



European
Social
Charter

Charte
Sociale
Européenne



COUNCIL
OF EUROPE

CONSEIL
DE L'EUROPE

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

25 November 2011

Case No. 5

**General Federation of employees of the national electric power corporation
(GENOP-DEI) and
Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece
Complaint No 66/2011**

**SUBMISSIONS OF THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 23 November 2011

OBSERVATIONS OF THE GREEK GOVERNMENT ON THE MERITS OF COLLECTIVE COMPLAINT No66/2011

In accordance with the decision of the European Committee on Social Rights, dated 5th July 2011, on the admissibility of the collective complaint 66/2011 lodged against Greece by the General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and the Confederation of the Greek Civil Servants' Trade Unions (ADEDY) about violation of Articles 1§1, 7§2, 7§7, 7§9, 12§2, 4§1 in relation with article 1§2, we lawfully submit the present memorandum with our observations on the merits of the allegations made by the complainant organizations.

The Hellenic Government denies in their total the allegations made by the complainant organizations and **requests the rejection of the above complaint as unfounded.**

A. THE GREEK ECONOMIC CRISIS OF 2009-2010 AND THE PROBLEM OF UNEMPLOYMENT AMONG YOUNG PERSONS OF 24 YEARS OF AGE

1. Fiscal and structural measures to tackle the financial crisis in Greece

Since the fourth quarter of 2009, the public debt of Greece and the ever-increasing loan cost for its financing, which led to the downgrading of the country's creditworthiness in December of the same year, added dangerously explosive dynamics to its already high public debt, and in combination with its ever-growing deficit jeopardized the country's ability to meet its debt obligations due to the prohibitive cost of borrowing in international bond markets. On 22nd April 2010, the Eurostat announced

that the deficit in 2009 exceeded 13,6% of the GDP, and, on the one hand, the central government debt in 2009 exceeded 120% of the GDP, amounting to almost 300 billion euros, while, on the other, the general government debt reached 113% of the GDP.

The country's grave financial situation and the subsequent inability to refinance its debt via the international markets, a fact which also threatened fiscal stability in the Eurozone, have led the Hellenic government and the European Union to establish a financial support mechanism for Greece by means of a loan, which was decided in Brussels on 25th March 2010. This mechanism was set up by the European Commission, the European Central Bank and the International Monetary Fund and intertwined the terms of the loan contract with the implementation of a programme of fiscal and structural measures to enhance the competitiveness of the Greek economy and improve the operation of the labour market. This programme is depicted in the Memoranda of Economic and Financial Policies, which were annexed to Act No3845/2010 "Measures for the implementation of the support mechanism for the Greek economy by the Eurozone member-states and the International Monetary Fund" which was adopted by the Hellenic Parliament on May 6th 2010.

The observance of the three-year timetable for the taking of structural measures as stipulated by the Memoranda constitutes a prerequisite for the disbursement of loan installments to Greece that are provided for by means of the mechanism.

Within this framework, the structural measures included in the Memoranda aim at:

- a) eliminating the root causes of the public debt crisis that Greece is facing, through the implementation of measures which intend to restore its fiscal stability so that public expenditure correspond to public income,
- b) creating the conditions for a sustainable public debt management, so that the Greek State might continue to finance its borrowing needs through the financial markets,
- c) dealing with the structural problems of the labour market as well as of the social security and the public health and welfare systems, the sustainability of which is threatened by decreasing contributions due to the increasing unemployment and the intense demographic problem of the country, and
- d) improving the competitiveness of the Greek economy by means of taking structural measures for the operation of the labour market, especially with regard to determining wages through collective bargaining, settling collective disputes, reinforcing flexibility in industrial relations and, generally, reducing the labour cost and combating unemployment which is intensified by the financial crisis, and especially, youth unemployment.

2. The problem of youth unemployment in Greece

The financial and economic crisis and its impact on employment gravely affect the younger age groups in most EU countries. It is notable that in the beginning of 2010 youth unemployment increased by 6%, on average, in the EU, while unemployment in the rest of the population increased by 2,5%.

