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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. 66/2011

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, President  
Colm O'CONNOR, Vice-President  
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 66/2011, 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 Articles 1§1, 7§2, 7§9, 7§7, 12§2 and 10§2 and Article 4§1 in combination with Article 1§2 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 Articles 1§1, 1§2, 4§1, 7§2, 7§7, 7§9, 10§2 et 12§2, which read as follows:

**Article 1 –The right to work**

Part I: “Everyone shall have the opportunity to earn his living in an occupation freely entered upon.”

Part II: “With a view to ensuring the effective exercise of the right to work, the Parties undertake:

- 1 to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
- 2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon; (...)

**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: (...)

- 1 to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living; (...)

**Article 7 – The right of children and young persons to protection**

Part I: “Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed..”

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

- 2 to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy; (...)
- 7 to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay; (...)

9 to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;(…)"

**Article 10 – The right to vocational training**

Part I: "Everyone has the right to appropriate facilities for vocational training.."

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

2 to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;(…)"

**Article 12 – The right to social security**

Part I: " All workers and their dependents have the right to social security."

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

2 to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;(…)"

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 Articles 1§1, 7§2, 7§7, 7§9, 10§2, 12§2 and with Article 4§1 in combination with Article 1§2 of the Charter on the grounds that:

Section 74§9 of Act 3863/2010 establishes so-called apprenticeship contracts that are in practice merely contracts of up to one year offering no job security, or even regular medical check-ups or entitlement to paid holidays.

Section 74§8 of Act 3863/2010 provides that employers who hire new entrants to the labour market aged under 25 are entitled to pay them at a rate of 84% of the minimum wage laid down in the national labour agreement. GENOP-DEI and ADEDY argue that the legislative provision in question does not guarantee all the employees concerned a fair wage and a decent standard of living.

2. The Government in its observations raises the following objections to admissibility: the complainant organisations are not representative within the meaning of Article 1 c) of the Protocol as the scope of Section 74§9 of Act 3863/2010 does not affect their members. In particular, it is argued by the Government that young persons of 15 to 18 years of age working under “special apprenticeship contracts” do not come within the remit of the two complainant organisations:

- in the case of ADEDY, because the provision cited applies only to employment contract employees in private enterprises and not to those working within public services;
- in the case of GENOP-DEI, because the employment conditions of persons working for the National Electric Power Corporation are provided by internal rules of procedure which do not contain any provisions referring the above-mentioned contracts.

The Government also argues that young persons under 25 years of age employed under the contracts set forth by Section 74§8 of Act 3863/2010 can not be represented by ADEDY and GENOP-DEI because these contracts do not apply to public services and public enterprises and they are strictly concern private enterprises.

## **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 Articles 1§1, 1§2, 4§1, 7§2, 7§7, 7§9, 10§2 and 12§2 of the Charter, provisions 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. 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. 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, each entitled to represent his respective organisation.

6. 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.

7. Furthermore, each of GENOP-DEI and ADEDY are recognised under Greek law as being representative organisations of civil servants and employees on the 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 trade unions for the purpose of the collective complaints procedure.

8. As to the arguments raised by the Government regarding the admissibility of the complaint the Committee recalls that "a trade union deemed to be representative for the purposes of the collective complaints procedure in accordance with Article 1§c of the Protocol thereby has the right to lodge a complaint against the Party concerned on any point, within the bounds of Article 4 of the Protocol, on which it alleges unsatisfactory application of the Charter. This right of complaint is independent of which categories of employees the union according to its statutes is unionising, or which categories of employees it is authorised to represent or unionise in the framework of domestic law" (cf. *SUD Travail Affaires Sociales, SUD ANPE and SUD Collectivités Territoriales v. France*, Complaint No. 24/2004, Decision on admissibility of 7 December 2004, § 11). The Government's objection on this point hence must be dismissed.

9. For these reasons, the Committee, on the basis of the report presented by Mr Colm O'CINNEIDE 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.

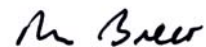
In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 30 September 2011.



Colm O'CONNOR  
Rapporteur



Luis JIMENA QUESADA  
President



Régis BRILLAT  
Executive Secretary