



20.12.2017

NOTICE TO MEMBERS

Subject: Petition No. 0344/2017 by F. K. (Greek) on the allegedly unlawful seizure by the Greek State of a sum from his pension on his bank account in order to recover a debt

1. Summary of petition

The petitioner is a pensioner who received his definitive pension after a long delay, namely eight years after applying for his retirement pension, and a substantial sum of money was paid to him retroactively.

While checking the balance of his bank account, he found that a large sum had been seized by the Greek State owing to his debt to the Tax Office, although he had not previously been served documents informing him of these measures or summoned to a hearing by the authorities. In his opinion, the seizure is illegal and is procedurally and substantively flawed, as he considers that provisions of the Greek Codes of Civil and Administrative Procedure are being violated, the opinions of the State Legal Council have not been taken into account and, finally, Article 6 (2) of the ECHR on the right to a fair trial is also being violated.

2. Admissibility

Declared admissible on 30 August 2017. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 20 December 2017

The Commission understands that:

- the petitioner received a provisional pension for eight years, and a final adjustment in the form of a substantial amount of money when the final pension was settled.

- the Tax Office has garnished an amount on the bank account of the petitioner equal to the latter's outstanding debt to the Greek State since 2010.
- the petitioner does not dispute that he had tax debt. He does not claim that he was not notified of the amount tax debt he was carrying. He seems to claim that the administration should have notified him a second time, or possibly grant him a hearing, before entering into garnishment, which is an enforced collection measure against debtors who do not settle their debts. In any case, the tax authorities must have left on the garnished account an amount corresponding to minimum living expenses, currently EUR 1250. The petitioner does not claim this is not the case.

The Commission recalls that, since August 2015, Greece is receiving financial assistance provided by the European Stability Mechanism (ESM) in support of its stability programme as described in the Supplemental Memorandum of Understanding of 5 July 2017 signed between the Greek government and the European Commission, acting on behalf of the ESM (SMoU). The Commission is monitoring the implementation of the Greek stability programme as mandated by the ESM under Article 13 of the ESM Treaty.

With a view to restoring fiscal sustainability, Greece targets a medium-term primary surplus of 3.5 percent of GDP to be achieved through a combination of upfront parametric fiscal measures. These measures are also supported by an ambitious programme to strengthen tax compliance, and fight tax evasion, while ensuring adequate protection of vulnerable groups. The authorities have created an independent authority for the collection of public revenue to secure effective revenue and debt collection.

On the revenue side, actions are most notably aimed at addressing shortfalls in tax collection, by incentivising tax compliance notably by adequate enforcement. As regards tax collection, the Greek government committed to full implementation of a tax collection strategy including a large series of actions, such as further automation of the debt collection, embracing notably fully automatised garnishment procedure, reviewing and amending, if necessary, the statute of limitation for collection to ensure an adequate ceiling on the total number of years that collection of a tax claim can be enforced, preparing a study on the possibility to introduce a system of regular monthly payment by automated electronic means for the taxes paid by individual taxpayers, but also assessing the treatment of debtors carrying debt to public creditors and amendment of the legislation as necessary to allow debt restructuring aiming at restoring the financial viability of the debtor.

Conclusion

The implementation of the SMoU falls under the responsibility of the Greek authorities. The Commission monitors implementation and reports to the ESM in liaison with the European Central Bank. The Commission is not in a position to assess the legality of the actions undertaken by the Greek authorities in implementing tax policies and reforms included in the SMoU. This falls under the competence of the Greek judicial system.