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

13 March 2017

Case Document No. 3

Movimento per la libertà della psicanalisi – Associazione culturale v. Italy
No. 122/2016

**RESPONSES OF *MOVIMENTO PER LA LIBERTA DELLA
PSICANALISI – ASSOCIAZIONE CULTURALE* TO THE
QUESTIONS OF THE EUROPEAN COMMITTEE OF
SOCIAL RIGHTS**

Registered at the Secretariat on 24 February 2017

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

24 February 2017

Movimento per la libertà della psicanalisi – Associazione culturale italiana v. Italy

Complaint no. 122/2016

Replies to the questions submitted on 30 January 2017

Dear President,

I have the honour to confirm to you that the *Movimento per la libertà della psicanalisi – associazione culturale italiana* (the “Movement”) would like to respond to the questions which you put in your communication of 30 January 2017.

I. First question:

Does the Movimento per la libertà della psicanalisi – Associazione culturale italiana (“the Movement”) wish to respond to the Government’s objections that it cannot properly be considered a representative trade union within the meaning of Article 1c of the Protocol providing for a system of collective complaints?

1. On a preliminary basis, the Movement would like to stress that it represents psychoanalysts who do not engage in healthcare activity and thus psychotherapy and that these psychoanalysts are not required to register with an order or be included on any register regulating healthcare activities. Consequently, such psychoanalysts do not practise any healthcare activity and are not registered with the Order of Psychologists or included in the Register of Psychotherapists (“*elenco degli psicoterapeuti*”).

The phrase “*unregistered psychoanalysts*” will hereafter refer solely to this specific category.

2. In response to the **first question**, the Movement stresses in the first place that the title of cultural association featuring in its name does not prevent it from representing the category of “*unregistered psychoanalysts*” pursuant to Article 1c of the Protocol.
3. The Movement meets all the criteria required in order to be classified as a trade union for this specific category of worker.
4. Firstly, the Movement would point out that Article 2 of its articles of association lay down its objectives. In particular, one of its principal goals is to **guarantee the freedom of activity of “unregistered psychoanalysts”**, and this crucial objective is met by the promotion and dissemination of psychoanalysis, but also and above all by **raising awareness in the political and legal domain and through legal action**.
5. Regarding this aspect, the Movement draws attention to the need always to bear in mind the spirit in which the association was set up, namely in order to provide a practical response to the serious situation at domestic level where “*unregistered psychoanalysts*” end up working in a situation of uncertainty and in fear of being

reported.

6. Secondly, the Movement also points out that, as far as classification as a trade union is concerned, Article 18 of the Italian Constitution provides that citizens have the right to form associations freely, without authorisation, for any purposes not prohibited for individuals by criminal law.
7. The Movement would add that there is no requirement in Italy for trade unions to register and that they do not formally have legal personality. Even the “traditional” Italian trade unions, such as the CGIL [Italian General Confederation of Labour] and the UIL [Italian Labour Union], only have the status of “unrecognised” associations governed by ordinary law, namely Articles 36, 37 and 38 of the Italian Civil Code (see *Associazione Nazionale Giudici di Pace v. Italy*, complaint no. 102/2013, decision on admissibility of 2 December 2014; and *Associazione Sindacale “La voce dei Giusti” v. Italy*, complaint no. 105/2014, decision on admissibility of 17 March 2015, § 7).
8. In this connection, the Movement would therefore point out that it is in the same situation as all other trade unions in Italy, since it is an unrecognised association, does not have legal personality, is subject to ordinary law and was registered with the competent authorities on 17 June 2012 (see paragraph 5 of the complaint).
9. Having clarified the legal framework within which the Movement acts in the defence of the interests of “*unregistered psychoanalysts*”, it must not be forgotten that this representation has to be examined taking account of the fact that, in this case, the workers concerned engage in independent professional activity and do not interact with an employer as, for example, employees may do. There is no contractual relationship between the members of the Movement and the Government, even though the conditions applicable to them are determined solely by law.
10. In addition, the Movement stresses that the resources available in order to protect the category of “*unregistered psychoanalysts*” and their collective interests are very limited. The Movement would maintain that, at domestic level, there are practically no legal instruments for supporting or improving their working conditions.
11. The only possible option is actually legislative action to provide a proper framework governing the professional expertise of “*unregistered psychoanalysts*”, thereby enabling them at last to exercise their profession without the risk of being reported to law enforcement agencies at any moment.
12. Moreover, since 2012 the Movement and its members have brought four specific political and legal actions, namely:
 1. Members of the Movement filed a complaint with the European

