March 2025, no. 53 (for non-managerial personnel of civilian and military-structured Police Forces).

- **Topic:** Economic and normative definitions incorporating the agreements from the bargaining table relating to the 2022-2024 three-year period, representing the first effective test for the new model of industrial relations introduced by Law 46/2022, having involved the nascent representative professional associations in the negotiation phase.
- **June - July 2025 (ongoing):**
 - **Event:** Start of negotiation tables for the contractual renewal for the 2021-2023 three-year period (specifically for the Managerial/Executive Area).
 - **Topic:** Economic and normative definitions for the relevant contractual period.
- **February - May 2025:**
 - **Event:** Start of 2nd level bargaining - Institutional Services Efficiency Fund (FESI) for the year 2024.
 - **Topic:** Economic and normative definitions for the economic recognition (FESI) to identified personnel.

THE MACHINERY FOR THE SETTLEMENT OF LABOUR DISPUTES

Article 6, paragraph 3, of the Revised European Social Charter provides for the right to conciliation and arbitration. For military personnel, dispute resolution mechanisms have evolved with the introduction of trade union associations.

- **Preliminary Trade Union Phase:** Professional associations with trade union characteristics are tasked with intervening initially to protect the rights and interests of their members. This includes the possibility of submitting requests, complaints, and initiating direct discussions with the Administration to resolve disputes. This represents a first level of internal "conciliation."

Conciliation and Administrative Mediation:

- With Decree No. 75 of April 9, 2024, from the Ministry of Defence, published in Official Gazette No. 134 on June 10, 2024, titled "Regulation establishing the procedures for the establishment and functioning of central and peripheral conciliation commissions for the amicable resolution of trade union disputes," the modalities for the establishment and functioning of conciliation commissions are regulated.
- With Article 42 of the Decree of the President of the Republic No. 53 of March 24, 2025 – "Transposition of trade union agreements related to the 2022-2024 three-year period for personnel of civilian and military-structured Police Forces," the following was concretized:

Joint Commission:

1. *Should interpretative disputes of general relevance for all interested personnel arise between the Administrations and the signatory APCSMs of the trade union agreement transposed by the decree relating to the last contractual three-year period, in the application of the matters regulated by this decree and by the decrees issued pursuant to Article 2 of Legislative Decree No. 195 of May 12, 1995, a written request for examination of the controversial issue, with specific and detailed indication of the facts and legal elements on which it is based, may be submitted by each of the parties to the Joint Commission referred to in paragraph 2. Within thirty days of the request, the aforementioned Commission*

shall examine the controversial issue, preparing a non-binding opinion. The related decision by the Administration shall take effect from the day the request was made.

2. *For the purposes referred to in paragraph 1, the General Command of the Carabinieri Corps and the General Command of the Guardia di Finanza shall establish, within three months from the date of entry into force of the decree transposing the last trade union agreement, a Joint Commission. Each commission, appointed by the respective General Commander, shall be chaired by an Administration representative and composed, in addition to the President, of an equal number of Administration representatives and one member designated by each signatory APCSM of the aforementioned agreement. To this end, within 30 days of the entry into force of the relevant transposition decree, each of the aforementioned APCSMs shall communicate to the relevant General Command the name of its trade union leader identified as a member of the Commission.*

- **Dispute and Jurisdictional Bodies:** In the event of failure to resolve disputes through internal or trade union channels, there always remains the possibility of resorting to judicial avenues.
 - **Hierarchical appeal/extraordinary appeal to the President of the Republic:** Administrative appeal procedures provided by the legal system remain in place.
 - **Administrative jurisdiction:** For questions of legitimacy of administrative acts affecting legitimate interests (e.g., career progression, disciplinary sanctions, unlawful transfers), military personnel can appeal to the Regional Administrative Courts (TAR) and, on appeal, to the Council of State.

The jurisdiction in APCSM disputes:

The issue of jurisdiction for disputes concerning military personnel and APCSMs is a crucial point in Italian administrative and labor law, characterized by significant legislative and jurisprudential evolution, especially after the recognition of trade union freedoms for military personnel.

