

Downgrading rights: the cost of austerity in Greece

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,



Cover photo: A sculpture guarding the entrance to the Athens municipality's Cultural Centre shows a blindfolded 'Democracy'. Since the economic crisis hit Greece in 2009 and austerity measures were adopted in order to save the country from financial collapse, human rights have been challenged and violated and democracy has been suffering. Copyright: Panagiotis Grigoriou

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I. Introduction

Europe has recently been undergoing the deepest economic recession since World War II. The terrible consequences that the crisis had not only for the economy but also for democracy and human rights have become increasingly impossible to deny. Moreover, the negative consequences of certain policies and measures taken in response to the crisis for fundamental rights and society as a whole have been underestimated or dismissed as inevitable – and therefore acceptable – collateral damage. Experts have long warned of the potential for the crisis to have adverse consequences for Europe's social fabric. Now, the magnitude of such impacts is evident across Europe, especially in those countries that have borne the brunt of the crisis, like Greece. Questions about who is responsible and who should be held accountable, what could and should be done to contain such impacts, can no longer be avoided or deferred.

a) Dealing with the crisis : an (un-)reasonable approach?

Before analysing the crisis' human rights consequences and the responsibilities attached to them, it is worth spending a few words on the approach taken by governments and international organisations in response to it.

Governments initially responded to the crisis by enacting counter-cyclical monetary and fiscal policies aimed at guaranteeing social protection whilst re-establishing financial stability and stimulating economic demand.¹ However, since 2010 a second phase of responses began. Here, saving the international financial system has been prioritised over elaborating responses to tackle the crisis' underlying causes.² Instead of reforming the financial sector to prevent further collapse and ensuring a minimum social protection floor for all to help societies cope with the crisis' devastating consequences, contractionary fiscal policies, cuts in public spending, pension reforms and a stripping back of labour protections have sought to reduce public deficits and gain the confidence of financial markets.³

Meanwhile, little effort has been made by governments or international (financial and non-financial) institutions to abide by and integrate human rights into policies and programmes and, more generally, the debate on the crisis and proposed solutions to it. Human rights language and concerns have thus remained absent from the diagnoses and prescriptions put forward by governments and the international community.⁴ In fact, curtailing rights, particularly economic and social rights, appears to have been perceived as the crisis' inevitable and therefore tolerable consequence. However, reality has shown that the austerity measures applied across Europe are neither the only possible response to the crisis nor, at least in some cases, the most effective.⁵

1. European Commission, *European Economic Recovery Plan*, November 2008. World Bank, *Household and Government Responses to the Great Recession in Eastern Europe and Central Asia*, 2011.

2. Awid, Centre of Concern, Centre for Economic and Social Rights, Centre for Women's Global Leadership, Rutgers, ESCR-Net, *Bringing Human Rights to Bear in Times of Crisis: a human rights analysis of government responses to the economic crisis*, Submission to the High-level Segment of 13th Session of the United Nations Human Rights Council on the global economic and financial crises, March 2010. Among the crisis' underlying causes, the authors point in particular to decades of irresponsible economic and financial policies implemented in the false illusion that markets would be able to regulate themselves without external control or supervision.

3. Commissioner for Human Rights of the Council of Europe, *Safeguarding human rights in times of economic crisis*, Issue Paper, November 2013.

4. See Commissioner for Human Rights of the Council of Europe, *Safeguarding human rights in times of economic crisis*, Issue Paper, November 2013.

5. The IMF, in its World Economic Outlook, October 2012 admitted that economic damages caused by austerity measures to countries implementing them had consistently far exceeded what the Fund's experts had predicted and that countries having engaged in economic stimulus, like Germany and Austria, had done way better than expected, available at: <http://www.imf.org/external/pubs/ft/weo/2012/02/pdf/c1.pdf>. In their book *The Body Economic: Why Austerity Kills* (<http://thebodyeconomic.com/>), David Stuckler and Sanjay Basu, from the Universities of Oxford and Stanford, argue that increase in government spending, which was the case of Sweden, Japan, Germany and Finland, led to fastest economic recovery and that, conversely, cutting spending prolong recession. Experts have argued that reducing public debt does not lead to increasing economic growth, thus challenging the theory underlying austerity measures, Thomas Herndon, Michael Ash and Robert Pollin, *Does High Public Debt Consistently Stifle Economic Growth? A Critique of Reinhart and Rogoff*, PERI Working Paper Series, April 2013, available at: http://www.peri.umass.edu/fileadmin/pdf/working_papers/working_papers_301-350/WP322.pdf

Aside from broader questions about whether the approach pursued in responding to the crisis is sensible in economic terms, observations in countries where austerity programmes have been systematically implemented have raised serious concerns over whether austerity can truly consolidate public budgets and restore national economies.⁶ The situation in countries like Greece rather seems to prove the opposite, ie that such an approach risks further deepening the crisis, while undermining fundamental rights⁷.

b) The Crisis: an economic and a human rights failure

The enjoyment of economic, social and cultural (ESC) rights has suffered grave and long-lasting impacts as a result of the crisis. Impacts include: rampant unemployment, which in countries like Greece has reached unprecedented levels, especially amongst the younger generation; reduction in workers' protection, safe and healthy working conditions and collective bargaining; severe cuts in public services, social security and social protections; regressive tax reforms that contribute to deepening poverty and exclusion; a lowering of living standards, often falling below what is considered adequate under international law; an increase in homelessness; restrictions to the right to education following reductions in education budgets and teaching staff; and cuts in health-related spending.

However, the crisis' impact on human rights has not been limited to ESC rights. Civil and political rights have also been affected. Social unrest and frustration over austerity measures have given rise to widespread discontent and large-scale demonstrations, which are increasingly met with violent repression by the authorities. Restrictions on other rights, including rights to assembly and association, the right to freely express opinions, media freedom and the right to an effective remedy, are also on the rise, whilst people's right to participate in decision-making has further been curtailed.

Such restrictions, coupled with reduced access to essential services and the state's manifest inability to cope, fuel mistrust in government. As authorities act without consultation or democratic oversight, and fail to respond to people's basic needs, their legitimacy is increasingly eroded⁸. This has in turn pushed people to seek refuge in extremist ideologies that purport to offer alternatives to the current system. States appear to be less and less able to contain such ideologies, sometimes tolerating them as a means of channeling frustration towards traditional scapegoats, such as migrants..

c) A never-ending emergency

Furthermore, policies and measures designed to respond to what was initially perceived as an emergency situation have become entrenched. Here, the maintenance of a state of emergency has allowed accepted democratic checks and balances and regular participatory channels for decision-making to be side-stepped.

At both national and international levels, the 'exceptional' – in Greek: *Έκτροπή (Ectropi)* (anomaly, deviance from the ordinary state of affairs) – has gradually, and almost inadvertently, become the 'norm'

6. That there were failures in the programmes that had been negotiated with Greece has been acknowledged by the International Monetary Fund (IMF) in its latest report on the country: *"There were notable successes during the SBA-supported program (May 2010-March 2012) [...] However, there were also notable failures. Market confidence was not restored, the banking system lost 30% of its deposits, and the economy encountered a much-deeper-than-expected recession with exceptionally high unemployment. Public debt remained too high and eventually had to be restructured, with collateral damages to the balance sheets that were also weakened by the recession. Competitiveness improved somewhat on the back of falling wages, but structural reforms stalled and productivity gains proved elusive."* From "Greece: Ex-post evaluation of Exceptional Access under the 2010 Stand-by-Arrangement", IMF, Country Report N. 13/156 on Greece, June 2013, Executive Summary. Criticism against the program can also be found elsewhere in the report. At page 32, para. 68: *"[...] There are possible lessons to be learned. The SBA-supported program avoided a disorderly default and limited euro-wide contagion. Greece has also been able to remain in the euro, but the recession has been deep with exceptionally high unemployment. The program did not restore growth and regain market access as it had set out to do."*

7. Moreover, even in countries where the austerity approach has to some extent succeeded in its aim of advancing economic recovery (at least in macro-economic terms), financial stabilisation has exacted too a high toll on people's rights and welfare, which have been significantly undermined and in some cases sacrificed.

8. This is confirmed by a recent survey published in the Huffington Post and based on Gallup's study "Global States of Mind 2014", showing that Greece ranks third in the countries that hate their government the most. Available at: <http://247wallst.com/special-report/2014/10/17/12-countries-that-hate-their-government-most/>.

in a general shift that risks overhauling those values, principles and rights that guarantee the functioning and very existence of a democratic society.

Countries like Greece have been particularly affected. Here, the crisis has so deeply impacted on the normal functioning of state and society that it is difficult to determine if and when things will return to 'normal'⁹ – a state of affairs rendered potentially irreversible to the extent that it has heralded a new 'normality', in which things considered inconceivable only a few years ago are now readily accepted.

As such, speaking of the 'crisis' in Europe, and especially in countries like Greece, is becoming increasingly obsolete: the situation with which we are presently confronted is no longer exceptional or momentary, a 'crisis' situation precisely. Rather, we are witnessing a transition – almost complete in Greece – to a new state of affairs in which ordinary standards, particularly regarding human rights, democracy and the rule of law, have been challenged, lowered and potentially compromised.

Moreover, a further shift in the way decisions are taken over matters normally falling under national sovereignty is also observable. Here, a new politico-economic model under which *de facto*¹⁰ power increasingly exercised by supra-national forces appears to have progressively substituted the role of nation states. This shift extends far beyond the limits within which these states have legitimately and voluntarily surrendered their sovereignty to those international organisations, primarily the European Union, to which they belong.¹¹

d) Greece as an observatory

Against this backdrop, Greece, as the European country hit hardest by the crisis, where this has most glaringly displayed its effects and the transition has occurred within a short time span than in other countries, has become an observatory for analysing the human rights impacts of the crisis and the broader historical transformations that it has brought to surface.

Multiple questions have begun to arise regarding the extent to which the crisis, and related policies and programmes, have restricted or violated human rights across the spectrum, and the conditions under which such restrictions and violations are legally permissible. In parallel, the need for accountability has become increasingly imperative, heralding a need for the gathering of evidence, for assessing the situation against international human rights standards and for tracking responsibilities. Meanwhile, suggesting ways for the various actors involved to ensure that the detrimental human rights impacts of future policies are assessed and avoided or, at least, mitigated, and that the drift away from democracy and human rights currently seen in Greece and elsewhere in Europe is contained has become paramount.

Taking Greece as an exceptional case-study from which observations might be drawn to discern learning potentially applicable to other countries in Europe, FIDH decided to conduct research into the aforementioned issues to formulate the conclusions that are presented in this report.

The report does not provide exhaustive documentation of the adverse impact that the crisis is having on human rights in Greece. Rather, it provides a rough outline using examples drawn from direct observations, interviews and desk research, of the situation and the challenges that the country is facing in order to expose and use them as a basis for more general conclusions.

9. However, other countries too have suffered such regression: not only Greek, but Irish, Portuguese, Spanish and now Cypriot examples have shown that there is potentially no limit to what can be imposed on societies in the name of an ill defined public interest. This appears to have often take precedence over constitutionally protected rights and interests.

10. Whether this power, and the way international institutions have been managing the crisis, can also be considered as having some legal basis, and could be therefore be regarded as exercised also '*de iure*', is currently under discussion.

11. What is more, decisions taken by these supra-national entities have sometimes, and increasingly so, challenged some fundamental obligations that states, and these entities themselves, have contracted under international treaties and conventions to which their are signatories and/or under their own constitutions and founding treaties.

I. 1. Methodology

To gather evidence for this report and first-hand information on the situation in Greece, FIDH led a fact-finding mission to the country from 19 to 29 January 2014.

The mission's delegation was composed of: Noeline Blackwell, FIDH Vice-President and Director of FIDH member organisation FLAC (Free Legal Advice Centres, Ireland); Elena Crespi, FIDH Western Europe Programme Officer; and Sylvain Aubry, an independent consultant representing the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), a US-based NGO specialised in ESC rights. GI-ESCR and FIDH are members of the extra-territorial obligations (ETO) consortium¹² and teamed up for this project. The mission was prepared and conducted in close collaboration with FIDH's Greek member organisation the Hellenic League for Human Rights (HLHR), which also accompanied the delegation during the mission.

The FIDH delegation spent eight days in Athens, where meetings were held with a wide range of stakeholders. These included:

- the Greek Ombudsman and her deputies;
- the Greek National Commission for Human Rights (NHCR);¹³
- the Head of the United Nations High Commissioner for Refugees (UNHCR)'s office in Greece;
- representatives from the Racist Violence Recording Network, a joint NHCR-UNHCR project aimed at recording racially motivated incidents and crimes;
- representatives of migrant communities and organisations working with migrants and asylum-seekers;
- activists involved in activities aimed at countering far-right extremism;
- health sector representatives from two main public hospitals in Athens and in private practice;
- teaching staff from primary, secondary and tertiary educational institutions;
- representatives from the General Confederation of Greek Workers (GSEE), the biggest trade union body in Greece, affiliated to the International Trade Union Confederation (ITUC) and the European Trade Union Confederation (ETUC);
- Legal practitioners specialised in different fields of law, mainly constitutional, criminal, labour and migration law;
- Journalists from the now closed Hellenic Broadcasting Corporation ERT (Ελληνική Ραδιοφωνία Τηλεόραση) and from several other media outlets and
- Civil society representatives, including representatives of Praksis, an NGO providing medical, social and legal assistance to the poor and marginalised;

The mission also met with state representatives at both the local (municipality) and the national level. This included meetings with representatives from the Ministry of Justice, the Ministry of Public Order and Citizens' Protection, the Ministry of Interior and the Mayor of Athens. FIDH delegates met informally with a high-ranking official from the Greek Central Bank, as well as with the economic adviser to the main opposition party Syriza. The mission also met the Deputy Director of the European Union (EU) Task Force for Greece, created by the European Commission in 2011 to provide technical assistance to Greece in implementing the EU/IMF adjustment programmes.¹⁴

The FIDH delegation visited hospitals, Evangelismos public hospital in Central Athens and Nikaia public hospital in Piraeus; a social clinic run by the NGO Praksis in central Athens, and the Elaionas detention facility for women in Thebes, where it met the Deputy Director and another staff member. It also visited some areas in Athens where shops and other small businesses have shut down due to the economic crisis, as well as the historical centre where most migrants now reside and work following the

12. The ETO Consortium is a network gathering around 80 human rights related CSOs and academics. Set up in 2007, it works towards advancing ETOs (extra-territorial obligations, ie the human rights obligations of states towards persons outside their territories) and addressing the gaps in human rights protection that have opened up through their neglect. More information on the ETO Consortium can be found at: <http://www.etoconsortium.org/en/about-us/eto-consortium/>. More information on the GI-ESCR can be found at: <http://globalinitiative-escr.org/>

13. The Greek National Commission for Human Rights is the Greek National Human Rights Institution and belongs to the European Network of National Human Rights Institutions (ENNHRI).

14. Further information about the EU Task Force for Greece can be found at the following link: http://ec.europa.eu/commission_2010-2014/president/taskforce-greece/index_en.htm

locality's abandonment by Greeks who have moved to more peripheral areas in the city. Issues related to social exclusion and marginalisation were discussed by delegates with a psychologist working with those affected by drug addiction and HIV.

The mission also travelled to Thessaloniki, the second largest-city in Greece (with a population of 322.240) and capital of the Macedonia region, where it spent two days. Over this time it met with lawyers providing free legal assistance to those unable to pay for legal representation, including the Hellenic League for Human Rights' strategic litigation team, representatives from the Greek Refugee Council and other practitioners and legal experts. Delegates spoke to representatives from the NGOs Praksis (Thessaloniki branch) and ARSIS, and the new Open Society Foundation- funded project Solidarity Now, all of whom offer legal and/or medical assistance to those in need. The mission also visited the Praksis branch and the Social Clinic of Solidarity in Thessaloniki, which provide free medical assistance to those who can no longer access public healthcare, and interviewed a few patients there. It met with representatives of the Initiative for Solidarity with Women to gather information on the specific impact of the crisis on women. The delegation also met with the Mayor and his staff, and with the Chief of Police and other police officers at Thessaloniki Police Station.

The mission went on to spend half a day in Volos, a coastal port city in Thessaly and capital of the Magnesia regional unit (pop.: 144.449). There it met with the mayor to discuss the crisis' impact on a more peripheral region that has been heavily affected by the crisis. Here, it also met with a young man whose trial for blasphemy for publishing a satirical drawing on a social network made the news that week in highlighting the increasing limitations on freedom of expression in the country.

Following its fact-finding mission, FIDH met in Brussels with representatives from the European Commission Directorate-General (DG) for Justice, Fundamental Rights and Citizenship (JUST), the DG for Economic and Financial Affairs (ECFIN) and the DG for Employment, Social Affairs and Inclusion (EMPL). The delegation also exchanged information by email with the European Central Bank and had a telephone meeting, followed by email exchanges with representatives from the International Monetary Fund (IMF) in Washington.

This project has been conducted by FIDH and its member organisation the Hellenic League for Human Rights in collaboration with the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR).

FIDH has previously conducted numerous fact-finding missions to Greece and published reports to document and denounce human rights abuse during the Colonels' regime (1967-1974).

II. Context

Since the so-called debt crisis first hit Greece in late 2009, the Greek population has been undergoing a series of austerity measures agreed between the Greek government, the European Union (EU) and the International Monetary Fund (IMF) as a condition of obtaining international financial assistance. These measures, which have required a sharp, immediate reduction in public spending, have been accompanied by an acute rise in unemployment and poverty, political turmoil, economic depression and social unrest.

a) Before the crisis

Before the global financial crisis and since the mid-1990s, Greece had been undergoing an economic boom boosted by enhanced access to cheap credit, which was made even more available to the Greek government thanks to the country's membership to the European Monetary Union and the adoption of the Euro in 2001. Greece had thus been borrowing large amounts of money from European banks to fund its imports, public spending and the 2004 Olympic Games.¹⁵

This economic growth had improved social outcomes in the country: the unemployment rate had decreased and fallen to the euro average of about 7 per cent in 2008, educational performance was enhanced, health status improved above the OECD country average and infant mortality substantially declined. However, although social spending increased substantially, income inequality and relative poverty did not improve.¹⁶ Indeed, disparities across population groups persisted, especially regarding differences in employment rates between prime-age men and women.¹⁷ Despite improvements in social outcomes before the outbreak of the crisis, Greece's welfare system was poor and ill prepared to sustain the social impacts of the crisis. In 2009, social spending, excluding pensions and health, was significantly below European standards, consisting of only 4.25% of the annual gross domestic product (GDP). According to OECD estimates, the effectiveness of social benefits in reducing poverty was about a third of the euro-area average because of poor targeting, lack of means-based testing for beneficiaries and a heavy-dependence on contributory benefits.¹⁸ Thus, when thousands of workers lost their jobs because of the crisis, they and their dependants lost access to social benefits. Moreover, some benefits, such as family allowances, benefitted both rich and poor to the same extent. Thus, the OECD estimated that only 50% of beneficiaries of such benefits belonged to the poorest 30% of the population. In this context, the most vulnerable population groups found themselves at high risk of not getting any support from the state when the crisis took hold.¹⁹

b) On the verge of collapse

The international credit on which Greece had based its economic growth was not accompanied by an increase in exports and revenues. As such, although Greece's GDP had been growing at 4.5 per cent in the period from 2000 to 2007, its budget and trade deficits had increased tremendously. At the same time, low tax revenues, widespread tax evasion, and weak tax administration together with widespread corruption exacerbated the unsustainable economic evolution of Greece towards the current crisis.

15. UN Human Rights Council, 25th session, *Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina - Addendum Mission to Greece (22 - 27 April 2013)*, 5 March 2014.

16. The relative poverty rate for the Greek population has been at around 13 per cent from 1986 to 2009. See OECD, *Fairly Sharing the Social Impact of the Crisis in Greece*, V. Koutsogeorgopoulou, M. Matsaganis, C. Leventi, J-D. Schneider, 2014, Table 1, p. 9.

17. *Ibid.*

18. *Ibid.*

19. *Ibid.*, p.16. Considering, for instance, access to health care, cuts to public spending on health and the rise in unemployment were not accompanied by any change in health insurance coverage policies. OECD reports that around 10% of the Greek population, including long-term unemployed and self-employed workers in arrears with their social contributions, is not eligible for health insurance and only has access to emergency treatments. This percentage is bound to raise in a context of growing long-term unemployment if we consider that the unemployed are covered by the health care insurance system only for the first 2 years in unemployment. *Ibid.*, p. 35-37.

Also, to keep the country within the Euro zone guidelines, Greek governments had been concealing the situation with the complicity of foreign banks.²⁰

In October 2009 the then Prime Minister of Greece and leader of the leading socialist PASOK party, George Papandreou, revealed that previous governments had underreported the country's budget deficit for the past years and revised the Greek public deficit for 2009 from 5 per cent to 13.5 per cent of GDP. As a consequence of both this situation and the global crisis, Greece was hit by speculative waves of international investors who raised the interest rate on Greek sovereign debt to prohibitively high levels. International credit rating agencies downgraded Greek bonds and the country's access to international financial markets was curtailed, thus leading Greece to the current crisis.²¹

c) Responding to the crisis

Before Greece requested any international financial assistance, the Greek government had already adopted a first set of austerity measures between February and March 2010 in the attempt to reduce Greece's financial problems.²² In April 2010 George Papandreou first requested the country's international and European partners to provide financial assistance to his country in order to avoid a national default.²³ A first bailout for Greece was agreed on 2 May 2010 between the Greek government and the recently-created *Troika*, a tripartite committee consisting of the IMF, the European Central Bank (ECB) and the European Commission (EC)²⁴. The bailout, a €110 billion loan, was made conditional on Greece implementing an economic adjustment programme enshrined, by means of an international Memorandum of Understanding, in an agreement between Greece and the Troika. The same pattern was followed when a second bailout for Greece, a loan of further €130 billion, was agreed in the second half of 2011 and finally approved in March 2012 through a new Memorandum providing for a second economic adjustment programme, as the first bailout proved insufficient to restore Greece's financial, and social, problems.

Both adjustment programmes established that Greece would implement tough fiscal austerity measures as a condition to obtaining the loans that the country desperately needed to avoid default and stay in the Euro Area. Besides austerity measures, the first programme required the privatization of State assets worth €50 billion by the end of 2015 and the implementation of structural reforms that were designed to improve the competitiveness of the Greek economy and boost its growth, but which proved detrimental to Greek social welfare, e.g. in the area of public health and labour. The second bailout, instead, was also made conditional on the restructuring of all Greek public debt held by private creditors, a manoeuvre known as the 'Public Sector Involvement' (PSI), which was implemented in March 2012.²⁵

The austerity measures adopted by the Greek government since 2010 involved several aspects of social spending, affecting the labour market, pensions, taxation, social benefits, health and public sector

20. UN Human Rights Council, 25th session, *Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights*, Cephias Lumina - Addendum Mission to Greece (22 - 27 April 2013), 5 March 2014, para 20. See also: Der Spiegel, "Greek Debt Crisis: How Goldman Sachs Helped Greece to Mask its True Debt", 8 February 2010, available at: <http://www.spiegel.de/international/europe/greek-debt-crisis-how-goldman-sachs-helped-greece-to-mask-its-true-debt-a-676634.html>. The New York Times, "Wall St. Helped Greece to Mask Debt Fueling Europe's Crisis", 13 February 2010, available at: http://www.nytimes.com/2010/02/14/business/global/14debt.html?pagewanted=all&_r=0.

21. UN Human Rights Council, 25th session, *Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights*, Cephias Lumina - Addendum Mission to Greece (22 - 27 April 2013), 5 March 2014.

22. E.g. BBC News, "Greece unveils austerity programme to cut deficit", 3 February 2010, available at <http://news.bbc.co.uk/2/hi/europe/8494849.stm>; The Guardian, "Greece unveils radical austerity package", 3 March 2010, available at <http://www.theguardian.com/business/2010/mar/03/greece-austerity-measures>; BBC News, "Greece backs new round of tax rises and spending cuts", 3 March 2010, available at <http://news.bbc.co.uk/2/hi/8546589.stm>

23. The New York Times, "Greece, out of ideas, requests global aid", 23 April 2010, available at http://www.nytimes.com/2010/04/24/business/global/24drachma.html?_r=0

24. For more information about the origins and the role of the Troika, see J. Pisani-Ferry, A. Sapir, G. B. Wolff, *EU-IMF assistance to euro-area countries: an early assessment - Bruegel Blueprint Series - Volume XIX*, 2013

25. E.g. The Guardian, "Eurozone crisis: banks agree 50% reduction on Greece's debt", 27 October 2011, available at <http://www.theguardian.com/world/2011/oct/27/eurozone-crisis-banks-50-greece>; Cf. Statement by Charles Dallara and Jean Lemierre, Co-Chairs, Steering Committee of the Private Creditor-Investor Committee for Greece, Institute of International Finance, 9 March 2012

employment, amongst others. In February 2012, in a bid to secure its second international bailout, Greece approved an austerity plan to cut 150,000 state jobs by 2015 and to freeze public sector recruitment.²⁶ The 13th and 14th salaries paid to civil servants and employees of public enterprises were gradually abolished and public sector salaries first frozen at 2009 levels²⁷ and then underwent a series of cuts.²⁸ The 13th and 14th pensions were also abolished in 2010, as well as the 13th and 14th payment of EKAS, the income-tested supplement aimed at recipients of old age and survivors' pensions.²⁹

The 'austerity package' of February 2012³⁰ cut the minimum wage by 22% for all workers aged over 25 and 32% for workers below 25, thus legalizing the payment of wages below the poverty level for young people in Greece.³¹ Also, unemployment benefit was cut by around 20% to €360 per month, now to be paid over 3 to 9 months, depending on the contributory record.³² Moreover, a series of reforms in the labour market³³ have seen labour allowances and benefits repealed, the time of notification of dismissals reduced³⁴ and collective bargaining made more flexible by waiving the so-called 'principle of favourability' and giving precedence to firm-level agreements over more favourable collective agreements.³⁵

A number of measures aimed at increasing tax burdens on Greek citizens have also been adopted. At the same time, Greece has been criticized for not doing enough to prevent tax evasion.³⁶ For example, special levies and 'emergency taxes' have been imposed on pensions, self-employed and liberal professions, properties and large incomes, and the structure of the personal income tax changed three times between 2010 and 2012 (April 2010, October 2011 and December 2012).³⁷ Hikes in indirect taxation were also introduced, including an increase in the standard rate of VAT from 19 to 23% in 2010 and in excise duties on heating oil, alcohol, tobacco and luxury items.³⁸ This caused a reduction in the purchasing power of Greek households and a dangerous inflation in a context of falling incomes³⁹ and economic recession. Many businesses went bankrupt or had to relocate abroad⁴⁰ whilst unemployment rose significantly.⁴¹

26. E.g. ABC, "Greece's MPs clear way for \$170b bailout", 13 February 2012, available at <http://www.abc.net.au/news/2012-02-13/greece-votes-in-favour-of-austerity-plan/3826308>.

