

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



6 May 2019

Case Document No. 5

Panhellenic Association of Pensioners of OTE (PAP-OTE) v. Greece
Complaint No. 165/2018

RESPONSE FROM PAP-OTE TO THE GOVERNMENT'S SUBMISSIONS ON THE MERITS

Registered at the Secretariat on 25 April 2019



ΔΙΚΗΓΟΡΙΚΗ ΕΤΑΙΡΕΙΑ
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BEFORE THE EUROPEAN COMMITTEE OF SOCIAL AND ECONOMIC
AFFAIRS

EUROPEAN RIGHTS OF THE COUNCIL OF EUROPE

SUBMISSION

Of Association with under the name "PANELLINIAN ASSOCIATION
TELECOMMUNICATIONS PENSIONERS OF THE UNITED NATIONS
TELECOMMUNICATIONS GROUP'.

Athens, 24.04.2019

**Subject : Our Association's response to the allegations of 15.03.2019 of
Greek State on our action number 165/2018**

In response to the allegations of 15.03.2019 of the Hellenic Republic on the number
165/2018 appeal of our association under the name "PANELLINIAN SOCIETY OF
TELECOMMUNICATIONS RETIREMENT COMPENSATION COMPENSATION
OTE GROUP", we report the following:

1. 4387/2016 and Law No. 4472/2017 to embellish the social situation of
impoverishment of a large population of the pension world that numbers 2.7 million
people.

It knows that both of these contested laws impose new cuts and continue the downward
spiral of austerity.

The numbers are inexorable and unquestionable. As we will set out in detail below, according to the General Accounting Office, the cuts in the social area of pensions from 2015 to 2019 will reach the astronomical figure of 28 billion euros.

With the third memorandum (law 4336/2015) and the contested laws, the public sector is trying to solve the fiscal problem with new cuts that lead a large part of the population to impoverishment.

α. Established theory and jurisprudence have accepted that the state, before enacting serious reforms to the social security system, should conduct an actuarial study and discuss with the relevant stakeholders. This is required by the European Conventions on social rights (right to social security), the Constitution and case law.

β. The State did not seek other alternatives, both to solve the cash problem of the State and to ensure the sustainability of the system. Such as to exploit the up to now huge real estate of more than eight (8) billion euros that is stagnating in the social security funds. Contributions to the system are directly affected by very high unemployment and demographics. It is legally and morally unacceptable for the cash deficit to be covered by continued austerity. Any reform for the sustainability of the system must also take into account what is socially acceptable.

γ. Organisational changes and state guarantees do not ensure adequate benefits, instead of converging with the salary received in active employment, the discrepancy (with the accumulation of cuts) is getting bigger and bigger, leading to bankruptcy of a significant part of the population.

In particular:

δ. The state guarantees only the national pension from the state budget, while the contributory pension as well as the supplementary pension depend on the availability of the funds of the Funds. The zero deficit principle means that the state does not guarantee the deficits of the funds, i.e. 'thou shalt not receive in spite of not having'.

ε. The state abolishes the ESAS, increases the contributions to the EOPYY to 6% from 4% (contribution for the health sector, article 1, par.31 (a) & (b) of law 4334/2015), introduces for the first time a 6% contribution for the health sector and for the supplementary pension, drastically reduces middle and higher pensions and balances the system by spreading poverty.

2. For all these austerity measures, the State invokes (p.3) the provisions of the 3rd^o Memorandum (law 4336/2015) as a justification for the ongoing cuts and austerity.

However, the Commission had rejected these allegations, which the Greek State claims, when earlier provisions of 2011 and 2012 were brought before it for judgment. In particular, the Commission had found then that the relevant provisions of Laws 4051/2012 and 4093/12, which provided for new cuts in the pensions paid, violated Article 12 para. On the basis of the jurisprudence developed by your Commission in similar appeals in 2012 by almost all the major pension organisations, the national courts (CoE, Court of Auditors, Wage Court) ruled that the cuts in these laws of the 2nd^o Memorandum (4051/12 and 4093/12) contravene the European Conventions and even the Constitution of the country.