The economic crisis in Greece has intensified the problem of youth unemployment. More specifically, the already high rate of unemployment among young persons aged 15-29 shows a rise in the first quarter of 2010

compared with the same period in 2011 and reaches the total rate of 30,9% in 2011 against 22,79% in 2010, while the average unemployment rate for the entire population amounted to 15,9% in 2011 against 11,7% in 2010 (Table 1). It is notable that the overall unemployment during the first quarter of 2011 increased by approximately 4% compare to the corresponding quarter in 2010, while the corresponding increase among young people exceeded 8%. The main factor that exacerbates youth unemployment due to the economic crisis is the lack of work experience and proven skills. As a result the employers do not prefer young people to fill vacant jobs.

Table 1: Unemployment (%) by sex and age groups

	Quarter A					
	2010			2011		
	Men	Women	Total	Men	Women	Total
TOTAL	9,0	15,5	11,7	13,3	19,5	15,9
15-29	18,1	27,4	22,3	26,9	35,8	30,9
30-44	7,8	15,1	10,9	12,0	18,8	15,0
45-64	6,3	9,0	7,4	9,0	11,3	9,9
65+	1,3	0,7	1,1	1,7	2,9	2,1

Source: Hellenic Statistical Authority – Labour Force Survey

First Quarter of 2011

Youth unemployment figures are even more worrying if we consider that the crisis has affected negatively the participation of young people in the labour market despite the fact that, to this end, education and training programs for young people are implemented. The growing problem of youth unemployment has been noted in the *OECD Economic Survey: Greece*

2007, Chapter 4, Facilitating the entrance in the labour market¹, which highlights the need for structural measures that will facilitate the acquisition of work experience and will help young people get out of full unemployment.

Given the above, **it is obvious that there is a need to take measures in order to fight against unemployment of young people aged 15-24.** To this end, the following legislative measures were taken during the first semester of 2010:

1. **Establishment of a contract for acquisition of work experience of up to 1 year's duration for unemployed persons up to 24 years of age** registered with the OAED services. Their remuneration corresponds to 80% of the minimum wage or daily wage (article 2, para.6 of Act No.3845/2010)
2. **Establishment of special employment contract for the newly-entrants into the labour market aged up to 25.** Their social insurance contributions are subsidized through programs of the OAED and their remuneration corresponds to 84% of the minimum wage or daily wage (article 74, para.8 of Act No.3863/2010).
3. **Establishment of apprenticeship contract of up to 1 year's duration for unemployed persons aged 15-18 in order for them to acquire skills.** Their remuneration corresponds to 70% of the minimum wage or daily wage (article 74, para.9 of Act No.3863/2010).

¹ OECD: Economic Surveys – Greece, Vol. 2007/5, pp.91-92, p.99

B. REFUTATION OF THE COLLECTIVE COMPLAINT'S ALLEGATIONS ABOUT VIOLATION OF THE PROVISIONS OF THE ESC REGARDING YOUNG APPRENTICES.

(article 1, para1, article 7, para2, article 7, para7, article 7, para9, article 10, para2 and article 12, para2 of the ESC in relation to article 74, para9 of Act No3863/2010)

The Hellenic Government denies the allegations made by the complainant organizations that the provisions of **article 74, para9 of Act No3863/2010 on apprenticeship contract for young persons aged 15-18** violate the ESC.

The provision in question reads as follows:

“Special apprenticeship contracts of up to one year’s duration are concluded between employers and persons between 15 and 18 years of age, so that the latter may acquire skills. The said apprentices are paid at a rate of 70% of the minimum wage or daily wage provided for by the National General Labour Collective Agreement (E.G.S.E.E.). They enjoy insurance coverage in-kind as well as coverage against accident risk at a rate of 1%.

The period of apprenticeship for persons who have reached the age of 16 cannot exceed 8 hours a day and 40 hours a week. For those who are under the age of 16, as well as those who are students of the first 3 classes of the secondary school, of all types of lycea or of public or private technical/professional schools, recognized by the state, the period of apprenticeship cannot exceed 6 hours a day and 30 hours a week. The apprenticeship is not allowed to take place between 22.00 and 06.00 of the next day. The provisions of the labour law, excluding those concerning health and safety at work, do not apply to the said persons”.

