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

6 December 2016

Case Document No. 8

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

**FURTHER SUBMISSIONS PROVIDED BY THE PARTICIPANTS
OF THE HEARING OF 20 OCTOBER 2016**

Registered at the Secretariat on 7 November 2016

**SUBMISSIONS OF THE GREEK GENERAL
CONFEDERATION OF LABOUR**



Αριθμ. πρωτ.....689

Αθήνα.....7/11/2016

**To: Department of the European Social Charter – Collective Complaints
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**TO: THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS
OF THE COUNCIL OF EUROPE**

Concerns: Submission of the third-level trade union organization named “Greek General Confederation of Labour (G.S.E.E)”, seated in Athens (Patisson 69 str) as legally represented, on the replies given during the public hearing of our Collective Complaint no. 111/2014 against Greece.

AGAINST

The Hellenic Republic, which is legally represented by the Greek Government.

With regard to our Collective Complaint No 111/2014 against the Hellenic Republic and, after the public hearing of our Organization before your Committee on October 20, 2016, please find hereunder the answers of our organization to the questions asked by your Committee

The European Committee of Social Rights (hereinafter the Committee) has asked GSEE the following questions:

I. for each paragraph of Articles 1, 2, 4 and 7 of the 1961 Charter as well as of Article 3§1 of the 1988 Additional Protocol alleged to be violated, the exact provisions of each contested statutory measure, as well as the full arguments in support of the alleged violations;

[Committee's question number 1]

ANSWER

1. Please see the exact provisions of national law in Annex I.

As for the full arguments please see below under question number 2.

II. To what extent the contested statutory measures restrict, in its view, the scope of Articles 1, 2, 4 and 7 of the 1961 Charter as well as of Article 3§1 of the 1988 Additional Protocol beyond the limits permitted under the provisions of Article 31 of the 1961 Charter, given the circumstances surrounding the financial and economic crisis.

[Committee's question number 2]

ANSWER

The argumentation on the Charter's provisions violation by means of the contested legislative measures under the Memorandum

2. The provisions of the European Social Charter (hereinafter the Charter) being violated by the contested legislative measures analyzed hereunder should be combined with the Charter's Preamble, where the objectives of protection and several specific aspects of protected social rights are described. Your Committee has expressed the view that the Charter's Preamble is applied in combination with any other Charter's provision (see the Committee's Decision dated 23.5.2012 on Collective Complaint 66/2011). **The contested**

legislative measures under the Memorandum not only do they breach the Charter's provisions, but at the same time they violate the letter and spirit of the Charter's Preamble.

3. By virtue of article 31, L. 4024/2011, the abolition of collective labour agreements that set out the terms of pay and work for all employees in all enterprises of the wider public sector was enforced, covering the part that exceeded the highest fixed remuneration limits, on a case by case basis. The law also imposed a ceiling on the already reduced wages and a matching, by maximum, of their earnings with the ones provided in the narrow Public sector employees.

4. Under article 37 of the same Law the following were provided:

“ “Regulations on Collective Bargaining”

1. Paragraph 5 of article 3 of Law 1876/1990 (A' 27) is replaced as following:

“5. Firm-level collective agreements shall be concluded in order of priority by the enterprise unions representing all the workers concerned or, in the absence of an enterprise union, by an association of persons, irrespective of their occupational category, job or area of specialization and, in case both don't exist, by the respective first level branch unions and the employer.

The above mentioned association of persons is composed by at least three-fifths 3/5 of the workers in the enterprise, irrespective of the total number of people employed in it while its duration is not subject to any time limits. If, after the creation of the association of persons, the prerequisite for the participation of three-fifths 3/5 of the people employed in the enterprise -which is required for its formation- has ceased to exist, the association is dissolved without any further formality. As far as the other issues with regard to the association of persons are concerned, point cc' of section a' of paragraph 3, article 1 of Law 1264/1982 (A' 79) remains in force”.

5. Moreover, under paragraph 5 of article 37 of the same Law, it has been provided, in deviation of the protective principle of favorability hitherto in force, that in case of plurality, the enterprise collective agreements take precedence over the sectoral collective agreements, even if they contain terms less favourable to the workers.

“5. In paragraph 2 of article 10 of Law 1876/1990 the following section is added:

“During the implementation of the Medium-term Fiscal Strategy Plan the firm-level collective agreement prevails in the event of plurality over the branch collective agreement, however, it is

not allowed to contain working conditions less favorable to the workers than the conditions set out in the national collective agreements, according to para 2, article 3 of this Law”.

6. Provisions of art. 31 and 37 of Law 4024/2011 have violated art. 1 paras 1 and 2 of the Charter (States have undertaken to effectively ensure on equal footing full employment), art. 4 paras 1 and 5 (States have undertaken to ensure a decent standard of living and guaranteeing the rights of art. 4 through the conclusion of collective labour agreements or the issuance of arbitration awards), art. 30 para 1 (provides the possibility to derogate from their obligations under the ESC in time of war or other public emergency threatening the life of the nation) and art. 31 para 1 (provides for the obligation to ensure effective implementation of the ESC provisions ***and introduce the necessary limitations on protected rights only for strictly restricted reasons that guarantee the respect of rights and freedoms of others or for the protection of public interest, national security, public health or morals***).

7. Even Art. 3, para. 1 of the 1988 Additional Protocol was violated since the power to conclude company-level collective agreements with less favourable terms than the clauses of the relevant sectoral collective agreements contravenes or in addition negating, as in our case, the objective of the Protocol, namely, the improvement of working conditions. Official data from the Ministry of Labour confirm the rapidly increasing number of enterprise-level collective agreements concluded by “associations of persons”, which can negotiate and “agree” on wage cuts and on reducing the level of working conditions. Within the scope of art. 3, par.1 of the 1988 Additional Protocol fall collective agreements reached through collective bargaining between employers and workers’ representatives. These collective agreements together with other legislative acts fall under the definition of “national legislation and practice”¹.

8. By virtue of the provisions of articles 31 and 37, L. 4024/2011, the collective labour agreements system was disintegrated in relation to its fixed constituent parts. The provisions of article 31 mentioned above practically brought to a halt the entire collective labour agreements’ and arbitration’s system of employees working in entities of the broader public sector. By means of these provisions, i.e the cap on remuneration limits, as fixed by law, the

¹ In favour of this interpretation is the dissenting opinion of Mr. Petros Stangos in the ESCR Decision on the collective complaint No. 65/2011 submitted by GENOP/DEI and ADEDY v. Greece.

imposition of wage ceiling on the already decreased earnings and the matching, by maximum, of employees' earnings with the ones provided in the narrow Public sector employees, collective labour agreements have been eliminated. Under the new legislative framework, it is not possible to regulate salaries by a collective agreement or arbitration award exceeding the statutory ceiling; in other words, collective autonomy is fully eliminated, since obviously it shall not be exercised to further squeeze the already shrunk salaries. On the other hand, enterprise-level collective agreements take precedence over sectoral agreements even if they are detrimental to employees; in this way, the collective negotiations system is disintegrated, through its decentralization. The enterprise-level labour agreement becomes the new "center"-field of negotiation, particularly privileged for employers in micro and medium-sized enterprises constituting the vast majority of Greek enterprises (98%-99% of the total number). The principle of favorability in the event of plurality and concurrent implementation of sectoral and enterprise-level collective labour agreements is suspended throughout the Medium-Term Fiscal Strategy Plan being constantly renewed. The impact from these provisions is displayed on the statistical data of ELSTAT (Hellenic Statistical Service) diagrams (*please see in Annex 2 attached tables and analysis by the Assistant Professor of the Economic Department of Athens University and Scientific Director of GSEE Labour Institute INE GSEE, George Argeitis*), showing a deterioration of all economic and social indicators. With the "new" enterprise-level collective labour agreements being concluded between "associations of persons", a caricature of trade union association with no bargaining power, the wages of sectoral agreements were dramatically cut, whereas the reductions and cap on employees' salaries in the broader public sector led to the collapse of domestic demand, the latter being primarily the backbone of Greek small and medium sized enterprises as already mentioned, (representing 98%-99% of the total number of enterprises employing up to 20 employees); such wage cut also led to a dramatic recession (25% cumulatively) with the shutting down of hundreds of thousands of enterprises and unemployment (currently at 25% approximately), and to a massive pauperization of Greek citizens (*please see Annex 2 and 3, attached financial analyses*), into a vicious circle of successive destructive impact resulting from legislative measures taken under the Memoranda.

9. The issuance of the Ministerial Act (hereinafter Act 6/2012) 6/28-2-2012 has followed, which included measures that were even more painful when compared to the previous ones:

they have delivered the final blow to the heart of both collective autonomy and the arbitration process. In fact, the self-regulation and self-protection mechanism as a whole, guaranteed by the Greek Constitution, art. 22, par. 2, in favour of workers' and employers' organisations, has been dismantled. In this respect, the measures introduced by the said Act have entailed the most dramatic drop in the decent standard of living specified both by the Greek Constitution and the Charter in art. 4, par. 1. Especially, as far as Art. 4, par. 1 of the ESC is concerned (States have undertaken to ensure a decent standard of living), the Act manifestly, *inter alia*, violates the Charter and in particular art. 1 para 2 (States have undertaken to effectively ensure full employment in fair conditions), art. 2 as a whole (States have undertaken to ensure just conditions of work), art. 4 paras 1 and 5 (States have undertaken to ensure a decent standard of living and the exercise of this right through collective agreements or arbitration awards), art. 7 para 5 (States have undertaken to ensure the protection of employed children and young persons and their right to a fair wage or other appropriate allowances), as well as art. 3, par. 1 of the 1988 Additional Protocol (the right of workers to take part in the determination and improvement of their working conditions and work organization is undermined). Art. 30 para 1 is also violated (provides the possibility to derogate from their obligations under the European Social Charter in time of war or other public emergency threatening the life of the nation) and art. 31 para 1 (provides for the obligation to ensure effective implementation of the ESC provisions and introduce the necessary limitations on protected rights only for strictly restricted reasons that guarantee the respect of rights and freedoms of others or for the protection of public interest, national security, public health or morals).

10. More specifically: The provisions of the Act 6/2012 have imposed the further reduction by -32% (from the already dramatically reduced minimum wage) of the minimum wage for young workers under 25 years of age, the mandatory (*ex lege*) expiry of collective agreements and arbitration awards already in force, the abolition of the after-effect (=all conditions of work – under the previous legislation- were incorporated as simple terms in individual contracts following the expiry of the *ex lege* period of time extension of collective agreements, which was reduced from six (6) to three (3) months) of the pay conditions included in collective agreements, except the base wage/salary floor and four (4) allowances (until being also modified by new individual employment contracts). Furthermore, the right of the parties to

unilaterally resort to arbitration has been abolished, which was a key-right in support of collective negotiations, since arbitration with agreement between the parties is impossible and did not exist up until L. 4303/2014 was promulgated, due to the fact that employers do not agree to giving up on individual employment contracts for the regulation of working conditions, wage and non-wage, by concluding a collective labour agreement or by agreeing to refer the dispute to arbitration. By virtue of the provisions of the Act 6/2012, it is thereby legislatively confirmed that the arbitration award regulates only the minimum wage and not all working conditions, as was the case before the crisis. This arbitration regime was preserved until recovery of the right to unilateral recourse to arbitration and full regulatory power of arbitrators under L. 4303/2014, in compliance with the annulling judgment by the State Council Plenary Decision 2307/2014. All these measures drove collective labour agreements and arbitration to a paralysis, to individual work contracts prevailing and becoming the key factor in formulating working conditions, to dramatic wage cuts, to collapse of enterprises and the economy underpinned on domestic demand, to massive unemployment and huge recession and massive pauperization (*see attached in Annex 2 financial analyses for all indicators mentioned by the Scientific Director of GSEE Labour Institute, Prof. G. Argeitis*).

11. Furthermore, Act 6/2012 has introduced discrimination against young workers under 25 years of age, for whom the minimum wage is fixed to even lower level on the sole grounds of age, as the main basis of discrimination. Thus, Act 6/2012 blatantly, inter alia, violates the Charter and in particular art. 1 para 1 (States have undertaken to effectively ensure on equal footing full employment of workers), art. 2 as a whole (States have undertaken to ensure just conditions of work), art. 4 paras 1 and 5 (States have undertaken to ensure a decent standard of living and the exercise of this right through collective agreements or arbitration awards), art. 7 para 5 (States have undertaken to ensure the protection of employed children and young persons and their right to a fair wage or other appropriate allowances), as well as art. 3, par. 1 of the 1988 Additional Protocol (the right of workers to take part in the determination and improvement of their working conditions and work organization is undermined). Art. 30 para 1 is also violated (provides the possibility to derogate from their obligations under the European Social Charter in time of war or other public emergency threatening the life of the nation) and art. 31 para 1 (provides for the obligation to ensure effective implementation of the ESC provisions and introduce the necessary limitations on protected rights only for strictly

restricted reasons that guarantee the respect of rights and freedoms of others or for the protection of public interest, national security, public health or morals).

12. It should be taken into consideration that the reduction already applied by virtue of prior legislation, up to 20% of the minimum wage for young persons under 25 years of age has neither led to unemployment reduction nor increased their employment rates on account of the generalized reduction of workers' wages and salaries and the use of flexible forms of employment in the labour market.

13. In its Decision 66/2012 the Committee examined the issue of discrimination on grounds of age, falling under the scope of article 4, para. 1 of the Charter. It has implemented this provision combined with the Preamble's provision that prohibits discrimination. The Committee expressed the view that in the Charter (dated 1961), the Preamble's provision prohibiting discrimination is implemented in combination with any Charter's provision without requiring mediation by the provision of article 1, para. 2. The Committee, in application of the proportionality principle, while considering reduction of unemployment as a reason that could possibly justify discrimination, it finally concludes that cutting minimum wage of young people under the age of 25 years by 32% is disproportional to the aim pursued and therefore it contravenes the provision of article 4, para. 1 combined with the Charter's Preamble.

14. Ensuring decent living standards for workers, in accordance with the requirements of article 4, para. 1 of the Charter is specified with the Committee's Decision dated 23.5.2012 on collective complaint 66/2011 (recital 13). According to the Committee, this level is safeguarded when remuneration is higher than the minimum threshold calculated at 50% of the average net wage. This happens when the minimum paid wage is higher than 60% of the national average of the net wage. If the lowest paid wage ranges between 50% and 60% of the national average, it is up to the contracting State to prove that this wage safeguards a decent way of living. Based on this method, the Committee concluded that on the basis of Greek legislation and the legislative measures judged at the time, *"the minimum wage paid to young employees is lower than the poverty line".*

15. Subsequently, under the provisions of Law 4093/2012 a new system of minimum wage/salary setting unilaterally by the State, enacted on 1-4-2013, was established. The

relevant provisions of Law 4093/2012 violate, inter alia, the Charter and in particular the following articles:

- art.1 paras 1 and 2 (States have undertaken to effectively ensure on equal footing full employment of workers, including both the determination of fair wage and a wage that is able to meet and secure workers' vital needs to earn a living, something that by definition is served through the autonomous wage regulation under the national general collective agreement concluded by workers and employers. The function of the wage to serve workers' vital needs to earn a living is not fulfilled by the ex lege wage determination imposed by Law 4093/2012 at levels far below the poverty threshold, in the framework of the internal devaluation policy through wage reduction, central issue of the 2nd Memorandum and the Act 6/2012.
- art. 2 as a whole (States have undertaken to effectively ensure just conditions of work),
- art. 4 paras 1 and 5 (States have undertaken to ensure a decent standard of living and in particular to ensure the autonomous regulatory power of workers and employers for the exercise of this right through collective agreements or arbitration awards),
- art. 7 para 5 (States have undertaken to ensure the protection of employed children and young persons and their right to a fair wage or other appropriate allowances, which is violated by Law 4093/2012, that sets the minimum wage for young workers under 25 years of age below the generally applicable minimum wage limit, which in its term fails to meet workers' everyday vital needs),
- art. 3, para 1 of the Additional 1988 Protocol (right of workers or their representatives to take part in the determination and improvement of their working conditions, since the minimum wage setting has been transferred to the authority of the State, thus excluding the regulation through the national general collective agreement and the arbitration awards),
- art. 30 para 1 (possibility to derogate from the ESC regulations only in time of war or other public emergency threatening the life of the nation, exigencies that obviously do not occur in this case) and,
- art. 31 para 1 (obligation to ensure effective implementation of the ESC provisions and introduce the necessary limitations on protected rights only for strictly restricted reasons that

guarantee the respect of rights and freedoms of others or for the protection of public interest, national security, public health or morals, reasons that also do not occur in this case).

16. Furthermore, Law 4093/2012 has amended the provisions on the determination of the amount of severance pay of employees with dependent employment contracts of indefinite duration. The Law reduces the period of notice by setting a maximum notice period of 4 months instead of 6 months.

17. The provisions introduced by the said Law substantially infringe article 4, par. 1, 3 and 4 of the Charter, in particular as it concerns the safeguard of a decent standard of living and a reasonable period of notice (paras 1 and 5). The severance pay granted by the employer in the event of work contract termination, constituting a prerequisite for the termination's validity, depends upon the total employment time of a worker in an enterprise and the regular monthly remuneration. The longer the period of notice, the higher the severance pay to be granted by the employer. The deadline for serving a notice has been shortened from 24 months maximum in the period prior to the crisis and the Memoranda and to 4 months maximum under Law 4093/2012. When the notice deadline is adhered to by the employer, half the amount of severance pay corresponding to maximum 6 monthly salaries is paid. Should the contract termination by the employer be without notice, the entire severance pay is granted (up to maximum 12 monthly salaries). Broadly speaking (*lato sensu*), the severance pay constitutes a salary. This *lato sensu* salary is increasing the longer the worker's service years and the aim is to cover the worker's and his/her family subsistence needs. By reason of the legislative texts under the Memoranda, severance pay sustained a five-fold reduction, if we calculate also the dramatic wage cut during the same period. From the severance pay of maximum 24 monthly salaries in the years before crisis for unannounced termination of contract, which was the standard practice, we have now reached 6 monthly salaries for termination by serving a notice of maximum 4 months; if we calculate the drastic reduction of salaries in the memoranda period, we observe that severance pay has reached a five-fold reduction. Given that finding a new job is impossible for workers, particularly after the age of 40 years, or exceptionally adverse (with unemployment at approximately 25%), the dramatic shortening of notice deadline, cumulatively from 24 months prior to the crisis to 4 months maximum, and therefore the five-fold decrease of severance pay drives redundant workers

almost immediately to poverty status (*see Annex 2, relevant documentation in the diagrams and their evaluation by the Scientific Director of GSEE Labour Institute –INE GSEE, Prof. G. Argeitis*).

18. In addition, Law 4093/2012 has introduced, inter alia, serious changes in working time arrangements, such as:

- decoupled shops opening hours from the working hours of their staff,
- opened up the possibility to deviate from the 5-day working week for employees in shops by means of collective labour agreements through working time arrangements on weekly basis,
- reduced the minimum daily rest period from 12 to 11 hours,
- gave the possibility to enterprises employing regular and seasonal staff to provide, in cases of work overload, a part of the annual leave (10 working days) for employees working 5 days a week and (12 working days) for those working 6 days a week at any date within the same calendar year,

These provisions have infringed as a whole art.2 of the Charter on fair and just working conditions.

19. The legislative changes brought about by L. 4093/2012 in the working time, as we highlighted in the hearing process before your Committee, in reply to a relevant question, violate article 2 of the Charter, both separately and by virtue of their cumulative result. These legislative interventions under L. 4093/2012 are incorporated in the context of measures that resulted in a dramatic deterioration and worsening of working conditions that we describe and substantiate in the Collective Complaint and our other documents submitted to your Committee. In detail, working hours' fragmentation, the very stretched working hours, the possibility of deviating from the 5-day working week through arrangements taking place for an exceptionally short period of time (week) produce knock-on effects in workers' working conditions. In particular, the above measures result in increased cost for employees' displacement, less free time, labour intensification, with further consequences on employees' health and safety.

20. The aforementioned measures should be combined with all previous ones whereby salaries were slashed, collective labour agreements system disintegrated, unemployment,

poverty and precarious labour relations skyrocketed. ***Notwithstanding all the above, it is also their cumulative effect that produces a significant deterioration of employees' living standards and living conditions. On the grounds of such cumulative impact and the procedures of their establishment, such measures are in breach of article 2 of the Charter.***

21. Law 3899/2010 (article 17, par. 5) stipulates that *“employment contracts of indefinite duration are considered probationary employment period for the first 12 months from the date of entry into force, which can be terminated without notice and severance pay unless otherwise agreed by the parties”*. **This excessively prolonged probationary period (12 months instead of 2 months hitherto in force)** most obviously aims to circumvent the rules on the termination of an employment contract, thus, releasing employers from the obligation to pay the statutory severance payment by facilitating dismissals within the first 12 months and replacing dismissed workers by others, etc. **This is confirmed by the legislator’s intention in enacting Law 4093/2012**, which stipulates (subpar. IA.12.1) that *“the termination of the employment contract of indefinite duration of a private sector employee exceeding 12 months cannot occur without prior written notice from the employer.....”*. As it is clearly indicated in the 24th Greek Report (November 2012), Law 4093/2012 *“aims to promote flexibility in the labour market with a view to improving competitiveness of enterprises and removing barriers to workers’ mobility.....”*.

22. Your Committee examining the Collective Complaint **No 65/2011** of the trade union organizations ADEDY and GENOP/DEI against Greece, examined whether the extension of the probationary period (during which dismissals are free) is violating the Charter. Your Committee concluded, in accordance with its case-law as regards the said provision, that it is legitimate for the concept of probationary period to apply to enable employers to check the qualifications of the employees they hire, however, the concept should not be so broadly interpreted that guarantees concerning notice and severance pay are rendered ineffective. **In this context, the Committee confirmed that there has been a violation of Article 4, par. 4 of the Charter and concluded that the right of all workers to a reasonable period of notice for termination of employment applies to all categories of employees**, independently of their status/grade, including those employed on a non-standard basis. It also applies during the probationary period. National law must be broad enough to ensure that no workers are left

unprotected. The main purpose of giving a reasonable notice is to allow the person concerned a certain time to look for other work before his or her current employment ends, while he or she is still receiving wages. In this respect, the less than one month's period of notice is not in conformity with the Charter.

23. **The repeated non-compliance by the Greek legislator with the obligations under article 4, para. 4 of the Charter is asserted by the fact that Law 4093/2012 was adopted after the above decision of the Committee concluding non-conformity was made public.** This provision infringes article 4, para. 4 on the redundancy notice obligation and para. 1, since with this controversial provision there is no deadline for serving a notice to workers made redundant in the first 12 months from their recruitment and therefore no severance pay exists, afflicting their right to a remuneration (=severance pay constituting as mentioned, broadly speaking a salary) sufficient to ensure a decent living standard (see above, the aetiology on the Charter's violations by law 4093/2012 regarding the shortening of notice deadline).

24. Furthermore, Law 4254/2014 provides, inter alia, the following:

- a provision was added to Law 4093/2012 stipulating that for the registered unemployed with the national unemployment office, over 25 years old, who have been continuously unemployed for over 12 months (long-term unemployment) and are hired as white-collar workers, the minimum wage is increased by 5% for each 3 years of service and 15% overall for 9 years of seniority and over (namely, the increase by 10% for 3-year seniority of white-collar workers and up to 3 three years as well as the increase by 5% and up to 6 three years for blue-collar workers is abolished). Recent Law 4254/2014 discriminates anew even against persons of the same age group (over the age of 25) at the expense of the long-term unemployed, thus, dealing a blow (reduction) in the minimum statutory wage, through curtailing increases granted every three years of service. In this way, workers are categorized according to the statutory wage cost while employers have the possibility to get the most out of a "dirty" competition among workers' groups.
- It was provided that the State will determine as of 1-1-2017 only the statutory minimum wage itself, ***by means of abolishing increases due to seniority (seniority***

allowances granted every 3 years) since it has been stipulated that the minimum wage "is taken as the only reference value (amount)".

- Changes have been brought about in the conditions of temporary employment, which tends to become a lasting phenomenon since the law has facilitated greater use of temporary contracts compared to what was already in place.

25. The above regulatory provisions of Law 4254/2014, which have widened the grounds for "trafficking of human beings" by means of "lending" workers, violate, inter alia, the Charter and in particular the following articles:

- art. 1 paras 1 and 2 (States have undertaken to effectively ensure on equal footing full employment of workers),
- art. 2 as a whole (States have undertaken to effectively ensure just conditions of work),
- art. 4 paras 1 and 5 (States have undertaken to ensure a decent standard of living),
- art. 3 para 1 of the Additional 1988 Protocol (right of workers to take part in the determination and improvement of their working conditions),
- art. 30 para 1 (possibility to derogate from the ESC regulations only in time of war or other public emergency threatening the life of the nation) and
- art. 31 (need to ensure effective implementation of the ESC provisions and introduction of the necessary restrictions and limitations on protected rights only when they necessary for the protection of rights and freedoms of others or for the protection of public interest, national security, public health or morals).
- article 31 para. 1 (obligation to ensure effective implementation of the ESC provisions and introduce the necessary limitations on protected rights only for strictly restricted reasons that guarantee the respect of rights and freedoms of others or for the protection of public interest, national security, public health or morals).

26. All the contested legislative measures under the Memoranda violate the principle of proportionality, in its broader sense, since they are not necessary nor appropriate to cope with the problems, that they were suppose to solve; on the contrary, such measures

deteriorate the problems both in economy and society. However, even if we were to assume that such measures are necessary and appropriate, the price society and economy have to pay is disproportionately heavy and therefore, ***the principle of proportionality in its narrow sense is violated***. Trade union rights sustain a heavy blow as an immediate result from all such measures, since the paralysis of collective autonomy deprives trade unions of their most important field of action.

27. Reply regarding article 31 of the Charter: None of the reasons referred to in article 31 of the Charter do not occur in this case that would justify restrictions in the Charter's rights. In particular, the restrictions foreseen by the Laws under the Memoranda mentioned above are not required in a democratic society to guarantee respect of rights and freedoms and of other persons or for the protection of public order, national security, public health or morals. Conversely, the restrictions imposed on the Charter's rights were neither necessary nor appropriate to cope with the financial crisis and the sovereign debt crisis. On the contrary: they deepened the crisis, aggravated recession, made unemployment and poverty soar, drove hundreds of thousands of businesses to shutting down and squeezed State revenue, while causing public debt to swell both in absolute numbers and in GDP rate (*please see below, under no. IV. Also Annex 2, relevant documentation in the diagrams and their evaluation by the Scientific Director of GSEE Labour Institute – INE GSEE Professor G. Argeits*). ***It should be underscored that there is a lack of balance between the requirements of public order and rights; such shortage derives from the data regarding unemployment, salaries, extreme poverty, prevalence of violence in individual labour relations, under the veneer of individual labour agreement, recession and massive blow to the material conditions of a decent living standard, as ascertained by the Plenary of the State Council by its Decisions 2287-2290/2015.***

28. With regard to the reasons and the boundaries of social rights restrictions, according to article 31 of the Charter, we would like to add the following:

- Since 2010 onwards until today, Greek Governments **by imposing unilateral measures to the detriment of workers**, have gone far beyond the necessary and acceptable measure imposed by the respect of employees' fundamental rights².
- Sufficient evidence has proven and continues to prove that there is no reasonable relation whatsoever, nor a measurable economic result between the scope, intensity and duration of such restrictions and the purpose sought after, namely the taking of the appropriate fiscal policy measures, the implementation of a stability program and the consolidation of confidence in Greece by the European partners and the international markets.
- The cascade of successive, complex, mutually conflicting and constantly changing austerity measures of immediate and often retroactive effect has intensified a general feeling of insecurity, combined with the continuing hurdles in having access to Justice; this is particularly true for economically disadvantaged groups, highlighting that Greek law lacks the "quality" required by the European Convention on Human Rights³.
- The example of proportionality principle's application to pension rights and the estimate of measures' cumulative impact as it appears in European Court of Human Rights (hereinafter ECHR) jurisdiction: As regards social benefits, the ECHR consistently accepts that a fair balance needs to be in place with regard to interventions in pension rights between the requirements for a community's general interest and the need to protect the fundamental rights of the individual⁴ and that **fair balance is ensured when cuts in earnings, pensions etc are "reasonable", i.e they do not fully abolish the right and mainly do not drive to a**

² ILO High Level Mission Report 2011 "The commitments undertaken by the Government in this framework, and in particular as set out in Act No. 3845 based on the May 2010 Memoranda, have been translated into a series of legislative interventions in the freedom of association and collective bargaining regime which raise a number of questions in particular with regard to the need to ensure the independence of the social partners, the autonomy of the bargaining parties, the proportionality of the measures imposed in relation to their objective, the protection of the most vulnerable groups and finally, the possibility of review of the measures after a specific period of time. The high level mission recalls that, as indicated by the Committee of Experts in its observation published in 2011 on the application by Greece of Convention No. 98, if, as part of its stabilization policy, a government considers that wage rates cannot be settled freely through collective bargaining, such a restriction should be imposed as an exceptional measure and only to the extent that it is necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards".

³ The ECtHR requires a certain "quality of the law" by which human rights may be restricted, when this is allowed by an ECHR provision: "the law" must be accessible, clear, precise and foreseeable, so as to satisfy the general principle of legal certainty (See e.g. Sunday Times v. UK (No. 1), 26.4.1979, paras. 47, 49; Baranowski v. Poland, 28.3.2000, para. 52). See also Greek National Commission for Human Rights, Annual Reports of 2011, 2012, 2013, 2014 Decisions on Human Rights and Austerity Measures.

⁴ ECtHR c. Kjartan Ásmundsson v. Iceland , Application no. 60669/00, Dec. 12.10.2004

deterioration of living conditions; such an outcome would violate the dignity of beneficiaries, in violation of article 3 of the European Convention for Human Rights⁵. According to the ECHR jurisdiction, in order to preserve the aforementioned fair balance, the ECHR sets criteria reasonably focusing primarily on the degree of offense on the fundamental human rights and not so much on the degree of offense on public interest. The mode and extent of pension deprivation (full or partial), the existence or not of other means of subsistence, the preservation or not of the right to health care constitute, based on ECHR jurisdiction, the criteria for achieving or not a fair balance between the offense of a good protected by the European Convention of Human Rights and the public interest.

⁵ ECtHR c. Moskal v. Poland *Application no. 10373/05* Dec. 15.9.2009 (final 1.3.2010), c. Budina v. Russia - Application 45603/05 Dec. 18.6.2009, c. Kjartan Ásmundsson v. Iceland , Application no. 60669/00, Dec. 12.10.2004, c. Larioshina v. Russia, no. 56869/00 Dec. 23.4.2002.

THE CHARACTER OF MEASURES

29. The permanent and irreversible character of measures.

The measures described in the complaint are permanent as they have not been imposed for a clearly determined and limited period of time, although the stabilization program is set within specific time limits and duration⁶.

Taking into consideration the already long-term 6-year implementation of such measures, the qualitative and quantitative reach of their impact as well as the lack of any commitment to be reviewed upon the country's economic recovery, it becomes obvious that *the measures are irreversible*⁷.

The permanent restrictions to the detriment of workers' rights were not and are still not accompanied by the required and *specific off-setting measures and guarantees to protect workers' living standards and* to enable this vulnerable population group to cope with the multiple, parallel and successive impact from the financial crisis. *On the contrary, the measures were combined with a sharp increase in the prices of broad consumption products, fuels and utilities tariffs etc.*

30. The cumulative impact of measures

▪ The Committee (in its Decisions against Greece on the implementation of article 12 of the European Social Charter) considers that some sub judice reductions do not constitute by themselves a breach of the European Social Charter. Nevertheless, their "*cumulative impact*" brings about a "*significant degradation of many pensioners' living standards and conditions*". By-passing the research and analysis of such important measures' impact and the consultation with the interested organizations, the Government did not discover whether other measures could have been taken that would mitigate the cumulative impact of current measures. Your Committee has decided in all cases that "*due to the cumulative impact of restrictive measures and the procedures whereby such measures had been taken, they infringe article. 12 § 3 ESC*".

⁶ ILO High Level Mission Report 2011 "The high level mission recalls that, as indicated by the Committee of Experts in its observation published in 2011 on the application by Greece of Convention No. 98, if, as part of its stabilization policy, a government considers that wage rates cannot be settled freely through collective bargaining, such a restriction should be imposed as an exceptional measure and only to the extent that it is necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards". See also CFA Digest of Decisions, paras 1024, 1029 2006, 5th edition

⁷ ILO HLM Report 2011

The cumulative impact from the successive and extensive austerity measures imposed as well as the procedures leading to their enforcement, has significantly downgraded and still downgrades the living conditions⁸ of an increasingly higher part of the population in Greece ; *In addition to the above, the implementation of exclusively economic solutions in the economic and social crisis has driven to a collapse of domestic demand and of the State's social function, condemning the country to long term recession and social turmoil.*

III. The Committee has asked the Government and the GSEE to indicate in case the contested statutory measures were subject to amendment since lodging of the complaint, their content and scope, as well as how these affect the rights protected under Articles 1, 2, 4 and 7 of the 1961 Charter as well as of Article 3§1 of the 1988 Additional Protocol.

[Committee's question number 7]

ANSWER

31. By virtue of law 4303/2014, the State partially complied with the Plenary State Council's annulling judgment 2307/2014 that annulled the abrogation of the unilateral recourse to arbitration right and the limitation of the arbitrator's power in setting only minimum wages. Compliance was partial because L. 4303/2014 recovered the right to unilateral recourse to arbitration right and the full regulatory power of arbitrators (for all working conditions) but on the other hand, the law accounted for arbitration is such a way so as to hamstring arbitrators' judgment towards further wage cuts furthering the internal devaluation policy under the 2nd Memorandum through wage cut. The unilateral criteria that arbitrators take into consideration result in further wage cuts, without accounting for the capacity of earning a living a salary is supposed to satisfy.

⁸ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of Greece on the International Covenant on Economic, Social and Cultural Rights (2015) ΔΣΟΚΠΑ 2015 "7. The Committee notes with concern that, despite the measures taken by the State party to mitigate the economic and social impact of the austerity measures adopted in the framework of the memorandums of understanding in 2010, 2012 and 2015, the financial and economic crisis has had a severe impact on the enjoyment of economic, social and cultural rights, particularly by certain disadvantaged and marginalized groups with regard to the rights to work, to social security and to health..."