This judicial precedent was not respected and not applied by the Greek State. The recalculation of pensions did not take into account these unconstitutional cuts. From p. 3 to 6 of the claims of the Hellenic Republic, a general reference is made to principles of equality, social justice, etc. The unification of the system was not imposed by Law no. 4336/2015, nor the recalculation of old and new pensions that reached cuts of 35%. The reference (p. 5) that there was a recalculation of pensions based on the amount of pensions, as it was formed on 31/12/2014, is for our application an important reason to accept our appeal, because the State in the new reform (Law 4387/2016) did not take into account the judgment of your Commission (decision 76-80/12), that the Laws. 4051 and 4093/12 violate Art. 3 of the ECHR.

However, the national courts of substance, in a series of decisions, require the social security funds to repay these cuts retroactively.

The Greek State's multi-page document does not say a single word about these claims.

We discussed these allegations in the full plenary session of the CoE in October 2017. On that day, the issue of the unconstitutionality of the provisions of Law 4387/2016 & 4472/2017, which squeeze and equalise downwards the pensioners' salaries and cumulatively not only do not maintain a satisfactory level of benefits, but also continuously degrade the level of decent living of pensioners. For a large population of the social body of pensioners, earnings are below the poverty line. This flattening policy is weighing heavily on the middle and top pensions. But the provisions to reduce the

tax-free allowance to 5,850 from 1/1/2020 also weigh dramatically on low pensioners. Unfortunately, the political leadership is trying to solve the cash deficits of the public sector by cutting benefits to 2.7 million pensioners.

3. Being the highest cancelling court of our country, the Council of State, as the last refuge of judicial protection of income and rights, with its jurisprudence and in particular with decisions 2287 and 2288/2015 has a barrier to the rush of cuts, setting a limit to the decent living of pensioners. The above decisions of the CoE applied

essentially the decisions of Your Committee, No. 76-80/2011-2012, which unanimously ruled that the provisions of Laws 4051/2012 and 4093/12, in particular, violate Article 12 para. 2 and 3 of the ECHR. The executive and legislative authorities not only did not respect and implement these decisions, but proceeded to further cuts with Laws. 4387/16 and 4472/17, which we challenge before you. We formulated in the hearing some basic thoughts - criteria for fair judgment.

α. Unbearable accumulated cuts.

The provisions under consideration in the present case of Laws no. 4387/2016 and 4472/2017, for the period 2016 to

2019 take €28 billion from the "proud old age". According to a report by the General Accounting Office (No 141/16/2016) 8.2 billion from the regulations of Law 4387/2016, 12 billion from the increase of the contribution rate to the EOPY from 4% to 6% (2 billion Euros over six years) and 7.8 billion from the cuts for the years 2019-2021 from the supplementary Memorandum (Law 4472/2017) and its implementing laws (Law 4472/2017).

4475/2017 and 4488/2017).

Specifically, the General Accounting Office of the State, in its report number 141/16/2016, in accordance with the Constitution (article 75, paragraph 1), blasts the actual pension cuts, which are coming with the law 4387/2016, only for the period 2016-2019 to the "mammoth" amount of 8.2 billion €!

Here are the type and amount of the cuts as provided for in the above-mentioned GNI Report:

of cut	2016(in millions	2017(in	2018(in	2019(in	TOTAL	Type
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	€)	€ million)	€ million)	€ million)	€ million)	CUTS	
1	Gradual abolition of the ESSP (Article 168 2.393				569	803	853
	92) Reduction in annual expenditure for new pensioners						
2		21	101	222	345	689	
	Public sector - EFKA (Articles 7, 8, 28 and 30)						
	Reduction of family benefits for young people						
3			15	21	44		
	EFKA pensioners (Articles 10 and 27)						
	Reduction in annual expenditure on pensions on death						
4		11	59	122	177	369	
	(widowhood) public pension (Articles 12 and 27) Reduction in annual expenditure on public pensions;						
5					22	38	38
	EFKA due to application ceiling (Articles 13 and 27) Non-payment of increases in existing pensions						
6			187	76	263		
	State-EFKA for the years 2018-2019 (Articles 14 and 33) Reduction in annual expenditure on supplementary pensions						
7		27	43	48	123		
	new pensioners (Article 96) Reduction in annual expenditure paid						
8		174	291	284	277	1026	
	supplementary pensions (Article 96) Application of automatic machinery						
9						36	36
	in 2019 (Article 96) balancing mechanism for -						

