

A stylized world map composed of a grid of grey dots, with several dots highlighted in red. The map is centered behind the title and author information.

# Opportunities for a Restoration?

## The Future of Greek Collective Bargaining after the Third Memorandum

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- Under the first two Memorandums, Greece had to commit itself to a radical restructuring of its collective bargaining system. In particular, non-trade union representations of employees were permitted, extensions of collective agreements were prohibited and the favourability principle with regard to the hierarchy of collective bargaining levels was abolished.
- In practice, Greece has experienced a deep decline in industry-wide collective agreements since 2011. This has been accompanied by radical decentralisation alongside a veritable dissolution of collective bargaining in large parts of the economy. The Syriza government's proposals for the restoration of an effective Greek collective bargaining system have failed so far because of the political resistance of the Troika.
- Within the framework of the third Memorandum it was agreed to evaluate recent changes in Greek collective bargaining with the participation of independent experts and international organisations, including the International Labour Organisation (ILO). On this basis decisions should be made concerning further reforms of the Greek collective bargaining system, taking into account »best practices« in Europe.

## Introduction

The radical restructuring of the Greek collective bargaining system has been one of the core demands of the Troika – comprising the European Commission, the European Central Bank and the International Monetary Fund – since the outset. Within the framework of the first two Memorandums the Greek government had to commit itself to far-reaching encroachments on collective bargaining law, which in the event have led to a radical decentralisation and widespread dissolution of industry-wide collective agreements. Against this background, the Syriza government, elected in January 2015, declared that the restoration of the Greek collective bargaining system was one of its main priorities and presented draft legislation as early as April 2015. Its implementation, however, failed because of the resistance of the Troika, which insisted that the first two Memorandums be adhered to. The third Memorandum, agreed in August 2015, lays down that the development of the Greek collective bargaining shall be supervised with the participation of independent experts and international organisations (including the International Labour Organisation, ILO), with a view, on this basis, to implementing further reforms, oriented towards best practice in the EU. Addressing the future of the Greek collective bargaining system thus takes on an international dimension and has become a banner conflict for the whole European trade union movement.

### The Greek Collective Bargaining System Before the Crisis

While right up into the 1980s wage disputes had been strongly shaped by the state and compulsory state arbitration, at the beginning of the 1990s Greece experienced fundamental reform of collective bargaining law, with a view to bolstering free collective bargaining. The Collective bargaining law (Law No. 1876/1990), passed in 1990, provided for the establishment of a multi-level negotiation system for the private sector<sup>1</sup> of the economy, with four kinds of collective agreement. At the national level the peak organisations of trade unions and employers negotiated a national framework collective agreement in which certain minimum working conditions – including the level of the national minimum wage – were agreed. Building

on that, collective agreements could be agreed both at national and regional level for particular branches or occupational groups. Finally, companies could conclude special company agreements with workplace trade unions.

The structure of the Greek collective bargaining system was strictly hierarchical in accordance with the favourability principle, so that collective agreements at a lower level could only contain provisions that were more favourable for the workers. On top of that, declarations of general applicability were widespread, taking into account the fact that the Greek economy is largely made up of small and micro-companies. There was thus an *erga omnes* rule for the general national collective agreement, according to which all companies were bound by the collective agreement. Branch and occupational agreements were, as a rule, declared generally binding by the Greek Ministry of Labour, as long as they covered a majority of the employees in the relevant branch or occupational group. Apart from that, less binding collective agreements could be declared generally binding if this was proposed by one of the two bargaining parties.

The Greek collective bargaining system was also supported by the fact that employers and trade unions were obliged to negotiate if one of the parties called for it. If the negotiations went nowhere, the option was open to have recourse to the independent arbitration board OMED. A special feature of the Greek arbitration system was that in the event the arbitration talks broke down only the trade union side had the right to demand a conciliation award from the arbiter. This particular right of the trade unions was justified in Greek labour law as compensation for its structural disadvantage in relation to capital.

As a result of the formation of a comprehensive collective bargaining system with national, branch and occupational industry-wide agreements Greece enjoyed relatively high collective bargaining coverage by European comparison, at around 80 per cent. Company agreements, by contrast, long played only a subordinate role and covered less than 10 per cent of all workers (Daouli et al. 2015).

