



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

4 July 2019

Case Document No. 7

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

ADDITIONAL INFORMATION FROM PAP-OTE

Registered at the Secretariat on 20 June 2019



ΔΙΚΗΓΟΡΙΚΗ ΕΤΑΙΡΕΙΑ
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BEFORE THE EUROPEAN COUNCIL ON SOCIAL AND EUROPEAN RIGHTS OF THE
COUNCIL OF EUROPE

SUPPLEMENTARY MEMORANDUM

The Union by the name ‘PANHELLENIC PENSIONER’S ASSOCIATION OF
TELECOMMUNICATIONS OTE GROUP’

Athens, 20.06.2019

**Subject: Our Association’s response to the additional Statements of the Hellenic State
on 12.06.2019 regarding our appeal No. 165/2018**

In reply to the supplementary submissions of the Hellenic Republic dated 12.06.2019 on the claim No. 165/2018 of our union named ‘PANHELLENIC PENSIONER’S ASSOCIATION OF TELECOMMUNICATIONS OTE GROUP,’ we report the following:

1. The Greek State is trying to embellish with the most inaccurate and untrue claims the situation that has formed in the field of social security following the statutes 4387/2016 and 4472/2017. Specifically, it claims that the above-mentioned legislation did not make any cuts to pension entitlements. Indeed, it is totally vague and generally states that from 01-01-2019 the pension amounts increased due to the new method of calculating the pensions introduced by Law 4387/2016. But the facts themselves contradict these claims made by the Greek State.
2. We refer to the letter of the Hellenic Republic’s Ombudsman dated May 20, 2019, No. 24276/24732/2019 to the Ministry of Labor and the Insurance Funds ‘EFKA’ and ‘ΕΤΕΑΕΡ’. The reason for issuing this document was the large number of civil appeals, which, following the implementation of Article 96 of Law 4387/2016 for the reduction of the unconstitutional provisions of Law 4093/2012 (*see* Article 1, par. 11, subpar. 11.5) which further reduced pensions, the amount of the supplementary pension as before Law 4387/2016 was taken into account. As stated by the Greek Ombudsman, “This has as a consequence that the percentage reduction of Law 4093/2012 is made on the total amount

of the pension not received by the pensioner, since the dividend or supplementary pension taken into account for the calculation of this total amount of pension is now reduced. **This is a percentage reduction on an amount that is not actually paid, which causes citizens to reasonably doubt as to whether the law is being applied correctly!**” Furthermore, the Independent Authority notes, inter alia, that: “... *it is necessary for your bodies to scrutinize the manner in which the reductions of Law 4093/2012 apply to the total of primary and supplementary pensions, in particular after the application of the Law 4387/2016 and the reductions made to supplementary pensions and, in this regard, to give the necessary instructions requested by EFKA in order to ensure correct implementation of the law by the administration. It should be duly noted that the issue of the correct application of the decrees of Law 4093/2012, which is set out in this document, points out, irrespective of the question of the application of the judicial decisions of the Council of State regarding the unconstitutionality of these reductions, an issue which is a point of reference to the Ombudsman, on which the Authority will return. As you are cognizant, the relevant provisions of the first paragraph of Article 11.5 subsection 1 of Law 4093/2012 as well as the provisions of Article 6 Law 4051/2012 have been declared unconstitutional by the Council of State and pending the implementation of the court decisions by the administration, while citizens submit applications to the EFKA and ETEAEP via the electronic online platform created for this purpose by EFKA.*”

3. The above-mentioned is first-hand proof of our claims of new, unbearable cuts, which have come to add to the existing ones, with statutes 4387/2016 and 4472/2017. In addition to what we have already mentioned in our appeal and in our memorandum, which has been our response to the Greek State’s arguments, our claims of new cuts in pensions are corroborated by the Greek Ombudsman, which was issued, we reiterate, following a lot of complaints from affected pensioners. Consequently, what the Greek State claims to be contrary to the alleged irrationality and savior of the social security system must be rejected as unfounded.
4. The Greek State refers to laws 4583/2018 and 4611/2019 in order to distort the brutal reality of raising contributions, abolishing EKAS and a number of other cuts. In particular, we refer to the following legal acts: Law 4334/2015, Art.1 par. 31 (an increase of the contribution for the area concerning ailments in the main pension from 4% to 6% and the first imposition of the contribution for the area of sickness at 6% and in the supplementary pension, Article 92 of Law 4387/2016, which introduced the abolition of the Pension Social