10	Cuts in lump-sum payments						
	benefits (Article 35)	97		15	15	133	
11	Reduction of the annual						
	expenditure on the	207	208	208	209	832	
	dividends paid						
	(Article 48)						
12	Increase in the insurable limit						
	remuneration (Article 38)	23	24	25	26	98	
13	Increase in contributions for						
	ancillary pensions (Article 97)	173	351	362	365	1251	
14	Increases in self-employed						
	persons' contributions;						
	liberal professions	136	137	138	411		
	(Article 39)						
15	Increases in contributions						
	farmers (Article 40) TOTAL	94	95	112	157	458	
		996	1912	2573	2743	<u>8224</u>	

B) 12 billion euros of additional cuts in pensions - cuts for EOPYY To the amount of **8.2 billion euros** should be added the **12 billion euros** that will be withheld from pensioners for EOPYY through the withholding of 6% from the main pensions and 6% from supplementary pensions (total withholding for EOPYY 2 billion per year, i.e. **2 billion euros for 6 years** for the period 2016-2021 = 12 billion)!

The table with the specific amounts from the 2018 budget (Table 3.22, page 105) is revealing, showing that, out of a total amount of 5.286 billion euros, the state will pay only 100 million euros for the year 2018, which is 226 million euros less than in 2017 and 426 million euros less than in 2016!

Table 3.23

**Budgets of Social Security Institutions
and Hospital-PEDY
(in EUR million)**

c) EOPYY	Estimates2017	Forecasts2018
Revenue	5.566	5.286
Insurance contributions	4.592	4.535
Settlement of debts	170	161
Social resources		
Transfers from the regular budget	314	100
Performance of property	40	40
Receipts for the benefit of the State and third parties	394	394
Other revenue	56	56

With the issuance of IKA Circular No. 31 (A/30/472/9/16.9.2016), which specifies article 44 of Law 4387/2016, the largest horizontal and universal reduction of pensions of all those that have been made throughout the memorandum period was completed.

This unprecedented transfer of income from pensioners to the state is unprecedented in the last decades in the modern world!

C) 7.8 billion euro pension cuts from the supplementary Memorandum (N.

4472/2017) and its implementing laws (Law 4475/2017 and 4488/2017) Moreover, the above amounts should be added to the amount of **7.8 billion euros**, which will amount to the cuts in the main and supplementary pensions from the interventions of the additional Memorandum (Law 4472/2017) for the period 2019-2021, with the provisions of which they are cut from 1.1.2019:

- a) the family benefit of public sector pensions and the spouse's allowance of private sector pensions, for those who receive a pension based on the previous provisions of Law 4387/2016,
- b) the personal difference that was provided for the main pensions paid at the entry into force of Law 4387/2016, up to 18% of the pension paid at the entry into force of Law 4387/2016, and the part that exceeds this percentage, the additional amount continues

to be paid to the beneficiary as a personal difference, offset annually and until its complete elimination with the current pension adjustment,

c) the personal difference provided for the supplementary pensions paid at the entry into force of Law 4387/2016, up to 18% of the pension paid at the entry into force of Law 4387/2016,

d) personal disputes provided for in par. 2 of article 94 of Law 4387/2016 for pensioners whose pension applications were submitted or are submitted within the years 2016, 2017 and 2018, and the start of the pension adjustment is postponed to 1.1.2022 by a decree, based on the defined coefficients (GDP and Consumer Price Index).

The total cost of the above interventions, only for the three-year period 2016-2019 with the agreement of the second and third evaluation, amounts to approximately 8 billion euros, as revealed in the report of the General Accounting Office of the State (p:

α. Cuts of EUR 7,125 million *"due to a reduction in the pension expenditure of the State and other private sector funds (from the reduction of the defined personal differences of the main pensions and family benefits, as well as the postponement of the time of their adjustment), the amount of which is estimated at EUR 2,262 million for the year 2019, in the amount of*
of EUR 2 358 million for the year 2020 and EUR 2 505 million for the year 2021 (Articles 1 and 2(1) and (3))'.