### Changes in Greek Collective Bargaining Law Imposed by the Troika

The Troika's stance is based on the notion that Greece's economic crisis is caused primarily by a lack of price

1. In the public sector wages and working conditions are still determined by government decree, not free collective bargaining.

competitiveness, which could be remedied by a policy of »internal devaluation«, first and foremost by cutting wage costs. Accordingly, the so-called »institutional rigidities« of the Greek collective bargaining system are to be removed and downward wage flexibility increased for companies. While the first Memorandum of 2010 rather cautiously relied on a policy of »organised decentralisation« and granted companies limited options for deviating from industry-wide collective agreements within the framework of special company agreements, the second Memorandum in 2012 heralded a radicalisation with regard to the restructuring of the Greek collective bargaining system.<sup>2</sup> Legally, this restructuring was set into force by Law No. 4024 of autumn 2011, which focused on three points:

- (i) The first radical change was the abolition of the favourability principle in the hierarchy of collective agreements, which means that now companies generally have the option of deviating downwards from industry-wide collective agreements within the framework of company agreements. The sole threshold that may still not be undercut is the national minimum wage.
- (ii) The second change concerns the extension of collective agreements, application of which was to be shelved indefinitely. This also applies to the *erga omnes* rule of the general national collective agreement, which shall henceforth apply only to companies that are members of the employers' organisation.
- (iii) Finally, non-trade union representatives were also granted the right to conclude collective agreements at company level, insofar as they are supported by at least three-fifths of the workforce. The idea is to take into account the fact that in most small companies in Greece there is no trade union representation at all, with whom company agreements could be concluded.

In 2012 a number of other changes were made, such as the reduction of the after effect of collective agreements from six to three months, as well as the abolition of special trade union rights with regard to arbitration procedures. Apart from that, the minimum wage laid

down in collective agreements was cut by 22 per cent (32 per cent for young employees under 25 years of age) by law. In addition to that it was decided that in future the minimum wage should be no longer determined by national collective agreement, but by law.

### Effects of Collective Bargaining Reforms in Practice

The sweeping changes in Greek collective bargaining law rapidly led in practice to a radical transformation of collective bargaining. The most evident sign of this is the decline of the industry-wide collective agreement (Figure 1). While up to the outbreak of the crisis between 150 and 250 new collective agreements were signed each year for particular branches and occupational groups, since then there have been fewer and fewer and in the wake of the collective agreement reforms only around 20 new collective agreements are concluded each year. This means that in large parts of the Greek economy collective bargaining has virtually been wound up. Even though no official data are available on current collective bargaining coverage, it is likely that only a small minority of employees come still within the scope of an industry-wide collective agreement.