27. Cf. C. Leventi, M. Matsaganis, *EUROMOD Working Paper No. EM 14/13 - 'Distributional Implications of the Crisis in Greece in 2009-2012'*, 2013

28. E.g. The Guardian, G. Wearden, "Greece austerity plan: what is being voted on", available on www.theguardian.com, 29 June 2011; Labour Research Department, *The wrong target – how governments are making public sector workers pay for the crisis*, available at: http://www.epsu.org/IMG/pdf/Pay_cuts_report.pdf

29. Cf. C. Leventi, M. Matsaganis, *EUROMOD Working Paper*, 2013

30. Law 4046/2012

31. This was found to be in violation of the right to a fair remuneration by the European Committee of Social Rights. See Complaint No. 66/2011, Decision on the Merits, 23 May 2013.

32. See OECD, *Fairly Sharing the Social Impact of the Crisis in Greece*, *Op. cit.*, 2014.

33. Laws 4019/2011, 3996/2011, 3986/2011, 4024/2011 and 4052/2012

34. Law 3863/2010

35. Law 3899/2010. See UN Human Rights Council, 25th session, *Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina - Addendum Mission to Greece (22 - 27 April 2013)*, 5 March 2014.

36. Cf. OECD, *OECD Economic Surveys - Greece - November 2013 - Overview*, 2013, available at http://www.oecd.org/eol/surveys/GRC_Overview_Eng_2013.pdf; OECD, *Fairly Sharing the Social Impact of the Crisis in Greece*, *Op. cit.*, 2014

37. See OECD, *Fairly Sharing the Social Impact of the Crisis in Greece*, *Op. cit.*, 2014, p. 64.

38. Cf. C. Leventi, M. Matsaganis, *EUROMOD Working Paper No. EM 14/13 - 'Distributional Implications of the Crisis in Greece in 2009-2012'*, 2013

39. According to data of the World Bank, GDP per capita in Greece was \$28,452 in 2009, while it fell to \$22,442 in 2012, accounting for a decrease of 21.2%. Data available on <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>

40. E.g. The Economist reported that 'Since April 2008 the number of businesses registered with IKA, Greece's biggest social-security fund, has dropped by 119,000, or 38%. In such a brutal climate, businesses have had to do much more than just tighten their belts. Relocating is one popular survival strategy'. See The Economist, "Outrageous fortune", 2 November 2013, available on www.economist.com

41. Cf. European Commission, *2013 SBA Fact Sheet – Greece*, available at http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2013/greece_en.pdf.

Another example of structural reforms whose social impact has been broadly criticized⁴² is the second economic adjustment programme demand that Greece cap its public spending for health at 6% of GDP, and limit public spending on outpatient pharmaceuticals to €2 billion by 2014. The Greek government also committed to reduce the number of doctors by at least 20% by 2013.⁴³ The consequence of these requirements was a vast reform of the national health system aimed at cutting public expenditure on health, which has now become lower than in any of the pre-2004 European Union member states.⁴⁴ Health spending in Greece fell by 11% in both 2010 and 2011, most of the reductions in public spending having been achieved through cuts in wages and actual reductions in the number of health workers, as well as reducing expenditure for pharmaceuticals.⁴⁵ These cuts have been made at a time when the crisis has increased the need for health care amongst the Greek population⁴⁶ and when people who could previously afford private healthcare have increasingly turned to public health facilities. The workload of medical staff has increased and waiting lists have grown. Moreover, despite widespread increases in poverty and falling incomes in Greece, the Greek government has implemented several policies aimed at shifting the costs of health care onto patients: in 2011, for instance, user fees for outpatient visits were augmented and co-payments for prescribed medicines were increased by 10% or more depending on the disease.⁴⁷ Moreover, a fee for consultations with doctors of the Greek National Organization for Health Care Provision – EOPYY – was introduced. In particular, EOPYY doctors can now only provide a maximum number of free consultations per month (maximum 200) for insured patients.⁴⁸ Once this limit is exhausted, patients are charged the full cost of the visit. As a result, people are deterred from requesting consultations. These and other health care reforms, together with the loss of health insurance coverage by numerous long-term unemployed persons, have seriously hindered access to health care in Greece.

d) Social unrest and turmoil: the economic crisis turns political

The adoption of austerity measures and their social impacts have not been readily accepted by the Greek population. Aside from economic distress, Greece has faced political turmoil and social unrest with protests and riots taking place throughout the country. Since the start of the crisis, strikes and protests about the adoption of adjustment programmes and accompanying austerity measures have been organised. In some cases, peaceful demonstrations have turned into violent clashes with police, sometimes with tragic consequences, including loss of life. On 5 May 2010, as the Greek parliament discussed an austerity package intended to implement the newly adopted adjustment programme, a nation-wide strike saw around 100,000 protesters take to the streets of Athens. The demonstrations turned violent when clashes erupted with police guarding the Greek Parliament and nearby buildings were set on fire, including a Marfin Bank building, in which three employees, including a pregnant woman, lost their lives.⁴⁹

A year later, in May 2011, anti-austerity protesters had mobilised a peaceful movement known as the “Indignant Citizens Movement” (*Κίνημα Αγανακτισμένων Πολιτών*, *Kínima Aganaktisménon-Politón* in Greek), based on the Spanish “*Indignados*”. From 25 May, when the demonstrations started, till

42. E.g. Kentikelenis, M. Karanikolos, A. Reeves, M. McKee, D. Stuckler, “Greece’s health Crisis: from austerity to denialism”, in *The Lancet* (2014), 383: 748-53. A. Kentikelenis, M. Karanikolos, I. Papanicolas, S. Basu, M. McKee, D. Stuckler, “Health effects of financial crisis: omens of a Greek tragedy”, in *The Lancet*, (2011), 378: 1457-58. Also cf. E. Kondilis, S. Giannakopoulos, M. Gavana, I. Ierodiakonou, H. Waitzkin, and A. Benos, “Economic Crisis, Restrictive Policies, and the Population’s Health and Health Care: The Greek Case”, in *American Journal of Public Health: June 2013*, Vol. 103, No. 6, pp. 973-979

43. See European Commission, *The Second Economic Adjustment Programme for Greece - first review*, December 2012, available at: http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp123_en.pdf

44. Cf. A. Kentikelenis, M. Karanikolos, A. Reeves, M. McKee, D. Stuckler, “Greece’s health Crisis: from austerity to denialism”, in *The Lancet* (2014), 383: 748-53.

45. Cf. OECD, *OECD Health Data 2013 - How Does Greece Compare*, available on <http://www.oecd.org/health/health-systems/oecdhealthdata.htm>

46. Cf. A. Kentikelenis, M. Karanikolos, I. Papanicolas, S. Basu, M. McKee, D. Stuckler, “Health effects of financial crisis: omens of a Greek tragedy”, in *The Lancet*, (2011), 378: 1457-58. Also cf. E. Kondilis, S. Giannakopoulos, M. Gavana, I. Ierodiakonou, H. Waitzkin, and A. Benos, “Economic Crisis, Restrictive Policies, and the Population’s Health and Health Care: The Greek Case”, in *American Journal of Public Health: June 2013*, Vol. 103, No. 6, pp. 973-979.

47. Cf. A. Kentikelenis, M. Karanikolos, A. Reeves, M. McKee, D. Stuckler, *Op. Cit.*, in *The Lancet* (2014), 383, pp. 748-53

48. Cf. OECD, *Fairly Sharing the Social Impact of the Crisis in Greece*, *Op. cit.*, 2014.

49. E.g. H. Smith, “Greek bailout: Athens burns – and crisis strikes at heart of the EU”, in *The Guardian*, 5 May 2010; M. Brabant, “Three dead as Greece protest turns violent”, BBC News, 5 May 2010, available at <http://news.bbc.co.uk/2/hi/8661385.stm>.

July and, in some cities, August 2011 thousands of protesters gathered before the Greek Parliament, in Athens' *Syntagma* square and throughout the country. On 5 June, at least 300,000 people gathered in Athens to demonstrate peacefully against austerity.⁵⁰

On 28 June 2011, however, during a 48-hour general strike, protests once again turned violent, with clashes with police continuing into the following days as the Greek Parliament voted on the country's fourth austerity package. These confrontations proved particularly violent, with Greek riot police reportedly making widespread use of tear gas and pepper spray, as well as exercising excessive and brutal force against protesters.⁵¹

Allegations of police brutality are a constant during these clashes between anti-austerity protesters and Greek riot police.⁵²

The aforementioned demonstrations are only some of the violent protests and strikes that have occurred over the last five years in Greece. At the time of writing, a long wave of demonstrations had not yet come to an end. Most recently, in July 2014, employees of the Greek public power corporation (ΔΕΗ) were striking against the government's plan to privatize the corporation following Troika demands to this effect. The Greek government reacted by issuing civil mobilisation orders to 19,000 workers, rendering them subject to arrest for being on strike. This approach towards the right to strike has also been used in respect of teachers, seamen and transport workers ordered back to work.⁵³

Economic depression and social anger have also affected the country's political framework: Greece has gone through four changes in government since the crisis started in 2009, including the appointment of a national-unity government in 2011-2012. Social unrest has also brought the pre-crisis main parties, the socialist PASOK and the conservative Nea Demokratia, who supported and negotiated austerity plans with the Troika, to suffer a heavy loss of support from Greek voters. Disappointed with successive governments which they felt had let them down, voters started seeking an alternative that would respond to their social frustration and refuse austerity, finding them in more extreme parties (both left and right), which have consequently gained increasing support.

Following demonstrations, on 31 October 2011, George Papandreou announced a *referendum* to enable Greek citizens to approve the debt restructuring deal that the Greek government had formerly reached in a previous EU summit. However, after receiving an *ultimatum* from other EU leaders to the effect that they would withhold a desperately needed loan to the country unless the people of Greece approved the deal, Papandreou called off the referendum and resigned as Prime Minister. Former European Central Bank Vice-President and technocrat, Lucas Papademos, was then appointed head of an interim coalition government formed with the aim of implementing the measures agreed with the EU and the IMF.

After Papademos' appointment, the close ties between the EU-IMF Troika, austerity policies and Greece's domestic political developments was made strikingly evident when Greek political party-leaders agreed to sign 'binding letters' in which they committed to the austerity strategy agreed between Greece and the Troika in case of election.⁵⁴

50. E.g. Protothema, "Κυριακή 5 Ιουνίου 2011: Έμεινε στην Ιστορία", 6 July 2011, available (in Greek) on www.protothema.gr

51. See Amnesty International, *Greece urged not to use excessive force during protests*, press release of 16 June 2011; Amnesty International, "Tear gas fired as Greek police clash with Athens protesters", press release of 29 June 2011; E.g. New York Times, "Violent Clashes in the Streets of Athens", 29 June 2011; The Guardian, H. Smith, "Greek police face investigation after protest violence", 1 July 2011.

52. See Amnesty International, *Police violence in Greece - not just isolated incidents*, 2012, available at <http://www.amnesty.org/en/library/asset/EUR25/005/2012/en/edbf2deb-ae15-4409-b9ee-ee6c62b3f32b/eur250052012en.pdf>

53. E.g. The Wall Street Journal, "Greece Orders Public Power Employees Back to Work", 5 July 2014, available at online.wsj.com/articles/greece-orders-public-power-employees-back-to-work-1404571606; E.g. EUObserver, "Greek workers face arrest for being on strike", 13 July 2014, available at <http://euobserver.com/opinion/124952>. RT, "Greek government threatens to arrest teachers over strike", 13 May 2013, available at: <http://rt.com/news/austerity-measure-teachers-strike-192/>. Reuters UK, "Greek subway workers end strike after arrest threat", 25 January 2013, available at: <http://uk.reuters.com/article/2013/01/25/uk-greece-transport-police-idUKBRE90007820130125>.

54. E.g. EU Observer, "Future Greek governments must be bound to austerity strategy", 21 November 2011, available at <http://euobserver.com/economic/114344>

Consequently, 43 members of the Greek Parliament were expelled from the then two leading parties, PASOK and Nea Demokratia, after voting against the austerity package approved in February 2012 despite a new wave of strong protests.

New elections for the Greek Parliament were held in May 2012, but prevailing political turmoil resulted in no party being able to form a government. The real outcome of the May 2012 elections was rather the defeat of the two main parties that had supported austerity policies, especially the formerly-governing PASOK, which received only the 14% of the vote (as compared to 44% in the 2009 elections). Another important development was the rise of political groups, who won votes thanks to strong anti-austerity agendas. The Coalition of the Radical Left, SYRIZA, thus became Greece's second party with about 27% of the vote (about 52 seats), and for the first time in history, neo-Nazi party 'Golden Dawn' (*Χρυσή Αυγή, Chrysí Avgí*) entered the Greek Parliament with 21 seats (after scoring about 7% in the elections).

New elections were held in June 2012 and reflected a similar situation, though the conservatives of Nea Demokratia managed to achieve a majority in the Parliament and form a new government with Antonis Samaras as the new – and actual – Prime Minister of Greece.

This polarisation trend was recently confirmed in the 2014 elections to the European Parliament (EP). In these elections, the Coalition of the Radical left, SYRIZA, which had scored only a 4.7% in the past, came first with 26.6% of the vote. The governing parties, Nea Demokratia and PASOK, only obtained 22.75% and 8.02% respectively, whereas Golden Dawn also obtained a record result with 9.38% of votes, for the first time giving it three seats in the EP.⁵⁵

This result for Golden Dawn came despite reported criminal activities, which saw the arrest of the party's leader Nikolaos Michaloliakos and other MPs on charges of forming a criminal organization in late 2013.⁵⁶

55. See European Parliament, Results of the 2014 European Elections, available at <http://www.results-elections2014.eu/en/country-results-el-2014.html>

56. E.g. The Guardian, "Golden Dawn leader jailed ahead of Greek criminal trial", 3 October 2013, available at <http://www.theguardian.com/world/2013/oct/03/golden-dawn-leader-jailed-nikos-michaloliakos>

III. Human rights in crisis: a country under austerity

This section will examine the human rights impacts of the crisis in Greece, using a human rights framework to analyse these impacts and government responses (or lack thereof) thereto. In doing so, the full human rights spectrum as enshrined in international, regional and national law is considered, including civil, cultural, economic, social and political rights.

Effects attributable to the changes that have taken place since the crisis began will be given particular attention. In this respect, it should be noted that the crisis has given rise to human rights concerns both because (a) economic hardship and austerity measures have directly impacted on people and undermined their rights; and (b) because the effects of the crisis have deepened or exacerbated pre-existing problems. Both situations are considered in this report. Moreover, a distinction must be made between a situation in which austerity measures can be considered as directly violating human rights and one in which a violation results from a failure by the authorities to react to the human rights impacts of such measures.

Given the complex situation that Greece is facing, determining the existence of human rights issues does not automatically lead to a conclusion that human rights violations have taken place. The financial crisis and resulting loss of resources affecting Greece and Europe need to be taken into account when determining whether Greece or other actors have breached their human rights obligations. Sections 4 and 5 will deal with both these factors. However, in order to discuss responsibilities and attribute them to one or other actor, an overview of the effects of the crisis on human rights in Greece must be provided.

III. 1. Economic, social and cultural rights violations

The financial crisis has had a significant impact on the socio-economic situation in Greece, to such an extent that all types of economic, social and cultural rights (ESCR) in the country have been affected, and in some instances undermined. Although all ESCR are closely connected and interrelated, this report will focus on two specific ESC rights, which will be analysed in more depth: the right to work and the right to health.⁵⁷

Although all ESC rights have been observably affected in the current crisis context, these two rights and the manner in which they have been affected, illustrate a more general deterioration in and erosion of the human rights framework in the country. This has affected other ESCR, such as the right to housing and the right to education. Outlining how the rights to work and health have been impacted will facilitate the determination of more general conclusions regarding responsibilities for potential violations.

What are economic, social and cultural rights?

Economic, social and cultural rights are a legally binding set of human rights defined in a number of international, regional and national legal texts. The International Covenant on Economic, Social and Cultural Rights (ICESCR), which was adopted by the UN General Assembly in 1966 and entered into force in 1976, is the main legally binding treaty protecting ESCR. It has been ratified by 166 countries, including all EU member states. Other international and regional texts protecting ESCR relevant to this research include the 1961 (revised in 1996) European Social Charter, the International Labour Organisation (ILO) Conventions and other UN human rights treaties. European Union (EU) law also

⁵⁷ It is important to note how both these rights are also closely connected to the health and employment dimensions of the right to social security.

protects ESCR. The Treaty on the Functioning of the European Union (TFEU),⁵⁸ the Treaty on European Union (TEU)⁵⁹ and the Charter of Fundamental Rights of the European Union (the Charter) all offer protection to ESCR.⁶⁰ ESCR are also enshrined in the constitution of many countries, including Greece.⁶¹

Internationally recognised ESCR include the rights to health, food, water, housing, work, and education. Greece ratified the ICESCR in 1985 and acceded to the European Union, thus becoming bound by its founding treaties in 1981. Although all ESCR are closely connected and interrelated, as stated above, this report will focus on two specific ESC rights: the right to work and the right to health

Right to work

The ICESCR recognises three dimensions of the right to work, namely:

- **The right to work**, defined in Article 6 as “*the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts*”.
- **Rights in work**, which include “*the right to the enjoyment of just and favourable conditions of work*” as provided for by Article 7. This encompasses the right to fair wages and equal remuneration for work of equal value allowing for a decent living; to safe and healthy working conditions; to equal opportunities for everyone to be promoted in its employment on the basis of no consideration other than seniority and competence; and to rest, leisure and reasonable limitation of working hours and paid holidays.
- **The right to unionize**, detailed in Article 8. It includes the right of everyone to form and join trade unions of their choosing, the rights of trade unions to establish national federations and form or join international trade-union organisations and to function freely, and the right to strike.

These three dimensions are also recognised in the **Charter of Fundamental Rights of the European Union**, in articles 30 (protection in the event of unjustified dismissal), 31 (fair and just working conditions) and 28 (the right of collective bargaining and action), as well as in the European Social Charter.⁶²

ILO Conventions are also essential to understanding the right to work. Indeed, when the ICESCR was drafted, it was understood that the details of the right to work should be left to specialised agencies such as the ILO.⁶³

The ILO’s Governing Body has identified eight ILO conventions as “fundamental” to the protection of the right to work. These cover freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.⁶⁴

58. Article 9 prescribes that “In implementing and defining its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health”. Article 151 provides that action taken by the EU and its Member States must be consistent with the fundamental social rights laid down in the 1961 European Social Charter, and in the 1989 Community Charter of the Fundamental Social Rights of Workers, in order to improve, *inter alia*, the social dialogue.

59. Article 6 (1) of the Treaty on European Union (TEU) states that “The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000 (...), which shall have the same legal value as the Treaties”.

60. See below.

61. Generally on the protection of ESCR at the national and regional levels generally, see e.g. Malcolm Langford (ed.), *Social Rights Jurisprudence* (Cambridge, 2008).

62. Article 1 (right to work); Articles 2 (right to just conditions of work), 3 (right to safe and healthy working conditions), and 4 (right to a fair remuneration); and Articles 5 (right to organise) and 6 (right to bargain collectively).

63. See Ben Saul, David Kinley and Jacqueline Mowbray, *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases and Material*, Oxford University Press, (2014), p. 273 and p. 275 – 278.

64. The ILO’s Governing Body has also designated another four “Governance” conventions as “priority” instruments, which are: The Labour Inspection Convention, 1947 (No. 81); The Employment Policy Convention, 1964 (No. 122); The Labour Inspection (Agriculture) Convention, 1969 (No. 129); The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Right to health

The right to health is worded more specifically in the ICESCR. Here, it is defined as “*the right to the enjoyment of the highest attainable standard of physical and mental health*”.⁶⁵

The ICESCR also specifies that States have to ensure a certain standard of care within the community at large, by taking steps to, *inter alia*, reduce stillbirth rates and infant mortality; improve environmental and industrial hygiene; prevent, treat and control epidemic, endemic, occupational and other diseases; and create conditions that would ensure for all medical services and attention in the event of sickness.

The right to health is also guaranteed by the **Charter of Fundamental Rights of the EU** under article 35. This article provides that “*Everyone has the right of access to preventive health care and the right to benefit from medical treatment*”. Likewise, the European Social Charter protects “*the right to protection of health*”.⁶⁶

The content of the rights

Like other ESCR, the right to health should not be understood as the right to be healthy,⁶⁷ nor can the right to work be understood as an absolute and unconditional right to obtain employment.⁶⁸ rather, these rights provide for a defined and nuanced set of entitlements that have been defined through practice and jurisprudence.

The content of ESCR has often been considered by the UN Committee on Economic, Social and Cultural Rights (CESCR⁶⁹) to include a number of interdependent and essential elements. These can be summarised as follows:

- Availability;
- Accessibility;
- Acceptability; and
- Quality.⁷⁰

The situation in Greece will be assessed against these elements.

State obligations corresponding to ESCR

The obligations that States are under in ensuring ESCR are defined in Article 2.1 of the ICESCR. At base, the State duty to ensure ESCR can be broken down into the following components:

- The State must take steps
- to the maximum of its available resources
- to progressively achieve the full realization of ESCR
- by all appropriate means.

In addition, article 2.2 of the ICESCR specifies that States must guarantee all ESCR without discrimination of any kind.

65. Article 12.

66. Article 11.

67. CESCR General Comment 14, para. 8.

68. CESCR General Comment 18, para. 6.

69. The Committee on Economic, Social and Cultural Rights is a treaty body of the United Nations, which meets usually twice a year and considers five-yearly reports of United Nations member states and their compliance with the ICESCR.

70. CESCR General Comment 18, para. 12; CESCR General Comment 14, para. 8, para. 12. The last two elements, ‘acceptability’ and ‘quality’ are sometimes separated, and may take other titles, such as ‘acceptability’ (for the right to education)., but for the purposes of the present report, it is relevant to consider them together.

The precise scope of these state obligations has also been defined through practice and jurisprudence. It is now widely accepted that the obligation to comply with internationally recognised human rights imposes on States three levels of duty: to respect, protect and fulfil human rights.⁷¹

The fact that States can realise rights progressively does not deprive them from clear imperatives: the CESCR has thus stated that, *“the fact that realization over time, or in other words progressively, is foreseen under the Covenant, should not be misinterpreted as depriving the obligation of all meaningful content”*.⁷²

The CESCR added that article 2.1 ICESCR *“thus imposes an obligation [on the State] to move as expeditiously and effectively as possible towards that goal [of fully realising rights]”* and *“any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources”*.⁷³

Building on this, the CESCR has taken the view that States have so-called “minimum core obligations”. These obligations require states *“to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights”*.⁷⁴

Such minimum essential levels are likely to be affected by a financial crisis⁷⁵ and core obligations are minimum expectations which, if breached, are likely to constitute ESCR violations. In this sense, the CESCR has indicated that *“a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant”*.

The ICESCR – as interpreted by the UN Committee on Economic, Social and Cultural Rights – will be used as a reference for this report, though reference will also be made to other texts. In analysing the impact that the crisis and austerity measures have had on the right to work and to health in Greece, we will be guided by the essential elements that make up these rights, as previously outlined: availability, accessibility, acceptability and quality.

a) **Availability**

Right to work

*“Availability. States parties must have specialized services to assist and support individuals in order to enable them to identify and find available employment.”*⁷⁶

Availability is the first element of the right to work to be affected by an economic crisis such as that affecting Greece. According to information given by the General Confederation of Greek Workers (GSEE) to FIDH, 180,000 small to medium-sized enterprises have shut down since 2010.

71. The obligation to respect requires state parties to refrain from interfering, directly or indirectly, with the enjoyment of human rights; the obligation to protect requires state parties to take steps to prevent third parties from interfering in human rights; the obligation to fulfil requires state parties to take appropriate legislative, administrative, judicial, budgetary, promotional and other measures aimed at the full realisation of the rights. See CESCR General Comments No. 13 (1990), paras. 46 and 47, No. 14 (2000), para. 33, No. 17 (2005), para. 28, No. 18 (2005), para. 22 and No. 21, para. 48. See also the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, para. 6.

72. CESCR, General Comment 3, U.N. Doc. E/1991/23 (1990), para. 9.

73. Ibid.

74. Ibid., para. 10.

75. See e.g. Philipa Mladovsky, Divya Srivastava, Jonathan Cylus, Marina Karanikolos, Tamás Evetovits, Sarah Thomson, Martin McKee, *Policy Summary 5: Health policy responses to the financial crisis in Europe* World Health Organization (2012), p. viii: “Policy tools that risk undermining health system goals include: reducing the scope of essential services covered; reducing population coverage; increases in waiting times for essential services; user charges for essential services; and attrition of health workers caused by reductions in salaries.”

76. CESCR, General Comment 18, para. 12 (a).

In November 2013, The Economist also reported that since April 2008, the number of businesses registered with IKA, Greece's biggest social-security fund, had dropped by 119,000, or 38%.⁷⁷

The European Commission has also noted that “[t]he prolonged recession, and the consequent rise in unemployment rates, has had a very negative cumulative impact on companies, especially small and micro enterprises, which constitute the vast majority of the Greek SME sector.”⁷⁸

In Greek cities, closed shops can be found every few meters. The word “Enoikiazetai” («Ενοικιάζεται» “to rent”), is pasted across many, if not most, high street windows. Here, streets previously bursting with life have a ghost town-like appearance, with even established high street names, such as “Fokas”, closing shop.

Closed shops displaying «to rent» signs in Athens city centre, January 2014 - © Elena Crespi / FIDH.



Whether operating in large, small, or medium-sized enterprises, independently or in the public sector, all workers have been affected by labour market cuts. As a result, unemployment has skyrocketed in Greece, from less than 8% before the crisis, to close to an unprecedented 28% in September 2013. The unemployment rate was still at 27.2% in January 2014, when the fact-finding mission visited Greece, and had slightly decreased to 25,7 % in September 2014' (latest figure).⁷⁹ The situation is even more alarming for the young, with the Youth Unemployment Rate having reached an all-time high of 60.8% in February 2013 and averaging at 32.74% from 1998 until 2014.