β. Cuts of EUR 675 million for the three-year period 2019-2021 *"from the reduction of personal differences in supplementary pensions, the amount of which is estimated at EUR 232 million for the year 2019, EUR 225 million for the year 2020 and EUR 218 million for the year 2021 (Article 2, paragraph 2)".*

With the implementing law 4475/2017 (Government Gazette A´ 83/12.6.2017) of the supplementary Memorandum 4472/2017, entitled "Ratification of the amended Agreement on the establishment of the General Fisheries Commission for the Mediterranean, public sector pension arrangements and other provisions", pension increases were frozen for the year 2022. According to the 128/12/2017 Report of the General Accounting Office (GAO), *"the proposed provision results in savings of approximately 250 million euros in expenditure for 2022 on the budget of the EFKA, by postponing by one more year the date of the pension adjustment"*.

During the discussion of the implementing law 4475/2017 of the supplementary Memorandum 4472/2017, the Court of Audit, in its Opinion (see the Minutes of the 3rd Plenary Session of 7.6.2017) regarding the abolition of the personal difference and the extension of the suspension of the increase of pensions for the year 2022, stated that these measures are contrary to the Constitution and the International Conventions that bind the country.

c. €2.2 billion from the reduction and abolition of the ESSP for the three-year period 2017-2019. According to the text of the 23-5-2018 Agreement released only in English "Supplemental Memorandum of Understanding: Greece, Fourth Review of the ESM Programme, DRAFT-23 May 2018" (chapter 2.5.1., p. 12), in December 2019 the ESSP will be paid for the last time to the 240,000 or so low pensioners who continue to receive it.

The above-mentioned text of the second evaluation provides for the details of the drastic reduction until the final abolition of this important social institution that supports low pensions.

The English and the Greek text are quoted below:

"iv. Eliminate EKAS: phase out the solidarity grant (EKAS) for all pensioners by endDecember 2019, reducing it by EUR 570 million by 2017; EUR 808 million by 2018; and EUR 853 million by 2019. The authorities will adopt as a prior action the Ministerial Decision setting all the details for the awarding of EKAS in 2019." and *"Abolition of EKAS (Social Solidarity Allowance for Pensioners). Gradual abolition of the solidarity allowance (ESAS) for all pensioners by December 2019 with a cut of €570 million in 2017, €808 million in 2018 and €853 million in 2019. The Greek authorities will issue, as a prior-action, the relevant ministerial decision setting out the details for the granting of the ESSP in 2019."*

The total losses for pensioners from the above interventions, according to the above Report, are 8 billion euros and more, not 1.8 billion euros, as the government claims!

There could not be a more solemn refutation, since it comes from the General Accounting Office of the State itself, whose reports were submitted to the Parliament on 7.6.2017 along with the law under discussion, according to article 75, par. 1, of the Constitution.

Finally, it should be noted that the second implementing law (4488/2017) of the supplementary Memorandum (Law 4472/2017) redefined the new way of calculating supplementary pensions (from 1.1.2015), which will lead to further reductions of at least 20%. After this new reduction, the institution of the supplementary pension seems to have no future.

4. The main purpose of the cuts is to cover the cash deficit of the state, not to ensure the sustainability of the system and a satisfactory standard of living.

The key criterion for your fair judgment should not be to look at each cut in isolation, but to take into account all the cuts from 2010 to date. Take into account the total of the cuts in the two pillars of the main and supplementary pension schemes, as well as the lump sum. The cumulative cuts range from 45% to 65% of the pension cuts under the memorandum arrangements. Therefore, the "crime" is not instantaneous, but lasting!!! Thus, basic constitutional principles (equality, responsiveness, proportionality) are violated, because the replacement of income is not achieved in accordance with the meaning of the Constitution Art. 5. **The income of pensioners, instead of being "close" to the salary they received in active employment, is far from it at rates of 45% to 65%**, thus violating the provisions of Article 12 "the right to social security" para. 2 and 3 of the revised Social Security Code and Article 23 which establishes the right of the elderly to social protection.

