

Social Security for Seamen in Greece : Greek Seamen's Pension Fund (NAT)

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The Greek Social Security for seamen consists of a cluster of institutionalized measures in consonance with the respective measures taken by most Member-States of the European Union (herein referred to as EU)¹. It is about an organized system that incorporates national, European and international requirements which is called to respond to a complex reality: the reality of social insurance for seamen who make up one of the largest fleets worldwide. The Greek Merchant Seamen's Pension Fund (herein referred to as NAT, as per its Greek initials –Naftiko Apomachiko Tameio-) embodies the social insurance of seamen in Greece as regards the crucial aspect of their retirement plan. At a comparative level, little has been written on NAT², the first social security body to be created in Greece and the second one worldwide³. However, the interest in it is permanent not merely because Social Security is characterized by constant evolution⁴, but also because of the specificities of this particular profession and of the shipping sector in general. This brief report aims to present the general outline of ÍÁÔ through certain observations that could eventually constitute the basis for further study. This presentation is divided in three parts: the history of NAT, its present-day legal regime and the issues regarding its viability.

É. History of ÍÁÔ

Through the history of ÍÁÔ three tendencies are perceived: the effort to ensure sufficient insurance to the beneficiaries, the effort to deal with the disproportion of resources and expenditure and the effort to codify the legislation at the basis of which lies the protection provided by ÍÁÔ.

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¹ On the similarities between the Greek system and foreign systems as regards legislation on seamen, see Korotzis É., Maritime Labor Law (Íáðôéêü Åñääôéêü Äâéáéí), Ed.Ant. Í. Sakkoulas, Athens-Êomotini 1990, p.22 onwards.

² Dimopoulou Ê., Kalimeri Ô.Í., Tsatsouli Á., ÍÁÔ: The Chronicle of a Pre-announced Wreck (ôí ÷ñí íéêü áüò ðñí áíáääæëÝíôí ð íáðääßí ô), Oikonomikos Tahydromos, July 6, 2002, Kamvisis D., Maritime Labor Law (Íáðôåñääôéêü Äâéáéí), Ed. Ant. Í. Sakkoulas, Athens 1994, p. 474 onwards, Bedeniotis Ì.Á., Social Insurance of Seamen: the NAT, J&J Hellas (Ç êí éúíéêþ áóöÜëéóç ôùí íáðôéêþ: ôí Íáðôéêü Áðí ì á÷éêü Ôáí ßí , ÔæÝú & ÔæÝú ÅëÛð), Piraeus 2001, Skordilis G., NAT: Storms Since 1861, Liability Since 1863 (Íáðôéêü Áðí ì á÷éêü Ôáí ßí : áðü ôí 1861 ì áðí ðñôí ýíðü áðü ôí 1863 ì áðäèçôéêü), To Vima, June 22, 2002.

The various reports that have been drawn up from time to time by Greek or foreign experts (to be discussed below) constitute a remarkable source of information regarding ÍÁÔ.

³ It is well known that the very first social insurance body for seamen worldwide is the French *Etablissement National des Invalides de la Marine*.

⁴ Kremalis Ê. D. (Review), Simplification and Codification of Social Protection Rules (Áðëí ðí ßçóç êáé Óððóçí áðí ðí ßçóç ôùí Êáíüñíí Êí éúíéêþð ðñí óðáóßáð), University Research Institute for Social Insurance, Health and Welfare Publications, Ed.Ant. Í. Sakkoulas, Athens-Êomotini 1996, Nikolakopoulou-Stephanou I., European Social Policy Before the Challenge of Competitiveness. (Ç ãññüðáúêþ êí éúíéêþ ðí êéðéêþ ì ðñí óðÛ óðçí ðññëêçóç ôçð áíðáüñíéóðéêüðçðáð), ÅÅñÊ-18, 1994.

Prior to the establishment of NAT, Greek seamen, who are the first to have secured the right of social insurance in Greece, were entitled to a rudimentary insurance. Before the Greek War of Independence in 1821, certain Greek islands with a century-long maritime tradition, such as Spetses, Hydra and Psara, created some rudimentary Funds which obtained percentages on the profits yielded by shipping activities and provided various benefits⁵.