32. One important parameter in reviewing the contested statutory measures under the Memoranda outlined in our Complaint is also the one regarding the commitment of the Greek Government under the 3rd Memorandum (L. 4336/2015, article 3 para. C' 4 Structural policies to boost competitiveness and growth)⁹. Such commitments are:

- a) the approval by creditors' representatives of the Greek government's legislative initiatives,*
- b) the orientation of the collective bargaining agreements system under way in the "best European practices" and*
- c) the exclusion of returning to the previous system (L. 1876/90).*

33. *With regard to the second commitment, best practice should be considered the one that ensures that salaries and working conditions in general shall be collectively regulated, by means of collective labour agreements or arbitration awards and not individual work contracts or by means of arbitration awards and not individual contracts whereby the employer's will is imposed resulting in even higher wage cuts. Only such a system based on the collective regulation of working conditions could ensure that a salary would be able to guarantee worker's vital needs to earn living. On the other hand, the third commitment clashes with the Plenary State Council's decision 2307/2014, whereby the right to unilateral recourse to arbitration and the power of arbitrators to regulate working conditions are enshrined in the Hellenic Constitution itself (article 22 para. 2) and therefore cannot be circumvented by way of a general law.*

34. These commitments and all obligations of our country under the Memoranda mean that in the "newly-fangled" collective bargaining agreements system, always under the Memoranda regime, the internal devaluation policy through wage cut still persists as a stable parameter of

⁹ In points 4 and 4.1. ("Labour market and human capital") the following, among others, are provided: "... The government has committed as a prior action to reverse the legislation of the after-effect of agreements legislated in art 72 of 4331/2015 of 2 July 2015.... 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 practice in the EU. 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".

the system and has not changed. The ways to impose further wage cuts are diverse. It is probable that criteria taken into account by arbitrators by virtue of law 4303/2014 would be adopted, when setting minimum wages in all types of collective labour agreements. As already mentioned, L. 4303/2014 stipulates that arbitrators should consider criteria driving to further salary cuts, without any care for ensuring workers' vital needs to earn a living which should normally be a salary's purpose. If such a planning is not reversed during the country's negotiations with its creditors, new salary cuts will be planned under the new system incurring all the disastrous, economic and social impact already experienced so far from the implementation of Memoranda (*see. Annex 2, attached tables and explanations of the economic and social impact from the statutory measures under the memoranda by Prof. G. Argeits*).

IV. The impact of measures on labour, society and economy. Changes since 2009 (critical fundamentals based on relevant Decisions by the ECSR on the Greek Collective Complaints)

35. The statistical data depicting the impact from the contested statutory measures under the Memoranda are the ones referring to

- the general level of salaries and and its shrinking due to such measures
- the impact of measures on poverty/pauperization
- unemployment (youth and long term), employment, recession, shutting down of businesses, unit labour cost, ranking in the competitiveness tables
- poverty line and threshold of decent living standards in relation to salaries, minimum and average.

Your Committee with its Decision dated 7.12.2012 on the Collective Complaint 66/2011 concluded that the minimum wage paid to young employees stands below the poverty line and that the Greek legislation violates article 4 para. 1 of the European Social Charter (recitals 60, 64 and 65).

Further below (no. VI) the data regarding the economic and social impact from the statutory measures under the Memoranda are analyzed.

V. Council of State Plenary jurisprudence regarding the prevention of pension reductions and, on account of the identity of legal grounds, of salaries. The limit set out by the national Supreme Court is a guarantee of the material prerequisites for decent living based on article 2, paragraph 1 of the Hellenic Constitution on the respect and protection of human dignity (Council of State Plenary Decision 668/2012, recital 35, Council of State Plenary Session Decisions 2287-2290/2015 and confirmation of the above by Council of State Plenary Session Decision 600/2016), as well as on the constitutional foundation of the right of unilateral recourse to arbitration for the resolution of collective complaints that cannot be abolished by the common legislator (Council of State Plenary Session Decision 2307/2014).

36. The Hellenic Republic has not to date complied with the decisions of the Council of State Plenary Decisions 2287-2290/2015 (see also Council of State Plenary Decision 600/2016) having annulled the 2012 pension reductions. The national Supreme Court Decision was based on article 2, paragraph 1, of the Hellenic Constitution on the respect and protection of the value of a human person to note that the (then) newly adopted 2012 Law on pension reductions affected the material terms of decent human living. This judicial diagnosis is crucial in the context of the successive salary cuts in Greece by virtue of these controversial legislative measures. In particular with regard to pensions, in addition to the State's failure to comply with the Council of State annulling judgments, the 3rd Memorandum imposed an additional commitment of 1.8 billion Euros in pension cuts to our country.

37. Following the State's partial compliance with Council of State Plenary Decision 2307/2014 annulling judgment (by virtue of law 4303/2014) that partially reinstated the right of unilateral recourse to arbitration, as well as the arbitrators' full regulatory powers, salary reductions persist in Greece. As a result of Memorandum inspired legislative measures and in particular the Act 6/2012, the reduction of salaries is mainly achieved through individual employment contracts, which have become the main instrument used to define conditions of employment, but also through arbitration awards of the so called "new" arbitration (based on L. 4303/2014). Similarly, in compliance with the terms of the 3rd Memorandum, new pension cuts have been imposed by virtue of Laws 4336/2015 (3rd Memorandum) and 4387/2016 (Law on the radical reform of Social Security System with, among others, further reductions on main and auxiliary pensions and other crucial social security benefits) despite the Council of State

Plenary Decisions 2287-2290/2015 and 600/2016 having annulled the pension cuts imposed by the 2nd Memorandum (2012)¹⁰.

38. As already mentioned above, the Act 6/2012 drew to a standstill the entire mechanism of collective regulation of the terms of employment (either by collective agreements or arbitration award) and especially of the salaries. As a result, individual contracts of employment prevailed. Given however the structural inequality between employer and employee, the latter are but an instrument of forcible enforcement of the employer's will. This standstill was caused by the minimum wage cuts for all workers by -22% and for young workers up to 25 years of age by -32% imposed by Act 6/2012, a brutal violation of the prohibition of age-based discriminations, as well as the obligatory termination of the (then) applicable collective agreements and arbitration awards. In the meantime, the salaries set out by these collective agreements and arbitration awards were drastically cut through enterprise-level collective agreements, concluded even in very small companies that employed no more than five workers. These company collective agreements were signed by associations of persons, which are caricatures of trade-unions entirely devoid of negotiation powers and in the mercy of the employer. At the end of this interval, individual contracts of employment became the main instrument of regulating the terms of employment. At the same time, workers' right to unilateral recourse to arbitration was dismantled, since recourse to arbitration required the agreement of both parties, which was impossible since the employers had no incentive whatsoever to agree to such a thing, given that – on the contrary- the absence of collective agreements and arbitration reinstated their power to dictate salaries and terms of employment.

VI. The financial and social consequences of the contested memorandum-based legislative measures

¹⁰ These decisions of the Plenary of the Council of State settle the issue of constitutionality and compatibility with the European Convention on Human Rights of the regulatory Acts based on article 3, paragraph 10 of law 3845/2010, article 44, paragraph 13 of law 3986/2011, article 2, paragraph 3 of law 4024/2011, article 6, paragraph 2 of law 4051/2012 and article 1, paragraph IA, subparagraphs IA.5/1 and IA.6/3 of law 4093/2012.

39. According to the conclusions of 2014 INE-GSEE annual report on Economy and Employment based on Hellenic Statistical Authority (ELSTAT) data:

*“The new, drastically reduced ‘legislated legal minimum salary’ has become the new threshold for private sector salaries (586€ and 510€ **gross** for young workers under the age of 25). This salary will be set out from now on by the government and it shall be readjusted, according to the new framework, in view of its contribution to reducing unemployment, increasing employment and improving competitiveness. The first direct consequence of these extremely neoliberal interventions affects low wage earners paid with the minimum salary. Greece has been the only European Union country in which the nominal minimum salary has been drastically cut during the crisis. Thus, low wage earners have suffered a loss of income from salaries exceeding three or even four salaries a year for young workers under the age of 25...*

*The consequences of these interventions are not limited to the reduction of the wages of minimum salary earners. They have a wider impact on private sector wages and, proportionally, on unemployment and sickness benefits, maternity allowances, pensions and overtime. As regards private sector minimum contract-based wages, we have measured (based on individual sectoral collective agreements) the evolution of the minimum, actual, sectoral salaries in five sectors of our economy (Hotels, Commerce, Banks, Metal Industry and Cement Industry) during the period 2000-2013 (Graph 71). According to our measurements, in recent years (from 2010 to 2013), in all the sectors in question, the minimum sector-based, actual, contractual wages have gone down drastically: 18.8% in the hotel industry, 9.8% in commerce, 8.2% in the banking sector, 6.6% in the cement industry and 4.5% in the metal industry. The greatest wage reduction to date is to be seen in the minimum wages of the hotel industry. At the end of 2013, the hotel industry actual, minimum salaries had gone back to pre- 2000 levels, thus entirely annulling all the relevant progress made during the period under examination (2000-2013). (pages 180-181)...According to calculations, from the end of 2011 (when the existing legal framework was modified by virtue of law 4024/2011) to the beginning of June 2014, **1440 enterprise-level collective agreements have been signed** (mainly by the so-called “associations of persons”). **The crushing majority of these agreements impose salary and wage cuts ranging from 10% to 40%. The objective of the changes introduced is to fully decentralize negotiations and to lead to the definition of enterprise-level or even individually set salary limits by attacking sectoral collective agreements, which have played a historically***

important role the definition of minimum wages, providing thus a safety net of collective protection to the workers and, in particular, to those working in SMEs. Nowadays, memorandum-imposed changes have utterly modified the balance of power in favour of the employers. In fact, the new, post-2010, institutional framework puts the employers in charge of the game of collective negotiations in view of the signature of new collective agreements. As a result, most new sector-wide collective agreements signed in 2012-2013 include massive salary reductions. **The abolition of the principles of favourability and of the extension of the binding force of sector-wide agreements, the limitation of the duration and the distortion of the content of the after-effect of collective agreements, as well as the inability to unilaterally recourse to arbitration have resulted in forcing trade unions that go into collective "negotiations" to either accept the employers' terms or refuse to sign risking even greater salary and institutional prerogative losses.** Therefore the scope of sectoral "negotiations" is, indeed, to decide the extent of salary cuts. Nevertheless, new sectoral collective agreements cannot guarantee that the new reduced salaries for all the workers shall be protected from further cuts imposed by less favourable enterprise-level collective agreements whose threshold is the new, reduced national minimum salary. The majority of collective agreements having been signed in 2012 and 2013, following the imposition of the new collective negotiation and collective agreement framework, contain massive salary cuts for the workers in the: Hotel industry (-15%), Sugar confectionery production (-15%), commerce (-6.3%), banking sector (-6%), contractor and construction companies (-18%), pubs and clubs (the relevant reductions range from 20% to 50% compared to a previous collective agreement for musicians and singers), theatre technical personnel (-20% on the basic salary of stage set technicians and -10% on the basic salary of assistant technicians) and elevator technician companies (-10%). Following the expiry, in 2013, of a significant number of sectoral collective agreements, the new collective negotiation framework for sectoral negotiations has been paving the way for new salary reductions, using, among others, sectoral agreements that attempt to "rein back", or prevent, more extensive reductions by giving the green light to enterprise level collective agreements or individual employment contracts. **According to calculations, salary reductions imposed by enterprise-level collective agreements and individual employment contracts affect more than 30% of private sector employees, whereas the reductions imposed by sector-wide collective agreements currently affect approximately one fourth of all the**

workers (Bank of Greece Report, 2013). In conclusion, the brutal decentralization of collective negotiations in favour of the employers in a country where the crushing majority of enterprises employ less than 10 persons, coupled with the weakening (and de facto abolition) of sector-wide collective agreements has led to: • the sharp reduction of employees covered by collective agreements. • industry-wide salary dumping. • the weakening of the role of sectoral employer associations and sectoral industry worker federations. • further reductions of employee income and to our economy drifting deeper into recession. If this continues, working conditions in the private sector and, in particular, the wages will no longer be negotiated collectively but unilaterally defined either by the employers or by the government (since the latter has taken it upon itself to determine minimum wages). The result will be the deregulation of collective rights, the de-institutionalization of trade unions and the strengthening, beyond all reason, of the employers. In this context, the obvious question is the ultimate relation between these legislative measures and the *acquis communautaire*, the international labour conventions signed by Greece and various constitutional provisions and in particular with those regarding the European “social heritage” of the 20th century and the fundamental rights relating to work. Consequently, to avoid further increases in the number of workers not covered by collective agreements and to protect them it is absolutely necessary to reinstate, in the shortest possible time, the institutional framework of labour relations, free collective negotiations and collective agreements at all levels. It is also necessary to effectively tackle the replacement of trade unions by the so-called “associations of persons”, whose role, based on current evidence, is purely negative in bringing about salary reductions (in the context of new company collective agreements). Private sector workers must be effectively represented by the trade unions, especially those working in small enterprises. To this end, the position of employees in these enterprises should be reinforced by means of a set of legislative initiatives, as well as by a more forceful intervention of trade unions in the workplace (pages 182 – 1985)“.

40. The conclusions of the 2016 annual INE-GSEE report on the economy and employment are along the same lines:

“A study on the qualitative characteristics of unemployment indicates that the number of unemployed increases in indirect proportion to age: the highest percentage (58.1%) occurs

from 15 to 19 years of age and the second highest (47.7%) from 20 to 24 years of age. (page 19)... All these changes affecting the work market have a direct, negative impact on the figures of poverty, material deprivation and social inequality. **According to our observations, compared to 2010, the extreme poverty indicator has gone up by 30 percentage points. This indicates more than a doubling of the approximate population rates and households that live under the 2008 poverty limits.** Moreover, 20.9% are incapable of catering for their basic needs. This percentage rises to 43.4% among the unemployed. It should be underlined, at this point, that despite the significant increase of poverty rates, social protection-related expenditure in Greece has been reduced more than in any other EU-15 member-state, on a percentage basis. Moreover, the economic inequality indicator seems to have gone up: in 2014 the Gini index was 34.5, 1.4 percentage points up compared to 2009. Labour relations deregulation is one of the main pillars of austerity schemes and is used as an institutional tool of implementing internal devaluation policies. The extent and intensity of the changes affecting labour relations has been analysed in detail in recent years in the annual INE-GSEE reports. (pages 19-20)... The processing of data from the Work Force Research on monthly remuneration rates in the private sector indicates that the classification of net annual salaries reflects the fact that the workers' wages and living standards have been compressed during the crisis and in particular: 50% of the workers are paid less than 800 Euros (14.5% are paid up to 499 Euros, 22% are paid from 500 to 699 Euros and 13.5% are paid from 700 to 800 Euros); 18.6% are paid from 800 to 1,000 Euros and 15.7% are paid more than 1,000 Euros (of which 9.8% are paid from 1,000 to 1,299 Euros and 5.9% are paid more than 1,300 Euros). Equally worth noting is the real minimum salary purchasing power decrease in Greece: from 2010 to 2015, the purchasing power decreased by 24.7% and by 34.3% in young people under the age of 25. (page 21)...**An analysis of Labour Ministry data (Table 4.1) shows that in 2015 enterprise-level collective agreements are almost a universal rule since they represent 94% of total collective agreements. In fact, out of a total 282 collective agreements, 263 are enterprise-level collective agreements and only 12 are national, sectoral or occupational collective agreements. This development is a consequence of recent conditions and especially of the period 2012-2015, during which enterprise-level collective agreements have exceeded 90% of the total number of collective agreements (2012: 97.11%, 2013: 96.69%, 2014: 93.77%). In absolute terms, there is a sharp increase in the number of enterprise-level**

collective agreements from 227 in 2010 to 976 in 2012. Then, their number goes down to 409 in 2013, 286 in 2014 and, as noted above, 263 in 2015. At the same time, the number of sectoral and occupational collective agreements goes from 65 in 2010 down to 12 in 2015. It must be underlined that the number of enterprise-level collective agreements reaches its peak in 2012 with 976 such agreements (compared to 170 in 2011). In 2012, most companies begin to implement law 4024/2011. From 2013 to 2015, the number of enterprise-level collective agreements falls sharply. Nevertheless they continue to be an important percentage of all collective agreements. The reduction of the number of enterprise-level collective agreements in the years after 2012 is, in all probability, linked to the new structure of labour relations and, in particular, to the legislator's intervention in the general binding character of the National General Collective Agreement (EGSSE) and, at the same time, to the introduction of a regulated minimum salary of 586 Euros (510 Euros for young workers under 25). Thus, the need to sign enterprise-level collective agreements subsides since, now, the employer's only responsibility is to pay the workers with the national minimum wage...The number of part time workers and rotation/shift jobs, the so called flexible forms of employment increases, in the course of time, while full time jobs decrease. In fact, their per cent share in the total number of recruitments more than doubles from 2009 to 2015. In 2009, flexible forms of employment-related recruitments represented 21% of the total recruitments. In 2015, their per cent share was 55%. More specifically, there was a 329% increase of part time recruitments and a 707% increase of rotation/shift jobs from 2009 to 2015. In 2014-2015, there was a 19.6% increase of new part time recruitments and a 45.6% increase of rotation/shift jobs. These findings lead us to believe that flexible (or, to be more exact, precarious) forms of employment are the main feature of the Greek labour market, since they represent the majority of individual employment contracts used, as a rule, for new recruitments. (Pages 130-131)...In Greece, the minimum salary purchasing power (PPS) has lost ground compared to other countries with a regulated national minimum salary and is currently down from the seventh to the tenth position (or to the eleventh if Germany is taken into account). Thus the minimum salary in Greece is lower than that of Spain, Malta and Slovenia and approximately equal to that of Poland. On the other hand, the year-long difference with the Portuguese minimum salary has been significantly reduced due to the massive difference in productivity between Greece and Portugal. It is also worth noting that

there is a significant bridging of the gap between the Greek minimum salary and that of Hungary, Croatia and Slovakia (pages 146-147)".

At this point we would like to underline once again that the controversial legislative measures have led to a salary collapse and to a complete loss of their nature as a means to secure workers' vital needs to earn a living. There is an outright trampling of the principle that payment for work done should guarantee a decent standard of living according to article 4, para. 1 of the Charter and according to the Committee's Decision of 7.12.2012 on the collective complaint 66/2011 (recitals 32, 41, 49 and 70).

41. It should also be underlined that any objections or weights based on, among others, the objectives of unit labour cost reduction and improvement of the competitiveness of Greek enterprises, which are ill-founded in any case, should be left aside because ***there is violation of the minimum levels of protection of the human dignity, thus of the core of the relevant social rights***. The three decisions of your Committee on the Collective Complaints 65, 66 and 76/2012 (the first based on obiter dictum, the second based on a specification of the rule of article 4, para. 1 of the Charter and the third on a specification of the rule of article 12, para. 2 of the Charter, those entitled to receive retirement benefits have the right to the progressive increase of their social security level) constitute a strict prohibition rule: ***Contracting States are prohibited to take measures to tackle the economic crisis that, deliberately or not, lead part of their population to poverty either by further deterioration of the conditions of poverty in which part of their population already lives or by pushing into poverty parts of the population that until then were not poor*** (see also Stangou P., *The legal impact in the EU of the European Committee of Social Rights decisions on the Greek austerity measures*, *Labour Law Review* 2016, Pages 396 – 397).

42. As regards the guarantee of decent living standards to persons entitled to retirement benefits, the Committee, in its Decision dated 7.12.2012 on the collective complaint 76/2012 ruled that radical pension reductions ***"...have a cumulative impact since they produce, by nature, a considerable deterioration of the living standards and conditions of a significant number of retired persons affected by these reductions"***. The Committee also underlined the ***absence of consultation with the claimant parties based on existing studies on the negative impact of the measures at issue for retired persons, as well as the absence of efforts to find alternative measures in order to mitigate the cumulative impact of successive cuts that incur***

the risk of massively pushing into poverty a considerable part of the population (recitals 78 and 81. See also P. Stangou, *op.cit.* page 397).

43. The guarantee of decent living standards to the workers in compliance with the provisions of article 4, paragraph 1 of the Charter is further specified in the Committee's Decision of 23.5.2012 on the Collective Complaint 66/2011 (recital 13). **This standard is, according to the Committee, guaranteed when the remuneration is above a minimum threshold amounting to 50% of the average net wage. To ensure this, the minimum paid wage should be above 60% of the national average net wage. If the minimum paid wage ranges between 50% and 60% of the national average, the Contracting State must provide evidence demonstrating that the wage in question does guarantee decent living standards.** Based on these criteria, the Committee concluded that the then examined Greek legislative measures regarding "the minimum wage paid to young workers was under the poverty threshold" (recitals 60, 64 and 65. See also P. Stangos, *op.cit.* page 397, footnote 45). It is obvious that, as regards the identity of legal grounds, this threshold is violated, *mutatis mutandis*, mainly in the context of precarious jobs that do not provide full time employment guarantees and which, as a general rule, are imposed on the workers.

44. It would be a mistake to believe that the legislative measures at issue exclusively affect the core only of the social rights upheld by the Charter. As we have already mentioned above and as the submitted statistics demonstrate (*see Annex 2, as well as the texts by Prof. G. Argeitis*) the collapse of the market, the massive shut-down of enterprises, the monstrous unemployment rates, the recession and collapse of public revenue and of the social security system have been caused by these same measures. In fact, it has already been underlined that the Greek economy just as, among others, the Portuguese, Spanish, Italian, French and even the German economy (although at a lesser level) is mainly boosted by internal demand, which has been badly hit by the measures at issue due to the successive salary and pension cuts and, generally, income reductions combined to the brutal direct, indirect and exceptional taxation.

45. Even in the context of the German economy, where 50% of the GDP comes from exports, internal demand boosting is one of the first priorities. The protection of social rights is therefore closely interdependent with the interests of Greek enterprises (98-99% of which are

SMEs employing up to 20 workers) that during the last six years have been collapsing and going massively out of work because of the sharp reduction of their turnover.

46. *The annual personnel list overview, submitted via the ERGANI IT system, of all Greek businesses employing persons under private law published by the Ministry of Employment, Social Security and Social Solidarity on February 4, 2016 demonstrates that: 89,245% of Greek enterprises employs up to 10 workers, 9,168% employs between 10 and 50 workers and only 1,353% employs between 51 and 250 workers.*

47. *According to a 2016 research of GSEVEE Institute of Small Businesses in cooperation with MARC SA, 99.6% of all Greek businesses are very small and small businesses in the sectors of processing, trade and services (Semi-annual Bulletin on the Economic Climate of SMEs published by IME-GSEVEE, September 2016, page 6).*

48. *Moreover, according to the Quarterly Professional Activity Information Bulletin published by the Athens Chamber of Tradesmen (March 2014), 96.6% of all Greek businesses are very small (with up to 9 employees), 3% are small (between 10 and 49 employees) and only 0.4% are medium-size (between 50 and 250 employees). In other words, 99.9% of all Greek enterprises are SMEs.*

These data show that small and very small businesses (with up to 49 employees) are the mainstay of the Greek economy. Greece has a percentage of very small businesses that exceeds the average value of EU27. Greek very small businesses (up to 9 employees) employ more personnel (57.1%) than an average European very small business (29.6%). The contribution of SMEs to employment is higher in Greece (85.2%) compared to the EU average (67.4%).

VII. ECSR decisions of 23.5.2012 and 7.12.2012 on the Collective Complaints 65 and 66 and 76/2011 brought respectively by GENOP/DEH and ADEDY and by the Federation of IKA Pensioners and their significance for our Complaint.

49. The Committee's decision of 7.12.2012 on the Collective Complaint 76/2012 (Federation of employed Pensioners of Greece (IKA-ETAM) v.Greece) gave a clear response to the Hellenic government allegations that the laws at issue for violations of the Charter "...have been restricted pursuant to the Government's other international obligations, namely those it has

under the loan arrangement with the EU institutions and the International Monetary Fund...” (recital 50), i.e. the Financial Support Mechanism that was jointly set up by the Greek government, the European Commission, the European Central Bank and the IMF (the troika) in 2010

This is the Committee’s response: “...the Committee considers that the fact that the contested provisions of domestic law seek to fulfil the requirements of other legal obligations does not remove them from the ambit of the Charter”

50. On the other hand, Greece’s relations with the European Union and with its creditors, as you very well know, are at an impasse. In the context of Greece's commitments vis-à-vis the European Union, it seems that the external standards of social rights protection established by the Charter and by the Greek Constitution give way under the requirements of the Memoranda and loan contracts, in the signature of which there was direct involvement of EU institutions (see on this point P. Stangou, *op.cit.*, especially page 400 and following, including relevant documentation and a comment on the equation of social state institutions to private enterprises). As regards the involvement of EU institutions or, to be more exact, the imposition of the legislative measures at issue by EU institutions, please see in particular the Council of the EU decision no. 2010/320/EU of June 8, 2010 addressed to Greece “with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit”). In fact, Greece has no margin of appreciation whatsoever with regard to the implementation of the brutal measures included in these documents that literally trample the social rights upheld by the Charter. Consequently, it cannot pursue either the respect of external protection standards established by the Charter or those established by the Greek Constitution. Allow us to note that we are leaving aside our considerations regarding the implementation of the EU Charter of Fundamental Rights and especially article 51 on the control of the legality of memorandum-based legal measures in Greece.

Final comments

51. As has already been said, the character of the memorandum-based legal measures at issue is permanent and irreversible. In fact, these measures do not have a clear, time-

limited duration, despite the fact that the economic stabilization plan does have a predefined time limit and duration¹¹.

52. Given, firstly their already long implementation (six years to date) and the quantitative and qualitative extent of their impact and, secondly, the fact that there is absolutely no commitment by the government regarding their potential re-examination when the economy of our country goes out of the crisis, it is obvious ***that these measures are irrevocable***.¹².

Consequently, in Your appreciation of the situation please also take into account and focus, among others, the permanent and irreversible character of the measures at issue.

53. Throughout the period starting from the adoption of the measures implementing the 1st Memorandum in 2010 to the measures implementing the 3rd Memorandum (and its supplementary Memorandum), **there has been no assessment of the social impact of austerity measures whatsoever; similarly there is no official mechanism with this scope, which is a clear requirement of all international human rights monitoring Bodies, especially those focused on labour and social security rights** (please see Annex 4, Findings of european and international institutions on the state of fundamental labour rights' implementation in Greece). Furthermore, throughout the memorandum implementation period, from 2010 to date, there is evidence that the tripartite social dialogue **has been demonstrably degenerated into a superficial procedure**. This in itself demonstrates the extent of the permanent and inadmissible intervention of both our international creditors and of the government in the collective autonomy of representative, workers' and employer's, organizations.

54. As regards the argument that the measures "reducing the quality of labour rights" have been imposed in view of "reinforcing competitiveness" in the context of implementing the Country's international loan terms, your Committee responds as follows in the introductory remarks of its Decision on Collective Complaint 65/2011 v. Greece.

"The economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. Hence, the governments are bound to take all necessary

¹¹ ILO High Level Mission Report 2011 "The high level mission recalls that, as indicated by the Committee of Experts in its observation published in 2011 on the application by Greece of Convention No. 98, if, as part of its stabilization policy, a government considers that wage rates cannot be settled freely through collective bargaining, such a restriction should be imposed as an exceptional measure and only to the extent that it is necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards".

¹² ILO HLM Report 2011

steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.”

“ ...These changes (in labour law in a period of crisis) should not excessively destabilise the situation of those who enjoy the rights enshrined in the Charter”.

“The Committee considers that a greater employment flexibility in order to combat unemployment and encourage employers to take on staff, should not result in depriving broad categories of employees, particularly those who have not had a stable job for long, of their fundamental rights in the field of labour law, protecting them from arbitrary decisions by their employers or from economic fluctuations...”

55. On the other hand, the very few employer organisations supporting these measures (the majority of employer organisations are officially against them) should, when they are called upon to report to their members, explain why they support measures that, in addition to brutally violating the social rights upheld by the Charter, are massively putting their member-enterprises out of work as a result of the collapse of purchasing power and thus of active demand by the workers, the pensioners and, generally, the Greek people, which, on top of having to accept a reduction of their income imposed by law, are hit by the unbearable increase of their insurance contributions and brutal, ordinary and exceptional, taxation. Evidence of the extent of the self-destructive and obsessive nature of the support of the measures at issue by a few employer organisations is, among others, the international precipitation of the Hellenic economy's competitiveness from the 67th position in 2009 to the 81st position in 2015.

56. The Greek General Confederation's of Labour, as the claimant organization, objective is to reinforce the legality of its claims in relation to the measures at issue with a positive decision of your Committee. A positive Decision will give us strength to further pursue our claims. Furthermore, a positive Decision by your Committee will enable us to provide stronger support to our claims before the competent Courts, requesting that all those involved in the massive aggression against the social rights of our members be held to account.

For all the reasons mentioned above

without prejudice to all our rights

WE REQUEST THE COMMITTEE

To uphold our Collective Complaint. To find that Greece has violated the European Social Charter provisions, as described in our Complaint in detail.

The following documents are annexed:

Annex 1: National legislation on the exact provisions of each contested statutory measure

Annex 2a: INE GSEE - The Impact of the Economic Adjustment Programmes for Greece on the Economy and the Living Conditions of Greek Citizens

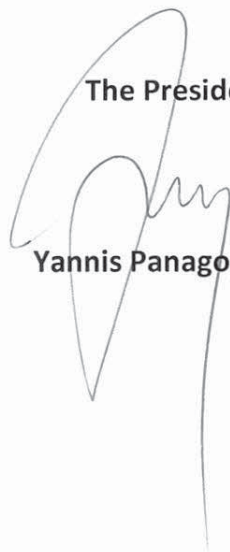
Annex 2b: GSEE Labour Institute (INE GSEE), The Greek Economy and Employment, Interim Report October 2016

Annex 3: EUROSTAT – News Release 199/2016, October 17,2016

Annex 4: Findings of european and international institutions on the state of fundamental labour rights' implementation in Greece

On behalf of GSEE

The President


Yannis Panagopoulos



The General Secretary


Nikolaos Kioutsoukis

SUBMISSIONS OF THE GREEK GOVERNMENT



HELLENIC REPUBLIC
MINISTRY OF LABOUR
SOCIAL SECURITY & SOCIAL SOLIDARITY

THE MINISTER

Athens, 4th November 2016

The Greek Government considers that the European Social Charter is not only the Constitution for social rights and social relations in Europe, but also the bulwark against the dismantlement of the welfare state and social rights that can be observed in Europe during the last decades.

For the same reasons, we consider the European Committee of Social Rights not merely the guardian of the European Social Charter, but the defender of what constitutes the very soul, the psyche of Europe's social values and social rights.

The Greek Government considers that the legislation imposed by the two (2) first memoranda, especially regarding the collective bargaining system, i.e. the social dialogue that is the core of the protection of social rights in Europe, is in violation of the European Social Charter; for this reason, we asked and made the renegotiation of this legislation part of the third memorandum. During the negotiations we also insisted on something that should be evident, but has not been in the past: that the decisions of the European Committee of Social Rights shall constitute the basis of what is negotiable and what it is not.

However, the final outcome of the negotiations was not what we expected; our demands to change the existing legislation were answered by a specific clause in the memorandum allowing us to do so, but not unilaterally; it has to be after consultation and with the agreement of our creditors.

In the forthcoming negotiations with the Institutions, the Greek Government will try to bring employment relations in Greece back to the European Social Model. The aim of the reform is to follow the best European practices that are compatible with the latter. In accordance with the agreement of July 2015 and the memorandum of understanding signed between the Government and the Institutions, the Government launched a consultation process led by a group of independent experts, commonly agreed upon with the Institutions, which assessed

key labour market issues, namely, collective bargaining, collective dismissals and industrial action, taking into account best practices at both international and European level. The report, which was delivered during the last week of September, will constitute the basis of the forthcoming negotiations. The Greek Government assigns great importance to the joint declaration of all the social partners in Greece, which adopts a united stance on all the aforementioned issues.

Moreover, we have asked the European Parliament, and our request has been accepted, to form a permanent monitoring group supervising the negotiations, exactly because we considered - and we still consider - that there have also been violations of the Charter of Fundamental Rights of the European Union.

Furthermore, last July, in order to reinforce our line of argument, we asked the social partners and tried to formulate a national common position with them. All social partners - employers and employees included - have agreed on and proceeded with a joint declaration which considers the return of collective bargaining an absolute necessity; also, they all rejected demands for further deregulation of the existing legislation imposed basically by our creditors. The current Government does not respect the work of the European Committee of Social Rights only in words; we value the importance of the European Social Charter and we have tried to use it both as a yardstick for the existing legislation and as an argumentative tool during the negotiations and, in fact, we did so whenever it was possible under these particular circumstances.

The President of the European Commission made a very pertinent declaration during his first speech in the European Parliament. He defined this Commission as a “last chance” Commission and, indeed, it is not just the European Union, but Europe itself now facing existential problems.

I am referring to the European social model, the erosion of the middle class, the explosion of inequalities, the dismantlement of the welfare state and subversion of social rights.

It is not just about Greece anymore; basically, this is a battle - maybe a last stand battle - to save the traditional values of solidarity and social rights and the entire process that began with the social questions of the 19th century and the effort to combine democracy with social rights. We are now facing the challenge of putting exactly these fundamentals of the European societies into question.

Hence, this is not just about social rights; it is about democracy, it is about the overall system of dividing lines between the market and the state, about whether these dividing lines are

decided through democratic procedures, through the Parliament, or just by the impersonal forces of the market.

These are fundamental issues that concern not only Greece, but all of Europe. And that is why the reform of labour relations in the third memorandum has been associated with the best European practices. If we define that the best European practices is the deepening of the deregulation, we will result to a very different Europe, than if we decide that the best European practices must conform to the European social model.

So, Greece is now basically the mirror for the future of labour in Europe and your decision is going to be pivotal as regards that.

Exactly because we have used that as an argument, because we must persuade our European partners that it is necessary to go back to the basics of the European social model not just as a matter of best practices, but as a matter of legality.

We remain optimistic that our Government will succeed in reversing the current situation in the labour market in order to reinforce the collective rights of employees.

Joint Declaration of Greek General Confederation of Labour (GSEE) - Hellenic Federation of Enterprises (SEV) - Hellenic Confederation of Professionals, Craftsmen & Merchants (GSEVEE) - Hellenic confederation of commerce and entrepreneurship (ESEE) - Unions of Tourism enterprises (SETE)

Trade unions and employers' organizations signatories of the National General Collective Agreement have agreed the following:

1. They stress that as "best practices" should be considered only those which are in line with the European social model and the protection of social and labour rights that define the identity of Europe. In this context, they are referring to the joint declaration signed by the European social partners' organizations and the European Commission on 27/6/2016.
2. They confirm again in its entirety what was agreed in the tripartite meetings held on September 30, 2014 under the auspices of the ILO in Geneva and on November 26, 2015 in Zappeion, attached hereafter as an annex to this declaration and constituting an integral part of it.
3. They consider that there is no question of reducing the minimum wage or of abolishing the 13th and 14th salary.
4. They stress the need of social dialogue, so that, *inter alia*, mainly, the minimum legal wage to be agreed under the National General Collective Agreement by the social partners with general and universal application (*erga omnes*) to all employees.
5. They agree, finally, that Law 1264/1982 should be modernized, especially in order to deal with bad implementation, without however contesting the right to strike and the constitutional protection of industrial action.

Regarding the procedure, in view of the new round of negotiations for labour market in the immediate future between the Ministry of Labour and the Institutions, social partners propose a sincere social dialogue to be conducted, with consensual intentions, if possible with a tripartite structure, taking into account the unemployment rates and the recession of the country and the fact that the negotiation of the Ministry with the Institutions will lead to detailed legislation.

Their specific positions have already been publicly expressed and communicated to the Group of Independent Experts.

Following the above, in order to promote and specify the abovementioned positions it is proposed to pursue negotiation according to the following procedure:

1st meeting: between the Group of Independent Experts on the labour market and the social partners. Once the report with the proposals of the Group of Independent Experts is drafted, social partners will be given the opportunity to separately express their comments on the impact of the suggestions made. Once the report is finalized, a special annex will be added to the deliverable, where each of the social partners shall express its views on the Experts' suggestions.

2nd meeting: between the two sides of the negotiation and the social partners. During the initial discussions between the Ministry and the Institutions, social partners will take the specific legal provisions proposed by both sides in order to express their views.

