

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



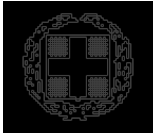
12 April 2011

Case Document No. 2

**General Federation of employees of the national electric power corporation
(GENOP-DEI)
Confederation of Greek Civil Servants' Trade Unions (ADEDY)
Complaint No 65/2011**

**OBSERVATIONS OF THE GOVERNMENT
ON THE ADMISSIBILITY**

Registered at the Secretariat on 8 April 2011



**HELLENIC REPUBLIC
MINISTRY OF LABOUR
AND SOCIAL SECURITY**

**DIRECTORATE GENERAL OF
ADMINISTRATIVE SUPPORT
DEPARTMENT OF INTERNATIONAL
RELATIONS**

Athens, 8/4/2011

TO:

Council of Europe

General Directorate of Human Rights

- GD II

Secretariat of the European Social Charter

F- 67075 Strasbourg Cedex

To the attention of Mr. Regis Brillat

Secretary General of the ESC

SUBJECT: Collective complaint No. 65/2011 of the «General Federation of employees of the Public Power Corporation (GENOP-DEI) and of the Confederation of the Greek Civil Servants' Trade Unions (ADEDY) against Greece»

The Directorate General of Human Rights of the Council of Europe in a letter dated 1 March 2011, informed the Greek Government of the Collective Complaint submitted by the General Federation of employees of the Public Power Corporation (GENOP-DEI) and of the Confederation of the Greek Civil Servants' Trade Unions (ADEDY) against Greece on 28th February 2011, and asked for its observations on the Admissibility of the said Complaint until 8th April 2011.

Hence, the observations of the Greek Government on the Admissibility of the Complaint are as follows:

1. Representativeness of the complainant trade unions (Article 1c of the Additional Protocol 1995)

The complainant trade unions do not have representativeness under article 1c of the Additional Protocol 1995 to submit this complaint.

GENOP – DEH is a federation of trade unions representing employees of the Public Power Corporation (DEH) which is a public sector enterprise for the production and distribution of electricity in Greece.

ADEDY is a confederation of trade unions representing civil servants of the civil services and public law legal entities in Greece.

Given their aforesaid representation competence, as shall be described below, the implementation scope of articles 13 and 17 Law 3899/2010 does not affect the rights of employees belonging to their member trade unions. Therefore the alleged violation of a) article 3 of the Additional Protocol of 1988 b) article 4 para.4 of the ESC does not affect any of the employees represented by GENOP-DEH and ADEDY.

2. Violation of the right to participate in the determination and improvement of the working conditions within the enterprise

2.1 Article 13 L.3899/2010 applies only to private employment contract employees in private sector enterprises, where “*special enterprise collective agreements*” may be concluded.

ADEDY is not possible to be called upon to take part in a collective bargaining process for the conclusion of “*special enterprise collective agreements*”, since the Greek public services are not regarded as enterprises under article 13 L.3899/2010 and no “*special enterprise collective agreements*” can be concluded therein.

2.2. GENOP-DEH has the representativeness to contribute to determination of the working terms and conditions after negotiation with the Management of the Public Power Corporation, affecting the employees who are members of its member trade unions.

a. The competence of GENOP-DEH to conclude collective agreements under article 13 L.3899/2010 manifests that the rights provided for by article 3 para.1.a of the 1988 Additional Protocol are not affected.

b. GENOP-DEH is the only trade union competent to exercise the right to collective bargaining representing the employees of DEH. Therefore the implementation of art.13 L.3899/2010 does not undermine the competence of GENOP-DEH to contribute to the determination of the working terms and conditions after negotiation with the Management of the Public Power Corporation. Thus there is no violation of article 3 of the 1988 Additional Protocol by the provision of article 13 para.2 L.3899/2010.

3. Violation of the right of employees to a reasonable period of notice for termination of employment

The complainant trade unions do not take into consideration the nature of probation employment contracts provided for by article 17 L.3899/2010, which concentrate on probation as a trial factor aiming at the evaluation of the employee as a precondition to acquire an open-ended contract of employment. In this context, the notice provided for by article 4, para.4 of the 1961 European Social Charter is not compatible with the probation character of the aforesaid employment contracts. . It is also noted that the Code for Civil Servants provides statutory regulations securing

the principle of good governance and transparency regarding all the rights of the employment status of civil servants. Therefore the provisions of article 17.a L.3899/2010 does not apply to civil servants.

It is evident that there is confusion on the scope of probation employment contracts and open-ended contracts of employment and for this reason no clarification is provided by the complainant trade unions as to the reasonable notice period.

Concluding position

In light of the above, the Greek Government requests that the collective complaint No 65/2011, submitted by ADEDY and GENOP-DEH versus Greece, **be found inadmissible**, on the following grounds:

- a) The employees represented by ADEDY are not affected by article 13 and 17.a L.3899/2010 and thus ADEDY has no competence to submit this complaint
- b) article 13 L.3899/2010 does not inhibit GENOP-DEH to contribute to the determination of the working terms and conditions affecting the employees of its member trade unions and thus GENOP-DEH has no competence to submit this complaint
- c) article 17a L.3899/2010 on probation employment is not related to the termination notice requirement of article 4 para 4 of the ESC and thus GENOP-DEH has no competence to submit this complaint

Government Representation

The Greek Government shall be represented before the European Social Rights Committee by Ms Evaggelia Zerva, official of the Ministry of Labour and Social Security, Directorate of International Relations and member of the Governmental Committee of the ESC, as well as by Dr. Maria Dotsika, lawyer.

THE SECRETARY GENERAL

ANNA STRATINAKI