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

**DECISION ON ADMISSIBILITY**

**30 June 2011**

**General Federation of employees of the national electric power corporation  
(GENOP-DEI) and  
Confederation of Greek Civil Servants' Trade Unions (ADEDY)  
v. Greece**

Complaint No. 65/2011

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 251<sup>th</sup> session attended by:

Messrs Luis JIMENA QUESADA, Président  
Colm O'CONNOR, Vice-Président  
Jean-Michel BELORGEY, General Rapporteur  
Mrs Csilla KOLLONAY LEHOCZKY  
Messrs Andrzej SWIATKOWSKI  
Lauri LEPPIK  
Mrs Birgitta NYSTRÖM  
Messrs Rüçhan IŞIK  
Petros STANGOS  
Alexandru ATHANASIU  
Mrs Elena MACHULSKAYA  
Mr Giuseppe PALMISANO  
Mrs Karin LUKAS

Assisted by Mr Régis BRILLAT, Executive Secretary,

Having regard to the complaint dated 18 February 2011, registered on 21 February 2011 as number 65/2011, lodged by the General Federation of employees of the national electric power corporation (GENOP-DEI) ("GENOP-DEI") and the Confederation of Greek Civil Servants' Trade Unions (ADEDY) ("ADEDY") and signed by Mr Nikolaos Fotopolos, President of GENOP-DEI, and by Mr Spyridon Papaspyros, President of ADEDY, requesting the Committee to find that the situation in Greece is not in conformity with Article 3§1a of the Additional Protocol of 1988 and Article 4§4 of the European Social Charter ("the Charter");

Having regard to the documents appended to the complaint;

Having regard to the Charter and, in particular, to Article 4§4 as well as to Article 3§1a of the Additional Protocol of 1988, which read as follows:

**Article 4 – The right to a fair remuneration**

Part I: "All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families."

Part II: "With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake: (...)

- 4 to recognise the right of all workers to a reasonable period of notice for termination of employment; (...)"

**Article 3 – Right to take part in the determination and improvement of the working conditions and working environment**

Part I: "Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking."

Part II:

- 1 "With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a to the determination and the improvement of the working conditions, work organisation and working environment; (...)"

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints ("the Protocol");

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201<sup>st</sup> session and revised on 12 May 2005 at its 207<sup>th</sup> session, on 20 February 2009 at its 234<sup>th</sup> session and on 10 May 2011 at its 250<sup>th</sup> session ("the Rules");

Having regard to the observations of the Greek Government ("the Government") on the admissibility of the complaint received on 8 April 2011;

Having regard to the observations of GENOP-DEI and ADEDY received on 6 May 2011 in response to those of the Government;

Having regard to the additional written statements in support of the complaint received on 6 May 2011;

Having deliberated on 30 June 2011;

Delivers the following decision, adopted on this date:

1. GENOP-DEI and ADEDY contend that the situation in Greece is not in conformity with Article 3§1a of the Additional Protocol of 1998 and Article 4§4 of the Charter on the grounds that: Section 13 of Act No. 3899 of 17 December 2010, by making it possible for a collective agreement at enterprise level to derogate from the provisions on remuneration and working conditions set out in a collective agreement concluded at branch level, encourages the systematic deterioration of working conditions, which is in breach of Article 3§1a; Section 17 of the aforementioned Act, in equating the first twelve months of employment in an open-ended contract with a trial period, makes dismissal without notice or compensation possible during this period, which is in direct breach of Article 4§4.

2. The Government in its observations raises the following objections to admissibility:

- the second claiming organisation has allegedly no legal standing to bring a complaint as they represent employees of the public sector and the legal provisions at issue are not applicable to this sector;

- the capacity of the complainant organisation to engage in such negotiations, as the only organisation entitled to do so with company DEI, is allegedly not affected by the legal provisions at issue.

## **THE LAW**

3. The Committee observes that in accordance with Article 4 of the Protocol, which was ratified by Greece on 18 June 1998 and entered into force for this state on 18 August 1998, the complaint has been submitted in writing and concerns Article 4§4 of the Charter, provision accepted by Greece when it ratified this treaty on 6 June 1984 and to which it is bound since the entry into force of this treaty in its respect on 8 July 1984, and Article 3§1a of the Additional Protocol of 1988, provision also accepted by Greece when it ratified the Additional Protocol on 18 June 1998, which entered into force for this state on 17 July 1998. Moreover, the grounds for the complaint are indicated.

4. The Committee notes that GENOP-DEI and ADEDY are trade union confederations exercising their activities within the jurisdiction of Greece in accordance with Article 1 c) of the Protocol.

5. Furthermore, GENOP-DEI and ADEDY are recognised under Greek law as being representative organisations at national level. The Committee recalls that, for the purpose of the collective complaints procedure, representativeness is an autonomous concept, not necessarily identical to the national notion of representativeness (*Confédération française de l'Encadrement "CFE-CGC" v. France*, Complaint No. 9/2000, decision on admissibility of 6 November 2000, § 6). Having made an overall assessment of the information at its disposal, the Committee considers that GENOP-DEI and ADEDY are representative confederations of trade unions for the purpose of the collective complaints procedure.

6. The Committee notes that the complaint is lodged in the name of GENOP-DEI and signed by its President, Mr Nikolaos Fotopolos, who represents the Federation; the complaint is also lodged in the name of ADEDY and signed by its President, Mr Spyridon Papaspyros, both entitled to represent their organisation.

7. The Committee therefore considers that with respect to each of GENOP-DEI and ADEDY the formal requirement of Rule 23 of the Rules has been met.

8. As to the arguments raised by the Government regarding the admissibility of the complaint in connection with the object of ADEDY and the remit of the legal provisions concerned, the Committee first observes that if the object of ADEDY is the defence of the financial and social interests of employees of the public sector, part of the employees concerned do not have a public sector but a private sector status, and as such the relevant provisions are therefore applicable to them. Secondly, it observes that, at least in so far as Article 4§4 of the Charter is concerned, these counterarguments are connected with the merit of the complaint and not its admissibility. Therefore, the Committee considers that the grounds of inadmissibility brought forward by the Government must be dismissed.

9. For these reasons, the Committee, on the basis of the report presented by Mr Jean-Michel BELORGEY and without prejudice to its decision on the merits of the complaint,

#### **DECLARES THE COMPLAINT ADMISSIBLE**

In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 30 September 2011.


Invites GENOP-DEI and ADEDY to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Revised Charter to make comments by 30 September 2011, should they so wish.

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 30 September 2011.



Jean-Michel BELORGEY  
Rapporteur



Luis JIMENA QUESADA  
President



Régis BRILLAT  
Executive Secretary