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PERMANENT MISSION OF GREECE  
GENEVA

Ref. No. 6171.1G/6/188

**NOTE VERBALE**

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note Verbale, dated 17 December 2014, has the honour to transmit the responses of the Ministry of Public Order and Citizen Protection as well as the Ministry of Employment and Social Solidarity, to the questionnaire of the Special Rapporteur on the rights to peaceful assembly and association.

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 12 February 2015

To: **The Office of the High Commissioner for Human Rights  
Equality, Non-Discrimination and Participation Unit  
Special Procedures Branch**

Fax: +41 22 917 90 06

Att.: 20 pages

**ΕΠΙΣΗΜΗ ΜΕΤΑΦΡΑΣΗ TRADUCTION OFFICIELLE OFFICIAL TRANSLATION**

N<sup>o</sup>.....F.092.22/154.....

**HELLENIC REPUBLIC  
MINISTRY OF PUBLIC ORDER  
& CITIZEN PROTECTION  
HEADQUARTERS OF THE  
HELLENIC POLICE  
SECURITY BRANCH  
DIRECTORATE OF SECURITY  
DEPARTMENT OF CRIME  
FIGHTING ANALYSIS  
REF No. 3017/1/744-A**

**VERY URGENT**

ATHENS, 23/01/2015

TO :

1) Ministry of Foreign Affairs/D4  
HUMAN RIGHTS

**SUBJECT : Questionnaire of the Special Rapporteur regarding  
the right of peaceful assembly and association of the High  
Commission of the United Nations for human rights"**

**RE: a) Your document No. AS 976 dated 12/1/2015**

In reply to the questionnaire attached to re.(a) above, please be advised of the following:

i. In the Greek legal order the right to assembly is established in the Constitution and specifically in the Second Part (articles 4-25) which is about the individual and social rights. Article 11 provides as follows: "1. Greeks shall have the right to assemble peacefully and unarmed.2. The police may be present only at outdoor public assemblies. Outdoor assemblies may be prohibited by a reasoned police authority decision, in general if a serious threat to public security is imminent, and in a specific area, if a serious disturbance of social and economic life is threatened, as specified by law". In paragraph 2 of this provision, the Constitution establishes a special "reservation of the law" as the limits that this provision offers to the common legislator in order to regulate the exercise of this specific right, and the relevant restrictions, are very limited. Up until

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today, on the basis of this provision, no law has been issued to regulate the exercise of this right and the restrictions thereof, consequently, on a formal basis, the Legal Decree (N.D.) 794/1971 (A'1) "About public assemblies" continues to be effective. According to one view, most of the provisions of this Decree are considered to be abolished as being opposite to the Constitution, according to article 111 par.1 thereof. On the contrary, in accordance with jurisprudence, according to article 112 par.2 of the Constitution this Legal Decree continues to be effective and ended up to the conclusion that, as arising from the provisions of articles 1 par. 2 and 6 of the decree "in order for the police authority to prohibit a public assembly, it must examine the circumstances and conclude that the realization of that assembly is a threat to public order or security and that this threat cannot be eliminated by more mild police measures than that of prohibition, and the relevant decision must be justified and be announced so that the participants of the assembly be aware of it" (Supreme Court 1766/1988).

ii. Relevant provisions are included in Article 11 of the European Convention on Human Rights, which was ratified in Greece by the Legal Decree 53/1974 (A'256), in article 21 of the International Covenant on Civil and Political Rights which was ratified by Law 2462/1997 (A'25) and art. 12 of the EU Charter of Fundamental Rights, which is legally binding and effective and has, according to article 6 par.1 of the European Union Convention, the same legal validity with the Conventions.

