



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

19 janvier 2016

Pièce n° 4

Fédération européenne du personnel des services publics (EUROFEDOP) c. Grèce
Réclamation n°115/2015

**REPLIQUE DE EUROFEDOP AU MEMOIRE DU
GOUVERNEMENT SUR LE BIEN-FONDE**

Enregistrée au secrétariat le 8 janvier 2016

**RESPONSE OF THE EUROPEAN ASSOCIATION OF PUBLIC SERVICE
EMPLOYEES (EUROFEDOP) AND HELLENIC MILITARY MEDICAL
CORPS ASSOCIATION (ESTIA)**

**TO THE OBSERVATIONS OF THE GREEK GOVERNMENT CONCERNING
COLLECTIVE COMPLAINT NO. 115/2015**

A) Preliminary comments

1. The Complaint No. 115 clearly refers to violation of Paragraph 2 of Article 1 and of Paragraph 4 of Article 18 of Part II of the European Social Charter. The Complaint also refers to the principles of proportionality and good faith, parts of any European law system. The rest of the referrals are used to emphasize the fact that the current Complaint is about slavery, a condition that violates the value of liberty on which all the European law system is based. As the Greek Government also admits in Page 2 of it's response "the unity and interaction between international conventions concerning the protection of human rights is self-explanatory".

2. Under the par. 124 of the official engagement of the Greek Government in the Governmental Committee of the European Social Charter (101st meeting, 9-13 September 2002, Strasbourg) Greece signs the obligation to "discharge professional Officers who have received periods of training with no further financial obligation after 15 years of service". The referral to the official engagement of par. 124 clearly in not a vague allegation.

3. The specialization time of any doctor in Greece lasts for 4, 5, 6 or 7 years, depending on the specialization. After the specialization time the doctor is entitled as a specialist (an Internist, a Surgeon etc.).

The article 1 of the Greek Law 3257/2004 is the amendment of the original article 64 of the Greek Legislative Decree 1400/1973 and regulates today the obligatory years of service of the Medical-Officer Doctors of the Greek Armed Forces. Under the above article the Greek Medical-Officer Doctors have to serve the total of :

- i. Twice the years of their Military Academy ($6 \times 2 = 12$ years).
- ii. Plus 5 years of obligatory service because they are obliged to specialize in a specialization.



iii. The years that the specialization lasted that are also counted as years of compulsory service (plus 4, 5, 6 or 7 years, depending on the duration of the specialization).

The total is 21, 22, 23 or 24 years of obligatory service, depending on the duration of the specialization (see also Table 1 of the complaint for the exact analysis of the calculation of the obligatory years of service). The years of specialization (term iii above) were added with Paragraph 15 of the article 1 of the Law 3257/2004. Regarding the above term (iii), the Greek Government in its official response admits that the relevant Paragraph 15 of the article 1 of the Law 3257/2004 as applicable today regarding the Greek Medical-Officer Doctors is a “mistake” (Page 6) and there is “the need for a proper interpretative approach” (Page 7).

Instead of an amendment of the Paragraph 15 of the article 1 of the Greek Law 3257/2004 that would solve the “mistake” and restore the “proper interpretative approach”, the Greek Government refers to 17 years of compulsory service (Page 6) and not to the reality of 21, 22, 23 or 24 years of compulsory service. In Page 8 (Conclusions) the Greek Government also refers only to term (ii) above (5 years of obligatory service because the Medical-Officer Doctors are obliged to specialize in a specialization) and hides the term (iii) above (plus the 4, 5, 6 or 7 years that the specialization lasted).

Furthermore the Greek Government even if it presents in the future an amendment of the Paragraph 15 of the article 1 of the law 3257/2004 that will decrease the years of compulsory service from 21, 22, 23 or 24 to 17, does not comply with the engagement for 15 years of compulsory service of Par. 124 of the Governmental Committee of the European Social Charter (101st meeting, 9-13 September 2002, Strasbourg).