However, according to the General Confederation of Greek Workers⁸⁰ (GSEE), real unemployment is even higher due to hidden unemployment (i.e. people not responding to surveys). Many unemployed people are reportedly not registered as unemployed. This fact was also confirmed by the office of the Greek Ombudsman in an interview with FIDH. Thus, real unemployment can be expected to be 5 to 6% higher than the official statistics at 27.2% (February 2014).⁸¹

Closed «Fokas» department store in Athens city centre, January 2014 - © Sylvain Aubry / Global Initiative for Economic, Social and Cultural Rights.

This situation stems not only from the economic crisis, but is also the outcome of the way in which the crisis has been managed at the political level, namely due to specific policies enacted by the authorities. In the public sector alone, 75,000 posts were cut between the end of 2012 and early 2013. Although the need for reform to address serious structural deficiencies in the public sector was commonly agreed, the rapid and massive cuts in public employment that were consequently undertaken were not carried out on the basis of adequate assessment. On the contrary, these cuts were founded on the need for rapid compliance with requirements set out in Memorandums of Understanding between Greece and the Troika, and were instigated solely for budgetary reasons. They therefore failed to take any account of the negative repercussions that they would have on the labour market, especially in an already devastated economy. Moreover, the cuts were applied through the public sector seemingly without due consideration for the need to preserve minimum levels in essential services, such as healthcare. In striking contrast, other sectors, where such budget cuts would likely have had a less negative impact on

77. The Economist, “Business in Greece: Outrageous fortune”, 2 November 2013, available at: <http://www.economist.com/news/business/21588914-survivors-crisis-are-those-move-fast-and-think-creatively-outrageous-fortune>

78. European Commission Directorate-General for Enterprise and Industry, 2013 SBA Fact Sheet: Greece, 2013, p. 2, available at: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2013/greece_en.pdf

79. The statistical data on the unemployment rate in Greece is available at : <http://www.tradingeconomics.com/greece/unemployment-rate>

80. The GSEE is a tertiary trade union body founded in 1918 and affiliated with the International Trade Union Confederation. It aims at defending the interests of all workers in Greece in the private sectors.

81. Eurostat, 2014

human rights, seemed less affected. Thus, although the defence sector was not immune to cuts, when compared to other public sectors such as welfare, transport and education, this sector saw a relatively lower share of expenditure cuts. Consequently, despite cuts of around 30% since 2010 and the economy having shrunk by 25%, Greece's defence budget remains one of the highest among NATO countries in terms of percentage of GDP (European NATO members averaged at 1.6% in 2013 and Greece averaged at approximately 2.3%).⁸² Also, at the beginning of October 2014, salary increases for so-called 'uniformed bodies' (i.e. armed forces, police, navy, etc.) were agreed for 2015. No similar such increases were agreed for other public sectors.

The Greek labour market has thus been traumatised. Even with a relatively optimistic 1% in yearly growth, it is likely to take years before the country can return to pre-crisis levels of employment. The GSEE has estimated that it will take twenty years to create one million jobs (the number of jobs lost since the start of the crisis) and bring unemployment rate down to pre-crisis levels of 10%.⁸³

In elaborating and implementing austerity measures, decision-makers have largely underestimated their impact on unemployment, as clearly highlighted by the European Parliament in its March 2014 resolution.⁸⁴ This is partly due to a calculation error, as acknowledged by the IMF.⁸⁵ However, it is also the result of a failure by the authorities to consider employment an essential target of the recovery and to weigh such measures against their own human rights obligations.

The mission delegates were surprised to find that the efforts of the authorities focused almost exclusively on economic and fiscal objectives, neglecting the social and human rights implications of such interventions. During numerous discussions with representatives of the Greek authorities not once was employment raised as a primary objective of the policies adopted in response to the economic crisis. Indeed, employment does not seem to have been a primary concern when devising responses to the crisis, at least during the first phase (the negotiation and implementation of the first MoU). Although employment and other social concerns were given further consideration at later stages (as reflected in the Second MoU and other recent measures),⁸⁶ such considerations seemingly continued to play a significantly less important role in the programme implementation than securing financial and fiscal stability.⁸⁷

A High Level Mission conducted by the ILO in September 2011 made similar findings. Those Greek Government officials interviewed by the ILO mission indicated that

“Overall, despite the Government's success in dealing with the consequences of certain unprecedented developments, employment objectives constituted at best an indirect outcome of the policies under implementation and were not taken into account when discussing the general framing of macroeconomic policies with the Troika. The targets discussed during the meetings were fiscal, focusing on the questions of deficit, debt and inflation following the targets set in the EU treaties.”⁸⁸

82. International Security Observer, “Financial crisis and defence cuts: The view from Greece”, 29 January 2014, available at: <http://securityobserver.org/financial-crisis-and-defense-cuts-the-view-from-greece/>

83. Interview with FIDH and Enet, “Twenty years needed to re-create million jobs lost to crisis”, 2 September 2013, available at: <http://www.enetenglish.gr/?i=news.en.article&id=1438>

84. European Parliament, Resolution of 13 March 2014 on *Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries (2014/2007(INI))*, paras. 6, 15.

85. International Monetary Fund, *Greece: Ex Post Evaluation of Exceptional Access under the 2010 Stand-by Arrangement*, IMF Country Report No. 13/156, June 2013, available at: <http://www.imf.org/external/pubs/ft/scr/2013/cr13156.pdf>. See also *supra* note 84., para. 15.

86. European Commission, *Second Economic Adjustment Programme for Greece*, March 2012, available at: http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf.

87. As testified by the fact that the section in the Second Economic Adjustment Programme dedicated to social aspects, including unemployment, is confined to a short paragraph (page 19) in a 195 page document. Also, FIDH meetings with the European Commission Directorate-General (DG) for Employment, Social Affairs and Inclusion, confirmed that the role played by considerations other than those related to economic and financial stability (including those related to employment) and by the DG in advising on those aspects was tiny in comparison to that played by economic considerations and the European Commission services that are competent for those (ie DG for Economic and Financial Affairs, ECFIN). This was underlined also by the European Parliament in its resolution.

88. ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, 2011, para. 84.

The ILO mission said it had been “struck” by reports that during discussions with the Troika, employment objectives rarely figured,⁸⁹ noting that “*international economic and financial policies seem to be largely unaware*” of the various authorities’ solemn commitment to promote full, productive and freely chosen employment.⁹⁰

Whilst inadequate investment in policy efforts to tackle unemployment is not new, it has nevertheless worsened during the crisis. Evaluating Greece’s employment policy with respect to the right to work, the European Committee on Social Rights (ECSR) had already noted in its 2011 conclusions covering the period 2007 to 2010 that “*employment policy efforts in Greece, measured both in terms of the activation rate and spending on active labour market measures, were insufficient*”. The ECSR concluded that the situation in Greece was not in conformity with Article 1§1 of the European Social Charter protecting the right to work on ground that it had not been established that employment policy efforts had been adequate in combatting unemployment and promoting job creation.⁹¹

The second MoU between Greece and the Troika gives some information on policies planned by the authorities to tackle unemployment and support unemployed people to seek an occupation.⁹² It lists eight areas of action, or policy objectives, one of these being “*strengthening labour market institutions and promoting employment*”. Within this area of action, five of the six reforms listed in the MoU suggest liberalising the labour market, making it more flexible, and cutting costs. The policies envisaged thus rely heavily on liberalisation as a panacea to address structural employment issues. This approach, as noted by the European Parliament, underestimates “*the importance of maintaining domestic demand, investment and credit support to the real economy*”.⁹³ Most disturbingly, only one reform concerns “support to the unemployed”. This section of the MoU contains modest – though valuable – suggestions, such as the adoption of a comprehensive action plan and introduction of a means-tested income support scheme that targets the poor, including the long-term unemployed. However, although the EU indicates that the second MoU has “a strong focus on social welfare and reducing unemployment”,⁹⁴ even these modest measures to support the unemployed were only implemented by Greece after over a year’s delay (by April 2014 rather than the first quarter of 2013, as originally required).⁹⁵

Overall, the fact-finding team observed a strong sense amongst Greeks that they have been abandoned by their state and left to themselves with regard to employment. The GSEE reported that out of the about 1.4 million unemployed persons, only 110,000 have received unemployment benefit, and the others have not received any form of relief. Many families are heavily affected by unemployment, and the feeling of desperation and lack of hope that results from this has been reported as one of the causes behind a sharp increase in suicide and depression in the country.

Not only have the Greek authorities taken measures that have seriously exacerbated the unemployment situation, but they have also failed to offer the social support needed to cope with the sharp rise in unemployment. Together with families and informal social structures, which have served as a shock ‘buffer’, it is mostly the municipalities that have had to deal with this reality. However, as their resources have also been severely cut, both the civil servants working in municipalities and the local authorities are observably stretched to capacity in their bid to cope with the situation. This reflects the overall failure by the state to ensure the availability dimension in the right to work.

89. *Ibid.*, para. 331.

90. *Ibid.*, para. 332.

91. European Committee of Social Rights, *Conclusions XX-1 (2012)*, January 2013, p. 6.

92. Information on the Financial Assistance to Greece is available at: http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/

93. European Parliament, Resolution of 13 March 2014 on *Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries (2014/2007(INI))*, para. 6.

94. European Commission, *The Second Economic Adjustment: Programme for Greece, Fourth Review – April 2014, Summary for non-specialists*, Occasional Papers No. 192, April 2014, available at http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_summary_en.pdf

95. See the first, second, third and fourth reviews of the Second Economic Adjustment Programme for Greece, available at http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/.

Right to health

“Availability. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party. The precise nature of the facilities, goods and services will vary depending on numerous factors, including the State party’s developmental level. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs.”⁹⁶

Greece’s social sector accounts for a large share of government spending. Cuts have been made almost indiscriminately across all public sectors and many austerity measures have affected social services. As such, public sector reforms and cuts in staff and expenditure have also targeted the health sector. The main objective of Greek health sector reforms has been to cap public spending on health to a maximum of 6% of GDP, as requested in the Second Economic Adjustment Programme for Greece. Greece reached and exceeded this objective, with 5.9% public spending in health in 2011 – down from 7% in 2009. This is significantly less than the 6.7% average in OECD countries, and much less than many other European countries such as Germany, France, Belgium and The Netherlands. Moreover, Greece’s GDP significantly decreased in the same period as prices and demand for healthcare services grew. As such, the actual drop in service investment has been much more significant than the statistics in percentage of GDP might initially show.

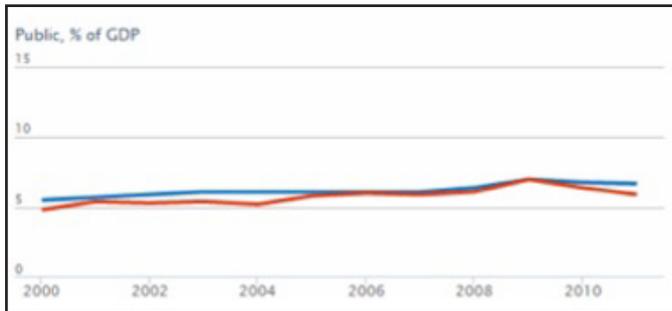
Public expenditure on health in EU OECD countries in 2011 as a percentage of GDP ⁹⁷		
1	Netherlands	9.4928
2	Denmark	8.8715
3	France	8.6594
4	Germany	8.4332
5	Belgium	7.9813
6	Austria	7.8861
7	Norway	7.5874
8	Sweden	7.2875
9	Italy	6.9937
10	Spain	6.6447
11	Finland	6.4617
12	Portugal	6.334
13	Slovenia	6.2432
14	Czech Republic	6.1744
15	Greece	5.9391
16	Ireland	5.8032
17	Slovak Republic	5.5936
18	Luxembourg	5.1912
19	Hungary	4.9402
20	Estonia	4.6878
21	Poland	4.53

Thus, Greece, which used to be in line with OECD practice in terms of public health expenditure (see graph below), fell critically below the average from 2010, despite that average already being lowered by OECD countries such as the USA, South Korea or Mexico, which traditionally have extremely low public spending on health.

96. World Health Organisation, General Comment No. 14 (2000) on the right to the highest attainable standard of health (Article 12), 11 August 2000, para. 12(a), available at: http://apps.who.int/disasters/repo/13849_files/o/UN_human_rights.htm.

97. Public expenditure in health in EU countries member of the OECD in 2011 as percentage of the GDP, © OECD, 2011 <http://stats.oecd.org/Index.aspx?DataSetCode=SHA#http://stats.oecd.org/Index.aspx?DataSetCode=SHA>

Evolution of public health expenditure as a percentage of GDP in Greece and other OECD countries⁹⁸. Source: Eurostat

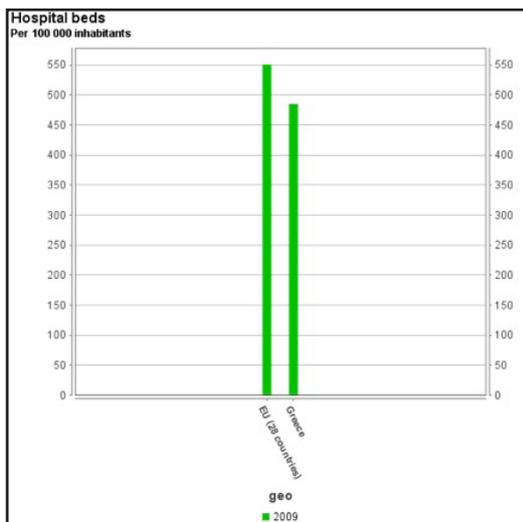


In blue, OECD country average
In red, Greece

To meet the 6% GDP reduction goal, cuts have been implemented in a number of areas. Hospitals have been merged or closed in Athens and Thessaloniki, and staff numbers, including both doctors and nurses, have been drastically reduced. Interviews conducted by the fact-finding mission with health staff confirmed this data. They also confirmed that hospitals have stopped buying new equipment. Although the Greek health system may indeed have been in need of reform, austerity measures have actually affected the availability of health care as guaranteed under international law.

For instance, cuts have reduced the number of hospital beds available despite the fact that Greece was already below the EU average in terms of hospital bed availability (see graph below). This cut took place at a time when demands on the Greek public health system rose enormously due both to economic hardship, which rendered patients increasingly unable to turn to private clinics, and an increase in health risks connected with the lowering of income. As such, reductions in the availability of hospital beds has had devastating effects. Doctors met during the fact-finding mission have indicated that they frequently have to refuse patients or postpone important surgical operations because of the lack of bed space. This includes potentially vital operations, such as surgery for heart disease or cancer.

The number of hospital beds per 100 000 inhabitants. Source: Eurostat



Another example of scarcity logic and a failure to take into account basic human rights requirements in undertaking health cuts has been measures relating to staffing reductions. Indeed, while cuts in the number of doctors in the Greek health system may have been justified on the basis that there are more physicians per capita in Greece than in any other OECD country,⁹⁹ cuts to nursing staff cannot fall within this rationale in light of the fact that the country was already suffering a huge shortage of nurses. In 2010, Greece had the second fewest nurses per habitant in Europe, with an average of 3.3 nurses per 1,000 people – far from the 7.8 EU average.¹⁰⁰ Whilst the over-supply of doctors and under-supply of nurses in Greece resulted in an inefficient allocation of resources,¹⁰¹ far from improving the situation, the

measures taken by the authorities in response to the crisis have bluntly affected the availability of health care without making sense in economic terms. FIDH’s mission observed services with too few nurses,

98. Ibid.

99. OECD, *OECD Health Statistics 2013 - Country Notes, Greece*, 2014, available at <http://www.oecd.org/els/health-systems/Briefing-Note-GREECE-2013.pdf>

100. OECD, *Health at a Glance: Europe 2012*, OECD Publishing (2012), p. 72 – 73.

101. OECD, *OECD Health Statistics 2013 - Country Notes, Greece*, 2014, p. 2.

gathered testimonies from doctors unable to carry out operations on time due to the understaffing of health structures, and generally observed staff suffering serious stress levels for the same reasons.

Similarly, other essential public health programmes have been cut. For instance, it has been reported that “a third of the street work programmes were cut because of scarcity of funding”, and “despite a documented rise in the prevalence of heroin use”.¹⁰² The very concrete effects of these policies are highly visible, and the mission observed areas in central Athens that had formerly been squares where families would gather and were now occupied by drug-users. These cuts particularly affect the most vulnerable populations, including young people and especially the unemployed. A meeting between FIDH and a psychologist working with drug-users also confirmed that cuts to such programmes and in prevention efforts have had a negative impact on these categories. A raise in HIV infections among drug-users has also been observed.

Reductions in the availability of basic health care has also seen the re-emergence of illnesses that had not been seen in the country for a long time. All medical staff interviewed during the mission indicated an outbreak of infectious diseases formerly considered extinct, such as tuberculosis. A paper in the *Lancet* has also recently noted the re-emergence of locally transmitted malaria for the first time in forty years, which it attributes to, amongst other factors, drastic reductions to municipality budgets, which have led to the scaling back of several activities such as mosquitos spraying programmes.¹⁰³

A leading Greek psychiatrist met during the mission also highlighted the cuts made in funding for mental health service provision. These cuts have again taken place at a time when there is a greater need for mental healthcare provision. Due to the widespread and pervasive nature of the economic hardship imposed on the Greek populous, cuts in mental health spending affect everyone across all levels of society. However, they particularly impact on the most vulnerable. Children, for instance, have developed greater needs for mental health service provision as tensions in families have increased due to the economic situation. This was confirmed by several testimonies gathered during the mission, e.g. “*My wife lost her job. Ever since, when dealing with my son, I’m a little bit more aggressive every day. I have entered into a spiral of tension*”.

Academics have likewise reported that as funding for mental healthcare decreased by 20% between 2010 and 2011, and a further 55% between 2011 and 2012, findings from population surveys suggest “a 2.5 times increased prevalence of major depression, from 3.3% in 2008 to 8.2% in 2011”, and “a 36% increase between 2009 and 2011 in the number of people attempting suicide in the month before the survey, with a higher likelihood for those experiencing substantial economic distress”.¹⁰⁴

Thus, as highlighted by European Parliament, budget and job cuts have largely affected basic public sectors such as health, education and social public services,¹⁰⁵ and this has greatly affected the availability of essential economic and social services in Greece. This situation is largely driven by policies put in place by the government. As a result, the European Parliament has expressed its concern that:

*“among the conditions for financial assistance, the programmes include recommendations for specific cuts in real social spending in fundamental areas, such as pensions, basic services, health care and, in some cases, pharmaceutical products for the basic protection of the most vulnerable, as well as in environmental protection, rather than recommendations allowing national governments more flexibility to decide where savings could be made.”*¹⁰⁶

In the words of one healthcare professional met during the mission: “*Greece has regressed to an era where welfare is called into question. There’s no policy on that, they demolished the little there was.*”

102. Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53, p. 748.

103. Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53, p. 748.

104. Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53, p. 750.

105. European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries (2014/2007(INI))*, A7-0135/2014, 13 March 2014, para. 8.

106. *Ibid.*, para. 14.

b) Accessibility

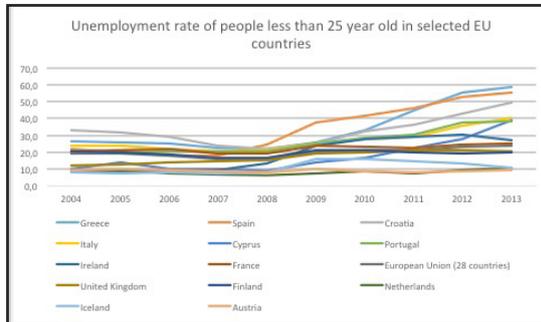
Right to work

*“Accessibility. The labour market must be open to everyone under the jurisdiction of States parties.”*¹⁰⁷

Against a background of significant job cuts, reduced possibilities and increasing competition to access the labour market, vulnerable population groups face greater barriers to accessing employment.

As highlighted by the European Parliament, young Greeks in particular have experienced significant difficulties accessing the labour market.¹⁰⁸ In 2013, 58% of under 25's were unemployed. This was the highest rate of youth unemployment in the EU at more than twice the EU average. Only Spain, with a youth unemployment rate of 55%, is even close to the status of Greece.

Unemployment rate of people less than 25 years old in selected EU countries. Source: Eurostat



Mission delegates encountered numerous accounts of the situation many young people find themselves in. University teachers say that many students have only one dream: leaving the country. All young people encountered during the mission expressed anxiety. In the midst of this crisis with few prospects for young people, more and more are leaving Greece for other countries with the hope of employment and a better future. Strong international networks already created by the Greek diaspora throughout the 20th century,

have rendered emigration a painful but sustainable option for Greeks at the dawn of the 21st century.¹⁰⁹ According to *Der Spiegel*, some 120,000 professionals have already left the country amid the crisis.¹¹⁰ With its youth dropping out of the labour market and its most dynamic citizens losing hope in the future or leaving the country, Greek society as a whole has entered into depression.

Access to the job market is made all the more difficult for youths as the education system has fallen victim to the general collapse of social services. Teachers told FIDH that the number of children per classroom is rising and that resources (e.g. for maintenance, purchase of materials, educational activities such as study trips and cultural visits, and life-long learning) at schools and universities are decreasing, which in turn has affected the quality of the education provided. Moreover, crucially, a number of technical and vocational schools are reported to have been closed or considered for closure.

Women too are finding it extremely difficult to access the labour market since the crisis. The office of the Greek Ombudsman told the FIDH mission that pre-existing gender inequalities and discrimination in the workplace have been exacerbated by the crisis. For example, pregnant or young women who may want to have children may find it even more difficult to find, or keep, their employment, and are faced with discriminatory practices.

In a report published in December 2012, the Greek Ombudsman indicated that *“the cases handled by the Ombudsman in the field of equal treatment between men and women during 2012 largely reflect the intensity of the problems brought about by the economic crisis in labour relations and the general employment situation of women”*. It came to the following stark conclusions:

107. Committee on Economic, Social and Cultural Rights, *General Comment No. 18*, 24 November 2005, para. 12(b).

108. European Parliament, *Report on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries (2014/2007(INI))*, A7-0135/2014, 20 February 2014, para. 9.

109. Andrea Pelliccia, “Greece: education and brain drain in times of crisis”, IRPPS WPs n. 54 (2013), available at: http://www.academia.edu/5719868/Greece_education_and_brain_drain_in_times_of_crisis

110. *Der Spiegel*, “Brain Drain: 120,000 Professionals Leave Greece Amid Crisis”, 10 April 2013, available at: <http://www.spiegel.de/international/europe/unemployment-and-recession-in-greece-lead-to-brain-drain-a-893519.html>

“The labour rights of women have been affected in many fields: precarious forms of employment, unilateral adverse changes in contracts, wrongful imposition of job rotation, contract terminations in maternity protection periods, moral or sexual harassment, violation of national and European legislation on equal treatment and elimination of discrimination against women, and the adverse effects of motherhood on the professional and financial development of working women. At the same time, the problems of dealing with stereotypical gender roles on reconciliation between work and private life still prevail, thus affecting the equal treatment of men to their rights as fathers. As a general conclusion, the fact remains that, instead of leading to greater valorisation of the full workforce of the country, the crisis reinforces gender stereotypes, which in turn tends to produce gender-based exclusions.”¹¹¹

The European Parliament has also noted similar such gender impacts occasioned by measures taken to respond to the crisis.¹¹² For example, the unemployment gap between women and men, having improved up until 2008, began again to regress from 2009, reaching almost 7 points in 2013 with 31.4% of unemployed women against 24.5% unemployed men. This may partly be due to the fact that small and medium sized enterprises – an important source of female and youth employment – have been closing down on a massive scale.¹¹³ Again, these official statistics do not take into account those “discouraged” workers who no longer report to the authorities, which may encompass higher number of women.¹¹⁴

Finally, migrant workers have also paid a disproportionate price as regards access to the labour market since the financial crisis. In addition to pre-existing discrimination in accessing employment,¹¹⁵ such persons are now also at risk of expulsion from the country. Immigration to Greece works on a points system, whereby migrant work and residence permit renewals are dependent on the number of points that a migrant is able to collect. One key way of collecting points is through employment. Migrants falling out of employment are thus at risk of being unable to renew their work and residence permits.¹¹⁶ The FIDH mission met several migrants, often from conflict-torn countries like Syria or Afghanistan, who not only fell out of employment from one day to the next, but also lost their legal right to stay in Greece as a consequence. Migration lawyers, NGOs and legal clinics interviewed by mission delegates also confirmed an increase in the number of migrants losing their permits or facing obstacles in having them renewed due to unemployment. As a consequence, many migrants who have been working and living with their families in the country for a considerable time have suddenly faced the prospect of return in the event that their permits are not renewed. Statistical data confirms this situation: at the end of 2009, the total documented migrant population in Greece exceeded 600,000 with that figure falling below 450,000 in July 2014.¹¹⁷

In addition, a considerable number of migrant workers have also been disproportionately affected by the crisis because they are highly represented in those sectors most severely hit by the crisis, such as Albanian migrants working in the construction sector.

111. Greek Ombudsman, *Equal Treatment of Men and Women in Employment and Labour relations - Special Report 2012: Executive summary*, December 2012, available at <http://www.synigoros.gr/resources/gender-and-labour-relations-special-report-2012.pdf>, p. 1.

112. European Parliament, Resolution on *Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries* (2014/2007(INI)), A7-0135/2014, 13 March 2014, para. 19: “Notes that international and social organisations have warned that the new pay-scale, grading and dismissals system in the public sector will have a gender gap impact; notes that the ILO has expressed concern over the disproportionate impact of new flexible forms of employment on women’s pay; notes, furthermore, that the ILO has asked governments to monitor the impact of austerity on remuneration of men and women in the private sector; notes with concern that the gender pay gap has ceased to narrow in countries undergoing adjustment, where the disparities are wider than the EU average; maintains that wage inequalities and the falling female employment rate need to receive greater attention in the Member States undergoing adjustment”.

113. ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, September 2011, para. 318.

114. *Ibid.*

115. European Committee of Social Rights, *Conclusions XX-1 (2012)*, January 2013, p. 7.

116. According to the transitional provisions of law 4251/2014, Article 138 para.12, employment residence permits whose issuance is still pending, will be issued in case TCNs are holding a health insurance proof. In order to hold a health insurance document, 100 insurance stamps have to be collected (one stamp is equal to one working day) over the last two years before the renewal of residence permit application. Although the above mentioned provisions should have been in force till 30 September 2014, it has been tacitly extended as a new Common Ministerial Decision which was supposed to set out the minimum working days for a residence permit has not been issued.