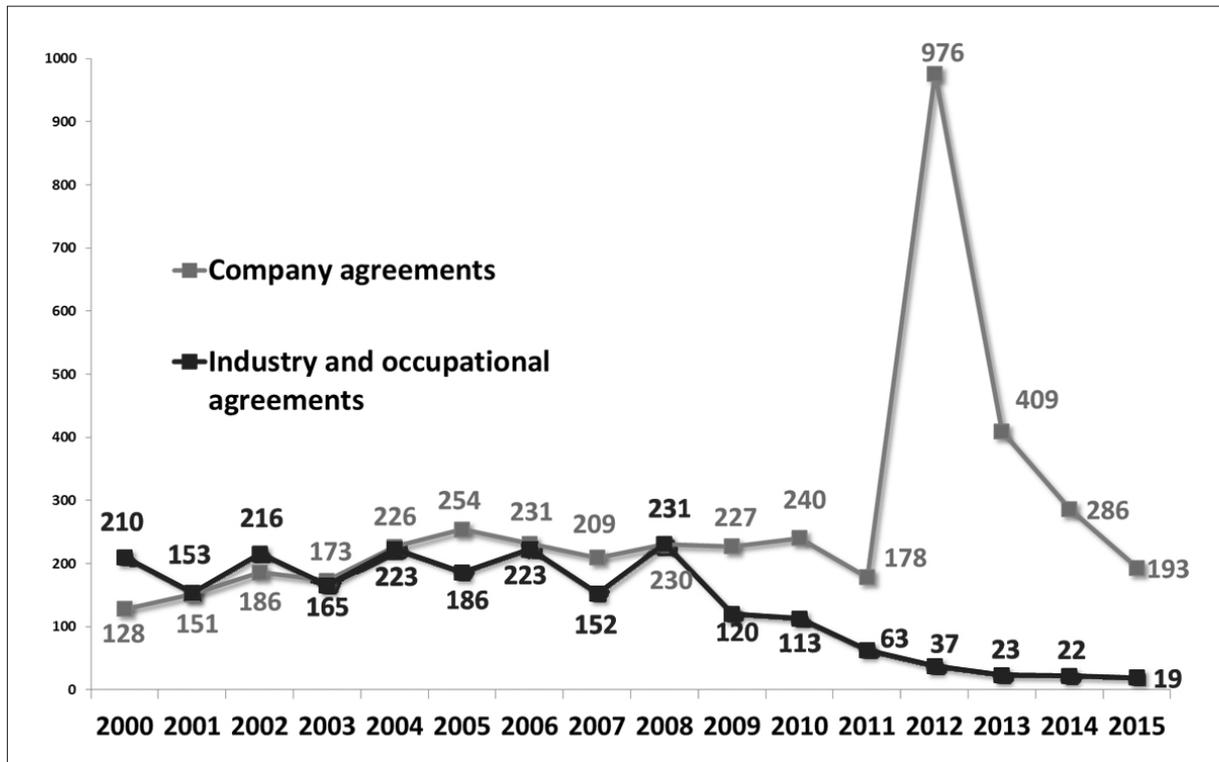
Immediately after the adoption of the collective bargaining reform in autumn 2011 for a short while there was an extremely high increase in newly concluded company agreements. In the ensuing years, however, there was a dramatic falling off and now their dynamics are once more at their pre-crisis level (Figure 1). The growth in company agreements thus appears to be rather a temporary phenomenon than a permanent compensation for the decline of industry-wide collective agreements.

The rather temporary character of the new company agreements is confirmed by the particular form and contents of these agreements. First of all, it is striking that the large majority of the new company agreements were not concluded by trade unions, but by non-trade union workers' representatives. According to research by the University of Patras out of a total of 1,336 company agreements concluded between November 2011 and December 2013 only 30 per cent were signed by trade unions and the remaining 70 per cent by non-trade union workers' representatives (Figure 2).

2. Detailed analyses of the restructuring of the Greek collective bargaining system can be found in, for example, Ioannou (2012), Kornelakis/Voskeritsian (2014), Yannakourou/Tsimpoukis (2014) and Koukiadaki/Kokkinoe (2015).

