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Sent Via Electronic Mail

February 24, 2024

Valerio Talamo
segreteria.urspa@funzionepubblica.it
Department of Public Function

Bernardo Maria Iannettone
vicecapogabistruzione@istruzione.it
Ministry of Education

Re: Complaint from Sindacato Autonomo Europeo Scuola ed Ecologia (“SAESE”)

Dear Mr. Talamo and Mr. Iannettone,

This firm has been retained by Sindacato Autonomo Europeo Scuola ed Ecologia (hereinafter, “SAESE”) to consult in this matter. Accordingly, please direct all further correspondence to this office – to the attention of the undersigned.

On December 11, 2023, in a letter from this firm, SAESE notified the Ministers of the Council of Europe about an ongoing complaint related to labor. SAESE subsequently called for a national strike in the school sector on January 19, 2024. In its provisional opinion, dated January 10, 2024, the Authority notified the Department of Public Service and the Ministry of Education of its intention to intervene in the strike proposed by SAESE. However, in our review of the relevant law, the Department of Public Function and the Ministry of Education do not have the legal basis with which to prevent SAESE from striking at this time.

According to Resolutions 03/162 and 05/423 of the Strike Guarantee Commission, there is no restrictive definition of industrial conflict, and the Union had the right to call a strike when conflicts arise in relation to issues concerning a single worker, including trade union self-defense as an alternative to judicial protection of rights. Also, law number 146/1990 addresses this issue by limiting the freedom to strike but not the right to strike in essential public services. The Resolution, essentially, rebalances the right to strike with the constitutionally protected rights present in the Italian Constitution.

Law number 146/1990 provides the Department of Public Function and the Ministry of Education an injunction to utilize in situations where the reconciliation of such issues is subservient to avoiding injury amongst the general citizenry. However, before such an act of intervention, a mediation must occur in which both sides attempt to concede to avoid the strike.

Following the opinion, dated January 10, 2024, you deemed it appropriate not to announce the potential SAESE strike. However, since there is no restrictive definition of labor conflict contained



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in law number 146/1990, the letter and proposed intervention have no force of law with regard to SAESE as they are not contemplated by law number 146/1990. Furthermore, no mediation has yet occurred or is scheduled between the Parties. Moving forward, if there are strikes, Mr. Talamo and Mr. Iannettone will be reported by SAESE to the Judiciary for omission as necessary.

We also ask your due consideration of SAESE's complaint and accompanying concerns. SAESE hopes that, in the future, such concerns will be presented to a mediator, as discussed by law, prior to your organizations taking concrete action to avoid potential strikes. Should that not be the case, SAESE reserves the right to report your organizations to the appropriate magistrate. Thank you for your time and attention to this matter.

CC: info@saese.eu

Best Regards,

Matthew W. Wallace, MPA, Esq.
Partner | McDaniel Wallace, LLP