117. Prof. Anna Triandafyllidou, *Migration in Greece: Recent Developments in 2014*, ELIAMEP, October 2014, available: http://www.eliamep.gr/wp-content/uploads/2014/10/Migration-in-Greece-Recent-Developments-2014_2.pdf

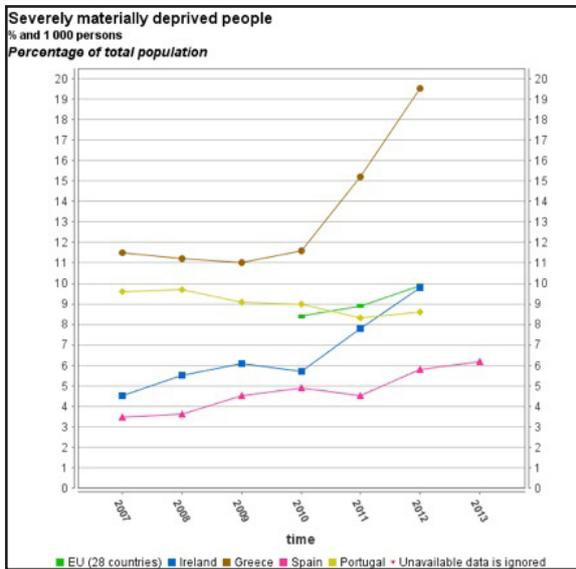
The labour market has become extremely competitive and some population groups are carrying a disproportionate burden of restrictions. As several institutions, such as the European Parliament, have noted, it is the most vulnerable groups in the labour market – the long-term unemployed, women, migrant workers and persons with disabilities – who have suffered the most and are experiencing higher unemployment rates than the national average.¹¹⁸ Not only are these groups suffering now, but their situation is unlikely to improve quickly. Indeed, these workers will face additional difficulties when seeking to re-enter the labour market, if the economy eventually recovers.¹¹⁹

Right to health

*“Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions: Non-discrimination [...] Physical accessibility [...] Economic accessibility (affordability) [...] Information accessibility [...].”*¹²⁰

The financial crisis in Greece has considerably reduced the available income of the vast majority of the population. What is striking, however, is the extent of this reduction. As evidenced in the graph below, the number of people who are severely materially deprived – which covers indicators relating to economic strain, durables, housing and environment of the dwelling¹²¹ – has jumped from an already high level of 11% of the population around 2007 to 2010, to close to 20% in 2012. This is far above the EU average of 10%, but also much higher than in other countries directly hit by the financial crisis, including comparable Mediterranean countries such as Spain and Portugal.¹²² This can be explained by the fact that in Greece, unlike in other countries, there was no safety net that could absorb the impact that the crisis had on the most impoverished population brackets.

The percentage of severely materially deprived persons. Source Eurostat



The mission was also struck by the observation that impoverishment now affects a large share of the population, from the poorest to the middle class.¹²³ From immigrants to senior civil servants or taxi drivers, almost every household has been hit by the crisis and appears to be struggling to make ends meet. Even the national social security system no longer acts as a minimum “shock absorber” for the middle class, with almost a quarter of Greece’s population at risk of poverty *after* social transfers, 6 points above the EU average (see graph).¹²⁴

118. European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries(2014/2007(INI))*, A7-0135/2014, 13 March 2014, para. 10. See also ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, para. 318.

119. Ibid.

120. Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, 2000, para. 12(b).

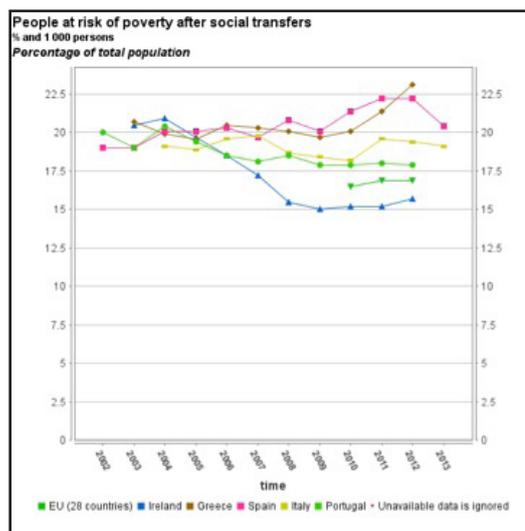
121. Severely materially deprived persons have living conditions severely constrained by a lack of resources, they experience at least 4 out of 9 following deprivations items: cannot afford i) to pay rent or utility bills, ii) keep home adequately warm, iii) face unexpected expenses, iv) eat meat, fish or a protein equivalent every second day, v) a week holiday away from home, vi) a car, vii) a washing machine, viii) a colour TV, or ix) a telephone.

122. Eurostat, July 2014.

123. European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries(2014/2007(INI))*, A7-0135/2014, 13 March 2014, para. 17.

124. Eurostat, July 2014.

The percentage of people at risk of poverty after social transfers. Source Eurostat



Indeed, nearly a third of the Greek population is not officially covered by health insurance.¹²⁵ Whilst measures under the second MoU contain provision for a Health Voucher programme intended to provide free access to primary healthcare for the uninsured, Médecins du Monde report that the programme covers less than 10% of the actual number of uninsured people.¹²⁶ This implementation failure was at least implicitly recognised by the Troika during its fourth review of the second MoU. Here, it required that “the Government finalises the analysis regarding the number and healthcare needs of the uninsured people in the country” and implement by June 2014 “policies that ensure universal access to necessary care including cost-effective primary health care, pharmaceuticals, diagnostics and elective hospital care, in conjunction with existing policies such as the poverty booklet and the social

voucher programmes”.¹²⁷ Common Ministerial Decision Y4α/ΓΠ/οικ.48985/2014¹²⁸, defining conditions, criteria and health access to insecure and economically weak citizens, which entered into force in July 2014, has been a considerable step forward. However, the reform does not cover outpatient laboratory tests, and whilst patients requiring hospitalisation are covered in emergency cases, for scheduled admissions, a complex and time consuming bureaucratic process has been established that hinders access to healthcare for patients in practice. Reported failures by hospitals to comply with the new law contribute to making healthcare still difficult to access for the uninsured.

This general impoverishment of the population is combined in Greece with an increase in the cost of access to health. The ‘cost-shifting-to-patient’ policies implemented by the authorities were summed up in an article published in the Lancet as follows:

*In 2011, user fees were increased from €3 to €5 for outpatient visits (with some exemptions for vulnerable groups), and co-payments for certain medicines have increased by 10% or more dependent on the disease. New fees for prescriptions (€1 per prescription) came into effect in 2014. An additional fee of €25 for inpatient admission was introduced in January 2014, but was rolled back within a week after mounting public and parliamentary pressure. Additional hidden costs—e.g. increases in the price of telephone calls to schedule appointments with doctors— have also created barriers to access.*¹²⁹

In addition, other measures, such as the limitation of free consultations provided per month (up to 200) by doctors under the social security scheme (beyond this limit, patients are charged with the full cost of the visit) make it very difficult for patients to know in advance how much they will pay.¹³⁰ These measures which are not directly related to a rise in fee levels were a core concern of the medical staff met by the delegation, who have observed that they are a serious deterrent for patients seeking to access the health system.

125. Médecins du Monde, *Access to healthcare for the most vulnerable in a Europe in social crisis: Focus on pregnant women and children*, May 2014, p. 33

126. Ibid.

127. European Commission, *The Second Economic Adjustment: Programme for Greece, Fourth Review – April 2014*, Occasional Papers No. 192 (April 2014), p. 221.

128. Common Ministerial Decision Y4α/ΓΠ/οικ.48985/2014 (Official Gazette 1465/B/5.6.2014) on the definition of conditions, criteria and process of health access to the uninsured and economically weak citizens”, available at: http://admin.fthiotidoscc.gr/images/kya48985-2014-8_F3544.6.2014.pdf.

129. Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53, p. 749.

130. Koutsogeorgopoulou, V. et al., *Fairly Sharing the Social Impact of the Crisis in Greece*, OECD Economics Department Working Papers No. 1106, 9 January 2014, p. 36.

A number of other actors, including the World Health Organisation,¹³¹ have also documented increases in patient charges since the crisis. The direct consequences of the double blow of rising poverty and increased health costs to accessing health care has attracted increasing attention, with one study finding that 70% of respondents in one Greek province reported having insufficient income to purchase the drugs prescribed by their doctors.¹³² Another study saw a significant rise in people reporting that they did not go to a doctor or dentist despite feeling that it was necessary (though such instances may also be connected to the disorganisation of the public health system and lack of availability).¹³³

Mission delegates gathered evidence from Greeks who have started having difficulties accessing the healthcare system since the crisis. One of the most striking phenomena in this regard is the development of ‘social clinics’ across the country. These clinics were created to offer free primary health care to people who could no longer access the public health system for free and could not afford to pay for it. Some, such as Praksis,¹³⁴ are long established and structured NGOs that provide various social services, originally predominantly for undocumented migrants. Others, such as the Social Clinic of Solidarity¹³⁵ in Thessaloniki, visited by the mission, are a direct result of the crisis. Thessaloniki’s Social Clinic of Solidarity was created in 2012 by a group of doctors with growing concerns about the impact of austerity measures on access to healthcare – something they witnessed daily in their practices. The clinic is run by volunteers, with both administrative and the medical staff helping the clinic in their spare time. Also, these structures heavily rely for their functioning on pharmaceuticals donated by pharmacies or collected from the public.

Greek patient at the Thessaloniki Social Clinic of Solidarity

Whereas many social clinics originally aimed at serving undocumented migrants that did not have any access to services, they are now increasingly addressing the needs of Greek people who are no longer covered by Greek social security, and cannot afford the necessary health care services.

One patient at the Thessaloniki’s Social Clinic of Solidarity (who preferred to remain anonymous) told FIDH:

“I’m coming to get vaccinations for my young children. I could perhaps get it from the hospital, but I’d have to beg for it. And if it were anything graver than a vaccination, I’d have to pay for it, and if I can’t pay immediately, I’d be charged through the tax system. But I would not be able to afford it.

I know many other people who are in the same situation. People with cancer are dying.

The nature of the problem is economic: we are witnessing a demolition of the public social security system.”



Praksis clinic in Athens providing medical examinations and treatments to uninsured patients, January 2014.

© Elena Crespi / FIDH

A visit to these clinics gives a good overview of the challenges faced by Greeks with regard to access to healthcare. In established clinics like Praksis, staff told FIDH that in addition to the usual population of undocumented migrants that regularly use the clinic, more and more Greek people who are no longer entitled to social security and are unable to pay for their basic health care have turned to them since the crisis. Psychologists in particular told the FIDH mission that they have

seen an increase in Greek patients suffering from difficulties in dealing with the crisis.

In ‘new’ clinics, statistics provided by Thessaloniki’s Social Clinic of Solidarity further demonstrate the daily challenges faced by Greeks in accessing basic health care:

- over 75% of the clinic’s patients are uninsured Greeks;
- 20% of patients are children in need of basic vaccination; and
- 75% of patients are people of working age, as older people are generally covered.

131. Philipa Mladovsky, Divya Srivastava, Jonathan Cylus, Marina Karanikolos, Tamás Evetovits, Sarah Thomson, Martin McKee, *Health policy responses to the financial crisis in Europe*, WHO, Policy Summary 5, 2012.

132. Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53, p. 749.

133. Alexander Kentikelenis, Marina Karanikolos, Irene Papanicolas, Sanjay Basu, Martin McKee, David Stuckler, “Health effects of financial crisis: omens of a Greek tragedy”, *Lancet* 2011; 378: 1457-1458, p. 1457.

134. More information available at the website of the NGO Praksis: <http://www.praksis.gr/>

135. More information at the website of the Social Clinic of Solidarity: <http://kiathess.gr/>

Migrant at the Thessaloniki Social Clinic of Solidarity

FIDH also met a number of migrants in Thessaloniki's Social Clinic of Solidarity whose cases reflect the high burden they are paying for austerity, and the dramatic situations they are facing.

On woman from Nigeria (who preferred to remain anonymous) told FIDH:

"I was working at a cafeteria, but I lost my job in 2011. Because I lost my job, I lost my insurance in 2013. And now I have been told I have one month to leave the country.

Yet, I have 3 young children, the oldest is seven years old, and the youngest just 7 months.

Because I have no money, I have also had to leave the house where I was living. I stayed at a Catholic church for a few months, and just managed to survive with little money.

For my second and third children, I had to give birth while I was not insured. They asked me to bring everything to the hospital: food, nappies, etc. I signed a paper saying that I had to pay for the delivery; it was more than 250 euros, perhaps 400 euros. I gave them my contact details, and they're still asking me to pay.

When I was pregnant, last year, I went to the public hospital, because I had to do some tests, but they refused to do them because I could not pay.

I don't understand why I have to leave and why I'm not covered by the social insurance any more, despite the fact that I have been contributing to the scheme since 2005."

Similarly, data collected by Médecins du Monde in its polyclinics in Greece indicate that 50% of its patients are now Greek citizens.¹³⁶ However, these clinics are not, and nor do they wish to become, a substitute for what the State is supposed to provide. Rather, they seek to "try to keep alive the notion of free access to health for all". In Thessaloniki alone, the Social Clinic of Solidarity estimates that 40% of inhabitants – about 400,000 people – are not covered by a health insurance. The clinic only has 12,000 patients and therefore sees only the tip of the iceberg of a much bigger problem, which remains under-reported.

Poster in the Social Clinic of Solidarity in Thessaloniki denouncing the restriction in the access to public healthcare for uninsured people, January 2014 -

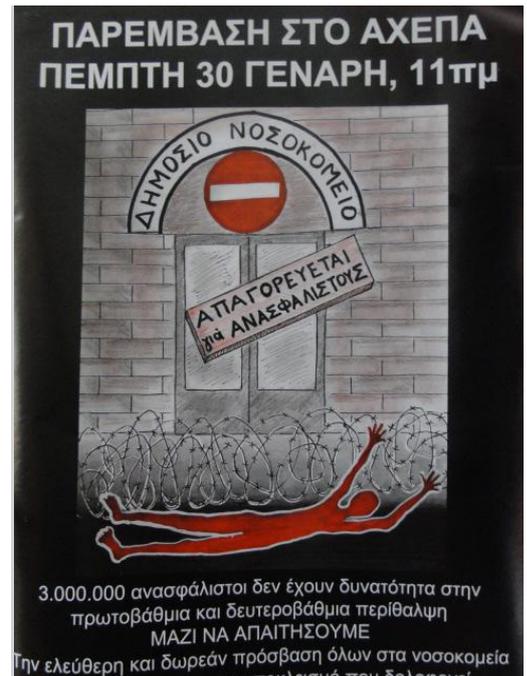
© Elena Crespi / FIDH

An important shortcoming, that Common Ministerial Decision Y4α/ΓΠ/οικ.48985/2014¹³⁷ will not address, is that the clinics, only cover primary health care; many people need hospital treatment that they cannot afford. Thessaloniki's Social Clinic of Solidarity provided some examples of the dramatic situations that this can lead to. Doctors working at the Social Clinic reported the case of a woman suffering from an aneurism who had been asked to pay half of the 8,000 euros for the necessary surgery upfront before she could be operated on at the public hospital. She was forced to turn to the social clinic, who managed to arrange an operation for her, though she eventually died as the surgery had come too late.

According to social clinic workers interviewed by FIDH, this situation is not only bad but worsening. In its first year of operations Thessaloniki's Social Clinic of Solidarity mostly received patients that could not adequately address their health issues through state provided channels and had to be stabilized. However, cases are now reported to be becoming increasingly serious, with more and more people who have not been

treated for a long time.

Deterioration of access to healthcare is affecting large segments of the population, but is again also hitting the most vulnerable most acutely, especially those with fewer resources or less access to social security. A recent report by Médecins du Monde¹³⁸ has highlighted the fact, also observed by FIDH during its mission, that women and migrants are especially affected.



136. Highlights of the Communication by Médecins du monde – Doctors of the World International Network to the Committee on Employment and Social Affairs of the European Parliament, available at http://www.europarl.europa.eu/meetdocs/2009_2014/documents/empl/dv/mdm_key_points/mdm_key_points_en.pdf

137. Common Ministerial Decision Y4α/ΓΠ/οικ.48985/2014 (Official Gazette 1465/B/5.6.2014) on the definition of conditions, criteria and process of health access to the unsecured and economically weak citizens", available at: http://admin.fthiotidoscc.gr/images/kya48985-2014-8_F3544.6.2014.pdf.

138. Médecins du Monde, *Access to healthcare for the most vulnerable in a Europe in social crisis: Focus on pregnant women and children*, May 2014.

Women face specific difficulties in paying for maternal healthcare. Uninsured pregnant women are particularly vulnerable as they have to pay for pre-natal care during their pregnancy and must bear the cost of delivery in public facilities. During its field mission FIDH generally observed women express anxiety in relation to pregnancy.

Migrants, particularly irregular migrants, are also very vulnerable. The situation was already difficult for undocumented migrants before the crisis. At that time, although they were entitled to emergency healthcare, such migrants had to pay for laboratory tests and medicines – a situation that the European Committee of Social Rights considered a breach of article 13 of the European Social Charter, which protects the right to social and medical assistance.¹³⁹ The crisis exacerbated this situation, especially following a 2012 circular from the Health Ministry.¹⁴⁰ This circular was issued right before the national elections in May, and stated that public services, public corporate bodies, local authorities and social security institutions do not have to provide services to undocumented third-country nationals, except in emergency cases.¹⁴¹ Also, migrants interviewed by FIDH, in particular in social clinics, whether regular or undocumented, told the mission that they no longer dared to go to public hospitals for fear of being refused or even denounced and arrested by police.

Access to healthcare thus appears to have worsened in Greece to the extent that a large number of people, including the most vulnerable, can no longer access basic healthcare. This observation is supported by a number of well-respected policy experts and institutes, including OECD economists in a recent working paper:

*“Access to health care may also have been affected by the rise in the cost of health services to patients following recent reforms. [...] It is also possible that the re-organisation of the health care system and spending cuts have worsened access to health care. While there is no hard evidence, so far, to support the point, on the basis of some anecdotal evidence, waiting times to receive public health services seem to have increased. [...] The impact of the crisis on health care access needs to be closely monitored given its effects on equity and longer-term growth and well-being. [...] [I]llegal immigrants have no right for free access to health services, unless there is an emergency or a life-threatening risk. This is also the case for other population groups. The self-employed, for instance, who have closed down their businesses but do not have tax clearance certificate, and households whose income exceeds the means test (threshold EUR 5 000 per year) are also excluded from the coverage of such services”.*¹⁴²

Other actors, such as the Council of Europe¹⁴³ and academics¹⁴⁴ have reached similar conclusions, sounding the alarm on this point. A good indicator of the gravity of the situation with regard to access to healthcare is self-reported unmet need for medical examination. This represents the share of people who perceive themselves as having a need for a medical exam that they cannot meet. Reasons for this unmet need may be problems of access (unaffordability, waiting times, too far to travel, etc.) or other problems (lack of time, fear, wanting to wait and see, not knowing a good doctor or specialist, etc.). The graph below indicates that the self-reported unmet need situation in Greece is particularly concerning. The percentage of the population perceiving an unmet need for medical care has grown from an already high 7.3% before the crisis (2006) to 9.9% in 2012 – an increase of a third in only six years. Although international comparisons of this indicator can be problematic, it is nevertheless striking that the figure in Greece is over 50% higher than, for example, the EU 27 average, and has evolved in the opposite direction.

139. European Committee of Social Rights, *Conclusions XX-2 (2013) on Greece*, January 2014.

140. Circular Y4a/oik.45610 2/5/2012. However, this was not the first time that undocumented migrants were denied access to health care. The first time this occurred was well before the crisis in 2005, when a similar circular (EMP 518.2/2/2005) had been issued by the Ministry causing the reaction of many migrant organizations, NGO and the National Commission for Human Rights in 2007.

141. Médecins du Monde, *Access to healthcare in Europe in times of crisis and rising xenophobia: an overview of the situation of people excluded from healthcare systems*, April 2013, p. 42.

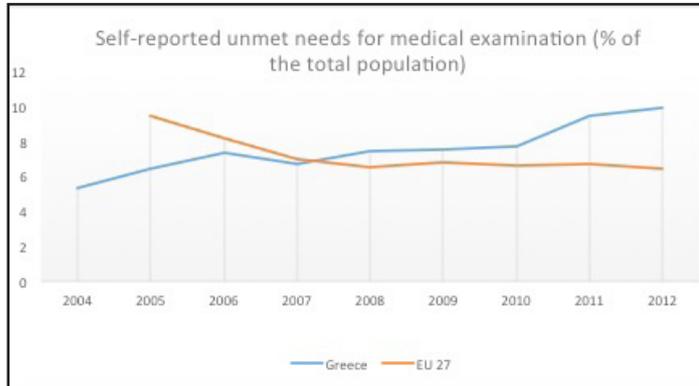
142. Koutsogeorgopoulou, V. et al., *Fairly Sharing the Social Impact of the Crisis in Greece*, OECD Economics Department Working Papers No. 1106,9 January 2014, p. 36.

143. Council of Europe Parliamentary Assembly, *Resolution 1946 (2013)*, 26 June 2013, para. 4.

144. Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53.

Self-reported unmet needs for medical examination in percentage of the general population.

Source Eurostat

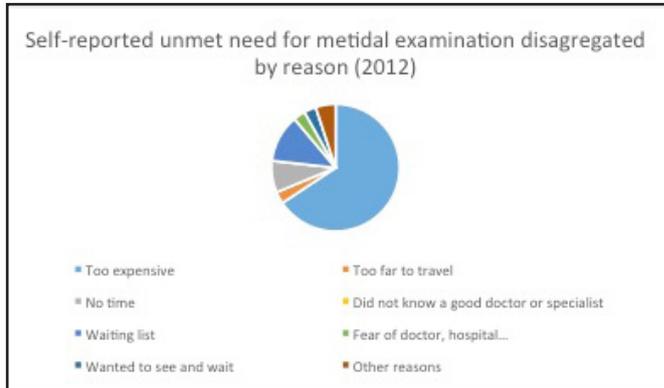


Especially concerning is that when looking at the detail of responses, it appears that the primary cause of unmet needs for medical examination and lack of access in Greece is excessive cost. Cost is also one of the barriers that has increased the most, together with waiting times (and the general category 'other reasons'). This was also reflected in observations made by FIDH during its mission to the country, as well as other aforementioned actors.

Self-reported unmet needs for medical examination, disaggregated by cause (percentages) ¹⁴⁵										
Reason	2004	2005	2006	2007	2008	2009	2010	2011	2012	Difference 2006-2012
Too expensive	3.1	3.2	4.5	4.6	4.2	4	4.2	6.2	6.5	+44%
Too far to travel	0,5	0,6	0,4	0,2	0,3	0,5	0,4	0,5	0,3	-25%
No time	0,4	0,6	0,6	0,5	0,6	0,7	1	0,5	0,8	+33%
Did not know a good doctor or specialist	0	0,1	0	0	0	0	0	0,1	0	0%
Waiting time	0,4	0,8	0,8	0,6	1	1	0,9	0,8	1,2	+50%
Fear of doctor, hospital, examination or treatment	0,3	0,4	0,3	0,2	0,5	0,4	0,4	0,4	0,3	0%
Wanted to wait and see	0,5	0,5	0,5	0,3	0,6	0,6	0,6	0,4	0,3	-40%
Other reasons	0,1	0,2	0,2	0,2	0,2	0,3	0,2	0,5	0,5	+150%

145. Eurostat, August 2014.

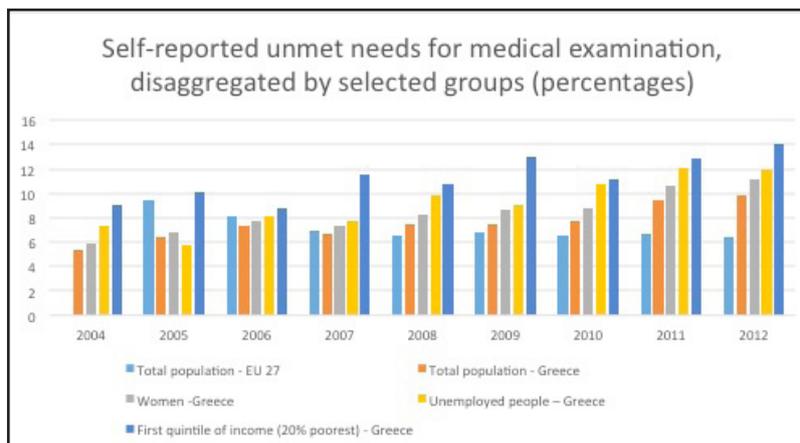
Self-reported unmet needs for medical examination disaggregated by reason (2012). Source Eurostat



When disaggregated by population group, it appears that vulnerable populations are those who have suffered the most from austerity measures and their impact on access to health. Unemployed people, women, and the poor are all groups for which self-reported unmet needs for medical examination has increased considerably more than for the rest of the population between 2006 and 2012. The categories surveyed by Eurostat do not include migrants.

Self-reported unmet needs for medical examination, disaggregated by selected groups (percentages) ¹⁴⁶										
Population group	2004	2005	2006	2007	2008	2009	2010	2011	2012	Difference 2006-2012
Total population - EU 27		9,4	8,1	6,9	6,5	6,8	6,6	6,7	6,4	-21%
Total population - Greece	5,3	6,4	7,3	6,7	7,4	7,5	7,7	9,4	9,9	+36%
Women - Greece	5,9	6,8	7,7	7,3	8,2	8,7	8,8	10,6	11,1	+44%
Unemployed people - Greece	7,3	5,7	8,1	7,7	9,8	9,1	10,7	12,1	12	+48%
First quintile of income (20% poorest) - Greece	9	10,1	8,8	11,6	10,7	13	11,2	12,9	14	+59%

Unmet self-reported needs for medical examination disaggregated by selected groups (percentages). Source Eurostat



146. Eurostat, August 2014.

c) Acceptability and Quality

Right to work

“Acceptability and quality. Protection of the right to work has several components, notably the right of the worker to just and favourable conditions of work, in particular to safe working conditions, the right to form trade unions and the right freely to choose and accept work.”¹⁴⁷

The quality and acceptability of the work of those in employment, their rights *in* work and the collective dimension of the right to work, have also all been severely damaged by the recession. One union representative met by FIDH highlighted that the key to understanding the evolution of the acceptability and quality of work in Greece lies in the power relationship between employers and workers, which has radically changed since the beginning of the financial crisis. Employment has gone down from two thirds of the working age population in 2007, to around 50% in 2013. The number of people looking for a job has more than tripled in this period. For the first time in the post-war period the Greek population as a whole has undergone an ‘employment crash’, wherein the number of economically inactive people is larger than the economically active population.¹⁴⁸ As a result, employers now have a large labour pool from which to choose, while job seekers have very few opportunities.