Commission (Appendices nos. 1, 2 and 3);

2. The Movement had a written question submitted to the European Commission (E-001658/2013) through the MEP, Mr Andrea Cozzolino (Appendix no. 4);

3. The Movement had a second written question submitted to the European Commission (E-005027/2013) through the MEP, Ms Sandrine Bélier (Appendix no. 5);

4. The Movement submitted this complaint to the European Committee of Social and Economic Rights of the Council of Europe ("the Committee").

13. Lastly, on 4 February 2017, the President of the Movement was invited by a federation of fifteen Belgian and French associations, the *Inter associatif européenne de psychanalyse* [European Inter-Association of Psychoanalysis], to provide all relevant information concerning the category of "unregistered psychoanalysts", their working conditions in Italy, the difficulties and uncertainties that exist and the specific responses provided to deal with the situation. On that occasion, the President of the Movement informed the other associations of the complaint and of the procedure pending before the Committee, which aroused considerable interest, especially since the Belgian and French associations are concerned about the development of the situation in their own countries (Appendix no. 6).

II. Second question:

In particular, can the Movement provide information on membership of your association in comparison with any other representing psychoanalysts?

14. The Movement estimates that there are currently around 2 500-3 000 professional psychoanalysts practising in Italy and that 10-20% of them are not registered with the Order of Psychologists or on the Register of Psychotherapists. These belong to the category of "unregistered psychoanalysts" and are estimated to number around 300-600 professionals.

15. There are various associations of psychoanalysts in Italy. Specifically, alongside the Movement, the most well-known associations are the following:

1. *Associazione psicanalitica italiana* [Italian Association of Psychoanalysis]

(www.spiweb.it);

2. *SPF Scuola di Psicanalisi freudiana* [School of Freudian Psychoanalysis]

(www.scuoladipsicanalisifreudiana.it);

3. *Associazione lacaniana italiana di psicoanalisi* [Italian Lacanian Association of

- Psychoanalysis] (www.alidipsicoanalisi.it);
4. *Scuola lacaniana di psicoanalisi del campo freudiano – SLPCF* [Lacanian School of Psychoanalysis in the Freudian Field] (www.slp-cf.it);
 5. *Associazione lacaniana internazionale in Italia* [Lacanian International Association in Italy] (www.freud-lacan.it);
 6. *Praxis, Associazione per la psicoanalisi, forum del campo lacaniano* [Association for Psychoanalysis, forum for the Lacanian Field] (www.praxislacaniana.it);
 7. *Associazione europea di psicoanalisi* [European Association of Psychoanalysis] (www.aepsi.it);
 8. *Movimento di psicoanalisi critica* [Critical Psychoanalysis Movement];
 9. *Laboratorio di ricerca freudiana* [Freudian Research Laboratory] (www.ricercafreudiana.it);
 10. *Associazione psicanalisti Pisa* [Pisa Psychoanalysts Association] (www.psicanalispisa.it);
 11. *Accademia Platonica delle Arti e delle Scienze* [Platonic Academy of the Arts and Sciences];
 12. *Association des Psychanalystes européens in Italia* [Association of European Psychoanalysts in Italy] (www.ape-psychanalyse.com);
 13. *Associazione italiana di psicoanalisi* [Italian Association of Psychoanalysis] (www.aipsi.it);
 14. *Tracce freudiane* [Freudian Traces] (www.traccefreudiane.com);
 15. *Associazione di psicanalisi arte e scrittura* [Association of Psychoanalysis Art and Writing] (www.ilnotesmagico.it);
 16. *ARPA Psiche* [ARPA Psyche] (www.arpa-psiche.it);
 17. *Laboratori psicoanalitici* [Psychoanalytic Laboratories] (www.laboratoripsicoanalitici.it);
 18. *Ariele* (www.psicosocioanalisi.it);
 19. *Associazione psicoanalisi e ricerca* [Association of Psychoanalysis and Research] (www.associazionepsicoanalisiericerca.it);
 20. *Nodi Freudiani* [Freudian Issues] (www.nodifreudiani.it);
 21. *Accademia per la formazione* [Academy for Training] (www.accademiaperlaformazione.org);
 22. *Fairitaly ONLUS* (www.fairitaly.eu);
 23. *Circolo Freud* [Freud Circle] (www.circolofreud.altervista.org);
 24. *Coordinamento degli Psicoanalisti Italiani – CooPI* [Co-ordination of Italian Psychoanalysis] (www.coopiweb.it);
 25. *Associazione Psicoanalisti Europei – A.P.E* [Association of European Psychoanalysts]

