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EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

24 September 2012

Case Document No. 3

Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece
Complaint No. 78/2012

SUBMISSIONS OF THE GOVERNMENT ON THE MERITS

Registered at the Secretariat on 20 September 2012

OBSERVATIONS OF THE HELLENIC GOVERNMENT ON THE MERITS OF COLLECTIVE COMPLAINTS 76, 77, 78, 79 & 80/2012

In accordance with the decisions of the European Committee on Social Rights, dated May 23rd 2012, on the admissibility of the Collective Complaints (a) 76/2012 filed by the Federation of Employed Pensioners of IKA-ETAM, (b) 77/2012 filed by the Panhellenic Federation of Public Service Pensioners, (c) 78/2012 filed by the Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.), (d) 79/2012 filed by the Panhellenic Federation of Pensioners of the Public Electricity Corporation (POS-DEI) and (e) 80/2012 filed by the Pensioner's Union of the Agricultural Bank of Greece (ATE) against Greece regarding violation of article 12, para3 of the ESC, we lawfully submit the present memorandum with the observations of the Hellenic Government 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 complaints as unfounded.

A. 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 high cost of borrowing in international bond markets. On the 22nd of 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 March 25th 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 and later in Act No4046/2012 "Approval of the Draft Financial Assistance Facility Agreements between the European Financial Stability Fund (EFSF), the Hellenic Republic and the Bank of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions for the reduction of public debt and the rescue of the national economy" which was adopted by the Hellenic Parliament on February 14th 2012.

The observance of the timetable for the structural measures as stipulated by the Memoranda constitutes a prerequisite for the disbursement of loan installments to Greece that is 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) improving the competitiveness of the Greek economy by means of taking structural measures for the operation of the labour market, and

d) 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.

B. Refutation of the allegations in the Collective Complaints regarding violation of the provisions of Article 13§3 of the ESC

Following the adoption of Acts No3845/2010 and No4046/2012, the State has the obligation to take concrete fiscal policy measures, in order, inter alia, to ensure the sustainability of the country's social security system. Within the framework of the above mentioned acts, particular regulations have been established from which the most vulnerable social groups are excluded, so that they are not affected by the fiscal measures that concern pensions and in order to ensure an adequate level of protection.

The regulations on the main pensions granted by the Social Security Institutions for the Main Pensions are the following:

1. Deduction of the Special Solidarity Contribution for Pensioners from the main pension paid by the Insurance bodies as well as by the Public Servants' Insurance Body (Article 38 of Act No3863/2010 as amended and in force). The above deduction is being made since 1.8.2010 from the main pensions exceeding the amount of €1.400 per month. The rate of this deduction, depending on the amount of pension paid, goes incrementally from 3% to 14%. **The following categories of pensioners are exempt from the Special Contribution: (a) those who receive less than 1.400€ per month, (b) those who receive the non-institutional benefit, and (c) those who receive the total disability benefit**.

2. A deduction, introduced since 1.8.2011 (at a rate of 6% to 10%), from the main pension paid by the Insurance Bodies as well as by the Public Servants' Insurance Body to pensioners who have not reached the age of 60, on condition that their pension exceeds the amount of 1.700,00€ after the deduction of the above Special Solidarity Contribution (article 44, para11 of Act No3986/2011).

More specifically, the rate of the above contribution (depending on the amount of pension paid) in combination with the high amount of main pension (1.700,00€) as well as the fact that it has been imposed to pensioners aged less than 60, taking into account the fact that the general age limit for retirement is 65 years, demonstrates the humane way that the State treats pensioners, despite the extremely adverse fiscal condition of the country, as mentioned above.

The following categories of pensioners are excluded from this deduction: (a) those who have retired upon the initiative of their Service (b) those who have retired due to *ipso jure* termination of their employment relationship (with the exemption of those who receive pensions from the social security institutions coming under the competences of the General Secretariat of Social Security), (c) the old-age or invalidity pensioners who receive the non-institutional benefit or the total disability benefit, (d) those who are victims of terrorist acts and their families, (e) those who receive the invalidity benefit under article 54 of Presidential Decree 169/2007.

