

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



21 December 2017

Case Document No. 2

**Panhellenic Association of Pensioners of the OTE Group Telecommunications v.
Greece**
Complaint No. 156/2017

**OBSERVATIONS BY THE GOVERNMENT
ON ADMISSIBILITY**

Registered at the Secretariat on 21 December 2017



HELLENIC REPUBLIC

MINISTRY OF LABOUR, SOCIAL
SECURITY AND SOCIAL SOLIDARITY

INTERNATIONAL RELATIONS
DIRECTORATE
DEPARTMENT OF RELATIONS
WITH INTERNATIONAL
ORGANIZATIONS

**Observations of the Greek Government on the admissibility of the Collective
Complaint 156/2017
*Panhellenic Association of Pensioners of the OTE Group Telecommunications
v. Greece***

Following your letter dated 26/10/2017 concerning collective complaint No.156/2017, *Panhellenic Association of Pensioners of the OTE Group Telecommunications v. Greece*, we would like to submit the following observations regarding the admissibility of the collective complaint under discussion:

The European Committee of Social Rights, in view of its judgment on the admissibility of the collective complaint under discussion, should take into account the following parameters concerning the nature or not of the complainant organization as trade union, in accordance with the article 1(c) of the Additional Protocol to the European Social Charter that provides for a system of collective complaints.

The collective complaint is signed by the *Panhellenic Association of Pensioners of the OTE Group Telecommunications* and the text does not include any information on the nature of the complainant organization and its subsequent right to submit collective complaints within the system of the European Social Charter.

The said complainant as an "Association of Pensioners" is not a trade union, i.e., workers' organization but an association of pensioners and therefore does not have locus standi before the ECSR under the Protocol providing a system of Collective Complaints.

Article 1 (c) of the Additional Protocol to the European Social Charter that provides for a system of collective complaints, provides the possibility for national representative workers' and employers' organizations that fall under the jurisdiction of the party complained against to submit collective complaints. The said complainant organization does not belong to any of the above two categories.

Moreover, as Greece has not recognized the right of national representative non governmental organizations that have specific competence on issues relating to the Charter, to submit collective complaints, in accordance with article 2 of the Additional

Protocol, the complainant organization without having argued in favour of its representativity, submits the complaint under powers that are not recognized.

Furthermore, according to the Committee's case-law in the context of the Protocol for a system of Collective Complaints, representativity of a trade union¹ is an autonomous concept, whereas it is established that a trade union refers to workers. The criteria set on various occasions by the Committee in its case-law, regarding the representativity of a trade union for the purposes of the Protocol, refer to a union of workers².

It is self-evident that the concept of trade union, as used and defined in the context of the Protocol for a system of Collective Complaints, refers to a union of workers³. The same conclusion is also drawn by the fundamental instruments of the International Labour Organisation (ILC 87 and ILC 98)⁴, while our national law, in line with the above, follows the same lines (see Law 1264/1982 on "*The democratization of the trade union movement and the protection of workers' trade union freedoms*")⁵.

Following the above, we ask the European Committee of Social Rights to consider the admissibility of the complaint under examination in light of the above and declare it inadmissible.



FOR THE GENERAL SECRETARY
The Head of the Department


SOUZANA LASKARIDOU

¹ For example ECSR, Decision on Admissibility, Complaint 6/1999, *Syndicat National des Professions du Tourisme against France*, adopted on 10/02/2000, para.6, ECSR, Decision on Admissibility, Complaint 9/2000, *Confédération Française de l' Encadrement CFE-CGC against France*, adopted on 06/11/2000, paras.6 and 7.

² See ECSR, Decision on Admissibility, Complaint 10/2000, *STTK ry and Tehy ry against Finland*, adopted on 12/02/2001, para.6 where the complainant organization was considered as representative under the additional criteria that the union *represents the vast majority of workers in health services (95%) and takes part in collective bargaining of this sector*. See also ECSR, Decision on Admissibility, Complaint 88/2012, *Finnish Society of Social Rights v. Finland*, para.7 where the ECSR concluded that the representativity of a trade union is also defined by the conditions of its participation in collective bargaining. In both cases the criterion of participation in collective bargaining refers to workers' organisations.

³ See article 1 (c) of the Additional Protocol to the European Social Charter that provides for a System of Collective Complaints as well as point 23 of its Explanatory Report that, regarding the representativity of a trade union, provides that *In the absence of any criteria on a national level, factors such as the number of members and the organisation's actual role in national negotiations should be taken into account*. The second criterion identifies workers' organizations.

⁴ See International Labour Convention (ILC) 87 «Freedom of Association and the Right to Organize», especially article 10 thereof, ILC 98 «Right to organize and collective bargaining» ratified by L.D. 4204/1961 (O.G. A' 174) and L.D. 4205/1961 (O.G. A' 174) respectively.

⁵ See Law 1264/1982 respecting "*The democratization of the trade union movement and the protection of workers' trade union freedoms*" guaranteeing workers' trade union rights and regulating the establishment, organization, operation and action of their trade union organizations. For the application of this law workers are considered all persons employed bound by a dependent working relationship under private law (salaried workers), including those who work in the public sector, in Public Bodies Corporate or Local Self-Government Agencies. In accordance with article 4, para.1 of the said law "*The purpose of every trade union organization shall be to preserve and promote the labour, economic, social insurance, social and trade union interests of the workers*".