The constitutional imperative and the rich case law from European and national courts **on income replacement stipulate that pensions should be set "close" to wages and that the level of legal protection and legal security should be constantly improved.** In the context of this requirement, the decisions of the European and Social Rights Committee unanimously ruled that the provisions of the first and second memorandum with their cumulative cuts violate Article 12 para. 3 of the ECSC, as amended and in force, (See 76-80/2012), which requires the maintenance and improvement of the level of social security.

The CoE, the Court of Auditors and the Court of Wages and Salaries, applying in practice the jurisprudence of your Commission, in accordance with decisions 76-80/2012, have ruled similarly. We have pointed out to the Court that the case law that has been established (SCC 2287/2015) is binding on the fair judgment in the case at

issue, because it **constitutes a precedent not merely procedural but substantive. Judgment of the Full Court erga omnes. It is** this precedent (decisions of your Commission 7680/2012 and 2287/2015 Full CoE) that we rely on in the first ground of our appeal.

It is known, of course, that unfortunately the mentioned decisions of the Plenary of the CoE were not respected by the State. **They were not applied and not taken into account in the legislation of Law 4387/2016.** The claims made for the non-reimbursement of the cuts were vague and legally unfounded. In a legal and factual "leap in the dark", they assumed that Law no. 4387/2016 recalculates all pensions from the beginning and is not bound by the decisions of the Committee of the HCC (76-80/2012) nor the Plenary of the Council of State, which ruled that the cuts of the Laws of the Republic of Cyprus (76-80/2012) were not justified. 4051/2012 and 4093/12, in the main and supplementary pensions as well as the abolition of bonuses and holiday allowance are unconstitutional. For these reasons, in the present case, the binding nature of res judicata and the repayment of the cuts must be examined. It is reasonable and fair for your Commission **to protect the 'social model' of our country, which aimed to converge with the average European acquis and is unfortunately heading downhill without brakes towards the 'Balkan model'.**

5. The public and private interest (Law 4387/2016).

A. The public interest

Do workers and retirees understand the needs of the State. But they do not accept to disproportionately bear the burden of the economic consolidation of the state, which, instead of providing effective protection, tries to deal with the humanitarian crisis by tipping.

Serving the public interest does not mean that by simply invoking the cash deficits of the State, the private interest, i.e. the income of workers and pensioners, is flattened and disregarded.

The jurisprudence of European and national courts, on the basis of international and European conventions, has established specific objective criteria on the basis of which judges judge and check the legality, the constitutional limits of the legal rules passed by the legislative power.

A basic criterion and prerequisite before any reform of the social security system is an actuarial study, on the one hand, to confirm the necessity of the measures in a scientific and documented way and, on the other hand, their effectiveness and suitability. The changes introduced by Law No. 4387/2016 and Law 4387/2016. 4472/2017, there was no actuarial study, nor were other ways sought to resolve the fiscal.

The sustainability of the insurance system, for the sake of which the regulations are made, is **not only judged by its economic dimension, but also by the social acceptability**, quality and level of services and remuneration. It is **not permitted to solve the problem of the system's sustainability by providing provident pensions and other gratuities.** The realities of the situation do not lend themselves to any other interpretation. **It is an undeniable fact that with the provisions under review, the State guarantees, with money from the State budget, only the national pension of EUR 385 and EUR 310!!! In practice, this means that the replenishment ranges from 11.55% to 42.8% for fifteen years of employment and 40 years of insurance respectively (Articles 8 and 28 of Law 4387/2016).** There is no state guarantee for the contributory pension, but it is granted to the extent that the Fund is able to provide it. Otherwise no one guarantees that the contributory part of the pension will be granted. In this case, the State's guarantee only for the national pension will in the years to come drive a large part of the population into poverty.

The State washes its hands of the second pillar of compulsory social security, the second pillar. No guarantee from the State. If the funds are good, fine, otherwise nothing. But these regulations are in direct and brutal violation of Article 12(1)(a)(b). 2 and 3 & 23 of the revised ECHR and other European conventions, as well as the constitutional right No. 22 para. 5, which requires that the replacement of income should not be substantially different from the income received as a worker and that the State guarantees the universal right to a pension and maintenance allowance.

