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

5 September 2017

Case Document No. 3

Associazione Professionale e Sindacale (ANIEF) v. Italy
Complaint No 146/2017

**RESPONSE FROM ANIEF TO THE GOVERNMENT'S
OBSERVATIONS ON ADMISSIBILITY**

Registered at the Secretariat on 28 July 2017

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Directorate general
Human Rights and Rule of Law
Department of the European Social Charter

Complaint No. 146/2017

Professional and Trade Union Association ANIEF v. Italy

**Aniers observations on the admissibility
of the above mentioned complaint**

As required by mail of 21.06.17, concerning the admissibility of collective complaint lodged, the following comments are made:-

on the basis of the provisions of letter c) of art. 1 of the Additional Protocol to the European Social Charter on the Collective Complaint System¹, which allows this procedure to be activated by representative organizations of employers and workers, the Italian Government, in accordance of the indications provided by Aran, It has found that Anief has a representation less than 5% and, consequently, cannot be considered among the parties eligible to submit a collective complaint.

Well, the above observations are in no way shared; Anief is a professional and trade union association whose main purposes are, according to the art. 2 of the Company statutes:-

!) Represent and protect on the professional, trade union and cultural level, the teachers of the Italian school of every order and degree and of the University, Academia and Conservatories, in order to improve their professional, legal and economic conditions and social prestige;

¹ Whereby the Contracting Parties of the Additional Protocol recognize the right to submit complaints alleging unsatisfactory application of the Charter to "*representative national organizations of employers and workers dependent on the jurisdiction of the Contracting Party challenged by the complaint*".



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2) Improve the University education of school teachers at all levels, from initial selection to eligibility, from recruitment to fixed or indefinite recruitment to career progression, and to promote a legal status of teachers which also enhances the role of trainers;

3) Defend freedom of teaching and teaching professions, promoting the comparison of different political and cultural orientations. It will be positioned as an interlocutor on any initiative linked to the direct and indirect interests of the world of education, research and knowledge in order to improve the functionality of the service offered, the protection and promotion of professional autonomy;

4) Contribute to affirm the European dimension of education, including by participating in other similar international associative realities, promoting the exchange of ideas and experiences and the comparison between different organizational models;

5) Protect the ethical, moral, professional, legal and economic interests, both individual and collective, through the organization of union and cultural events.

The pursuit of those objectives is through the promotion of suitable initiatives to credit the Association as a reference of the represented class and to ensure its participation in the school and university policy.

In addition, in accordance with the provisions of art. 3 and 4 of the Statute, Anief can join or federate with other associations or institutions having similar purposes and enter into agreements with Universities, Academies, Conservatories, research institutions, and other institutions.

Consequently Anief can be considered in all respects a Union since under Italian Law, trade unions are unregistered, have no legal personality and, therefore, have only the status of unrecognized associations in accordance with art. 36 c.c.

Based on the above observations the nature of the Union seems must be sought between the factual elements of an objective nature; Anief, in particular, offers a service to its members entrenched across the country with 46 offices and 126 branches located in different Italian areas (DOC 1); at the federal level, on 23. 12.14, Anief officially joined the Confederation CISAL-Confederation in the public sector at National level- most representative of the category, according to National legislation (DOC 2, see also DOC 5).

The strong representation of Anief's Trade Unions is also reflected in the extensive press review of the main National newspapers for the years 2012-2016 (DOC 3) and by the widespread judicial action, promoted at the various Italian and European judicial offices (Administrative Court, Labor Court, Constitutional Court, European Court of Justice).

The claims made by Anief have also manifested itself in a series of general strikes with demonstrations and processions with a large number of participants;

Anief's institutional profile was also recognized by the Italian Parliament during the various chamber and senate hearings on all matters relating to the school and its staff (DOC.3A) and also by the same Ministry of Education, Universities and Research, through various informal meetings related to the disputes of school staff (DOC 3B).



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After all, the notion of "representativeness" of art. 1 of the Collective Complaint Protocol doesn't necessarily coincide with the National one², but requires an overall assessment of the aims of the association and the activities it carries out.

In other words it must be a real, active and independent reality, requirements owned by Anief which, until June 2017, has a number of delegations active across the National territory equal to 38141 (DOC 4).

Finally, it's noted that on 26.10.16 the Address and Control College of the Aran, resolved the assessment of trade union representation - education and research - for the period 2016-2018 and within this contest, Anief stands immediately after the Trade Union Organizations considered "representative" according to National Law, based on a complex average calculation between associative and electoral data (DOC 5).

Such elements can be found at the following link:

<https://www.aranagenzia.it/attachments/category/7490/accertamento%20rappresentativit%C3%A0%202016-2018.pdf>

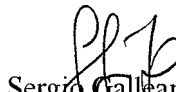




According to the above observations, It's considered that Anief may submit collective complaint, pursuant to art. 1 of the 1995 Additional European Charter.

Therefore We ask that the complaint be admissible.

The following documents are annexed:-

1. List of Anief locations active in Italy;
2. Accession Anief- Confederation Cisl- statute Cisl;
3. Press Review 2012-2016;
- 3A. Request Italian Government meeting
- 3B. Request Miur meeting;
4. List active mandates by region;
5. Establishment of Aran's representativeness;

Rome, 28th July 2017


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² See also, the precedent Confederation de française de l'encadrement "CFE.CGC" v. France, complaint no. 9/00, decision on admissibility of 6th november 2000.