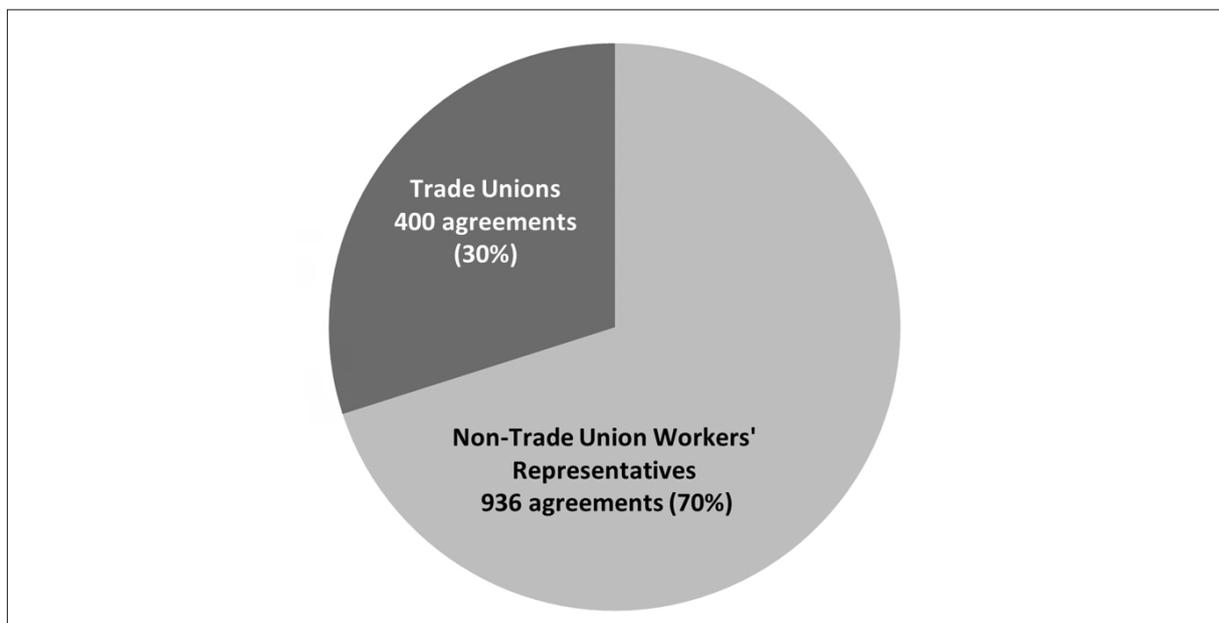


Figure 1: Newly Concluded Collective Agreements in Greece, 1990–2015\*



Note: \* Collective agreements and arbitration agreements; 2015 up to and including August.  
 Source: Greek arbitration board OMED and Greek Ministry of Labour; cf. data in the appendix.

Figure 2: Parties on the Workers' Side in the Newly Concluded Company Agreements in Greece, November 2011–December 2013



Source: Daouli et al. 2015.

In almost all new company agreements the new collective bargaining law options were exercised, opened up by the demise of the favourability principle (Figure 3): accordingly, three-quarters of all agreements contained wage cuts, while the rest froze wages at their existing level. Wage increases, by contrast, were conspicuous by their absence, being found in a mere 1.5 per cent of all agreements. Almost 90 per cent of the company agreements signed by non-trade union workers' representatives contained wage cuts, while the trade unions at best managed to agree pay freezes and in 40 per cent of cases also accepted wage cuts.

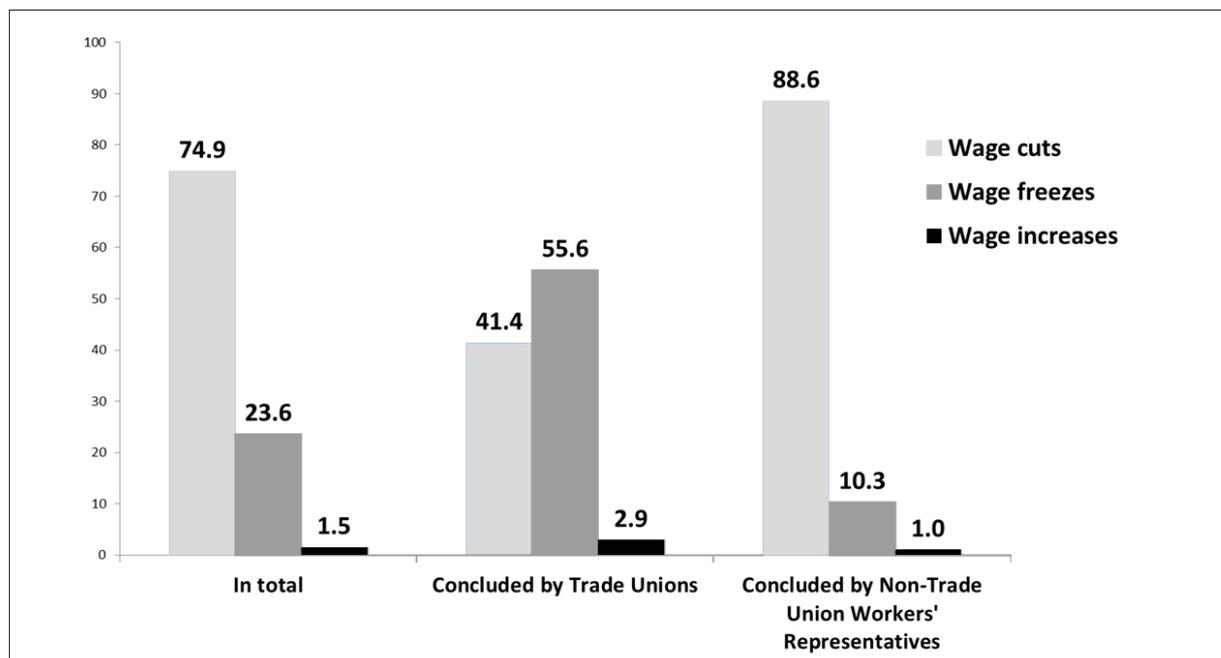
### Is there any Chance of Restoration of Greek Collective Bargaining?

