

**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 66/2011**

**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 66 AGAINST GREECE**

The following additional points should be made in connection with Greece's violation of the 1961 Charter, as discussed in the collective complaint. The comments concern, in particular, the non-compliance with the Charter of section 74§9 of Act 3863/2010, which covers the so-called special apprenticeship contracts for young persons aged 15 to 18.

A. Article 1§1 of the Charter requires parties to promote "as high and stable a level of employment as possible". As noted in the complaint, when interpreting this provision the Committee takes account among other factors, of vulnerable categories, such as the young, to whom it pays particular attention (Conclusions XVI-1, statement of interpretation of Article 1§1).

The Greek legal provision in question not only fails to pay particular attention to young persons aged 15 to 18 but also excludes them – apart from the exceptions referred to in the complaint – from the benefit of labour law, and thus also the rules relating to young persons, as well as generally speaking social security law (for a few limited exceptions, see section I.C.4). This already constitutes discrimination against young people in this age range and as such is incompatible with Article 1§1, as interpreted by the Committee, in conjunction with Article 1§2, which prohibits discrimination in employment on grounds of, *inter alia*, age (Conclusions 2006, Albania).

B. To justify the regulations in question, the contracts entered into by these young people are called special apprenticeship contracts, which is meant to justify the exclusions complained of. However, it does not. There is nothing in these apprenticeship contracts to justify their description as special.

1. First, any genuine apprenticeship contract necessarily entails certain employers' obligations with regard to training. Yet the provision in question makes no reference to any employers' obligations. It simply states that these contracts are entered into for the purposes of acquiring particular skills, and has nothing to say about how they are to be acquired and does not establish any relationship whatever with the Greek apprenticeship system or any other youth training scheme. The provision's total silence on this subject

already shows that there has been a violation of Article 10§2 of the Charter, since these contracts are not in any way integrated into an apprenticeship or other form of training system. As noted in the complaint, the Committee has emphasised, with reference to these types of training, "the importance of combining theoretical and practical training and of maintaining a close contact between training institutions and the world of work" (Conclusions XIV-2, statement of interpretation on Article 10§2, p. 61).

2. The Committee has also specified the factors to be taken into account when assessing apprenticeship schemes. These are "length of the apprenticeship and division of time between practical and theoretical learning [and] termination of the apprenticeship contract" (Conclusions, XVI-2, Malta). In practice, there is nothing in the provision in question to show that it satisfies the Committee's requirements.

Firstly, the fact that the law restricts these contracts to a maximum of one year already shows that these are not genuine apprenticeships because the need for general experience calls for schemes that vary in length and can only exceptionally be limited to one year, let alone have this as a maximum. Secondly, the division of time between practical and theoretical learning, which according to the Committee is also critical, is totally ignored. Thirdly, there is a complete absence of rules governing the termination of contracts under this provision, contrary to the requirements of the Committee, thus opening the way to arbitrary dismissal at any time with no prior or subsequent oversight by a third party.

C. The above points show that the contracts provided for in this legislation do not form part of any system of apprenticeship or training for young persons as envisaged in Article 10§2.

In other words, the so-called contracts are really employment contracts to which not only the general rules of labour and social security law but also the special rules relating to young people should apply. Since this is not the case, this provision is incompatible with the articles of the Charter referred to in section I, C paragraphs 2, 3 and 4 of the complaint, namely articles 7§2, 7§7, 7§9 and 12§2.

The specious application of so-called special apprenticeship contracts means that, far from introducing special and extra favourable treatment for young persons, as the

Charter requires, the regulations open the way to the exploitation of their labour while depriving them of the benefits of training and most of the protection offered by labour law and the social protection system, in violation of the aforementioned articles of the European Social Charter. Finally, it is abundantly clear that the provision in question does nothing to offer special protection against physical and moral dangers, in particular those resulting directly or indirectly from the work of young people, as Article 7§10 of the Charter requires. Its total silence in this regard, in other words the absence of any regulations on the subject, means that the provision is also in breach of this paragraph of the Charter. As the Committee has made clear, states party must prohibit the use of young people in other forms of exploitation, such as the exploitation of their labour (Conclusions 2004, Bulgaria, p. 57).

(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)