The mechanism by which the Greek Government deceived the European Committee of Social Rights and concealed the truth is furthermore clarified by the following facts that are also stated in the complaint :



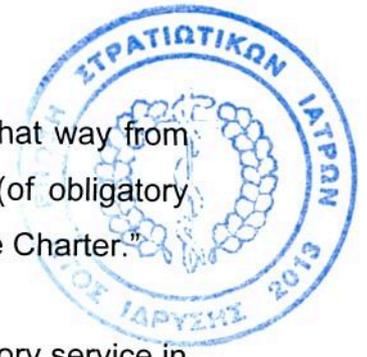
- i. The Hellenic Republic with the 14th Report on the Implementation of the European Social Charter for the years 2001-2002 towards the European Committee of Social Rights, dated 19/9/2003, stated that regarding the implementation of the paragraph 2 of the article 1 the Hellenic Republic prepares a law that “ reduces significantly the obligatory years of service and the years of service after the graduation arising from any extra training periods.”

- ii. The European Committee of Social Rights with the Conclusions on the 14th Report of the Hellenic Republic on the Implementation of the European Social Charter in June 2004 states that “ this new approach will reduce the obligatory years of service from 25 years to about 10 years. The Committee does not judge the obligatory years of service arising from the new law as excessive”.

- iii. The rationalization report of the Greek Law 3257/2004 in the Greek Parliament in 2004 stated that “The term of the free choice of profession has brought the Hellenic Republic and more specifically the Greek Ministry of Defense defenseless in front of complaints and remarks of the Council of Representatives of the European Social Charter, for overexcessive oppression of the military personnel, regarding the years of obligatory service in the Greek Armed Forces.”

- iv. The Hellenic Republic with the 16th Report on the Implementation of the European Social Charter for the years 2003-2004 towards the European Committee of Social Rights, dated 14/10/2005, stated that regarding the implementation of the paragraph 2 of the article 1 the Hellenic Republic prepared the law 3257/2004 that does not imply 25 years of obligatory service on the Greek Officers of the Armed Forces.

- v. The European Committee of Social Rights with the Conclusions on the 16th Report of the Hellenic Republic on the Implementation of the European Social Charter in December 2006 states that “ according to the previous



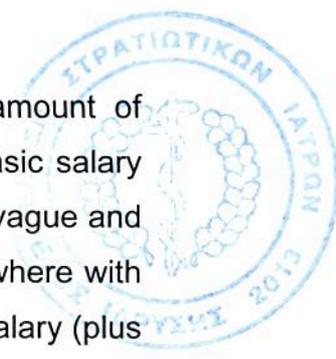
report, the maximum obligatory years of service is reduced in that way from 25 years to 10 years. The Committee judges that this period (of obligatory stay in the Armed Forces) is in accordance with the articles of the Charter.”

The above statement (v) of the Committee for 10 years of obligatory service in 2006 (under law 3257/2004 that would solve the problem) while the years of obligatory service were and still are 21, 22, 23 or 24 is the best argument for deception and concealing of the truth.

B) Observations on the merits

4. The Greek Government admits for the compensation in case of a resignation in Page 7 that it should follow the principle of proportionality. The provisions (cost of training) of a Medical Officer-Doctor is calculated by the attached in the Complaint document of the Greek Military Medical Academy to about 31000 euros. The “paid regular earnings” of a Medical Officer Doctor during the time he studies in the above Greek Military Medical Academy that the Greek Government refers to in Page 7 is about 100 euros monthly. **The cost of 31000 euros for the training and the “salary” of 100 euros is clearly disproportionate to the amount of compensation in case of a resignation, which is a mean amount of 140000-220000 euros, as shown in details in the Tables of the Complaint.**

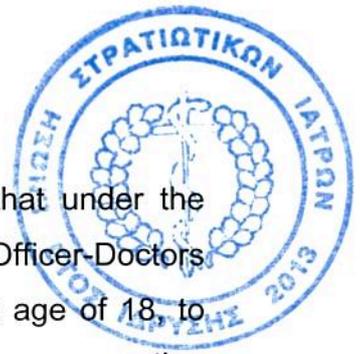
Furthermore, the amount of 140000-220000 euros has an annual interest of about 8,5%, while the average salary of a Medical Officer-Doctor that resigned is about 1000 at the age of 24, 1150 euros at the age of 35, 1300 euros at the age of 40, 1500 euros at the age of 45 and 1700 euros at the age of 50. Whether the above restrictions “do not affect the core of the right to work, since they do not go as far as to prohibit leaving the Armed Forces, as was the case under the previous legislative regime (before the law 3257/2004)”, as the Greek Government states in Page 6, is under the judge of the Committee.