The zero deficit clause has been replaced in the supplementary pension with the system of "thou shalt not receive in spite of not having" (automatic rebalancing mechanism) in case of deficits. The State no longer guarantees to cover the deficits of

the funds, neither for the proportional pension (since the only source of funding is contributions) nor for the supplementary pension.

The **second criterion** for checking the legality of the contested arrangements is the appropriateness of the measures. That is, to what extent the State has considered other measures, other sources of financing of the system, such as: **the use of the reserves of the funds and real estate (which together approach ten billion euros), is inadequate or even non-existent. For the sustainability of the system, in addition to contributions and constant reductions of benefits in kind and in cash, the alleged reform is not in line with international practice of public-private partnership (occupational funds, etc.)**

The **third criterion** is the employment situation of the workforce, the demographic situation, the migration of new scientific potential and other individual measures that a serious actuarial study can predict, propose and convince of its correctness and effectiveness.

In the present case, the State did not carry out an actuarial study before the adoption of the contested provisions, but the representatives of the State defiantly told the Court (CoE during the adjudication of the contested provisions) that the study is not necessary and the financial report prepared in early 2016 without respecting the international standard criteria for its reliability is sufficient.

The private interest.

The case law is rich on the fundamental, constitutional principles for the protection of the private interest against the public interest, in this case the protection and guarantee of the right to insurance.

The principles of proportionality, proportionality and legitimate expectation of security and protection that the State must provide to its citizens are in this case grossly violated. It is on the basis of these principles that the harm to the public or private, the citizen's trust in the State and legal security and the dignified living of the citizen, which is the primary concern of a Rule of Law State, is judged.

On the basis of the principle of proportionality, taking into account the socio-economic environment, the needs of the State and the living needs of pensioners, your Commission will judge whether the public or private interest prevails. In the present

case, the private interest must prevail, because the Constitution requires that the pensioner's income must be close to that of a worker. And as we set forth the evidence in the challenged provisions, the replacement ranges from 11.55% to 42.80 for 15 years of employment and 40 years of employment, respectively.

All in all, the contested provisions reduce the pensioner social corpus by a further 28 billion years (i.e. shrinking the income of all kinds of benefits), as we have mentioned in detail above. In order to judge fairly, the Commission must take into account the total cuts and the extent to which they not only do not make up for the income they had as workers, but have created a huge social divide, which affects pensioners' level of dignified living.

The principle of reciprocity in the social security system dictates that it is not allowed in unequal situations to formulate equal rules and completely overturn the labour model. It is not fair to punish those who work longer by paying higher contributions and levelling down their income. The reciprocity of contributions and benefits, the replacement of pensions as close as possible to the worker's earnings, are a fundamental principle of the legal order in the social security system.

In particular, middle and top pensions have been brutally cut and restricted to the extent that the principle of equality and the principle of contributory benefit adequacy is violated. The tier system is shrinking downwards and in 15 years' time new pensioners at a rate of 65% will be receiving pensions close to the national pension of EUR 385.

6. On the basis of the principle of legitimate expectation of the State and legal certainty, the State has literally the worst possible unreliability. The protection of legitimate expectations, which is inextricably linked to the principle of the rule of law, must be even stronger in social security, given the livelihood nature of the benefits. In particular, where benefits are limited, account should be taken of the insured persons' well-founded economic expectations (see European Committee of Social Rights, Opinion of 7 December 2012). A total of fourteen system reforms have been carried out during the 'memorandum' period. Three (3) Memoranda of Understanding have been imposed, which have resulted in an avalanche of cuts. But the problems of the sustainability of the system have not been seriously studied and remain acute. We have asked the State to formulate socially acceptable or tolerable proposals (not driving pensioners below the poverty line) that take into account developments in the labour

market, competitiveness, the economy and new technological developments. There should be a serious political and social dialogue.

The State's claims (p. 11 and all the others that follow on the same issue) that a "Committee of the Wise" and other individual studies were created are contradicted by reality itself. All the reforms had a single purpose, to cover the cash deficit of the state. The social security system applies universally to the entire population from birth to death. In the last eight years, "every day worse" has been the reality, both in terms of "foot in the door" reforms and in terms of income, services and benefits for pensioners. On many occasions, as with the provisions at issue, the principle of legitimate expectations of the state has been brutally violated. The social security and protection network is inadequate or non-existent, driving 33% of our population below the poverty line.

