

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



9 May 2011

Case Document No. 4

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

**ADDITIONAL WRITTEN STATEMENTS
IN SUPPORT OF THE COMPLAINT**

Registered at the Secretariat on 6 May 2011

ADDITIONAL WRITTEN STATEMENTS IN SUPPORT OF COLLECTIVE COMPLAINT NO 65 AGAINST GREECE

In connection with collective complaint 65, the following additional points should be made to amplify the arguments in the complaint.

A. The violation of Article 3 of the 1988 Protocol

When interpreting the spirit of Article 3 of the 1988 Protocol it needs to be borne in mind that the right to take part in the determination and improvement of working conditions applies to those employed in the undertaking concerned and their representatives. This does not of course mean that working conditions cannot also be determined at other levels. However, there are two aspects of Article 3 of the protocol that make it distinctive, namely that the employees of an undertaking can be involved in determining working conditions that are not determined elsewhere and where those working conditions are determined elsewhere they can take part in improving them.

Section 13 of Act 3899/2010 breaches this provision of the 1988 Protocol in two respects. First, it authorises unions in the undertaking to negotiate agreements that depart from branch agreements in a less favourable direction, in other words that do not improve the working conditions laid down in the latter but make them less advantageous for the employees. This is in direct breach of the letter and the spirit of Article 3. Second, if there is no trade union in an undertaking, section 13 of the Act grants the corresponding trade union branch or federation the power to negotiate enterprise collective agreements that depart from the relevant branch collective agreement. In other words, it authorises third parties unconnected with undertakings' employees to negotiate enterprise agreements that result in less favourable working conditions than those laid down in the branch agreement. This is also in direct breach of Article 3, as well as placing trade union branches and federations in a very uncomfortable and ambiguous position by authorising them to disown branch agreements that they themselves have signed.

B. The violation of Article 4§4 of the Charter

Two comments should be made concerning section 17 of Act 3899/2010 that confirm the violation of the Charter. First, Article 4§4 of the Charter requires states to establish "a reasonable period of notice for termination of employment". As already noted in the collective complaint, according to the

Committee this applies to all categories of employees. It should be noted in this connection that the period of notice also applies to probationary periods (Article 4§4, Conclusions 2010, Ukraine, p.). Second, the length of the probationary period depends above all on employees' qualifications and cannot therefore be uniformly the same for all employees, or be laid down in statute, as provided for in section 17. This is in breach of the principle of proportionality, which is a general principle of law that is recognised and applied by the European Court of Human Rights and the Court of Justice of the European Union.

(Signatures)

The President of GENOP-DEI,
Nikolaos Fotopoulos

The President of ADEDY,
Sp. Papaspyros

Loukas Apostolidis
(Lawyer, former Vice-President of the Greek Parliament,
junior minister of defence
and member of parliament)