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DEVELOPMENTS IN THE GREEK SOCIAL SECURITY SYSTEM

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CONTENT OVERVIEW

LIST OF ABBREVIATIONS

CCI	Consumer Climate Index
ECJ	European Court of Justice
EFKA	Unified Social Security Fund (= National Social Security Institution)
EKAS	Social Solidarity Benefit
EOPYY	National Health System
ESEE	Hellenic Confederation of Commerce and Entrepreneurship
ESI	Economic Sentiment Index
ETEAEP	Unified Fund of Subsidiary Insurance and Lump Sum Benefits
GDP	Gross Domestic Product
IKA	(former) Social Insurance Institution for Dependent Workers
INE-GSEE	Research Institute of the General Confederation of Labour
L.	Law
SEV	Hellenic Federation of Enterprises

1. OUTLOOK ON THE GREEK ECONOMY

The Greek economy has been experiencing a positive trend recently, at least as far as figures are concerned[1].

The unemployment rate dropped to 20.8% in February 2018, whereas it was 22.6% one year before, and it is expected to drop below 20% by 2019. The consumer climate index (CCI), which reflects the economic climate, rose considerably from 93.4 units in March 2017 to 103.6 units in May 2018. The household deposits increased by around €4.6 billion from July 2015 until March 2018. Tourism and transportation receipts saw a boost of +4.2% and +11.2% respectively in the period January-February 2018, while the Greek merchant fleet indicated stabilising conditions since the beginning of 2017 (+0.7% in February 2018). Furthermore, industrial production (+4.1% in 2017) and the export of goods (+5.4% in 2017) continued their upwards trend. The overall picture of the Greek economy can be summarised in the statement that recovery has taken root though at low levels.

According to European Commission data[2], Greece's economy grew by 1.4% last year, marking the first time that real GDP growth has exceeded 1% since 2007. As regards the composition of GDP growth, investment increased by 9.6% with a significant progress in the last quarter, mainly due to corporate investment. Investment is expected to continue growing dynamically, supported by further improvements in the Economic Sentiment Index (ESI)[3] and the ongoing privatisation programme. Moreover, liquidity should come from the Government's effort to clear its arrears (amounting to €3.14 billion in January 2018, as compared to €5.2 billion one year before), from foreign direct investment, and from the support of international financial institutions. Despite the favourable data, the private consumption volume has not yet increased. This is attributed to the fact that, first, the European Stability Mechanism (ESM) has enforced heavy taxation and other social charges and, secondly, the considerable improvements in employment are taking longer in order for them to be translated into consumption growth.

2. CURRENT SOCIO-POLITICAL CIRCUMSTANCES

Contrary to the economic perspectives the existing socio-political conditions leave much to be desired.

[1] SEV (Hellenic Federation of Enterprises), Monthly Newsletter, 14.05.2018.
[2] See the Greek Chapter of the European Commission Report "Spring 2018 Economic Forecast", in: European Commission, Policies, information and services, 2018, https://ec.europa.eu/info/sites/info/files/economy-finance/ecfin_forecast_spring_030518_el_en.pdf.
[3] According to www.investopedia.com, the sentiment indicator seeks to quantify how various factors, such as unemployment, inflation, macroeconomic conditions or politics influence future consumer behaviour.

Greece's social policy has been substantially redesigned in the last years. Parallel to the fight against extreme poverty and social exclusion, through a guaranteed solidarity income[4], emphasis has been given to selective measures moderating the consequences of the financial crisis and the related deprivations[5]. The social programmes, however, against long periods without work and youth unemployment have not been efficient enough to bridge the gap between unemployment and social security protection. In addition, the vital synchronisation between social expenses (e.g. income support) and social investments (e.g. in education and health protection) has not always been achieved.

Following a newly established concept that the international creditors' institutions imposed on the Greek Government, social insurance contributions are to be considered primarily as a public expense. A relation between contributions and social rights in the course of the acquisition of entitlements, although commonly accepted, should not become a priority anymore. As a result, the constitutional principle of proportionality concerning contributions and benefits has to a great extent been replaced by the more general principle of social justice. This significant consideration (as reflected in L. 4387/2016)[6] has influenced not only the structure of the state-financed flat-rate minimum part of the national pension, but also the amount of its contributory part, which depends on the accomplished insurance periods.

