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

9 October 2019

**Case Document No. 8**

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

**ADDITIONAL INFORMATION FROM THE GOVERNMENT**

**Registered at the Secretariat on 16 September 2019**





**HELLENIC REPUBLIC**

**MINISTRY OF LABOUR AND SOCIAL AFFAIRS**

**FURTHER ADDITIONAL OBSERVATIONS OF THE GREEK GOVERNMENT**

**ON THE MERITS**

**COLLECTIVE COMPLAINT 165/2018**

***“Panhellenic Association of Pensioners of the OTE Group Telecommunications***

***v. Greece”***

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ON THE MERITS**

Following the letter dated 03/07/2019, by Mr Henrik Kristensen, Deputy Executive Secretary of the European Committee of Social Rights, and the attached thereby additional observations of the complainant organization PAP-OTE, the Greek Government by the present memorandum wishes, on the one hand, to call upon and reiterate once more the validity of all that have been included in its previous memoranda in the context of the collective complaint under discussion (memoranda on 15.03.2019 and on 12.06.2019), and on the other hand to additionally stress the following, with regard to the allegations presented in the recent memorandum of the complainant:

**I. INTRODUCTIVE OBSERVATIONS**

The Greek government has already replied on the majority of the issues raised by the complainant organization in its further additional observations and has set out its views in detail, both in its first memorandum dated 15.3.2019 and in the second memorandum dated 12.6.2019 with which the Government rebutted the additional allegations of the complainant organization. It is deemed appropriate to note that, after assuming office (elections of July 2019), the new government, consistent with its international obligations and following the current pension reform legislation, refers to the content of the previous memoranda; therefore it is considered appropriate to focus on the reported information below, commenting on the issues which the complainant repeatedly invokes in the third text of the observations, instead of reiterating all the arguments already stated. In any case and in support of our arguments, we refer to our submitted observations and the content therein, in order to refute the additional allegations of the complainant organization, which we explicitly deny once again.

**II. ON THE ALLEGATIONS OF THE COMPLAINANT ORGANISATION**

***1. On the allegation of reduction in main and supplementary pensions pursuant to Laws 4387/2016 and 4472/2017 (para1 of PAP-OTE memorandum)***

As explicitly stressed in both our previous memoranda in reply, and to remove any doubt, it is noted once again that no cuts were made to pension amounts by virtue of Law 4472/2017 and Law 4387/2016, as the so-called cuts were repealed by virtue of a subsequent provision of Law 4583/2018. The cut made to the personal difference amount for main pensions **was repealed** by article 1 of Law 4583/2018 (O.G.

212/A/18-12-2018). Similarly, by virtue of the above mentioned law, article 96, para.7 of Law 4387/2016, which was added by virtue of article 2 of Law 4472/2017 regarding supplementary pensions, was also repealed.

**2. On the allegation of incorrect application of pensions readjustment pursuant to Article 96 of Law 4387/2016 (paragraphs 2 & 3 of the PAP-OTE memorandum).**

1. Concerning paragraphs 2 and 3 of the Supplementary Memorandum of the Panhellenic Association of Pensioners of the OTE Group Telecommunications and the Ombudsman's related letter therein, we note that an extensive answer has been given in the first, but also again in the second counter-remarks memorandum of the Hellenic Government on the claims of the complainant organization. However, a coherent and concise answer follows to expressly reject these allegations.

a. As it is known, with the provisions of the first article, paragraph IA, subparagraph IA5, case 1 of Law 4093/2012 (OG 222 A'), as in force after its replacement with paragraph 4 of Article 10 of the 19/11/2012 Legislative Act "Adjustments of Emergency issues of Law 4046/2012 and 4093/2012" (OG 229 A') and under paragraph 4 of Article 34 of Law 4111/2013 (OG 18 A') since 1/1/2013, gradual reductions in the amounts of monthly pensions or in the sum of monthly pensions (main and supplementary pension or dividend) of more than €1.000.000 from any source and for any reason (old age-disability-death) were provided for.