The general principle: Administrative Jurisdiction (TAR)

Traditionally, the employment relationship of military personnel has remained under public law, unlike most "contractualized" public employment. This means that decisions by the Ministry of Defence affecting the career, assignments, transfers, or disciplinary sanctions of military personnel are considered administrative acts. Protection against such acts is, by its nature, entrusted to the Administrative Judge (TAR and Council of State), as the military personnel contesting them act to protect a "legitimate interest" (as also highlighted in Council of State rulings, for example, Section III, September 9, 2014, no. 4580, which admits administrative jurisdiction residually only due to lack of procedural requirements for the application of Article 28 of the Workers' Statute). 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.

The emergence of Labor Court Jurisdiction for anti-union conduct

With the recognition of the right to professional association with trade union characteristics for military personnel (initially with Constitutional Court ruling no. 120 of 2018 and subsequently with Law no. 46 of 2022), the problem of effective protection for this new trade union freedom arose. In this context, case law, particularly at the trial court level, began to affirm the jurisdiction of the Ordinary Judge (Labor Section) for disputes relating to anti-union conduct carried out by the Administration against APCSMs or their members. This orientation is based on the application of Article 28 of Law No. 300 of May 20, 1970 (Workers' Statute).

Article 28, titled "Repression of anti-union conduct," states that:

"Should the employer engage in conduct aimed at preventing or limiting the exercise of trade union freedom and activity, as well as the right to strike, upon appeal by local bodies of national trade union associations having an interest therein, the magistrate of the place where the denounced conduct is carried out, having taken summary information, if he deems the violation referred to in the preceding paragraph to exist, orders the employer, by means of a reasoned and immediately enforceable decree, the cessation of the unlawful conduct and the removal of its effects."

The rationale of this norm is to guarantee rapid and effective protection against any employer conduct that hinders the exercise of trade union rights. Case law has recognized its applicability also to Public Administrations, including those with special legal systems such as the Armed Forces, when it comes to repressing conduct that infringes on trade union freedom as a fundamental right.

Relevant case law:

- **Court of Milan, Labor Section, January 28, 2021:** This ruling was a turning point. It 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, United Sections (such as order no. 20161 of 24/09/2010 and judgment no. 2359 of 09/02/2015) 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, paragraph 3, of Legislative Decree 165/2001.
- **Court of Rome, Section III Labor (decrees of December 7, 2020, and orders of August 1, 2020):** The Court of Rome also issued rulings in this direction, albeit with a more complex jurisprudential path that also saw initial contrary opinions. These decisions underline that the protection of trade union freedom and activity, as a perfect subjective right, falls within the

cognizance of the ordinary judge, regardless of the public nature of the underlying employment relationship.

Law No. 46 of April 28, 2022: "Rules on the Exercise of Trade Union Freedom for Personnel of the Armed Forces and Military-structured Police Forces"

This law represented a fundamental step in the recognition of APCSMs; however, regarding jurisdiction, it adopted an approach that has generated criticism and debate.

Article 17 of Law 46/2022 ("Disputes"):

Article 17 of Law 46/2022 explicitly states that: "Disputes within the scope governed by this law are reserved to the jurisdiction of the administrative judge, even when the anti-union conduct affects the prerogatives of the military professional association with trade union characteristics."

And Article 18 ("Conciliation Procedures") introduces the possibility of an attempt at conciliation before specially constituted commissions, but maintains the ultimate competence with the administrative judge.

This legislative provision has raised strong perplexities and criticisms, as it seems to want to bring the entire matter of military trade union relations (including anti-union conduct) under the umbrella of administrative jurisdiction, potentially diverging from the jurisprudential orientation that, for the repression of anti-union conduct (ex Article 28 of the Workers' Statute), had already identified the competence of the Labor Judge.

Criticisms of the devolution of disputes to the Administrative Judge

The main criticisms of the legislator's choice (Law 46/2022, Article 17) to devolve disputes, including those on anti-union conduct, to the Administrative Judge are as follows:

- **Ineffectiveness of protection, ex article 28 of the Workers' Statute:** The Labor Judge, through Article 28 of the Workers' Statute, offers a rapid and

summary remedy, designed for the immediate protection of trade union freedom. Administrative jurisdiction, while guaranteeing full protection, is often perceived as slower and less suitable for addressing the urgency typical of anti-union conduct, which requires almost immediate cessation and removal of effects. Devolving these disputes to the TAR could render the protection of military trade union rights less effective.