(ape-psychanalyse.com);

26. *Associazione Europea di Psicoanalisi* [European Association of Psychoanalysis]

(www.aepsi.it);

27. *Associazione di psicoanalisi la scienza della parola* [Association of Psychoanalysis the Science of the Word];

28. *Associazione il tempo della parola* [Association Time for Words];

29. *GRADIVA – Istituto per la Ricerca della Psicoanalisi* [Institute for Psychoanalysis Research];

30. *Associazione italiana per lo studio della psicoanalisi – AISP* [Italian Association for the Study of Psychoanalysis].

16. In addition, the Movement would stress that some of the above associations have affiliated with it (in particular the “*Associazione di psicoanalisi la scienza della parola*”, “*Associazione il tempo della parola*” and the “*Associazione italiana per lo studio della psicoanalisi – AISP*”) and that several other associations support the legal action initiated at international level before the Committee (see Appendices nos. 7-16). All these associations would like “*unregistered psychoanalysts*” to be able to exercise their profession without the fear of being reported. In particular, the following associations directly support the Movement’s initiative:

1. *Associazione europea di psicoanalisi* [European Association of Psychoanalysis]

(www.aepsi.it) (Appendix no. 7);

2. *Movimento di psicoanalisi critica* [Critical Psychoanalysis Movement] (Appendix no. 8);

3. *Laboratorio di ricerca freudiana* [Freudian Research Laboratory]

(www.ricercafreudiana.it) (Appendix no. 9);

4. *Associazione psicoanalisti Pisa* [Pisa Psychoanalysts Association]

(<http://www.psicoanalispisa.it/>) (Appendix no. 10);

5. *Accademia Platonica delle Arti e delle Scienze* [Platonic Academy of the Arts and Sciences] (Appendix no. 11);

6. *Associazione Psicoanalisti Europei – A.P.E* [Association of European Psychoanalysts]

(ape-psychanalyse.com) (Appendix no. 12);

7. *Associazione di psicoanalisi la scienza della parola* [Association of Psychoanalysis the Science of the Word] (Appendix no. 13);

8. *Associazione il tempo della parola* [Association Time for Words] (Appendix no. 14);

9. *GRADIVA – Istituto per la Ricerca della Psicoanalisi* [Institute for Psychoanalysis Research] (Appendix no. 15);

10. *Associazione italiana per lo studio della psicoanalisi – AISP* [Italian Association for the Study of Psychoanalysis] (Appendix no. 16);

11. *Tracce freudiane* [Freudian Traces] (www.traccefreudiane.com).

17. Lastly, the Movement would draw attention to the fact that all the above associations are subject to the same legislation as is applied to the Movement (see paragraphs 8-10 above) and that no association of psychoanalysts has been able to obtain recognition as a sectoral association in accordance with Law no. 4 of 2013.

In particular, the Movement is aware that action has been taken by the *Coordinamento degli Psicoanalisti Italiani – Coopi*, the *Associazione Psicoanalisti Europei – A.P.E.* and the *Associazione Europea di Psicanalisi*.

However, the Movement would point out that two of these three associations were unable to obtain the recognition sought from the Ministry of Economic Development, as it considers that the exercise of the profession of psychoanalyst must be regarded as a health-related matter (see paragraphs 75 and 76 of the complaint and docs. nos. 35 and 36). For this reason, the Movement has not applied for registration in accordance with Law no. 4 of 2013.

18. **Against this multi-faceted background, the Movement stresses the most important and significant aspect of its activity, namely the fact that it is the only association that has specifically committed itself on both political and legal levels to defending the interests of the category. The Movement is the only association to have involved MEPs, submitted a complaint to the European Commission and also submitted this complaint.**
19. On the other hand, the Movement is not aware of any other legal or political actions that have been initiated by other associations of psychoanalysts in order to defend the interests of the category at either domestic or international level.