The introduction of a general flat-rate minimum pension has been criticised[7], since it is to be implemented at a bad time, namely under unfavourable demographic conditions and State financing constraints. As a matter of fact, the ageing of the population, combined with the low birth rate, has constituted a real problem in the last years. Furthermore, the Stability Support Memoranda, by restricting transfers from public means, did not allow the formerly recognised tripartite financing of Greek social security (through employers, employees and the State). The feeding of an earnings-related part into the national pension has also been criticised, because it follows the uncertain concept of notional contributions. This concept gives, almost exclusively, emphasis to the financial stability of the social security system. The intended additional protection cannot be guaranteed, because full capitalisation will be "disturbed" by certain stabilisers in times of need, e.g. in the form of mechanisms to support the system during the retirement phase of the baby boomer generation (between 2023 and 2028). Moreover, supplementary pensions are financed from contributions without any

[4] This means-tested programme was extended from February 2017 onward to the whole country, given that Greece is one of the EU Member States exposed to the risks of poverty and social exclusion at a percentage of 35.6% (see: Eurostat data 2016). Solidarity income protection concerns around 280,000 households with 700,000 members. In 11 months of 2017, this protection programme made available €760 million, i.e. 0.4% of the Greek GDP (see: Mitrakos in Poulatzas Congress, www.sofokleousin.gr – 23 Nov. 2017/15:07 and www.greeknewsagenda.gr)

[5] Selective social policy measures should include the alleviation of the housing problem, the elderly benefit regarding co-payments to pharmaceutical products, the package of social investment incentives, etc.

[6] Law 4387/2016 on the "Unified Social Security System – insurance and pension system reform – Income tax and gambling games regulations and other provisions" (Government Gazette A' 85, 12.05.2016).

[7] Rompolis/Mpetsis, Social security in Greece, Enimerosi, Monthly publication of the General Confederation of Greek Workers-GSEE, Jan.-Feb. 2017, pp. 2ff.

deficit coverage through the State or employers. The above entitlement conditions prevent an estimation of the supplementary protection level under the existing circumstances of low earnings and high unemployment. Therefore, the income replacement rate of a supplementary pension of 16% in 2015 is expected to be reduced to 8% by 2030. This percentage corresponds, in current values, to a monthly benefit of approximately €100.00. A partial return to the defined benefits system, regarding supplementary pensions, appears more and more appropriate. If this is not implemented, the "right to social security" and the protection based on the contributions paid would depend exclusively on the investment risks.

A controversial practice which distorted published expenditure data has been temporarily attempted in order to avoid some onerous pension cuts. Particularly, between 2015 and 2016 the number of retired persons increased by 9.7%, although the pension expenses decreased by 6.9%. Given that pension benefits remained stable, during this period, the relevant public expenses should normally have been increased. This would have led the international creditors' institutions to demand additional pension cuts. The Greek social administration noticed that the amounts of pending pension applications were not calculated as public expenditures. Therefore, the approval and the execution of retirement payments were delayed for "organisational reasons", which was partially true. In this way, a cut of 45% – 50% of existing pension benefits has been avoided during the period of financial crisis. The postponement of acquired pension rights certainly came at the cost of those applicants who stopped their working lives to become pensioners. Therefore, the aforementioned practice, which sometimes caused a supplementary pension delay of around two years, has been discontinued after the pressure from the Greek society and approval of the international creditors.

Remarkable pension cuts have been triggered based on some ambiguous demographic estimations. The international creditors believed in 2014 that the Greek population would be significantly reduced to 8.6 million individuals in the period 2015-2060, according to the collected ageing and immigration data. Two years earlier (2012), though, they had estimated that the Greek population in 2060 will consist of 11.2 million people. As a result, new and harder actions started to be discussed and implemented, e.g. pension cuts in order to tackle the anticipated public expenditure. Of course, such big differences regarding demographic developments have put in doubt the necessity of many unpopular measures.