For the calculation of the reduction rate, the payable pension amount of the above sum on 31/12/2012 was taken into account, after deducting the pensioners' special solidarity contribution, the reductions of Article 2 of Law 4024/2011 (A' 226) and Articles 1 and 6 of Law 4051/2012 (A' 40) for the main pension and the Special Contribution for Supplementary Insurance deduction and the reductions provided for in paragraphs 3 and 4 of Article 2 of Law 4024/2011 (A' 226) and paragraph 2 of Article 6 of Law 4051/2012 (A' 40) on the supplementary pension.

b. Subsequently, with the adoption of Law 4387/2016, a new method of calculating the pensions paid by the Unified Social Security Institution (EFKA) was introduced on 13/5/2016. Thus, from that date onwards, the main pensions paid by the EFKA are calculated on the basis of Articles 7, 8 and 28 of law 4387/2016 as in force, whereas the deductions made are the following: the pensioners' solidarity contribution (Article 38 of Law 3863/2010, as in force, the contribution provided for in Article 44, paragraph 11 of Law 3986/2011, as in force and the healthcare contribution (Article 41 of Law 4387/2016, as in force). Needless to say, no further reduction or cut shall apply.

With Articles 14 and 33 of Law 4387/2016 as in force and the No.26083/ 887 (OG1605, B'/ 7-6-2016) Ministerial Decision issued on these delegated provisions, the main pensions paid or payable on 12.5.2016 were recalculated from 1.1.2019, in accordance with the provisions of Law 4387/2016, for the purpose of implementing the uniform rules of EFKA (national and contributory pension) and protecting those

pensions, providing for the granting of “personal difference” in cases where the amount of pension paid is greater than that resulting from their adjustment phase.

According to the directives given for this issue under the Φ80000/60258/1471/23.12.2016 circular of the Ministry (ΑΔΑ:7Τ67465Θ1Ω-ΑΝ9), for the purpose of determining “personal difference”, from 1.1.2019, under the new legislative framework, the deductions made on the recalculated amount of the main pension are the pensioners’ solidarity contribution (Article 38 of Law 3863/2010, as in force), the contribution by virtue of Article 44 paragraph 11 of Law 3986/2011, as in force, and the healthcare contribution (Article 41 of Law 4387/2016, as in force), whereas any other reduction/ cut such as those provided for by Law 4093/2012, shall not apply.

As a result, since the adoption of Law 4387/2016, the implementation of the reduction provided for by Law 4093/ 2012 has been discontinued for the main pensions paid on 13.5.2016 and onwards and for the main pensions recalculated from 1.1.2019.

2. No further deductions are made on the recalculated -from 01.06.2016- supplementary pensions (readjusted or not) of the Unified Supplementary Pensions and Lump Sum Benefits Fund (ETEAEF), except for the Special Contribution for Supplementary Insurance Pensioners, of paragraph 13 of Article 44 of Law 3986/2011 (where applicable) and the health insurance contribution of Article 44 of Law 4387/2016. In the monthly information notes sent to the ETEAEF pensioners, the new amounts of their supplementary pension are reflected, without including the deductions of Law 4093/2012. Furthermore, no deductions of Law 4093/2012 are made either on the recalculated -from 01.01.2016- dividends of the Civil Servants Pension Fund (MTPY).

Finally, we hereby inform the Committee that, in corroboration of the above, a reply has been sent to the Ombudsman’s letter dated 20 May 2019, with reference number Φ80000/27924/883 dated 11-09-2019, with content identical to the arguments detailed above.

**3. *On the allegation of imposition of increase in contributions and abolition of EKAS of Law 4387/2016 (para4 of the PAP-OTE Memorandum)***

As regards the complainant organization’s allegations on a supposedly increase in contributions imposed and on the abolition of the Social Solidarity Pensioners Benefit (EKAS) by virtue of the provisions of L. 4387/2016, we refer on the whole to what has been presented in detail in the first and second memoranda of the Greek Government, where the relevant documented legal arguments are fully elaborated refuting the said allegations.