The first provisions regarding the formation and operation of NAT were formulated in 1836⁶; however, the law establishing NAT delayed considerably. Said law --Law "On the establishment of a Seamen's Pension Fund" -- was voted by the Parliament in July 1861. It comprised twenty nine articles and converted NAT into a self-managed organization bearing a vague legal status⁷. This is explained by the concern of the Legislator to make this body independent of any State interventions. Subsequent provisions clarify the legal nature of NAT. In accordance with the Law establishing NAT, the latter includes all individuals employed on merchant vessels, as well as fishermen, ferrymen, divers, noncommissioned officers and recruits of the Royal Navy. Some provisions of this Law present a certain interest: in accordance with Article 3 "the Greek Seamen's Pension Fund is an inalienable property of the aforementioned persons, no different use of its capitals is permitted, except for the one authorized hereunder". This provision aims to avert the use of the Fund's capitals to cover expenses that bear no relation with its objective. The resources of the Fund are described in Article 4, whereas Article 7 provides the amount of the pension granted.

From the second year of the Fund's operation, 25 families received the first pensions, whereas, during the same time-period (1863) the first liability was observed in the balance. Nevertheless, NAT managed to overcome the problem through the creation of reserves. The first financial crisis took place in 1931-1932.

The efforts undertaken by the Legislator to devise a remedy for the financial problems of NAT were obvious. The new statutory Law "On the reorganization of the Greek Seamen's Pension Fund" which was published in the Government Gazette in July 6, 1907, and took force from January 1, 1908, aimed to resolve the financial crisis faced by NAT. The Law contained provisions relevant to the structure of the Fund's administration, to its resources and to the conditions of retirement. A subsequent law⁸ intended to equilibrate the balance-sheets of 1910 and 1911 and to overcome the crisis. World War I intensified the Fund's initial difficulties, due to the destruction of a major part of the Greek Merchant Marine, the subsequent reduction in the number of seamen employed and the contributions paid to it.

A series of legislative measures followed, which are not described in this presentation, intending to enhance the resources of NAT and to curtail expenses⁹.

⁵ See Kamvisis, *op.cit.*, p. 472

⁶ Government Gazette No. 75/18-12-1836

⁷ See Bedeniotis, *op.cit.*, p. 58

⁸ Law "On the reorganization of the Greek Seamen's Pension Fund" of April 16, 1909.

⁹ Indicatively, we could mention the Legislative Decree (hereinafter L.D.) of Jan. 3, 1923 stipulating the doubling and later the quadrupling of navigation dues paid abroad, the L.D. of Dec. 13, 1923 providing that the pecuniary penalties imposed in accordance with the Criminal and Disciplinary Code of the Merchant Marine can be considered

Since 1984, ÍÁÔ has been a Fund with budget deficits¹⁰.

The adoption of such a great number of legislative measures stressed the need for codification of the legislation governing NAT¹¹. The need for codification is by some means part of NAT history. Limiting this presentation to the most recent efforts of codification, it is worthwhile mentioning Presidential Decree 913/1978 which codifies in a single text benefit-related provisions, as well as Law 792/1978 "On the Amendment and Completion of the Unified Provisions Relating to the Legislation on NAT". All the studies that will be discussed here below demonstrate the need to codify and modernize the legislation pertaining to ÍÁÔ. Such studies have been carried out, from time to time in order to shed light on the problematic aspects of the operation of this particular body¹².

Prior to discussing the actual status of NAT, it would be useful to mention the rest of the bodies entrusted with the social protection of seamen in Greece: the Welfare Fund for the Officers of the Merchant Marine (ÔÐÁÁÍ)¹³ ensuring the auxiliary pension, the Welfare Fund for Inferior Crews of the Merchant Marine¹⁴, the Unemployment Fund¹⁵ and the House of the Sailor (Oikos Naftou) founded in 1927 aiming to the medical, pharmaceutical and hospital care of seamen, as well as to the social insurance for unemployed seamen. Worth mentioning is also the existence of Employment Agencies for Seamen and Seamen's House (Estia Naftikon)¹⁶.

ÉÉ. Present-day legal regime

ÍÁÔ aims to insure the affiliated population of seamen against old age, incapacity to work and occupational accidents. It is a legal entity governed by Public Law. It is registered with Piraeus and is supervised by the Ministry of Merchant Marine. ÍÁÔ is not intended exclusively for Greek seamen, even though there is no longer the possibility to insure foreign seamen originating from third countries; as regards seamen who are EU nationals and who are employed in ships sailing under the Greek flag, this category is treated by the Legislator as nationals¹⁷. ÍÁÔ

as resources of NAT, and the Presidential Decree (hereinafter P.D.) of Jan. 1, 1925 establishing a new scale of regular contributions, including an increase in the shipowner's contribution.