7.Costs of decent living for citizens.

The case law has set the criterion of a citizen's dignified living standard as the limit for cuts.

Specifically, regarding the violation of I.S.E. No. 102, we want to mention some facts about how a decent standard of living is objectively judged.

The Private Debt Council of our country, defined "the reasonable monthly living expenses" (known as decent living expenses) for loan arrangement with the Banks, **set the amount of 1347 euros net, i.e. without expenses for taxes, social security contributions, rent or loan instalments, for a family of four.** In particular for one person 537 to 682 euros net. For a couple from 906 to 1160 euros, for an adult with one adult from 758 to 962 euros, for a couple with one child from 1126 to 1440 euros and so on. The plea of the State that the cuts do not lead below the poverty line is vague and unfounded when the State only guarantees the national pension of 384 euros reduced in case of less than **20** years of insurance and up to 15 years of insurance, where the national pension is provided for in the amount of 345.60 euros!!! Moreover, the National Statistical Office sets the poverty line at 500 euros net, excluding public burdens. And the appeal of the State, with reference to decisions of the European Court of Justice, that even with cuts to 200 euros of monthly pension (in Eastern European countries), the provisions on damage to private property are not violated, is unfounded and provocative.

The above calculations were made by ELSTAT, with experts from the Ministries of Development and Finance, at Research Family Budget Survey (FBS).

The "social model" of our country, the level of decent living of our citizens, we seek to compare and converge with the average European model and not with the "Balkan model". We ask your Commission to protect the country's 'social model' and to put a stop to the rules of law that are leading us into regression and poverty. Even with the 'Code of Conduct for Banks, when a credit institution is consulted, it must take into account the reasonable cost of living as determined by the National Statistical Office.

The above elements for decent living standards have been mandatory in out-of-court business conciliation since 2015. The above elements should be the boundaries, the barrier as to the judicial review of the legality of the forthcoming provisions we are challenging.

Finally, the Greek State claims, in conclusion, in its claims, that it has respected the criteria of the Commission, which it takes into account in deciding similar appeals in 2012 and publishing the well-known decisions No 76-80/2012, by adopting the contested provisions. It is obvious that its claims are unfounded and must be rejected.

The facts confirm our claims:

α. No actuarial study was carried out by the State to objectively determine the necessity of the measures, the appropriateness and the impossibility of maintaining the viability of the system. In fact, when similar reforms had been preceded by the 1st^o and 2nd^o Memorandum (Laws 4051/12, 4093/12). The sole objective of the changes was to cover the cash deficit of the state with austerity measures and removing 18 billion in three years (only for the period 2016-2019) from their benefits.

β. To eradicate poverty, a minimum pension should be provided for when the sum of the national and contributory pensions falls below a certain threshold. Such a role could be reserved for the ESSP. However, according to Law 4387/2016, the ESAS continues to be paid exclusively to existing pensioners and is being phased out by 31-12-2019 (Article 91). **Its abolition will have an impact on the guarantee of the minimum standard of living** (it is estimated that around 380,000 low pensioners will lose the ESAS).

c. The State guarantee, with money from the state budget, applies only to the national pension, which ranges from 386 euros (twenty years of insurance) to 345.60 euros (15 years of insurance) respectively, which is well below the poverty line.

For the contributory and supplementary schemes, there is no guarantee - a commitment by the state that it will cover the deficits of the respective funds. The zero deficit clause will lead to the saying 'thou shalt not receive more than thou shalt have'. The lack of a state guarantee for contributory and supplementary pensions affects at least 2.7 million pensioners.

In fact, taking into account the implementation of the measure by Law no. 4472/2017 that from 1/1/2010 the tax income will be taxed at 5,800, from more than 9,000 euros today, it becomes clear that income is disappearing and poverty is spreading.

δ. The Greek State claims that the ECHR and the Constitution allow the legislator to determine the amount of pensions and benefits in general in exceptional socio-economic conditions or national situations. This is true but there are limits to the legislative power which are set by international and European treaties, as well as the Constitution, to provide a satisfactory level of benefits that are as close as possible to the salary received in their working life, thus ensuring a decent standard of living.

