



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

22 February 2016

Case Document No. 7

Greek General Confederation of Labour (GSEE) v. Greece
Complaint No. 111/2014

**RESPONSE OF GREEK GENERAL CONFEDERATION OF
LABOUR TO THE GOVERNMENT'S SUBMISSIONS**

Registered at the Secretariat on 28 January 2016



Αριθμ. πρωτ.....115.....

Αθήνα...28/11/2016

**To: Department of the European Social Charter – Collective Complaints
Directorate General of Human Rights and Rule of Law**

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Concerns: Observations submitted by the third-level trade union organization named “Greek General Confederation of Labour (G.S.E.E)”, as legally represented, with regard to our Collective Complaint no. 111/2014 against Greece and following the submission of Greek Government’s observations on the merits of the above mentioned Collective Complaint.

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Following our Collective Complaint no. 111/2014 against Greece and in response to the observations submitted by the Greek Government, we wish to stress the following:

The Greek Government admits, in fact, in its Observations that the legislative interventions, referred to in our Complaint, into the labour relations framework of the private sector of the economy (including organizations and enterprises of the broader public sector, whose operations have been guided by the principles of the private sector economy) over the period 2010-2014, violate the European Social Charter (ESC). In any event, the legislative measures set out in our Complaint, are not proportional to the objective pursued since it has been admitted that neither the problems of recession and unemployment have been addressed nor competitiveness of the Greek economy improved.

The repeated non-compliance by the Greek legislator with the obligations arising under the provisions of the Charter is asserted also by

the fact that all legal acts, set out in our Complaint, not only they have not been abolished to date, but a deterioration of the legal framework is expected as far as specific areas of individual and collective labour relations are concerned.

Through the Financial Assistance Facility Agreement signed on 19-8-2015 between the European Stability Mechanism on the one part and Greece, the Bank of Greece and the Hellenic Financial Stability Fund on the other, the Greek Government has pledged, inter alia, to take specific actions in several fields of the executive and the legislature. This Agreement was ratified and the full text was included in article 3, par. B', Law 4336/2015 (OJHR 94/A/14-8-2015). As regards the "*structural changes to enhance competitiveness and growth*" particularly, in the "*labour market and the human capital*", the Greek Government has committed, as a prior action, to reverse the legislation of the after-effect of agreements legislated in article 72 of Law 4331/2015 of July 2, 2015 (OJHR 69/A/2-7-2015).

It should be noted that by virtue of article 72, par. 1, Law 4331/2015, the 6-month extension of the validity period of an expired or terminated collective agreement or arbitration award, has been restored and re-established. This is also the case for the after-effect framework of all the terms of the agreement after a lapse of the six-month period¹. In particular, provision of Article 72, par. 1 of Law 4331/2015 stipulated that: "*1. The terms and conditions of an expired or terminated collective agreement or arbitration award continue to apply, for 6 months, to employees that are hired within this period of time. After a lapse of the 6-*

¹ Through Act 6/2012, the 6-month extension of the terms and conditions of expired or terminated collective agreements and arbitration awards was reduced to 3 months. After a lapse of the 3-month period, all terms and conditions of work arising from previous collective agreements or arbitration awards, which, under previous Laws, after the termination of collective agreements, were incorporated as simple contractual terms and conditions, in individual labour relations, will cease to apply (after-effect -article 9, par. 5, Law 1876/90). The only exception made by Act 6/2012 concerns the base salary/wage floor and four allowances (maturity/seniority, child, education and hazardous professions - which will continue to apply provisionally until replaced by those specified in a new collective agreement or in new or amended individual contracts.

month period, the existing terms and conditions of work will continue to apply until the individual contract of employment is terminated or amended."

The above provision of article 72, par. 1 of Law 4331/2015 was abolished by par. 4, subpar. E.2, Law 4336/2015, which entered into force, according to article 4 of the said Law, on the date the Financial Assistance Facility Agreement was signed (par. B, article 3 of the said Law (19 August 2015).

In addition, within the framework of the above mentioned Agreement and in the context of the review of the labour market institutions, it was agreed that the Greek Government *"will launch by October 2015 a consultation process led by a group of independent experts to review a number of existing labour market frameworks, including collective dismissals, industrial action and collective bargaining taking into account best practices internationally and in Europe. Further input to the consultation process described above will be provided by international organizations, including ILO. The organization, terms of reference and timelines shall be agreed with the institutions. Following the conclusion of the review process, the authorities will bring the collective dismissal and industrial action frameworks and collective bargaining in line with best practices in the E.U. No changes to the current collective bargaining framework will be made before the review has been completed. Changes to labour market policies should not involve a return to past policy settings, which are not compatible with the goals of promoting sustainable and inclusive growth"*.

It is clear that, in the light of the above mentioned commitments of the Greek Government, the legislative measures, which, based on the grounds detailed in our complaint, violate the European Social Charter, will not be abolished. Moreover, based on the aforementioned, it can be assumed that a deterioration of the existing legal framework will be sought with regard to collective dismissals, collective bargaining and trade union action (declaring a strike, facilitating the exercise of trade union activity and duties, etc.)

We deem it necessary to emphasize once again that, in essence, the Greek Government admits that the measures set out in this Complaint violate, inter alia, the principle of proportionality *lato* and *strictu* sensu, since they were unnecessary and ineffective in dealing with major existing problems. These measures, as indicated in our complaint, violate the principle of proportionality since they have, admittedly, exacerbated problems (recession, unemployment, public revenues, mass poverty) while

even if we take as a working assumption that the measures were necessary, their devastating effects are disproportionate to their results.

For all the reasons additionally and lawfully submitted herewith, without prejudice to the addition of new or further data which are likely to result from the adoption of new legislative measures, as regards the violation of ESC by the Hellenic Republic

WE REQUEST THE COMMITTEE

To find that Greece has violated the European Social Charter provisions, as set out in our Collective Complaint² and the above additional Observations in detail. Our Organization, also, asks the Committee to hold a hearing on the alleged violations.

For the GSEE

The President

Yannis Panagopoulos



The General Secretary

Nikolaos Kioutsoukis

² Because of a clerical error, reference was made in the text of our complaint to the abolition by Law 4093/2012 of the pay increase for Saturday work. We ask you to consider it as non written.