3rd meeting: between the two sides of the negotiation and the social partners. While the negotiation is still ongoing and especially when it is near its finalization, social partners will acquire knowledge of the specific legislation formulated with any possible differentiation between the position of the Ministry and of the Institutions in order to be given the opportunity to comment on the draft legislation and to formulate, if possible a common national position.

Athens, 19/7/2016

ANNEX 1: "JOINT DECLARATION OF GENEVA 2014"

Conclusions agreed by the Greek social partners and the Ministry of Labour in the high-level meeting, which was coordinated by the Director General of the Office.

■ "The legal framework and procedures on collective dismissals in Greece": The comparative ILO study and the relevant assessment of the new procedures concluded that the existing legal framework in this area is in line with EU and international labour standards. The Employers' side emphasized the particular needs of enterprises in the case of restructuring and/or mergers and acquisitions, while the Workers' side underscored the need to respect information and consultation rights.

The social partners confirmed their confidence in the tripartite Supreme Labour Council (ASE) procedure, as amended recently. They proposed to the government measures of institutional strengthening of the ASE, and agreed that the ILO could help monitor its functioning for a certain period of time

■ "lock out": All parties acknowledged that there is no reason to amend the relevant legislation. Drawing on the comparative study presented, from a technical point of view, it was ascertained that employers acting in good faith, have adequate legislated means ensuring their protection, as per the relevant civil code provisions judiciary control, etc.

■ "industrial action": the comparative study presented, demonstrated that the national legislation protecting trade unions is in line with EU rules and practices.

The workers' side emphasized the historical and emblematic nature of Law 1264/1982, which constitutes at the European level a landmark of fundamental democratic rights. Employers put forward that since the enactment of law 1264/1982, there have been certain areas in need of improvement, as well as practices distorting the law.

■ It was also agreed that a stable and uninhibited disbursement system of workers' contributions, is of primary importance for the operation of trade unions.

The social partners further agreed to initiate talks in order to identify potential issues of discussion, with the support of the ILO.

ANNEX 2: NATIONAL SOCIAL PARTNERS' JOINT STATEMENT TO RESTORE CONFIDENCE AND EMPOWER THEIR EFFECTIVE PARTICIPATION IN SOCIAL DIALOGUE

ATHENS 26/11/2015

The debate among the national social partners has produced the shared view that, in particular from 2010, which marks Greece's inclusion in the Memoranda, there has been a substantial downgrading of the tripartite social dialogue in qualitative and quantitative terms. At the same time, within the framework of the commitments undertaken in the stability program and the memoranda of the country's international bailout loans, dialogue- mainly informal- with the State was and remains pre-textual centred simply on the announcement of pre-determined measures leaving no room for effective tripartite social dialogue. The national social partners pointed out that this shared view arises from the studies conducted in all joint actions fields included in the binding agreement in the context of the National General Collective Agreement in 2014, namely those concerning the national structures of tripartite social dialogue, the branch level bargaining and the impact of the abolition of the mechanism extending the binding force of Collective Labour Agreements, vocational education and training, and combating illegal discrimination, racism and xenophobia in the workplace.

The national social partners have once again highlighted that the tripartite social dialogue should effectively be based on the fundamental principles of respect by all for collective autonomy and the results of tripartite social dialogue. Taking note, lastly, of the points of convergence of their views reflected in the text of conclusions of the tripartite high-level meeting in October 2014, they reaffirmed the need for measures to be implemented to reduce unemployment, which has reached "nightmare" levels, to combat uninsured and undeclared work, to restore the full and universal effect of the National General Collective Agreement, to re-establish bargaining at sectoral level and extend the binding force of Collective labour Agreements -on grounds of equal treatment of workers and preventing unfair competition between enterprises -, to enhance national social partners' substantial contribution to and participation in vocational education and training policies, development of professional skills and regulation of professional qualifications, as well as to raise awareness in the world of work on issues such as diversity and the multi-ethnic and interdependent modern society.

Recommendations Expert Group for the Review of Greek Labour Market Institutions

27 September 2016

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1. INTRODUCTION

At the Euro Summit Statement of 12 July 2015 on labour markets, the Greek government agreed to *“undertake rigorous reviews and modernization of collective bargaining, industrial action and, in line with the relevant EU directive and best practice, collective dismissals, along the timetable and the approach agreed with the Institutions. On the basis of these reviews, labour market policies should be aligned with international and European best practices, and should not involve a return to past policy settings which are not compatible with the goals of promoting sustainable and inclusive growth.”*

In the Memorandum of Understanding (MoU; dated 19 August 2015) signed with the European Commission, the Greek Government committed to *“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 dismissal, 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 the 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 practice in the EU. 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.”*

The “Expert Group for the review of the Greek labour market institutions” consists of eight members (see Annex I for an overview). The inaugural meeting of the Expert Group was in Athens, 22 April 2016. The next meeting took place in Amsterdam on 30 May 2016 where the Expert Group could meet thanks to the hospitality of Tinbergen Institute. The following meeting was organised in Athens from 20 to 22 June and was focused on hearing the position of the social partners and other institutions. The list of the organisations heard can be found in Annex II. From 18 – 20 July the committee held another three days’ meeting in Athens. The meetings were informative and discussions within the group were respectful and held in a friendly atmosphere. The group reached an agreement on parts of its analysis and most of its recommendations. However, in other areas there were fundamental differences in terms of interpreting events in the past, the present situation in the labour market and some of the recommendations to improve the Greek labour market institutions. Furthermore, members of the Expert Group based their opinions on at partly different set of principles.

The set-up of this report is as follows. Chapter 2 presents the chairman's summary overview of all proposals. Most proposals are supported by all members of the Expert Group. For some proposals there is a difference of opinion. Chapter 3 provides the proposals of five members of the Expert Group. Chapter 4 presents the proposals of two members of the Expert Group. The view of the chairman is provided in Annex III. Annex IV provides an overview with remaining comments by other members of the Expert Group.

The members of the group of independent experts thank the Greek government and the Institutions for their valuable support and hospitality provided during the meetings in Athens.

2. Summary of recommendations – Jan van Ours

This chapter presents a summary overview of the 12 recommendations in this report. Most of these recommendations are unanimous. On some recommendations there is disagreement in the Expert Group. One side of the group consists of Gerhard Bosch, Wolfgang Däubler, Ioannis Koukiadis, António Monteiro Fernandes and Bruno Veneziani. Another side of the group consists of Juan Jimeno and Pedro Silva Martins. The chairman does not belong to one particular side but does have preferences (see Annex III).

2.1 Collective Action

Recommendation 1. Current Greek law has an extensive regulation on the procedures for calling on strike. The Expert Group does not see the need for stricter rules on strikes. It is up to the Greek legislator to define the conditions of a legal strike by respecting the constitutional framework.

Recommendation 2. The Expert Group does not see any urgent reason to remove the prohibition on lock-outs. The provisions on industrial conflict in Greece have established a balance of power between employers and unions; its rules are accepted by both sides. The Greek legislator may clarify that the employer is entitled not to pay non-striking workers if they cannot continue to work because a strike is occurring in their enterprise or their establishment.

2.2 Collective Dismissals

Recommendation 3: Before implementing a collective dismissal, employers should consult and bargain in good faith with workers' representatives. According to the economic possibilities of the enterprise, a social plan should be established providing compensations for workers who are confronted with unemployment for an uncertain period. Retraining should be offered to enhance the chances of the affected workers in the labour market. Collective dismissals should be regulated in view of its importance as an operative instrument for adjustment of firms in times of crisis. The current system of ex-ante administrative approval of collective dismissals is being discussed in the framework of the European Court of Justice. After the result of that lawsuit is known, the current system could be abolished or replaced by another ex-ante control system.

Recommendation 4. In temporary economic difficulties, short-time work can prevent collective dismissals. Short-time work has to be flexible according to the still existing needs of the enterprise. The employee shall get unemployment benefits from the labour administration or the social security system as a compensation for the hours he could not work. At the end of the crisis, the employer can restart his full activities with the help of an experienced workforce.

2.3 Minimum wages

Recommendation 5. There should be a statutory minimum wage which takes into account the situation of the Greek economy and the prospects for productivity, prices, competitiveness, employment and unemployment, income and wages. The Expert Group disagrees on the responsibility to decide on the level and the increases of the minimum wage. One part of group recommends that after consultations with independent experts the minimum wage is implemented under a national collective bargaining agreement with automatic erga omnes effects. Another part of the group recommends that the government decides on the minimum wage after consultation of the social partners and independent experts.

Recommendation 6. The Expert Group disagrees on the role of youth minimum wages. One part of the group recommends to replace youth minimum wages by experience-based subminimum wages for a maximum of two years. There would be an evaluation of subminimum wages after two years. Another part of the group recommends maintaining youth minimum wages with the present age thresholds.

2.4 Collective Bargaining

Recommendation 7. Representative collective agreements can be extended by the state upon the demand of one of the negotiating parties at sectoral or occupational level. Collective agreements are representative if 50% of the employees in the bargaining unit are covered. The decision on the extension of an agreement is taken by the Minister of Labour after having consulted the social partners. The government and social partners establish an administrative system that will allow for reliable monitoring of the share of employees represented in the bargaining unit. One part of the Expert Group proposes to make an extension possible, too, in

the case of severe problems in the respective labour market (high turnover, high share of low wage earners, distortion of competition) and in the case of another public interest (e.g. introduction of an apprenticeship system). The other part of the Expert Group is of the opinion that an extension can only be issued if the 50% threshold is met.

Recommendation 8. The Expert Group disagrees on the principle of favourability. One part of the group argues that lower level wage agreements cannot undercut higher level national/sectoral agreements unless social partners agree on opening clauses on specified issues which allow temporary derogations in the case of urgent economic and/or financial needs of the companies. Another part of the Expert Group argues that micro wage flexibility is important. Therefore, the hierarchy of collective bargaining should follow a subsidiarity principle, whereby agreements established at a level closer to the workers and firms directly involved override agreements established at a level further away to the workers and firms potentially involved.

Recommendation 9. The time extension, the after-effect and the duration of collective agreements are decided by the social partners themselves. If they do not take a decision on the first point the time extension will be six months; if the second point is not regulated by collective agreement the after-effect includes all agreed labour standards; if the third point is not regulated by a collective agreement, the latter can be denounced with a notice of three months.

Recommendation 10. If social partners cannot reach an agreement the terms of an agreement may be established through arbitration preferably if both social partners agree on this. Unilateral arbitration should be the last resort as it is an indication of lack of trust. The system of arbitration was renewed recently and should be evaluated by the end of 2018 to assess its role in collective bargaining.

Recommendation 11. The social partners should negotiate on the issues of seniority pay, equal treatment of white and blue collar workers, life-long learning, productivity and innovation and the integration of young people, considering the critical comments contained in this report. Since some of these issues are closely linked with strategies of the state to modernize the Greek economy and to improve the vocational training system, the strengthening of a genuine and sincere tripartite social dialogue is necessary. Within this framework a discussion about trade union law problems can be useful. In this field, we see, however, no contradiction with EU law and practices.

Recommendation 12. The Public Employment Service should also consider developing its efforts towards greater activation of the unemployed and promoting more vacancies in firms, including through well-designed hiring subsidies supported by the European Social Fund.

3. Recommendations of Gerhard Bosch, Wolfgang Däubler, Ioannis Koukiadis, António Monteiro Fernandes and Bruno Veneziani

3.1 Principles

We agree on ten guiding principles for our recommendations:

European Social Model and ILO-Norms: The proposals of the Expert Group should be in line with the basic principles of the European social model and ILO-Norms. This is not only necessary for the social stability in Greece but also for the future cohesion of the EU (after the Brexit).

Subsidiarity: According to article 5 § 3 of the Treaty on the European Union, social and political issues should be dealt with at the level of the Member States as far as it is possible without creating problems in other Member States. Concerning the mandate of the Expert Group, the proposals should try to set a flexible framework in which the Greek social partners themselves can negotiate labour standards and find solutions which are adequate to the needs of different industries and companies.

Balance of power between social partners: Autonomous collective bargaining requires strong and representative unions and employers who negotiate face to face and who are ready to take responsibility and risks. Social peace and trust cannot be established when one partner is continuously in an inferior position. The proposals of the expert group should help to establish a balance of power between the social partners.

Balance between efficiency and equity: Employment relations are not purely economic transactions with business wanting more efficiency. Only through a profound respect for human concerns can broadly shared prosperity, respect for human dignity, and equal appreciation for the competing human rights of property and labour be achieved.

Growth orientation: Social partnership is crucial to negotiate a socially balanced distribution of income in the labour market. Labour market regulations have, however, also a strong influence on the development of the economy. Therefore, the focus of mature labour market regulations, including collective bargaining, should include

efforts to increase economic growth and productivity as well as to enhance the skills of the workforce.

Inclusive labour markets: All people of working age should be encouraged to participate in paid work and a framework should be provided for their career development, for example through better access to lifelong learning. Achieving this type of labour market requires action on the part of workers and their representatives and other stakeholders including the public authorities which should be supported by the proposals of the expert group.

Equal pay: Individuals doing the same work should receive the same remuneration. Any distinction, exclusion or preference made on the basis of sex, age, labour market status or contract, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, should be avoided.

Reliability: A stable regulatory framework is the precondition for long-term- investment decisions of companies as well as the planning of families for their future including many decisions on the investments in their own education and training as well as in the education of their children. It is also crucial for social peace and the joint development of norms of fairness. After many short term interventions in the regulation of the Greek labour market in the last years the return to a long-term growth path requires a stable regulatory framework.

Specificity: The expert group is asked to take into account in our recommendations best practice from other countries in Europe. A simple copying of best practice from other countries by Greece is, however, not recommendable. What works in one country may be wrong under different conditions. Proposals informed by best European practices have to be adapted to the specificities of the Greek economy and labour market.

Integrated approach: It is well known from scientific research that the impact of the institutions of the labour market depends on the interaction with other institutions in the labour market and in other fields like for example social welfare, education or innovation policy. Therefore, there is the need to develop an integrated approach which helps to create positive interactions between our proposals and also other policy fields. Picking out only some elements of an integrated approach and leaving out others might change the impact of the proposals of the Expert Group not accordingly to its

members' purposes.

3.2 Industrial conflict

3.2.1 Strikes

The rules on industrial conflict remained unchanged during the years of the economic crisis in Greece. A need to change them now could not be found. Both social partners did not touch this point when they expressed their opinions during the very detailed hearings. In their joint declaration dated July 19, 2016, they agreed that on the one hand the Law 1264/1982 as such should be modernized, but on the other hand “the right to strike and the constitutional protection of industrial action” must not be contested.

Article 19 of Law 1264/1982 and the Greek courts have established detailed rules about the proportionality of strikes. In particular, for calling a strike, a decision of the trade union preceded by secret ballot is required. Therefore, restrictions are imposed on the decision-making procedure. Secondly, in order to call a strike notice must be given to the employer and safety personnel must be made available. In particular, even stricter rules are provided for public utility undertakings. Violating any of these conditions, even issues concerning trade unions' internal procedures (decision-making methods), shall render the strike unlawful. Thirdly, a strike may be considered unlawful both on the basis of whether the objectives pursued are unlawful and on the principle of proportionality which allows judges to decide each time whether the benefit anticipated by the strikers is greater than the financial loss to the employer. There is a considerable volume of case-law according to which strikes are declared unlawful on the basis of the principle of proportionality.

Recommendation 1: Current Greek law has an extensive regulation on the procedures for calling a strike. We do not see the need for stricter rules on strikes. It is up to the Greek legislator to define the conditions of a legal strike by respecting the constitutional framework.

3.2.2 Lock-outs

Only in a few European countries, including Greece, are lock-outs explicitly prohibited. In

other countries lock-outs are possible only as a response to a strike while observing at the same time additional restrictions so must not be used as a means to render a strike ineffective. Considering the restrictions given to the right of strike in Greece there is no necessity for the employers to practice a lock-out. This corresponds to the German situation where lock-outs are permitted under certain circumstances but in practice not used during the last 25 years.

There is, however, an additional problem linked to the position of the employer in the case of a strike in his/her enterprise. It does not seem to be justified that the employer has the burden to pay the salaries of non-striking employees if they cannot continue to work because of the strike. This would be especially unjust in cases in which few persons in key positions go on strike making the work of all other employees of the firm impossible.

In such cases the Greek courts accept the employer's right to refuse the services of non-strikers and not to pay their wages, based on the principle of objective inability.

The Court of Appeal in Patras gives a typical example (213/1993, ΕΕΑ 52.978). According to its judgment « *in case of 1) a partial strike which leads to the employer's objective inability to accept the services and 2) a worker who is not member of the striking trade union or who states his/her intention to work or since business operation is not possible due to the partial strike, the employer's refusal to employ the non-striking workers shall not be considered as exercise of the prohibited right to lockout, but the exercise of the right, under article 656 of the Civil Code, to refuse the services of non-striking workers and not to pay them their wages, on condition that the employer shall prove that as a result of the partial strike of a number of specific workers and not due to personal reasons the operation of the business cannot continue*». The issue was obviously solved taking the Civil Code, i.e. its article 656 section a, into account, but this solution is not uncontested.

Based on case-law, the non-striking employees have no right to get paid if they can no more be employed during a strike in their enterprise. To give a right to lock-out in addition to this protection would endanger the balance between unions and employers during collective bargaining.

Recommendation 2: We do not see any urgent reason to remove the prohibition on lock-outs. The provisions on industrial conflict in Greece have established a balance of power between employers and unions; its rules are accepted by both sides. The Greek legislator may clarify that the employer is entitled not to pay non-striking workers if they cannot continue to work because a strike is occurring in their enterprise or their establishment.

3.3. Collective Dismissals

3.3.1 SOCIAL AND ECONOMIC ASPECTS

Collective dismissal is an instrument of the freedom of enterprise, which is particularly adjusted to situations of total or partial termination of business activities, and to situations of economic difficulties which require reorganization and urgent measures of cost reduction. On the other hand, it is generally the way by which massive unemployment is generated, affecting often workers with a limited employability transferring in this way important responsibilities to the social protection system of the country (ILO 2014). The freedom of enterprise is not an absolute right, and collective dismissal, without losing its potential of adjustment, should not be a free totally unrestricted resource for firms. It should e.g. not be used exclusively to increase the shareholder value by closing profitable parts of an enterprise. Collective dismissals may be legitimate in situations of structural changes, economic crisis or loss of competitiveness; for companies it may be an instrument to survive or to restructure their business.

Since collective dismissals often cause substantial social problems, it must be required that firms explore all other adjustment possibilities (like voluntary quits, internal replacement, cancelling of overtime work, voluntary leaves and retraining of workers) in order to reduce the number of dismissals. However, legislation should not prevent necessary collective dismissals, but rather impose certain procedures (like an ex ante check of the economic need, early information of unions, obligation to negotiate a social plan, etc.). There should be an adequate time for negotiations between the social partners. They should be supported in order to find alternative solutions or to cushion the negative social outcomes by redundancy payments or by measures of active labour market policy (placement, retraining) and regional policies (redevelopment of the region or the sites).

One of the key findings from the 2016 “Employment Outlook” of the OECD is that easier firing does not create jobs. Loosening job protection in the middle of an economic downturn results in immediate and substantial job losses (OECD 2016). Therefore, a fair regulatory intervention in the field of collective dismissals should address at least two issues: the ways and means by which the reasons invoked by the employer are evaluated, and, secondly, the

ways and means by which alternative measures aimed at reducing the social impact of dismissals can be defined and put into practice. Are there means to avoid dismissals, e.g. by introducing short-time work? If dismissals take place, which kind of measures can be taken in order to retrain workers and/or to give them an adequate severance pay? The need for this kind of measures is particularly strong in Greece, where compared to other European countries (Knuth, Kirsch and Mühge 2011) instruments are quite rare which aim at facilitating the mobility of redundant workers reintegrating them in the labour market and which guarantee the unemployed a decent standard of living until they find a new job. Apart from the compensation and the low unemployment benefits (which are limited to one year) those made redundant are most of the time abandoned to their fate.

3.3.2 LEGAL FRAMEWORK

Collective dismissals in Greece are governed by Law 1387/1983 which was later amended by subsequent laws, initially transposing Directive 75/129, afterwards Directive 92/56 and finally codifying directive 98/59. These directives are based on three key principles.

First, the obligation of informing the personnel and the competent authorities in order to avoid unexpected dismissals by establishing notice periods. Second, dismissal plans have to be considered jointly by the employer and the personnel in order to find a solution, and third, assistance by the competent public authority can be given.

The Law 1387/1983 provides that eventually collective dismissals should be approved by a public authority to be legal. The Greek legislator has obviously used art. 5 of the Directive which authorizes the Member States to enact rules which are more favourable to workers. Priority is given however to the information/consultation/negotiation process, involving the social partners and aiming at an agreement about the planned measures. If the social partners do not reach an agreement, it is up to the minister of labour or another administrative authority to decide whether the collective dismissal is justified or not. Three criteria have to be observed: the interest of the national economy; conditions in the labour market; the situation of the undertaking.

The intervention of a public authority in collective redundancy cases is well-known in most European national systems (ILO 2014). However, the nature of the intervention varies from Member State to Member State. In some countries, it may consist in assisting the parties to

find alternative solutions (e. g. Estonia and Portugal). In other countries, it may rise to the level of a decision-power, either on the correctness of the procedure or on the results as such, i.e. whether the collective dismissal is well-founded or not.

Waiting for a preliminary ruling

At this point it should be added that for the first time, following a recourse of the employers' side, the Greek Council of State by decision no. 1254/2015 referred the following questions to the Court of Justice of the European Union for a preliminary ruling:

«1) Is a national provision, such as Article 5(3) of Law No 1387/1983, which lays down as a condition in order for collective redundancies to be effected in a specific undertaking that the administrative authorities must authorise the redundancies in question on the basis of criteria as to (a) the conditions in the labour market, (b) the situation of the undertaking and (c) the interests of the national economy, compatible with Directive 98/59/EC in particular and, more generally, Articles 49 TFEU and 63 TFEU?

2) If the answer to the first question is in the negative, is a national provision with the aforementioned content compatible with Directive 98/59/EC in particular and, more generally, Articles 49 TFEU and 63 TFEU if there are serious social reasons, such as an acute economic crisis and very high unemployment?

In this case (Case C-201/15), the Advocate General delivered his opinion stressing that the Greek rule is in contradiction with the freedom of establishment. In his view, this restriction is neither appropriate nor necessary in order to obtain the objective to protect workers.

We think that it is not the task of the Expert Group to discuss whether the Advocate General is right or wrong. Anyway, the dominant opinion within the Group is that it does not seem very probable that the Court will follow the Opinion of the Advocate General, but a clear answer cannot be given. The legal situation is ambiguous.

Another “derogation” from the Directive is related to the required number of workers to be made redundant in accordance with the definition of collective dismissals.

Under Greek law, the term collective dismissal means that the number of workers dismissed is more than six (6) per month in enterprises employing twenty (20) to a hundred and fifty (150) workers and 5% of workers and up to thirty in enterprises employing over hundred fifty workers. These figures were five (5) workers and 2-3% respectively before the memoranda.

The Directive provides for at least ten (10) workers dismissed in enterprises employing twenty (20) to hundred (100) workers and at least 10% of workers for enterprises employing from a hundred (100) to three hundred (300) workers and a different percentage for enterprises employing over three hundred (300) workers. This modification is considered to be in compliance with the Directive and its article 5.

Additionally, it should be borne in mind that Greece ratified the Revised European Social Charter, whose Article 24 regulates the "right to protection in case of dismissal" by requiring ratifying States to recognize the "right of workers not to be dismissed without valid reason related to their ability or behaviour, or based on operational requirements of the undertaking, business or service". This means that the reasons for the collective dismissals – as well as for individual dismissals -- cannot be considered irrelevant and should be checked, both *ex ante* and – if feasible - *ex post*.

3.3.3 OUR FINDINGS

The system of administrative intervention in order to approve or prohibit collective dismissals, which, according to employers, seriously limits the freedom of enterprise, has been applied only in a comparatively small number of cases, and its abolition does not seem to be an actual priority of employers' organizations. In practice the problem created for employers by the veto of the administrative authority concerning their decision on collective dismissals has been solved in various ways, such as gradual dismissals every month, increased amounts paid for compensation in cases of voluntary departures from work, deliberate 'negligence' by the authority to issue a decision approving or not the dismissals within the provided deadline.

The current Greek system does not fully exhaust the possibilities to adopt measures in order to mitigate the consequences of the planned collective redundancies (ILO 2014). For instance, the existing short-time regime is restricted to three months a year. That is not sufficient to overcome a real crisis. The rotation model – as a second option - is a kind of forced part-time work which reduces the income of the employee to 50 %. It is restricted to nine months a year – a rule that does not correspond to the interests of both sides: For the employees it is difficult to live on 50 % of their normal income. For the employer it may be difficult to have enough work to continue with 50 % of his activities and to go to the full functioning of the enterprise during the following three months. These rules are quite rigid and should be replaced by a

more flexible model.

As collective dismissals within the terms of directive 98/59/EC happen rarely in Greece, because 99 % of all enterprises employ less than 20 employees, there should be a common regime for all kinds of dismissals for economic reasons. Possible measures must distinguish between temporary economic difficulties of the undertaking and permanent (structural) ones.

3.3.4 RECOMMENDATIONS

As noted above, the Greek system of administrative authorization for collective dismissals is currently discussed at the European level, in the framework of the Court of Justice. Independent from the positive or negative critiques on the position of the Attorney General of ECJ, it cannot be foreseen which will be the final verdict of ECJ, especially on the issue of the role of Public Administration. Before a decision is taken, we prefer not to make proposals on this point. Of course, a legality control will always be necessary whether the conditions, laid down by the Directive, are respected.

About other relevant aspects of the legal regime of (collective) redundancies, we make the following recommendations:

Recommendation 3: Before dismissing workers for economic reasons employers should consult and bargain in good faith with workers' representatives. According to the economic possibilities of the enterprise, a social plan should be established providing compensations for workers who are confronted with unemployment for an uncertain period. Retraining should be offered to enhance the chances of the affected workers in the labour market. If the financial means of the enterprise and the labour administration are insufficient a European Fund should take over part of the burden.

If there is an economic need to reduce the workforce permanently or to close the enterprise, negotiations with the representatives of the workers are necessary to mitigate the social and economic consequences for the workforce. Besides a minimum compensation fixed by law, the employer and the unions could fix a certain amount of compensation according to the economic situation of the enterprise. They can also differentiate considering the chances of the individual workers on the labour market and the possibility of early retirement.

Compared to a legal compensation scheme, these rules are much more flexible taking into account the needs of the workers as well as the economic situation of the enterprise.

For many workers, retraining for getting a new job will be even more important. In a growing economy which develops new forms of activities and introduces new technologies this is a crucial measure of active labour market policy. In this context, it is an economic as well as a social and political question to decide who will pay the costs of retraining. Will it be exclusively the labour administration or is a mixed financing feasible? In Germany and some other countries, dismissed workers often continue with a so-called transfer company which is financed by the former employer as well as by the labour administration which pays short-time benefits. Indirectly, it is even financed by the workers themselves who renounce to a part of their salary or of their compensation. The transfer company tries to give a new qualification thus improving the chances on the labour market; in some cases, it only improves the ability of workers for making job applications. The individual worker may stay with the company up to one year. If the financial possibilities of the labour administration and the enterprises are relatively modest, one could image a European Fund to take over partially the financial burden.

Recommendation 4: In periods of temporary economic difficulties, short-time work can prevent collective dismissals. Short-time work has to be flexible according to the still existing needs of the enterprise. The employee shall get unemployment benefits from the labour administration or the social security system as a compensation for the hours s/he could not work. At the end of the crisis, the employer can restart full activities with the help of an experienced workforce.

For situations of temporary crisis, one of the alternative measures is short-time work. It means that the daily or weekly duration of work is reduced, even to zero hours. The employee gets unemployment benefits from the labour administration as a compensation for the hours s/he could not work (Eurofound 2009; Ghosheh and Messenger 2013). This is the main difference to the existing rules in Greece. Without this payment the employee would be struck too hard if the working time is reduced by more than one third: living on 50 % of the previous income will not be acceptable for most of the workers.

On the other hand, short-time work is also in the interest of the employer. It gives an incentive to qualified workers to stay with the enterprise instead of looking for another employment in Greece or abroad. Even more important: at the end of the crisis, the employer can restart full

activities based on an experienced workforce whose know-how is crucial for productivity. One can describe it in the following way:

- Production potential can be maintained during a recession, so that when the economy starts to pick up employment can be increased again without the delays associated with the development of new production capacity.

- Firm-specific skills, which, incidentally, are usually embodied not in individuals but in teams, are maintained, so that the eventual upturn is not delayed by protracted on-the-job learning processes.

- So-called scarring effects on employees, which can be observed in virtually all countries when structural change is effected through involuntary unemployment, albeit to varying extents, can be avoided. In this way the costs of the crisis can be reduced, not only for individuals but also for society as a whole, since less money has to be found for welfare benefits and public revenues are increased.

- Excessive demands on labour market policy in a recession can be avoided. When unemployment rises rapidly, the capacities of the labour offices to place unemployed workers in new jobs do not generally increase commensurately. As a result, the quality of active labour market services for unemployed individuals declines, although the labour market situation demands the opposite.

- Social cohesion is strengthened if the costs of the crisis are distributed more evenly among a greater number of employees. Experiences show that job losses tend to be concentrated among very vulnerable groups, such as young people, low-skilled workers and immigrants, who frequently fail to re-enter the labour market altogether, or only at high cost.

The maximum period of short-time work can be fixed by the national authorities. In Germany, it is between six months and two years. During the crisis of 2008/2009, the period was two years as it seemed not very probable that all enterprises would recover earlier. In Italy, short-time work may go until 48 months. As to the size of the enterprises concerned, one could follow German law which applies the short-time scheme even to firms with one employee.

Each model of short-time work has to consider budgetary possibilities and the benefits of alternative measures of labour market policies. In assessing the costs, one should bear in mind that without such a model the costs could even be higher because many more workers would be dismissed and would be entitled to full unemployment benefits. The concrete financial

results seem to be an open question but it is clear that short-time benefits cannot be regarded exclusively as a burden for the public budget.

In some cases, it can be doubtful whether an economic difficulty of the enterprise is of a temporary or a permanent character. It should be up to the social partners to decide this question. If they disagree or if their decision is obviously wrong the authorities granting short-time benefits have a de-facto power of definition: If they do not see any real chance of recovery they are entitled not to pay short-time benefits.

We consider it to be premature taking position on the possible role of the Public Administration in collective dismissals before the arguments of the ECJ become known. The control of legality can be either “ex ante” or “ex post”. The two recommendations given here do not depend on the outcome of the lawsuit pending at the ECJ.

3.4 Minimum Wage and Collective Bargaining

3.4.1 Introduction

In this chapter, we present a set of proposals on the minimum wage and on collective bargaining. Both issues are dealt with together taking into account the fact that the Greek social partners agreed in their joint declaration of 19 July 2016 that the minimum wage should be an object of collective bargaining. To develop and justify this set of proposals we describe first the pre-crisis system (section 2), the changes since 2012 (section 3), the European practice (section 4), the main results of comparative research on the impact of industrial relations (section 5), our findings in hearings with the representatives of the social partners and experts from the government (section 6), and the legal background which has to be taken into account for any reform in Greece (section 7). The chapter ends with the proposed recommendations (section 8).

We are aware that the changes of the minimum wage setting and the collective bargaining systems since 2012 were mainly driven by the intention to bring down wages in a short period for an internal devaluation within the EURO-Zone. The result was a fragmentation and destabilization of the system of collective bargaining and an increase of inequality and poverty. Of greatest concern is that the erosion of collective bargaining with all its negative consequences on wages will continue if the regulatory framework remains as it is.

After the substantial internal devaluation, the country needs a stable regulatory framework for

a recovery. This strategy requires strong, representative social partners, institutional stability and links of collective bargaining and social dialogue with a growth strategy. We do not recommend returning to the previous system, especially not to the wage levels that existed before the crisis, but a modernization in line with European best practice. With a recovery, however, the wage levels should increase with productivity growth and profits. We also propose the possibility of temporary derogations from collective agreements when companies are in serious economic difficulties.

3.4.2 The pre-crisis system

In the pre-crisis period, the extended National General Collective Labour Agreement (EGSSE) set minimum wage standards at the national level covering all employees including the unskilled workers who were not covered by a sectoral or another agreement. The minimum wage standards included seniority and marital allowances. The minimum wage was part of the Greek system of collective bargaining and not a separate institution. The state did not intervene in the negotiations of the social partners on the minimum wage but gave the minimum wage its *statutory* character by providing an automatic *erga omnes* effect in the original legislation.

Employers' organizations and unions could improve these minimum standards in industry or occupational collective agreements. The coverage by collective agreements at 83% was relatively high according to international standards (Visser 2015). There was a strict hierarchy of bargaining levels through the "favourability principle". Lower levels of bargaining could only improve the standards of the higher level bargaining. Collective agreements could be extended if an agreement already covered 50% of the employees in the respective bargaining unit. When agreements were overlapping, both the sectoral and the firm-level collective agreements had priority over the occupational one. If bargaining failed, one side of the social partners had the right to call on the Organisation for Mediation and Arbitration (OMED) for arbitration.

When an agreement expired it continued to be enforced for six months ("time extension"). After these six months expired collective agreement continued to apply as terms of the individual contract between the employer and the employee. The duration of this "after-

effect” was indefinite until the two parties agreed on different terms.

This system was deeply embedded and accepted in the Greek society. It was adopted in 1990 (Law 1876/1990) with the unanimous support of all political parties. Such an unanimity on the collective bargaining and minimum wage systems as in Greece is rare in politics – since mostly distributional issues are highly controversial – and cannot be ignored by the Expert Group.

3.4.3 The changes since 2012

To bring down real and nominal wages for an internal devaluation in the Euro-Zone the Greek collective bargaining and minimum wage systems were fundamentally changed since 2012. The minimum wage was not negotiated anymore but set by the state. It was cut by 22% and frozen at the 2012 minimum wage rate and automatic progression on the seniority premium ladder was suspended. A subminimum wage for under 25 years old workers was introduced at 32% lower level than the previous standard rate. The extension mechanism of collective agreements was suspended and the unilateral recourse to arbitration was abolished.

The EGSEE and the sectoral collective agreements are applicable only to the members of the organisations of both sides. Firm level agreements obtained precedence over sectoral or occupational agreements even when they were less favourable. As well as trade unions “associations of persons” also had the right to negotiate firm level agreements. Former restrictions on the minimum size of the enterprise for collective bargaining were removed. Thus, any “association of persons” can represent employees in signing a firm level collective agreement, as long as three-fifths of the workers in the enterprise participate in such associations. The mechanism of arbitration (OMED) can only be used if both employers and employees agree. This provision was partly reversed in 2014 since the Council of State decided that unilateral appeal to arbitration procedures was guaranteed by the Constitution. The time-extension was reduced to 3 months and the after-effect included only the basic wage and four allowances (seniority, children, education and hazardous work) and not the whole employment terms as before.

The impact of these changes on wages and the architecture of collective bargaining was strong. The coverage by collective agreements fell sharply from 83% in 2009 to 42% in 2013 with a clear further downward trend. The main drivers for this fall were the abolition of the

extension mechanism and the favourability principle which turned around the hierarchy of norms. The number of sectoral agreements dropped from 163 in 2008 to only 12 in 2015. Firm level agreements are now dominating with a clear peak in 2012. In 2012 99% of the agreements signed by associations of persons provided for wage cuts. The removal of the restrictions on the minimum size of companies for firm level collective bargaining was very important taking into account the structure of the Greek economy in which approximately 95% of the enterprises were employing less than 19 employees in 2015.