III. Third question:

What activities has the Movement undertaken to improve the working terms and conditions of psychoanalysts?

20. In response to the last question, the Movement would state that its actions are premised on the aim of improving the working conditions for the professional category and that they have taken the form of political and legal initiatives.
21. In particular, in view of the difficulty in finding a domestic legal remedy, above all due to the difficulties encountered in relation to the application and interpretation of legislation in this area, it asked the European Parliament to intervene on two occasions, and members of the Movement submitted a complaint to the European Commission (see paragraph 12 above and Appendices nos. 1-5). Lastly, it has filed this complaint, and the President of the Movement has been consulted by associations in other countries regarding the highly uncertain political and legal situation of “*unregistered psychoanalysts*” in Italy with regard to

the exercise of their profession (see paragraph 13 above and Appendix no. 6).

22. Moreover, the Movement would underline that strikes would not be effective as a means of guaranteeing the right to work invoked.

Conclusion

23. Taking account of the circumstances referred to above, the Movement considers that it meets all the requirements for classification as a professional organisation as specified in Article 1 c of the Protocol.
24. All of the circumstances referred to must be examined in the light of the case law of the Committee, which has held that, for the purposes of the collective complaints procedure, representativity is an autonomous concept, not necessarily identical to the national notion of representativity (see *Confédération Française de l'Encadrement (CFE-CGC) v. France*, complaint no. 9/2000, decision on admissibility of 6 November 2000, § 6; and *Associazione Sindacale "La voce dei Giusti" v. Italy*, cited above, § 11).
25. In addition, it stresses that, again according to the case law of the Committee, the application of criteria of representativeness for the purposes of the complaint procedure should not prejudice the effectiveness of the right of all trade unions to bring a complaint before it (see *Fellesforbundet for Sjøfolk (FFFS) v. Norway*, complaint no. 74/2011, decision on admissibility of 23 May 2012, § 21).
26. In conclusion, the Movement considers that all the actions initiated demonstrate that it pursues its objectives (see Article 2 of its articles of association) actively – both through political and legal action and also through awareness-raising initiatives – and using the means available to it. For all these reasons, the Movement asks the Committee to reject the objection raised by the Italian Government.

DOCUMENTS APPENDED

1. Copy of the complaint to the European Commission of 14 December 2012;
2. Copy of Annex no. 3 to the complaint of 14 December 2012 (adherence by interested parties);
3. Copy of correspondence concerning the complaint of 14 December 2012;
4. Copy of the first question to the European Commission (E-001658/2013) presented by the MEP, Mr Andrea Cozzolino;
5. Copy of the second question to the European Commission (E-005027/2013) presented by the MEP, Ms Sandrine Bélier;

6. Copies of emails concerning the meeting of 4 February 2017;
7. Copy of the statement made on 17 February 2017 by the *Associazione europea di psicoanalisi*;
8. Copy of the statement made on 14 February 2017 by the *Movimento di psicoanalisi critica*;
9. Copy of the statement made on 13 February 2017 by the *Laboratorio di ricerca freudiana*;
10. Copy of the statement made on 14 February 2017 by the *Associazione psicoanalisti Pisa*;
11. Copy of the statement made on 14 February 2017 by the *Accademia Platonica delle Arti e delle Scienze*;
12. Copy of the statement made on 16 February 2017 by the *Associazione Psicoanalisti Europei – A.P.E.*;
13. Copy of the statement made on 16 February 2017 by the *Associazione di psicoanalisi la scienza della parola*;
14. Copy of the statement made on 14 February 2017 by the *Associazione il tempo della parola*;
15. Copy of the statement made on 20 February 2017 by *GRADIVA – Istituto per la Ricerca della Psicoanalisi*;
16. Copy of the statement made on 20 February 2017 by the *Associazione italiana per lo studio della psicoanalisi – AISP*.

Verona, 24 February 2017

Alessandra GUERRA

President of the

Movimento per la libertà della psicanalisi – Associazione culturale italiana

[signature]

Antonella MASCIA

Barrister admitted to the Verona bar, registered with the Strasbourg bar

[signature]