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iii. This right may be restricted and the more so, according to the jurisprudence of the European Court of Human Rights, the State has the responsibility to protect the citizens from trouble makers who attempt to prevent the realization or the uneventful realization of a protest or other similar events (See ruling of the European Court of Human Rights, Platform "Ärzte für das Leben" 21 June 1988, Series A', Art. 139 par.32, while it is considered that this responsibility is imposed in general by the European Convention on Human Rights, as in article 5 thereof, which establishes the right to personal freedom and security. See A.GIOTOPOULOU-MARAGKOPOULOU, The legal characterization of "hoodies" (hood-wearing) protesters, Penal Justice & Criminology 2009, pages 1-11). In addition to the above, public order, as laid down in the provisions of articles 9, 10, 11 and 14 of the European Convention on Human Rights, may, under certain circumstances, establish a lawful restriction on the rights laid down in these provisions (Supreme Court 58/2006), and according to the jurisprudence of the European Court of Human Rights (judgment of 17.2.2004) on the case of Gorzelik and others v. Poland "Article 11 (of the European Convention on Human Rights) does not deprive the State of the power to protect those institutions and persons. This follows both from paragraph 2 of Article 11 and from the State's positive obligations under Article 1 of the Convention to secure the rights and freedoms of persons within its jurisdiction" (point 94 of the judgment).

In the relevant Expert Legal Opinion the Public Prosecutor of the Supreme Court stated that "The state is obliged to protect all the legal rights of the citizens and to ensure the unimpeded

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exercise of all their rights. Among the individual rights protected by the Constitution is the right of assembly. On the basis of this right citizens may participate freely in marches and protests. However, this must be done peacefully and without any arms. Therefore it is concluded that it is not consistent with the exercise of the right of assembly, by a part of the participants in marches and protests to commit crimes, before, during or after the completion of these marches and protests, among which are the crimes of deliberate arson, aggravated damage of property, bodily injury, resistance, disturbance of peace, e.t.c.. The more so, it is not possible to consider as exercise of the above mentioned right, by a part of the participants of the above marches and protests, the possession of guns including molotov bombs, slings e.t.c. and furthermore the commitment of other crimes by using these weapons, such as those mentioned above, as they are expressly prohibited by the same provision of the constitution that establishes the right of assembly (Expert Legal Opinion 14/2007 Penal Justice 2006, page 1280 and fol.)

iv. Our Penal Code (which will be hereafter called as PC), Chapter Five, Second Part (Articles 167-182) which includes the offenses against state power, provides a standardization of the crime of insolence against authority (article 171). According to article 171 of the PC "1. Whoever participates in an outdoor public assembly that has been legally prohibited by the competent authority will be punished with imprisonment up to six months or with a pecuniary penalty. 2. When a crowd in a outdoor assembly is duly invited by the competent civil or

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military officer to leave, any person not leaving the assembly after the third invitation will be punished with imprisonment up to one year or with a pecuniary penalty". In order to establish this crime, according to jurisprudence, a necessary component is the "participation in a public assembly, i.e. in an assembly of more people which was legally prohibited by the competent authority, establishing thus the duty to obey only to the legal acts of the state bodies. This prohibition is valid only when done by the authority that has the local and material jurisdiction according to the requirements laid down by the law" (Supreme Court 1766/1988 and Supreme Court 957/1993 which distinguishes the cases and sets as a necessary objective component for the crime of par.1 "the deliberate participation of an individual in a public assembly, i.e. in an assembly of more people which was legally prohibited by the competent authority, knowing that the assembly had been prohibited, establishing thus the duty to obey only to legal acts of the state bodies", while for the crime of par. 2: the "non leaving the assembly after the legal request to do so by the competent civil or military officer, i.e. persistent refusal to obey").

v. The mission of the Hellenic Police, as laid down in the provisions of the law is to "secure public peace and order and the unimpeded living of the citizens which includes the exercise of general control by the police and traffic police" and "to prevent and eliminate crime and protect the State and democracy, within the scope of constitutional order, which includes the exercise of public and state security control" (ar. 11 par.1 case a' and b', Law 4249/2014, 8 par.1 case a' and b", Law 2800/2000. The mission is exercised by the Police

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according to the provisions of the Presidential Decree No. 141/1991, article 130, which provides for the presence of the police in public and private assemblies and more specifically it provides the following with regards to public assemblies "3. Presence of the Police in outdoor public assemblies : The Hellenic Police shall be present in these assemblies and will take all the necessary order, security and traffic control measures in order to protect the assembly and the assembled persons from any offensive attack, to ensure the unimpeded exercise of the constitutionally established right to assemble peacefully and unarmed, to prevent any illegal act on the part of the assembled persons and to prevent any disturbance of the social and economic life to the extent that it is not necessary for the realization of the assembly. 4. Presence of the Police to the assemblies. The Hellenic Police is present in the assemblies described in par.2 of this article in order to take the necessary order, security and traffic control measures, regardless of whether they are indoor or outdoor assemblies".