The Greek Government also refers to Pages 4 and 5 to the amount of compensation in case of a resignation as a multiplication of the basic salary with the months of compulsory service remaining. The reference is vague and conceals the fact that in 2010 Greece passed the law 3883/2010, where with the article 33 the above term “basic salary” was defined as the net salary (plus all the benefits) of the Medical Officer-Doctor at the time of his resignation. The net salary in Greece is about 35-40% larger than the basic salary, thus the mean amount of compensation was raised by about 35-40%, leading to a mean amount of compensation of about 140000-220000 euros. The current situation is a combination of the the article 1 of the law 3257/2004 and the article 33 of the law 3883/2010.

5. The Greek Government arguments in Page 7 that the doctors of the Greek National Healthcare System (NHS) cannot exercise their profession on a private basis, while the Military Medical Officer-Doctors can. The argument is vague and clearly conceals the truth. The average monthly income of a doctor in the Greek NHS is about double the average monthly income of a Military Medical Officer-Doctor. For example a 40 year old doctor of the Greek NHS will have a monthly income of about 2100 euros, while the Military Medical Officer-Doctor of about 1300 euros. The Military Medical Officer-Doctor is allowed to work on a private basis, after working at least 8 hours on a daily basis and with all the consequences that extra working time will have on his health. **The argument of the Greek Government is that an under-paid Military Medical Officer Doctor is allowed to work more on his free-time to earn the money he is deprived of because he is not an NHS doctor.**

6. In Page 7 the Greek Government also presents the argument that under article 8 of the Law 123/1975 there a discrimination against the doctors that are not Military Medical-Officer Doctors, because the last ones acquire their specialty at an earlier time by the above law. The argument is also vague. The truth is that in 2015 the average doctor that works on a private basis can begin his specialization about 1 year after obtaining his medical Diploma, while the Military Medical-Officer Doctors begin their specialization 3-5 years after they obtain the medical Diploma.



7. The Greek Government does not reply to the argument that under the principle of good faith, it would be expected for the Medical Officer-Doctors who enter the Greek Military Medical Academy (SSAS) at the age of 18, to sign some kind of document, where the enormous amounts of compensation in case of resignation would be clearly stated. On the contrary, the Greek Medical Officer-Doctors never signed such a document.

It must be also stated, that as it is shown by the attached in the Complaint relevant page of the internet site of the Greek Military Medical Academy (SSAS) for new students, formally translated in English, the Greek Military Medical Academy (SSAS) states in its relevant internet page that the compulsory service is only 12 years.

CONCLUSIONS

The European Federation of Public Service Employees (EUROFEDOP) and the Hellenic Military Medical Corps Association (Greek Acronym ESTIA) argument that that article 1 of the Greek Law 3257/2004 and article 33 of the Greek Law 3883/2010 clearly violate Paragraph 2 of Article 1 and Paragraph 4 of Article 18 of Part II of the European Social Charter and ask for the intervention of the Committee so that :

i. The Hellenic Republic, recognizing its official engagement in the Governmental Committee of the European Social Charter (101st meeting, 9-13 September 2002, Strasbourg) by par. 124, will discharge the professional Medical Officers-Doctors with no further financial obligation after 15 years of service, irrespective of any additional training periods after graduation from the Greek Military Medical Academy (SSAS).

ii. Based on the principle of proportionality, the Hellenic Republic will impose a compensation in case of the resignation of a Medical Officer-Doctor that will not exceed the expenses of the Hellenic Republic for the training in the Greek Military Medical Academy (SSAS), which is 31000 euros, with the

amount of 31000 euros being reduced proportional to the years of compulsory service that have been served.

Strasbourg, January ,2016

The President of the EUROFEDOP

Fritz Neugebauer


The President of the ESTIA

Zois Bechlis