- **Conflict with jurisprudential evolution:** As seen, even before Law 46/2022, several Courts (e.g., Milan, Rome) had recognized the competence of the Labor Judge for anti-union conduct. Article 17 of Law 46/2022 seems to want to reverse this jurisprudential trend, creating a potential friction between the law and the interpretation that case law gives to the general principles on trade union freedom.
- **Nature of the infringed right:** If anti-union conduct infringes a perfect subjective right (trade union freedom), its protection should fall to the ordinary judge. The intervention of the Administrative Judge is typically linked to the protection of legitimate interests infringed by discretionary administrative acts. The criticism is that anti-union conduct is not a discretionary act, but a violation of a right.
- **Disparity of treatment:** A disparity of treatment could arise between military personnel and other public employment workers (even privatized) or in the private sector, for whom the repression of anti-union conduct is peacefully devolved to the Labor Judge.

In summary, while Law 46/2022 has sanctioned an important recognition of trade union rights for military personnel, the choice to maintain jurisdiction with the administrative judge for all disputes (including those concerning anti-union conduct) appears as a limitation to the full effectiveness of the protection of trade union rights, and moreover, it runs counter to jurisprudential trends and the rationale of Article 28 of the Workers' Statute.

LIST OF RELEVANT LEGISLATION THAT WERE EXECUTED IN THE LAST THREE YEARS (SINCE LAW NO. 46 OF 28 APRIL 2022).

Below is a list of the most relevant legislation enacted since Law No. 46 of April 28, 2022, which has a direct or indirect impact on military professional associations with trade union characteristics and the related rights:

Law of August 5, 2022, no. 119

published in the Official Gazette on August 13, 2022, and entered into force on August 28, 2022: "Provisions for the revision of the fully professional Armed Forces model, for the extension of the deadline for reducing the personnel of the Italian Army, Navy (excluding the Coast Guard Corps), and Air Force, as well as on the promotion of officers. Delegation to the Government for the revision of the national military instrument."

- **What it introduced/modified:**

The law redefines the structure of the professional Armed Forces for the coming years.

- **Extension of personnel reduction:** The reduction in the number of military personnel has been postponed to 2034, setting a target of 160,000 units for the Army, Navy, and Air Force.
- **New management of Volunteers (VFP):** New categories and career paths for volunteers have been introduced, with three-year durations.
- **Delegation to the Government:** The Government has been given the power to issue further decrees for a broader revision of the military organization, including the possibility of increasing specialized personnel.

Legislative Decree No. 206 of November 25, 2022

published in the Official Gazette of January 13, 2023, concerning "Provisions for the adaptation of bargaining procedures for personnel of the Armed Forces and military-structured Police Forces, as well as for the establishment of relevant negotiation areas

for executives, pursuant to Article 16, paragraph 1, letters d) and e), of Law No. 46 of April 28, 2022."

This decree was enacted with the specific purpose of integrating and correcting Legislative Decree No. 195 of May 12, 1995, the norm that regulates the procedures for determining the remuneration and employment conditions of personnel of the Armed Forces and Police Corps.

What it introduced/modified:

This decree was enacted with the specific purpose of integrating and correcting Legislative Decree No. 195 of May 12, 1995, the norm that regulates the procedures for determining the remuneration and employment conditions of personnel of the Armed Forces and Police Corps.

- It updated Legislative Decree 195/1995 to harmonize it with the introduction of APCSMs. This means that the procedures for negotiation and concertation regarding economic and employment aspects must now also involve APCSMs, recognized as negotiating entities.
- It ensured that APCSMs are fully integrated into the mechanism for defining national trade union agreements, which previously resulted from concertation with the old military representations or only with civilian-structured police trade unions.

[Legislative Decree No. 192 of November 24, 2023](#)

This is the main implementing decree of Law 46/2022. Its purpose is to integrate and reorganize the regulation of APCSMs within the Military Code (Legislative Decree No. 66 of March 15, 2010 - COM).

What it introduced/modified:

- **It repealed** Articles 1476 to 1482 of the COM (Military Code) which regulated the old military representation (COBAR, COIR, COCER), replacing them with a new Title VI-bis.
- **It introduced into the COM** an entire and organic regulation of APCSMs, defining:
 - Their **establishment and purposes. SA253816**

- Their trade **union competencies**, clarifying which matters APCSMs can intervene on (economic, legal, social security, welfare treatment, and employment conditions) and which are excluded instead (such as military organization, operations, the operational deployment of personnel in the strict sense, the hierarchical-functional relationship).
- The **criteria for identifying the representativeness** of APCSMs (based on the number of members), essential for participating in negotiation tables.
- The **procedures for prior information and consultation** between the Administrations and APCSMs.
- The trade **union prerogatives** of representatives (detachments, permits, meeting premises), ensuring the necessary tools for trade union action.
- The **prohibition of strikes** and other specific limitations to balance trade union activity with the needs of military functionality and operability.