3. SOCIAL SECURITY AND TAX OBLIGATIONS IN CASES OF FLEXIBLE WORKING CONDITIONS, SELF-EMPLOYMENT AND THE LIBERAL PROFESSIONS

There is a widespread opinion that flexible working conditions are significant driving forces for the revitalisation of the economy. This may be true for a well-structured public administration which can efficiently fight against the black economy and its side effects. Under such circumstances, flexibility will contribute to the creation of new jobs, to competitive advantages and, consequently, to a better financing of social security schemes and tax-based projects. In Greece, however, the recent trend for flexible (part-time or rotational) employment seems to have deprived the households, the social security system and the tax system of considerable resources, so that people were forced to take on extra (undeclared) work.

To tackle this problem, the Government intensified administrative controls, increased employers' fines and facilitated social security protection also for those who work for a multitude of employers[8]. Until economic recovery has at least started to take root[9], flexible working conditions will largely prevail[10], but with many reservations.

In order to mitigate the implications of the missing resources the Government has decided to overcharge the full-time working self-employed and the liberal professions, who de facto paid less contributions compared to dependent workers in the past. According to art. 39 and 97 L. 4387/2016, the social security contributions of the self-employed and of persons working in the liberal professions must be calculated as a percentage of the real net income earned and submitted to taxes in the previous year. The contribution rate amounts to 20% after five years of gainful activity and only serves the financing of the public main pension. Even if there is no taxable income (e.g. in case of an annual deficit), social security contributions have to be paid at a monthly minimum of €586.08. Regarding the financing of the public supplementary pension, percentages are dwindling, namely down to 7% during the period 01.06.2016 until 31.05.2019, to 6.50% from 01.06.2019 until 31.05.2022, and reduced to and remaining at a constant 6% afterwards. Payable in addition, health insurance contributions amount to 6.95% and the contributions for lump sum benefits amount to a

[8] Affiliation to the social security scheme takes place through the obligation to pay 20% contributions according to the so-called "ergosimo", namely a kind of voucher issued in favour of the service provider (art. 20 and 21 L. 3863/2010, 76 para. A L. 3996/2011 and Ministerial Decision 14913/343/Φ10034/27 June 2011).

[9] Such an economic recovery presupposes an annual increase in GDP of around 5.7% to 6.2%, in order for the current protection level to remain the same despite the demographic and flexibility factors. See relevant data in Rompolis/Mpetsis, Jan.-Feb. 2017, p. 10. See also, Papadaki, The Memoranda Laws in the Social Security, ed. Sakkoulas 2016, 17.

[10] In 2016, 50.3% of new jobs were based on part-time work. Among those, around 200,000 individuals worked for 8 hours daily, but they were declared to the authorities as part-time workers. 38% of employed persons have an income below the minimum salary and they are sometimes paid with a delay of 1 to 15 months. See relevant data in Rompolis/Mpetsis, Jan.-Feb. 2017, p. 9.

further 4%[11]. Furthermore, tax obligations may increase the total sum of social and tax charges to between 50% and 70%.

The regulation of a unified calculation base for taxes and social contributions (on the net income of the previous year), in connection with low-level (non-contributory) pensions, not only created bureaucratic difficulties[12], but also increased the dysfunctioning of small and middle-sized enterprises, many of which went into bankruptcy[13]. The phenomenon of brain-drain among the active generation grew, especially among young entrepreneurs and highly educated persons.

Even the legislator and the public administration recognised the difficulties in fully implementing the harsh measures taken in cases of flexible working conditions, self-employment and the liberal professions. The legislator introduced a four-year transitory period, starting from 01.01.2017, during which the above professional groups could pay reduced social security contributions up to a certain percentage (art. 98 L. 4387/2016). In addition, an option has been given to the self-employed and the liberal professions to pay their social contribution debts of up to €50,000.00 in instalments (art. 15 para. 21 L. 4469/2017). Moreover, the public administration was obliged to postpone the collection of social security contributions. It was finally admitted that the base of calculation regarding tax obligations does not necessarily coincide with the calculation method of social security contributions for these professional categories. The losses suffered through the lack of coordination regarding the collection of social security contributions and taxes became manageable only through the application of new identification techniques, which revealed first positive results.

