

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



6 May 2011

**Case Document No. 3**

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

**RESPONSE TO THE OBSERVATIONS  
OF THE GOVERNMENT ON THE ADMISSIBILITY**

**Registered at the Secretariat on 6 May 2011**

## **To the Secretariat of the European Social Charter**

### **Response 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) to the Observations of the Greek Government on the admissibility of Collective complaint No. 65/2011**

The General Federation of employees of the Public Power Corporation (GENOP-DEI) and of the Confederation of the Greek Civil Servants' Trade Unions (ADEDY) (hereinafter 'the complainants') have the honour to present their response to the Hellenic government's (hereinafter 'the Government', 'Greece', or 'the defendant') observation on the admissibility of Collective Complaint no 65 of the 28<sup>th</sup> February 2011 (hereinafter, 'the Complaint'), brought under the 1995 Protocol Establishing a Collective Complaint Mechanism (hereinafter, 'the Protocol'), alleging multiple instances of non-compliance with the European Social Charter of 1961 (hereinafter, 'the Charter').

**1.1** More specifically, the Government claims that Article 13 L.3899/2010 applies only to private employment contract employees in private sector enterprises, where "*special enterprise collective agreements*" may be concluded, and therefore 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.

This allegation is both factually and juridically wrong. It is factually wrong because according to the article 4 (translation attached) of its Statutes ADEDY and its members-trade unions represent not only public functionaries, but also the employees who work in the public sector under

private employment contract. It is juridically unfounded because the public sector, under Greek Law, does not comprise only the stricto sensu public services of central government, but also, in virtue of articles 1 para 6 of L. 1256/1982 and 14 para 1 of L. 2190/1994, inter alia, the Municipalities and the Public Enterprises both of public and private law.

Therefore, ADEDY's members-trade unions have legal competence to take part in a collective bargaining process for the conclusion of special enterprise collective agreements.

**1.2.** Furthermore, the Government claims that only GENOP-DEH can exercise the right to collective bargaining representing the employees of DEH, therefore the implementation of art.13 L.3899/2010 does not undermine its competence to contribute to the determination of the working terms and conditions. This is manifestly wrong. GENOP – DEH is a federation of trade unions and it has, actually, the representativeness to conclude collective agreements valid for the whole Public Power Corporation. However, the Public Power Corporation has a number of individual enterprises (factories, mines, etc) in various Greek cities. In each one of them local trade unions could conclude “special enterprise collective agreements”, under article 13 L. 3899/2010. Besides, under Greek law (art. 22 and 23 of the Constitution and L. 1264/1982) it is always legally possible the foundation of other, enterprise based trade-unions, which would opt not to participate to GENOP-DEH.

## **2. On the violation of the right of employees to a reasonable period of notice for termination of employment**

The Government claims that the notice provided for by article 4, para.4 of the 1961 European Social Charter is not compatible with the probation character of the employment contracts provided for by article 17 L.3899/2010. It further claims that the provisions of article 17.a L.3899/2010 does not apply to civil servants.

The first allegation is related to the merits and not the admissibility of the complaint, as the complainants have analytically presented to the complaint the relation of article 17a L.3899/2010 on probation employment to the termination notice requirement of article 4 para 4 of the ESC.

Regarding the second allegation, as already mentioned above, ADEDY does not cover only public servants but all the personnel of public sector. Besides, GENOP-DEH represents only private employment contract employees.

### **3. Petition**

The Complainants, having regard to the legal and factual arguments presented, invite the European Committee of Social Rights to declare the Complaint admissible.

Athens, May, 3, 2011

Signed by

The President of ADEDY

The President of GENOP-DEH

Sp. Papaspyros

N. Fotopoulos