3. A 40% reduction, introduced since 1.11.2011, in the part of the main pension exceeding 1.000€ for the pensioners who are under the age of 55 (article 2, para1 of Act No4024/2011**). The following categories of pensioners are exempt from the above mentioned reduction:** (a) **the old-age or invalidity pensioners who receive the non-institutional benefit or the total disability benefit, (b) the victims of terrorist acts and their families, (c) those who have retired under the Arduous and Unhealthy Occupations Scheme, (d) those who have retired after having paid at least 35 years of insurance contributions, and (e) those who receive pensions from the Mariners' Retirement Fund (NAT), as well as other special categories of pensioners.**

4. A 20% reduction, introduced since 1.11.2011, in the part of the main monthly pension exceeding 1.200€ for the pensioners who are over the age of 55 (article 2, para2 of Act No4024/2011). **The following categories of pensioners are exempt from the above mentioned reduction: (a) the old-age or invalidity pensioners who receive the non-institutional benefit or the total disability benefit, (b) the victims of terrorist acts and their families, (c) special categories of pensioners.**

5. A 12% reduction, introduced since 1.1.2012, in the part of the main monthly pension exceeding 1.300€ which is granted by the social security institutions coming under the competences of the Ministry of Labour and Social Security. The reduction is calculated on the amount of the main pension remaining after the deductions described above, and the final amount cannot be less than €1.300 (article 6 of Act No4051/2012). **The following categories of pensioners are exempt from the above mentioned reduction: (a) the old-age or invalidity pensioners who receive the non-institutional benefit or the total disability benefit, (b) the victims of terrorist acts and their families, (c) special categories of pensioners.**

6. I. Redefinition of the level and the terms for the granting of Holiday (Christmas and Easter) and vacation bonuses. These bonuses are granted to pensioners of main pension funds who have reached the age of 60 and on condition that their pension amount (including the amounts of holiday and vacation bonuses, as redefined) does not exceed 2.500€ per month. The new amounts of bonuses according to article 3, paras10-14 of Act No3845/2010, as replaced by article 24 of Act No4038/2012, are the following:
a) 400€ for the Christmas holiday bonus
b) 200€ for the Easter holiday bonus
c) 200€ for the vacation bonus
The following categories are excluded from meeting the requirement of having reached the age of 60: (a) pensioners who receive an invalidity pension, (b) pensioners who are blind, para-quadriplegic as well as all the other categories of persons who receive pensions under the provisions of Act No612/1977, (c) surviving spouses and (d) the dependent children of a deceased person who have not reached the age of 18 or 24 (on condition that they are students of higher education or are unable to exercise any profession for a living and are assessed with disability of at least 67%).

II. In particular, the pensioners who receive the non-institutional benefit, as well as the blind pensioners whose pension is increased by the total disability benefit, **apart from the holiday bonuses, as defined in case (I), are also granted a monthly benefit for paraplegia or a total disability benefit as a Christmas bonus, as well as the half of the monthly non-institutional**

benefit or the half of the total disability benefit as an Easter and vacation bonus (article 32 of Act No3896/2010). The qualifying precondition for this granting is that the monthly pension amount must not exceed 2.500€.

7. Introduction of restrictions on the employment of pensioners after retirement (article 16, para1 of Act No3863/2010). The following categories of pensioners are excluded from the suspension of the old-age or invalidity pensions in case of working pensioners who are insured with the body which is granting their pension: **(a) blind, para–quadriplegic pensioners, as well as, generally, those who receive pensions under the special provisions of Act No612/1977, and (b) the pensioners who receive the non-institutional benefit.**

8. From 1.1.2012, the calculation of the amount of non-institutional benefit as well as of the highest amount of total disability benefit continues to be based on the unskilled worker's daily wage of 31.12.2011 (article 6, para6 of Act No4051/2012).

9. I. Enabling self-insurance with the IKA-ETAM of workers aged 55 to 64 who have paid 4,500 days of insurance contributions and whose working contract is terminated and they remain unemployed. The right for self-insurance can be exercised within a period of 60 days from termination of their contract. The employer has the obligation to participate in the cost of self-insurance with a percentage of (a) fifty percent (50%) for insured persons aged 55 to 60 and (b) eighty percent (80%) for insured persons aged 60 to 64 until the dismissed person reaches the age limit and the necessary number of insurance days in order to receive the full old-age pension and up to three (3) years maximum (article 66 of Act No3966/2011).

II. For the long-term unemployed persons aged 55-64, who lack up to 1500 days of insurance contributions for entitlement to full pension, reduction of the time during which they may remain unemployed to 3 consecutive months (from 12 months) so that they be included in the self-insurance scheme with the IKA-ETAM. **In this scheme, the payment of the total of contributions is covered by the Special Account for Employment and Vocational Training of the Manpower Employment Organization (OAED). The above mentioned provisions will be in force until 31.12.2012, in order to tackle the increased unemployement due to the finacial crisis**.