4. THE OPTING-OUT RULE AND THE OPTION OF PENSION FUNDS

As long as tax and social security charges remain at a high level, the 2nd and 3rd pillar of social protection will continue to stay underdeveloped[14]. It is supposed that long-lasting tax

[11] Petropoulakos, The New Social Security Law 4387/2016, ed. Nomiki Vivliothiki, 2017, 15 ff.

[12] A recent survey (May 2018), conducted by the Hellenic Confederation of Commerce and Entrepreneurship (ESEE), informs that 2/3 of merchants have no idea of their social charges and prefer to pay with the written reservation that "any payment does not mean recognition of the relevant obligation".

[13] Ermeidou, www.sofokleousin.gr – 11 April 2018/16:40.

[14] Despite the impossibility to opt out from the obligatory pension insurance, two 2nd pillar voluntary pension funds have been created in the last two years (see Sakellariou, www.insuranceworld.gr – 23 Nov 2017, about the Pension Fund of Certified Auditors - ΤΕΑΣΟΕΛ and the Pension Fund of the Medical Association of Thessaloniki – ΤΕΑ-ΙΣΘ), and some private insurance companies have increased business and profits in the framework of the 3rd pillar coverage.

system simplification and stability[15], a 10% reduction in social charges, or the possibility to opt out from the public system would substantially ameliorate the current situation.

The opting-out permission has exceptionally been granted to a small number of closed pension funds, which have been created after negotiations and ratified through ministerial decisions (e.g. the pension fund of employees in the insurance industry)[16]. The relevant discussion has recently been intensified, i.e. about the coverage of further professional categories (e.g. lawyers)[17] and about the creation of some open pension funds (e.g. one at the national level for uncovered dependent workers)[18]. Today's reluctance will be bound to lead to specific initiatives, as soon as the persons affected realise the various implications of the economic, political and social deadlocks necessarily resulting from the insufficiencies of the 1st pillar.

It is believed that Directive 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) will prompt all stakeholders (employers, employees, investment firms, asset managers, insurance companies etc.) to boost the creation of new pension funds or to rationalise the existing ones. Such a rationalisation could include the facilitation of a cross-border transfer of rights, standardised information by means of annual benefit statements, measures ensuring that members and beneficiaries are adequately protected in case of underfunding etc. In the meantime, the European Commission has launched a proposal to equip pension providers with the tools to offer a simple and innovative Pan-European Personal Pension Product that could be submitted to the same tax treatment throughout Europe[19]. In countries like Greece, people have no sufficient income left to put money aside for a voluntary personal pension. The relevant scepticism will only be removed if the new Pan-European Personal Pension Product takes shape corresponding to the opting-out requirements.

Summarising the current conditions for the development of the 2nd pillar protection in Greece, we believe that: 1) economic recovery should be sustainable in order to stimulate a

[15] In a survey conducted from February to April 2017 by SEV (Hellenic Federation of Enterprises) among 706 Greek enterprises, 84.8% considered the instability of the tax environment as the major problem to attract investors and maximise their financial positions, see Special Report, Business pulse, vol. 9, 5.7.2017, p.2 (edited by Spyridaki Marina, Vounatsou Athina and Oikonomidou Avgi).

[16] The statute of this obligatory pension fund is published in the Government Gazette of the Hellenic Republic (Sheet No. 3810, Second Volume, 10 October 2017). For an English translation see www.teaeapae.gr.

[17] Draft legislation for the establishment of a pension fund for the legal professions, with an opting-out provision, has been delivered by the Athens Bar Association to the competent Minister.

[18] The General National Collective Agreement, signed on 28.03.2018, provides that the contracting parties, namely the General Confederation of Greek Workers and the Employers' Representatives, agree to establish common technical working groups to examine the requirements of a National Pension Fund.