According to the Hellenic Statistical Authority (2016) the index for wages (2012=100) fell from 116.2 in 2009 to 88.5 in 2015, which means an average decrease of gross wages of about 24%. The loss of purchasing power was even higher since taxes and contributions were raised. Inequality and poverty went up substantially. The income quintile share ratio (80% to 20%) raised from 5.6 in 2010 to 6.5 in 2014 and the risk of poverty or exclusion increased from 27.6% in 2009 to 36.0% of the population in 2014.

3.4.4 European Practice

The most controversial issues concerning the Greek wage system are: (1) the procedures in the determination of minimum wage levels; (2) subminimum wages for young employees; (3) the extension of collective agreements; (4) the favourability principle; and, (5) the duration, time extension and the after-effect of collective agreements. In order to learn from best practices in other countries the Expert Group has considered the regulations in several EU member states in these domains.

(1) Procedures in the determination of minimum wage levels

In all EU member states effective minimum wage levels are either fixed by collective agreements or by law (Eurofound 2016). In countries without a statutory minimum wage (Austria, Denmark, Finland, Italy, Sweden), minimum wage levels are set by collective agreements. In Austria the sectoral agreements and the agreed national minimum wage get general applicability through the mandatory membership of employers in the Chamber of Economy. In Denmark and Sweden, the sectoral agreements are a de facto generally binding norm because of the high trade union membership. In Denmark the social partners agreed on a minimum wage for workers who are not covered by a sectoral agreement. In Finland an independent commission under the Ministry of Social Affairs formally decides whether collective agreements are generally binding. In Italy collective agreements only apply to members of the bargaining social partners but case law adopts collectively agreed minimum

wages as a binding reference for other employees as well. Even in these countries, where there is no national minimum wage, the normative framework for wages setting is deemed to be a matter of collective bargaining.

In 22 out of 28 EU member states, there is a generally applicable statutory minimum wage. The involvement of social partners in determining the minimum wage levels is normal practice. This involvement is necessary since the social partners are the best informed actors on the needs of employees and the affordable minimum wage levels for companies across the industries. They are also important actors - often in close cooperation with the labour inspectorate - in implementing and enforcing the minimum wage. Finally, the minimum wage sets the floor for autonomous sectoral and/or occupational collective bargaining. The governments are also highly interested in the involvement of the social partners because their participation is an effective buffer against political pressures to set the minimum wage either at a too high or a too low level.

According to different national traditions and also the different strength of the social partners their involvement in determining the minimum wage levels has taken different forms in the EU.

- In some EU-countries the social partners negotiate and decide autonomously on the level of minimum wage and the State implements it by statutory order. The procedure in Belgium is quite similar to the Greek tradition. Belgium does not have a minimum wage law. The social partners negotiate the minimum wage in the “Conseil National du Travail”. Also very similar is the German example. The national “Minimum Wage Commission”, with three delegates from the unions and three others from the employers, and an independent chairperson who is jointly proposed by the social partners and nominated by the state, decides on the increases of the MW. The two academics also in the commission do not have the right to vote. In both countries the negotiated minimum wage receives a statutory character by the quasi automatic extension of the agreement.

- In some countries the social partners negotiate on the minimum wage and the State only decides when they do not reach an agreement: such was the case in Slovakia and in Czech Republic in 2016.

- In all the other countries, the social partners are consulted like in France, but the final

decision on the increases is taken by the State. In the UK and also in Ireland an independent Low Pay Commission with selected members from the social partners (not delegated from their organizations) and academics propose each year the increases of the minimum wage. The State may, however, deviate from these recommendations.

All these models are in line with the ILO convention No 131 (Minimum Wage Fixing Convention, 1970). There is no empirical evidence that one model is superior to the other. Research shows, however, how closely the models are linked to the different history and architecture of national wage systems. The State mostly plays a stronger role in determining the minimum wage in countries where collective bargaining is weak and/or social partners have low trust in each other and are not willing to take jointly the responsibility to determine the minimum wage.

The disadvantage of a too strong role of the State may be that the minimum wage is more determined by political than by economic and social considerations. The sensitiveness of the issue to the electoral cycles and to the ideological options of governments is obvious. There are cases in which the state has decided for political reasons on high double-digit increases, like in Hungary in the past, with a negative impact on employment (Köllö 2010), or where the minimum wage was not increased for years, in spite of high productivity and price increases, like in the USA.

If social partners trust each other, one side is not blocking reasonable wage increases so that the State has to step in, and both sides agree to take the responsibility for the minimum wage, this instrument is protected against arbitrary political interventions and the minimum wage will increase smoothly according to economic conditions.

(2) Subminimum wages for young employees

The age threshold for the Greek subminimum wage (25 years) is higher than in other EU countries (Eurofound 2016). Only the UK introduced in April 2016 a lower living wage for young people between 21 and 24 years since this age group was excluded from the recent increase of the minimum wage. However, the level of this subminimum wage – 93 % of the standard rate (GBP 6.70 compared to GBP 7.20) – is higher than in Greece.

Other countries do not have a subminimum wage for young people or have a lower age threshold:

- Many EU countries do not differentiate at all between age groups (like Spain,

Portugal, Croatia) taking into account the low level of their minimum wages and the need to avoid discrimination

- In countries with subminimum youth wages the age threshold is mostly set much lower than in Greece. This is the case for example in France (18 years), Ireland (18 years), Luxemburg (18 years), Netherlands (23 years) and Germany (no MW for young people under 18 years).
- Some countries have subminimum wages for job starters. In Poland an 80% rate applies to persons in their first year of employment. In Belgium and France, besides age, work experience is an additional criterion for the level of the subminimum wage.
- Some countries have subminimum rates for apprentices (UK, Ireland, Portugal) or employees in structured training (Ireland, Portugal) independent of age.
- Some countries exempt apprentices (France, Germany) or students in internships up to three months as far as these are part of established university curricula (Germany). The training allowances of apprentices are set by collective bargaining in Germany and France and differ by industry.
- Some countries have higher rates for skilled workers (Luxemburg, Hungary).
- Subminimum wages seem often not helping young people to find a job and may lead in practice to a labour market discrimination of experienced young employees.

A summary of international research on youth minimum wages for the British Low Pay Commission came to the conclusion: “*The size of employment effects from the introduction of a minimum wage, or increases in existing minimum wages for young people in general are extremely small and in the margins of statistical significance in the great majority of studies survey*” (Croucher and White 2011: 91).

To our knowledge, the impact of the Greek subminimum wage has not been evaluated. However, sceptical voices may find support in a simple comparison of the employment rates of young people (without control of other factors). After the reform of 2012 had been implemented, it would be reasonable to expect a smaller increase of the unemployment of the young employees below the age threshold of the subminimum wage than of the age above this threshold (25-29). To take into account seasonal effects we compare the figures for the same quartile of the years for 2012 (q1) and 2016 (q1). According to data from the Greek Labour Force Survey from the Hellenic Statistical Authority, the employment rate for employees between 20-24 years went down by 13.04% and that for employees between 25-29 years by

9.60%. Although the younger workers received a subminimum wage their employment rate had suffered larger reduction than that of the older workers.

Although the debate on the impact of youth subminimum wages remains controversial, researchers mostly agree that other instruments to fight youth unemployment are more promising routes (see a summary of the literature in Anxo, Bosch and Rubery 2010: 14-22). These include the improvement and expansion of vocational training according to the needs of the future labour market, especially by introducing an apprenticeship system, and economic growth strategies which create more job opportunities for young people. The importance of economic growth for the highly varying youth unemployment rates in the EU is shown in Figure 1. This figure also supports the view that the extremely high youth unemployment in Greece cannot be effectively reduced by subminimum wages for young people.

Figure 1: Correlation between the change of the nominal GDP (in percentage points) and the increase in youth unemployment (15 to 24 years) (in percentage points) between 2008 and 2015 in the EU member states



Source: Bosch 2015 (calculations based on Eurostat 2015; European Commission 2015: Statistical Annex of European Economy, pp: 18-19)

(3) Extension of collective agreements

Only in six EU member states there are no legal rules about extension. In two of these six countries (Denmark and Sweden), the wide coverage by collective agreements is due to the high trade union density in these countries, and it is already so high that such an instrument is not needed.

The majority of the EU-member states has legal provisions to extend collective agreements. In some countries these provisions are frequently used for most sectoral agreements, in other countries the extension mechanism is only used in some industries. Other countries, finally, have functional equivalents to an extension mechanism which we partly already described in the section on the determination of minimum wages. As can be seen in Table 1 there has been considerable change in the availability of this instrument for the social partners since the recent crisis as a result of administrative suspension in some cases and regulatory changes in others.

Table 1: Use of extension of collective agreements in EU28, Norway and Switzerland

Frequently The majority of sectoral agreements are generally Applicable.	Belgium, Finland, France, Luxembourg, Netherlands (Spain until 2010; Slovakia 2006 -2011; and Greece, Portugal and Romania until 2011).
Limited Only a limited number of sectors have agreements that are generally applicable.	Austria*, Bulgaria, Croatia, Czech Republic , Germany, Norway, Ireland, Slovenia, Switzerland (Portugal since 2012; Slovenia since 2010; Slovakia 2011 – 2013; Spain after 2010 and regulatory reforms).
Rarely Agreements that are generally applicable are very rare	Estonia, Hungary, Latvia, Poland (Romania since 2012)
Functional equivalents Most sectoral agreements are de facto generally applicable	Austria, Italy (Slovenia until 2009).
No legal requirements for extension	Cyprus, Denmark, Malta, Sweden, United Kingdom, Lithuania (Greece: suspension of extension mechanism since 2012).

* Only in sectors and professions that are not members of the Austrian Economic Chamber.
Source: ILO (2016a: 10).

Because of concerns that “insiders” try to generalize their collective agreements at the expense of “outsiders”, in all countries the extension is conditional on defined procedures and additional criteria of representativeness of the bargaining partners or of public interest. The procedures may require the involvement of other parties like a tripartite Commission in Croatia or Switzerland, or the Central Bargaining Committee in Germany. The criteria of representativeness require a certain size of unions across the country (Bulgaria, Norway) or of employers (Spain), a certain percentage of votes in workplace elections (Luxemburg, France) or a certain percentage of coverage (Netherlands 55%, Bulgaria 25%, Finland, Slovenia, Switzerland, Portugal and Germany 50%). Some countries have additional rules for sectors with less developed collective bargaining and lower representativeness. In these cases, extension is possible if there is a defined “public Interest” like in Germany, Croatia, France, and the Netherlands. In Norway a public interest is especially seen in sectors with high levels of foreign workers including posted workers, and in Switzerland in industries with high turnover (such as hotel, tourism and services sectors), because there had been strong evidence that in such industries it proved extremely difficult to develop autonomous collective bargaining.

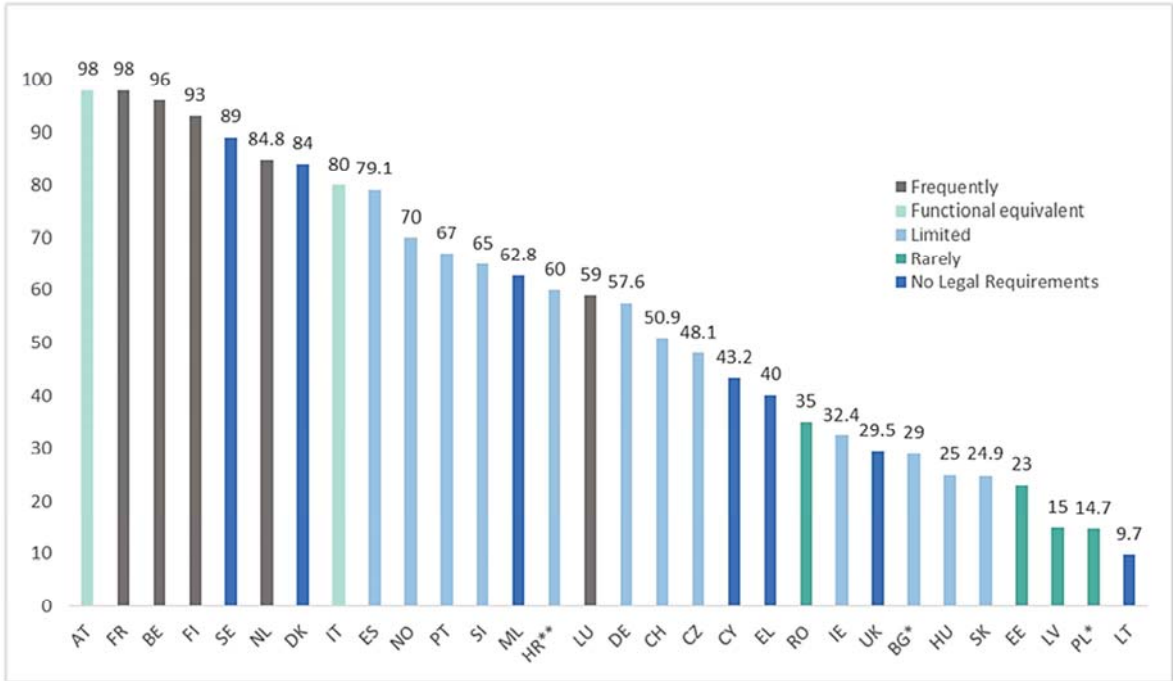
Exemptions from extension decisions -- for example for small or medium sized companies -- are not known in the EU, since the main goal of the extension rule is to cover all employers

and employees in one bargaining unit, including small and medium sized companies in which the bargaining power of employees is low. The “public interest” criterion for the extension of collective agreements has been introduced in some countries with the special focus on small and medium sized companies.

The use of the extension mechanism is high as can be seen in Figure 2. It clearly increases and stabilizes the coverage by collective agreements, while creating incentives for employer’s to join an employers’ association. Since employers do not have the possibility to opt-out they rather join the employer’s association to have a voice in the negotiations.

In the literature on industrial relations it is often seen that also the scope of collective bargaining can be broadened with the help of the extension mechanism. Agreements on new issues like levy systems for apprentices, further training or occupational pensions can only be implemented with the erga omnes rule to avoid free-rider-positions (like poaching of trained workers) or competitive disadvantages of the covered companies. It can also help to modernize industries for example by introducing new compromises on working time flexibility and pay scales which are then implemented at a large scale and not firm by firm.

Figure 2: Collective bargaining coverage and extension EU 28, Norway and Switzerland



Source: ILO (2016: 11)

(4) Favourability principle

In most European countries collective agreements end up being legally binding. As a complement there is the favourability principle that requires collective bargaining agreements to be binding to the negotiating partners and apply to the employers and employees on whose behalf the agreement is concluded. The binding character of the agreements is the precondition for wholehearted negotiations without second thoughts of noncompliance after the negotiations.

According to the ILO (2016), Bulgaria, Cyprus, Latvia, Malta and Romania do not allow derogations from collective agreements. Most of the other countries leave it to the social partners to define the specific conditions under which a derogation may be possible and the specific labour standards from which can be deviated. A very recent law in France allows derogations in working hours through company agreements. In the last two decades, in some countries (e.g. Germany, Italy) the social partners agreed in some industries on so-called opening or hardship clauses that allow temporary derogations from the collective agreement if the company is in economic difficulties.

Opening or Hardship clauses in Germany

In the German engineering industry, for example, the company has to provide detailed information on its economic situation. Normally the union -- not the works council -- has to sign any deviating agreement. An evaluation of around 850 of such deviating company agreements in Germany shows that in most cases this leads to a “negotiated decentralization” since the unions negotiated, in return (*quid pro quo*) for concessions in working hours and wages, guarantees of continuity of the location, of absence of dismissals and/or investments promises in equipment or skills. IG Metall monitored these deviations thoroughly and could make sure that mostly only companies in economic difficulties made use of these derogations and went back to the agreed standards after the termination of such agreements (Lehndorff and Haipeter 2011).

It seems, however, difficult to assume that this good experience can be transferred to industries and countries with many small and medium sized companies and weak employee representation at the company level. In such an environment the employees may remain unprotected without the favourability principle, as it seems to be the case in Greece with the deviating agreements signed by the so-called “associations of persons”, employee representatives without bargaining power.

(5) The duration, time extension and after-effects of collective agreements

In most EU countries the duration of the agreements is agreed upon by the social partners themselves (for example Austria, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Spain, Sweden, UK) (ILO 2016a). In many countries, the social partners have more than one agreement in one bargaining unit, with a different duration depending on the content of these agreements. In Germany for example wage agreements usually have a duration of one to 2 years while agreements on big reforms, like the introduction of a new joint pay scale for white and blue collar workers, have an unlimited duration and are only renegotiated if one party gives notice. Interventions on the freedom of social partners to decide on the duration of collective agreements reduce indirectly the scope of negotiations.

In most European countries, the duration of the time-extension is much longer than in Greece. In Germany, in the case of ending the membership in a union or an employers' association, it is unlimited, until the rules of the collective agreement are changed. In Portugal, where unlimited duration existed as a general rule, the minimum duration of time extension is now 12 months and, if a collective bargaining process takes place, it can be extended to 18 months. In Spain, since the legislative reform in 2012, the time extension of collective agreements has a normal duration of one year. On the other hand, the scope of the after-effect – the “acquired rights” that remain in the sphere of each employee beyond the termination of the collective agreement, i. e. after the end of the time extension – is generally defined by the parties themselves, and law only intervenes when there is no agreement on the issue (e. g. Portugal, Spain, Germany). An imperative restriction by law excluding most of the clauses from the after-effect does not belong to the European regulatory models in this field.

The analysis of European practices on minimum wages and collective bargaining brings us to conclude that

- the determination of the minimum wage through the social partners is not unknown in Europe and is definitely a good practice if the social partners trust each other
- the age threshold of the youth subminimum wage is unusual and unnecessarily high in Greece
- the extension of collective agreements is common and an accepted practice in Europe and increases the incentives of employers to join employers' associations in order to have a voice in the negotiations

- the favourability principle is the guiding principle in European collective bargaining; derogations are increasingly accepted when the social partners determine the inherent conditions and procedures
- it is common practice that the social partners decide on the duration of the collective agreements; the time extension is generally longer than 3 months and the after-effect is not limited in its scope.

Our general conclusion that the traditional Greek model is not exceptional in the EU. It has many similarities with the Belgian, German and Finish models. It also worked well in the past. The Greek social partners always found a compromise on minimum wages without going to arbitration and without provoking state intervention. Another conclusion of us is that the extension of collective agreements is a widely and successfully used instrument in the EU. It has been weakened or abolished mainly in countries in crisis to bring down wages in a short time, which, however, is not a recommendable recipe for a sustainable system of collective bargaining in a process of economic recovery.

3.4.5 Main results of comparative research on the impact of collective bargaining

All relevant studies on the impact of collective bargaining on wage dispersion demonstrate that wage inequality is lower in countries with multi-employer bargaining and high-level minimum wages. A recent study of the IMF on the impact of different wage-setting procedures found that “the erosion of labour market institutions in the advanced economies is associated with an increase of income inequality” (Jaumotte and Buitron 2015: 27). The recent developments in Greece confirm these findings.

The changes to the Greek system of collective bargaining were driven by the consideration that a decentralization of the wage setting system would increase labour market flexibility and boost job creation. The higher income inequality was regarded as the price which unfortunately had to be paid for better employment outcomes.

The empirical comparative research on the impacts of collective bargaining does, however, not support the assumption of such a simple nexus between decentralization and economic efficacy. The main results of some of the most recent studies and reviews of existing empirical studies (ILO 2016b; Hayter and Weinberg 2011; Braakmann and Brandl 2016; Eurofound 2015; Traxler, Blaschke and Kittel 2001) are:

- The efficacy of centralized and coordinated wage-setting-systems is higher than of fragmented, uncoordinated and decentralized systems. Criteria for efficacy were mainly the reduction of unemployment, real wage increases in line with productivity growth, income distribution and productivity effects.
- The articulation between different levels of bargaining and the governability of the whole system is more important than a single institution for sustainability, flexibility and performance.

The statistically highly sophisticated studies on the economic impacts of national collective bargaining systems do often not explain the reasons for the positive outcomes of coordinated wage systems. Country and industry case studies on industrial relations have opened this “black box” and help us to understand these reasons. Collective agreements with a high coverage or general applicability:

- create a levelled playing field for companies. They can invest in skills and retain experienced employees by paying decent wages without being undercut by competitors who are not covered by a collective agreement;
- direct the competition between companies from wage reductions to improvements of the work organization and quality of the products or services;
- reduce transaction costs for companies in creating accepted procedures for setting labour standards. This is especially helpful for small and medium sized companies without own human resource departments and/or tight financial resources;
- establish social peace by the creation of accepted social norms;
- create incentives for employers to join employers’ organizations in order to have a voice in collective bargaining;
- enlarge the distributional coalitions and increases the probability that macro-effects on employment and inflation are taken into account;
- reduce bureaucracy in the economy by adapting labour standards to the specific needs of different industries and unburden the state from interventions in wage setting;
- extend the scope and the time horizon of collective bargaining. This supports negotiations on new issues like skill improvement, innovation or productivity growth;

- may help to reduce the gender pay gap if the social partners agree on this issue and proactively undertake joint efforts to reduce this gap;
- helps implementing the principle of equal pay for equal work across sectors and the whole economy;
- improves the social protection of vulnerable workers who do not have bargaining power.

Research also shows that these positive impacts do not come automatically. With defensive actors centralized and coordinated collective bargaining might for example remain narrow in scope and be concentrated only on short-term distributional issues. Therefore, positive outcomes can only be expected when:

- strong, representative and reasonable social partners take into account the needs of different groups of employees as well as of different types of companies especially the needs of SME's;
- social partners develop trust so that they negotiate in good faith;
- social partners undertake joint efforts to include new issues on the bargaining table like the integration of young people, productivity, innovation, growth, skill enhancement and gender equality;
- the state unambiguously supports collective bargaining through a stable regulatory framework.

This short overview of the recent research shows that countries have choices and that there is no inevitable trade-off between inequality and employment. It also shows that coordinated wage-setting systems have better outcomes than fragmented collective bargaining as in the present Greek system. These positive outcomes, however, are not the automatic by-product of formal regulations but require committed pro-active actors and a stable, reliable and innovative institutional framework. It is also known from best practices, especially in the Northern European countries, that the state plays an important role in the creation of an innovative environment which encourages the social partners to extend the scope of negotiations on new issues like productivity or skill improvement.

3.4.6 Our findings

In our analysis of the Greek labour market and the system of collective bargaining, as well as in the hearings with experts from the government and the representatives of unions and employers' associations at national and industry level, we came to the following conclusions:

- The trust between social partners is high in Greece. This has been expressed by the social partners with very strong emphasis and independently from each other. Such openly expressed exceptional high trust cannot be found in many other countries and is not a secondary matter in a difficult social and economic situation as in Greece today. This trust is a valuable social capital and an indispensable resource of all future growth strategies.
- The needs of the small and medium sized companies are taken into account. Big companies are not dominating in collective bargaining and setting unaffordable labour standards for SME's.
- The social partners are understanding the difficult situation of the Greek economy and they are willing to take responsibility without going back to the old system.

We, however, have also concluded that:

- the scope of collective bargaining in Greece, compared to other European countries, is relatively narrow and does not sufficiently include new issues like lifelong learning, integration of young people, working time flexibility, reduction of the gender pay gap, improvements of work life balance or productive improvements.
- the "National General Labour Collective Agreement 2014" is a promising step forward with its declared interest to cooperate on new issues like Vocational Training, Social Welfare, Competitiveness, Entrepreneurship and Innovation which, however, still have to be substantiated and implemented. This, however, depends also on the substantiation and implementation of a long term skill and growth strategy of the Greek state.
- white and blue collar employees are not always treated equally.
- the gender gap in the economy is high (ILO 2013).
- pay depends too much on seniority, which discriminates against young employees and may also disadvantage older employees if they compete with cheaper younger employees on the labour market -- which is increasingly the case in the hyper-flexible Greek labour market with its high turnover. However, we agree that work experience in a company or a sector helps accumulating knowledge and skills and improving productivity. Pay increases according to

improved productivity are not only rewarding higher productivity but also helping companies in retaining experienced workers.

Changing the content of a collective agreement and extending its scope has to be negotiated by the social partners themselves. They have to agree on these issues themselves and develop specific solutions for the Greek labour market. This is crucial for the acceptance of such changes by the companies and the employees and the precondition of a successful implementation of new modernized labour standards.

3.4.7 The legal framework for the recommendations

The guiding principles on wages are contained in the European Social Charter which refers to the “right of workers to such remunerations as will give them and their families a decent standard of living” (art. 4 § 1). The Community Charter of Fundamental Social Rights of Workers (1989) states that an “equitable wage” is a basic social right (art. 5). The EU Charter of Fundamental Rights clearly declares that “every worker has the right to working conditions which respect his/her health, safety and dignity” (art. 31 § 1).

The ILO-Conventions n. 26 (1928) and 131 (1970) provide for criteria which should be observed when fixing the minimum wage: the needs of workers and their families, the general level of wages in the country, the cost of living, social security benefits and the living standard of other social groups.

With regard to collective bargaining, no explicit guarantee can be found in the Greek Constitution. However, article 22 § 2 of the Constitution mentions collective agreements and art. 23 § 1 obliges the State to protect trade union rights. Art. 23 § 2 guarantees the right to strike exercised by the trade unions; as a general rule they use it within the framework of collective bargaining. In addition, as for other EU Member States Greece is surrounded by a huge set of rules on collective autonomy at European and international levels.

EU level:

Art. 28 of the EU Charter of Fundamental Rights guarantees the right to collective bargaining stemming

a) from art. 6 of the European Social Charter providing specific measures “with a view to

ensuring the effective exercise of the right to bargain collectively“ and

b) from the right to negotiate and conclude collective agreements in art.12 of the European Community Charter of 1989.

International level:

ILO Convention n. 98/1949 on the application of principles of the rights to organize and to bargaining collectively. They include a reference to a duty of states to “encourage and promote the full development and utilization of a machinery for voluntary negotiation between employers or employer’s organizations and unions with a view to regulation of terms and conditions of employment by means of collective agreements” (art.4).

ILO Convention n.150/1978 on the obligation of the States to make arrangements “to secure, within the system of labour administration, consultation, cooperation and negotiations between public authorities and the most representative organizations of employers and workers or, where appropriate, employers and workers representatives” (art.5 § 2).

ILO Convention n. 151/1978 concerning the protection of the above rights for public services imposes on the States the duty “to encourage and promote the full development and utilization of machinery for negotiation of terms and conditions of employment between authorities concerned and public employees organizations or of such other methods as will allow representatives of public employees to participation in determination of these matters” (art.7).

ILO Convention n. 154/1981 gives a large definition of collective bargaining as implying: “all negotiations which take place between an employer, a group of employers or one or more employers’ organizations on the one hand, and one or more workers’ organization on the other, for

- determining working conditions and terms of employment and /or
- regulating labour relations between employers and workers and/ or
- regulating relations between employers or their organizations and workers’ organizations”

The same Convention states that “national practices may determine to which the term ‘collective bargaining’ also extends, for the purpose of this Convention, to negotiations with these representatives” (art.3(1) and in this case “appropriate measures shall be taken, wherever necessary, to ensure that the existence of these representatives is not used to undermine the position of the workers’ organizations concerned” (art. 3 §2).

ILO Recommendation n.91 (1951) states that appropriate machinery must be established “to negotiate, conclude, revise and renew collective agreements” (art. 1(1). It differs from the former Convention as regards the definition of the parties to collective agreements including among the negotiators also ”in the absence of such an organization, the representatives of the workers duly elected and authorized by them in accordance with national law and regulations “ (art. 2 §1) .

ILO Recommendation n.163 declares that members must take all measures “to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers’ and workers’ organizations recognized for the purpose of collective bargaining” (art.2). According to this Recommendation collective bargaining is possible at any level including that of establishment, undertaking, branch of activity, industry or at regional or national level.

Autonomous collective bargaining is an essential element of the European social model. It is not only a source of provisions elaborated by free social partners, but also one of the Core Labour Standards binding all ILO-Member States. It serves as an instrument in facilitating the implementation and application of the law of the European Union (e. g. art. 11 Directive 2002/14/EC). But still more important is the fact that it is an essential part of democracy by giving working people a say. It is an instrument of participation in economic decision making, composed by substantial and procedural features and not just instrumental in reaching economic efficiency. This was confirmed by the European Court of First Instance in its decision of 17 June 1998 (Case T-135/96).

Collective autonomy cannot be ignored or brushed aside in the preparation of measures to respond to situations of economic, financial and social crisis. An economic emergency cannot justify a “state of exception” in relation to such a fundamental principle of all European regulatory systems. The structural role of collective autonomy is recognized not only by international and EU law but also by the written and unwritten constitutions of the EU-Member States.

3.4.8 The recommendations

The changes in the regulatory framework of the minimum wage and collective bargaining

since 2010 in Greece were mainly driven by short-term considerations to effect an internal devaluation. The internal devaluation was effected (a) by direct interventions in wage setting, and (b) by weakening the institutions of national and industry-wide collective bargaining to bring back wages into competition. The major instruments were: the reduction of the minimum wage and elimination of collective bargaining on the issue, the abolition of the principle of favourability, the abolition of the prerogative of unions in negotiating derogations at establishment level, restricting time-extension and the scope of the after-effect of collective agreements, the temporary suspension of the extension mechanism, weakening of the arbitration mechanism, and direct interventions in public collective agreements to cut agreed wages.

The former hierarchy of norms, with the predominance of national and sectoral agreements was abolished and company-level bargaining or unilateral decisions of employers not being members of an employers' organization became the dominant mechanism of wage setting.

The impact of these interventions on wages was extremely strong. Between 2009 – 2013, average wages fell substantially. The intended internal devaluation was reached in a very short period. The negative side effects were a substantial increase of income inequality and increasing levels of poverty. In addition, the coverage by collective agreements decreased substantially and the social partners were weakened so much that they lost their capacity to set wages in the labour market.

With the current national rules, the erosion of national and sectoral collective bargaining has not come to an end and will even continue the next years, since employers are less and less able to sign collective agreements if not all companies of a sector are covered. In consequence inequality and poverty might even increase above the already high levels of today.

The changes of the minimum wage and the collective bargaining system in the last years can be characterized as a unilateral and defensive reaction to the crisis. After many short-term interventions in the Greek labour market during the last years, the necessary return to a long-term growth path requires a stable regulatory framework. Such a strategy requires strong, representative social partners, institutional stability and links of collective bargaining and social dialogue with a growth strategy.

The regulatory framework of minimum wages and collective bargaining needs to be revitalized and state interventions in areas that belong to the freedom of negotiation should come to an end. This is the precondition to enable the social partners to negotiate on the above

mentioned new topics as well as on the reduction of the unacceptable high levels of income inequality and poverty, to release SME' from transaction costs and to create a stable environment for investors as well as for the employees and their families.

On the base of these considerations, we propose the following changes of the legal framework for minimum wages and collective bargaining:

Recommendation 5: The social partners should decide on the increases of the Minimum Wage after consultations with independent experts taking into account the situation of the Greek economy and the prospects for productivity, prices, competitiveness, employment and unemployment, incomes and wages. Their agreement has automatically an erga omnes effect.

The involvement of the social partners in fixing the minimum wage is normal practice in Europe and many countries outside of Europe. This involvement is necessary, since the social partners are the best informed actors on the needs of employees and the affordable minimum wage levels for companies across the industries. According to different national traditions and wage systems, the involvement of social partners in the minimum wage setting has taken different forms in the EU. In some countries, social partners decide on the level of the minimum wage and the state implements it by statutory order. In other countries, social partners are consulted, but the final decision on the increases is taken by the state, like in France. Both models are in line with the ILO convention No 131 (Minimum Wage Fixing Convention, 1970).

There is no evidence that one model is superior to the other. Research shows, however, how closely the models are linked to the different history and architecture of national wage systems. The state mostly plays a stronger role in determining the minimum wage in countries where collective bargaining is weak and/or social partners have low trust in each other and are not willing to take jointly such responsibility. If social partners trust each other, one side will not block reasonable wage increases. The instrument of the Minimum Wage is protected against arbitrary political interventions and it will increase smoothly according to the economic conditions.

In the hearings of our commission with the social partners in Athens, both sides agreed unanimously that they would like to negotiate the minimum wage again in the future. We were concerned that probably the interests of small and medium sized companies were not sufficiently taken into account. The representatives of the employers' organizations and

especially those with many members from small firms assured us that their interests were taken into account and they often were the mediators between the unions and other employers. All organizations of the social partners agreed that these negotiations had taken place in full trust in the past and that this trust still exists. They also expressed their view that the economic situation has changed and that a fast return to pre-crisis minimum-wage levels, and increases of the minimum wage like before 2009, would not be recommendable nor possible in the near future.

To make sure that the situation of the Greek economy is taken into account, a consultation process with independent experts – as already fixed in Law 4172/2013 - should precede the decision of the social partners.

Recommendation 6: The youth subminimum wage will be replaced by a subminimum experience rate of 90% in the first year of work experience and 95% in the second year of work experience. Apprentices and students in internships of up to three months which are formalized in their curricula are exempted. The social partners decide on the pertinent subminimum wages and their increases.

Subminimum wages for inexperienced people are justified as long as they are still learning on the job; the lower wages reflect their lower productivity. In this way, the transition from school to work can be facilitated. For legal reasons, we prefer a subminimum wage related to work experience instead of age although in practice mostly young people will receive this subminimum wage.

EU legislation prohibits discriminations based on (young or old) age. The European Court of Justice had to decide whether the German collective agreement (CA) for the public service was compatible with this principle: The CA had defined the salaries of newly hired persons according to their age. An employee starting to work at the age of 21 earned less than another person hired at the age of 27 both having no professional experience and doing the same job. The ECJ decided that there was discrimination for reasons of age (ECJ 8 September 2011 – C 297/10, C-298/10 – Hennigs). There is a high probability that the Court will decide in the same way, if the concrete case does not deal with clauses in a collective agreement but with a statutory subminimum wage based on age; the problem of an unequal starting point is the same.

This view is confirmed by a new study requested by the Committee on Constitutional Affairs of the European Parliament dealing with the role of the European Social Charter in the

process of implementation of the EU Charter of Fundamental Rights (de Schutter, 2016). It refers to a decision of the European Committee of Social Rights which expressed the opinion that the Greek subminimum wage might violate article 4 § 1 of the Social Charter guaranteeing a decent wage and then continued (de Schutter, op.cit. p. 34): “In addition, because ‘the extent of the reduction in the minimum wage, and the manner in which it is applied to all workers under the age of 25, is disproportionate even when taking into account the serious economic crisis facing Greece’, the Committee considered that this measure, though it was introduced with the aim of encouraging the entry of young workers in the employment market, led to a discrimination on grounds of age, in violation of the reference to non-discrimination made in the preamble of the 1961 Charter.”

Work experience is an objective reason used also in economic argumentation of subminimum wages to facilitate the transition from education to work. In addition, age is a less reliable indicator of work experience than in the past when most young people entered the labour market after secondary education. With the extension of higher education, and in periods of high unemployment, many young people enter the labour market later than in the past. If they are older than 25 years in their first job, they are entitled to get the adult rate of the minimum wage although they have no work experience; this could make their transition into the labour market quite difficult.