Solidarity Allowance (EKAS) for the low-pensioners of our country, which today and until November 2019 amounts to only 12 euros per month. Because the Greek State disputes in its supplementary memorandum our claims for the reduction of pensions, which we have proven by reference to data, articles and legislation, we refer to Article 92 above, which reads as follows: “4. From 1.1.2017 to 31.12.2019 and on an annual basis the amounts referred to in the income criteria set out in paragraph 1 of this Article and the amounts of the allowance referred to in paragraph 2 shall be **readjusted** by joint decision of the Ministers of Finance and Labor, Social Security and Social Solidarity **so that the above criteria may be reduced each year with a view to a corresponding annual reduction in the cost of the provision until its total abolition. This benefit is abolished from 01.01.2020.**” It is estimated that the total loss for pensioners from this terrible reduction of EKAS for the period 2015-2019 is about 2.5 billion euros! We also refer to the non-implementation by the Hellenic State of the resolutions 2287/2015 and 2288/2015 which declared the new pension cuts introduced by laws 4051/2012 and 4093/2012 as unconstitutional. The Greek State, instead of adjusting pensions to pre-2012 levels, recalculates pensions by completely ignoring the res judicata resulting from the aforementioned decisions. We remind the Greek State of Article 14 par. 2a of Law 4387/2016, which provides for the continuation of the payment of pensions, as recalculated **to the amount, which had been done so on 31-12-2014, without taking into account the res judicata of all the decisions of the Council of State.** All of the above contribute with precision to the reduction of the standard of living of pensioners, which for the majority of them is below a decent standard of living.

5. The reference to Laws 4583/2018 and 4611/2019, with which, as reported by the Greek State, corrections have been made to previous legislation, for which we have appealed to Your Committee, confirms our allegations that they are problematic and verifiable due to their obvious opposition to supreme legal rules and international conventions such as Laws 4387/2016 and 4472/2017. The abolition of the deductions of family allowances (see Articles 10 & 27 of Law 4387/2016) was made by Article 1 of Law 4583/2018 without retroactive effect. Likewise the deplorable and extremely unequal and unfair provision of Article 12 of Law 4487/2016 on the pensions of widows, which laid down entirely arbitrary criteria for obtaining them (age restrictions, etc.), both on the conditions for granting them and the reduction introduced as regards the percentage of the entitled pension, remained in force until the publication of Article 19 of Law 4611/2019 which abolished the 55 year age limit and on the other hand returned the reimbursement rate to 70%. Despite this, and

according to the wording of the provision, this is the case as of the publication of the law, namely from 17.05.2019 without retroactive effect. This is a partial restoration of the injustices and not a complete one as the Greek State is trying to show. Meanwhile, during the period of validity of Article 12 of Law 4387/2016, thousands of pensioners of the aforementioned category lost their pensions or received them drastically reduced! For this fact, though, the Greek State makes no mention.

6. Lastly, in relation to the recent grant to pensioners of the provision of Article 120 of law 4611/2019, which is invoked by the Greek State, it should be noted that this is a totally occasional, piecemeal provision, which has all the characteristics of a ‘pre-election bonanza’ to pensioners. Under no circumstances can this provision be given the character of the 13th pension. The words “for each subsequent year” as well as the income criteria for its receipt, that is to say, the conditions for granting it (*see* Art. 120, par. 2), confirm our claim to a fragmentary and not regular provision, which in any case cannot qualify as a **13th** pension and is not stipulated as a payment date, as we know so far to pay for the Easter bonus (paid each year in April until its abolition), but even much more is considered disproportionate depending on the amount of the current gross main pension, which we all know is far from the original paid. Therefore, the Greek Government’s attempt to make the above provision a significant move that relieves pensioners is at best abusive and does not reflect the real situation.

7. **In concluding**, we mention the following: We emphasize that the calculations of the State Treasury are not disputed by the Greek State, it merely states that they were accompanied by the relevant Laws of 2015 and 2016 which are partially improved by the recently published Laws 4583/2018 & 4611/2019, legislated for pre-election reasons and after the outrage of retirees. For the reductions to the new pensioners after the vote of Law 4387/2016, which reach 35%, no comment has been made from the Greek State. There has also been no comment on the abolition of the EKAS! For the recalculation of pensions, as the Greek Ombudsman also denounces, there has been no comment. For the lack of an actuarial study we refer to the Committee of Wise People who simply expressed some general theoretical views without calculations, costs and numbers. It is obvious that the false and untrue claims of the Greek State must be rejected by your Commission. As noted in our previous memorandum, if the Greek State respected in the least the decisions of your Committee, it would have attributed to the parties concerned the amounts that were cut by the unconstitutional and illegal regulations of Law 4051/2012 and 4093/2012 as judged by

the National Courts and judged by your Commission from 2012 that they violate Article 12 par. 2 & 3 of the ESC.

With these considerations, we also request the rejection of the additional claims of the Greek State, as they are contained in your letter of 12.06.2019 addressed to Your Committee, and of the universal acceptance of our claims, as contained in our appeal No.165/2018 which is addressed to you.

Sincerely,
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