The restructuring of the Greek collective bargaining system has led to a radical decentralisation and far-reaching erosion of collective bargaining. On the Troika's understanding, this has been »successful« insofar as it has contributed to wage cuts in Greece which, with an average fall in real wages of 20 per cent, have been more severe than in any other European country (Schulten 2015). How-

ever, the accompanying hope that this would lead to a new export-driven economic upturn by boosting Greece's price competitiveness has not been fulfilled because the Greek economy lacks the requisite structural conditions for that (Economakis et al. 2015; Schellinger 2015). Wage cuts, by contrast, have led to a drastic fall in aggregate demand and have served only to exacerbate the crisis.

Against this background the project of restoration of Greek collective bargaining pursued by the Syriza government is justified not only for democratic reasons, but also economic ones. The Greek government is backed in this primarily by the ILO, which has been criticising the restrictions imposed on free collective bargaining in Greece since 2012. At that time the ILO recommended that the Greek government »strengthen the institutional framework for collective bargaining« and, together with the employers and the trade unions, develop »a comprehensive common vision for labour relations« that is »in full conformity with (...) the relevant ratified ILO conventions« (ILO 2012: 273 f.). In 2015 the ILO reaffirmed its request to the Greek government and stressed the importance of substantive measures to enhance collective agreement coverage in Greece (ILO 2015: 87).

Figure 3: Wages in Greek Company Agreements, November 2011–December 2013 (% of All Company Agreements)



Source: Daouli et al. 2015.

As early as three months after it had been elected, in April 2015, the Syriza government presented a draft law on »restoring the collective bargaining system«<sup>3</sup> and to this end launched a comprehensive consultation process with the employers and the trade unions. In essence, in a number of key points the draft law provided for the restoration of the old collective bargaining law, including the reintroduction of the favourability principle in the hierarchy of collective agreements, the possibilities of extension of collective agreements and the reinstatement of trade unions as the sole legitimate negotiating party at company level. In companies without plant trade union representation company agreements would be concluded by local or sectoral trade union representatives. Furthermore, the draft law provided that, by mid-2016, cuts in the minimum wage should be revoked – in two stages – and the minimum wage level of 2011 restored.

Implementation of this draft law foundered, however, primarily on the resistance of the Troika, which saw it as a violation of the terms of the second Memorandum.<sup>4</sup> Within the framework of the third Memorandum adopted with the so-called »Quadriga« (the former Troika plus representatives of the European Stability Mechanism, ESM) in August 2015 it was now agreed that the Greek government »will launch by October 2015 a consultation process led by a group of independent experts to review a number of existing labour market frameworks, including collective dismissal, industrial action and collective bargaining«.<sup>5</sup> On top of that, the Greek side managed to get the ILO included in the consultation process, alongside other international organisations. The Greek government did, however, have to reach agreement with the Quadriga on the whole »organisation, terms of reference and timelines« of this consultation process. The same applies to other changes in collective bargaining law subsequent to the discussions, which in principle may be adopted only with the agreement of the Quadriga.

3. Available in Greek at: <http://www.taxheaven.gr/laws/circular/view/id/20715>.

4. In July 2015 the Greek government had also, without the agreement of the Troika, enacted a law according to which the after effect of collective agreements was raised from three to six months once again. Within the framework of the third memorandum, however, the Greek government was forced to rescind this law.

5. Greece. Memorandum of Understanding for a three-year ESM programme, 19 August 2015. [http://ec.europa.eu/economy\\_finance/assistance\\_eu\\_ms/greek\\_loan\\_facility/pdf/01\\_mou\\_20150811\\_en.pdf](http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/pdf/01_mou_20150811_en.pdf).

Substantively, the third Memorandum provides that the future development of the Greek collective bargaining system shall take »into account best practices internationally and in Europe«. However, what »best practice« might be with regard to collective bargaining is extremely controversial. In the past – not only in Greece, but in many other European countries – the Troika has made no bones about its view that »best practice« consists of a radically decentralised collective bargaining system with low coverage of collective agreements (Schulten/Müller 2015). It is highly likely that the new Quadriga is still following this view, particularly because it was explicitly asserted in the third Memorandum that there can be no »return to past policy settings«.