vi. The cases when these assemblies can be prohibited are set out in article 131 of the same as above Presidential Decree, according to paragraph 1 "The Police may prohibit for preventive reasons, and with a justified report to be drawn up by the competent General Police Director or Police Director in charge for the Prefecture, only the outdoor assemblies, in general when there is serious threat for public security and in a specific area when there is threat for serious disturbance of the social and economic life". On the contrary, according to the third paragraph "the realization of assemblies is not protected

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by the Constitution and therefore they can be prohibited by the Police, both in preventive and suppressing manner, according to the provisions applying for each form of assembly”.

vii. Recently, by means of an amendment of the above mentioned Presidential Decree, by virtue of the Presidential Decree No. 120/2013 (A'164), and in order to deal with the assemblies in a rational manner, a second paragraph was added to article 131 which reads as follows: (“2.a. Assemblies will be conducted in a manner that will not disturb, but only to the minimum necessary extent, the traffic and social and economic life of the city. In cities with a population over than one hundred thousand inhabitants, it shall not be allowed to occupy the entire street surface and to fully stop the circulation of vehicles by particularly small meetings, in connection with the significance of the specific street in terms of serving traffic and the socioeconomic life of the city. The evaluation about the size of the meeting and the possibility to restrict it in only one part of the street surface, will be done by the competent Police Director who will issue a relevant decision which must be immediately notified to the interested parties. This decision may be at first oral and then written and it should be notified within 24 hours. When making this decision, the parameters that should be taken mandatorily into consideration is the number of participants and the significance of the specific street in terms of public transportation, touristic activity of the area, uneventful access to archaeological or historic places, and the overall commercial and economic activity. B. The above restrictions will not apply to meetings and marches announced

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and organized by political parties that are represented in the Parliament and by third degree professional unions or with regard to meetings of historic celebration or commemoration c. In case of violations the relevant penal provisions will apply.”

viii. By virtue of the Law 3783/2009 (A'136) article 3 par.2 of the Law 2472/1997 was amended, according to which “In the cases where citizens exercise their right to assemble according to article 11 of the Constitution, the operation of sound and image recording devices or other special recording equipment is allowed, provided that the requirements of the next section are being met. The recording of sound or image by means of any form of technical equipment for the purpose of proving the commitment of crimes will be done only upon an order given by a representative of the Public Prosecutor's Office and only in the case when there is serious threat against public order and security. The purpose of this recording is only to prove the commitment of these crimes before any interrogating, prosecuting authority and court”. The possibility to allow the use of such means in order to confirm the commitment of punishable acts and the establishment of the substantial truth, had been previously judged in the Expert Legal Opinion No, 14/2007 issued by the Public Prosecutor of the Supreme Court. The Same Expert Legal Opinion admitted, with regards to the powers of the police authorities that: “in the case when during the marches and protests, a part of the participants commits these crimes, the more so by using weapons, such as Molotov bombs, slings e.t.c., the police officers who are present, are entitled and obliged by virtue of the provisions of the

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Constitution and the Legal Decree 141/1991, for the purpose of taking order, security and traffic control measures, for the unimpeded and constitutionally established exercise of the above right, but also for the prevention of any disturbance of the social and economic life beyond the necessary extend for the realization of the assembly, to locate and arrest the perpetrators of crimes caught in the act (either felonies or misdemeanours), and at the same time to ensure that they have the necessary evidence to prove their illegal behaviour”.

ix. According to the above, the Greek legal order has made provisions within a specific framework for the exercise of the right of assembly and within this framework it has granted to the Hellenic Police, within the scope of the latter's mission in its capacity as the agency responsible for social control and prevention and elimination of crime, specific competencies and powers in conjunction with the exercise of this right. Consequently, these powers are specified and relate to the presence of police in public assemblies and prohibition the latter under specific circumstances.