The social partners will have to bear in mind that article 4 § 1 of the European Social Charter has to be respected even in defining the wages of inexperienced workers.

The planned implementation of an apprenticeship system in Greece should not be hindered by the minimum wage regime. Companies will not engage in dual training and recruit apprentices if the costs are too high. At present the minimum wage for apprentices is set at 75% of the subminimum wage for young people for six hours of work a day. The social partners should decide on the concrete amount of the training allowances in the future. Article 4 § 1 of the European Social Charter does not apply in such a case.

Recommendation 7: Representative collective agreements can be extended by the state on the demand of one of the negotiating parties at sectoral or occupational level. Collective agreements are representative if 50% of the employees in the bargaining unit are covered. The government and the social partners establish an administrative system for a reliable monitoring of the number of employees. In the case of severe problems in the respective labour market (high turnover, high share of low wage earners, distortion

of competition) or in the case of another public interest (introduction of an apprenticeship system, etc.) extensions are also possible. The decision on the extension of an agreement is taken by the Minister of Labour after having consulted the social partners.

Collective agreements that extend beyond the immediate workplace or company level are rightly seen as one of the unique institutional features of the European social model. Our proposal is informed by good practice in many European countries. An extension because of a “public interest” also follows European best practice to guarantee decent wages in only loosely organized parts of the labour market, in which unions and employers are unable to develop stable industrial relations, and to encourage agreements in new fields (an occupational pension system, levy system for apprentices etc.). Such new agreements are in the general interest and only work if all companies in an industry are covered.

Recommendation 8: Wage agreements made at lower level cannot undercut national/sectoral agreements made at a higher level (favourability principle). The social partners, however, should agree on opening clauses on specified issues which allow temporary derogations from sectoral or occupational agreements (but not from statutory standards) in the case of urgent economic and/or financial needs of the company. Derogations can only be agreed upon by the social partners who signed the respective agreement.

The favourability principle guarantees that the labour standard agreed at national or sectoral and occupational level becomes the dominant norm and creates a level playing field for companies. This is the precondition for stable multi-employer collective bargaining and the dominant norm in the European Union. It creates incentives for employers to join an employers’ organization to have a voice in collective bargaining. The representativeness of collective bargaining will be improved. Without this principle, opting-out and/or a fragmentation of collective bargaining becomes the normal case.

In times of a severe company, industry or national economic crisis, however, temporary deviations from these norms might help companies to survive and return to profitability. Therefore, the possibility of derogations through so-called opening- or hardship clauses has been practiced by social partners in some EU countries. The conditions for these derogations must be strict, since otherwise permanent opt-out from collective agreements would become the norm, resulting in an erosion of collective agreements. Therefore, we propose that

derogations must have the approval of the unions and employers' organizations which signed the respective agreement and are allowed only temporarily. The social partners should specify the issues, procedures and the time horizon of derogations. If they do not agree, arbitration is possible in the same way as in other cases of collective bargaining.

Recommendation 9: The time extension, the after-effect and the duration of collective agreements are decided by the social partners themselves. If they do not take a decision on the first point, the time extension will be six months; if the second point is not regulated by collective agreement, the after-effect includes all agreed labour standards; if the third point is not regulated by a collective agreement, the latter can be terminated with a notice of three months.

The reduction of the time extension to three months creates an unnecessary pressure on the social partners to negotiate a new collective agreement which can be a very complicated matter. As to the after-effect, it has been shown above that in most European countries its scope is much wider. In Germany the time extension is unlimited until the old agreement is replaced by a new one. In Portugal, where the same rule existed, the minimum duration of the time extension is 12 months and, if a collective bargaining process takes place, it can be extended to 18 months. In Spain, following the legislative reform in 2012, the time extension of collective agreements has a normal extension of one year.

Strict limits on the duration of collective agreements intervene in the freedom to negotiate of the social partners. Especially if they bargain on the new issues we mentioned above, there might be the need for collective agreements with a much longer duration. For example, agreements in Germany on the step-by-step reduction of seniority pay in the public service, the introduction of joint pay scales for white and blue collar workers in the chemical and in the metal industries have an unlimited duration if neither of the partners gives notice. In our view, the social partners should be free to define the duration of the collective agreement and the notice periods and procedures.

It makes sense to conclude wage agreements, especially in a turbulent environment, only for one year. However, even a shorter period may be desired by both sides in order to try a new rule or to have some framework conditions clarified after some months. Agreements on other issues than wages can be implemented only over a longer period and only under the condition of a stable and reliable regulatory framework. The existing strict time limits have the side

effects of preventing social partners from concluding more innovative, forward-looking agreements.

Recommendation 10: If social partners cannot reach an agreement, the terms of an agreement may be established through arbitration preferably when both social partners agree on this. Unilateral arbitration should be the last resort as it is an indication of a lack of trust. The system of arbitration was renewed recently and should be evaluated at the latest within two years to assess its role in collective bargaining.

According to the Supreme Court of Greece (Areios Pagos, Decision 25/2004), the unilateral right to arbitration for trade unions is guaranteed by the Greek Constitution. This principle provides both parties with the possibility to balance their opposing interests for the sake of industrial peace.

During the 1992-2008 period, arbitration decisions were widely used and were the basis for one in four occupational and sectoral agreements and for one in 20 enterprise collective agreements. Employers are critical that the arbitration system exhibits a ‘shadow effect’ in terms of the substance of voluntary negotiations, limiting the agenda of bargaining. Unions see the role of arbitration as having been an important instrument for addressing two issues. The first was the general lack of union representation in the private sector that would then have provided the basis for effective mechanism for the determination of wages and other terms and conditions of employment. In this respect, the arbitration system acted, in effect, as a mechanism to promote inclusiveness. The second issue concerned the high share of small and medium-sized enterprises in the Greek economy, where trade unions have been traditionally weak or mostly even absent: in this case, the arbitration system was seen as a means for protecting the economy from the development of competition on the basis of labour costs. In 2014, the Greek Council of State held that the abolition of the unilateral right to arbitration was unconstitutional.

Under the new legislation, the unilateral right to arbitration was re-instated. Furthermore, new procedures were introduced for the adjudication of disputes, including the following: where the application for arbitration was submitted unilaterally, the adjudication of the dispute would take place through a 3-member arbitration committee (and not a single arbitrator); additional business-related information should be submitted, including changes in the competitiveness, in unit labour costs and the economic situation of weak performing companies in the sector; appeal procedures were introduced, involving a 5-member committee

within OMED at a first level, but also the civil courts.

Following the decision by the Council of State and the introduction of legislation re-instating the unilateral right to arbitration (albeit with certain changes in the arbitration process), the number of arbitration decisions started to pick up in respect of sectoral and occupational agreements, but not to the extent as before 2010.

On the basis of the decision by the Greek Council of State that re-affirmed the constitutional recognition of the unilateral right to arbitration, the fact that the changes in the arbitration procedures were introduced only recently and the empirical evidence suggesting that trade unions have so far been cautious in using the amended procedures, it would not be advisable to consider further changes too quickly. Therefore, we propose a proper evaluation of the actual functioning and concrete implications of the new arbitration procedure by the end of 2018.

In addition, we formulate two recommendations which, by their nature and content, do not require specific justification beyond what is apparent from the considerations developed in this report.

Recommendation 11: The social partners should negotiate on the issues of seniority pay, equal treatment of white and blue collar workers, life-long learning, productivity and innovation and the integration of young people, considering the critical comments contained in this report. Since some of these issues are closely linked with strategies of the state to modernize the Greek economy and to improve the vocational training system, the strengthening of a genuine and constructive tripartite social dialogue is necessary. Within this framework a discussion about trade union law problems can be useful. In this field, we see, however, no contradiction with EU law and practices.

Recommendation 12: The Public Employment Services should also consider developing its efforts towards greater activation of the unemployed and attracting more vacancies from firms, including through well-designed hiring subsidies avoiding deadweight which are supported by the European Social Fund.

4. Recommendations of Juan Jimeno and Pedro Silva Martins

4.1 Principles

We think that any policy recommendations should consider the objectives at stake, the balance of trade-offs between them, and the relevant restrictions that condition the feasibility and the effectiveness of the proposed measures to achieve the objectives. Given the mandate of the Group of Independent Experts, in our case there are primary objectives, auxiliary guidelines, and stringent constraints derived from the challenging situation of the Greek economy and the very poor outcomes on the Greek labour market.

4.1.1 Objectives

The primary objectives of our recommendations are to facilitate inclusive labour markets, economic efficiency and growth, and social equity. In other words, this means that all people of working age should be encouraged to participate in paid work, and firms have incentives to create employment opportunities to all groups. There should be sufficient productivity growth so that there is development of employment conditions and living standards, as the income and wealth generated by growth are distributed in an equitable manner.

Functional labour markets play a key role in the achievement of productivity growth and social equity. Income inequality mainly comes from the differences in employment status, rather than from wage inequality. Social partnership is crucial to negotiate a socially balanced distribution of income in the labour market. Labour market regulations have, however, also a strong influence on employment and its distribution amongst different population groups. Therefore, the focus of mature labour market regulations, including collective bargaining, should also be to increase economic growth and productivity as well as to enhance the skills of the workforce.

4.1.2 Auxiliary guidelines

Under the framework of the European Social Model and ILO norms, there is some consensus on how the objectives above can be better serviced. A high concern for social cohesion, a very active role of representative social partners, the cooperation between them and Government in the management of labour market policies, are guidelines that rank high under this approach. Concerning the issues covered by the mandate of this group (industrial actions, collective dismissals, minimum wages, and collective bargaining), the subsidiarity principle stresses the need of a flexible framework within which representative social partners could adapt labour

standards and find solutions which are adequate to the needs of different industries, companies and workers.

For this framework to be successful, i.e. compatible with the sufficient achievement of the objectives sketched above, there should be representative unions and employer's associations, with a balanced bargaining power, that are ready to take responsibility and risks. It is also necessary that they agree on a stable regulatory framework that provides a favourable environment for long-term- investment decisions of companies, as well as the planning by families for their future including many decisions on the investments in their own education and training, as well as in the education of their children.

The mandate also asked the Group of Independent Experts to tailor recommendations to “best practices” from other countries in Europe. However, specific labour market arrangements cannot simply be adopted from other countries without due regard to the specific circumstances facing the specific country. Labour market institutions interact with each other (Boeri and Van Ours, 2013) and their effects depend very much on the whole institutional framework (including other regulations, like product market regulation, and policies, such as fiscal, monetary, tax, and social policies). Considerable importance among the latter should be attached to education, training, and innovation policies, and unemployment insurance schemes, as well as active labour market policies. Therefore, there is the need to develop an integrated, comprehensive, and fully consistent approach with helps to create positive interactions between renewed labour market institutions and other institutions and policies. Moreover, this approach has to take into account the overall situation and some structural elements of the Greek economy.

4.1.3. Constraints

The Greek membership of the Eurozone monetary union led to a period of significant economic growth. However, this was also underpinned by low productivity growth and resulted in losses of competitiveness and very high current account imbalances. Thus, following the financial and debt crises of 2008 and 2010, the Greek economy experienced a record recession, including extremely high unemployment (in particular in terms of youth and long-term unemployment) and outmigration. Despite the significant reductions in prices and salaries since 2011, competitiveness has not yet been fully restored.

For recovering growth, reforming labour market institutions is necessary but not sufficient. They are only one of the ingredients of a much wider economic program. Other reforms should also be high in the agenda, in particular product market reforms. However, the lack of

progress on other fronts should not be taken as a justification for renegeing on the goal of improving the functioning of the labour market.

Although since 2010 a significant number of labour market reforms were implemented, and some of them were justified in terms of improving the functioning of the Greek labour markets, it was unfortunate that they had to be introduced in crisis times. The result is that some of them have not yet delivered fully and, on the contrary, since they were mostly targeted at accelerating wage adjustments rather than enhancing productivity, they might have backfired, by intensifying the fall in employment and wages needed to restructure the Greek economy. In fact, these reforms accelerated restructuring to an extent that employment losses amount to around 15% since 2008.

International assistance did little to complement restructuring efforts in the Greek economy with the productivity-enhancing measures and widening of the social benefits needed to somehow protect the population from all the sufferings attached to the adjustment. Noticeable shortcomings in education and training remain. Admittedly, productivity enhancing reforms should be led by the government of a country, regardless, or on top, of the reforms advocated by international lenders, as it is difficult if not impossible for international lenders to design and monitor reforms across several, heterogeneous product market sectors. Nevertheless, labour market measures advocated by international institutions may have put too much emphasis on wage adjustments and too little on productivity-enhancing measures.

As of today, and following this unfortunate sequence of events, there are poor prospects for growth. Given the limited ability to draw on domestic savings, the Greek economy is highly dependent on foreign direct investment and external surpluses on its current account for investment and growth. In this context, the development of a business-friendly environment that adequately rewards firms that invest in sustainable, growth-promoting ventures – and create jobs in the process – is extremely important so that Greece can come out from the current recession. To reduce unemployment rates there is a great need for economic growth, especially for young workers. Economic growth causes youth unemployment rates to go down more quickly than adult unemployment rates, i.e. economic growth benefits more those who need it the most (Van Ours, 2015). Also, reducing unemployment, both youth and overall, would contribute to push economic growth. Nevertheless, it is important to bear in mind that increasing economic growth and reducing unemployment go together and that both variables are determined jointly, and neither of the two are policy choice instruments but the outcomes of sensible macro policies and structural reforms. Thus, we disagree with interpretations that consider the lack of economic growth as the cause of high unemployment (as it is done, for

instance in Section 3.4.4. of this report, page 25, regarding the relationship between youth unemployment rates and nominal GDP growth across a sample of countries). Appeals to higher economic growth as “the” solution to the dismal situation of the Greek labour market are of little use.

Other characteristics of the Greek productive sector also make it difficult to restore growth. There is a very high proportion of micro/small firms and a very large informal sector. These two facts are both causes and consequences of low productivity. They are also driven by tax evasion at the same time that they lead to lower levels of tax collection (Artavanis et al., 2016). These two aspects are also frequently associated with non-compliance with employment law (even in the case of formal workers, not to mention that of undeclared work), damaging the level playing fields in product markets that are so important for productivity growth.

As for the social safety net, unemployment benefits in Greece are relatively weak, in terms of both duration and, especially, amount. In fact, replacement ratios are low even immediately after displacement. On the other hand, unemployment benefits are also poorly targeted in that they are not focused on individuals with no other income and are instead in many cases complemented with income from informal work. Other safety nets (assistance benefits, means-testing programs) are almost inexistent.

Finally, the Public Employment Services (PES), which can play an important role in the good functioning of the labour market, by promoting the matching of the unemployed with vacancies as well as providing training to and activating the unemployed, also remain underdeveloped. Despite the ongoing reforms of the PES, focused on the services delivered to the unemployed (registration, processing of unemployment benefits, and profiling) several challenges remain. One important challenge concerns the attraction of an increased number of vacancies to the job centres, so that the latter can perform their intermediation role fully. Another challenge concerns the lack of activation efforts to differentiate the unemployed that are effectively out of work and searching for a job and the unemployed that are working in the informal economy while receiving the unemployment benefit (Martins and Pessoa e Costa, 2014). Thus, even though it is not part of the mandate to the Group, we believe it is crucial to start with the recommendation to improve the function of the Public Employment Services given that the effectiveness of some of the other measures proposed below depend on the good functioning of Active Labour Market Policies:

Recommendation 12. The Public Employment Services should also consider developing their efforts towards greater activation of the unemployed and attracting more vacancies from firms, including through well-designed hiring subsidies supported by the European Social Fund.

4.2 Collective action: Strikes and lockouts

The general principles regarding industrial actions are to bring closer the responsibility for industrial conflicts to the bodies involved and to order the process in such a way that the relative bargaining power of the parties are not substantially changed. Calling for a vote in the production unit affected by strikes, organizing minimum services in case of strikes in public utilities and essential services, and allowing for the possibility of lockout should be part of the legislation of industrial action, always respecting the general principles outlined above. As to the recommendations on collective action we agree with the other members of the Expert Group:

Recommendation 1. Current Greek law has an extensive regulation on the procedures for calling on strike. We do not see the need for stricter rules on strikes. It is up to the Greek legislator to define the conditions of a legal strike by respecting the constitutional framework.

Recommendation 2. We do not see any urgent reason to remove the prohibition of lock-outs. The provisions on industrial conflict in Greece have established a balance of power between employers and unions; its rules are accepted by both sides. The Greek legislator may clarify that the employer is entitled not to pay non-striking workers if they cannot continue to work because a strike is occurring in their enterprise or their establishment.

However, since the social partners in their joint declaration dated 19 July 2016 recognised the needs of modernisation of the Law 1264/1982, there could be other implementation issues, besides those expressed in the recommendations above, that may also require some consideration. In particular, removing obstacles for bringing the decision and the responsibility of the strike to the undertaking unit should also be part of the modernisation efforts of the regulation on strikes and lock-outs.

4.3 Collective dismissals and short-time work

We agree with the view in Section 3.3.1 (page 11) that stresses that: “*Collective dismissal is an instrument of the freedom of enterprise, which is particularly adjusted to situations of total or partial termination of business activities, and to situations of economic difficulties which require reorganization and urgent measures of cost reduction...The freedom of enterprise is not an absolute right, and collective dismissal, without losing its potential of adjustment, should not be a free resource for firms... Collective dismissals may be legitimate in situations of structural changes, economic crisis or loss of competitiveness; for companies it may be an instrument to survive or to restructure their business. Since collective dismissals often cause substantial social problems, it must be required that firms explore all other adjustment possibilities (like voluntary quits, internal replacement, cancelling of overtime work, voluntary leaves and retraining of workers) in order to reduce the number of dismissals. However, legislation should not prevent necessary collective dismissals, but rather impose certain procedures (like ex ante check of the economic need, early information of unions, obligation to negotiate a social plan, etc.). There should be an adequate time for negotiations between the social partners. They should be supported in order to find alternative solutions or to cushion the negative social outcomes by redundancy payments or by measures of active labour market policy (placement, retraining) and regional politics (redevelopment of the region or the sites).*”

In fact, we would like to make this case stronger by pointing out that collective dismissals play a very important role for sectoral and firm restructuring since they may be the more effective way of dealing with permanent/structural changes that require employment reshuffling across (or, in some cases, within) sectors. Short-time working schemes may be an effective way of dealing with temporary shocks, but do not help with structural changes. The alternatives to organised, institutionalised, collective dismissals are typically bankruptcy and the liquidation of firms, which are even more harmful to workers and the economy at large. The legal definition of collective dismissals is typically based on the ratio of dismissed workers to firm’s total employment (or the absolute number of workers to be dismissed). In the former case, if the corresponding thresholds are too low (in the standard settings in which collective dismissals are more restrictive than individual dismissals), there will be less restructuring, more individual dismissals, and more liquidations of firms. Investment – a

critical aspect of the economic recovery of Greece, as pointed out above - may also suffer, as exit costs imply entry barriers.

Ex-ante administrative approval of collective dismissals creates political and economic problems. Although it promotes negotiations between employers and workers' representatives, it also results in lower restructuring and higher adjustment costs for firms. From a political perspective, it may be very costly to approve a collective dismissal, as the politicians responsible would have to incur the short-run political costs of the dismissal but not benefit from the medium- and long-run benefits from more investment, productivity and employment. In most EU countries, ex-ante administrative approval of collective dismissals is not required (there are only notification procedures). For instance, it has been recently dismantled in Spain. An alternative to ex-ante administrative approval of collective bargaining is ex-post monitoring (by labour courts). However, this may create additional uncertainty about the restructuring process, which also adds to the adjustment costs.

The goal should be to make collective dismissals operative and used when needed, while promoting social dialogue, reducing uncertainty and ensuring that firms internalise the costs of the adjustment. Experience-rating schemes for financing unemployment benefits (based on higher payroll taxes for firms that systematically engage in higher levels of worker turnover) and making firms implement social and relocation plans for dismissed workers may be good practices in this regard.

In sum, because of structural changes, economic crisis or loss of competitiveness, companies may have to use collective dismissals to survive and to restructure their business. Since collective dismissals often cause substantial social problems because many workers are dismissed at the same time when reintegration is more difficult, it must be required that firms explore all other adjustment possibilities (like voluntary quits, internal replacement and retraining of workers, or temporary reduction of working hours -overtime, short-time work, etc.) in order to reduce the number of dismissals. However, legislation should not prevent collective dismissals, but rather impose certain procedures (like an ex ante check of the economic need of the dismissals, early information of unions/works counsellors, advance notices, obligation to negotiate a social plan, etc.), requiring adequate time for negotiations between the social partners, supporting social partners to find alternative solutions of the economic problems of the firm (for example by short-time schemes), and helping to cushion the negative social outcomes by cash (redundancy payments) or in kind by active labour market policy (placement, retraining) or regional policies (redevelopment of the region or the sites). The current Greek system is unsatisfactory in many of these dimensions. In particular,

it has been too restrictive and prevented many collective dismissals. Hence, our recommendation on collective dismissals broadly agrees with the recommendation in Section 3.3.4. (page 13) but we would like it to be more precise in the following terms:

Recommendation 3. Collective dismissal should be regulated in view of its importance as an operative instrument for adjustment of firms in times of crisis. Before implementing a collective dismissal, employers should consult and bargain in good faith with workers' representatives. According to the economic possibilities of the enterprise, a social plan should be established providing compensations for workers who are confronted with unemployment for an uncertain period. Retraining should be offered to enhance the chances of the affected workers in the labour market. The current system of ex-ante administrative approval of collective dismissals has been too restrictive and should be abolished. This revision is independent from the forthcoming views of the European Court of Justice on this matter.

On the recommendation about short-time work we agree with the other members of the Expert Group:

Recommendation 4. In temporary economic difficulties, short-time work can prevent collective dismissals. Short-time work has to be flexible according to the still existing needs of the enterprise. The employee has to get unemployment benefits from the labour administration or the social security system as a compensation for the hours s/he could not work. At the end of the crisis, the employer can restart full activities with the help of an experienced workforce.

4.4 Minimum wages

There are good reasons why statutory minimum wages should be a matter of economic policy. Besides, there are good reasons why minimum wages should be statutory and set by the Government. Either for achieving greater wage-setting coordination, setting wage inflation consistently with the stance of macro policies or for fighting inequalities, the Government should have the final say when setting a statutory minimum wage. The role of social partners should be to complement the statutory minimum wage by adding another layer of wage rates adapted to the particular circumstances and characteristics of the sectors covered, but not to substitute the function of setting a statutory minimum wage. However, precisely because collective bargaining and the statutory minimum wage interact, it is convenient that the latter is decided under an institutionalised tripartite process. Thus, although we accept that

representative social partners should also participate in the setting of the minimum wage, we failed to identify any EU country where a national minimum wage is autonomously, independently and exclusively decided by the social partners following standard collective bargaining practice and then implemented under a national collective bargaining agreement with automatic erga omnes effectiveness as proposed by Recommendation 5 in Section 3.4.8. (page 38).

Moreover, we believe it is important to bear in mind that in the fight against earnings inequality, rather than increasing minimum wages it may be more effective to introduce in-work benefits, like the Earned Income Tax Credit in the US or the Working Families Tax Credit in the UK, which favour (formal) labour market participation, can be tailored to personal and household characteristics, and have no negative effects on employment. On the other hand, the current Greek system of minimum wages is quite complicated and creates a number of distortions with negative effects on employment. The statutory minimum wage should be a single rate, without either seniority payments or any other top-ups related to workers' characteristics, as proposed in our alternative:

Recommendation 5. There should be a statutory minimum wage as planned, established by the government after consultation of social partners and independent experts. The statutory minimum wage should take into account the situation of the Greek economy and the prospects for productivity, prices, competitiveness, employment and unemployment, income and wages. The current system of minimum wages with differences between blue-collar workers and white-collar workers, with top-ups depending on work experience or sub-minimum wages for long-term unemployed is far too complicated. There should be one single minimum wage for adult workers.

Sub-minimum wages for young workers are frequent in many countries and highly recommendable in countries with high youth unemployment. We agree with the observations highlighted in Section 3.4.4. (page 21) that i) the age threshold for the Greek subminimum wage (25 years) is higher than in other EU countries, ii) some EU countries (like Spain, Portugal, and Croatia) do not differentiate at all between age groups when setting minimum wages, iii) in countries with subminimum youth wages, age thresholds are 18 years in France, Ireland and Luxemburg, and 23 years in the Netherlands, iv) some countries also have

subminimum wages for job starters: In Poland an 80% rate applies to persons in their first year of employment; in Belgium and France, beside age, work experience is an additional criterion for the level of the subminimum wage, and v) apprentices (UK, Ireland, and Portugal) and employees in structured training (Ireland, Portugal) are also under subminimum wages, independently of age; other countries (France, Germany) exempt apprentices or students in internships from minimum wages during up to three months as far as these are part of established university curricula (Germany); the training allowances of apprentices are set by collective bargaining in Germany and France and differ by industry.

Our view is that on the basis of available international empirical evidence, it is difficult to draw strong conclusions about the effects of a separate youth minimum wage and the optimal age gradient (Boeri and Van Ours, 2013). However, we cannot endorse the view that increases of youth unemployment rates and/or decreases of employment rates should be taken as an indication that age subminimum wages have been ineffective in promoting employment opportunities for young people in Greece. Moreover, there are specific features that lead to depart from the recommendation of suppressing age subminimum wages. One is that participation rates of Greeks below 24 years of age are extremely low. Secondly, apprenticeship and internship schemes and other means of facilitating the transition from school to work are not effectively in place. Thirdly, eliminating subminimum wages or lowering the associated age threshold would put at risk many jobs of young workers that accessed their jobs under the current system. Moreover, recent evidence for Greece suggests that the introduction of the youth minimum wage may have helped promote employment amongst this group of workers (Karakitsios, 2016). We have the alternative following recommendation:

Recommendation 6. In the current system there is a youth minimum wage, i.e. a subminimum wage for workers below age 25. Such a system of youth minimum wages should be maintained. A system of youth minimum wages should be maintained to avoid too many young workers losing their jobs and too few young workers being hired.

4.5. Collective bargaining

Sectoral and firm-level collective bargaining can provide an additional layer of minimum wages adapted to the circumstances and characteristics of the production units covered without precluding macro and micro wage flexibility. Macro flexibility means that wages should be aligned with productivity and the stance of other macro policies. Micro flexibility

means that wages could be changed when firms' economic conditions change. The structure and results of collective bargaining should be compatible with macro and micro wage flexibility. This is more often the case when wage setters (in particular employers' representatives) are sufficiently representative. When the latter are not fully representative, collective bargaining can be used strategically to limit market competition. However, potential competition, not only from existing firms but also new firms considering entry in a given market, is an important source of increasing productivity, stimulating innovation, and improving allocation of resources. These dynamics should not be precluded neither by product market regulation nor by social partners that do not internalise all the benefits from innovation and job creation by new establishments.

As for collective bargaining covering specific occupations and crafts, these are very unusual, as they may constitute an important barrier to entry and fundamentally limit product market competition. The principle "equal pay for equal work" cannot be a justification for this type of agreements, as job tasks and skills associated to the same "occupation" may change significantly across sectors and firms. The negative effects of the lack of representativeness of wage-setters is amplified when i) time extension of collective bargaining agreements is mandated, ii) they have an excessive duration, and iii) sectoral agreements are rigid and do not allow for effective opting-out clauses.

Micro flexibility is a matter of special concern regarding small firms, which typically are less influential in wage negotiations. Opting-out clauses, the main instrument for implementing wage concessions as economic conditions change, should be fully operative, rather than just a theoretical possibility under the exclusive control of wage setters at the higher levels. Limiting extensions of sectoral collective bargaining agreements to firms above a size threshold (number of employees) is not recommendable in general given the distortions it may create. It should be contemplated only when extension with low representativeness yields employment conditions not suitable to small firms and opting-out clauses cannot be made operative. Arbitration in collective bargaining may also be an effective way of solving conflict and disagreements between the social partners. However, it should be institutionalised in such a way that both parties find this route as a solution rather than the source of additional problems.

Firm-level bargaining is one of the sources of micro flexibility given that it allows wages to be adapted, upwards or downwards, to the specific economic circumstances of each production unit. The general labour law (collected under Workers' Codes or equivalent in

most countries) should be the main source for employment conditions of the less productive firms (micro firms), rather than sectoral collective bargaining agreements determined by not fully representative wage setters. General labour law should establish the minimal criteria and delegate other issues to collective bargaining, therefore incentivising a flexible emergence of the most appropriate set of rules for each sector and time period in the context of a dynamic social dialogue. Finally, it is important to bear in mind that the quality of institutions matters for the good functioning of collective bargaining. Employers' associations and trade unions should have the incentives to provide more services other than collective bargaining agreements, to increase the number of affiliates (and therefore the direct impact of their collective bargaining, even without extensions) and adapt their structures to the new economic context.¹ The general, base labour law should be the main source for employment conditions of the less productive firms (typically micro and small firms) but that account for a large share of employment and employment growth in Greece and other countries. General labour law should establish the very minimum criteria and delegate other issues to collective bargaining, if applicable. In countries where the general, base labour law is slimmer, there will be greater need for collective bargaining; in other countries, the demand for collective bargaining will be less pressing, as firms will have already to comply with hundreds or thousands of law articles establishing workers' rights and responsibilities. Collective bargaining in the latter context may increase the risk of non-compliance and unlevelled playing fields.² The quality of institutions matters for the good functioning of collective bargaining. Employers' associations and trade unions should have the incentives to provide more services other than collective bargaining agreements and adapt their structures to the new economic context, therefore attracting more members and ensuring their collective agreements will be directly applicable even without the involvement of government in collective bargaining, so that we fully endorse Recommendation 11.

4.5.1 Extension

The use of the extension mechanism clearly increases and stabilizes the coverage of collective agreements, while creating incentives for employer's to join an employers' association,

¹ It is also important to take into account recent evidence about the negative effects of extensions on employment in Portugal, a similar labour market to Greece (Martins, 2014, and Hijzen and Martins, 2016) and the positive effects of greater flexibility in collective bargaining, in particular in overtime pay (Martins, 2016a). See also Hijzen et al (2016) for a detailed comparison between collective bargaining in the Netherlands and Portugal.

² See Martins (2016b) for evidence on the related trade-off between employees and contractors (service providers).

especially when there is not the possibility to opt-out. Hence, employers rather join the employer's association to have a voice in the negotiations. Nevertheless, workers tend to lose an important incentive to join unions, making the latter less representative. Moreover, extensions deny the workers' right of non-unionisation. As to the recommendation on extension of collective bargaining agreements we do not see any reason to disagree with the other members of the Expert Group in the following formulation:

Recommendation 7. Representative collective agreements can be extended by the state on the demand of one of the negotiating parties at sectoral or occupational level. Collective agreements are representative if 50% of the employees in the bargaining unit are covered. The decision on the extension of an agreement is by the Minister of Labour after having consulted the social partners. The government and social partners must establish an administrative system that will allow reliable monitoring of the share of employees represented in the bargaining unit.

4.5.2 Subsidiarity and favourability

In principle, a collective bargaining system consistent with low unemployment can be based on sectoral bargaining provided that opting-out clauses respect the needs of firms under negative circumstances to adapt wages and other employment conditions while those circumstances persist (see Jimeno and Thomas, 2013). However, opting-out clauses fail frequently to be operative because sectoral wage setters end up being too reluctant to recognise the needs of firms facing negative challenges, especially when the wage setters are not fully representative. For that reason, we believe it is important not to restrict the possibility of firm-level collective bargaining only to production units which could provide higher wages and better employment conditions.

Our interpretation of the subsidiarity principle is then that collective bargaining should provide instruments for firms to adapt employment conditions to their current economic circumstances. Similarly, because of the adverse consequences of imposing too stringent employment conditions to those firms, we are in favour of applying the favourability principle in a more global sense, not only by referring to the wage differences between sectoral and firm-level collective agreements. For that reasons, we propose the following alternative recommendation:

Recommendation 8. It is important to foster and create incentives for representative collective bargaining at all levels. Social partners and all agents involved in employment relations should increase their awareness of and respond appropriately to the challenges and opportunities faced by each and all firms. Firms - and their collective bargaining arrangements - should not be discriminated against based on their size, location, age, employer association affiliation status and other dimensions of differentiation. Given the above, firm-level bargaining should be entitled to reach and uphold globally more favourable agreements, including in terms of employment resilience and greater potential for employment creation. More generally, the hierarchy of collective bargaining should follow a subsidiarity principle, whereby agreements established at a level closer to the workers and firms directly involved override agreements established at a level more distant to the workers and firms potentially involved.

4.5.3 Timing & Arbitration

With respect to the recommendations on timing and arbitration, we generally agree with the other members of the Expert Group:

Recommendation 9. The time extension, the after-effect and the duration of collective agreements are to be decided by the social partners themselves. If they do not take a decision on the first point, the time extension will be six months; if the second point is not regulated by collective agreement the after-effect includes all agreed labour standards; if the third point is not regulated by a collective agreement, the latter can be denounced with a notice of three months.

Recommendation 10. If social partners cannot reach an agreement, the terms of an agreement may be established through arbitration, preferably if both social partners agree on this. Unilateral arbitration should be the last resort as it is an indication of lack of trust. The system of arbitration was renewed recently and should be evaluated ultimately within two years to assess its role in collective bargaining.

Recommendation 11. We recommend the social partners to negotiate on the issues of seniority pay, equal treatment of white and blue collar workers, life-long learning, productivity and innovation and the integration of young people and to consider our critical comments. Since some of these issues are closely linked with strategies of the state to modernize the Greek economy and to improve the vocational training system,

the strengthening of a wholehearted and truly representative tripartite social dialogue is necessary.

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Annexes

I. Members of the Expert Group

Gerhard Bosch – Duisburg-Essen University

Wolfgang Däubler – University of Bremen

Juan Jimeno – Central Bank of Spain

Ioannis Koukiadis – University of Thessaloniki

António Monteiro Fernandes – Lisbon University Institute

Pedro Silva Martins – Queen Mary University

Jan van Ours (chairman) – Erasmus University Rotterdam

Bruno Veneziani – University of Bari

II. List of Organizations

During the third meeting of the Expert Group in Athens (20 to 22 June 2016) the Expert Group spoke to Rania Antonopoulou, Greek Alternate Minister for Combatting Unemployment and to representatives of the following organizations:

- Greek Employment Agency (OAED)
- International Labour Organization (ILO)
- Hellenic Federation of Enterprises (SEV)
- Greek Tourism Confederation (SETE)
- Hellenic Confederation of Professionals, Craftsmen & Merchants (GSEVEE)
- Hellenic Confederation of Commerce & Entrepreneurship (ESEE)
- Hellenic Retail Business Association (SELPE)
- Athens Chamber of Commerce & Industry (EBEA)
- Institute of Labour (INE)
- Foundation for Economic & Industrial Research (IOBE)
- General Confederation of Greek Workers (GSEE)
- Federation of Greek Private Employees (OIYE)
- Athens Labour Centre

III. Statement of the chairman

Jan van Ours, the chairman of the Expert Group supports all common recommendations. For recommendation 5 on the minimum wage and recommendation 6 on youth minimum wages he supports the formulations presented in Chapter 4. For recommendation 7 on extension of collective agreements and recommendation 8 on the principle of favourability he supports the formulation presented in Chapter 3.