The above provision shows that an apprenticeship contract has the following characteristics:

- a) It applies to persons aged 15-18
- b) Aims at helping the said persons to acquire work experience through employment, irrespective of whether they attend an educational program
- c) It is of up to 1 year's duration
- d) The remuneration corresponds to 70% of the minimum wage or daily wage provided for by the National General Labour Collective Agreement (E.G.S.E.E.)
- e) It prohibits night work and provides for special limited maximum daily or weekly working hours (*6 hours daily and 30 hours weekly*) for those who have not reached the age of 16 and those who attend the first 3 classes of the secondary school, lycea or professional schools
- f) It provides for maximum daily or weekly working hours for those who have 16 years of age and over (*8 hours daily and 40 hours weekly*)
- g) It is clarified that the labour law applies generally to apprenticeship contracts whereas the insurance law applies only as regards the insurance coverage in kind and the coverage against accident risk at a rate of 1%.

Based on the above, it is obvious that an apprenticeship contract is not related to the attendance of educational programs that provide theoretical and practical knowledge. These programs operate separately from the above apprenticeship contracts and aim at helping apprentices to acquire hands-on work experience. This is the reason why the employer of young apprentices does not perform the duties of a vocational training instructor but has the obligations of an employer who employs young persons and observes the total of the rules of the existing labour law as

regards the employment of young persons aged 15-18, which were included, for illustrative purposes, in article 74, para9 of Act No3863/2010. In this context, the purpose of employment and the lack of work experience of young persons justify their remuneration at 70% of the minimum wage or daily wage. Thus, apprenticeship contracts create the preconditions for integration into the labour market and do not necessarily constitute the beginning of stable employment with the employer who hires apprentices.

The above characteristics are in compliance with the provisions of the ESC, as we are going to present here after.

a) Regarding the alleged violation of article 1, para1 of the ESC:

The apprenticeship contract for young persons aged 15-18 is a means of integration into the labour market, i.e. the acquisition of work experience; this contract is not a stable employment contract, since, due to its purpose, it is of up to one year's duration, yet, it can create the preconditions for stable employment, according to article 1, para.1 of the ESC, when adapted to the vocational skills of this group of workers. Moreover, due to the fact that the apprentices are young persons, the need for vocational skills acquisition is met through apprenticeship contracts *"... with the aim to achieve and maintain the highest level of employment possible which will lead to full employment"*.

Thus, the apprenticeship contract provided for in article 74, para9 of Act No3863/2010 does not violate article 1, para.1 of the ESC.

b) Concerning allegations of violation of article 7 paras2, 7 and 9.

By virtue of article 74 para9 of Act No3863/2010, the labour law applies to apprenticeship contracts concluded between employers and

persons between 15 and 18 years of age. Consequently, the provisions of the labour law governing the minimum age for access to employment, the preconditions for granting the annual leave and for the medical examination of persons under the age of 18 continue to apply.

More specifically, we would like to clarify that all **protective provisions** governing the employment of minors also apply to apprenticeship contracts. The said provisions are as follows:

- a) Act No1837/1989 on “Protection of minors in employment and other provisions” (Official Gazette 85/A),
- b) Presidential Decree No62/1998 on “Measures to protect young persons at work, in compliance with Directive 94/33/EC” (Official Gazette 67/A),
- c) Ministerial Decision No1390/1989 on “Employment Books of minors” (Official Gazette 766/B/09-10-1989),
- d) Act No2918/2001 on “Ratification of the 182 ILC concerning the prohibition and immediate action for the elimination of the worst forms of child labour” (Official Gazette 119/A/15-06-2001),
- e) Act No3144/2003 on “Social dialogue for the promotion of employment and social protection and other provisions” (Official Gazette 111/A), article 4 of which provides for the protection of health, safety and morals of working persons under the age of 18, in compliance with the 182 ILC,
- f) Ministerial Decision No130621/2003 (Official Gazette 875/B/02/07/2003), which defines the tasks, projects and activities, in which the minors are prohibited from being employed, since it is considered that, due to their nature and the conditions under which these are carried out, they are likely to harm the minors’ health and safety or to be a danger to their morals.