It sounds like you're outlining significant criticisms of Italian Legislative Decree 24 November 2024, no. 192, which reorganizes Law 46/2022. You're particularly concerned about how it appears to diminish trade union freedom and the principles of separateness and autonomy for military professional associations of a trade union nature (APCSM).

Here's a breakdown of your points and their translation into English, maintaining the original meaning and formatting:

Criticisms of Legislative Decree 24 November 2024, No. 192, Reorganizing Law 46/2022, Which Undermines Trade Union Freedom and the Principles of Separateness and Autonomy

The decree introduces or maintains provisions that limit the operations of Professional Associations of a Trade Union Nature for Military Personnel (APCSM), potentially compromising their full autonomy and the necessary separation from military institutions:

- **General Principles and Potential Limit to Trade Union Activities:** Article 1476-bis of Legislative Decree 192/2023 requires APCSMs to operate in compliance with the principles of "internal cohesion, neutrality, efficiency,

and operational readiness of the Armed Forces." While the intent is to safeguard the specificities of the military order, an expansive interpretation of these principles could lead to restrictions on trade union activity, preventing APCSMs from acting with the necessary incisiveness in certain circumstances. Furthermore, it reiterates "neutrality and detachment from political competitions and political parties and movements" and the prohibition of interfering with operational tasks or the direction of services.

- **Prohibition of Affiliation with Non-Military Trade Unions:** Article 1476-
quater, paragraph 1, letter h), prohibits APCSMs from "adhering to or
affiliating with non-military associations or trade union organizations."
This limitation represents a significant critical issue in terms of
"separateness," preventing APCSMs from building alliances and networks
of solidarity with the broader world of civil trade unionism, which could
offer support, expertise, and greater bargaining power. This prohibition
could isolate military trade unions and limit their ability to influence
general labor policies, especially given their belonging to the "Security and
Defense" sector, which also includes trade union organizations of civilian
police forces. This implies that, as stated earlier, civilian police trade union
organizations not only have a greater possibility of achieving
representativeness due to multiple registrations but, unlike APCSMs, by
having the possibility of joining trade union confederations, they possess
superior contractual potential.
- **Ministerial Control over APCSMs:** Article 1477, paragraphs 2 and 5,
stipulates that the statutes of APCSMs must be subject to ministerial
approval and that the associations must be registered in a specific register
kept by the Ministry of Defense. The Ministry also 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. This "ministerial control" has often been perceived as
"unnecessarily intrusive" and as a potential "minefield for trade union

autonomy," as it grants the administration significant power over the very existence and operations of the trade union.

- **Other Activity Limitations:** Article 1476-quater lists further prohibitions, such as the prohibition of announcing strikes or similar actions without indicating possible alternatives, as well as, due to the specific nature, prohibiting public demonstrations in uniform or with service weapons, from assuming the exclusive representation of a category if it exceeds 75% of its members, and from establishing offices within the Ministry's structures.

Matters Excluded from Trade Union Negotiation and Their Significant Subject of Contractual Negotiation

Article 1476-ter, paragraph 3, of the decree explicitly excludes from the competence of APCSMs matters such as "military organization, training, operations, the logistical-operational sector, the hierarchical-functional relationship, as well as the employment of personnel in service." These are the foundations of military life and profession.

Although excluded from direct "trade union negotiation," it is essential that military trade unions continue to monitor these issues closely for the following reasons:

- **Interdependence with Working Conditions:** Although not directly negotiable, military organization, training, operations, and personnel employment profoundly influence the living conditions, well-being, health, and safety of military personnel. For example, operational or logistical decisions can impact working hours, rest periods, family planning, workplace safety, and even career progression.
- **Relevance for Contractual Negotiation:** Law 46/2022 and Legislative Decree 192/2023 provide that APCSMs have negotiating powers in

relation to specific matters subject to collective bargaining, as defined by Legislative Decree 12 May 1995, no. 195 (Art. 5 for the Armed Forces and Art. 4 for the military-ordered Police Forces). These matters include economic, regulatory, and rights aspects which, while not directly affecting military organization, are intrinsically linked to its practical applications. For instance, operational employment allowances or rules on working hours are subject to contractual negotiation, but they directly stem from operational and service needs. Therefore, an in-depth knowledge of the excluded matters allows APCSMs to formulate more effective demands based on the real needs of personnel during negotiations on matters within their competence.