This change in the balance of power has important implications for working conditions in the public and private sectors alike. Besides the constant stress and uncertainty about the future that workers face in times of crisis and mass redundancy, workers also often have to deal with higher workplace demands and little ability to protest. Many of the workers met by the delegation have shared their feelings of disempowerment in their relationships with their employers. Under the threat of unemployment and the fear of being fired, workers feel compelled to accept any contractual condition and task that is asked of them, knowing or being told that someone will otherwise take their position. Here, employees losing negotiating power in their contractual relationships. Some of the consequences of this were documented during an ILO High Level Mission to Greece:

*“Wages are reportedly reduced significantly through the replacement of fixed term employment contracts paid at the full rate, by part-time, rotation and other flexible forms of employment with lower pay, which have been introduced or facilitated in the framework of the support mechanism. According to information provided by the labour inspectorate during the High Level Mission, the unilateral transformation by the employer of full-time contracts of employment into rotation contracts had dramatically increased”.*¹⁴⁹

According to OECD data, the proportion of part-time employees involuntarily working on a part-time basis has grown from 26% in 2008 to 44% in 2012, whilst the OECD average in 2012 was 17.8%.¹⁵⁰ Similarly, although since 2000 Greece had been reducing average annual hours actually worked per worker, which was formerly the highest amongst all OECD countries, this figure once again began to grow in 2008, reaching 2,037 hours per year, the third highest in the OECD, and 15% higher than the OECD average.¹⁵¹

However, not only has the balance of power shifted in favour of employers as a mechanical result of rising unemployment, but the authorities have also changed labour legislation to render labour more flexible and protect employers further. As reported by the European Economic and Social Committee, since the beginning of the crisis, over 100 provisions spread over a series of laws were enacted to effect far reaching structural adjustments in the labour market.¹⁵² According to the Committee:

“The overall objectives of this body of permanent legislation are:

- *To drastically alter the national institutional framework that hitherto served to configure universal protective minimum terms of work via free collective*

147. Committee on Economic, Social and Cultural Rights, *General Comment No. 18*, 24 November 2005, para. 12(c).

148. Zoe Lanara-Tzotze, *The impact of anti-crisis measures and the social and employment situation: Greece*, European Economic and Social Committee, available at <http://www.eesc.europa.eu/resources/docs/qe-31-12-350-en-c.pdf>, p. 7.

149. ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, para. 311.

150. OECD statistics, August 2014.

151. OECD statistics, August 2014.

152. Zoe Lanara-Tzotze, *The impact of anti-crisis measures and the social and employment situation: Greece*, European Economic and Social Committee, available at <http://www.eesc.europa.eu/resources/docs/qe-31-12-350-en-c.pdf>, p. 5.

- negotiations and binding collective agreements.*
- *To interfere by legislation unilaterally to alter the equilibrium in labour relations by promoting a fragmented labour market model that favours individualised contracts.*
 - *To substantially reduce wages, squeeze labour costs in the private sector, and reinforce wage flexibility at the firm-level unilaterally by legislation.*
 - *To significantly diminish the role of trade unions and reinforce the managerial prerogative with a view to promote flexibility while regulating labour relations.*”¹⁵³

The new body of legislation includes measures to facilitate dismissal, for instance by reducing severance pay through shorter notice periods. One of the key and most controversial changes in the labour legislation has however been the limitation of collective bargaining, both through the imposition of wage cuts outside of collective agreements, and through a law that gives precedence to company level agreements over sectorial and occupational agreements. This has further reinforced the balance of power in favour of employers. As such, trade unions have complained that following these laws, “*employers and their organizations have intensified pressure during collective negotiations with a view to arrive at wages below the hitherto binding minimum standards of wages set by the national general collective agreements, which were already low.*”¹⁵⁴

In 2012, a complaint lodged by a number of trade unions led the ILO Committee on Freedom of Association to find that whilst it was “*deeply aware that the measures giving rise to this complaint have been taken within a context qualified as grave and exceptional, provoked by a financial and economic crisis*”,¹⁵⁵ austerity measures targeting the Greek labour force eroded workers’ most fundamental labour rights, seriously undermined the position of trade unions and endangered social cohesion and peace.¹⁵⁶ It considered the measures taken by the authorities to constitute “*important and significant interventions in the voluntary nature of collective bargaining and in the principle of the inviolability of freely concluded collective agreements*”, which “*can destabilize the overall framework for labour relations in the country if the measures are not consistent with the principles of freedom of association and collective bargaining.*”¹⁵⁷ The ILO High Level mission to Greece had already previously considered the legislative interventions on freedom of association and collective bargaining to “*raise a number of questions in particular with regard to the need to ensure the independence of the social partners, the autonomy of the bargaining parties, the proportionality of the measures imposed in relation to their objective, the protection of the most vulnerable groups and finally, the possibility of review of the measures after a specific period of time*”,¹⁵⁸ expressing its “*deep concern*” on these matters.¹⁵⁹

Thus, not only have employers in Greece seen a power shift in their favour, but the authorities too have deconstructed workers’ collective rights and rights *in work*. OECD indicators of employment protection are synthetic indicators of the strictness of regulation on dismissals and the use of temporary contracts, offering a quantitative visualisation of this phenomenon. The closer the indicator is to zero, the less protected workers are. Between 2008 and 2013, this indicator went down by 15% in Greece, the greatest reduction after Portugal, and much more than the 3% average reduction in OECD countries. As a result, the level of ‘strictness of employment protection’ in Greece (2.41) is now much lower than in many of the EU countries that supported austerity measures for Greece, such as France (2.82), The Netherlands (2.94) and Germany (2.98).

153. Ibid.

154. ILO, *365th Report of the Committee on Freedom of Association*, GB.316/INS/9/1 (1–16 November 2012), para. 805.

155. ILO, *365th Report of the Committee on Freedom of Association*, GB.316/INS/9/1 (1–16 November 2012), para. 988.

156. See International Trade Union Confederation, “Greece: the anti-labour austerity reforms condemned by the ILO”, 4 December 2012, for a summary, available at: <http://www.ituc-csi.org/greece-the-greek-anti-labour>

157. ILO, *365th Report of the Committee on Freedom of Association*, GB.316/INS/9/1 (1–16 November 2012), para. 995.

158. ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, 16 December 2011, para. 304.

159. ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, 16 DEcember 2011, para. 306.

Evolution in the OECD measurement of strictness of employment protection, 2008 – 2013 ¹⁶⁰								
Organised according to change between 2008 – 2013								
Times		2008	2009	2010	2011	2012	2013	Change 2008-2013
1	Portugal	3,51	3,51	3,31	3,31	2,90	2,69	-24%
2	Greece	2,85	2,85	2,85	2,44	2,44	2,41	-15%
3	Slovak Republic	2,63	2,63	2,63	2,63	2,16	2,26	-14%
4	Spain	2,66	2,66	2,66	2,56	2,56	2,28	-14%
5	Estonia	2,33	2,33	2,07	2,07	2,07	2,07	-11%
6	New Zealand	1,10	1,10	1,10	1,10	1,01	1,01	-9%
7	Hungary	2,26	2,26	2,26	2,26	2,26	2,07	-8%
8	Italy	3,03	3,03	3,03	3,03	3,03	2,79	-8%
9	United Kingdom	1,71	1,71	1,71	1,71	1,71	1,62	-6%
10	Mexico	2,71	2,71	2,71	2,71	2,71	2,62	-4%
11	OECD countries	2,37	2,36	2,36	2,35	2,32	2,29	-3%
12	Czech Republic	2,75	2,75	2,75	2,75	2,66	2,66	-3%
13	France	2,87	2,82	2,82	2,82	2,82	2,82	-2%
14	Slovenia	2,70	2,70	2,70	2,67	2,67	2,67	-1%
15	United States	1,17	1,17	1,17	1,17	1,17	1,17	0%
16	Canada	1,51	1,51	1,51	1,51	1,51	1,51	0%
17	Chile	1,80	1,80	1,80	1,80	1,80	1,80	0%
18	Japan	2,09	2,09	2,09	2,09	2,09	2,09	0%
19	Switzerland	2,10	2,10	2,10	2,10	2,10	2,10	0%
20	Finland	2,17	2,17	2,17	2,17	2,17	2,17	0%
21	Korea	2,17	2,17	2,17	2,17	2,17	2,17	0%
22	Israel	2,22	2,22	2,22	2,22	2,22	2,22	0%
23	Norway	2,31	2,31	2,31	2,31	2,31	2,31	0%
24	Poland	2,39	2,39	2,39	2,39	2,39	2,39	0%
25	Austria	2,44	2,44	2,44	2,44	2,44	2,44	0%
26	Iceland	2,46	2,46	2,46	2,46	2,46	2,46	0%
27	Turkey	2,47	2,47	2,47	2,47	2,47	2,47	0%
28	Sweden	2,52	2,52	2,52	2,52	2,52	2,52	0%
29	Luxembourg	2,74	2,74	2,74	2,74	2,74	2,74	0%
30	Belgium	2,95	2,95	3,08	3,08	2,95	2,95	0%
31	Germany	2,98	2,98	2,98	2,98	2,98	2,98	0%
32	Netherlands	2,93	2,88	2,88	2,88	2,88	2,94	0%
33	Denmark	2,27	2,27	2,27	2,32	2,32	2,32	2%
34	Ireland	1,98	1,98	1,98	1,98	2,07	2,07	5%
35	Australia	1,63	1,63	1,99	1,99	1,99	1,94	19%

Right to health

“Acceptability. All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect

160. The OECD indicators on Employment Protection Legislation, © OECD, 2013 <http://www.oecd.org/employment/emp/oecdindicatorsofemploymentprotection.htm#details>

confidentiality and improve the health status of those concerned."¹⁶¹

"Quality. As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality. This requires, inter alia, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation."¹⁶²

The availability and accessibility of healthcare, as addressed above, naturally impacts on the acceptability and quality of that care. Deterioration in working conditions for medical personnel (due to cuts in wages and staffing, increases in working hours, etc.) has a major impact on the quality of the services that staff can deliver. The available income (income received minus the taxes) of medical staff has sometimes decreased by as much as 65% in just a few years. Some highly specialist doctors reported earning less than 2,000 euros per month after tax. Fewer available staff and resources also means a lowering in the quality of health care. Hospitals where nurses have to work several shifts in a row, without taking holidays for months or years, were reported to the delegation. Generally, interviews conducted by the delegation consistently revealed increased stress and tension in relationships with patients. Moreover, medical staff reported an increase in the number of infections in hospitals. Lack of intensive care unit (ICU) beds also appears to be a cause of deaths. Practitioners interviewed by FIDH indicated that the scientific union of Greek doctors working in intensive care units estimates that 200 deaths per year are caused by lack of available beds. These are dramatic consequences, leading one medical practitioner interviewed to assert: *"the restriction on nurses is a criminal action against the population of this country"*.

In addition, many medical doctors interviewed expressed concerns about the 'brain drain' that Greece is suffering. Several hospital departments have seen some of their brightest surgeons and medical practitioners leave for other countries, with many young doctors following suit. Doctors are emigrating from Greece in increasing numbers, with the Athens Medical Association (ISA) claiming in October 2013 that almost 7,000 doctors have left the capital in the last five years alone, with emigration picking up in the last 24 months. ISA president, Yiorgos Patoulis, has said this is resulting in "scientific dehydration and social bleeding"¹⁶³. The unemployment rate among doctors in October 2013 in the capital was 10.3%, with 2,598 of 25,163 active ISA members without an occupation, compared to 12.4% last year (with 3,147 out of 25,303 registered doctors in Athens out of work). This fall in the unemployment rate among the city's doctors is attributed to emigration. In a statement Patoulis has referred to "an unprecedented wave of emigration [...], not just of unskilled labour, but the most highly skilled: the skilled doctors of our country".¹⁶⁴

Moreover, due to the fact that medication and medical examination are no longer free¹⁶⁵ (except for uninsured persons after the summer 2014) patients frequently do not follow the treatments they need. A case was reported to FIDH regarding a man who had been diagnosed with a brain tumour. Whilst he had originally been diagnosed for free, he was no longer insured and now had to pay for any subsequent tests, drugs or surgery. The only way for him to secure free treatment was to appeal to charity, or ask for a so-called exception 'for humanitarian reasons'. Another example that the FIDH mission came across in a social clinic was the case of a 52 year old man with diabetes who could not afford insulin, and thus had to be hospitalised. This further demonstrates how cuts have not only undermined people's right to health, but have also proved to be economically unsound, as emergency hospitalisation costs more than regular adequate treatment.

The combination of cuts in public healthcare and the fact that numerous people are no longer able to access private clinics have also led to increased waiting times. The public system now has to cope with more patients and fewer resources, having to adapt to this situation over a very short time span. In one

161. Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, 2000, para. 12(c).

162. Ibid.

163. See Enet, "Doctors emigrating in increasing numbers", 30 October 2013, available at: <http://www.enetenglish.gr/?i=news.en.article&id=1575>

164. Ibid.

165. See e.g. Daphne Kaitelidou and Eugenia Kouli, "Greece: the health system in a time of crisis", *Eurohealth*, Vol.18, No.1, 2012. Without providing a breakdown of how it arrived at the figure, ISA estimates that 6,872 Athens doctors have left Greece in the last five years. The destinations of choice for emigrating doctors are the UK, Germany, Sweden, Switzerland, France, Belgium, the US, the United Arab Emirates, Norway, Italy, Denmark, Netherlands, Spain and Cyprus.

major Athens hospital visited by FIDH, staff told delegates that they had had to work with 25% more patients and 5% fewer staff in less than four years. This is an impossible transition, and the result is a reduction in the quality of health care in the country.

As outlined above, waiting times are one of the reasons for self-reported unmet needs for medical examination that has increased the most in the recent years. By way of example, FIDH was told that before the crisis many medical treatments, such as radiotherapy and chemotherapy, were routinely performed by private clinics. People's inability to afford private healthcare has now led them to turn to public hospitals. However, there are only four or five radiotherapy and chemotherapy units available in Athens to cover 5 million inhabitants. Moreover, these units have less staff and fewer beds. This means that delays can sometimes be extremely long despite the fact that radiotherapy for cancer has to start within the first month after a surgery. It was also reported that patients sometimes have to be discharged due to bed shortages even when they still require medical supervision.

Although it will take time to fully ascertain the effect of this decline in the quality of Greek health care, initial evidence of deteriorating health outcomes is worrying. All FIDH interviews with medical professionals pointed towards an increase in health problems, in particular serious issues. Initial figures analysed by commentators confirm this concern. According to an article published in *The Lancet*, "*there are signs that health outcomes have worsened, especially in vulnerable groups*".¹⁶⁶ The article makes reference to self-reported health assessments and suicide figures. As one doctor met during the FIDH mission stated, the problem generally is that health, unlike other social sectors such as employment, is not at all flexible. Illnesses cannot wait for the economy to recover, and reductions in quality, driven by reductions in the availability and accessibility of healthcare, are already having tragic consequences.

III. 3 Civil and political rights under fire

Civil and political rights in Greece and in other countries hit by the financial crisis have also been seriously negated by the combination of economic recession and austerity responses. Indeed, the crisis has highlighted the indivisibility and interrelatedness between both civil and political, and economic, social and cultural rights, demonstrating that an assault on one inevitably harms the other, with a risk that it could eventually lead the whole system to collapse.

Although the link between rights violations and the crisis, and especially certain anti-crisis policies and measures, may seem less immediate when considering civil and political rights, the current political and social climate created by these drivers has clearly provided fertile ground for violations to take place. Moreover, in some cases restrictions on rights and freedoms have stemmed directly from unjustified and thus unlawful limitations on the exercise of civil liberties.

This section will focus on limitations upon and attacks against certain civil and political rights in Greece, either brought about or exacerbated by the crisis. It will also look at some phenomena, such as the rise in right-wing extremism, that have built on the frustrations and anger that the crisis has generated. Both these limitations and other phenomena not only represent a further threat to human rights and democracy but also engage the state's responsibility where they fail to meet the necessary requirements for restrictions to be lawful under domestic and international law, or result in rights' violations to which the authorities fail to respond.

III. 3. 1 Police violence

Social unrest and frustration have been mounting in Greece in response to deteriorating living conditions, reduced access to essential services and the unbearable burden imposed on the population by the government and its international creditors. Frustration further mounts as people fail to grasp and lack the means to challenge the reasoning behind policies that have had huge implications for their

166. Alexander Kentikelenis, Marina Karanikolos, Irene Papanicolas, Sanjay Basu, Martin McKee, David Stuckler, "Health effects of financial crisis: omens of a Greek tragedy", *Lancet* 2011; 378: 1457-1458, p. 1457.

lives but have been designed without their input.¹⁶⁷ Against this background, and instead of addressing popular discontent and its underlying causes, the state has responded to public protest in a violent and repressive manner.

Police violence and brutal repression against protesters was a sad trend in Greek modern history long before the economic crisis started. However, with a rise in demonstrations across the country as more austerity measures are imposed on the population to meet the draconian targets set by Greece's international lenders, protest has again been met with a brutal state response.¹⁶⁸ On some occasions, demonstrations have deteriorated into riots between protesters and police or resulted in harm to property and sometimes persons,¹⁶⁹ thus arguably legitimising a forceful reaction by the state. However, for the most part, the public protests that have taken place in recent years have been peaceful.¹⁷⁰ Despite this, the authorities have in most cases continued to respond violently to demonstrators, with many recent recorded cases of alleged abuse of power and/or ill-treatment of protesters by police.¹⁷¹ This forms part of a more general trend within the police force that the ECtHR has formerly exposed in condemning practices that have in some cases amounted to torture.¹⁷²

Although – as noted- the phenomenon is not new, mounting frustration among the population and the consequent fresh waves of public protest that the crisis brought about, coupled with heightened tensions between protesters and police and an escalation in the violence of state responses have seen 'incidents' multiply since the crisis started, with peaks occurring every time the government agrees to undertake further austerity measures in compliance with the demands made by its international creditors.¹⁷³

Violent acts committed by law enforcement officials during demonstrations, both peaceful and violent, are directed in most cases at repressing and dispersing such protests and in some cases amount to a contravention of international law. The right to protest, like related rights to free assembly, association

167. The lack of participation and involvement of the population in taking decisions (made outside of the regular channels of decision-making) that directly affect them and the general lack of accessible and effective remedies to challenge such decisions are important issues that will be assessed when discussing responsibilities. The fact that the population does not have access to accessible and effective remedies against decisions that affect them is particularly important in this context since as a result public protest often appears to be the only viable way for the majority of the population to challenge political decisions. This means that the limitation of this right is not only a violation *per se* but also a curtailment of the individual right to an effective remedy, protected by the Greek Constitution in its article 20 and by a number of international treaties and conventions, including the Universal Declaration of Human Rights (article 8), the International Covenant on Civil and Political Rights (article 2(3)), the European Convention on Human Rights (article 13) and the EU Charter for Fundamental Rights (article 47).

168. The most intense police violence has been exercised during the demonstration in Syntagma Square on 28 June 2011. See The Guardian, "Greek police face investigation after protest violence", 1 July 2011, available at: <http://www.theguardian.com/world/2011/jul/01/greek-police-investigation-protest-violence>.

169. For example, on 5 May 2010, when the population of Athens took to the streets as the Greek Parliament was discussing the austerity package that would implement the recently adopted MoU, some protesters threw a molotov cocktail into the Marfin Bank, killing three (the event became known as 'Marfin').

170. Amnesty International, *Police Violence in Greece, Not just isolated incidents*, EUR 25/005/2012, July 2012.

171. Amnesty International, 'Greece: Alleged abuse in the policing of demonstrations', March 2009, EUR 25/001/2009; See also UN Committee Against Torture (UN CAT), *Concluding observations on Greece*, CAT/C/GRC/CO/5-6, 27 June 2012.

172. In the past ten years, the European Court of Human Rights (ECtHR) has found Greece in violation of articles 2 (right to life) or 3 (prohibition of torture or other ill-treatment) in 10 cases concerning human rights violations by law enforcement officials. As far as right to life is concerned: *Makaratzis v. Greece* (2004), *Karagiannopoulos v. Greece* (2007), *Celniku v. Greece* (2007), *Leonidis v. Greece* (2009). As far as prohibition of torture (Article 3) there are the following cases: *Bekos & Koutropoulos v. Greece* (2005), *Mhn Ghassan Alsayed Allaham v. Greece* (2007), *Zelilof v. Greece* (2007), *Petropoulou v. Greece* (2007), *Galotskin v. Greece* (2010), *Stefanou v. Greece* (2010). Although most of the cases referred to dates back to a time prior to the start of the crisis, numerous allegations and reports of violence and ill-treatment committed by the police against protesters in recent years, do attest to the fact that the crisis and the increase in social unrest and public protests that accompanied it has but exacerbated conditions and perpetuated behaviours that are inimical to human rights.

173. Amnesty International, *Police Violence in Greece, Not just isolated incidents*, EUR 25/005/2012, July 2012. Since the fatal shooting of 15-year-old Alexis Gregoropoulos by the police in December 2008, and the demonstrations that followed, there have been numerous allegations of human rights violations by police during demonstrations. These have increased particularly in the period covering the introduction of severe austerity measures by the government in the wake of the deepening of the financial crisis (2010-2012).

and expression,¹⁷⁴ is not absolute to the extent that it can be limited under certain circumstances. Moreover, policing demonstrations can be challenging and may sometimes require law enforcement officials use force to maintain order and prevent crime.¹⁷⁵ Despite this, however, international law requires that certain rights and principles be respected during demonstrations, even where dispersal might be legitimate. These principles include respect for the prohibition on torture and ill-treatment¹⁷⁶ and the obligation on law enforcement officials to respect and protect the life and security of all persons during demonstrations¹⁷⁷ and abide by the principles of legality, necessity, proportionality and precaution in carrying out their duties.¹⁷⁸

Demonstrations in Syntagma Square, Athens, June 2011
© Marios Lolos



Greek law enforcement officials are alleged to have abused their powers and used excessive and unnecessary force in repressing peaceful or largely peaceful protests on many occasions. Such force includes beating protesters and using toxic chemical irritants and tear gas against them.¹⁷⁹ Such acts constitute unlawful behaviour, which violates Greece's international law obligations.

Arbitrary arrests during demonstrations and transfers to police stations without evidence or charges have also been reported. This is in clear contravention of national legislation requiring that persons not be arrested or detained without a detailed arrest warrant issued during arrest or pre-trial detention.¹⁸⁰ It also contravenes international law, which strictly prohibits arbitrary arrest or detention.¹⁸¹

Pre-emptive arrest, often without grounds and with the arrested being denied access to a lawyer in blatant disregard of fundamental fair trial rights,¹⁸² is also



Clashes between the police and demonstrators on the first anniversary of the assassination of 15-year-old Alexis Grigoropoulos, Athens, 6 December 2009 © Marios Lolos

174. These rights are protected by the Greek constitution in its articles 11, 12 and 14 and by a number of international treaties and conventions: see articles 19, 20 Universal Declaration of Human Rights, articles 19, 21 International Covenant on Civil and Political Rights (ICCPR), article 10, 11 European Convention on Human Rights (ECHR), article 11, 12 EU Charter of Fundamental Rights. The right to peaceful assembly is also recognised in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF) principles 12, 13, 14). The right to freedom of association is also enshrined in the ILO Convention (87) concerning Freedom of Association and Protection of the Right to Organise and the ILO Declaration on Fundamental Principles and Rights at Work, and in the Preamble (para. 5) of the European Social Charter.

175. Amnesty International, *Greece: a law unto themselves: a culture of abuse, and impunity in the Greek police*, EUR/25/005/14, 3 April 2014, p.11.

176. The prohibition on torture and ill-treatment is enshrined in article 5 UDHR, article 7 ICCPR, the 1984 UN Convention against Torture (CAT), article 3 ECHR, the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, article 4 EU Charter of Fundamental Rights.

177. See article 6 (1) and 9 (1) ICCPR, article 2 UN Code of Conduct for Law Enforcement Officials (CCLEO), Preamble (para. 3) and principle 5 BPUFF.

178. These criteria require that their actions pursue a legitimate aim, are necessary to achieve that legitimate aim (i.e. that there are no less restrictive measures available that would achieve the same aim), that any restrictions to rights are proportionate to the legitimate aim and that all precaution has been taken to avoid excessive use of force and endangering involved persons, with the authorities taking all possible measures to minimise damage. These principles are also outlined in principles 13 and 14 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

179. Amnesty International, *Greece: a law unto themselves: a culture of abuse, and impunity in the Greek police*, EUR/25/005/14, 3 April 2014, p.11.

180. Article 6 of the Greek Constitution. See also article 74 of Presidential Decree 141/1991 stipulating that the police can transfer to police stations for the purposes of interrogation persons who do not possess evidence proving their identity or raise suspicions that they will commit a crime due to their conduct at a specific time, place and circumstances.

181. See article 9 UDHR, article 9 ICCPR, article 5 ECHR. An individual is arbitrarily arrested or detained when there is no likelihood or evidence that they committed a crime against legal statute or where there has been no proper due process. This includes the right to be informed promptly of the reasons for their arrest and any charges against them. See eg article 5 (2) ECHR, article 9 (2) ICCPR, Principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, article 55 (2) and 60 (1) ICC Statute.

182. This is a practice that human rights organisations, including the Hellenic League for Human Rights, have repeatedly condemned as unconstitutional. See for instance: Hellenic League for Human Rights, "Τις τις μαζικές προσαγωγές", 27 June 2010, available (in Greek) at: <http://www.hlhr.gr/index.php?MDL=pages&SiteID=59>.

common practice, for instance before demonstrations or rallies or during public visits by foreign heads of state or dignitaries.¹⁸³ Several lawyers met by the delegation confirmed this practice, which is unlawful as it violates the Greek Constitution (article 6), as well as international standards.¹⁸⁴

Violence and human rights violations committed by police forces are not confined to those perpetrated during demonstrations. Torture and ill-treatment during arrest and detention are also common practice,¹⁸⁵ as is police failure to protect people against violence committed by others, particularly racist violence by far-right groups.¹⁸⁶

This, coupled with the State's general failure to promptly, impartially and thoroughly investigate abuses by law enforcement officials and the consequent generalised and persistent impunity for such abuse,¹⁸⁷ has resulted in widespread mistrust of the Greek police. Reports by civil society organisations, national and international monitoring mechanisms and testimony gathered during the mission show that the police are increasingly feared. Indeed, testimony suggests that Greek police are regarded by the population as, at best, over tolerant of the crimes¹⁸⁸ from which they are supposed to offer protection, when not complicit in or directly responsible for such criminal activities themselves. This means that victims of crime often refrain from reporting it, particularly where it is racially motivated, and further compounds failures to investigate, allowing perpetrators to go unpunished.