IV. Comments by individual members of the group

Gerhard Bosch, Wolfgang Däubler, Ioannis Koukiadis, António Monteiro Fernandes and Bruno Veneziani think that the expert group achieved an extraordinary result, in spite of the extremely short time available for its work and different opinions within the group. The group agrees on 8 of its 12 recommendations completely and on 1 partially. In the presentation of the dissenting votes we would have preferred to follow the internationally well-established procedure rule in which the majority decides on the report and the diverging opinions are added in dissenting votes. This is the normal rule for example in the U.S. Supreme Court and the Constitutional Courts of Germany, Greece and Portugal as well as in expert committees in most European countries.

Juan Jimeno and Pedro Silva Martins are responsible only for the arguments and opinions explicitly expressed in Section 4. Despite agreeing on some recommendations with the rest of the members of the expert group, Juan Jimeno and Pedro Silva Martins think that their views on the regulation of collective dismissals and collective bargaining highlight fundamental differences with Section 3 about how the integrated, comprehensive, and consistent approach to further Greek labour market reforms should proceed.

**SUBMISSIONS OF THE INTERNATIONAL
ORGANISATION OF EMPLOYERS**



International Organisation of Employers
Organisation Internationale des Employeurs
Organización Internacional de Empleadores
The Global Voice of Business

ADDITIONAL COMMENTS ON THE MERITS OF COLLECTIVE COMPLAINTS AGAINST GREECE

No. 111/2014

Geneva, 7 November 2016

From:

The International Organisation of Employers (IOE)

Avenue Louis Casai 71

CH-1216 Cointrin, Geneva

As a result of the public hearing organised by the European Committee on Social Right on the collective complaint No. 111/2014 on the 20 October 2016, the parties of the complaint and the social partners have been allowed to send additional information with some updates of the current situation in the country.

The IOE herewith refers additional information to its submission on the merits of complaint No. 111/2014, which includes the perspective of the IOE-affiliated Employers' federation, the Hellenic Federation of Enterprises (SEV).

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1. Introduction

1. From the responses given by GSEE and the Government to the Committee's questions during the public hearing called by the European Committee on Social Rights (ECSR) of 20 October 2016, it is evident that this Government is essentially aligned with GSEE on the complaint. During the hearing, the Government has urged the Committee to declare Greece not in compliance with the European Social Charter; the Government maintained that the ECSR's decision against Greece would be used in the negotiations between the Government and the "Institutions" (European Commission, ECB, ESM and IMF) representing the country's creditors. It was not mentioned that the items on the agenda of the coming negotiations only partially coincide with the issues reported in the complaint.
2. This position bluntly reveals that the Government is committed to improving its political strength and popularity when dealing with its creditors, instead of trying to implement integrated policies aimed at solving the problem at its roots, i.e. with policies that will take the country out of the long-standing recession and back into a growth path.
3. With the present additional observations, the IOE and SEV¹ aim to provide information that will allow the Committee to conduct a more balanced evaluation of the GSEE complaint. The IOE and SEV hope to shed more light on the context in which the labour reforms were decided and implemented and offer some observations regarding questions and comments made during the public hearing. Finally, the IOE and SEV submit a number of observations of a more technical nature, which could not be presented during the hearing due to time constraint.

¹ SEV is a member of IOE and the most representative employers' organization in Greece. Its membership consists predominantly of large and medium sized enterprises, and of sectoral and regional business associations. Out of all the corporations in Greece (*Société Anonymes* and Limited Liability Companies) its direct and indirect membership covers 72% of net assets and 44% of sales volume.

2. Context of reforms

A. The build-up to the Greek Crisis and its causes

Throughout many years the Greek economy had become gradually uncompetitive internationally, while piling up debt that reached unsustainable levels. This trend had to end abruptly in 2010, a point at which available options were between very bad and catastrophic.

4. During the better part of two decades before the start of the Greek Crisis² (that broke out in 2010), the country sustained high budget deficits financed through foreign borrowing. In such case, aggregate demand raises artificially, a fact that has been much evident in Greece.
5. As a consequence, in the non-tradable sectors³ prices rose and production of those sectors rose to meet demand. In the tradable sectors prices could not rise because they were set in international markets, while higher demand was met through higher imports or diversion of exports to domestic markets.
6. Twin deficits emerged, with the current account deficit mirroring developments in the budget deficit.
7. As relative prices moved in favour of non-tradables for a long number of years, the outcomes on the structure of the economy were inevitable. Relative profitability of non-tradables increased; investment and resources were channelled into non-tradables rather than into tradables; the capability to finance at relatively low cost large fiscal deficits made it easier for successive governments to succumb to clientelism, rather than take the “political cost” of having balanced budgets.
8. In this environment, non-tradables became the prevalent norm in the Greek economy, through policy making or lack of action. As an example, no firm policy action was taken against growing tax evasion and informal employment; a very rigid labour market was gradually structured; necessary reforms were repeatedly avoided regarding the social security system; vocal interest groups and professions were favoured by imposing competition restrictions and market access impediments. An unbalanced productive structure emerged with bloated non-tradable sectors and shrinking tradable sectors. Between 1995 and 2009, tradables decreased by 8.4%, whereas non-tradables increased by 35.6% (Figure 1).

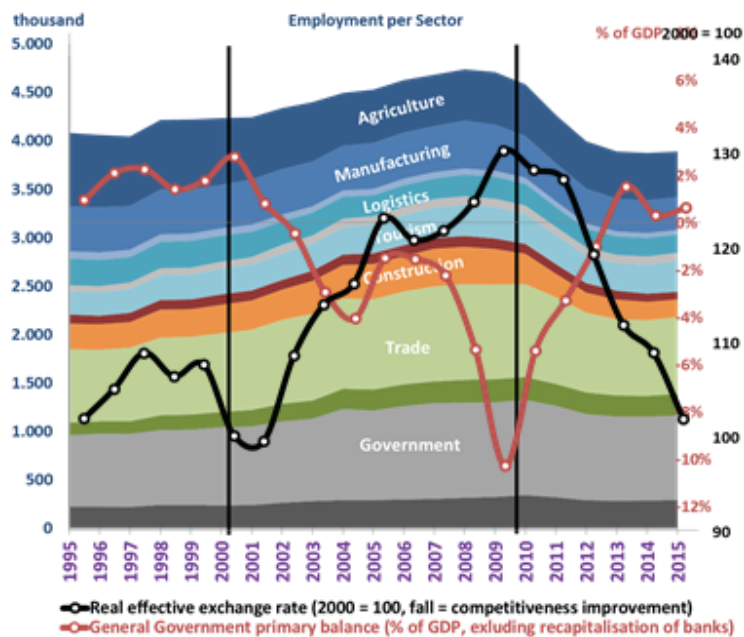


Figure 1 Tradables & Non-Tradables

² By “Greek Crisis”, or simply “the Crisis” it is meant the period that started on 23 April 2010, when Greece appealed to the IMF, the European Union and the European Central Bank for rescue funds. This period continues today and will end when the country will be able to exit the rescue Programmes it has agreed with its creditors.

³ Tradables refer to sectors that produce products and services for exports or for substitution of imports, and are thus subject directly to international competition. Non tradables are all other sectors of the economy.

9. In practice, this creates a vicious circle where non-tradable sectors have no incentive to modernize because of weak competition; tradable sectors fall behind because of weak profitability; the country becomes technologically-challenged; there is a growing demand for protectionism by the groups favoured by such a system. Thus the inertia continued.
10. Meanwhile, continued foreign borrowing in an economy with weak tradable sectors led to increasing external debt, gradually pushing annual figures for debt service to record high and unsustainable levels. The major shift of employment towards the non-tradable sectors, together with the government deficit and the real effective exchange rate (which decreases when competitiveness increases) are shown in graphic form in Figure 2.



Source: Eurostat, ELSTAT

Figure 2: Employment in Tradables and Non-Tradables

11. At some point in time, the process comes to an abrupt halt and has to go in reverse, as foreign creditors realize that the country has an unsustainable fiscal deficit which leads to limited debt-servicing capacity. That point happened in Greece during the early months of 2010.
12. In such a case, given the fact of an open economy and a shared currency, adjustment becomes a very difficult and complicated task for a democratic government; it requires fiscal consolidation to reduce unsustainably high demand, compression of the current account deficit so as to repay foreign creditors, and structural reforms to create a level playing field for business.
13. Fiscal consolidation restores competitiveness through internal devaluation which means that relative prices of tradables rise; this happens when prices of non-tradables drop while prices of tradables remain fixed. Consequently, resources shift out of the non-tradable and towards the tradable sectors of the economy. If we had the tool of currency devaluation, that would

restore balance in relative prices as it would increase the prices of tradables in local currency, but in a single currency area like the Euro zone, this option was not available.

14. The adjustment in the economy is far from automatic. It takes time for the businesses to realize what changes have to happen at the level of each individual firm ; human resources are released much faster than they can be redeployed in the dynamic sectors of the economy ; exports may initially grow at a slow pace as the capacity to produce high-knowledge-content goods is relatively low. During the initial phases of adjustment, many businesses have to close down or to shrink; unemployment soars.
15. When this happened in Greece at the beginning of the Crisis, popular discontent led to the rise of extreme political parties and complete fragmentation of the political system. This phenomenon still continues, as economic recovery is hesitant and slow, and the reduction of unemployment is rather sticky.

B. The need for reforms

In order to bring back the economy to a path of sustainable growth, reforms are inevitable. These had been identified in the past and recently by international organizations reporting on the state of the Greek economy, and by some social partners, but only very few had been implemented. Greece has lagged spectacularly in reforms at all fronts during the years since it joined the Euro and until the debt crisis erupted.

16. The social partners share the belief that presently the primary policy goal should be the creation of sustainable jobs and the opportunity to improve incomes. According to SEV, this can be achieved presently primarily through the activity of the private sector; it needs to create an environment where businesses can become internationally competitive in their operations. It also requires an “Investment Shock”, that is, a wave of investments in production and infrastructure; to be noted that Greece has lost 22.8% of its GDP at constant price (Fig. 11, p. 19). The negative evolution of investment can be seen in Figure 3.

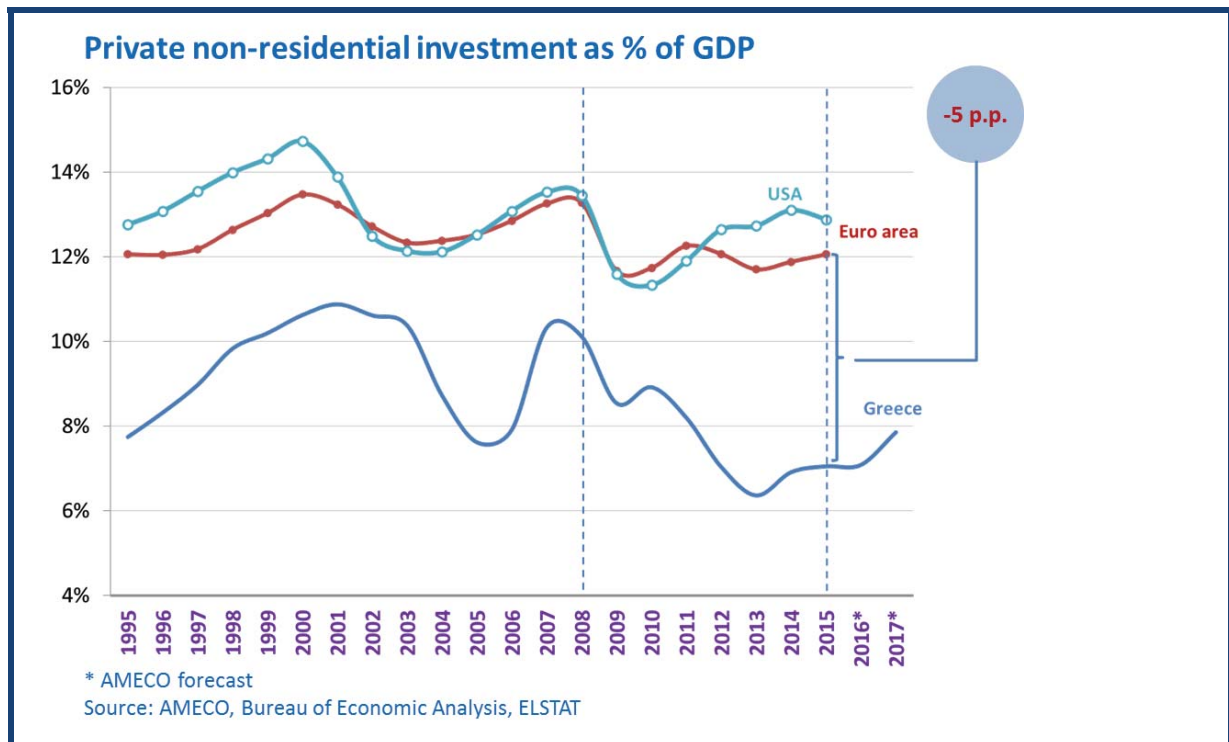


Figure 3: Private non-residential investment as % of GDP

17. The total investment required to put the economy back into a growth path is estimated at euro 105 billion. In this sense, it is imperative that steps are taken to attract foreign direct investment and globally competitive firms to raise export sophistication; to expedite privatizations that involve large investment opportunities; to carry out structural reforms that reduce bureaucracy, administrative burden, insecurity about the legal environment; to accelerate justice; to resolve issues connected with business financing, especially non-performing loans; to combat non-compliant behaviour, especially tax evasion and informal employment; to rationalize taxation, especially by reducing or eliminating taxes on factors of production and by making the taxation system more predictable.
18. The effective implementation of such reforms will create a business environment that is as friendly to investment as other European economies, which is not the situation today. Such reforms will produce an economy based on a new, more dynamic growth paradigm on the basis of comparative advantage, in tandem with a shift towards tradables, fostering competitive advantage.
19. International organizations had warned Greek governments for years, pointing at the catastrophic trends of the twin deficits, and suggesting remedies, i.e. reforms that needed to be implemented. Also at the local level there had been proposals about needed reforms after the country joined the Euro zone, among which notably from SEV. In Figure 2 the black line of the graph can be used as a proxy for understanding how the overheating of the economy developed; when this line has an upward trend, competitiveness worsens. When it falls, competitiveness improves.

20. In Table 1 below, we refer to a small sample of relevant public documents from OECD and the European Commission. It is on the basis of the reforms suggested in these and other similar documents that initially the Memoranda were drafted. SEV had also publicly requested successive governments to proceed with reforms, notably each year since 2004 at its annual event where the Prime Minister is always the main speaker. In 2007 SEV commissioned IOBE, an independent institute of economic research in Greece, to identify the entire range of reforms needed to modernize the Greek economy at the time. The study was published in late 2008 in the form of a book entitled “In search of a new growth paradigm”⁴.

Table 1

OECD and EC reports on Greece urging for reforms

OECD, 2005: Economic Policy Reforms: Going for Growth 2006; Progress in Responding to the 2005 Policy Priorities - Greece Country Note: <http://www.oecd.org/eco/growth/34485071.pdf>

OECD, 2007: Economic Policy Reforms: Going for Growth 2007 - Greece Country Note <http://www.oecd.org/greece/38088819.pdf>

OECD, 2007: Policy Brief, Economic Survey of Greece <http://glotta.ntua.gr/posdep/concrete/OECD/2007-OECD-38665552.pdf>

European Union, 2002: COUNCIL RECOMMENDATION of 21 June 2002 on the broad guidelines of the economic policies of the Member States and the Community (2002/549/EC) <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002H0549&from=EN>, see page 27 on Greece

European Union, 2003: COUNCIL RECOMMENDATION of 26 June 2003 on the broad guidelines of the economic policies of the Member States and the Community for the 2003-2005 period (2003/555/EC) <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0555&from=EN>, see page 23 on Greece

European Union, 2009: Implementation of the Lisbon Strategy Structural Reforms in the context of the European Economic Recovery Plan - Annual country assessments: <http://ec.europa.eu/transparency/regdoc/rep/1/2009/EN/1-2009-34-EN-F1-2.Pdf> , See page 21 on Greece

European Union, 2010: COUNCIL DECISION of 16 February 2010 with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0181&from=EN> <http://publications.europa.eu/en/publication-detail/-/publication/a5d0c2e3-475f-4489-adbc-9a544b8412c2/language-en>

21. The situation of Labour regulation in Greece before the Crisis

“.....is still characterized by low employment & participation rates, and a high level of unemployment, particularly among long-term (56%), youth (25%) and women (14%) “ (OECD, 2007)

“...has a protected public sector (20% of the total employment –LFS, 2008)”

“...is ranked 143 among 181 countries with regard to the employment index of rigidity” (Word Bank-*Doing Business*, 2008)

“... is considered the fourth strictest in EPL (labour legislation index) out of the 26 OECD countries with many regulations” (OECD, 2004)

⁴ “ΑΝΑΖΗΤΩΝΤΑΣ ΕΝΑ ΝΕΟ ΑΝΑΠΤΥΞΙΑΚΟ ΠΡΟΤΥΠΟ” by Stournaras & Albani, published by IOBE 2008, ISBN13 9789607536402

“...presents high percentages of self-employment (36%) and consists of micro-enterprises which characterized by family ownership” (OECD, 2008)

22. Rigidities in the area of Labour regulations played their role in the non-competitive structure of the economy and the low levels Foreign Direct Investment even before the Crisis. By referring exclusively to the reports of international organizations mentioned above, numerous points for modernizing labour regulations could have been identified at the time. We have quoted some of them in ANNEX 1, as they formed the base of what the “Institutions” have been asking successive Greek governments to implement during the Programmes. The sources are the same as the documents presented in Table 1 above.

C. The lack of reforms had important consequences on the structure of the labour market before the Crisis

Old rigidities and lack of reforms led over the years to grave structural distortions in the employment area, which have still not been tackled to this day.

23. The most important among them are:

- i. Gradual appearance of an Insider-Outsider Dichotomy in Greek Labour market. The unions became largely controlled by employees of state utilities who were alien to the viability criterion for businesses, and catered only for the Insiders by fighting against any measures reducing rigidity and by fighting for measures transplanting the practices of an overblown public sector to private businesses. The behaviour of trade union leaders became gradually more “bureaucratic”, a tendency greatly reinforced by regulation ensuring practically permanent, paid positions and by a system of compulsory arbitration that offered relatively easy gains for the workers’ side with minimum negotiating effort and pain.
- ii. Official unemployment remained inexplicably high (around 10%) in the years before the Crisis despite several years of relatively high growth (Figure 4). On the other hand, the labour market self-organized against such rigidities by:
 - Leading many small and micro-enterprises to undeclared or under-declared employment, a practice that goes hand-in-hand with tax and social security avoidance, thus undermining public finances and creating unfair competition to compliant businesses.
 - Leading a disproportionately high percentage of the active labour force to become self-employed (32% against 14% in EU28) thus evading labour regulations and creating problems to the social security system.

These issues have been consistently highlighted by SEV but other stakeholders have only paid lip service to these problems and their consequences on Greek competitiveness. ILO, with the active support of SEV, has just issued a report for the Greek government on informal employment⁵ from which we quote in Figure 5.

- iii. Labour rigidities relative to other countries grew in importance to become recognized among the major reasons due to which international investors avoided Greece as a Foreign Direct Investment destination.

⁵ “ Diagnostic report on undeclared work in Greece” August 2016 by ILO, http://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/projectdocumentation/wcms_531548.pdf

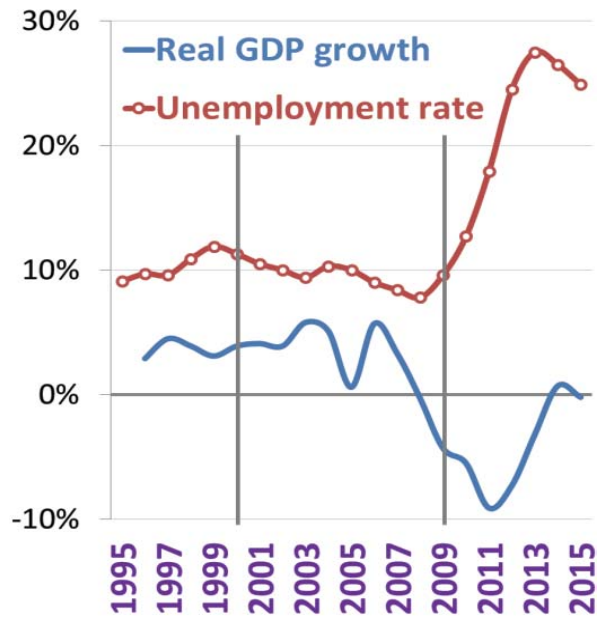


Figure 4: Unemployment versus GDP changes

Extent and nature of the undeclared economy in Greece

“The size of the undeclared economy is commonly estimated to be equivalent to some 25% of GDP in Greece. A catalyst for its prevalence is the relatively high level of self-employment and large share of micro- and small enterprises. Micro enterprises with 1-9 employees represent 96% of all enterprises in Greece, employing 55% of the labour force (compared with less than 30% in the EU-28). Greece also has the highest percentage of self-employed people in the EU28 at a rate of more than 32% (14% in the EU-28). According to the 2013 Eurobarometer survey, of all undeclared work in Greece, 67.3% was waged employment (with 13.3% wholly undeclared waged employment and 54% under-declared employment), 10.2% was undeclared self-employment and 22.5% was paid favours for close social relations. Undeclared work is undertaken by all social groups. However, there appears to exist a necessity driven ‘lower tier’ populated by younger people and those with financial difficulties, and a more voluntary-oriented ‘upper tier’ occupied by professional groups such as lawyers, doctors and accountants, who not only appear to gain greater rewards from their undeclared work but also from using undeclared labour such as for domestic cleaning and home maintenance (just 24% of unemployed people but 40% of self-employed and 34% of employed people purchase undeclared goods and services). “ (page 9)

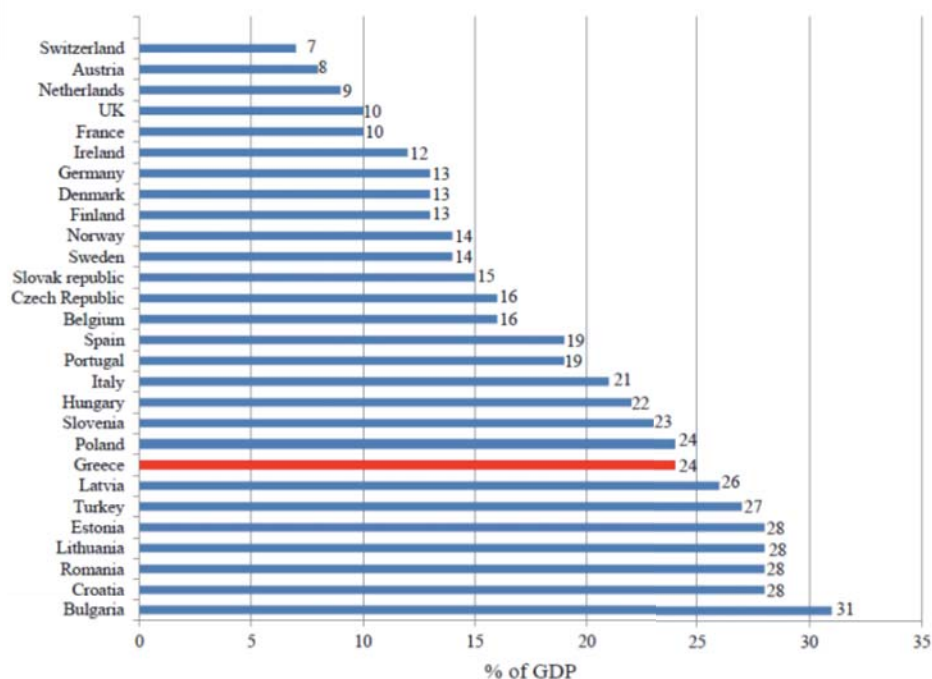


Figure 5
from ILO Report (5)

D. What prompted Greek governments to finally introduce reforms - the rescue effort

Since 2010, governments always had to choose between the catastrophe of a formal bankruptcy and the terms of consecutive strict rescue programmes proposed by their creditors. They always chose the second option, of course, but never explained to the people against what that should be compared to, and why the country had reached that situation. Citizens have yet not fully grasped what should be learnt from political inaction of the past, and many politicians along with other stakeholders still present reforms as imposed externally by vindictive creditors, so they need to be “negotiated” at each step of the way. Public discourse on the root causes of the Crisis and respective political agendas have been severely contaminated in this respect, offering momentum to political extremism. A social and political divide between “pro” and “anti-austerity” forces came to rise redefining in broad terms political and ideological boundaries.

24. The economic rescue of Greece was officially triggered on 23 April 2010, and it prompted an effort that is unique in history for its amount and its duration. From 2010 to date, the Euro zone countries and the IMF have already disbursed 258 billion Euros, with more amounts already pledged. Moreover debt to private banks was reduced by 106 billion euro. Note that Greek GDP was 237 billion euro in 2010 and is expected to be 176 billion in 2016.
25. The effort has been carried out within the framework of three consecutive memoranda that include Adjustment Programmes describing in detail the requested reforms. However, not only on that initial moment of 2010, but also on many occasions over the past six years the country has risked formal bankruptcy and an exit from the Euro zone - for the last time in August 2015. Such a possibility entails many risks and would have highly negative repercussions on the economy and the social environment as a whole.
26. In the scenario of bankruptcy, until a new currency could be introduced, and until the country developed a minimum capability to procure foreign exchange through new exports, it would be impossible to secure imports. But most food, medicine and other essentials are imported and shortages would occur very quickly. Oil and gas are also imported, and shortages would have a disastrous impact not only on transport and heating, but also on electricity generation. The combined effect of shortages in imported raw materials, energy and transport would paralyze production and trade within 3-4 weeks, probably quicker, if we account for the effects of hoarding⁶.
27. Due to this real risk of bankruptcy, successive governments opted to undertake very strict reforms, as suggested by the European partners and the IMF, rather than risk bankruptcy. The country is still today dependent on rescue assistance.
28. This unstable situation is the result of an economy that had not been modernized in proper time along with other European peers. As mentioned elsewhere, the reluctance of past governments to reform and their tendency to borrow without limit, led to a double deficit; a fiscal deficit and a deficit of competitiveness. The fiscal deficit has already been reversed, achieving most of the fiscal targets imposed by the Programmes. Not so with the deficit of

⁶ Hoarding practices have been pronounced at points in time when uncertainty peaked, and are considered one of the reasons why the impact of capital controls introduced in summer 2015 had relatively mild impact.

competitiveness. The effort to reduce bureaucracy, to eliminate the privileges of professions and other interest groups and to create a business environment that is comparable to other developed European countries still finds important resistance among several organized groups of the population that fear loss of their privileges, with the politicians largely reflecting these attitudes.

29. Resistance to reform has been extremely pronounced in Greece, compared to other European countries that have had formal rescue programmes in recent years. Greece is already in its 7th year under Programme, with at least two more years according to official planning, whereas all other countries that received rescue aid did so after Greece and are already out of their Programme. Klaus Regling, European Stability mechanism (ESM) managing Director, gave a speech a few days ago⁷, from which we quote:

...“In response to the euro crisis, Europe has taken a number of important steps to improve its policy framework and institutional architecture. Crucially, countries that had lost market access, did their homework. They put their fiscal house in order and adjusted macroeconomic policies. This speaks to the credit of governments and citizens – including those in Cyprus of course. At the European level, the Commission has been given greater powers to monitor countries and discipline them when they break the rules. And there is now a procedure to monitor macroeconomic imbalances.”

...“The two institutions that I manage – the ESM and its predecessor the EFSF – are the lender of last resort for sovereigns in the euro area, a function that did not exist before the crisis. We have a total of €246 billion in loans outstanding, three times as much as the IMF globally. We’ve assisted five countries during the crisis: Greece, Ireland, Portugal, Spain and Cyprus. Four of these are now success stories. I expect that Greece can also begin to return to markets next year, if it continues to reform.”

30. SEV asserts that Greece should not continue to behave as an exception. International bodies, such as your Committee, will hopefully exercise extreme caution in providing support to such forces that keep the country back, consequently fuelling acute social and economic problems that become increasingly more difficult to resolve.

3. Specific observations

A. Rigidity in former Labour Law framework

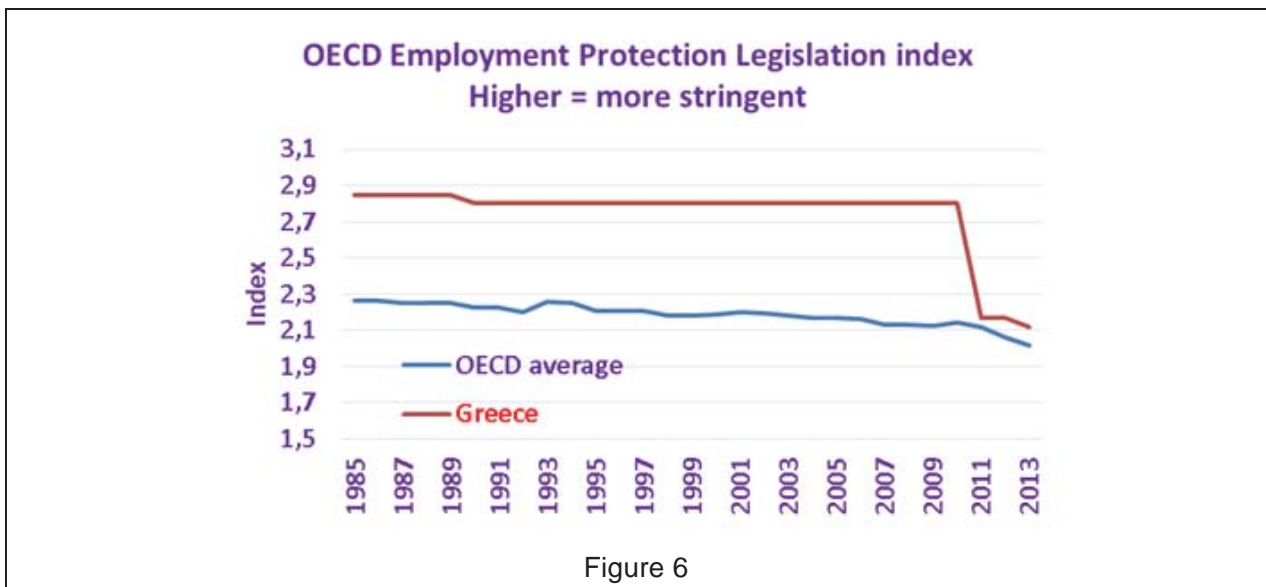
31. It should be noted that some labour regulations were amended because, without providing particular protection to workers, they presented serious obstacles to growth and competitiveness. For example, this was the case with the provision forbidding employees to work outside opening hours of the shops where they were employed⁸. This complicated enormously the supply of goods to the shops, taking inventory etc.
32. The determination of minimum daily rest of eleven hours, instead of the twelve hours, as provided for by Presidential Decree 88/1999, is in compliance with Directives 93/104 and

⁷November 1st, 2016, Cyprus http://www.esm.europa.eu/pdf/2016_11_01_KR_speech_Economist_Cyprus.pdf

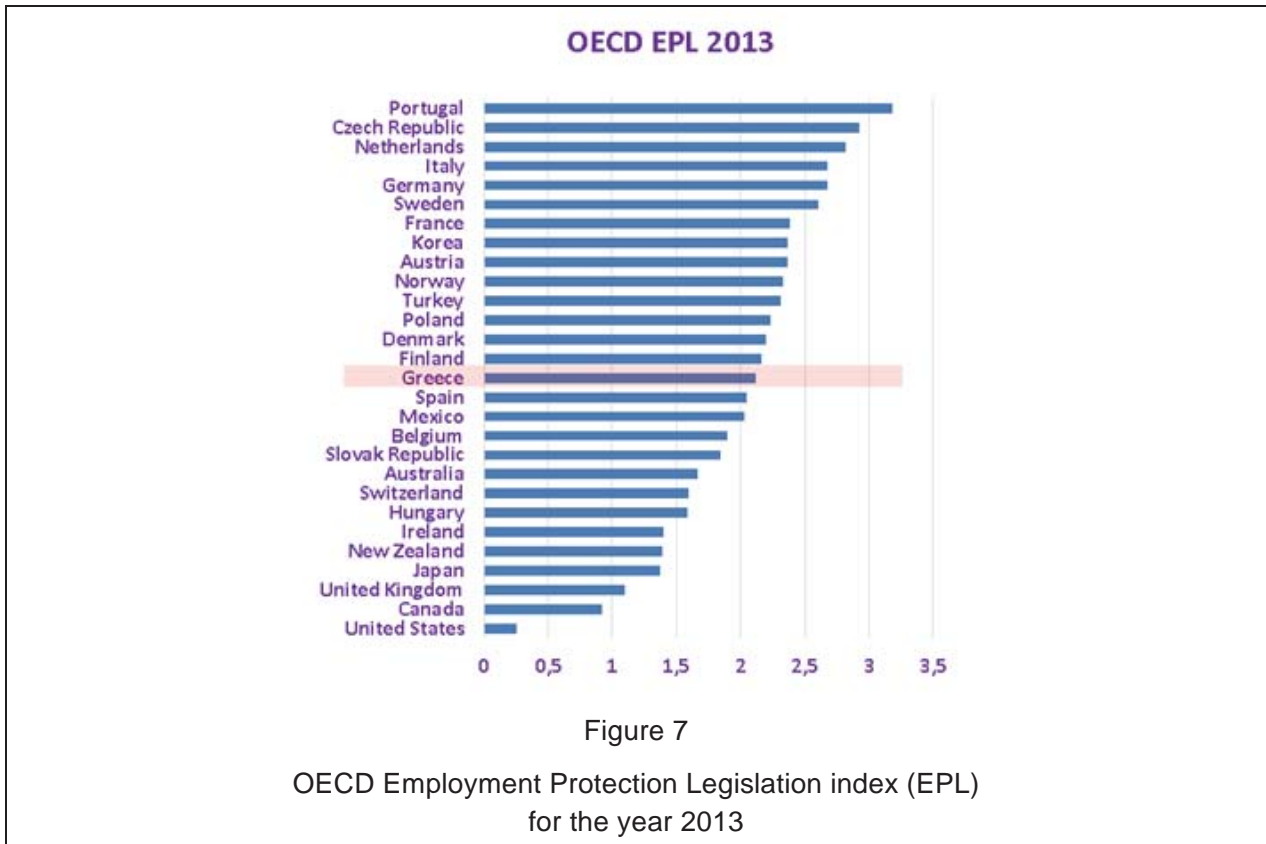
⁸ The old Decree 1037/1971 (art.7 para.1) reads: “During the hours of non-operation of the shops, any form of employment is prohibited, inside or outside of the premises and any transaction therein”.

2000/34 (Article 3) of the European Union. In the past, minimum daily rest was 10 hours (Legislative Decree 1037/1971 Article 10 § 2). The daily wage rate increased by 30% for work provided on the sixth day of the week, in undertakings where five working days per week apply, has not been repealed (Article 8 of law 3846/2010). The only exception from such wage rate increase is made for hotels and restaurants.

33. We should note that the issue of rigidity had gradually become an important structural deficiency of the Greek economy, especially compared to other developed economies where the trends led in an opposite direction, that of flexicurity.
34. OECD comparative measures on this⁹ are shown below in Figure 6 “OECD Employment Protection Legislation Index” and Figure 7, a country by country comparison of the Employment Protection Legislation index (EPL) for the year 2013.