x. As a challenge and an example of a multidisciplinary cooperation one could also consider for the right of assembly as an individual (civil) right the National Action Plan for Human Rights, which is the first integrated effort, the first Program for the protection of the fundamental rights in our country which is intended to cover the three-year period (2014-2016). This Plan is, as specified in the same, a “multidisciplinary and coordinated effort of the Hellenic

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Administration to process and formulate the necessary actions and initiatives for further promoting and advancing the individual human rights, taking into consideration the recommendations made by International Organizations within the scope of the evaluation of our country regarding the actions in this field. The content of the Action Plan creates the guidelines for all the administrative, governmental, legislative and judicial structures regarding the matters under their jurisdiction, and simultaneously it serves as a reference framework and a "comparison index" for agencies, institutions, and international bodies, in terms of the application and implementation in our country of policies and actions relevant to human rights". A future amendment/updating could include multidisciplinary actions with regards to this right. Representatives of the Hellenic Police and the Ministry of Public order and Citizen Protection also contributed to the preparation of this Plan. This Plan was prepared by a special team which was created by a decision of the Minister of Justice, Transparency and Human Rights which was open for public discussion and was uploaded in the website of the Ministry. The competent agency for this Plan is the General Secretariat for Transparency and Human Rights of the Ministry of Justice, Transparency and Human Rights which is competent for the "assimilation and advancement of the protection of human rights and fundamental liberties by undertaking all the necessary relevant initiatives, among which is the compliance with the international responsibilities of the country (ar.3 par.1c of the Presidential Decree 94/2010, A169).

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As part of the positive measures that have been taken for the application-exercise of the right of assembly, so as to be exercised within the scope set out in article 25 of the Constitution (i.e. not be exercised in an abusive manner and restrictions imposed to be in accordance with the principle of necessity) is the provision of a specific manner and criteria (with regards to population) for the realization of assemblies by adding a second paragraph to ar. 131 of the Presidential Decree 141/1991, by virtue of the Presidential Decree 120/2013 which is analyzed above. This ensures that this right is not exercised to the expense of other social groups and that these rights are being enjoyed.

xi. The Hellenic Police, within the scope of its powers and competencies, ensures the uneventful and in accordance with the Law exercise of the right of assembly in the form of outdoor public assemblies , while the enhancement of participation therein is not an object of the mission of the police. The primary and exclusive objective of our Services, within the scope of exercising their powers and competencies, is to protect and facilitate the exercise of individual (civil) and social rights, within the scope of constitutional order and not the restriction thereof. The warranties provided by the law regarding the exercise of this right within the field of competency of the Hellenic Police are being observed, while as far as the action of the Hellenic Police's officers is concerned and the appropriate discharge of these duties, by virtue of the Law 3938/2011, ar.1 , the Office for dealing with Arbitrary Conduct Cases was established in the Ministry of Public Order

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and Citizen Protection, which is directly subject to the jurisdiction of the Minister. This Office is competent for the selection, recording, evaluation and further forwarding for investigation to the competent Services or Authorities of acts of the officers of Hellenic Police, the Hellenic Coast Guard, the Port Police and the Fire Department, which took place while the said officers were discharging their duties or by means of abusing their powers in connection with a) torture and other offences of human dignity within the sense of article 137A of the Penal Code , b) illegal and deliberate offenses against life or bodily integrity or health or personal or sexual freedom, c) illegal use of firearms, d) illegal conduct when there is reason to believe that it took place on the basis of racism or other form of discriminating behaviour due to ethnotic or racial origin, or religious or other beliefs, disability, age or sexual orientation or sexual identity e.t.c. and e) any other conduct which is offensive to the personality of an individual within the Greek territory, as well as any similar actions if manifested by the same person at the same place and time". A complaint could be filed if during the exercise of this right such conducts were manifested. For a more effective protection of the citizens rights against arbitrary conduct on the part of state officers, in addition to the above procedure, other penal provisions have also been put in place such as provision that provide a standardization of the punishable conduct/behaviour, threatening strict penalties. In addition to the above mentioned penal control and punishment for any likely violations of the applying law, with regard to civil rights, police officers are also

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subject to constant administrative inspection, which is secured by a particularly strict disciplinary law.

2. We kindly request for your information

3. The submission to the General Security Inspector and the notification to the General Directorate of Security/Hellenic Police Headquarters, is done for information purposes.