183. Christos Syllas, "Greece: Freedom of expression takes a beating", 31 December 2013, available at: <http://www.indexoncensorship.org/2013/03/free-speech-takes-a-beating-in-greece/>.

184. International standards provide that a person may only be lawfully deprived of his or her liberty on grounds and according to procedures established by law. See article 9 (1) ICCPR, article 17 (2) (a) Convention on Enforced Disappearances, article 5 (1) ECHR, Principle 2 of the Body of Principles for the Protection of All Persons against any Forms of Detention or Imprisonment. The European Convention sets out the only permissible circumstances in which people may be deprived of their liberty by states parties to the Convention. The list in Article 5(1) is exhaustive and is narrowly interpreted in order to protect the right to liberty. In all other cases arrest, detention or imprisonment are arbitrary and thus prohibited under international law. The UN Working Group on Arbitrary Detention has identified situations in which deprivation of liberty is arbitrary. Among others, an arrest or detention without a basis in law is arbitrary. In addition, an arrest or detention that is permitted under domestic law may nonetheless be arbitrary under international standards where for example the law is vague, over-broad, or incompatible with other human rights such as the rights to freedom of expression, assembly or belief or the right to be free from discrimination. Furthermore, international law provides that anyone deprived of their liberty or facing a possible criminal charge has the right to the assistance of a lawyer to protect their rights and help with their defence. See Article 14 (3) (d) ICCPR, Article 6 (3) (c) ECHR. See also Principle 1 of the Basic Principles on the Role of Lawyers, among others. Access to counsel must be granted from the outset of arrest or detention, including during questioning. This has been confirmed also by the ECtHR. The European Committee for the Prevention of Torture clarified that the right of access to counsel should apply even before a person has formally been declared a suspect, including if they are called to a police station as a witness or for discussion. Limitations to this right are permissible only in exceptional circumstances. The circumstances must be prescribed by law and limited to occasions when it is considered indispensable in the particular case, in order to maintain security and good order. The decision should be made by a judicial or other authority. However, even in such cases, access should begin no later than 48 hours from the time of arrest or detention. See Principle 7 Basic Principles on the Role of Lawyers, Principles 18 (3) and 15 of the Body of Principles.

185. Persistent allegations of torture and ill-treatment by law enforcement officials during arrest and detention continue to raise the concerns of international mechanisms charged with monitoring such practices. See for instance: UN CAT, *Concluding observations on Greece*, CAT/C/GRC/CO/5-6, 27 June 2012, para. 10; European Committee for the Prevention of Torture (CPT), *Report on the visit to Greece from 19 to 27 January 2011*, January 2012. See also Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, *Report following his visit to Greece from 28 January to 1 February 2013*, 16 April 2013, CommDH(2013)6, Strasbourg, 16 April 2013, page 22. Both the Commissioner in his report and Amnesty International in *Police violence in Greece*, 2012, and *A law unto themselves*, 2014, also note how these practices have become regular and systematic when members of vulnerable groups such as migrants, asylum-seekers and Roma are concerned.

186. Amnesty International, *Greece: a law unto themselves: a culture of abuse, and impunity in the Greek police*, 3 April 2014, EUR/25/005/14. This matter will be further elaborated on in the below section on extremism.

187. In its 2013 Annual Report, the Racist Violence Recording Network, a joint UNHCR and NCHR programme aimed at recording hate crime and providing support to victims, expresses concerns that the police often fail to intervene during incidents linked to racist violence and show unwillingness, and sometimes even refuse, to aid or encourage victims to lodge complaints.

188. The Racist Violence Recording Network, in its annual report 2013, expresses serious concerns at the increase in incidents where police violence is linked to racist violence. Forty-four incidents of violence by uniformed officers were recorded by the Network in 2013, 23 of which took place in detention facilities. 'In these incidents [notes the Network] the uniformed officers, during the exercise of their duties and in routine operations resort to unlawful acts and violent practices. In 31 cases the victims reported that they were targeted because of their origins or features which characterised them as not being part of the majority population. Twelve victims were reportedly targeted because of their gender identity, and in one case arbitrary detention was directed at a victim's legal counsel'.

A human rights activist in the Piraeus suburban district of Athens told FIDH that she and her colleagues do not feel protected by the police, especially when carrying out activities aimed at raising awareness and countering racist violence and far-right discourse. She recounted an episode during a time when the stabbing to death of a 27-year-old Pakistani worker, Shezdah Luqman, in January 2013, had led her and some other volunteers to distribute leaflets condemning the killing. She stated that Golden Dawn members had approached them and threatened them, and the police, although present, failed to intervene. Two or three attacks were perpetrated on that day which, according to her, could have been prevented had the police intervened.

Again, it is important to note that not all police violence is a product of or connected to the current crisis. Police violence has a long tradition in the country, which governments have never managed or wanted to uproot. The current crisis should in this sense be regarded as a trigger that has revived a dormant trend that was never fully eradicated.

Reports submitted by the Greek authorities to the relevant treaty bodies during periodic reviews, and state representatives interviewed by FIDH have claimed that there is a resolve, at state level, to address such allegations and tackle impunity. Despite this, reports by international organisations and mechanisms show that in most cases allegations remain answered, are not adequately investigated or are met with excessive tolerance and mild punishment by the authorities, at both the administrative and criminal level.¹⁸⁹ Generally, authorities tend to dismiss such events as ‘isolated incidents’, which are allegedly addressed by the state. This fails to acknowledge the extent of the problem, which multiple sources, including civil society reports¹⁹⁰ and rulings by international mechanisms,¹⁹¹ indicate is widespread and systemic. Moreover, this state response is also inconsistent with such rulings where they point to a general failure by the state to address the issue¹⁹². Notwithstanding repeated calls by civil society organisations and international human rights bodies to amend legislation to protect victims and hold perpetrators to account, and to establish an independent and effective complaints mechanism, steps taken to date, although welcome, have been inadequate to eradicate the problem.¹⁹³

Also, despite the authorities’ repeated assertions of their commitment to respecting human rights and dignity as required in a democratic state, state representatives continue to indulge members of the police force. According to representatives interviewed by FIDH, these officers are given deference as they are viewed as having been entrusted with the increasingly challenging task of maintaining ‘law and order’ and staying calm in the face of increasing popular anger as social unrest mounts due to the

189. UN CAT, *Concluding observations on Greece*, CAT/C/GRC/CO/5-6, 27 June 2012, p. 2-3. The Committee notes with concern that at the time of the review only a limited number of cases linked to allegations of torture and ill-treatment at the hands of law enforcement officials have been prosecuted, very few have led to a final conviction and even in cases where there have been convictions these have been followed by a lack of sanctions due to mitigating circumstances or other reasons, despite a high number of decisions from international bodies, including the Human Rights Committee and the ECtHR, and extensive documentations received from other sources, confirming those allegations. The Commissioner for Human Rights of the Council of Europe Nils Muiznieks also notes in his report that such allegations ‘do not seem to be thoroughly investigated by courts and that instances of such misconduct have as a rule remained unpunished or led to excessively mild penalties, both at administrative (disciplinary) and especially criminal law levels’, *Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013*, CommDH(2013)6, Strasbourg, 16 April 2013, para. 109.

190. Amnesty International, *Police Violence in Greece, Not just isolated incidents*, EUR 25/005/2012, July 2012.

191. These include decisions and rulings from the Human Rights Committee and the ECtHR, according to the UN CAT, *Concluding observations on Greece*, CAT/C/GRC/CO/5-6, 27 June 2012.

192. Amnesty International reports that only in a very small number of cases have law enforcement officials been charged and referred to trial for torture or other violations since the introduction of article 137A of the Greek Criminal Code in 1984. This article proscribes ‘torture and other offences against human dignity’. Amnesty International, *Police Violence in Greece, Not just isolated incidents*, EUR 25/005/2012, July 2012.

193. A national preventive mechanism has been established under the Optional Protocol to the Convention Against Torture (OPCAT) in 2012, enabling the national Ombudsman to visit detention facilities in order to prevent torture or other cruel, inhuman or degrading treatment or punishment. However, this mechanism has not proved very effective in preventing violations, partly due to the limited powers it bestows, which fail to reflect those envisaged by the OPCAT for the preventive mechanisms. See Amnesty International, *Police violence, not just isolated incidents*, July 2012. This information was further confirmed in a FIDH meeting with representatives from the Ministry for Public Order and Citizens’ Protection.

crisis. In some cases, authorities are reported to have covered up or condoned police actions, trying to discredit and even publicly threaten those who denounce them.¹⁹⁴

Although brutal incidences and practices are not new, those interviewed by the delegation have reported that the situation in Greece has worsened significantly since the crisis started. The police seem to have radicalised, stepping up responses to dissidence and showing increasing intolerance of critical voices – much like other public authorities (discussed below).

The state failure to address this issue extends to a failure to grant victims their right to an effective remedy.¹⁹⁵ This concerns both cases where violations have been committed by law enforcement officials¹⁹⁶ and cases where crimes have been perpetrated by others. Despite positive developments over the past year, which have led to investigations and criminal prosecutions for hate crimes,¹⁹⁷ victims still lack the ability to report such crimes under safe conditions. This applies in particular to those who lack regular immigration status – a population segment that makes up most of the victims of such crimes. The state’s failure to provide guarantees to enable this group of victims to file complaints without fear of criminalisation and deportation deters them from reporting crime.¹⁹⁸ Past experiences where victims have been targeted by police violence, alleged links between the perpetrators, the police and/or Golden Dawn (giving rise to a fear of retaliation) and a widespread lack of confidence in the justice system, has led many victims to view the initiation of legal proceedings futile. This is one among numerous factors curtailing the right to an effective remedy for hate crime victims. In some cases, the police have reportedly refused to register a complaint or have discouraged victims from lodging it.¹⁹⁹ The failure to grant victims access to mechanisms for redress extends also to proceedings. According to the Racist Violence Recording Network, people without legal residence permits are discouraged from participating in proceedings, threatened with arrest and detention and eventually deportation. Demands have been made that a provision be introduced to suspend arrest and deportation orders against victims who have filed a complaint, and to grant a special residence permit to complainants on humanitarian grounds²⁰⁰ pending criminal proceedings against the offender. An amendment to the Code for Immigration and Social Integration (article 19 (b)) was consequently proposed to grant such special protection status to victims (including hate crime victims). However, the provision did not pass parliamentary scrutiny, further limiting victims’ access to remedies and *de facto* criminalising recourse to legal protection.²⁰¹

194. For example, in September 2012, anti-fascist activists arrested during a demonstrations were allegedly tortured by police at the police headquarters in Athens. Following publication by British newspaper, *the Guardian*, of forensic evidence alleged to prove this ill treatment, the Minister for Public order publicly threatened the newspaper with a lawsuit for libel. See The Guardian, “Greek anti-fascist protesters ‘tortured by police’ after Golden Dawn clash”, Tuesday 9 October 2012, available at: <http://www.theguardian.com/world/2012/oct/09/greek-antifascist-protesters-torture-police>.

195. See UN CAT, *Concluding observations on Greece*, CAT/C/GRC/CO/5-6, 27 June 2012 . The UN CAT expressed concerns especially at the insufficient information provided to victims and significant delays in offering redress, including in cases where the violation had been determined by an international body or mechanism.

196. An office has been established to receive complaints and investigate allegations of unlawful police conduct, the Office for Incidents of Arbitrary Conduct against law enforcement officials (established by Law 3938/2011 of March 2011, followed by presidential decree PD 78/2011 detailing the office’s operation and recently reformed by law 4058/2012 and 4249/2014). Although a welcome step, questions are raised regarding the independence and impartiality of this office given its connection with the police, as well as regarding its effectiveness, in light of its limited powers to conduct investigations.

197. It was following the murder of left-wing rapper Pavlos Fyssas in September 2013 that the authorities started to acknowledge the existence, volume and characteristics of racist violence and the need to deal with it. Racist Violence Recording Network, *Annual Report*, 2013, page 1.

198. Those who do not hold a valid legal residence permit constitute the majority of victims of racist attacks according to the recordings of the Racist Violence Recording Network. These persons are automatically detained upon arrival at the police station and issued with detention and deportation orders. Racist Violence Recording Network, *Annual Report*, 2013, p.10.

199. *Ibid.*, pp.10-11.

200. Similar to that granted to victims of trafficking.

201. Racist Violence Recording Network, *supra* note 202, pp.11-12.

III. 3. 2 The neo-Nazi threat to democracy and human rights

Frustration, fear and increasing mistrust of institutions, have provided fertile ground for the right wing to build support for its extremist ideas and discourse among the population. Far-right popularity has soared since the economic crisis.²⁰² The latest European elections saw Greek far-right party Golden Dawn²⁰³ place as the country's third strongest party with 536,910 votes and 9.39 % support. Party candidates scored 11.13% at regional elections in the Attica region and 16.12% in the Athens municipal elections in May 2014 – despite the fact that the Golden Dawn candidate for Athens was incarcerated throughout his entire campaign. As Greeks struggle to meet their basic everyday needs, far-right influence has risen in prominence, drawing on discontent over the country's economic troubles. For many, Golden Dawn represents an alternative to current political players, who are viewed as responsible for the state's economic bankruptcy as well as for giving in to draconian demands made by international creditors. As the country undergoes its sixth year of recession, and a third of the population is threatened by or lives in poverty, Greeks blame mainstream parties for not standing up to the country's creditors and negotiating a better deal²⁰⁴ to restore the country's economy without sacrificing the wellbeing of its people. Loss of political credibility and increasing mistrust of the two main centre-left and centre-right parties dominating Greece's political scene for the past thirty years (Pasok and Nea Demokratia)²⁰⁵ have therefore contributed to drawing an increasing number of Greeks to anyone promising sweeping change to the current state of affairs.²⁰⁶ The unprecedented success of both Golden Dawn and the radical left party Syriza in the latest elections, is a strong signal that Greeks are looking for change and are no longer willing to support mainstream parties considered to have failed them in numerous respects.

Anti-Troika and anti-government graffiti in the centre of Athens, January 2014 - © Elena Crespi / FIDH



Many explanations have been offered as to why Golden Dawn has met with such success in recent years. Some observers claim Greek immigration policy is the sole cause; others speak abstractly about nationalism as a predominant trait in Greek political culture, and a history of ultra-right leanings in the Greek state. Others still blame the economic crisis. Whilst all of these claims hold merit, the complexity of the issue renders the reduction of Golden Dawn's success to one factor alone a dangerous oversimplification. Whilst increasing migration flows coupled with flawed migration policies have fed resentment that has been exploited by the far-right, in Greece as elsewhere in Europe, nationalism has

202. Nathalie Savaricas, "Economic chaos sees Greek voters swing to fringe parties", EU Observer, 13 February 2014.

203. Golden Dawn is a neo-Nazi political party in Greece founded by Nikolaos Michaloliakos, its current leader, on 1 January 1985. It was officially recognised as a political party in 1993. The party uses Nazi symbolism and has been reported to have been involved in attacks against migrants, political opponents, members of the LGBTI community and ethnic minorities. The party aims at creating a "true Hellenic States", by restoring national independence vis-à-vis external actors, nationalising banks and military industry, income redistribution and fighting the "Hellenized invaders" through deporting illegal immigrants, racial segregation in schools, monetarily encouraging Greek child-birth, giving priorities to Greek patients and restricting access to healthcare for migrants. The police forces should be armed and authorised to use lethal force more leniently.

204. Nathalie Savaricas, "Economic chaos sees Greek voters swing to fringe parties", EU Observer, 13 February 2014.

205. Ibid.

206. An eminent researcher who has studied Golden Dawn in depth has stated that: "Undoubtedly, the multifaceted economic crisis has played a major role in granting this national-socialist party an opportunity to enjoy such a meteoric rise. Nonetheless, its success would have been significantly more modest, had Greece's political system not been so run-down and incapable of dealing with the problems". Dimitris Psarras, *The rise of the Neo-Nazi party 'Golden Dawn' in Greece*, Rosa Luxemburg Stiftung, Brussels Office, 2013, p. 33.

also become increasingly pervasive and Golden Dawn could not have achieved its current levels of success without the economic crisis. Indeed, although it cannot be claimed that the crisis was the sole cause of the party's extraordinary rise in recent years, it can nevertheless be viewed as a catalyst that has aided to bring a number of factors together.

Golden Dawn's rise has also been facilitated by the prevailing political and social life in Greece where corruption is rife and the current political class has legitimised and even supported intolerant and anti-immigrant political rhetoric. Thus, for example, during his campaign for the 2012 national elections, Prime Minister Antonis Samaras pledged to reclaim Greek cities from immigrants, exemplifying how a certain political rhetoric may have contributed to fuelling anti-immigrant discourse. Indeed, when a malaria epidemic hit Sparta in 2011 (mainly due to cuts to health budgets that prevented anti-malarial spraying of swamps where the bacterium grows), Health Minister Loverdos claimed that migrants had spread the disease. Anti-immigrant political rhetoric, policies fuelling hostility towards marginalised groups, particularly migrants,²⁰⁷ and the failure of the state to meaningfully address racist violence and hate speech have thus also created fertile conditions for Golden Dawn support. By mainstreaming certain ideas and giving them political legitimacy, such policies and behaviours have legitimised the far-right rhetoric that traditionally builds on them.²⁰⁸

As frustration mounts and economic recession plunges the population further into destitution, Golden Dawn's anti-foreigner rhetoric (common to other European far-right movements)²⁰⁹ has targeted both migrants and the international creditors embodied by the Troika. Indeed, the Troika has come to represent predatory 'foreigners' seeking to impose their rule at a time of government weakness in which the Greek state is unable to protect the nation from what is perceived as an attack on Greece's national sovereignty. Both irregular migrants and the Troika have thus been targeted by Golden Dawn's populist calls of '*out of our country*'. In this sense the party has revived the nationalism of many voters, who blame 'foreigners' for the country's current condition.²¹⁰ Moreover, alongside its traditional targets (mainly migrants and other minorities), Golden Dawn rhetoric has also become increasingly directed at other parties, particularly the ruling coalition, who they accuse of selling the country out to its international creditors. In this way, Golden Dawn's ideology has both built on rising popular mistrust of institutions and the current political class, whilst benefitting from their complacency and sometimes the increasing proximity of their political discourse to the group's own.

Golden Dawn members executing a Nazi salute to greet the party leader, Nikolaos Michaloliakos.



As hope fades and anger rises among Greeks struggling to cope with the strains of a six-year recession, Golden Dawn has offered not only scapegoats at whom to direct popular resentment, but also concrete responses (though mainly symbolic) to people's most pressing needs. As governments appear increasingly unable to address the population's needs, Golden Dawn has garnered support by offering protection to shopkeepers, escorting

207. Eva Cosse, "The story behind Golden Dawn's success", EU Observer, 4 June 2014.

208. Ibid. Among the policies and actions that have indirectly contributed to legitimising far-right, particularly anti-immigrant, rhetoric, are: the failure to establish a well functioning asylum system, resulting in prolonged administrative detention for migrants and asylum-seekers contrary to international and EU law; a failure by the state to address allegations regarding push-backs and other human rights violations against migrants, including when these are alleged to have been committed by law enforcement officials; and sweep operations, such as Operation Xenios Zeus, targeting irregular migrants, and resulting in thousands of people being arbitrarily stopped and searched on Athens' streets, and arrested and detained for hours at police stations often on no other grounds than their physical appearance and regardless of their claims that they had documents at home proving their status.

209. This is mainly built around the argument that migrants are coming to 'steal' opportunities and further depress the economy, arguments that resonate in the political discourse of most far-right movements and parties in Europe as economic recession tightens and people look for someone to blame for a situation they can no longer sustain.

210. See *inter alia* Nathalie Savaricas, "Greece's Golden Dawn seeks allies in EP", EU Observer, 22 May 2014; Maria Margaritis, "Fear and loathing in Athens: the rise of Golden Dawn and the far right", The Guardian, 26 October 2012.

old ladies to the supermarket and distributing food to the poor.²¹¹ By purporting to address people's needs and frustrations, and calling upon traditional nationalism and cheap propaganda, Golden Dawn thus appears to be filling the gaps left by the crippled Greek state.²¹²

However, this has been possible thanks to state complacency regarding, and sometimes collusion with, certain behaviours. This has enabled vigilante patrols to prowl the streets of Athens intimidating, harassing and beating migrants and other minorities; organised squads to carry out systematic attacks against these groups as well as against political opponents, sometimes with deadly consequences; and neo-Nazi discourse and propaganda to reach the parliamentary halls. As such things have become the norm, rising tensions have escalated between opposing extremes, often erupting into violence between the two factions during and outside demonstrations.²¹³ This has raised the spectre of former times under dictatorial rule.

An anti-fascist activist interviewed by the delegation in Athens said: *"People start saying that during the dictatorship this would not have happened, that we would not have this crisis"*. Explaining how things are changing in the country, she says that people formerly charged with torture and other human rights violations during the dictatorship, who had since retired to live in remote areas to escape public disgrace are now once again beginning to speak up and express opinions similar to those of Golden Dawn. *"People are afraid"* she told FIDH *"It is a smell of old times"*.

State institutions, mainstream political parties and the media have all been blamed for legitimising far-right rhetoric and organisations.²¹⁴ Those interviewed by the delegation shared the view that Golden Dawn could not have risen to success without the support of the authorities, especially the police, and the media. Such support included either official facilitation, such as admitting the group to parliament and allowing it to become a recognised institutional force and unofficial collusion by condoning or failing to challenge what has become a regular trend of hate speech and racist violence.²¹⁵

*"What is even more dangerous than the violence is the way they are acting institutionally"*²¹⁶ Yorgos Tsarobopoulos, manager of the United Nations High Commissioner for Human Rights (UNHCR) office in Greece told FIDH. He highlighted that demands are now being made at the institutional level to, for instance, refuse migrant children entry into kindergartens and hospitals, and that the government has even started to respond to such requests, which cannot not be admissible in any democratic state.

Kostis Papaioannou, the Hellenic League for Human Rights' representative within, and chairman for the National Commission for Human Rights' (the Greek National Human Rights Institution), also stressed that the government's own xenophobic rhetoric and complacency towards incidents involving Golden Dawn supporters (e.g. failure to properly investigate and prosecute offences) have contributed to legitimising criminal acts committed by its members.²¹⁷

Another issue is the infiltration by the far-right of institutions themselves. Ultra-right intrusion into the Greek state apparatus is a phenomenon that a recent study has identified as deep, dense and systematic

211. Maria Margaronis, *supra note 214*. Initiatives taken by Golden Dawn include the 'Food for Greeks only' and 'Blood for Greeks only' campaigns aimed at providing food and blood donations only to Greek citizens, and the one 'Jobs for Greeks only' campaigns, visiting factories and workplaces to count foreign workers and encourage employers to hire Greeks instead.

212. *Ibid.*

213. Nathalie Savaricas, "Greece's Golden Dawn seeks allies in EP", *EU Observer*, 22 May 2014.

214. Nathalie Savaricas, "Economic chaos sees Greek voters swing to fringe parties", *EU Observer*, 13 February 2014.

The Guardian, "Fear and loathing in Athens: the rise of Golden Dawn and the far right", 26 October 2012.

215. For instance by allowing, these became a regular pattern, often leaving them unaddressed.

216. Tsarobopoulos referred for instance to the fact that claims are made at the institutional level requesting for instance that migrant children be not accepted into kindergartens and hospitals, and that the government has even started to respond to such requests, which should not be admissible in a democratic state.

217. The general uncooperativeness shown by the government over issues related to human rights protection also seems to negatively affect the NCHR's work.

and not limited to isolated cases.²¹⁸ This was further confirmed in FIDH interviews with state and police representatives. According to the study, constituted powers in Greece have developed ‘a vigorous romance’ with the far-right, which whilst not always apparent nevertheless persists and has re-emerged as a result of the hardship facing the country. As such, authorities show excessive tolerance towards neo-Nazi discourse, violence and human rights abuse, going as far as granting impunity to perpetrators in a way that the authors deem without precedent in the European context. This further facilitates the revival of far right ideology.²¹⁹

The study claims that no state institution is immune to infiltration by right-wing extremism²²⁰ – an assertion supported by testimony gathered during FIDH’s mission. The police appear to be “the most infected and long exposed institution to ultra-right intrusion”.²²¹ According to the Greek Ombudsman’s latest special report, racist violence committed by law enforcement officials following patterns similar to that perpetrated by Golden Dawn accounted for 17% of the racist attacks perpetrated in 2013.²²² According to the same source and data collected by the Racist Violence Recording Network, few of these incidents have been adequately investigated or prosecuted.²²³ Sweep operations targeting migrants and other minorities continue, along with human rights violations against migrants at the EU’s external borders. In many cases anti-fascist activists have also been targeted.²²⁴ FIDH vice-president Dimitris Christopoulos has stated that had political signals been sent from the top that certain behaviour by officers was unacceptable from the outset, reform could have been achieved and toxic alliances between law enforcement officials and right-wing extremism would have been prevented or cut from the start.

In an interview with Greek newscaster Parapolitiki (Παραπολιτική) in 2011, Mr Chrysochoides, ex-minister for Public

Order and Citizens Protection stated that “In October 2009, I took over a thoroughly disintegrated police [...] I was afraid at that time of what was going on in the country ... I remind you of the parastate then active within the police, where Golden Dawn members and various fascists were participating in a series of activities and helping the police. Along with the chief of the police, we drove them off, one by one”.²²⁵

The assassination of hip-hop artist, Pavlos Fyssas, in September 2013 finally prompted the authorities to address the issue of Golden Dawn violence by acknowledging its organised and systematic character and scale. State intervention on this occasion led to Golden Dawn members being charged with creating and participating in a criminal organisation connected with the commission of numerous offences, and

218. Dimitris Christopoulos, Dimitris Kousouris, Dimosthenis Papadatos-Anagnostopoulos, Clio Papapantoleon, Alexandros Sakelariou, *Mapping Ultra-Right Extremism, Xenophobia and Racism within the Greek State Apparatus*, Rosa Luxembourg Stiftung, 2014.

219. *Ibid.*, pp. 5-11.

220. The study points in particular to the influence that right-wing extremism seems to have in four main institutions: the police, the judiciary, the army and the church.