[19] See Commission Recommendation of 29.06.2017, under 2.1., on the tax treatment of personal pension products, including the pan-European Personal Pension Product, https://ec.europa.eu/info/sites/info/files/170629-personal-pensions-recommendation_en.pdf. See also Asfalistiki Agora, International News, www.aagora.gr, 06.09.2018.

favourable attitude among stakeholders, 2) supplementary pensions should not be considered as a field of competition between obligatory (public) and voluntary (private) schemes, and 3) the transfer of acquired pension rights should be drafted in accordance with the current wave of increased immigration.

5. PARTIAL RESTITUTION OF THE SOCIAL WELFARE STATE VIA ADMINISTRATIVE AND CIVIL COURT DECISIONS

Many victims of the financial crisis tried to limit the damage by claiming the violation of their rights before the Greek courts. It was a rather hopeless attempt at the beginning, because the courts initially put forward the general interest, namely the protection of the State from insolvency. They repeatedly ruled that the restriction of individual or social rights did not infringe the guarantees of the Greek Constitution. This jurisprudence has, to a certain extent, facilitated the implementation of the Stability Memoranda, which have been imposed by the International Creditors as requirements for managing the public debt. Until 2015 many citizens gave signs of disappointment believing that, even in case of a favourable judgement, its execution would be problematic. Correspondingly, the public administration refused similar demands by pretending either the disapproval of the international institutions, or the lack of budgeted means.

The big change in the jurisprudence started when the Council of State ruled on 10 June 2015 that the extreme pension cuts, imposed by the Troika in 2012, were against the Greek Constitution (against the combined application of art. 4 para. 5, art. 25 paras. 1 and 4, art. 79 para. 1, and art. 106 para. 1) and against the 1st Protocol of the European Convention on Human Rights that recognises the right to peaceful enjoyment of property and possessions[20]. This court decision prompted a massive litigation by individuals and pensioners' associations from the country's private sector. According to the above judgment "the lawmaker did not take into account the impact of the disputed cuts on pensioners' dignified living standards and their participation in social life, nor the possibility to adopt less restrictive measures having equivalent effect, based on the principle of proportionality".

One year later, the reform of the social security system (L. 4387/2016) was once more criticised for including provisions violating the Greek Constitution (namely art. 4 para. 5, art. 73 para. 2, art. 80 para. 1). The Court of Auditors, in its Consultory Response attached to the relevant Draft Legislation[21], gave attention to the absence of a comprehensive actuarial study justifying the sustainability of the new social security system. Furthermore, it was judged that the affiliation of public servants and private employees under the same social security organisation (EFKA) did not sufficiently consider the existing particularities.

[20] Court decision 2287/2015 of the Council of State in plenary session.
[21] See the minutes of the Court of Auditors' decision of 21 April 2016.

In the following years the Greek courts, even in the lower instances, inspired by the big influence of the aforementioned judgments, re-examined thoroughly the balance of interests in the several disputes and restricted the reference of "general interest" to its appropriate dimension. The new trend corresponded, luckily, to the first indications that the Greek economy was gradually recovering, and the Stabilization Memoranda would - sooner or later - reach an end. Without any exaggeration, one could say that the courts have increasingly contributed to the restitution of the Greek Social Welfare State.

Some cases from court decisions or pending litigations will follow for a better understanding of the aforementioned judges' attitudes in the last two years.

a. Enforcement of exchange of old securities with new government bonds of reduced value, and possible damage restitution (securities haircut)

In order to deal with the financial crisis, Greece adopted a legislation[22] providing for the submission of a restructuring offer to the holders of certain Greek government bonds. That legislation provided for the introduction of a restructuring clause - the so-called Collective Action Clause (CAC) - in the relevant contracts, so that the initial conditions for the issuing of securities could be adjusted by means of decisions taken by the qualified majority of those holding the outstanding capital (which may thus be binding on the minority). The new bonds according to the law and the guidelines of the Bank of Greece should be distributed by the commercial banks after comprehensive information has been given to the individuals involved about the risks of this new investment. Many bondholders, believing that they suffered damage due to the fact that they were forced to exchange their securities for new government bonds at a considerably reduced nominal value, sued the Greek State and the banks involved for violation of the right to property and for infringement of the duty to fair information.