¹⁰ See below p.6.

¹¹ See Law 2868 published in the Government Gazette No 1194 on June 26, 1922. Also see the relevant Decree of November 16, 1925, issued by virtue of Law 3347/16-12-1926.

¹² See below p. 6.

¹³ Decree of Sept. 26, 1926, Law 4561/1930, L.D. 1964/1942, Law 210/1943, Royal Decree 718/1948, L.D. 2574/1957, L.D. 423/70. See also in relation to the Fund in question, Kamvisis, *op.cit.*, p.484 onwards.

¹⁴ Law 4675/1930, L.D. 3737/1957, L.D. 354/1969. See also in relation to said Fund, Kamvisis, *op.cit.*, p. 488 onwards.

¹⁵ L.D. of Nov. 6, 1926 subsequently ratified with Law 3937/16-2-1929. It is worthwhile mentioning that the administration of the Unemployment Fund was assigned to ÍÁÔ.

¹⁶ Kamvisis, *op.cit.*, p. 473 onwards. Regarding the Seamen's House, see P.D. 913/1978 on the Codification of the Provisions in Force Regarding NAT in a Single Law; Art. 103 stipulates that Seamen's House promotes the financial, spiritual and social condition of seamen and that it constitutes a legal entity governed by Private law, registered with Piraeus. Art. 104 of the P.D. in question makes the objective of the Seamen's House more specific, whereas Art. 105 refers to its resources.

¹⁷ The Royal Decree of August 1956 «On the Affiliation to ÍÁÔ and to the Welfare Funds of the Merchant Marine for Greek Seamen Serving on Ships Sailing Under a Foreign Flag and On Determining the Contributions Payable »,

relies on the contributions paid by shipowners and seamen on the one hand, and on the State budget, on the other. Recent statistical data¹⁸ revealed that ΙΑÔ numbers 64.681 pensioners and that its insured population amounts to 40300 individuals.

The organization of the Fund is predicated on numerous laws that also constitute the legal framework of the social security for the seamen. The basic legal foundation of seamen's main insurance is Law 3170/1955 "On the Seamen's Pension Fund ". The numerous amendments to this Law are included in Presidential Decree 913/1978 "On the Codification of the Provisions in Force Regarding NAT, etc, in a Single Law". Additional legislative measures were also adopted with a view to handle seafarers' social protection, substituting this way some of the provisions of Presidential Decree 913/1978¹⁹.

Among other insured individuals, the members of a crew, the presidents, secretaries, treasurers of legally recognized seamen's Associations, those serving as Chief pilots, pilots, as auxiliary personnel in pilot stations, the captains, chief engineers and commanders working for shipping companies are subject to social security offered by ΙΑÔ, obligatorily and *ipso facto*²⁰, in accordance with the conditions set forth by the legislation; EU nationals, as well as the stateless and the refugees residing in a Member-State of the European Communities, employed on ships sailing under the Greek flag at a marine specialty²¹ are also subject to the aforementioned legislation.

The right to a pension is regulated in Article 2 of Law 792/1978. A pension is granted to those seamen who retire from the profession under the conditions mentioned in said Law. Relevant entitlement conditions notably concern the age of the seaman to be granted a pension and the number of years of service.

As regards those seamen who have a contribution record in other countries, there is a mechanism consisting of bilateral social security agreements between Greece and other countries, allowing this category of NAT's affiliated population to secure their right to a pension. Bilateral agreements have been signed, *inter alia*, with Brazil, Cyprus, Argentina, Venezuela, Canada and the U.S.A. Certainly, in the case of an EU national²², special regulations are applicable.

Among the numerous special matters for which NAT is competent and which have attracted particular interest, there is the issue of successive insurance. It is widely known as the system helping to establish the right to a pension in

issued by virtue of the provisions of Article 46 of Law 3170/1955 stipulated that NAT should cover for non-insured seamen engaged in Greek ships sailing under a foreign flag. This provision was abolished by P.D. 913/78 (Article 84, para. 13). As regards EC nationals, see *infra* note 21.

¹⁸ Data of the «Social Budget 2001» p. 327.