These limits have been violated by the legislature through the provisions of the challenged laws and we ask for your fair judgment. If the government respected your Commission's criteria, it would at least apply your decisions n. 76-80/2012. The State may not apply these decisions, but the national courts are doing their job and ordering the reimbursement of these cuts.

For the above factual and legal allegations and those we have thoroughly developed in our application, we request the rejection of the allegations of the Greek State and the acceptance of our claims.

Conclusion:

The allegations of the State are refuted in a clear and unequivocal manner in similar appeals decided by your Commission (Law 76-80/12) and in particular in paras. 75,76,77,78,79,80,81 and 82.

In particular, in paragraphs 78, 80 and 82 the Commission considered that:

"Position 78. *The Committee considers that the cumulative effect of the restrictions decided upon as notified by the applicant unions (see paragraphs 56-61 above), which has not been contested by the Government, constitutes in fact a significant deterioration in the standard of living and living conditions of a serious number of pensioners to whom they apply."*

"Position 79. *Even taking into account the particular context which has been created in Greece due to the economic crisis and the circumstances in which the Government has been forced to decide on these measures as a matter of urgency, the Commission further considers that the Government has neither studied nor analysed the effects of the measures in question, nor has it carried out a thorough assessment of the impact on the most vulnerable social groups. Furthermore, the available studies - opinions were not discussed with the organisations concerned, as they represent the interests of important categories affected by the measures'.*

"Position 80. *The Commission considers that it was not considered whether other measures could be taken to limit the cumulative effects of the cuts taken on pensioners."*

"Position 81. *From a general point of view and as a consequence, the Commission concludes that the Government does not demonstrate, contrary to the commitments it had undertaken under Article 12 para. 3, that it maintains adequate protection for vulnerable members of society, even if the effect of the measures taken risks, as other international organizations point out (see paragraphs 36 and 47 above), leading to mass impoverishment of a significant part of the population."*

"Position 82. *Finally, the Commission considers, as applied by the Court in accordance with the Convention, that the decisions taken in relation to pension claims must respect the requirement to reconcile the general interest with social rights, in this case of pensioners, including the legitimate expectations that members have with regard to the stability of the applicable rules relating to social security rights. The Commission concludes that the restrictive measures in question, which appear to deprive a section of the population of a significant proportion of their means of subsistence, were adopted in a manner which does not respect the legitimate expectation of pensioners*

that the amendments to their social security entitlements should be applied with due regard to their sensitivity, their stated economic expectations and, lastly, their right to effective access to social protection and social security. Therefore, the Commission considers that there are other measures appropriate to deal with the complaints concerning the effects of the contested legislation on pensioners' right to property. In this respect, national courts can also play an important role, has been instrumental in the case law that has developed since the publication of your Commission's decisions. We strongly emphasise the last paragraph of paragraph 82 'in this respect the national courts can also play an important role'.

This was done by the courts, (the Council of State, the Greek Court of Justice, the Wage Court and today the courts of substance) and on the basis of the considerations of your Commission, they ruled unconstitutional the cuts in main and supplementary pensions and the complete abolition of holiday bonuses and holiday pay, which were introduced by article 6, paragraphs 1 & 2 of Law 4051/2012 and article 1, paragraph k, subparagraph k.5 and k.6 of Law 4093/2012.

But instead of respecting and implementing these decisions, the public sector, through the contested laws, has accumulated new cuts.

But it is worth mentioning that after 7 - 8 years with legislative regulation from 01.02.2019 (ministerial decision 4241/127 "determination of minimum wage and minimum daily wage", Government Gazette 173, t. B'/30.01.2019) abolished the minimum wage of 510 euros for young people from 18 to 25 years old. Your Commission's decision in a relevant appeal by trade unions (GENOP/DEH, ADEDY) that these wage discrimination and the lack of legal protection for young people are impermissible.

With these considerations, we request the rejection of the allegations of the Greek State and the acceptance of our claims, as they are contained in our application number 165/2018 addressed to You.

Upon my honor,

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