The national administrative courts ruled that this issue fell within the framework of managing the public finances and, more specifically, the restructuring of public debt in order to deal with the severe financial crisis. As a consequence, they considered as fully justified the possibility to exchange the securities in the contracts concerned. The claims against the Greek State for the annulment of the relevant administrative acts have been rejected.

A litigation about the legal nature of the damage occurred has been brought before the Court of Justice of the European Union[23]. The legal question was whether the exchange of old securities with new government bonds was an exercise of State authority or whether this procedure fell within the scope of civil or commercial matters. The Court rightfully judged that the damage alleged to have been caused to private individuals, had been caused

[22] Law 4050/2012 of 23 February 2012, entitled 'Rules on the Modification of Titles Issued or Guaranteed by the Greek State with the Bondholders' Agreement' (Government Gazette A' 36, 23 Feb. 2012).

[23] Judgment in Case C-226/13, C-245/13, C-247/13 and C-578/13, Stefan Fahnenbrock and Others v Greek State, Press Release 67/15, 11.06.2015.

following a collective decision of the majority of bondholders on the basis of the exchange clause incorporated by the law into the required transactions. The required private decision of persons involved confirmed the intention of the Greek State to keep the management of borrowing within the regulatory framework of civil nature.

The European Court's judgment made clear that damage restitution would more easily be claimed before the civil courts if the necessary facts could be substantiated. As a result, many individuals in Greece and abroad sued the commercial banks which had participated in the selling of the new State bonds, usually without sufficient information about the consumers' risks. Also, the Bank of Greece has been sued for failure to supervise the commercial banks. Individuals were not in a position to have a clear knowledge about the eventual insolvency of the Greek State. On the contrary, the banks should be aware of the risks involved in replacing old securities with State bonds, instead of advertising this exchange as the only really secure investment.

Consequently, the first decisions of the civil courts have proved the consumers' right with regard to their missing out on information concerning the possible damage from the relevant investments[24]. Several similar decisions have been published in the meantime. It is expected that also the courts of higher instance will follow this "creative" legal basis, especially now that the Greek economy is gradually recovering and damage restitution from the bank sector is affordable[25]. If the bondholders continued to base their claims on the violation of the Greek Constitution, the end result could perhaps be different.

<u>b. The retrospectivity of cuts in salary and pension allowances for judges, university professors, public doctors and others</u>

Following decisions 2287-2290/2015, 244/2017 and 431/2018 of the Council of State, in plenum, the abolishment of the Easter and Christmas bonus, as well as the deprivation of the vacation and solidarity allowance – according to Laws 4051 and 4093/2012, which had been judged as violating the Greek Constitution (against articles 4 paras. 1 and 5, and 22 paras. 1 and 4) – do not oblige the public administration to retrospective payments. Moreover, the constitutional principle of public interest protection justifies the refusal of third parties (non-claimants) to prevent them from yielding advantages from these decisions[26]. It was estimated that due to remaining State liquidity problems the above restrictions would not violate art. 20 para. 1 of the Greek Constitution, art. 6 para. 1 of the European Convention on Human Rights, and art. 1 of its First Additional Protocol. In other

[24] See decision 2171/2018 of the Athens Municipal Court of Peace, which ordered damage restitution by a bank, because in violation of art. 27 L. 3606/2007 and the principles of good faith and commercial ethics, it had not appropriately informed its clients about the risk of Greek State insolvency.
[25] Also, the Greek Capital Market Commission recognised the violation of the provisions regarding investment services (see: Chaldoupis, Vindication for "haircut" shares, www.sofokleousin.gr).
[26] Mitropoulos, Pensioners and employed persons who have not claimed their rights in time are deprived from such a possibility, www.asfalistiko.gr – 05.03.2018.

words, although the violation of the Constitution had been fully recognised, the prohibition of claims in arrears and the disadvantages for non-claimants have finally been acknowledged in order to minimize the public expenses involved.

According to the Government's agreement with the international creditors, in order to keep pension expenses low even after the formal exit from the Stability Memoranda, new cuts (up to 18%) have already been regulated on with regard to the main and supplementary pensions to be implemented after 01.01.2019 (L. 4472/2017, art. A)[27]. These cuts concern around 1 million retired persons and aim for a buffer amount to alleviate the future demographic pressure and other financial threats to the social security system.