- **Indirect Protection of Personnel:** Monitoring decisions on these matters allows trade unions to identify potential critical issues that, while not negotiable, can be the subject of proposals, reports, or interventions for the protection of personnel. It is through monitoring that negative impacts on aspects such as occupational health and safety, equal treatment, or career opportunities can be highlighted, even if fundamental decisions remain with the administration.

Limitation of Trade Union Activity at the Regional Level and Non-Recognition of Provincial and Section Secretaries

A particularly critical aspect highlighted is the limitation of trade union activity to an area level not lower than the regional one.

- **Exclusion of Provincial and Section Articulations:** Article 1477-bis, paragraph 3, establishes that the peripheral articulations of APCSMs relate to military administrations at a level "not lower than the regional level" for local issues, "without any negotiating role." Similarly, Article 1480, paragraph 2, provides that offices for trade union activities shall be at the central and peripheral levels "not lower than the regional level." This

approach effectively excludes the recognition and full operation of provincial and section secretaries, despite having been recognized and elected as provided by the Statute of the New Carabinieri Union, which was correctly submitted and also approved by the Ministry.

- **Impact on Territorial Presence and Trade Union Base:** This limitation severely undermines the trade union's 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. The logic of "proximity" and "closeness" to military personnel is thus prejudiced.

In summary, while Decree 192/2023 represents a step towards implementing trade union freedom in the military sphere, the critical issues relating to ministerial control, affiliation limitations, the exclusion of crucial matters from direct negotiation (even if they should be monitored), and the restriction of peripheral articulations to the regional level, raise doubts about the full and effective autonomy of APCSMs and their ability to represent the interests of military personnel comprehensively, especially at the local level.

[Legislative Decree No. 217 of December 27, 2023](#)

This decree introduced significant modifications and integrations to Legislative Decree No. 195 of May 12, 1995, which is the fundamental norm for determining the remuneration and employment conditions of personnel of the Armed Forces and Police Corps, both military and civilian.

- **What it introduced/modified:**

In summary, the main objective of Legislative Decree 217/2023 was to adapt the collective bargaining system to the new reality of military trade unionism, which originated with Law 46/2022 and is regulated by Legislative Decree 192/2023. It took an existing decree (Legislative Decree 195/1995), which established how remuneration and working conditions were "negotiated," and updated it to include and give full recognition to the new military trade union entity (APCSMs).

Legislative Decree No. 14 of February 19, 2025

This is the Decree concerning **"Provisions for regulating the specific limitations on the exercise of trade union activity by personnel engaged in operational, training, educational, and exercise activities, even outside national territory, integrated into contingents or on board naval units, or individually detached, pursuant to Article 9, paragraph 15, of Law No. 46 of April 28, 2022."**

- **What it introduced/modified:**

The measure consists of two articles.

- Article 1 integrates the Military Code (COM) by adding, after Chapter III, Book Four, Title IX, Chapter III-bis titled "Particular limitations on the exercise of trade union activity," composed of 4 articles regarding limitations for personnel engaged in:
 - operational activities or missions (Article 1482-ter),
 - training or exercise activities (Article 1482-quater),
 - educational activities (Article 1482-quinquies),
 - command duties, specific assignments, or boarding (Article 1482-sexies).
- Article 2 of the illustrated measure contains the financial invariance clause.

Specific Case of the Administration's Use of Environmental Incompatibility Justification for the Transfer of a Trade Union Leader to Circumvent the Required Request for APCSM Consent.

(This situation has been recorded by the Nuovo Sindacato Carabinieri, affecting at least one of its trade union leaders: the leader in question had been transferred due to environmental incompatibility, without the required prior consent, for alleged violations: - crimes under Articles 47 no. 2, 120 of the Military Penal Code of Peace, Articles 127 paragraph 2, 47 c.p.m.p. and 81 cpv of the Penal Code. Although the first instance judgment by the Military Court of Naples, with a Sentence filed on February 6, 2025, declared a "no case to answer" against him because the "fact does not constitute a crime," he was still not granted the right to trade union protection regarding the transfer requiring prior consent. Currently, the Military Prosecutor's Office of Naples has appealed the aforementioned Sentence to the Military Court of Rome, and the second-instance judgment is awaited by the end of next October.)

