

**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 66/2011**

**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. 66/2011

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 66 of the 28th 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. Representativeness of the complainant trade unions (Article 1c of the Additional Protocol 1995)

The Government claims that the complainant trade unions do not have representativeness under article 1c of the Additional Protocol 1995, as, according to its allegations, the implementation scope of articles 13 and 17 Law 3899/2010 does not affect the rights of employees belonging to them.

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 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 provisions of the Charter concerning young apprentices

2.1 The Government claims that the alleged violation caused by article 74 para. 9 L.3863/2010 applies only to private employment contract employees in private sector enterprises and not in the public services and that in the public services there are no legal provisions for the employment of

young persons of 15 to 18 years of age under “special apprenticeship contracts”.

However, as already mentioned above, the public sector, comprises also enterprises of private law, where article 74 para. 9 L.3863/2010 applies.

2.2. The Government further claims that there is not in the Internal Work Terms Regulation of the Public Power Corporation S.A. (DEH) any reference to special apprenticeship contracts”. However, the Internal Work Terms Regulation have, according to Greek Law, inferior legal force than statutory legislation, such as L. 3863/2010. Besides, according to article 23 para. 2 of the Constitution, the general working conditions are determined by law, and they are only supplemented by collective labour agreements, such as the Internal Regulation of DEH.

3. On the Violation of article 4 para.1 in relation to art. 1 para.2

3.1 According to the Government, the employment contracts of article 74 para 8 L.3863/2010 for the employment of young persons under 25 years of age do not apply to public services and the public sector enterprises and they are strictly addressed to the private sector enterprises. However, the law does not make such distinction, the general rule under Greek Law being that the public enterprises of private law (NPID, in Greek) function under the same legal provisions as private enterprises.

Therefore, the aforementioned provisions may affect employees represented by ADEDY or GENOP – DEH.

4. 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
Sp. Papaspyros

The President of GENOP-DEH
N. Fotopoulos