¹⁹ Also See Law 792/78 "On the Amendment and Completion of the Unified Provisions of the Legislation on NAT", Law 1376/83 and P.D.524/1983 on the subjection of EU nationals to ΙΑÔ.

²⁰ See P.D. 913/1978, Article 3.

²¹ P.D.524/83. Concerning the EC dimension of the social insurance of seamen in Greece, See Christodoulou-Varotsi I., L'adaptation du droit maritime hellénique et du droit maritime chypriote au droit communautaire, Préface: C. Stephanou, Ed. Ant. N. Sakkoulas/Em. Bruylant, Athènes-Bruxelles 1999, p.260 et suiv.

²² See above note 21.

the last social security entity in the row, by co-calculating the contribution records of the insured in other social security entities. Suffice it to say that although the initial legal framework stipulated that the provisions regarding successive insurance would not be applicable for *ÍÁÔ*²³, gradually the legal framework in question underwent considerable development; the case law influenced said legal system and successive insurance expanded its range for the insured members of *ÍÁÔ*²⁴.

As is the case with all similar systems, the provisions regarding the social security of seamen have been the object of a rich case law elaboration²⁵.

The policy implemented by *ÍÁÔ* has also attracted particular interest.

ÉÉÉ. Matters connected with the viability of *ÍÁÔ*

The debate on the viability of *ÍÁÔ* constitutes by some means part of NAT's existence. However, this debate should not conceal the valuable contribution of NAT to seamen's social protection, as it should not be dissociated from the broader debate regarding the reform of insurance schemes in general²⁶ in the actual period of economic recession, globalization and deregulation. Besides, matters such as the viability of NAT, also regard foreign social insurance schemes for seamen²⁷.

As far as NAT is concerned, the relation between the insured and the pensioners is deemed as problematic and conducive --along with other parameters-- to the deficits of the Fund²⁸. The problematic aspects of the Fund become more intense due to the concentration of powers and to the superannuated nature of its organization system (absence of an integrated computerized system, absence of a registry for the insured, handwritten entries of revenues, granting of benefits as a result of a long procedure).

As it has already been stressed, studies carried out in the 1930's have underscored the problems regarding the viability of *ÍÁÔ*. In 1951, the actuary study of Professor N. Sakellariou refers to this matter; the same applies for the study undertaken by P. Leonardopoulos²⁹. In 1969, another actuary study was carried out by Stergiotis and in

²³ Article 3 par.3 Law 4202/1961.

²⁴ See the Decision of the Anotato Eidiko Dikastirio No. 8/1977 (Government Gazette No.4/7-12-1977).

²⁵ See, Kamvisis, *op.cit.*, p. 479 onwards.

²⁶ See above note 4

²⁷ See Chaumette P., La dimension internationale de la sécurité maritime, Coloquio La Protección social de los trabajadores del mar, Bamio, 67 de junio de 2002. Professor Chaumette underlines «*depuis de longues années, l'équilibre financier de l'Etablissement National des Invalides de la Marine semble un objectif impossible à atteindre par le seul financement des cotisations.....La participation du budget de l'Etat, qui était revenue entre 50 et 55% des dépenses, est revenue autour de 70% à partir de 1994*».

²⁸ Nowadays, *ÍÁÔ* presents a deficit amounting to 220 bil. drachmae. The 160 bil. represent the pensions allocated by the State budget. See Skordilis, *op.cit.*, p.20.

²⁹ See Bedeniotis, *op.cit.*, p.134

1971 technical expertise was drawn up by Swiss expert R. Breguet, pointing out that the reasons for the deficit in NAT's budget were the insufficient contributions, the improvement of the benefits provided gradually in time and the erroneously granted benefits which had surpassed the normal standard: "the examination stresses the importance of the deficit in NAT's budget which gives rise to very serious concerns. More specifically, a marked disparity was observed as regards the revenues (resources, pecuniary means) and the obligations undertaken by *ÍÁÔ*»³⁰.

Certain factors, such as the reduction of employed seamen and the drop in the number of ships registered in Greece, had negative effects on *ÍÁÔ*. In 1976, the number of ships of 100 GRT units and above, sailing under a Greek flag, was 3509, whereas the number of ships under a foreign flag affiliated to NAT was 1082 (4591 ships in total). In 2001, the respective numbers for the same categories of ships were 1200 and 115³¹. In 1976, the number of Greek seamen insured with NAT equaled 127000, and the one of the active Greek seamen was 78000 approximately, whereas in 2001 the numbers of the aforementioned categories reached 39000 and 22000 respectively³².

