

Recommendations Expert Group for the Review of Greek Labour Market Institutions

27 September 2016

Executive Summary

I. The expert Group

1. 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. ... 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.*”
2. The “Expert Group for the review of the Greek labour market institutions” consisted of the following eight members:

*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*

The expert group started to work at the end of April 2016 and delivered its report at the end of September 2016 to the Greek Government and the European Commission. The group was supported by experts from the Institutions and the Greek Labour Ministry and held a hearing in Athens with the Greek social partners, other Greek stakeholders and the ILO. The group reached an agreement on most of its recommendations. It agreed on eight of its twelve recommendations completely and on one partially. The diverging opinions were added in a dissenting vote.

II. The twelve recommendations

3. **Industrial Action:** Current Greek judge-made law has an extensive regulation on the procedures for calling a legal strike. The Greek 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 agreed that the right to strike should not be contested when they expressed their opinions during the very detailed hearings. The expert group did not see any need for stricter rules on strikes (**recommendation 1**).

4. **Lock-out:** Only in a few European countries, including Greece, lock-outs are explicitly prohibited. In other countries lock-outs are possible only as a response to a strike while observing at the same time additional restrictions; they must not be used as a means to render a strike ineffective. Considering the restrictions given to the right of strike in Greece the expert group does not see any urgent reason to remove the prohibition on lock-outs (**recommendation 2**).
5. **Collective dismissals:** The expert group came to the conclusion (as already in 2014 the ILO) that the current Greek system does not fully exhaust the possibilities to adopt measures in order to mitigate the consequences of planned collective redundancies. Therefore employers should consult and bargain in good faith with workers' representatives before implementing collective dismissals. According to the economic possibilities of the enterprise, a social plan should be established providing compensations or retraining for workers who are confronted with unemployment for an uncertain period (**recommendation 3**). Short-time work for companies in temporary economic difficulties should be introduced to prevent collective dismissals. 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 (**recommendation 4**). The current system of ex-ante administrative approval of collective dismissals has been discussed before the European Court of Justice decided about the conformity with EU-law.¹ After the result of that lawsuit is known, the current system could be abolished or replaced by another ex-ante control system. The minority recommends to abolish the authorization of collective dismissals.
6. **Minimum wage:** Decisions on the increase of 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 Expert Group disagrees on the responsibility to decide on the level and the increases of the minimum wage. The majority (5:3 votes) recommends that after consultations with independent experts the minimum wage is implemented under a national collective bargaining agreement with automatic erga omnes effects. Both Greek social partners agreed that they would like to negotiate the minimum wage again in the future. The minority part of the group recommends that the government decides on the minimum wage after consultation of the social partners and independent experts (**recommendation 5**).
7. **Subminimum wages:** Subminimum wages for inexperienced people are justified as long as they are still learning on the job. In this way, the transition from school to work can be facilitated. EU legislation prohibits, however, discriminations based on (young or old) age. The majority (5:3 votes) of the Expert Group recommends to replace the existing youth minimum wages by experience-based subminimum wages for a maximum of two years. There would be an evaluation of sub-minimum wages after two years. The minority of the group recommends maintaining youth minimum wages with the present age threshold of 25 years (**recommendation 6**).

¹ In the meantime, the decision has been published (ECJ, 21. Dec. 2016 – C 201/15). It confirms the right of the national legislator to introduce a state permission for collective dismissals, but the criteria have to be established in a more precise way than in Greece.

- 8. Extension of collective agreements and favourability principle:** Collective agreements that extend beyond the immediate workplace or company level are rightly seen as one of the basic pillars of the European social model since they are a powerful instrument to reduce income inequality. The majority of the group (6:2 votes) therefore recommends to re-establish the possibility that collective agreements can be extended by the state on the demand of one of the negotiating parties at sectoral or occupational level. 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 (**recommendation 7**). Wage agreements made at lower level cannot undercut national/sectoral agreements made at a higher level (favourability principle). The social partners, however, can 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 (**recommendation 8**). The minority of the Expert Group argued that micro wage flexibility is important. Therefore agreements established at a lower level should override agreements established at industry or occupational level.
- 9. Time extension, after effect and arbitration:** 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 9**). 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 10**).
- 10. Modernization of collective agreements:** 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 (**recommendation 11**).
11. The **Public Employment Service** should also consider developing its efforts towards greater activation of the unemployed and promoting more registered vacancies in firms, including through well-designed hiring subsidies supported by the European Social Fund (**recommendation 12**).