By contrast, DG Employment at the European Commission, for example, in its recent »Industrial Relations Report«, once more expressly asserted that it is the countries in Europe with the most developed and comprehensive labour relations and collective bargaining that have come through the crisis best (European Commission 2015). Within the framework of the planned consultation process it is therefore of no little importance whether the European Commission is represented by the more neoliberal-oriented DG Economic and Financial Affairs or by DG Employment, which on this issue really should take the lead.

An important role has to be played by the ILO, whose conception of »best practice« comprises a developed collective bargaining system with strong industry-wide agreements and high collective agreement coverage. With regard to Greece the ILO (2012: 271 f.) has already made it clear that state interference in valid collective agreements is a violation of the principle of free collective bargaining laid down in ILO Convention No. 98. Furthermore, the ILO has expressed concern that the politically driven decentralisation of collective bargaining will leave many employees without any protection at all. In fact, it can be considered an established finding of international industrial relations research that in countries with decentralised collective bargaining systems only a minority of employees are covered by collective agreements (Visser 2013). In the ILO's view the abolition of the favourability principle also risks a permanent »destabilisation« of industrial relations, which represents a dilution of the basic rights laid down in ILO Conventions No. 87 and No. 98 (ILO 2012: 272). The ILO is particularly critical of the role of non-trade union representatives,



which »seriously undermine the position of the trade unions as representatives of the employees in collective bargaining« (ILO 2012: 272).

The coming discussions on the future of the Greek collective bargaining system thus promise to be extremely controversial. With the participation of the Quadriga,

on one hand, and the ILO on the other the discussions will not only be confined to Greece, but will be international with an impact also for other European countries. Against this background the European trade unions would be well advised to get involved in this discussion and to lend their support to the Greek side in its attempt to restore the collective bargaining system.



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Annex

Newly Concluded Collective Agreements and Arbitration Agreements in Greece, 1990–2015

	Branch Κλαδικές		Company Επιχειρησιακές		Occupational groups (national) Ομοιοπαγγελματικές (Εθνικές)			Occupational groups (regional) Ομοιοπαγγελματικές (Τοπικές)			
	Collective agreements	Arbitration agreements	Collective agreements	Arbitration agreements	Collective agreements	Arbitration agreements	Total	Collective agreements	Arbitration agreements	Total	
1990	46	34	80	53	9	62	65	41	20	18	38
1991	89	25	114	125	12	137	37	30	35	20	55
1992	66	8	74	63	7	70	28	12	14	5	19
1993	98	15	113	105	2	107	50	11	26	2	28
1994	99	17	116	117	4	121	44	14	26	2	28
1995	64	13	77	108	2	110	41	14	25	4	29
1996	76	18	94	242	3	245	46	16	20	6	26
1997	69	96	165	143	4	147	44	14	25	8	33
1998	87	28	115	137	7	144	51	13	16	10	26
1999	70	19	89	115	3	118	23	20	18	9	27
2000	98	17	115	122	6	128	54	15	22	4	26
2001	60	22	82	146	5	151	34	12	24	1	25
2002	96	20	116	175	11	186	43	19	32	6	38
2003	52	26	78	168	5	173	28	25	26	8	34
2004	101	22	123	216	10	226	37	16	43	4	47
2005	84	15	99	234	20	254	37	18	24	8	32
2006	100	24	124	224	7	231	42	17	34	6	40
2007	73	19	92	202	7	209	23	14	20	3	23
2008	117	25	142	215	15	230	43	17	27	2	29
2009	47	30	77	215	12	227	15	11	12	5	17
2010	31	21	52	227	13	240	33	8	14	6	20
2011	23	12	35	170	8	178	15	5	7	1	8
2012	16	7	23	976	0	976	7	1	6	0	6
2013	9	0	9	409	0	409	4	0	10	0	10
2014	11	1	12	288	0	288	3	2	5	0	5
2015*	3	6	9	192	1	193	2	4	4	0	4

\* Note: \* Up to and including August 2015.  
Source: Greek Arbitration Board (OMED) ([www.omed.gr](http://www.omed.gr)), Greek Ministry of Labour ([www.ypakp.gr](http://www.ypakp.gr)).  
The data for 2014 and 2015 were kindly made available to the author directly by the Greek Ministry of Labour.



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