Non-Compliance with the Requirement for APCSM Consent for Transfers of APCSM Trade Union Leaders

The issue of protecting military trade union leaders, particularly regarding transfers, is a crucial aspect to ensure the autonomy and effectiveness of trade union action.

1. Basis of Protection:

- **General Principle:** Legislation on trade union rights, including in the public sector and, by extension, in the military sector (after the introduction of APCSMs), tends to provide forms of protection for trade union leaders to prevent trade union activity from exposing them to retaliation or professional disadvantages. Mandatory transfers, if not adequately regulated, could be used as a tool to remove an inconvenient trade union leader.

- **Specific Regulations for APCSMs:** Law no. 46/2022 and the subsequent Legislative Decree no. 192/2023 introduce a regulatory framework for APCSMs. In this context, Article 1479-bis of the Military Code of Organization (COM), inserted by Legislative Decree 192/2023 (and present in the document you provided), is of particular relevance. This article, in paragraph 1, states: "Military personnel holding executive positions within APCSMs cannot be transferred ex officio without the prior consent of the administration to which they belong, having obtained the favorable opinion of the interested APCSM, unless the transfer is ordered due to operational, service, or institutional security needs incompatible with remaining in the current location."
- **Meaning of "Nulla Osta" (Consent):** The "nulla osta" is not a mere formal act but a prior consent that the administration should request, accompanied by the opinion of the APCSM, unless the strict exceptions provided for by the rule apply. The intent is to safeguard the continuity of trade union action and to protect the leader from transfers motivated by retaliatory or instrumental reasons.

The Use of "Environmental Incompatibility" to Circumvent the "Nulla Osta" Obligation

The main problem arises when the administration, instead of following the consent procedure, resorts to justifications falling within the exceptions provided by the norm, such as "environmental incompatibility," to justify mandatory transfers.

1. Nature of Environmental Incompatibility:

- "Environmental incompatibility" is a general clause used in administrative and labor law to justify the relocation of an employee when their continued presence in a specific work context becomes

detrimental to the proper functioning of the office, to the serenity of the environment, or for disciplinary reasons not severe enough to warrant a more serious proceeding. It is not a disciplinary sanction but an organizational measure.

- **Lack of a Strict Definition:** Often, the concept of "environmental incompatibility" is left to a certain degree of administrative discretion and can be formulated in rather broad terms, making it difficult to challenge its validity if the motivation is generic.

2. Why it is Used to Circumvent Consent:

- **Falling within Legal Exceptions:** Article 1479-bis, paragraph 1, of the COM, as cited, provides that consent is not necessary if the transfer is ordered due to "operational, service, or institutional security needs incompatible with remaining in the current location." The administration may attempt to include alleged "environmental incompatibility" in one of these categories (particularly "service needs" or "institutional security"), thereby bypassing the obligation to obtain consent and the opinion of the APCSM.
- **Discretion and Difficulty of Challenge:** The vagueness of the concept of "environmental incompatibility," if not supported by specific and documented facts, offers the administration a margin of discretion. This makes it more complex for the trade union leader and the APCSM to challenge the legitimacy of the transfer, as the reasons given are often generic or based on internal evaluations that are difficult to verify externally.
- **Deterrent Effect:** The frequent or perceived instrumental use of environmental incompatibility to transfer trade union leaders can have a deterrent effect on trade union activity. Leaders might feel less free to exercise their mandate for fear of suffering "punitive" transfers disguised as organizational needs.

We sincerely hope that the provided material will prove useful to the cause and effectively contribute to the objectives of the Collective Complaint. We thank you for considering our contribution and for the trust placed in us.

On this occasion, I also wish to inform you that the Secretary General of the Nuovo Sindacato Carabinieri (NSC), Massimiliano Zetti, will independently submit a personal report. This document will illustrate the events he has experienced and the significant victories obtained in courtrooms in relation to his trade union activity, in which the full right to trade union criticism has been recognized.

The Nuovo Sindacato Carabinieri places great trust in EUROMIL and in the valuable collaboration between our organizations. We remain at your complete disposal for any further requests or clarifications.

Thanking you again for your attention and cooperation,

Sincerely,

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