Therefore, the apprenticeship contract provided for in article 74§9 of Act No3863/2010 does not violate article 7 paras2, 7 and 9 of the European Social Charter.

c) Concerning allegations of violation of article 10 para2.

By virtue of Act No.3475/2006 respecting “*Organization and operation of secondary vocational training and other provisions*” (Official Gazette 146/A/13-07-2006), the apprenticeship is of 2 years’ duration, comprising 4 semesters of theoretical courses in the Apprenticeship Schools of the OAED and practical instruction in the Public or the Private sector. Apprentices must have completed compulsory education of 10 years’ duration. The same applies to Vocational Schools (EPAS) targeted on persons having completed secondary education. The studies in the EPAS are of 2 years’ duration (4 semesters) and are provided free of charge. During the period of practical instruction, apprentices receive remuneration and are insured by their employers, to whom the OAED offers incentives, so that the number of the employed apprentices might increase.

The table below shows the number of persons who received practical instruction in the years 2007, 2008, 2009 and 2010 and the relevant budget:

Year	Number of persons	Budget	Source of funding
2007	10.000	14.400.000,00	EPEAEK II
2008	13.000	18.720.000,00	EPEAEK II (only for the period:01.01.08-30.06.08)

2009	15.000	21.600.000,00	P/Y OAED
2010	13.500	19.440.000,00	Education and lifelong learning

Consequently, apprenticeship contracts provided for by article 74 para9 of Act No.3863/2010 are not contrary to article 10 para2 of the European Social Charter, are governed by the provisions of article 7 paras2, 7 and 9 of the ESC in line with and separately from the vocational training and apprenticeship system.

C) REFUTATION OF ALLEGATIONS OF THE COMPLAINANT ORGANISATIONS OF VIOLATION OF ARTICLE 4 PARA1 AND ARTICLE 2 PARA1 OF THE ESC

(Article 74 para8 of Act No3863/2010)

The Greek Government denies the allegations of the complainant organisations of violation of the ESC, by means of *article 74 para8 of Act No3863/2010 respecting young new entrants into the labour market up to the age of 25.*

The provision in question is as follows:

8. The employers who hire young new entrants into the labour market up to the age of 25 and pay them with 84% of the minimum wage or daily wage each time provided for by the National General Labour Collective Agreement, ipso jure participate in the OAED programme for subsidization of the social insurance contributions incurred by the said newly hired persons; the subsidization concerns all the IKA-ETAM main insurance sections, the supplementary insurance section of the ETEAM or of other supplementary insurance funds, as well as social insurance contributions

which the IKA-ETAM collects or recollects in favour of Social Insurance Bodies and Sections, on condition that the employers will pay to newly hired persons, as part of their net earnings, an amount equal to that the OAED undertakes to pay to the aforementioned social insurance bodies, in order to cover the social insurance contributions incurred by the newly hired persons.

By decision of the Minister of Labour and Social Security, after consultation with the OAED Administrative Board, the terms, the conditions, the duration and any other necessary detail relating to the application of the present are regulated.

In accordance with the above provision, the work contract of young new entrants into the labour market has the following characteristics:

1. The work contract aims at the creation of an incentive to recruitment of young persons up to the age of 25, who enter for the first time into the labour market.
2. The incentive relates to the setting of remuneration to 84% of the minimum wage or daily wage each time provided for by the National General Labour Collective Agreement, through the subsidization, by the OAED, of all social insurance sections.

According to the above, it is obvious that the minimum wage offered to young newly hired persons up to the age of 25 ensures a decent living for them, since it is determined by the social partners through the conclusion of the National General Labour Collective Agreement, which defines the minimum legal wages applying all over the country. In addition, through the said legislative regulation, a financial incentive to the employment of young persons up to the age of 25 has been created, which is necessary that

the acute problem of unemployment encountered by persons belonging to this age group, in comparison with other age groups, might be resolved.

Therefore, the work contracts of young new entrants into the labour market in accordance with article 74 para8 of Act No3863/2010 are not contrary to article 4 para1 and article 2 para1 of the ESC.