221. Infiltration has been especially pronounced in the Greek police, particularly those units tasked with suppressing political protest, such as riot police and the DELTA squad (“Force of Control Fast Confrontation”). Such systematic infiltration also extends to specific police departments in big cities, mostly in Athens where much police work is concerned with issues of irregular migration. In the most affected units, far-right ideology, practices of illegal violence against demonstrators and immigrants, and a culture of impunity have become widespread and pervasive to the point of forming the hegemonic work culture. Dimitris Christopoulos et al, *supra* note 213. See also, Damian Mac Con Uladh, ‘Ultra-right influential in Greek state, says study’, *The Irish Times*, 7 April 2014.

222. Greek Ombudsman, Annual Report 2013: *The proper operation of institutions is not a luxury*, 27 March 2013, available at: <http://www.synigoros.gr/?i=stp.en.news.174015>.

223. See previous sub-section for more details.

224. Famously, anti-fascist activists were arrested during a demonstration and subsequently tortured at Athens police headquarters in September 2012. The story was covered by *The Guardian*, which published the medical report and photos evidencing torture, and alleged official tolerance of Golden Dawn by the state. In response to these accusations, the Minister for Public Order and Citizens Protection, who now leads the hunt against Golden Dawn, threatened the newspaper with libel. The lawsuit was however never brought. Dimitris Christopoulos, Dimitris Kousouris, Dimosthenis Papadatos-Anagnostopoulos, Clio Papapantoleon, Alexandros Sakelariou, *Mapping Ultra-Right Extremism, Xenophobia and Racism within the Greek State Apparatus*, Rosa Luxembourg Stiftung, 2014, which states that “informal social structures arose that perceive the relationship of the police with leftists, anarchists and immigrants as hostile, in fact existentially antagonistic, and that invest politically in this antagonism”.

225. See the video recording of the interview at: <http://www.youtube.com/watch?v=PKaaCdFnKns>.

prosecuted. Several Golden Dawn MPs, including its leader Nikolaos Michaloliakos, were detained pending trial.²²⁶ The events that followed Pavlos Fyssas's assassination represented a radical change in the state's attitude towards Golden Dawn and its infiltration of the Greek police.²²⁷ However, the steps taken by the government following the murder cannot be seen as a definitive metamorphosis. At the time, the state's stance was inevitable as even the political right had been unsettled at the realisation that Golden Dawn was posing a real and high-profile threat to social peace: the limits of tolerance had been reached and a response was imperative. However, long-standing complacency towards such crimes raises questions about the state's genuine resolve to suddenly curb the phenomenon.²²⁸ Moreover, despite past and ongoing attempts to dismantle the organisation, greater effort will be required on the part of both the Greek state and society to respond convincingly to the social, political and economic conditions that have fostered far-right extremism in 21st century Greece. Without this, the ideology that has found expression in Golden Dawn will continue to look for a political outlet.

Some people interviewed during the mission claimed that certain media outlets, including national newspapers, have also contributed to fuelling anti-immigrant sentiments over the years and have indirectly supported Golden Dawn propaganda.²²⁹

III. 3.3 Silencing dissent and independent media

Against this background, the government has been adopting an increasingly authoritarian stance towards public criticism. This is evident not only in the way authorities have clamped down on protesters, restricting their right to demonstrate and assemble, but also in the systematic assault that has been conducted against freely dissenting voices.

Free speech and media independence have been challenged and undermined in Greece, which ranked 99th on the World Press Freedom Index 2014,²³⁰ following a dramatic fall by 15 positions from 2013 and 68 positions from 2008. Reports Without Borders (RSF) has qualified this decline as 'disturbing' and a signal that the European model is unravelling.²³¹

226. At the time of writing, the public prosecutor's findings are already public and the decision of the Council of the Court of Appeals is about to follow, leading a significant number of Golden Dawn's detained officials to an unprecedented trial for the Greek criminal and political chronicles. The trial is expected to begin within the first months of 2015.

227. The assassination of Pavlos Fyssas saw some high ranking officials, including the Police Inspector General for Southern Greece and the Chief of the General Division of the Sterea Hellas Region, resign, reportedly 'for personal reasons'. Also, following an order by the Minister of Public Order and Citizen Protection, an investigation was launched into allegations published in the press about the active involvement of police officers in the activities of Golden Dawn and their potential participation in the perpetration of crimes linked to such activities. The Minister expressed the need to not leave a single shadow over the police force. The Chief of Police assigned the investigation to the Director of the Division of Internal Affairs, Police Brigadier General Panayiotis Sthathis. During the investigation, several chief officers were replaced or relocated, including the chief of the Special Anti-Terrorist Unit and his deputy, the police major who commanded the DELTA squads and the commander of the riot police platoon in Keratsini, which was documented as having thrown stones at demonstrators during the riots of 18 September 2012, without being stopped or investigated for this conduct. Among those removed from their posts was also the head of the Third Counter-Intelligence Division of the National Intelligence Service (NIS) who had been responsible for an investigation into Golden Dawn activities that included systematic telephone tapping and who was deemed to have served the organisation as its chief informer. Other police officers were arrested in the following days and charged with various offences, including having trained Golden Dawn members or otherwise supported the organisation in carrying out criminal activities. Dimitris Christopoulos, Dimitris Kousouris, Dimosthenis Papadatos-Anagnostopoulos, Clio Papapantoleon, Alexandros Sakelariou, *Mapping Ultra-Right Extremism, Xenophobia and Racism within the Greek State Apparatus*, Rosa Luxembourg Stiftung, 2014.

228. Many suggest that the sudden state interest in these issues could be more linked to political interests than to a genuine resolve to address them. See for example the letter sent by a number of civil society organisations, including FIDH member organisation the Belgian League for Human Rights, to the president of the European Parliament, Martin Schulz, on 21 January 2014, available at: http://www.liguedh.be/images/PDF/documentation/positions_de_la_ligue/janv2014_courrier_presidenceue_violation_dh_grece_dette_illegitime.pdf. Such claims appear to be backed by secretly-recorded video-footage was made public in April showing Greek prime minister Antonis Samaras' most senior government official, cabinet secretary Panagiotis Baltakos, talking to a leading Golden Dawn MP, Ilias Kasidiaris, who is facing criminal charges relating to his activities within the neo-Nazi party, and telling him that the ongoing clampdown on his party was a politically orchestrated plan to win back votes that Samaras's New Democracy had lost to Golden Dawn.

229. This includes for instance the failure to cover stories related to abuse against migrants and asylum-seekers, including recent tragedies in the Aegean sea (e.g. the Farmakonisi incident on 24 January 2014 was widely publicised by international media but received little to no coverage in national media). It also includes greater publicity around cases regarding alleged attacks or thefts perpetrated by migrants against Greeks, and around initiatives by Golden Dawn, such as food distribution to the poor.

230. Reporters Without Borders, World Press Freedom Index 2014, 2014, available at :https://rsf.org/index2014/data/index2014_en.pdf

231. Reporters Without Borders, World Press Freedom Index 2013, 2013, available at : http://fr.rsf.org/IMG/pdf/classement_2013_gb-bd.pdf



Freedom of the Press Worldwide in 2014. Source: Reporters Without Borders

RSF further reports that the social and professional environment for journalists has become seriously oppressive, with reporters being exposed to public condemnation and violence from both extremist groups and the police.²³²

Both the crisis and long-standing weaknesses have contributed to a rapid deterioration in the public watchdog role played by the mainstream media. However, the economic crisis has issued a final blow to freedom of speech and information by hindering effective and quality reporting. This is because both print and broadcast media outlets have been either shut down or subject to serious cutbacks – an issue met with indifference by the Troika. Such outlets have also been subject to incidences of censorship and politically motivated firings – not unheard of in Greek public media even before the crisis - and suspensions in both public and private media.²³³

Several cases of press suppression have made the news over the past few years, and many more have gone unnoticed, but were reported to us by journalists we met on the ground. Among the most famous cases is that of investigative journalist and publisher of Hot Doc magazine Kostas Vaxevanis. Vaxevanis was arrested and prosecuted in October 2012 after publishing a leaked list (the so-called ‘Lagarde list’) of more than 200 suspected tax evaders, among which featured several public figures and representatives of the country’s political and economic elite.²³⁴ The list had allegedly been known to the government since 2010 but had been kept secret until it was published by Hot Doc. Vaxevanis’ arrest gave rise to international outrage, and many international governmental and non-governmental organisations, including RSF and the OSCE Representative on Freedom of the Media Dunja Mijatovic, called for his release. Kostas Vaxevanis was eventually acquitted and cleared of all charges for violating privacy laws. However, he claimed that multiple attempts were made before and after the publication of the ‘Lagarde list’ to destroy his reputation and that he received numerous threats. The Vaxevanis case is emblematic of a climate of censorship and a progressive curb on independent media and free critical expression that have significantly restricted the right to freedom of expression and media freedom in Greece.²³⁵

Several sources consulted during FIDH’s field mission stated that pressure is also directed against those who attempt to speak out against or criticise the bailout agreements and related austerity plans, or to denounce the widespread corruption and misadministration that contributed to causing the crisis. Index on Censorship reports that in some cases this has gone as far as TV and radio station management personnel, sometimes under pressure from government, issuing clear instructions to employees not to

232. Ibid.

233. Christos Syllas, “Greece: Freedom of expression takes a beating”, 31 December 2013, available at: <http://www.indexoncensorship.org/2013/03/free-speech-takes-a-beating-in-greece/>

234. Among those featured in the list were people close to Prime Minister Antonis Samaras who appeared to have bank accounts in Switzerland. Philip Di Salvo, Greece: Crisis Raises Censorship on the Media, 9 November 2012, European Journalism Observatory, available at: http://en.ejo.ch/5887/press_freedom_censorship/greece-crisis-censorship-media-vaxevani.

235. Also, shortly after his acquittal, the prosecutor ordered a retrial, claiming that the verdict was flawed. Christos Syllas, “Free speech takes a beating in Greece”, 25 March 2013.

include certain information in news reports and not to report on certain issues, threatening them with sanctions or dismissal should they refuse.²³⁶

Marilena Katsimi, former anchor-woman at state-owned public radio and television broadcasting corporation ERT, reported both she and her colleague Kostas Arvanitis were targeted for commenting on allegations made by British newspaper *The Guardian* that police tortured protesters in Athens police headquarters following a demonstration in September 2012. After reporting the story and referring sarcastically to a threat by the Minister for Public Order and Citizens Protection to sue the newspaper, Katsimi said she was suspended from the morning TV show without notice or explanation. Following strong solidarity protests by her colleagues against this measure, Katsimi was reinstated to her post. However, Kostas Arvanitis whose contract was expiring shortly did not have his contract renewed. Katsimi believes that this was most likely retaliation against him for having reported on issues that displeased the government and ERT management.²³⁷

Indeed, national media systematically fails to cover certain news items or dismisses such news with statements that reflect official government responses. This includes news regarding human rights violations, particularly but not exclusively against migrants: for example, an incident occurred off the coast of the Greek island of Farmakonisi while the delegation was visiting Greece. This saw the sinking of a boat carrying migrants following an interception by the Greek coast guard, which led to twelve deaths. While international media covered this news extensively, the tragedy was under-reported in Greece. Moreover, the information provided in news stories often provides only one side of the story, usually the official version. This is particularly evident in cases concerning protests²³⁸ or where Golden Dawn is involved, especially when it comes to exposing alleged links between the neo-Nazi movement and police forces.²³⁹

Those who express criticism over the internet or by other means are also subject to intimidation. Independent investigative media have experienced severe aggression from government authorities, and faced serious obstacles in carrying out its work. This includes stalking, slur campaigns by national media who many allege are submissive to government and corporate agendas, and even death threats.²⁴⁰ Intimidation from political extremists, be it the far-left or neo-Nazis, is also common practice, as are attacks perpetrated by security forces and the police against those attempting to cover demonstrations.

236. Thanos Dimadis, correspondent for Greek TV and radio station SKAI, reported that he was instructed by his director not to disclose information that bailout payments had been only 'partial' and carried out 'under a regime of strict economic surveillance' in October 2012. As he refused to do so, his text was removed from SKAI TV's website. He eventually resigned, as his complaints against this abuse remained unheard. Christos Syllas, "Free speech takes a beating in Greece", 25 March 2013. Spiros Karatzaferis was also arrested the same month after threatening to publish 'damaging allegations' relating to Greece's financial bailout from international lenders. Also, FIDH conducted interviews with correspondents at several media outlets, who reported similar episodes but asked to remain anonymous.

237. Arvanitis said in an interview to Index on Censorship that he considered what happened 'as aggressive meddling by the political system. It's becoming more and more clear' he told Index on Censorship. 'Every question that is different, every perspective that is different is considered provocative'. Christos Syllas, "Free speech takes a beating in Greece", 25 March 2013.

238. Apostolis Fotiadis reports, in an article written for IPS in September 2011, the case of a private channel caught adding sound effects to scenes of an attack by protesters against policemen, following the shooting of 15-year-old Alexis Grigoropoulos by a police officer in 2008. A non-manipulated version, leaked on YouTube immediately afterwards, only showed the sound of a gun being fired. Apostolis Fotiadis, "Greece: Social Media Advances Against Elite Owners", 16 September 2011, IPS, available at: <http://www.ipsnews.net/2011/09/greece-social-media-advances-against-elite-owners/>.

239. The case reported by *The Guardian* in October 2012 and referred to above is also emblematic. Index on Censorship reports that not only national media neglected to report on what happened, including on torture allegations by protesters that claimed having been subjected while under arrest to practices that their lawyer described as 'Abu-Ghraib style humiliation', but even following disclosure of this information by the British newspaper, coverage of the story by national media was partial, and did not allow to contrast the official version provided by the government. Christos Syllas, "Greece: Freedom of expression takes a beating", 31 December 2013.

240. Apostolis Fotiadis, "Press Freedom on the Chopping Block, Inter Press Service", 6 March 2013. Fotiadis reports the case of a reporter for the UNFOLLOW magazine, Lefteris Charalabopoulos, who was subject to intimidation by a Aegean Oil's top manager after publishing a story on oil smuggling involving the company and another major energy conglomerate. Almost all mainstream media, reports Fotiadis, ignored the incident and MPs within the ruling coalition dismissed it as 'legally insignificant' after an opposition member raised the issue during a debate in Parliament. Another example concerns Nikolas Leodopoulos, a Thomson Reuter reporter involved in investigating major banking scandals, who is regularly pictured by news outlets closed to the political and corporate elites as 'a fake reporter' or a suspect of 'criminal deeds'.

On some occasions this has caused serious harm.²⁴¹ Working conditions are particularly difficult during demonstrations. Here, reporters, and especially photographers, operate in an environment which RSF has qualified as similar to that of a war-zone.²⁴² Caught between the police, who can see them as unwanted witnesses to abuse, and activists who see them as an arm of the government, these professionals pay a heavy price for recording what they see.²⁴³ Indeed, attacks against them are never condemned and hardly ever investigated, thus encouraging these practices to continue. Greece has become one of the very few countries in Europe where reporters are forced to take precautions in order to exercise their right to self-expression.²⁴⁴ Moreover, access to government data that is officially available by law but very hard to obtain in practice, results in indirect censorship in the form of limited access to information and sources. This is particularly evident regarding international news agencies and foreign correspondents, and has worsened since the crisis.²⁴⁵

Independent radio stations and websites used by fringe political groups and student movements to express dissent and organise demonstrations are also targeted.²⁴⁶ Police operations have targeted places from which these radio stations broadcast and, when they cannot be legally challenged, the authorities often cut off their electricity supplies, thus preventing access to, for instance, web sources, to hamper activities, especially before gatherings or demonstrations.²⁴⁷

However, online censorship is not limited to websites used by activists to gather support for demonstrations or express political views. Everyone is potentially targeted as on-line surveillance and phone tapping have become common practice in Greece.²⁴⁸ Against a weak legal framework, which basically fails to regulate online activities, privacy in communications is almost non-existent. The same is true for anonymity. Indeed, on-line activities are increasingly criminalised, allowing for wide exceptions to people's right to privacy and freedom of expression.²⁴⁹ As a result, the online environment is also exposed to systematic abuse.²⁵⁰ As the crisis has made the authorities more sensitive to criticism, state control over on-line activities with the aim of silencing dissent has also intensified and the space for free expression over the internet has shrunk.

In Volos, FIDH met with Philipos Loizos, a 28-year-old man whose case has become emblematic of increasing on-line censorship in the country as well as the ties between the government and certain powerful elites (in this case, the Greek Orthodox Church and the nationalist far-right). Philipos Loizos was arrested in September 2012 after posting a satirical cartoon on a Facebook page mocking a well-known representative of the Greek Orthodox Church. He was charged with 'malicious blasphemy and religious insult', allegedly at the instigation of Golden Dawn members. During the trial that followed, an internet company was for the first time forced to disclose information to the government to identify an individual accused of 'alleged offences relating to religious satire'. Loizos was condemned to 10 months in prison. Although his sentence was eventually suspended on appeal, Loizos's case became symbolic in a country where free speech and privacy are no longer safeguarded as fundamental individual rights. Whilst these

241. Ibid.

242. Reporters Without Borders, *Greece: is the crisis in Greece a chance for its media?*, Investigation Report, August 2011.

243. Ibid.

244. This includes, for instance, wearing gas masks and gas proof clothing, working in groups to avoid isolation in the field whilst covering demonstrations, self-censorship to avoid legal action against them by big interests. Reporters Without Borders, *Greece: is the crisis in Greece a chance for its media?*, Investigation Report, August 2011.

245. Reporters Without Borders, *Greece: is the crisis in Greece a chance for its media?*, Investigation Report, August 2011.

246. This was the case for instance for the Radiozones of Subversive Expression, and Athens-based radio station at the University of Economics and Business (ASOEE), which was the target of a police raid, Athens Indymedia (Greek branch of the Independent Media Centre, a movement originated during the Seattle protests against the World Trade Organisation in 1999 and associated with the global justice movement) and some anarchists radio stations, which were all shut down allegedly as a result of political pressure.

247. Reporters Without Borders, *Greece: is the crisis in Greece a chance for its media?*, Investigation Report, August 2011. The NGO reports an emblematic case that occurred in August 2011, when the police cut off all internet access (both wi-fi and GSM networks) without any legal grounds as they evacuated 'Indignant Citizens' protesters from Syntagma Square. RSF also reports that this was not the first time the police had made use of such tactics to hamper demonstrations.

248. Ibid, pp. 18-20.

249. Reporters Without Borders, *ibid.* Internet search-engines are often forced by the government or the police to reveal the identity of their users, when they express criticism directed at the authorities. The absence of clear rules regulating on-line activities allows law enforcers to interpret existing legal tools to their liking. See also Christos Syllas, "Free speech takes a beating in Greece", 31 December 2013.

250. Amnesty International, "Greece: conviction of blogger another blow to freedom of expression", 20 January 2014, EUR 25/001/2014.

rights can be limited in certain circumstances, the criteria required under international law to allow for such limitations are not met in most cases. In this case, the 1951 anti-blasphemy law on which grounds Loizos was condemned aimed to protect the right to freedom of religion. However, under international law such protection cannot extend to having one's religious beliefs protected by the state against criticism or commentary. As such, the act committed by Loizos could hardly be considered as falling under the conditions required by international law for a lawful restriction on the right to free expression.

Media independence is also threatened in Greece. In a country where a considerable number of mainstream media have traditionally been controlled by a few magnates, press freedom has always been at risk.²⁵¹ However, the economic and financial crisis has brought to the surface and exacerbated the weaknesses of an already defective media market.²⁵² As substantial layoffs have also affected this sector, already low salaries have been further cut, making journalism one of the country's poorest-paid professions.²⁵³ Moreover, as the sector's collective labour agreements have expired and dismissal has loomed over both public and private media employees, media professionals have become increasingly vulnerable and exposed to increased and widespread self-censorship.

However, the most dramatic attack on freedom of expression and free and independent media in Greece was the June 2013 decision to shut down the Greek Public Radio and Television Broadcast Service ERT. The decision to close the state broadcaster was taken on 11 June 2013 and enacted by means of an emergency decree, which was passed with no discussion and no vote in parliament. Rumours had circulated in the weeks prior to ERT's closure that the state broadcaster would be shut down. *'We couldn't believe they would do it'* said ERT TV anchor-woman Marilena Katsimi, in an interview with FIDH.

Moreover, the process by which ERT was shut down was paved with irregularities, in having escaped parliamentary scrutiny and lacking transparency and accountability. Also, the prime minister ignored an order by the Council of State to immediately restore public broadcasting, a decision that also caused an internal crisis in the coalition government, with one party in the coalition walking out following refusal by the prime minister to comply with the highest court's order.²⁵⁴

ERT was purportedly closed due to 'a scandalous lack of transparency', abuses and waste by its workforce, and in order to meet the Troika's demands for 2,000 more public-sector cuts. Shutting down the state broadcaster, which resulted in the dismissal of 2,700 workers at six hours' notice, Minister Simos Kedikoglou said 'the party's over'. The statement was considered deeply offensive by former ERT employees, especially when most waste and corruption that afflicted ERT was allegedly attributable to questionable government choices in buying expensive programmes or hiring people.²⁵⁵ Although reforms may have been needed to address existing flaws, it is regrettable that these were not further thought through, to safeguard the right to free expression and information for both media professionals and the public.

Also, when looked at more carefully, ERT's closure has not resulted in savings but rather occasioned over 300 million euros of losses in compensation and rights.. Furthermore, it opened the way to private broadcasters to take over lucrative franchises that were left after ERT was dismantled to gain control

251. An unflattering report on Greek media by a former US envoy to the country, revealed by WikiLeaks, is among the best descriptions to date. In a secret dispatch to Washington, Charles P. Ries said that Greek media was run by a 'small group of people who have made, or inherited fortunes in shipping, banking, telecommunications, sports, oil, insurance, etc. and who are or have been related by blood, marriage or adultery to political and government officials and/or other media and business magnates'. Apotolis Fotiadis, "Greece: Social Media Advances Against Elite Owners", 16 September 2011, IPS, available at: <http://www.ipsnews.net/2011/09/greece-social-media-advances-against-elite-owners/>. As a consequence, Fotiadis reports that the Greek media has lost the public's confidence, as shown by a survey on trust in public institutions conducted in 2009.

252. Reporters Without Borders, *Greece: is the crisis in Greece a chance for its media?*, Investigation Report, August 2011.

253. Ibid.

254. Apotolis Fotiadis, "Analysis: What lurks beneath the closure of ERT", The Press Project, 7 November 2013, available at: <http://www.thepressproject.net/article/50544/Analysis-What-lurks-beneath-the-closure-of-ERT>

255. This included allegations about governments placing their supporters in key positions, as has long been common practice, according to many people interviewed by FIDH, throughout the public sector. See also Maria Margaronis, "Killing the messenger: Greek government shuts down the state broadcaster", The Nation, 11 June 2013.

over the future TV market and the information that reaches the public, in cooperation with politicians.²⁵⁶ The cessation of ERT's operations not only silenced the only, albeit flawed, public broadcaster in Greece but also paved the way for further closures in other public sector structures.

The black screen left on the ERT channel and the handcuffed gates at the entrance of the former broadcaster following its closure are among the most symbolic and powerful images conveying the dismay and concern around what remains of free speech and democracy in Greece today.

The 'New Hellenic Radio, Internet and Television' (NERIT) replaced ERT as the state-owned public broadcaster. NERIT officially started broadcasting on 4 May 2014 and is mainly funded by a three euro tax which is bundled with the electricity bill. It also receives monthly funding from the government²⁵⁷.

256. Apostolis Fotiadis, "Analysis: What lurks beneath the closure of ERT", The Press Project, 7 November 2013. Also, according to ERT's former technical director, employees of two private broadcasting companies, OTE and Digea – the latter only operating on provisory operating licences judged illegal by the Council of State – helped the police to close ERT's signal and set up numerical signal, which they transmit. He further stated that their directors have used their economic and political influence to participate in a governmental plan to gain control over Greek media. Nikos Mihalitsis, "Grèce, Le rôle des chaînes privées de télévision dans la fermeture d'ERT", EPT Open, 25 June 2013.

257. For more information see NERIT's website, in Greek at: <http://company.nerit.gr>

IV. Human rights obligations in a crisis situation: the ESCR case

Austerity supporters tend to claim that the human rights issues described in this report are a necessary evil that must be borne by Greeks in the public interest and to save the economy. Moreover, austerity measures have been presented as the only possible means of serving this public interest, and as the harsh but temporary solution to an emergency situation. Their impacts are therefore considered inevitable but acceptable collateral damage. This chapter will dismantle these assumptions. It will highlight that the austerity measures adopted by Greece on request from its international lenders fail to meet the criteria required for their negative human rights impacts to be acceptable under international law.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides not only guidance on how States should deal with financial crises within a human rights framework, but also includes legal obligations that they must abide by in such a context. Article 2 of the ICESCR makes clear that States Parties to the Covenant must “take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of [their] available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means.” The ICESCR also requires States Parties to demonstrate that they strive at all times to meet minimum core obligations to provide the minimum essential levels of each of the rights in the Covenant.²⁵⁸

With respect to minimum core obligations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) has long held that “any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. (...)

However, it has emphasized that “even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances”.²⁵⁹ It has made clear that: “In order for a State Party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.”²⁶⁰

These interpretative positions make it clear that scarcity of resources imposes both a duty of ‘efficient use’ of those resources available, and a duty of ‘public justification’ particularly when, as in the case of Greece, clearly regressive measures have been adopted and negative impacts on the enjoyment of rights have accrued.

Furthermore, the Committee has addressed the rolling back of legislation, policies or practices aimed at fulfilling rights, as well as cuts in allocation of resources necessary to implement those laws, policies and practices. In its General Comment No. 3, the Committee states that “any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.” Here, the burden of proof is on the State Party to demonstrate that

258. Committee on Economic, Social and Cultural Rights, General Comment No. 3, The nature of States parties’ obligations (Fifth session, 1990), U.N. Doc. E/1991/23, annex III at 86 (1990), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 14 (2003) at para. 10

259. *Ibid.*

260. *Ibid.*

the retrogressive steps taken were (1) essential in the public interest, (2) narrowly tailored to meet that interest while causing the least harm, (3) that the retrogressive actions are time bound and applicable only to the present crisis situation, and (4) that those affected could actively, freely and meaningfully participate in decisions on how best to address the crisis.