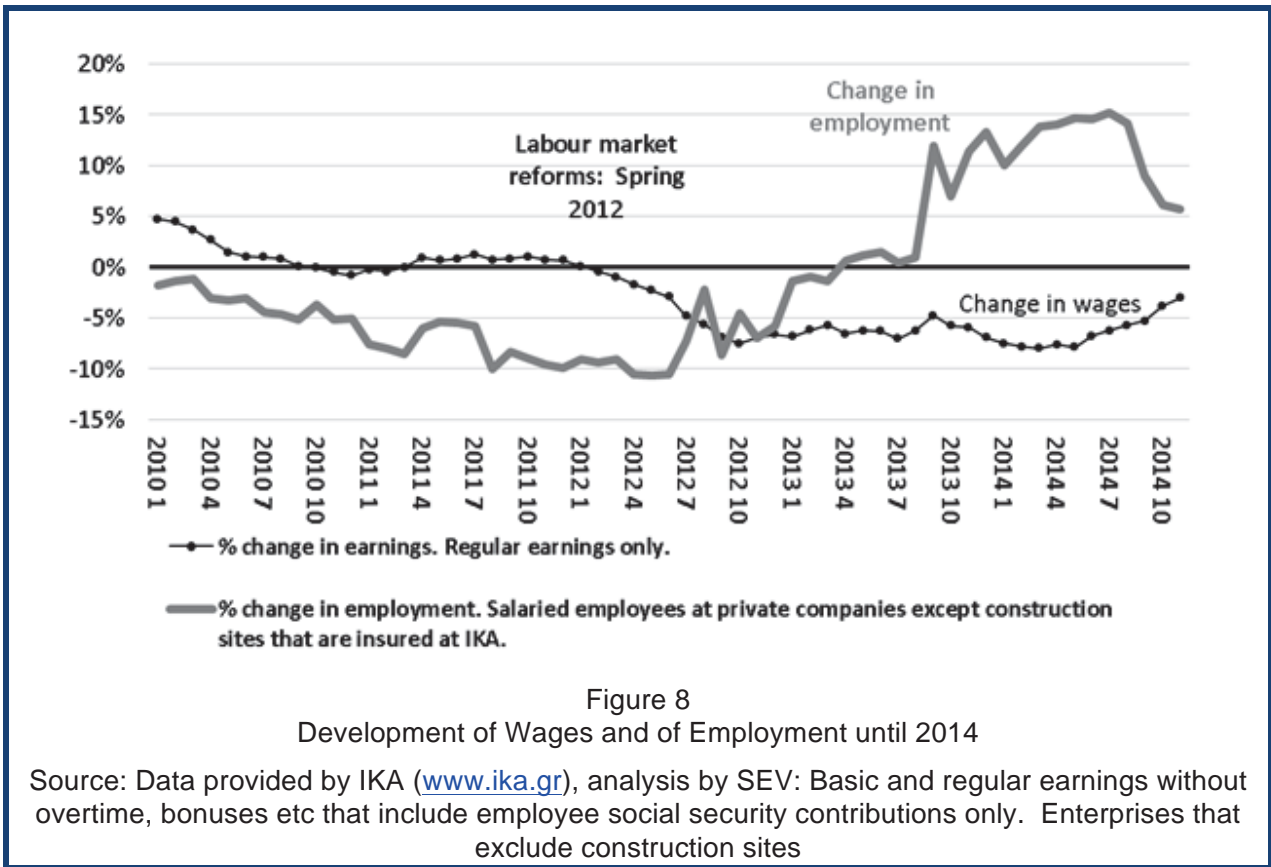


⁹<http://www.oecd.org/els/emp/oecdindicatorsofemploymentprotection.htm>



B. Consequences of measures and comparisons

- 35. The combined effect of the measures taken in the labour area could not be expected to reverse job loss in the midst of an ever deepening recession. However, they did manage to stop the upward trend, stabilize unemployment and help it drop from its peak at 28% to 23% today. GDP change is still negative today.
- 36. Figure 8 shows the development of wages and of employment until 2014. There is a clear break of the trend in 2012 when most labour reforms took place.



37. Pelagidis and Mitsopoulos¹⁰ document how during 2010-2012 the economy adjusted downwards given the inability to reduce wages. The ways of adjustment were layoffs and reduction in non-wage compensation that ranged from perks to reducing overtime and expensive night and weekend shifts. After January 2012, as shown in Figure 8, basic wages started to fall and employment stopped its rapid decline during 2012, stabilized and then during 2014 started to rise once again. This aggregate data demonstrates thus that indeed labour market reforms worked in Greece as they were expected to work, by allowing downward wage flexibility and thus leading to the preservation and even creation of jobs. The available data suggests that the analysis ECB President Mario Draghi offered for the Spanish job market in his Jackson Hole 2014 speech¹¹ directly applies also to Greece.
38. When comparing the evolution of wages to that of GDP change (Figure 9) we note that wages fall with a time lag and their decrease as a % is less negative than of GDP, whereas when the trend for GDP reverses wages follow immediately and very closely the GDP percentages.

¹⁰ Pelagidis, T. and M. Mitsopoulos (2014). Greece: From Exit to Recovery?, Washington DC., Brookings Publ. June.

¹¹ Draghi, M. (2014). Unemployment in the euro area. Speech by Mario Draghi, President of the ECB, Annual central bank symposium in Jackson Hole, 22 <https://www.ecb.europa.eu/press/key/date/2014/html/sp140822.en.html>

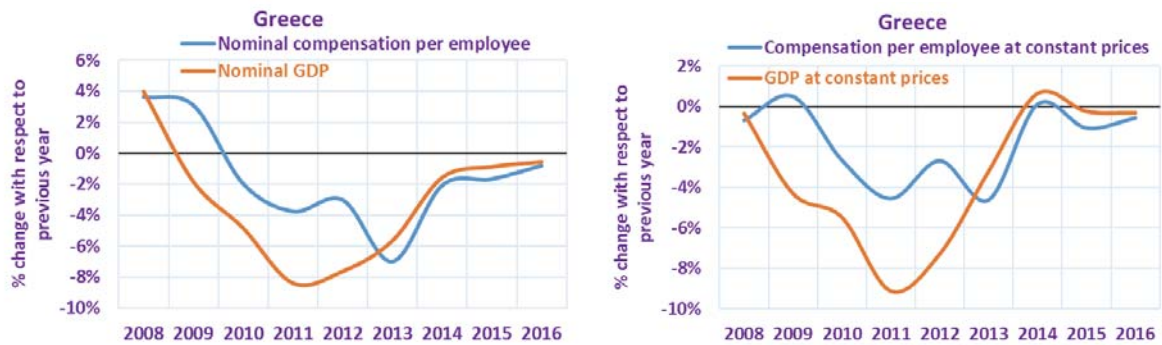


Figure 9

Employee compensation versus GDP

Source: European Commission AMECO database.

Compensation per employee includes all social security payments, imputed and not.

39. From the point of view of the employees, these curves compare very favourably to the respective curves in other countries that were under similar Programmes during the same period (Figure 10) focusing especially on the last years that determine the defining trend for future developments (the first couple of years of each Programme were years of adjustment, where reforms had not yet taken their full effect).

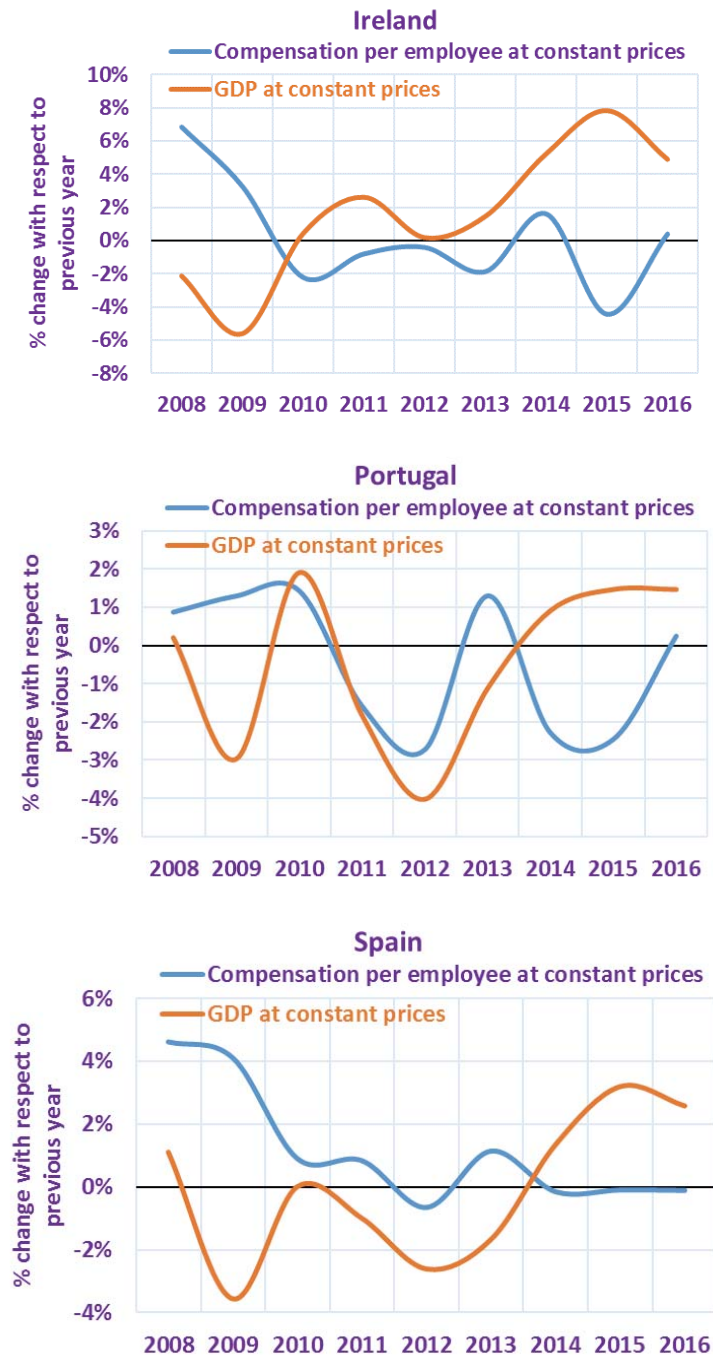
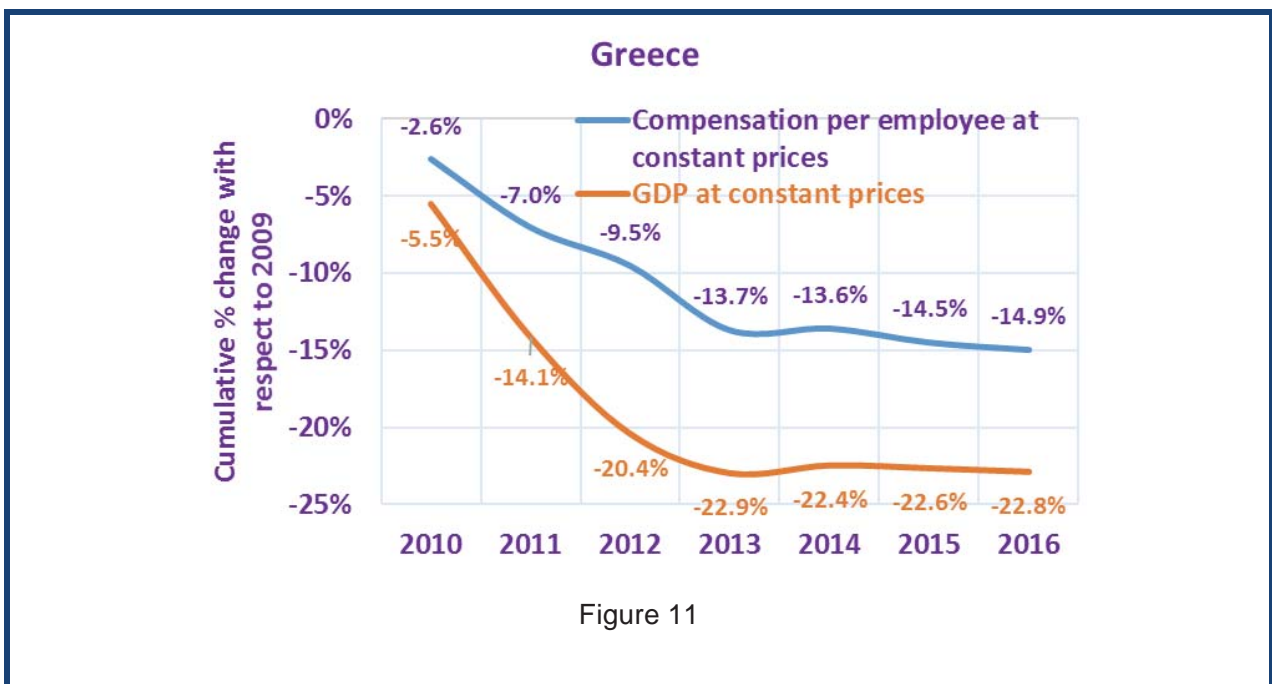


Figure 10

Source: European Commission AMECO database.
 Compensation per employee includes all social security payments, imputed and not.

41. Looking at the cumulative drop in values since the beginning of the Crisis one can realize the extent of economic deflation that reflected inflated values and unproductive activity coming from the previous years. Wages adjusted in a comparable manner, only at less negative rates (Figure 11). At the same time, a large proportion of businesses closed down; both employers and employees were hit by the Crisis in a similar manner. Closure trends for *Soci t  Anonymes* and Limited Liability companies are shown in Figure 12. Figures for the smaller companies and shops are less reliable, but the Chairman of the Hellenic Confederation of Professionals, Craftsmen & Merchants (GSEVEE) mentioned that closures may have reached 250,000 businesses (order of magnitude) out of an initial total of roughly 850,000.



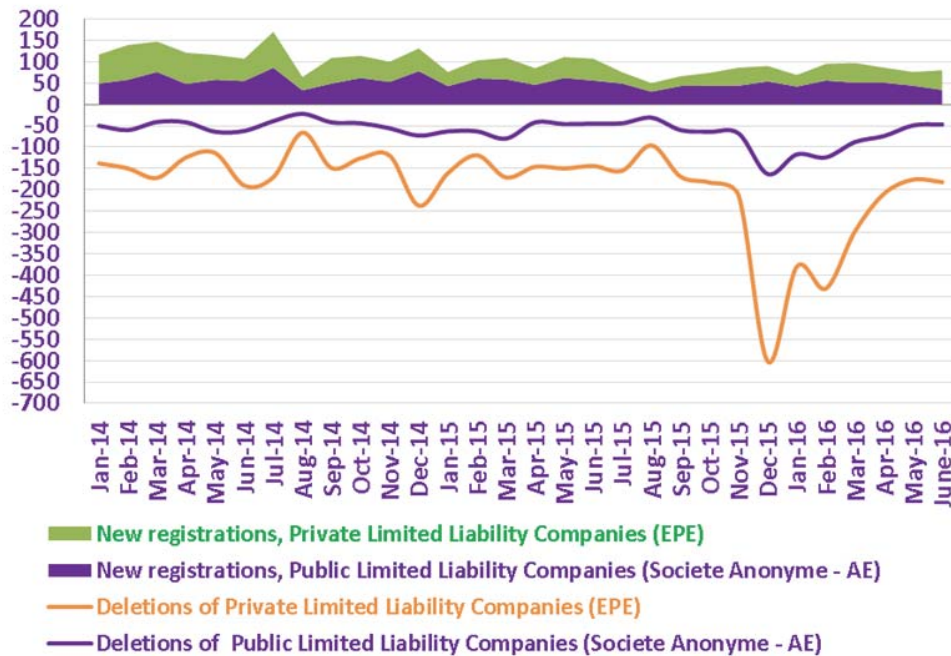
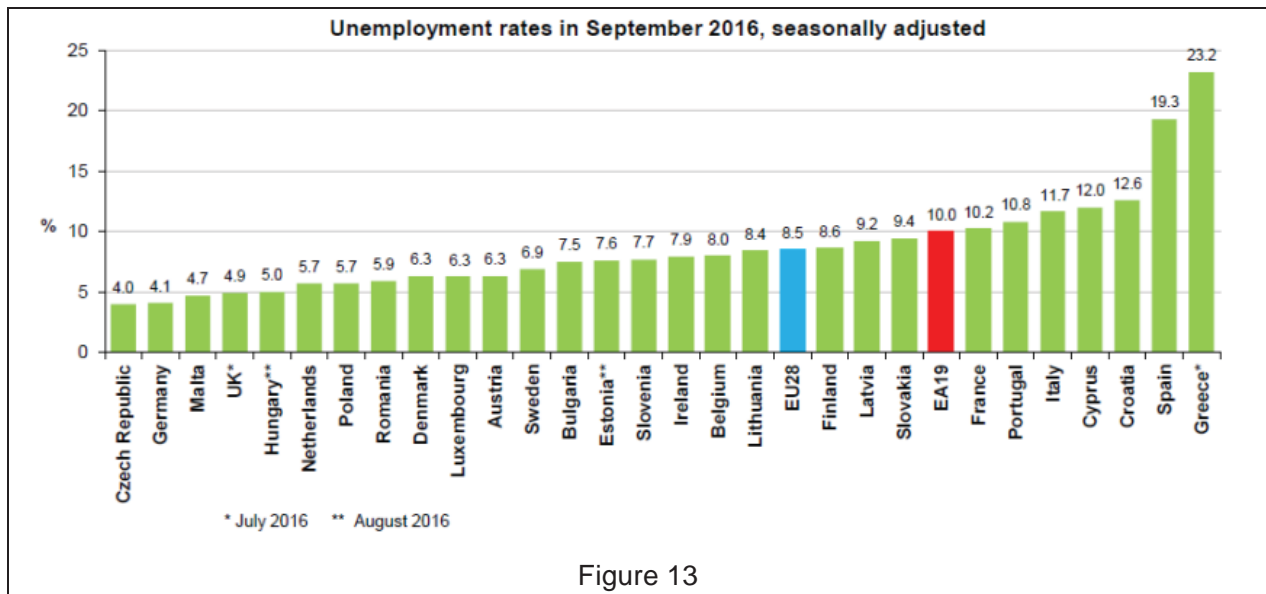


Figure 12

Based on data from GEMI, the Central Business Registry

42. On more than one occasions during the hearing of October 20, it was mentioned light-heartedly that *the changes in Labour law affected in the Crisis years from 2010 to 2014 are the main culprits for high unemployment*. Unemployment is, indeed, perhaps the top economic and social challenge for Greece presently. On 3 November 2016, Eurostat reported¹² Greece to be at 23.2%, still the worst performer in the EU (Figure 13). In a previous section of the present document the reasons were analyzed that led to a drastic reduction in productive activity and consequently to around 1 million job losses, but also to around ¼ of a million business closures. Throughout the Crisis both the workers and the business sector have suffered, and still do. Changes in economic activity, GDP growth or recession create or destroy jobs. Labour policies can provide incentives or disincentives, obstacles or safety nets, but can never actually create jobs, nor can they ultimately avert loss of jobs when the economic fundamentals cannot support a business.

¹² <http://ec.europa.eu/eurostat/documents/2995521/7720354/3-03112016-AP-EN.pdf/bf3d493b-9596-4ac9-b5ff-4e078523622a>



C. Advisable action

43. Based on the above, as mentioned earlier, the need for drastic reforms on a wide variety of fronts, including labour regulations, had been piling up over a long period before the Crisis. The pain of reducing incomes through taxation or through lowering of salaries, the increased flexibility that may bring a part of the workforce out of their comfort zone, but most importantly, the surge in the numbers of unemployed could have been much diminished if the recession had been milder, and had not been lasting for so long. All of social issues can be managed much easier if the economy is growing.
44. The successive governments since 2010 have not given priority to structural reforms that make businesses more productive and internationally competitive. In fact, despite commitments, they have neglected to a great extent several measures that were included in the Memoranda that aim at creating an environment friendlier to business. Additionally, none of these governments has managed to come up with an integrated Growth Agenda, that will be implemented side-by-side with the Memoranda, in order to help the economy turn to a growth path again. In fact, many policies create obstacles the way they implemented in practice: excessive taxation on bases not related to profits; procrastination in privatizations and big infrastructure investments; no rationalization of the state sector; fostering a mentality that tolerates tax evasion, informal employment and non-payment of dues to the state or the banks.
45. Greek employers' associations have consistently urged consecutive governments to design and implement plans that stimulate growth, in parallel to carrying out in a rational and timely

manner the commitments stemming from the Memoranda. SEV has recently submitted to the Government and the parliamentary parties a plan with proposals to this effect¹³.

46. It is worth mentioning that the quarterly report of the Parliamentary Budget Office (¹⁴) issued on 31st October 2016 (¹⁵), includes an extensive chapter on labour matters. On page 41 it reads:

“The labour market reform is characterized by two important parameters. The first parameter relates to the economy's ability to reallocate labour potential jobs in such a way as to achieve sustainable development(Micro-flexibility). The second relates to the economy's ability to adapt to macroeconomic disruption (Macro-flexibility). Today's labour market reform needs to combine flexibility with protecting workers.

Employment protection creates incentives for both employees and the companies. But it should not be excessive because distortions are created. This may happen because they involve both administrative and legal restrictions, which affect negatively productive growth. With increasing business costs, hiring is reduced and the level and duration of unemployment increases. The protection to all employee categories must be the same to avoid the phenomenon of dual labour market [the Dichotomy mentioned earlier].

Micro-flexibility essentially gives special attention to supporting the worker during the period of unemployment through benefits, active employment and training policies.

Macro-flexibility aims at achieving low unemployment. Of decisive importance are the minimum wage, the tax wedge and collective bargaining. The minimum wage protects low skilled workers and helps prevent exploitation at work. The tax wedge is considered to enhance the growth of unemployment, because it increases the costs for business.” (Translation by SEV).

D. Consultation

47. Since 2010, successive ministers of labour have held several bipartite and tripartite meetings with the representative organizations of workers and employers. The meetings were almost always ad-hoc, and happened in the context of the negotiations of each minister with the troika. Additionally, since 2012 there have taken place several workshops, conferences and similar events where the social partners and Government discussed their positions and proposals. On rare occasions there was agreement as a result of such exchange of views.

48. Despite these facts, and despite grave difficulties experienced by a very large proportion of the population, there have been minimal symptoms of unrest in the work environment in the

¹³ http://www.sev.org.gr/Uploads/Documents/48973/Invest%20Strategy_ENG.PDF

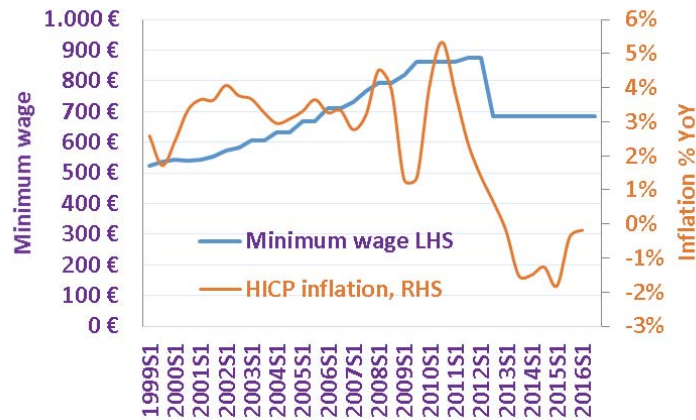
¹⁴The Office is an internal unit of the Hellenic Parliament, independent of the Executive and affiliated directly to the Speaker of the Parliament. The Office is responsible for the monitoring of State Budget's implementation, the assistance to the workings of the Special Committee on the Financial Statement and the General Balance Sheet of the State and on the Control of the Implementation of the State Budget, as well as to the workings of the Standing Committee on Economic Affairs, the drawing up and submission to the above committees, of quarterly and annual reports regarding the observance of fiscal targets which are set in the Midterm Fiscal Strategy Frameworks. The Office's reports are focused on the most important issues of Greek economy. These reports are based on comparative analysis.

¹⁵ Unfortunately no English translation was available to this date. Link to Report in Greek: <http://www.pbo.gr/>

private sector. Strikes and other types of industrial action are lower than before the Crisis. Employers are aware that this should not prompt negligence for the rights of workers, irrespective of whether these are inscribed in hard law, or are specified by international agreements such as the ESC, the ILO conventions etc. In this respect, SEV insists on the position that social partners could and should be closely involved in discussions over the need for national reforms. Social dialogue is needed more than ever in Greece, especially at tripartite level, on the subject of Labour reforms and all aspects of economic and social policy.

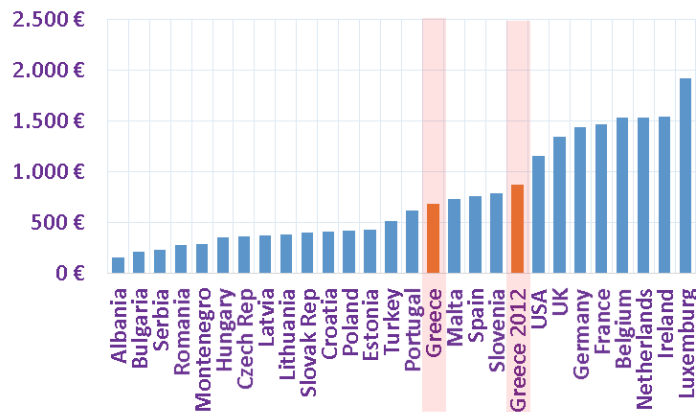
E. National Minimum Wage, Freedom to sign Collective Agreements

49. Concerning the way the national minimum wage is determined, no international obligation of the country requires it to be set by a national collective agreement. The reform introduced, according to which the national minimum wage is set by the administration, did reverse a practice of three decades. However, this reform aligned the country with what is the most widespread practice in European countries where a national minimum exists. In this sense, adapting our practices to a system that is predominant in Europe cannot conceivably be a breach of fundamental social rights.
50. SEV, as a major social partner, supports freedom of collective bargaining. The reality is that the present law does not prohibit the social partners to conclude a National Collective Agreement, with a higher basic salary, applicable to the members of the signatory employers' associations. In practice, market conditions have not allowed this to happen so far, nor can we see it happening in 2017. The fact is that during the Crisis years there have been negotiations for a national collective agreement between GSEE and the employers' associations. We enclose in ANNEX 2 the original invitations sent by GSEE to the employers' associations to negotiate a new National Collective Agreement for the years 2015 and 2016, where GSEE requests, among other, an increase of reference basic salary from 586 to 751 euro per month, and also the respective National Collective Agreements as actually signed, which do not include any provisions for salary changes. The outcome, i.e. that GSEE ended up signing an agreement that satisfied none of its requests, indicates that such requests were not timely, and that GSEE accepted this, but it certainly does not indicate that the law prohibits the parties from eventually agreeing on salary increases, when the economic conditions allow. Figure 14-top diagram shows the development of this reference basic salary compared to inflation, and Figure 14-bottom diagram compares this basic salary against its equivalent in other countries.



Minimum wage in Greece

Annual remuneration divided by 12, but excluding youth related reduction for age under 15y (Eurostat, 2016)



Minimum wage 2016

Annual remuneration divided by 12 Excludes age related minimum wage for young under 25 years of age. (Eurostat, 2016)

Figure 14

51. Because the complaints of GSEE on reforms to collective bargaining and compulsory arbitration are a large part of their submission, we should emphasize that today in Greece we are free to sign collective agreements at all levels such as national, sectoral and firm-level. Ministry statistics report significant activity on this front (Figure 15). The fact Greece has negative inflation for many years, and that the workers understand the extremely difficult position of business and often avoid pressing for salary increases (in contrast to what was happening up to the start of the Crisis), should not be considered as an argument that their side lacks the legal tools to do so if it wishes.

	2013	2014	2015
Sectoral/occupational	14	14	12
Firm-level	489	286	263

Figure 15
Number of Collective Agreements signed
(source: Ministry of Labour)

F. Extension of Collective Agreements

52. On the matter of extension of collective agreements, let us refer to what was said by the competent bodies of ILO, namely the Freedom of Association Committee and the Committee of Experts on the application of Conventions and Recommendations, who have given their responses to collective bargaining and arbitration issues.
53. The extension of collective agreements is not imposed either by the international conventions and recommendations nor the European Social Charter. The ILO Committee on Freedom of Association, examining a complaint of GSEE, has stated that "...there is no duty to extend agreements from the perspective of freedom of association principles..."¹⁶). In the previous scheme the big problem in Greece was that it was not possible to certify the number of covered employees when the Minister decided to expand a collective agreement, and expansion was granted as a matter of routine.

G. Informal Employees' Associations at Firm-level

54. It is true that the Greek law now allows informal employees' associations to sign firm-level collective agreements. But this happens only if there is no trade union, a fact which is in line with the International Recommendation 91 of 1951. Anyway, the Greek Law 1264/1982 on trade unions originally foresaw the creation of informal associations of employees in undertakings where there is no union, and it also granted them the right to strike. Note that if only official unions have these rights then workers in small enterprises are not covered, since these unions need at least 20 members to be formed. This means that probably no worker representation could be possible in roughly 98% of Greek firms, covering about 60% of employees.

H. Unilateral recourse to compulsory Arbitration

55. In many parts of the complaint GSEE defends unilateral recourse to compulsory arbitration, which had been abolished in Greece from 14/2/2012 to 17/10/2014. During that period recourse to OMED, the arbitration institution, was possible only with the agreement of both

¹⁶ILO 365th report, paragraph 999
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:3087085

parties of the collective difference (“voluntary arbitration”). The ILO Committee on Freedom of Association stated in its 365th Report para. 1000 (8):

”Finally, the Committee takes note of the numerous allegations related to the modifications to the functioning and constitution of OMED. As regards the amendments to the law which now only permit recourse to binding arbitration when both parties agree, the Committee recognizes that this measure was taken in an effort to align the law and practice with its principles relating to compulsory arbitration and does not consider this measure to be in violation of freedom of association principles.”

56. Moreover the Committee of Experts on the Application of Conventions and Recommendations of the ILO noted in the report of 2013 that, if arbitration is allowed only with the agreement of the parties, it is not contrary to ILO Convention 98. Indeed, compulsory arbitration is contrary to Article 4 of Convention 98¹⁷, Article 6 of Convention 154¹⁸, para.6 of ILO Recommendation 92¹⁹ and para. 8 of ILO Recommendation 163²⁰.
57. Besides, some years before the Crisis, the Governing Body of ILO, upon suggestion of the Committee on Freedom of Association²¹ stated in para. 665 that “The Committee recalls that the imposition of a compulsory arbitration procedure if the parties do not reach agreement on a draft collective agreement raises problems in relation to the application of Convention No. 98. Recourse to compulsory arbitration in cases where the parties do not reach agreement through collective bargaining is permissible only in the context of essential services in the strict sense of the term (i.e. services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) [see Digest of decisions and principles of the Freedom of Association Committee, paras. 860-861].” and concluded in para. 668 by suggesting “that the Government initiates consultations with the most representative organizations of employers and workers with a view to considering measures to ensure that compulsory arbitration is only possible in essential services in the strict sense of the term”. Such consultation never happened until the law was changed in 2012.
58. In 2014, the Council of State in Greece considered that all but one of the provisions of the 2nd Memorandum were in accordance with the Greek Constitution. The one exception

¹⁷ “Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers’ organisations and workers’ organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.” http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::no::P12100_Ilo_Code:C098

¹⁸ “The provisions of this Convention do not preclude the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machinery or institutions, in which machinery or institutions the parties to the collective bargaining process voluntarily participate.” http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C154

¹⁹ “If a dispute has been submitted to arbitration for final settlement with the consent of all parties concerned, the latter should be encouraged to abstain from strikes and lockouts while the arbitration is in progress and to accept the arbitration award.” http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R092

²⁰ “Measures adapted to national conditions should be taken, if necessary, so that the procedures for the settlement of labour disputes assist the parties to find a solution to the dispute themselves, whether the dispute is one which arose during the negotiation of agreements, one which arose in connection with the interpretation and application of agreements or one covered by the Examination of Grievances Recommendation, 1967.”

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R163

²¹ ILO, 332nd report, case 2261

http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2907784

concerned arbitration, where its interpretation was that the Constitution requires the legislature to establish a right to unilateral recourse to compulsory arbitration. Following the implementation of this decision, the Committee of Experts on the Application of Conventions and Recommendations included the following²² in its report to the 104th session of the ILO of 2015:

“The Committee notes the observations of the SEV that the Council of State rendered a decision finding that the provision in Act No. 4046 of 14 February 2012, which provided for the suppression of unilateral recourse to compulsory arbitration, was unconstitutional. The SEV criticizes this judgment as contrary to the Convention and moreover expresses its deep concern that renewed unilateral recourse to compulsory arbitration will suffocate collective bargaining, as it has always done in Greece. The Committee notes that the Government merely refers to the Council of State decision in its report but does not reply to the concerns raised by the SEV. The Committee recalls its earlier consideration of the arbitration regime prior to the suppression of unilateral recourse in which it found it not to be contrary to the Convention in so far as it addressed only the basic wage at national or sectoral/occupational level in a context where machinery for minimum wage fixing was yet to be developed. The Committee must nevertheless emphasize that, as a general rule, legislative provisions which permit either party unilaterally to request compulsory arbitration for the settlement of a dispute does not promote voluntary collective bargaining and is thus contrary to the Convention. The Committee therefore trusts that the measures taken by the Government to respond to the Council of State decision will fully take into account the above considerations and requests it to provide detailed information in this regard and to reply fully to the concerns raised by the SEV.”

59. Indeed, SEV insists to this day that the revival of unilateral recourse to compulsory arbitration already undermines collective labour relations and turns free collective bargaining into a routine. The risk during the present period (compared to the years before the Crisis) is that a very large proportion of businesses have marginal viability, and the risk is high that they may close down and create loss of more jobs if they are asked to implement unrealistic arbitration decisions.
60. Finally on this subject, the European Committee of Social Rights has resolved in connection with Portugal as follows: "Any form of compulsory recourse to arbitration is a violation of this provision (i.e. art. 6§3), whether domestic law allows one of the parties to defer the dispute to arbitration without the consent of the other party or allows the Government or any other authority to defer the dispute to arbitration without the consent of one party or both. Such a restriction is only allowed within the limits prescribed by Article G" (Conclusions 2006, Portugal, p. 681).

I. Temporary Work

61. Temporary work is widely spread across Europe; it has helped reduce unemployment and the adaptation of businesses to operational needs. It is reasonable to facilitate temporary

²² P. 87, Report of the Committee of Experts on the Application of Conventions and Recommendations
http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_343022.pdf

employment in an economy in long-term recession, such as Greece. In any case, the operation of temporary employment agencies is under the direct supervision and inspection of the Ministry of Labour.

62. Greece has rightly facilitated temporary work by reducing from six to three months the time between firing and hiring of individual temporary employees, and by not requiring any more that the employee's contract mentions the specific need to be covered etc. The relevant reforms have benefitted companies that are struggling to reorganize and survive. In any case all of the amendments of the law on temporary employment comply with the provisions of Articles 1,2,4,7 the European Social Charter or Article 3§1 of the Additional Protocol of 1988.

J. Termination of Contract

63. We will not deal with complaints of GSEE, which have been answered by the Committee in Cases n^{os} 65/2011 and 66/2011, such as non-payment of compensation for termination of indefinite term contract, which has a duration of less than twelve months (17 § 5 law 3899/2010).