THE DIRECTOR  
PANAGIOTIS KOUMPOULAS  
POLICE DIRECTOR

=====  
*True translation from the original Greek document.  
The translator, Maria Vrana*

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**HELLENIC REPUBLIC**  
**MINISTRY OF EMPLOYMENT & SOCIAL SOLIDARITY**  
**GENERAL DIRECTORATE OF**  
**ADMINISTRATIVE SUPPORT &**  
**ELECTRONIC GOVERNANCE**  
**DIRECTORATE OF INTERNATIONAL**  
**RELATIONS**  
**1<sup>ST</sup> DEPARTMENT**

Athens, Feb. 4 2015

Ref.No. 4866/73

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**TO :**  
 1) Ministry of Foreign Affairs/D4  
 HUMAN RIGHTS  
 3, Akadimias str.,  
 Tel. 210 368 2102/2488  
 E-mail : [d04@mfa.gr](mailto:d04@mfa.gr)

**SUBJECT :** Questionnaire of the Special Rapporteur regarding  
 the right of peaceful assembly and association - exploitation of  
 natural resources”

**RE:** Your document No. AS976/12-01-2015.

In reply to your document under re. above, and according to the  
 information provided to our Service by the competent  
 Directorates (a) Terms of Employment and (b) Employment  
 Fees, please be advised of the following:

a) Trade-union freedom and action are protected in our Country  
 both by the Constitution (ar.23 par.1) and the International  
 Labor Conventions (particularly No. 87/1948 and 98/1949) and  
 by the Law 1264/1982, within the frame of labor relations.  
 Law 1264/1982 “On the democratization of the trade-union  
 movement and enshrinment of the trade-union freedoms of  
 workers” (published in the Official Gazette No. 79/A')  
 established the trade-union rights of the workers and regulates  
 the matters pertaining to the establishment, operation and

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action of the trade-union organizations. The provisions of this law provide a general protection of the trade-union action and facilitations for the exercise of these rights.

In addition to the above, according to the provisions of the Law 1767/1988 "Works Councils and other employment provisions" (published in the Official Gazette 63/A') persons working on the basis of any employment contract governed by the provisions of private law, regardless of the effective term of their contract, and provided that they are of legal age for that specific employment, are entitled to elect and form works councils for their representation in the enterprise. This law provides for the protection of the workers' representatives and facilitations for their action.

In addition to the above, the Directive 2002/14/EC "Information and Consultation of Employees in the European Community" (published in the Official Gazette No. 252/A') has established and made necessary the procedure of information and consultation in all enterprises and mainly before making decisions on the part of the employer.

Furthermore, as far as European matters are concerned, our country has transposed into its legislation the following Directives :

- The Directive 2001/86/EC of the Council "supplementing the Statute for a European Company on employees involvement, was transposed into our national law by virtue of the Presidential Decree 91/2006 "On the involvement of employees in the European Company" (published in the Official Gazette No. 92/A') and,



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- The Directive 2003/72/EC of the Council "supplementing the Statute for a European Cooperative Society with regard to the involvement of employees" was transposed into our national law by virtue of the Presidential Decree 44/2008 "Supplementation of the statute of a European cooperative society with regard to the involvement of employees, according to the Directive 2003/72/EC/22.7.2003 (Official Gazette No. 72/A').

In the above mentioned Presidential Decrees, the role of employees is described as a mechanism, including information, consultation and involvement, through which the representatives of the employees may influence the decisions made within an enterprise, through their right to elect or appoint specific members of the supervisory or administrative body of the company/legal entity or through their right to propose and/or reject the appointment of some or all the members of the supervisory or administrative body of the company.

In addition to the above, the Law 3777/2009 "Cross-border mergers of limited liability companies and other provisions (published in the Official Gazette No. 127/A') in conformity with the Directive 2005/56, provides that the company created from the cross-border merger of limited liability companies is subject to the rules, in terms of employees involvement, of the state in which the company's registered office is situated, with the exception of some cases.

Finally, the Directive 2009/38/EC "about the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups or undertakings for

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the purpose of informing and consulting employees", was transposed in our Law 4052/2012 "Chapter IB' Rights of employees in information and consulting in community-scale undertakings and groups of companies" (Official Gazette No. 41/A'), modernizing thus the procedure of information and consultation at European level.