10. Enabling the insured persons who have paid at least 3600 days of insurance contributions to recognize fictitious years of employment by redeeming the respective contributions in order to be entitled to a pension in accordance with the new increased requirements set by article 10 of Act

No3863/2010. The period of time during which a person is subsidized due to unemployment – irrespective of when he/she received this subsidization – and up to 300 days maximum, is excluded from the payment of contributions for redemption. The time of unemployment exceeding 300 days of subsidized unemployment may be acknowledged as pensionable by paying contributions for its redemption.

11. a. More specifically, as regards the provisions of Act No3865/2010 (the new insurance scheme for the Public Sector) in combination with those of Act No3863/2010, the Public Sector guarantees the sustainability of the country's pension system, with a view to safeguarding a decent pension for all beneficiaries. Such a guarantee could not be provided under the provisions of the pension legislation previously in force, given the fact that, in the long-run, the expenditure on pensions would represent an extremely high percentage of the GDP (in 2030 it would represent 17,1% of the GDP, in 2040 21,4% and in 2050 24%) depriving the country from any possibility of investment in education, health and infrastructure, forcing the state to borrow with uncontrollable fiscal impact and the society to produce goods in order to continue to pay pensions.

The stricter preconditions for entitlement to pension and the increase in the number of years of service provided for in the above provisions apply to the total of public servants, based on the principle of equal treatment.

b. It has to be noted that the stricter retirement age limits as regards women workers (article 6 of the above Act No3865/2010) <u>became imperative due to the decision of the European Court of Justice (case C-559/07)</u> by virtue of which Greece was convicted of violating article 141 of the Treaty of Rome and the equalization of retirement age limits for men and women has been imposed. Moreover, we would like to inform you that our country, because of the delay in the compliance with the above decision, had received a letter of formal notice by the European Committee, by which the latter reserved its right to appeal to the aforementioned court in order to impose a fine.

C. Improvement of the social security system to a higher level

As regards the macroeconomic sustainability of the social security system, in accordance with a recent joint projection of the Economic Policy Committee (EPC) of the European Union and the European Commission for the year 2012[1], the recent social security system reform[2] shows a relatively

[1] "The 2012 Ageing Report, Economic and Budgetary projections for the 27 Member States", European Economy, 2012

[2] Acts No3863/10 and No3865/10, "New social security system and relevant provisions, regulations of industrial relations" and "Public Sector Pension Reform and relevant provisions", respectively

milder fiscal impact on the expenditure associated with the demographic aging of the population.

More specifically, the above mentioned Report states that, as regards the total pension system, the recent projection for 2012, following notification of the new scheme, forecasts that the additional macroeconomic costs of ageing on public financing is close to one (1) percentage point of the GDP, changing the 13,6% of the GDP for the reference year 2010 to 14,6% towards 2060. In comparison, it has to be noted that in the previous projection of the EPC for the year 2009, the respective forecast for the change exceeded +12%, since the said expenditure as a percentage of the GDP was increasing from 11,6% to 24,1% for the years 2010 to 2060 respectively.

In conclusion, based on the recent assessment at EU level, the recent reforms *clearly make corrective and restrictive interventions in the expenditure*, given the fact that they tend to stabilize the financial burden of the system, as regards future projections, compared to the macroeconomic unsustainable previous system.

Conclusions

The State makes every effort so that the financial measures deemed necessary for the exit of the country from the extremely adverse fiscal conditions, might have the smallest possible impact on pensioners who receive low or medium pension amounts.

The above mentioned measures show that, despite the adverse impact of the economic crisis, every effort has been made to ensure the country's compliance with the provisions set in Article 12, para3 of the European Social Charter and the protection of the most vulnerable social groups.

For these reasons, **the Hellenic Government asks the European Committee on Social Rights to reject the Collective Complaints** (a) 76/2012 filed by the Federation of Employed Pensioners of IKA-ETAM (b) 77/2012 filed by the Panhellenic Federation of Public Service Pensioners, (c) 78/2012 filed by the Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.), (d) 79/2012 filed by the Panhellenic Federation of Pensioners of the Public Electricity Corporation (POS-DEI) and (e) 80/2012 filed by the Pensioner's Union of the Agricultural Bank of Greece (ATE).