K. Complaints falling within Articles 5 & 6 of 1961 Charter

64. In Case 65/2011, the Committee considered that the recent Greek legislation, relating to amendments of the law on collective agreements does not fall within Article 3 § 1 of the Protocol of 1998, but within Articles 5 and 6 of the Charter of 1961, which Greece had not accepted, so the Committee did not consider the relevant complaints. The same applies in the present case with regards to the complaints related to the regulation and functioning of collective agreements, namely Articles 31 and 37 of law 4024/2011, referring to:
- determining wages by collective agreements in public sector legal entities,
 - also to the capability of informal employees' associations to sign firm-level collective agreements, in undertakings where there is no trade union,
 - to the supremacy of the firm-level collective agreement against that of the sector, but not against to the national general collective agreement,
 - to the suspension of the extension of collective agreements for non-unionized employees and employers.
65. For the same reason, the Committee's decision in Case no 85/2012, concerning Sweden it is not useful in this case, as it concerned violations of Article 6 of the Charter.

L. Reforms are within the European social model

The contested changes in labour law may seem to worsen some regulations protecting the Greek workers, but they are still within the general perimeter of regulations and practices found in other European countries - as opposed to violating fundamental Social Rights of workers in Greece.

66. The wide variety of labour market systems in developed European economies is well known. It is understandable that, when a shift happens from one system to another (still within the "European perimeter") with consequent loss of income or introducing increased flexibility, those who have to lose react. It is surely a fine and unclear line between the adjustments needed in order to restart the economy and solve the issues in a context of growth, and the changes that are considered to violate fundamental social rights. We attempt to show that

the labour reforms fall within the first category. There are many examples of other economies that have similarities with the current Greek regulations.

67. A Committee of Experts was recently engaged jointly by the Greek Government and the “Institutions” in order to express its opinion on a number of issues of Labour law, that are presently subject to negotiation between the Ministry and the “Institutions”. Their report was issued end September 2016²³ and includes 12 Recommendations. For several of those recommendations, the report refers to the variety of practices that are applied in different European countries²⁴. From these references it becomes obvious that the changes discussed in the report, but also the existing regime in Greece (i.e. the situation as it stands after the contested reforms were implemented) lie within the perimeter of a wide variety of practices, used in different combinations in other European countries. These may end up with significantly different labour regulations; however they generally abide with the European Social Charter and the wider concept of a labour market with balanced power of its actors and a continuous effort to adapt practices to the evolving challenges of increased productivity and international competition.
68. Similarly, we refer to work carried out by Eurofound “Collective bargaining in Europe in the 21st century”²⁵ which is relatively recent (2015). A characteristic quote selected from this work highlights the wide variety of systems within Europe, and their continuing evolution over time: *“While, according to some commentators, the changes that occurred after 2008 in many countries, especially the ‘programme’ countries, reflect the emergence of a ‘new supranational interventionism’ (ETUI, 2013), this study has also shown that a shift from integrative, expansionist or solidarity collective bargaining towards competitive or productive bargaining in other countries had taken place before 2008. An interesting example is the emergence and evolution of ‘concession bargaining’ and the growing extent of flexibilisation and decentralisation of collective bargaining since the mid-1990s in countries such as Denmark and the Netherlands, but particularly Germany.”* (page 49)
69. Furthermore, the report also indicates that this variety is expected to develop further in future years, and presents the “Major and likely future developments in collective bargaining systems and processes, according to the social partners”. (Table 2 below copied from page 51 of the Eurofound report)

²³<http://www.ypakp.gr/uploads/docs/9946.pdf>

²⁴ For example, page 10 point 3.2.2 (1st paragraph) ; page 13 point 3.3.2 (4th paragraph) ; page 22 point 3.4.4 (in its entirety) ; page 40 recommendation 5 (1st paragraph)

²⁵ http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1548en.pdf

Social partners expect ...	Countries
No further change in the coming years	Austria, Croatia, Latvia, Malta, Sweden, UK
Stronger state intervention	Belgium, Bulgaria, Cyprus, Estonia (legal reforms), Germany, Lithuania
Change and reorganisation of actors	Cyprus, Czech Republic, Denmark, Estonia, Finland, Hungary, Lithuania, Spain
Decline in trade union density	Bulgaria, Cyprus, Denmark, France, Italy, Luxembourg, Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Spain
Changes in balance of power	Bulgaria, Cyprus, Estonia (growing employee strength; demographic change), Ireland (growing employee strength), Luxembourg, Netherlands
Further decentralisation and flexibility	Cyprus (individualisation), Czech Republic, Estonia, (individualisation), Finland, France, Germany (coordinated), Italy, Slovakia, Slovenia, Spain
Drop in the number of agreements and collective bargaining coverage	Czech Republic, France, Portugal, Slovakia, Slovenia, Spain

Note: No information on Greece.

Source: Authors, based on contributions from Eurofound's network of correspondents

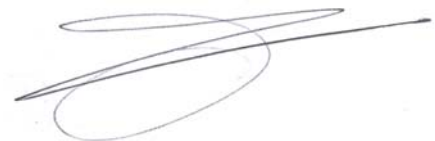
Table 2

Major and likely future developments in collective bargaining systems and processes, according to the social partners

70. Finally, in ANNEX 3 we have selected graphs from the Amsterdam Institute for Advanced Labour Studies and OECD, comparing various countries on specific labour regulations, that are also of interest in the present case.

4. Concluding remarks

71. The IOE and its Greek Member Association, SEV, place a very high moral value on compliance with the European Social Charter. In this sense, the case under examination is considered of very high importance, because:
- The case is not confined in scope to a restricted part of the population, as often happens in complaints coming from more developed economies. It relates to the entire population of Greece that is of productive age, encompassing perhaps twice the number of all salaried employees in the country.
 - The IOE, SEV and the businesses we represent, base our behaviour and actions on the sets of principles that promote inclusive growth in our societies. Respect for social rights is embedded in our positions and our everyday practice. For us this is not a theoretical or philosophical exercise; it has a practical impact on our day-to-day decisions and actions. In the case of SEV we explicitly decline to represent those who do not commit to such principles.
 - In the case Greece is found to be in non-compliance with the Charter, the decision will be publicised as a victory for those actors who wish Greece to revert to its pre-Crisis quagmire, without any reforms, if at all possible. This is an untenable position. Nonetheless it is the official position of certain pressure groups, trade unions and politicians in the country.
72. Contrary to the Government's expressed desire for Greece to be found in violation of the European Social Charter, the IOE and SEV maintain that Greece is in compliance with the Charter. We firmly believe that the issues made in the complaint of the GSEE do not constitute violations of fundamental social rights in Greece, and especially of Articles 1, 2, 4, 7, 30 and 31 of the European Social Charter and with Article 3§1 of the 1988 Additional Protocol to the 1961 Charter; even more so if one considers the special circumstances that are affecting the country.
73. We remain at your disposal in case the Committee would like us to provide clarifications or more detailed information.



Linda Kromjong

IOE Secretary-General

The International Organisation of Employers (IOE) is the largest network of the private sector in the world, with more than 150 business and employer organisation members. In social and labour policy debate taking place in the International Labour Organization, across the UN and multilateral system, and in the G20 and other emerging processes, the IOE is the recognized voice of business. The IOE seeks to influence the environment for doing business, including by advocating for regulatory frameworks at the international level that favour entrepreneurship, private sector development, and sustainable job creation. The IOE supports national business organisations in guiding corporate

members in matters of international labour standards, business and human rights, CSR, occupational health and safety, and international industrial relations. For more information visit www.ioe-emp.org

ANNEX 1: OECD and EC on Labour reforms

Numerous points for modernizing labour regulations could have been identified in reports by international organization already since 2003. A selection is presented in this Annex, as they formed the basis of what the “Institutions” have been asking successive Greek governments to implement after 2010, during the various Programmes. The sources are the same as the documents presented in Table 1.

OECD

2005: “Employment protection legislation is among the strictest in the OECD, and this may have contributed to low labour turnover and to persistently high unemployment rates for women and youth.”⁽²⁶⁾

2007: “ Employment protection legislation may be contributing to weak labour demand for ‘outsiders’ and low labour turnover, hindering progress in reducing the large gender/age imbalances in unemployment and hampering innovation activities.

Actions taken: Recent legislation has abolished permanent contracts for new employees in all public enterprises and entities.

Recommendations: Rebalance employment protection for different occupations, in particular reduce high severance costs for white-collar workers to bring them in line with those for blue-collar workers.”⁽²⁷⁾

2007: “Labour market flexibility needs to be raised. While overall labour utilisation is quite high, overly rigid labour market institutions contribute to a low employment rate among the old, young and women. In particular the retirement income system provides strong disincentives to continue working, and the setting of minimum wages and strict employment protection legislation makes it difficult for first time entrants (mainly the young) and re-entrants (mainly women) to join the job market.

..... An unusual, but not unique, feature is that legally binding minimum wages are set by the social partners and apply to the whole economy. Moreover, there is a close correlation between changes in minimum wages and average wages, suggesting that the process of setting minimum wages is closely integrated with aggregate wage determination.

Given that unit labour cost increases have outstripped those in the rest of the euro area and thereby eroded competitiveness, the government should also consider ways to encourage more decentralised bargaining. This might be achieved by avoiding the administrative extension of collective agreements (at the industry or occupational level) to enterprises not represented in the negotiations. The government should continue to aim for more moderate increases in the wages

²⁶OECD, 2005 Economic Policy Reforms: Going for Growth 2006; Progress in Responding to the 2005 Policy Priorities - Greece Country Note <http://www.oecd.org/eco/growth/34485071.pdf>

²⁷ OECD, 2007 Economic Policy Reforms: Going for Growth 2007 - Greece Country Note <http://www.oecd.org/greece/38088819.pdf>

of its own employees, as in 2005 and 2006, recognising that they often play a leading role in aggregate wage developments.”⁽²⁸⁾

European Union

2002⁽²⁹⁾: “Labour markets. The economic upturn in recent years in Greece has been accompanied by employment growth (although at rates below the euro-area average). While this employment creation was initially outstripped by increases in labour supply, in the last one or two years job growth has led to a slight fall in the unemployment rate, notably in 2000. Nevertheless, the Greek labour market is still characterised by a low employment rate (55,7 % in 2000) and a high level of structural unemployment. Moreover, the labour market is highly segmented with high rates of youth and female unemployment, and a high share of long-term unemployment.

Labour market policy measures in 2001 focused on the implementation of the December 2000 package of labour market reforms, and the on-going reforms in the Public Employment Service and the educational and vocational training system. Despite recent measures, the labour market still displays a number of problems including: heavy labour market regulation; insufficient wage differentiation; and distortions to incentives to work in the formal sector embedded in pension entitlements and in the tax system. The latter include a strong degree of progressivity of personal income taxes and a high burden on dependent employees compared with the self-employed, even though the average tax burden is low. Moreover, the educational and vocational training system should be further strengthened to better meet the requirements of the labour market. In view of the above, while vigorously implementing all the Employment Recommendations adopted by the Council in February 2002, the main priorities for Greece should be to:

- (i) urgently pursue reform of pensions entitlements in order to encourage older workers to take up and remain in work;
- (ii) continue to improve educational and vocational training systems in order to enhance the skills of the labour force and meet the needs of the labour market;
- (iii) continue progress in eliminating the major distortions to work incentives arising from the interplay of social security contributions and labour market rigidities;
- (iv) promote changes to the wage formation system in order to ensure that wages better take into account differences in productivity levels and local labour market conditions. In particular, the opt-outs included in the territorial employment pacts should be made a practical possibility; and
- (v) fully implement labour market reform packages, and monitor their impact on labour market performance in order to ensure that positive effects are maximised. In particular, further build upon these efforts by loosening restrictive employment protection legislation, with a view to

²⁸ OECD, 2007 Policy Brief, Economic Survey of Greece <http://glotta.ntua.gr/posdep/concrete/OECD/2007-OECD-38665552.pdf>

²⁹European Union: COUNCIL RECOMMENDATION of 21 June 2002 on the broad guidelines of the economic policies of the Member States and the Community (2002/549/EC) (see page 27) <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002H0549&from=EN>

ensuring a proper balance between flexibility and security, and by speeding up the restructuring of the Public Employment Service.”

2003 ⁽³⁰⁾ : “The situation in the labour market is improving at a very slow pace. Notwithstanding the strong job creation, employment growth is not satisfactory and unemployment, although it fell below 10 % of the labour force in 2002, remained at a high level. The interplay of rigidities in labour and product markets and the late development of knowledge-based society, due in particular to the low level of investment in human capital and in research, are impeding the increase in labour productivity to levels that would accelerate the catching-up process.

The level of labour productivity has been rising strongly in recent years, but it still remains the second lowest in the EU. This can be explained by low levels of investment in R&D, the still low—albeit growing— level of ICT diffusion, low levels of educational attainment of the population and the resulting lack of skilled workers. In addition, the large percentage of small and micro domestic firms, which is partially due to distortions created, for example, by labour market legislation and by taxation, contributes to low investment in R&D and innovation.

Greece’s overall employment rate is considerably below the targets set by the European Council, in particular for women. Unemployment fell for a third consecutive year in 2002, but remains well above the EU average, the unemployment rate for women being more than double the rate for men, and youth unemployment remaining very high. Labour market rigidities still hamper the more flexible functioning of the labour market. There have been no changes in the wage formation system that would allow greater differentiation according to productivity and skills. The remaining complexity of the tax system, despite the recent improvements, the high social security contributions and the stringent employment protection legislation are still important obstacles to hiring. Moreover, the limited impact of reforms aimed to promote flexible forms of employment point to the fact that many employers have ready recourse to flexibility through the informal economy. The reform of the public employment services, which is essential to address the high level of long-term unemployment, is still delayed.”

³⁰European Union: COUNCIL RECOMMENDATION of 26 June 2003 on the broad guidelines of the economic policies of the Member States and the Community for the 2003-2005 period (2003/555/EC)(p. 23 on Greece) <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0555&from=EN>

2009 ⁽³¹⁾ : “In light of the Commission's assessment of progress made, the Council recommends Greece to pursue the implementation of structural reforms. In particular, it is recommended that Greece: Pursues fiscal consolidationTakes measures to increase competition..... Implements reform of the public administrationWithin an integrated 'flexicurity' approach, modernises employment protection legislation, reduces non-wage costs to the low-paid, strengthens active labour market policies, and transforms undeclared work into formal employment; and accelerates the implementation of reforms on education and training, increases participation in lifelong learning and facilitates transition to work, particularly for the young.”

Early 2010 ⁽³²⁾, before the need for a rescue programme was realized:“Greece should recover competitiveness losses and address large external imbalances. In this context, in accordance with the Broad Guidelines of the Economic Policies, Greece should aim at correcting the current account deficit ‘by implementing structural reforms, boosting external competitiveness and (...) contributing to their correction via fiscal policies’. To this end, the Greek authorities should implement permanent measures to control current primary expenditure, including the wage cost in the public sector, and urgently implement labour and product market structural reforms. In particular, the Greek authorities should ensure that fiscal consolidation measures are also geared towards enhancing the quality of public finances within the framework of a comprehensive reform programme, while swiftly implementing policies to further reform the tax administration.

Greece's labour market is also in need of reform in line with the common principles of flexicurity, as noted by the Council in its 2009 recommendations on the implementation of employment policies. Particular attention needs to be paid to young persons, given the difficulties they face in entering formal employment. There is serious scope for supporting labour market transitions including by improving education and training policies, upgrading the skills of the workforce, and improving the efficiency of active labour market policies, drawing also upon the support of the European Social Fund. There is also a need to ease employment protection legislation. Furthermore, policies should encourage active labour market participation. Implementation of these recommendations is of key importance for the Greek economy. The employment effects of the structural actions implemented in the economic area should thus be duly taken into account.

..... HEREBY RECOMMENDS:

1. Taking into account the institutional weaknesses of the Greek public finances and economy at large, Greece should design and implement, starting as soon as possible in 2010, a bold and comprehensive structural reforms package which goes beyond the measures outlined in the

³¹European Union: Implementation of the Lisbon Strategy Structural Reforms in the context of the European Economic Recovery Plan - Annual country assessments: 28-1-2009 COM (2009) 34 final, Volume I (p. 21) <http://ec.europa.eu/transparency/regdoc/rep/1/2009/EN/1-2009-34-EN-F1-2.Pdf>

³²European Union 2010: COUNCIL DECISION of 16 February 2010 with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0181&from=EN> and <http://publications.europa.eu/en/publication-detail/-/publication/a5d0c2e3-475f-4489-adbc-9a544b8412c2/language-en>

January 2010 update of the stability programme. Clear and detailed time plans should be made available for the proposed reforms and followed during implementation. More specifically, taking into account the importance of ensuring the effectiveness of the wage bargaining system and the need for overall wage moderation, against the background of competitiveness losses, Greece should: (a) reduce the public wage bill, so as to ensure that public sector wage policy plays a leading role to the private sector wage formation and contributes to overall wage moderation; (b) streamline the wage payment system for direct public administration employees by providing unified principles in setting and planning wages and streamlining the wage grid; this wage policy should be extended to compensation rules for public enterprise employees; (c) enhance flexibility of the wage-setting system by promoting more decentralised wage bargaining (for example, avoiding the administrative extension of collective agreements to enterprises not involved in the negotiations), including by decoupling from public sector wage developments; improve the implementation of the wage bargaining law to limit the use of the exemption clause.

2. Given the urgent need to reform the pension system, and in view of challenges to the long-term sustainability of public finances, Greece should: (a) proceed with a timely and comprehensive pension reform, which should contribute to public finance sustainability; (b) ensure the alignment of statutory retirement ages between women and men and introduce additional parameters that automatically adjust the pension level and statutory retirement age to changes in underlying economic and demographic factors; (c) ensure that comprehensive labour market reforms support increased labour supply and employment in order to expand the contribution base; (d) adapt the pension award formula by strengthening the link between contributions paid and benefits received, and indexing pensions to prices, instead of the discretionary indexation so far; (e) increase the average exit age from the labour market through stricter eligibility criteria for early retirement; reduce substantially the current excessively long list of occupations allowing for early retirement; (f) simplify the fragmented pension system and introduce universally binding legislation on entitlement, contributions, accumulation and indexing; (g) adopt, already in 2010, the necessary legal acts.”

ANNEX 2: National Collective Agreements 2015, 2016

The documents referred to in this Annex are:

- a) GSEE invitation to Employers' associations for negotiation of a National Collective Agreement for the year 2015 (GSEE ref.: 1269/30-12-2014)
- b) GSEE invitation to Employers' associations for negotiation of a National Collective Agreement for the year 2016 (GSEE ref.: 1214/23-12-2015)
- c) National Collective Agreement for the year 2015, as signed ⁽³³⁾
- d) National Collective Agreement for the year 2016, as signed ⁽³⁴⁾

Attachments or links to these documents are found on the next page.

Both National Collective Agreements have no reference to changes in wage levels.

The respective invitations have requests for substantial increases in minimum wages, proposing a change of the reference basic salary from 586.08 to 751.38 euro per month (page 6 for the 2015 invitation, page 4 in the 2016 invitation)

a) GSEE invitation to Employers' associations for negotiation of a National Collective Agreement for the year 2015 (GSEE ref.: 1269/30-12-2014)

We reproduce here the Cover Page and page 6, containing the request for new minimum salaries

 Γ.Σ.Ε.Ε. ΓΕΝΙΚΗ ΣΥΝΟΜΟΣΠΟΝΔΙΑ ΕΡΓΑΤΩΝ ΕΛΛΑΔΑΣ Μέλος της ITUC και της ETUC	G.S.E.E. GREEK GENERAL CONFEDERATION OF LABOUR Affiliated to ITUC and ETUC	<div style="border: 1px solid black; padding: 2px; display: inline-block;">ΣΕΒ Αρ. Πρωτ. 02692 Είληψη 31/12/2014</div> ΑΔΥ ΓΡ ΧΚ ΓΑ αΓΔ ΕΠΙΦ.
Αριθμ. πρωτ. <u>1269</u>	Αθήνα <u>30/12/2014</u>	
Θδ/Λχ/181214		ΕΠΙΔΕΧΤΗ 31/12/14 08:55ημ Ο ΔΙΚΑΣΤΗΣ ΕΠΙΣΤΑΤΗΣ ΑΙΤΕΛΟΣ ΑΝΤΙ-ΕΠΙΣΤΑΤΗΣ ΚΑΝΙΣΤΟΣ 12-74-10677-2014/Α ΥΠΛ.: 210 3045152
Π Ρ Ο Σ Κ Λ Η Σ Η		
<p>Για την έναρξη διαπραγματεύσεων με σκοπό την κατάρτιση και υπογραφή νέας Εθνικής Γενικής Συλλογικής Σύμβασης Εργασίας (ΕΓΣΣΕ), σύμφωνα με το ν. 1876/1990, όπως ισχύει.</p>		
Από		
Τη Γενική Συνομοσπονδία Εργατών Ελλάδας (ΓΣΕΕ), που εδρεύει στην Αθήνα, οδός Πατησίων 69.		
Προς		
<ol style="list-style-type: none">1. Το Σύνδεσμο Επιχειρήσεων και Βιομηχανιών (ΣΕΒ), οδός Ξενοφώντος 5, Αθήνα.2. Τη Γενική Συνομοσπονδία Επαγγελματιών Βιοτεχνών Εμπόρων Ελλάδας (ΓΣΕΒΕΕ), οδός Αριστοτέλους 46, Αθήνα.3. Την Εθνική Συνομοσπονδία Ελληνικού Εμπορίου (ΕΣΕΕ), οδός Μητροπόλεως 42, Αθήνα.4. Το Σύνδεσμο Ελληνικών Τουριστικών Επιχειρήσεων (ΣΙΤΕ), οδός Αμαλιάς 34, Αθήνα		
Κοινοποίηση:		
<ol style="list-style-type: none">1. Υπουργείο Οικονομικών2. Υπουργείο Εργασίας, Κοινωνικής Ασφάλισης & Πρόνοιας3. Κεντρική Υπηρεσία Σ.Ε.Π.Ε., Γραφείο Ειδ.Γραμματέα, Σταδίου 29.4. Νόμιμο εκπρόσωπο Ο.Α.Ε.Δ., Εθνικής Αντιστάσεως 8, Άλιμος		
<small>Πατησίων 69 και Αιωνίος 2, Αθήνα 104 34, Τ.Θ. 3626. Τηλ.: 210 82 02 100, Fax: 210 82 02 186/7 Patission 69 & Eonianos 2, Athens 104 34, P.O. BOX 3626, Tel.: +30 210 82 02 100, +30 210 82 02 186/7</small>		

Ήδη από την 3^η Φεβρουαρίου του 2012 οι κοινωνικοί εταίροι που υπογράφουν την ΕΓΣΣΕ, διαβλέποντας τις δραματικές συνέπειες των μνημονιακών μέτρων για την ελληνική οικονομία και κοινωνία, απέστειλαν από κοινού επιστολή στον τότε Πρωθυπουργό, με την οποία ζητούσαν να μη μειωθούν οι κατώτατες αμοιβές και το επίπεδο προστασίας του δικαίου των συλλογικών συμβάσεων.

Η συμφωνία αυτή και οι θέσεις, που αναπτύσσονταν, δικαιώθηκαν από τις εξελίξεις. Γι' αυτό την προτείνουμε ως αφετηρία των διαπραγματεύσεων για τους όρους της νέας ΕΓΣΣΕ του 2015.

Προτεινόμενες διατάξεις:

A. Κατώτατα όρια ημερομισθίων εργατοτεχνιτών

Ημερομίσθιο από 1-1-2015

<u>Εργατοτεχνίτες / τριες</u>	<u>Άγαμοι</u>	<u>Έγγαμοι</u>
Χωρίς προϋπηρεσία	33,57€	36,92€
Με 1 τριετία	34,80€	38,16€
Με 2 τριετίες	36,46€	39,83€
Με 3 τριετίες	38,11€	41,47€
Με 4 τριετίες	39,78€	43,14€
Με 5 τριετίες	41,43€	44,80€
Με 6 τριετίες	43,11€	46,47€

Κατώτατα όρια μισθών υπαλλήλων

Μισθός από 1-1-2015

<u>Υπάλληλοι</u>	<u>Άγαμοι</u>	<u>Έγγαμοι</u>
Χωρίς προϋπηρεσία	751,39€	826,54€
Με 1 τριετία	813,99€	889,13€
Με 2 τριετίες	887,99€	963,13€
Με 3 τριετίες	961,99€	1037,13€

b) GSEE invitation to Employers' associations for negotiation of a National Collective Agreement for the year 2016 (GSEE ref.: 1214/23-12-2015)

We reproduce here the Cover Page and page 4, containing the request for new minimum salaries

Γ.Σ.Ε.Ε.
ΓΕΝΙΚΗ ΣΥΝΟΜΟΣΠΟΝΔΙΑ ΕΡΓΑΤΩΝ ΕΛΛΑΔΑΣ
ΜΕΛΟΣ ΤΗΣ ΠΥΣ και της ΕΤΥΣ

G.S.E.E.
GREEK GENERAL CONFEDERATION OF LABOUR
AFFILIATE TO PYC and ETUC

Αριθμ. πρωτ. 1914 Αθήνα 23-12-2015

05/α/221215

ΕΠΙΣΧΕΔΙΟ 23/12/2015/1914/1
Ο ΔΙΚΑΣΤΙΚΟΣ ΕΠΙΜΕΛΗΤΗΣ

ΑΠΕΛΑΘΕ ΑΝΤ. ΑΓΓΕΛΑΚΗ
ΚΑΝΙΤΣΟΣ 12 - Τ.Κ. 10677 - ΑΘΗΝΑ
ΤΗΛ.: 210 3615152

Π Ρ Ο Σ Κ Λ Η Σ Η

Για την έναρξη διαπραγματεύσεων με σκοπό την κατάρτιση και υπογραφή νέας Εθνικής Γενικής Συλλογικής Σύμβασης Εργασίας (ΕΓΣΣΕ), σύμφωνα με το ν. 1876/1990, όπως ισχύει.

Από

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Προς

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- 4 Το Σύνδεσμο Ελληνικών Τουριστικών Επιχειρήσεων (ΣΕΤΕ), οδός Αμαλίας 34, Αθήνα

Κοινοποίηση:

1. Υπουργείο Οικονομίας, Ανάπτυξης και Τουρισμού
2. Υπουργείο Οικονομικών
3. Υπουργείο Εργασίας, Κοινωνικής Ασφάλισης & Κοινωνικής Αλληλεγγύης
4. Κεντρική Υπηρεσία Σ.Ε.Π.Ε., Γραφείο Ειδ.Γραμματέα, Δραγατσανίου 8.
5. Νόμιμο εκπρόσωπο Ο.Α.Ε.Δ., Εθνικής Αντιστάσεως 8, Αλιμος

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Patission 69 & Enianos 2, Athens 104 34, P.O. BOX 3626, Tel.: +30 210 82 02 100, +30 210 82 02 186 / 7

πρόσφατα, ρόλος του σ' αυτό το θέμα, β) για την ανταπεργία, ότι δεν υφίσταται λόγος τροποποίησης της σχετικής νομοθεσίας, γ) για τη συνδικαλιστική δράση ότι η εθνική νομοθεσία που διέπει τη δράση των συνδικάτων ευθυγραμμίζεται με τους κανόνες και τις πρακτικές της ΕΕ και πρέπει να τηρείται.

Η ΓΣΕΕ επιφυλάσσεται, να θέσει και άλλα ζητήματα, θεσμικού χαρακτήρα κατά τις συλλογικές διαπραγματεύσεις για τη νέα ΕΓΣΣΕ, έχοντας την πεποίθηση ότι οι ανώτατες συνδικαλιστικές οργανώσεις εργοδοτών και εργαζομένων έχουν ιστορικό χρέος να παρεμβαίνουν αποφασιστικά στις εξελίξεις της χώρας, πολύ περισσότερο στην παρούσα συγκυρία της πρωτοφανούς επιδείνωσης της οικονομικής και κοινωνικής κατάστασης των εργαζομένων και των μικρομεσαίων στρωμάτων εξαιτίας των αδιέξοδων μνημονιακών πολιτικών και μάλιστα σε εποχές κρίσιμες για το μέλλον της χώρας.

ΜΙΣΘΟΛΟΓΙΚΑ ΑΙΤΗΜΑΤΑ ΤΗΣ ΓΣΕΕ ΓΙΑ ΤΗΝ ΕΓΣΣΕ 2016

Προτεινόμενες διατάξεις:

A. Κατώτατα όρια ημερομισθίων εργατοτεχνιτών

Ημερομίσθιο από 1-1-2015

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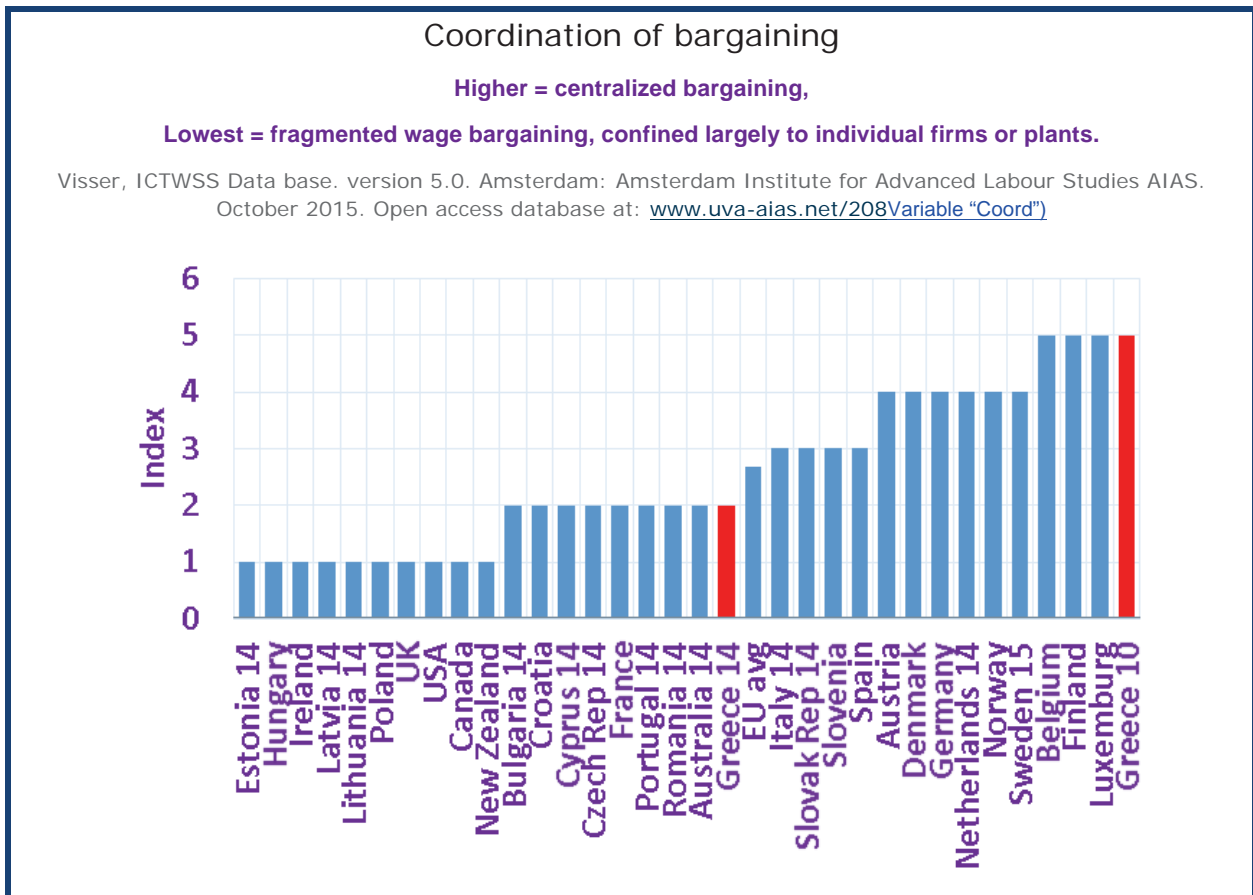
Κατώτατα όρια μισθών υπαλλήλων

Μισθός από 1-1-2015

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ANNEX 3: Comparisons Graphs

Selected graphs from the Amsterdam Institute for Advanced Labour Studies and OECD that compare various countries on specific labour regulations, of interest in the present case.

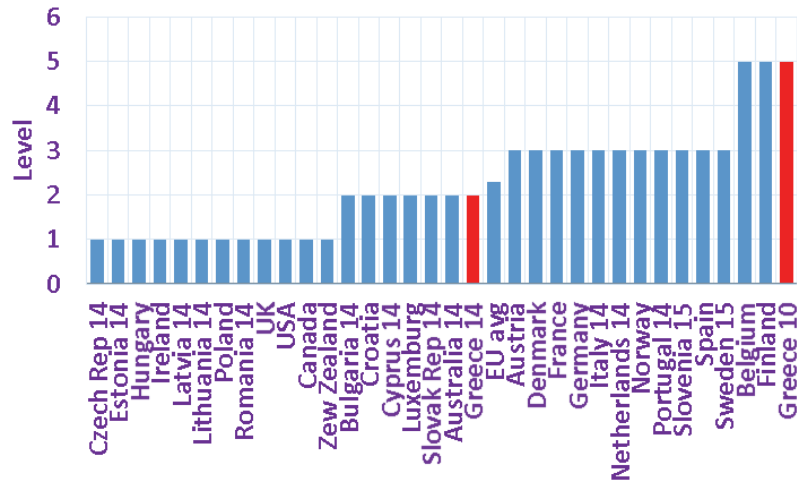


Predominant level at which wage bargaining takes place.

Highest = predominantly at central or cross-industry level

Lowest = local or company level.

(Visser, ICTWSS Data base. version 5.0. Amsterdam: Amsterdam Institute for Advanced Labour Studies AIAS. October 2015. Open access database at: [www.uva-aias.net/208Variable "Level"](http://www.uva-aias.net/208Variable%20Level))

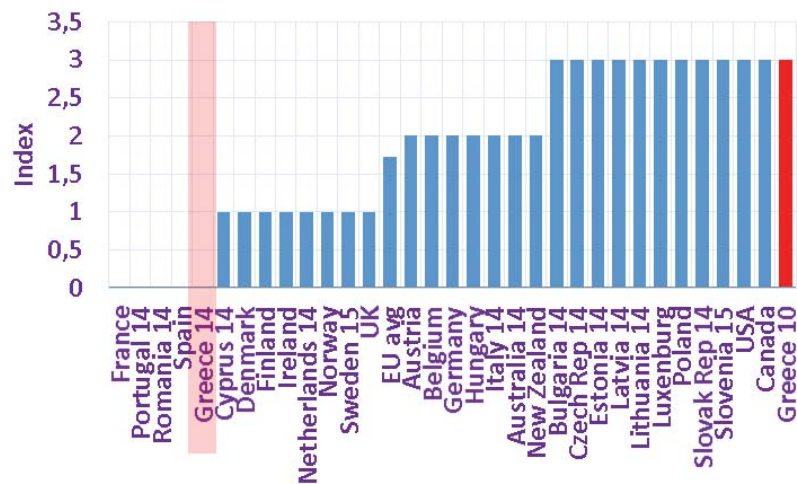


Derogation / Favourability

Highest = favourability is anchored in law and strictly applied

Lowest = favourability is inversed, enterprise agreements favoured over higher-order agreements.

(Visser, ICTWSS Data base. version 5.0. Amsterdam: Amsterdam Institute for Advanced Labour Studies AIAS. October 2015. Open access database at: [www.uva-aias.net/208Variable "DR"](http://www.uva-aias.net/208Variable%20DR))



Full time employment regulation, dismissals

(OECD EPL index, 2013)