The ultimate purpose of all these actions is to enhance social dialogue and the relationship of trust within the enterprise or group of companies (both at national and union level), for the purpose of preventing risks, flexibility in the organization of the employment, raising awareness to the employees regarding the needs of adjustment, involvement in the course and development of the enterprise and consequently, the enhancement of its competitiveness. Employers are obliged, working with team spirit, to inform and consult with their employees or their representatives, bearing in mind at the same time that this procedure is aiming at the protection of rights of the employees and the interests of their enterprise, within the scope of finding viable and effective measures of restoration into a healthy condition and /or development of their enterprises.

(b) Moreover :

1. According to article 8 of the Law 1876/90, the Collective Employment Agreements and similar Arbitration Awards (article 16, Law 1876/90) are binding on the employees and employers who are members of the contracting union-trades or the litigating parties respectively. Subject to be pronounced mandatory by a decision of the Minister of Employment, (currently Minister of Employment and Social Solidarity), upon

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the conditions laid down in the same as above law, they are binding on all the employers and employees of the branch or trade (profession) since the date when the relevant ministerial decision is published in the Official Gazette (article 37, Law 4024/2011), provided that the employers would be members of the contracting or litigating employers' organizations of the Collective Employment Agreement or Arbitration Award.

2. The latest Collective Regulation of Employment for workers in the lignite quarries was that of 26-7-2011 Collective Employment Agreement for Technical Workers in Mines, Lignite Quarries and Pits 2011. The contracting parties in this agreement were the Mining Enterprises Association of the one hand and the Federation of Workers in Mines, Lignite Quarries and Pits on the other hand. The above mentioned Collective Employment Agreement had not been pronounced as mandatory and was valid since 1-1-2011 to 31-12-2013, and was extended for one more quarter on the basis of article 2, PYS 6/12 (Ministers Council Deed), published in the Official Gazette No. 38/A/2012).

3. The latest Collective Regulation of Employment for the operators of drills, excavating and lifting machines for mines and lignite quarries of the entire country as that of 30-3-2011 (PK 22/2011) where the contracting parties were the Federation Machinery Operators and Drilling Operators of Greece on the one hand the Association of Mining Enterprises, the Hellenic Association of Enterprises and the Association of Northern Greece Enterprises on the other hand, which was not pronounced as mandatory. This Collective Employment Agreement was valid since 1-1-2011 to 31-12-2013, and was

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extended for one more quarter on the basis of article 2, PYS 6/12 (Ministers Council Deed) , published in the Official Gazette No. 38/A/2012).

4. The last collective regulation for the terms of pay and employment conditions of the Technical workers in Stone Quarries, Marble and Lime of the entire Country is the Arbitration Award 51/2009. The litigating parties were the Federation of Construction and other related workers of Greece, the Hellenic Federation of Enterprises and the Marble Trade-Union Federation of Greece. The above mentioned Award (51/2010) had been pronounced as mandatory by virtue of the Ministerial Decision (YA) No. 4726/493/11-3-2010 (Official Gazette No. 432/B/30-3-2010).

5. The last collective regulation on the terms of pay for operators working in the above quarries is the Collective Employment Agreement dated 30-3-2011 on the terms of pay and employment of operators and assistant operators of machinery and drills, Stone, soil and marble quarries of the entire country. This Collective Employment Agreement was signed by the Hellenic Federation of Enterprises, the Association of Northern Greece Enterprises on the one hand and the Federation of Operators of Machinery and Drills of Greece on the other hand. This Collective Employment Agreement was valid since 1-1-2011, was terminated on the basis of the PYS (Ministers' Council Deed) 6/12 on 1-1-2014 and was extended for one quarter, and had not been pronounced as mandatory.

6. In addition to the above, please be advised that each enterprise had the ability to enter into a collective employment agreement with its employees on the basis of the provisions of

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the Law 1867/90, in combination with the provisions of article 37, Law 4024/2011.

Please do not hesitate to contact us in case you require any further information or clarification.

THE HEAD OF THE DIRECTORATE  
EVDOKIA CHRYSANTHOU

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*True translation from the original Greek document.  
The translator, Maria Vrana*

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