Conclusions

The regulations provided for by article 74 paras8 and 9 of Act 3863/2010 are reasonable measures to encounter unemployment of young persons aged 15 – 18 and of young persons up to the age of 25, which are implemented for reasons of the general interest and comply with the provisions of article 1 paras1 and 2, article 12 para2, article10 para2 and article 4 para1 of the ESC, but also with the provisions of article 7 paras2, 7 and 9 of the ESC on the protection of young working persons.

For these reasons, we ask the European Committee on Social Rights to reject the Collective Complaint No66/2011 filed by the GENOP-DEI and the ADEDY.

ANNEX

Relevant legislative regulations

Act No3845/2010

Second article

.....

6. Unemployed people registered with the OAED aged up to 24, can work in private enterprises and generally with employers, by concluding contracts of up to 12 months' duration for the acquisition of work experience. During the period this contract is in force their gross remuneration corresponds to 80% of the minimum basic salary or daily wage, each time provided for by the National General Labour Collective Agreement. They are insured with the IKA ETAM for pension, health care services (provisions in kind) and against occupational hazards. The relevant insurance contributions are paid to the IKA-ETAM by the OAED. On expiration of this contract they can continue to be employed and can participate in OAED programs on condition that the contract for the acquisition of work experience converts into contract of employment. By decision of the Minister of Labour and Social Security and after consultation with the OAED Administrative Board, the terms, the conditions and all necessary details for the application of the present article are defined.

.....

9. For the implementation of the program of the previous article, through presidential decrees issued following the proposals of the Minister of Finance and of the Minister of Labour and Social Security and following consultations with the social partners and within the framework of the European Community Law, issues concerning the following are regulated:

- a) the procedure of resort to the Organization for Mediation and Arbitration,
- b) the increase of dismissals limit, in cases of mass dismissals,
- c) the definition of the amount and the method of compensation payment to the dismissed
- d) measures to prevent the dismissal of older workers near retirement, regardless of whether it is mass or individual dismissal.
- e) the definition of the working terms as well as of the minimum wage for newly entrants into the labour market under the age of 25.
- f) the definition of the general terms of employment and insurance for those who are bound by apprenticeship contracts of one year's duration maximum,
- g) the definition of the maximum duration of fixed term contracts.

Act No3863/2010

Article 74

Regulation of issues relating to working relationships

.....

8. The employers who hire young new entrants into the labour market up to the age of 25 and pay them with 84% of the minimum wage or daily wage each time provided for by the National General Labour Collective Agreement, ipso jure participate in the OAED programme for subsidization of the social insurance contributions incurred by the said newly hired persons; the subsidization concerns all the IKA-ETAM main insurance sections, the supplementary insurance section of the ETEAM or of other supplementary insurance funds, as well as social insurance contributions which the IKA-ETAM collects or recollects in favour of Social Insurance

Bodies and Sections, on condition that the employers will pay to newly hired persons, as part of their net earnings, an amount equal to that the OAED undertakes to pay to the aforementioned social insurance bodies, in order to cover the social insurance contributions incurred by the newly hired persons.

By decision of the Minister of Labour and Social Security, after consultation with the OAED Administrative Board, the terms, the conditions, the duration and any other necessary detail relating to the application of the present are regulated.

9. Special apprenticeship contracts of up to one year's duration are concluded between employers and persons between 15 and 18 years of age, so that the latter may acquire skills. The said apprentices are paid at a rate of 70% of the minimum wage or daily wage provided for by the National General Labour Collective Agreement (E.G.S.E.E.). They enjoy insurance coverage in-kind as well as coverage against accident risk at a rate of 1%.

The period of apprenticeship for persons who have reached the age of 16 cannot exceed 8 hours a day and 40 hours a week. For those who are under the age of 16, as well as those who are students of the first 3 classes of the secondary school, of all types of lycea or of public or private technical/professional schools, recognized by the state, the period of apprenticeship cannot exceed 6 hours a day and 30 hours a week. The apprenticeship is not allowed to take place between 22.00 and 06.00 of the next day. The provisions of the labour law, excluding those concerning health and safety at work, do not apply to the said persons.