The Court of Auditors, in his consultation about the reasoning of the related legislation, expressed reservations considering the above pension cuts to be premature. Also, in the competent ministries discussions started about the political cost of these restrictions, since 2019 is supposed to be the year of national elections for a new Parliament.

c. Indicative cases of pending litigation

i. In the summer of 2016, numerous pensioners' confederations initiated massive litigations before the Council of State for the annulment of administrative acts based on L. 4387/2016 (major social security reform). The claimants argued that the legally provided recalculation of pensions would result in unjustified additional cuts and that the provision of an upper limit (€1,300.00) for the total amount of main and supplementary pension was contrary to the contributory character of the retirement benefits. To be mentioned also is that art. 22 para. 5 of the Greek Constitution explicitly guarantees the institution of "social insurance" and not of "social security"[28]. Although two years have passed since, the relevant litigations are still pending for several procedural reasons.

ii. Other unresolved disputes relate to the social security contributions of the self-employed, farmers and the liberal professions. More specifically, the claimants asked before the Council of State for the annulment of administrative acts by arguing that the social security contributions (20%) for the non-contributory national pension, when added to other contributory social charges and the revenue related tax obligations, reach an extremely high-income reduction[29]. The judges must – among other things – decide if there is any differentiation left between tax and social security duties, since their calculation base has

[27] Papapetrou, Who is affected by the new pension cuts of 2019, www.naftemporiki.gr – 03.05.2018.
[28] Also, Poul Thomsen, the Representative of World Monetary Fund, who continuously spoke in favour of a broadening Greece's tax base, raised doubts in the Eurogroup of 22.05.2017 about the compliance of the social security reform with the Greek Constitution. He asked to be examined, as a requirement of the 2nd evaluation, whether the pension cuts are in conformity with the constitutional provisions (see: CNN Greece, Economy – 31.05.2017).
[29] The Government claims via statistical data that only 20% (the high-income liberal professions) are submitted to increased social security contributions. The other 80% (the lower-income professionals) have only had to pay reduced contributions after the last major social security reform.

become identical (net income of the previous taxable year). It is also questionable whether the application of the proportionality principle safeguards a dignified standard of living once the remaining part of pensions (after cuts) appears insufficient. Many insured and self-employed persons, as well as the liberal professions, see these social charges as a confiscation of their property in the broad sense of the term. Would the judges see it the same way?

6. SOME CLOSING REMARKS AND PROPOSALS

The Greek jurisprudence has accomplished its mission in a well-balanced way. It has kept the country protected from the risk of bankruptcy or a Eurozone exit under very adverse financial conditions. Having as a working tool mainly the Greek Constitution, Greek judges showed tolerance by permitting engagement in negotiations with foreign creditors, thus speeding up the process. Once the first signs of economic revival appeared, the same courts – by using the same tool – started to relieve the suffering individuals of the unjustified burdens.

Now, the Government should primarily take on the role of a stabiliser and expand any obtainable financial growth. Under the objectives to be followed one can distinguish the maintenance of pension expenses at a low percentage of the GDP, the improvement of social benefits through better management and, last but not least, the exploitation of new financial resources. For the achievement of these targets further socio-political trends will have to be examined.

In a future reform of the social protection system, it would be desirable to effect, with a view to protecting the biggest part of the population, a reasonable balance between the long-term objective of sustainability and the objective of social adequacy. Such a change should, of course, be adjusted to the achieved economic performance and this should not exceed the European average of the GDP percentage. There are, undoubtedly, some additional requirements to be considered, like the gradual reduction of the existing public debt, but such an analysis would exceed the framework of this report.

Another socio-political trend to be discussed is the introduction of several proportionality elements as far as social security contributions and pensions are concerned. Amendments of this sort will be a driving force for reducing black market effects, brain drain phenomena etc. only if available statistical data and existing actuarial studies are updated. Otherwise, the strong criticism for the measures taken under the (unavoidable) pressure of the Stability Memoranda cannot be moderated.

7. SELECTED LITERATURE

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