**4. On the allegation of arbitrary criteria for survivors' pensions (para5 of the PAP-OTE Memorandum)**

As regards survivors' pensions, by article 19 of Law 4611/2019, very favourable changes were made to pension entitlements of beneficiaries – family members of the deceased pensioner or insured person. For example, 1) the age limit (55) was abolished so that the surviving spouse might receive pension, 2) the pension rate for the surviving spouse increased from 50% to 70% and 3) the age prerequisite for beneficiary children extended from the age of 18 to the age of 24, irrespective of whether they attend or not any recognized higher education institutions, private vocational centers, etc. Furthermore, it was clarified that three years after the payment of the survivor's pension, if the surviving spouse is employed or self-employed or receives pension from any other fund, depending on how long they have been employed/self-employed, they are entitled to 50% of the survivor's pension amount, which may not be less than the threshold set in para.4, subpara.B, article 1 of Law 4499/2017 (A' 176/21-11-2017).

Furthermore, as regards specifically the retroactivity of the above provision, it is noted that paragraph 7 of article 19 of Law 4611/2019 states that: "... 7. The provisions of the present Law shall apply, upon entry into force of this Law and to all retirement decisions that have already been issued pursuant to Law 4387/2016."

In order to clarify further the above provision, circulars were issued on 19.6.2019 and, following the assumption of the duties by the newly elected government, on 18.07.2019 regarding the communication of provisions of article 19 of Law 4611/2019 and the provision of instructions for its application to the competent EFKA pension services. Subsequently, the EFKA issued a new interpretative circular on 25.07.2019, with additional clarifying instructions to its services, which, inter alia, provides that the financial results of Article 19 (Law 4611/2019) apply from 17.5.2019, for both deaths of insured persons / pensioners from 13.5.2016 and for deaths from 17.5.2019.

To this end, it is noted by means of this memorandum that it is the intention of the present Government to pay the respective retroactive benefits to the beneficiaries of death pensions arising following the entry into force of Article 19 of Law 4611/2019 as soon as possible.

**5. On the allegation of gaining pre-election benefits by the payment of 13th pension (para6 of the PAP-OTE Memorandum)**

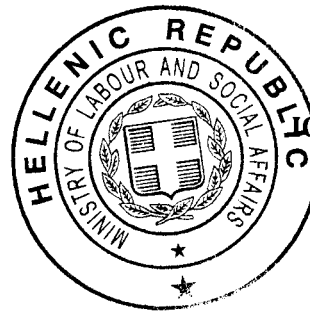
It is recalled that article 120, Law 4611/17-5-2019 established the payment of the 13th pension to all pensioners with a view to supporting and increasing their income.

On 7 September 2019, during his speech at the 84<sup>th</sup> Thessaloniki International Fair, the Prime Minister of the new Greek Government clarified that the pensioners' extraordinary benefit, which for 2019 was paid prematurely in view of the announcement of parliamentary elections, is maintained and will be paid at the end of 2020. He added, however, that soon the protection of this category of citizens will become more institutional and permanent.

## II. CONCLUSION

Reiterating anew all that has been stated in our two previous memoranda and for all the above reasons to further refute the unsubstantiated and/or untrue allegations of the complainant organization's 3<sup>rd</sup> memorandum, as summarised in its conclusion (7<sup>th</sup> paragraph of the memorandum), we believe that both Greek legislation and practice with regard to the questions at issue here are fully compatible with the obligations of our country in terms of implementing the above provisions of the Revised European Social Charter, and we request that you deem the allegations of the complainant organization regarding violation of articles 12 and 23 of the Revised ESC unfounded.

THE MINISTER



IOANNIS VROUTSIS