Many studies were carried out in more recent years, such as the one in July 1985, elaborated by a three-member Committee consisting of the Secretary General of the Panhellenic Seamen's Federation (ÐÏ), NAT's actuary and one representative of the Fund's Pensioners; said Committee underlined the need to adopt measures in order to face the crisis and expressed the need to review and update the provisions governing NAT, especially as regards the conditions justifying the right to a pension and the granting of benefits. The study focused on the need to establish incentives aiming to increase the ships insured with NAT, to increase the premiums, to simplify the way of liquidating the ship's articles; also, on the need for the State to bear any future expenses resulting from the implementation of a policy, social or otherwise, by NAT, which is not compensated by the contributions received. Followed the study of August 1st, 1985 signed by the financial Consulter of NAT, which emphasizes on "the increase of the amount of the contributions received, the amendment and the completion of the social security law governing NAT, by altering the minimum pensionable age (upwards) and reforming of the invalidity pensions scheme". In the minutes of the NAT's Board of Directors Meeting held on June 26, 1985³³, "Following Law 792/1978 stipulating the decrease of the pensionable age, of the time premium etc, namely, benefits without finding the resources first, the Parliament voted Law 1085/1980 which consecrated the successive insurance; as a result, due to the low pensionable age (50 years, whereas other insurance funds 65 years), *ÍÁÔ* tends to become a privileged Fund with regard to the pension received by the affiliated members to other social insurance Funds.... The implementation of the provisions on the successive insurance to NAT without modifying the pensionable age became an "open wound" for the Fund".

Another study elaborated by the Institute of Financial and Industrial Studies (ÉÏ ÂÂ)³⁴ in 1991 explains that the "*ÍÁÔ* faces an immediate danger not to be able to respond to its obligation to pay pensions to seamen"; it results that

³⁰ See Bedeniotis, *op.cit.*, p. 172

³¹ See Dimopoulou, Kalimeri and Tsatsouli, *op.cit.*, p. 15

³² See Dimopoulou, Kalimeri and Tsatsouli, *op.cit.*, p. 15

³³ See Bedeniotis, *op.cit.*, p. 194

³⁴ See Bedeniotis, *op.cit.*, p. 195

there is an “immediate need to intervene and take measures in order to avoid the financial collapse of the Fund and to ensure the continuation of the payment of pensions to those retired from the profession”.

According to the proposals of the Union of Greek Shipowners (hereunder referred to as $\text{Á}\text{Á}\text{Á}$, as per its Greek initials)³⁵, NAT has to keep the tripartite participation with regard to the coverage of expenses, and the compensating system will have to include capital elements; as to the organization and operation of the Fund, it will have to be based on private-economy criteria and the affiliation to the new system of new recruits to the marine profession, as well as the affiliation of the rest to the old regime will have to be ensured. The State should undertake to cover the deficits. $\text{Á}\text{Á}\text{Á}$ holds a negative attitude towards the incorporation of $\text{Í}\text{Á}\text{Ô}$ in $\text{É}\text{É}\text{Á}$ (i.e. the main insurance fund in Greece), due to the specificity of the seaman’s profession.

A fruitful debate on $\text{Í}\text{Á}\text{Ô}$ is not very easy. The relevant questions are numerous and quite complex. It is worth mentioning however, that $\text{Í}\text{Á}\text{Ô}$ was exempted from the recent total reform of the social security sector performed by the Greek State. The correlation of the resources with the benefits, as well as the attraction of new recruits to the profession could be some of the measures adopted to remedy an entity called upon to perform a difficult task³⁶. At the same time, and according to our judgment, the legislator should show some self-restraint and focus more on the effectiveness of his interventions than on the enhancement of the existing regulations.

³⁵ See Dimopoulou, Kalimeri and Tsatsouli, *op.cit.*, p.16

³⁶ According to an announcement of the European Commission to the European Council and Parliament in connection with the training and hiring of seamen{COM(2001)188}, it is observed that EU nationals employed on vessels sailing under the flag of a Member-State amount to 120 000 approximately , i.e. they account for a 40% reduction in comparison with those recorded in 1985. The repercussions which are bound to occur on the national social security systems are manifest.