From a human rights perspective, austerity measures can be considered retrogressive measures. As such, they are subject to heightened scrutiny. Maria Virginia Bras Gomes, a member of the CESCR, has highlighted that “[w]hen countries claimed that they did not have adequate resources, you normally saw that it was probably not that they did not have the resources, but it was because these rights had not been considered a priority, and therefore domestic investment was not based on such a priority.”²⁶¹

The United Nations Office of the High Commission for Human Rights (OHCHR) recently provided detailed compliance criteria for the imposition of austerity measures that take into account the human rights framework.²⁶² These compliance criteria are particularly useful in examining State compliance with human rights obligations in these contexts. The criteria lay out five broad areas that must be taken into consideration to prevent human rights violations in the implementation of austerity or otherwise retrogressive measures. Firstly, austerity measures must only be considered to address the existence of a compelling State interest; secondly, the necessity, reasonableness, temporariness and proportionality of austerity measures must be considered; thirdly, there must be no other feasible alternative or less restrictive measure that could respond to the compelling State interest; fourth, the measures must be non-discriminatory; fifth, the protection of a minimum core content of each right must be a component of the measures; and finally, there must be genuine participation of affected groups and individuals in determining the measures and considering these criteria.

IV. 1 Assessment of Greece’s austerity measures against human rights standards

a) General measures

Applying these criteria to Greek austerity measures demonstrates that both Greece and other actors, including other states with relevant extra-territorial human rights obligations, have failed to react to the crisis in a manner that is human rights compliant.

Firstly, whilst addressing financial crisis can indeed be considered a compelling State interest, OHCHR’s commentary to its criteria states that such compelling interest must be assessed “by reference to the totality of the rights provided for in the [ICESCR] and in the context of the full use of the maximum available resources.” Furthermore, it places the burden of proof on the state to demonstrate that “austerity measures are justified when factors beyond its control have led to a decrease in the available resources.” Even here, austerity measures should affect those who are better off with a view to maintaining existing levels of rights enjoyment for more vulnerable members of society. Even if the financial crisis was substantially caused by factors beyond Greece’s control, and led to a decrease in available resources, Greece has failed to establish that in this context it has made full use of its maximum available resources in order not to violate human rights. Indeed, FIDH’s mission has found that the rights enjoyment of those most economically vulnerable has substantially deteriorated as a consequence of austerity measures. Greece has thus failed to abide by the first criterion.

The second and fourth criteria (namely: necessity, reasonableness, temporariness and proportionality, and non-discrimination) are interrelated in the Greek context. Greek austerity measures are both unreasonable and disproportionate, particularly in disproportionately impacting on already marginalized and vulnerable groups. This finding is substantiated by the European Parliament, as discussed below. As a result, the austerity measures have had a discriminatory effect based on socio-economic status, in contravention of international law. Furthermore, the measures are not time bound; as implemented,

261. As quoted in: Programme on Women’s Economic, Social and Cultural Rights (PWESCR), *Global Financial and Economic Crisis and its Impact on Women: A Human Rights Perspective*, 2011.

262. Office of the High Commissioner for Human Rights, *Report on Austerity Measures and Economic and Social Rights*, submitted pursuant to UN General Assembly resolution 48/141 (2012).

they indicate a more structural shift than a temporary solution to a temporary crisis, as required under human rights law.

The third and sixth criteria are also interrelated. Specifically, Greece has failed to demonstrate that it explored all other feasible alternatives or less restrictive measures to respond to the financial crisis²⁶³, and has clearly failed to involve the genuine participation of those affected or provide access to the information necessary for those individuals and groups to meaningfully participate. The criteria reaffirm that “the degree of genuine participation of affected groups and individuals in examining the proposed austerity measures and alternatives is highly relevant to the necessity and permissibility of those measures”²⁶⁴ under the ICESCR.

As to the obligation to maintain a minimum core of each right, the Committee on Economic, Social and Cultural Rights’ Concluding Observations on Spain from 2012 are relevant. Here, the Committee expressed concern that the levels of effective protection for the rights enshrined in the Covenant have been reduced as a result of the austerity measures adopted by the State party, which disproportionately curtail the enjoyment of their rights by disadvantaged and marginalized individuals and groups, especially the poor, women, children, persons with disabilities, unemployed adults and young persons, older persons, gypsies, migrants and asylum seekers.²⁶⁵ The Committee went on to recommend that Spain “ensure that all the austerity measures adopted reflect the minimum core content of all the Covenant rights and that it take all appropriate measures to protect that core content under any circumstances, especially for disadvantaged and marginalized individuals and groups”.²⁶⁶ It recommended that in order to do so the state “compile disaggregated statistical information with a view to identifying the individuals and groups affected and that it increase the effectiveness of its efforts to protect their economic, social and cultural rights.”²⁶⁷

The mission has found that Greece’s austerity measures fail to meet the country’s minimum core obligations, including for the rights to work and to the highest attainable standard of health, as examined in greater detail below. This finding was affirmed by the European Parliament. Greece has also failed to ensure that disaggregated data is available, as recommended by the CESCR in its Concluding Observations on Spain. On the contrary, the fact-finding team often faced difficulties gathering disaggregated statistical information to document the impact of the crisis on human rights, including on marginalised and vulnerable groups.

The European Committee of Social Rights has also considered the effect of austerity measures taken as a whole, the process by which they were adopted, and the fact that they have generally been imposed by inter-governmental organizations. With respect to the right to social security, guaranteed by Article 12 of the European Social Charter, the Committee has held that: “Even though restrictions to the benefits available in a national social security system do not under certain conditions breach the Charter, the cumulative effect of restrictions made as austerity measures, together with the procedures applied to put them into place, amounted to a violation of the right to social security.” In arriving at this finding, the Committee considered that even though severe legal restrictions were imposed on Greece by the Troika, Greece still retained its legal obligations under the Charter. The Committee took into account the financial crisis faced by Greece, but ultimately found the state in violation of Article 12(3). It stated that:

263. Counter-cyclical approaches in general have “helped to reduce the depth and duration of the impact and to leverage a more rapid recovery.” ECLAC/ILO, *Countercyclical policies for a sustained recovery in employment, The employment situation in Latin America and the Caribbean*, Issue No. 5, June 2011. In relation to specific marginalized and vulnerable groups, counter-cyclical approaches have also proven to be protective. UN-Women, for example, has also found that maintaining public investment and social spending can help to counter the worst effects of the recession on women and fuel economic recovery, stating that “There is a wealth of evidence to support this and to draw upon for a better policy response ». Speech by Michelle Bachelet, United Nations Under-Secretary-General and Executive Director of UN Women, at the economics symposium “Critical perspectives on Financial and Economic Crises : Why Gender Matters”, held in New York on 21-22 January 2013. UN-Women has also said that ‘A crucial point that is often overlooked is that public programmes and interventions in the labour market to provide social protections are not just welfare measures – they are important counter-cyclical buffers that reduce or prevent downturns and enable faster recovery’.

264. Committee on Economic, Social and Cultural Rights, *General Comment No. 19*, para. 42.

265. Committee on Economic, Social and Cultural Rights, *Concluding Observations: Spain*, UN Doc. E/C.12/ESP/CO/5 (6 June 2012) at para. 8.

266. *Ibid.*

267. *Ibid.*

Despite the particular context in Greece created by the economic crisis and the fact that the Government was required to take urgent decisions, the Government has not conducted the minimum level of research and analysis into the effects of such far-reaching measures that is necessary to assess in a meaningful manner their full impact on vulnerable groups in society. Neither has it discussed the available studies with the organisations concerned, despite the fact that they represent the interests of many of the groups most affected by the measures at issue.

It has not been discovered whether other measures could have been put in place, which may have limited the cumulative effects of the contested restrictions upon pensioners.

b) Right to work

As the previous section highlights, draconian cuts were made to public sector employment. These cuts had a disproportionate impact on less fortunate segments of society. As emphasised by the European Parliament, they have failed “to protect the most vulnerable against poverty, in-work poverty and social exclusion” and in fact “the most vulnerable groups in the labour market are those which are suffering most: young people, the long-term unemployed, women, immigrants and persons with disabilities.”²⁶⁸

Regarding the genuine participation of affected groups, the European Parliament has confirmed the mission findings in pointing out what amounts to a violation of social rights, when it emphasized that:

Social dialogue has perhaps been the principal victim of the programmes. [...] social agents at national level have been neither consulted nor included in the process of designing the programmes and, furthermore, [...] their autonomy has been undermined through the automatic renewal of collective agreements, revision of sectoral agreements and the introduction of laws freezing or reducing minimum wages established in collective bargaining agreements.²⁶⁹

Furthermore, the austerity measures impacting the right to work failed to take into account the criteria related to reasonableness and temporariness. The mission’s findings illustrate that cuts were not reasonable as they were made horizontally without regard to what would be reasonable in the circumstances. They also are not temporary but, again, appear to be a permanent and structural shift negatively affecting the right to work. Finally, less restrictive measures were not considered that could have addressed any compelling state interest while preserving elements of the right.

c) Right to health

Again, the European Parliament endorsed the findings of this report in expressing its concern that “among the conditions for financial assistance, the programmes include recommendations for specific cuts in real social spending in fundamental areas, such as ... health care and, in some cases, pharmaceutical products for the basic protection of the most vulnerable.” Specifically, the Parliament expressed concern at “cutbacks in access to healthcare and medicines ... and ... increased co-payment, higher prices for medicines and wage and staff reductions in health centres.”²⁷⁰ Like the right to work, these austerity measures affecting the right to health are not time bound and disproportionately impact more vulnerable populations. Also, less restrictive measures were not considered and the affected persons and groups were not allowed to meaningfully participate in decisions regarding responses to the financial crisis. Consequently, austerity measures in the health sector also amount to violations of social rights guaranteed by the ICESCR and the European Social Charter.

268. European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries*, 13 March 2014.

269. Ibid.

270. Ibid.

V. Who is responsible?

V. 1 Overview

Determining responsibility for the human rights violations observed during the fact-finding mission in Greece and documented in this report is of the utmost importance. Given the multiplicity of potentially responsible actors involved, this is particularly so in the context of austerity policies promoted by the European Union.

Beyond the somewhat narrower question of *legal responsibility*, ensuring *accountability* in a broader sense is also necessary if the commitment of the European Union, its institutions and agencies, as well as that of its member states to upholding human rights and democracy, is to remain credible in the eyes of the European *demos*. As recent European elections have vividly illustrated, widespread discontent with crisis governance threatens to fundamentally challenge the continued relevance of the European project.

In this chapter, the responsibility of four different sets of actors is discussed. The widespread and systemic denial of a broad set of fundamental rights in Greece following the financial crisis – as detailed in previous sections – is the product of the joint and separate contributions of these different actors. Indeed, the tragic denial of rights that the mission observed and documented in Greece could not have come to be without the contributions of Greece, other EU Member-States and, in particular, members of the Eurogroup,²⁷¹ as well as European Union and its institutions and bodies, such as the Commission and the ECB, and other, non-European international financial institutions, such as the IMF. The responsibility of these four actors is shared on the grounds that they jointly *designed, negotiated, funded and implemented* the two economic assistance programmes undertaken by Greece which are at the source of the observed violations.

I. Greece, as the sovereign state of the territory on which austerity measures were implemented, holds *primary responsibility* for failing to uphold its obligations to respect, protect and fulfil the human rights of all those under its jurisdiction. Its responsibility for the violations observed by the fact-finding mission calls for no particular qualification: Greece's territorial competence is unquestionable, and entails its legal responsibility as well as its political and moral accountability.

II. Other EU Member States that took part in the negotiation, conclusion and financing of the adjustment programmes had both a positive and a negative obligation to assist Greece in meeting its human rights obligations. These general obligations – derived from the UN Charter and the International Covenant on Economic Social and Cultural Rights – include, at least, a specific duty to 'do no harm': EU Member States must abstain from impairing Greece's capacity to respect its international human rights commitments. These duties ought to have been discharged through participation in the Troika deliberations that led to the adoption of the economic assistance programmes – by framing the programme in a way that accounted for human rights obligations – and, failing this, by refusal to take part in adjustment programmes that knowingly led to widespread rights violations.

III. The European Union, being an organisation that enjoys a legal personality distinct from that of its members, ought also to be held accountable. Its accountability and responsibility are derived, on the one hand, from EU primary law, as reflected in founding instruments of the Union, as well as, on the other, from customary rules of international law on the responsibility of international organisations and universal human rights standards that the EU has pledged to uphold and protect.

271. The Eurogroup, the main forum for the management of the single currency area, is an informal body that brings together the finance ministers of countries whose currency is the euro. The Commission's Vice-President for Economic and Monetary Affairs, as well as the President of the European Central Bank, also participate in Eurogroup meetings. The Eurogroup's role is to ensure close coordination of economic policies within the euro area. It also aims to promote conditions for stronger economic growth, as well as to promote financial stability. As part of its duties, the Eurogroup prepares Euro Summit meetings and ensures their follow-up. It usually meets once a month, on the eve of the meeting of the Council of the European Union (Economic and Financial Affairs - ECOFIN). For more information on the Eurogroup see: <http://eurozone.europa.eu/eurogroup/>

IV. **International financial institutions** involved in the negotiation and financing of Greece's first and second economic assistance programmes, most notably the International Monetary Fund (IMF), must also be subject to scrutiny. As a subject of international law, the IMF it is required to consider whether or not its actions or omissions constitute, or contribute to, violations of customary international rules, including in the field of human rights. Additionally, as a specialised agency of the United Nations, the IMF is obliged not to defeat the purposes of the UN Charter and must work to further, and not undermine, its objectives²⁷². Under Articles 57 and 59 of the UN Charter, the objective of creating specialised agencies or bringing them into a relationship with the United Nations is to achieve the purposes set out in Article 55 of the UN Charter. These include the promotion of 'universal respect for, and observance of, human rights and fundamental freedoms for all'²⁷³

The principles of shared responsibility developed in this chapter, as a statement of the law as it currently stands, should be considered grounds to ensure *accountability* even in those cases where finding responsibility and imposing liability on responsible actors may prove elusive due to the potential weakness of human rights enforcement mechanisms. In this respect, the recommendations with which this report closes, are to be seen as principles that should guide the future conduct of the relevant actors in order to prevent widespread human rights violations occasioned by financial crisis in Greece or elsewhere.

V. 2 Territorial Responsibility: Greece

By ratifying a number of international human rights instruments, Greece has committed to implementing its obligation to respect, protect and fulfil the entire set of rights contained therein. This obligation should be discharged by enacting relevant legislation or other forms of regulation, providing basic public services, and establishing an enabling environment for the realization of rights.

The economic crisis gripping Greece is not a circumstance excusing wrongful State conduct under international law *per se*. The Greek government has attempted to justify some of its human rights performance on the grounds that adjustment measures were either necessary or taken under conditions of duress, and that no other feasible alternative or less restrictive measure was available that would respond to the compelling state interest whilst safeguarding the minimum core content of the rights. In spite of these claims, the criteria required to demonstrate the proportionality and necessity of the austerity measures have not been met, as outlined above.

Certain austerity measures adopted by Greece to satisfy the requirements of European economic assistance programmes have already been considered incompatible with international instruments ratified by Greece.²⁷⁴ Indeed, whilst Greece's financial difficulties may be taken into account when assessing efforts made by the state to meet its human rights obligations, particularly regarding ESCR, such financial constraints do not excuse non-compliance with human rights obligations. In particular, Greece must at least uphold its minimum core obligations and ensure the enjoyment of all rights without discrimination. This obligation is immediate in that it is not subject to progressive realization. Moreover, even with respect to those obligations that *are* subject to progressive realization, Greece is still bound by the procedural obligations of proving that it has used its limited resources in an effective manner, and justifying that any regressive measures adopted are necessary (i.e., the least rights-infringing option available) and effective to reach the legitimate goal of protecting the State's financial stability.

272. See eg Mac Darrow, *Between Light and Shadow : The World Bank, The International Monetary Fund and International Human Rights Law*, pp. 127-133, Oxford: Hart Publishing, 2003.

273. Charter of the United Nations, Article 55 (c). Other human rights obligations are enshrined in Article 1 and Article 56 of the UN Charter, and these too are binding upon all member states of the United Nations. Article 1(3) states that the "purposes and principles" of the United Nations is "to achieve international co-operation in ... promoting and encouraging respect for human rights and for fundamental freedoms for all". While Article 56 states that "all Members pledge themselves to take joint and separate action ... for the achievement of the purposes set forth in Article 55".

274. European Committee of Social Rights, *Panhellenic Federation of Public Service Pensioners (POPS) v. Greece*, Collective Complaint No. 77/2012, decision on the merits (7 December 2012). European Committee of Social Rights, Conclusions XX-I (2012) (GREECE). Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina (Mission to Greece 22-27 April 2013), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/118/82/PDF/G1411882.pdf?OpenElement>.

Retrogressive measures require the most careful consideration and must be fully justified by reference to all the rights provided for in the Covenant (or Charter), and in the context of the full use of the maximum available resources.²⁷⁵

V. 3 Extraterritorial obligations: an overview

The human rights obligations of states are not limited to conduct taking place or producing effects within their territories. Moreover, international organisations also have human rights responsibilities when they operate on the territory of their members or when their conduct affects territories outwith the scope of the organisation's membership. As such, extra-territorial obligations apply in "situations in which the State, acting separately or jointly, whether through its executive, legislative or judicial branches, is in a position to exercise decisive influence or to take measures to realise economic, social and cultural rights extraterritorially."²⁷⁶

The extraterritorial human rights obligations of states derive from a number of sources in both treaty and customary international law. Under Article 56 of the UN Charter, UN Member States pledge to take joint and separate action to achieve the purposes set out in the Charter's Article 55, namely the promotion of "conditions of economic and social progress and development" as well as "universal respect for, and observance of human rights and fundamental freedoms for all" without discrimination. The Charter's reference to human rights was completed in 1948 with the adoption of the Universal Declaration on Human Rights.²⁷⁷ Under the Declaration, Article 28 asserts that all states have a duty to establish a "social and international order in which the rights and freedoms set forth in this Declaration can be fully realized". In particular, States have a duty to ensure the right of all persons to realize "through national effort and international co-operation" the economic, social and cultural rights indispensable for their dignity and for the free development of their personality.²⁷⁸ These provisions, read together, clearly establish a duty of cooperation that seeks to realize a world order in which human rights, one of the core objectives of the UN, can be fully realized for all persons, in all states.

This obligation of international cooperation was further clarified with the adoption and widespread ratification of the two principle international human rights covenants (also known as the International Bill of Rights). Article 23 of the ICESCR explicitly requires states to achieve the progressive realization of the rights contained therein by "such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding [of meetings]". This further evidences that treaty-making, and other international coordination measures, should be conducive to enhancing the realization of Covenant rights. As such, where international cooperation has regressive consequences, this could, in and of itself, breach the Covenant.

Beyond these treaty law provisions, a number of universally accepted UN General Assembly declarations adopted since the advent of the International Bill of Rights constitute subsequent practice in the application of these treaties, and must therefore be taken into account in interpreting their provisions.²⁷⁹

275. Committee on Economic, Social and Cultural Rights, *General Observation No. 3 (The nature of States parties' obligations (art. 2, para. 1, of the Covenant))*, adopted in document E/1991/23, para. 9.

276. Maastricht Principles on Extra-Territorial Obligations of States in the area of Economic, Social and Cultural Rights, Principle 9 (2011).

277. Universal Declaration of Human Rights, General Assembly Resolution 217A (III), 10 December 1948, UN document A/810 (1948).

278. *Ibid.*

279. Vienna Convention on the Law of Treaties, adopted 23 May 1969, 1155 UNTS 331, Article 31(3)(b)

Most notable amongst these declarations are the 1986 Declaration on the Right to Development,²⁸⁰ and the Millennium Declaration.²⁸¹

Moreover, when acting through international organisations, States can be responsible for circumventing their own obligations by having the organisation undertake an internationally wrongful act or bind other states to carry out such an act.²⁸² Under Article 61(1) of the International Law Commission's Draft Articles on the Responsibility of International Organizations:

a State member of an international organization incurs international responsibility if, by taking advantage of the fact that the organization has competence in relation to the subject-matter of one of the State's international obligations, it circumvents that obligation by causing the organization to commit an act that, if committed by the State, would have constituted a breach of the obligation.

As such, a State cannot avoid responsibility by vesting competence for a specific policy area in an international organisation, and then having the organisation commit a breach of the State's international obligations. This provision is particularly pertinent to the conduct of States in the decision-making processes of EU institutions and the IMF.

Indeed, the Maastricht Principles on Extra-Territorial Obligations of States in the area of Economic, Social and Cultural Rights make clear that extra-territorial obligations apply to the Member States of inter-governmental organizations such as the European Union and the IMF²⁸³. Specifically, Principle 15 of the Maastricht Principles reaffirms that:

As a member of an international organisation, the State remains responsible for its own conduct in relation to its human rights obligations within its territory and extra-territorially. A State

280. UN General Assembly, *Declaration on the Right to Development*, adopted 4 December 1986 (A/RES/41/128). Like the Universal Declaration of Human Rights, the Declaration on the Right to Development is an authoritative interpretation of state duty to accomplish "higher standards of living, full employment, and conditions of economic and social progress and development" (UN Charter, Article 55[b]). Article 1 of the Declaration defines the concept of development as ensuring that "every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized". Article 3 places the 'primary responsibility' for ensuring the realization of development on States, requiring them to establish "national and international conditions favourable to the realization of the right to development". Furthermore, under Article 3(3), States are required to co-operate in order to eliminate obstacles to development, thereby promoting "a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States".

281. UN General Assembly, *United Nations Millennium Declaration*, adopted 8 September 2000 (A/RES/55/2). The Millennium Declaration, adopted unanimously by the assembled Heads of States and Governments, recognized that States share responsibility for managing worldwide social and economic development (para. 6) and reaffirmed their resolve "to create an environment – at the national and global levels alike – which is conducive to development and to the elimination of poverty" (para 12).

282. International Law Commission, *Draft Articles on the Responsibility of International Organizations*, annexed to UN General Assembly Resolution 66/100, 27 February 2012 (A/RES/66/100).

283. The Maastricht Principles on Extra-Territorial Obligations of States in the area of Economic, Social and Cultural Rights are guidelines produced in 2011 by leading specialists in human rights and international law regarding extra-territorial obligations. They have since been applied by several United Nations Special Procedures. This includes the Special Rapporteur on the human right to safe drinking water and sanitation (UN Human Rights Council, *Report of the Special Rapporteur on the human right to safe drinking water and sanitation: Common violations of the human rights to water and sanitation*, UN Doc. A/HRC/27/55, 30 June 2014, paras. 70-72, 82; UN Human Rights Council, *Report of the Special Rapporteur on the human right to safe drinking water and sanitation*, UN Doc. A/68/264, 5 August 2013, para. 46), the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (UN Human Rights Council, *Preliminary Report of the Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment*, UN Doc. A/HRC/22/43, 24 December 2012, paras. 47-48, and UN Human Rights Council, *Mapping Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, UN Doc. A/HRC/25/53, 30 December 2013, paras. 62-68) and the Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights, particularly economic, social and cultural rights (UN Human Rights Council, *Final Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights*, UN Doc. A/HRC/25/52, 7 March 2014, paras. 35-42). It also includes a joint statement by the Special UN Special Rapporteur on the human right to safe drinking water and sanitation, the Special Rapporteur on extreme poverty and human rights, the Special Rapporteur on the right to food and the independent expert on human rights and international solidarity (OHCHR, "Press Release: Human Rights beyond borders: UN experts call on world governments to be guided by the Maastricht Principles", 26 September 2013).

that transfers competences to, or participates in, an international organisation must take all reasonable steps to ensure that the relevant organisation acts consistently with the international human rights obligations of that State.²⁸⁴

The responsibility of States to uphold human rights and promote development beyond their own borders is therefore a clearly established international norm. Although primary responsibility for guaranteeing human rights remains firmly in the hands of the State in respect of those within its jurisdiction, this does not exclude the concurrent responsibility of other state actors in a position to positively influence outcomes in that State.

Although international organizations lack territory and general competence (i.e. legal authority to act in any domain of their choice), this does not mean that such organisations cannot be held responsible for breaching obligations that they have freely taken on, or that they bear under international law. Most international organisations have not ratified international human rights treaties or the UN Charter.²⁸⁵ The human rights obligations of international organizations are therefore more often found in customary international law and general principles of international law. Indeed, all subjects of international law are subject to certain customary rules regarding human rights. These rules can have an *erga omnes* character (i.e. consist of obligations owed by all to the international community as a whole), and some are also peremptory in the sense that they cannot be breached under any circumstance by any international actor. International organisations are therefore bound by certain obligations regardless of whether they have ratified treaties to this effect.

V. 4 Instances of Extraterritorial Responsibility: EU Member States

In addressing the accountability of EU Member States – as co-responsible actors – for the severe deterioration of the human rights situation in Greece, three distinct sets of obligation come into play. Firstly, EU Member States have failed to directly discharge their duty to co-operate under Articles 55 and 56 of the UN Charter and the International Bill of Rights, specifically Article 2(1) of the ICESCR. Secondly, EU Member States provided aid and assistance to Greece as part of a programme that all parties knew, or ought to have known, would breach the country's international obligations in respect of those under its jurisdiction. Thirdly, by using the European Union, the European Stability Mechanism and its predecessors, and the IMF, to condition Greece's access to vital financial resources on conditions that, had they been imposed by Member States jointly or individually, would constitute breach of their obligations under the afore-mentioned provisions, Member States engage their own international responsibility for such violations.

The obligation of cooperation discussed above is an obligation of means, i.e. States are not required to achieve a specific result but must act in a certain way to bring about the realization of the normative goal. Notably, it is not generally considered to impose an obligation on States to provide financial assistance, such as concessional or non-concessional loans, guarantees or other forms of economic support. However, where States provide such assistance they are required to do so in a manner consistent with their own and the recipient state's human rights obligations.

Whilst the obligation of cooperation may not provide a general blueprint for the realization of rights, States' margin of appreciation in implementing it is nonetheless subject to certain bounds. These include the need to ensure respect, under all circumstances, for the core minimum content of rights and to implement these rights in a non-discriminatory manner. Moreover,, states are obliged not to impose economic or social arrangements on each other that would cause regression in the realization of human rights, including the right to development, within their territories. These minimum requirements, though not absolute, require at least that decisions be justified and that they respect the basic normative standards embodied in the human rights principles of participation, accountability, non-discrimination, and transparency.²⁸⁶

284. Maastricht Principles on Extra-Territorial Obligations, Principle 15.

285. Certain exceptions exist, such as the ratification of the UN Convention on Persons with Disabilities of 2006 by the European Union, and the imminent accession of the same regional organization to the European Convention on Human Rights.

286. See OHCHR, *Analytical study of the High Commissioner for Human Rights on the fundamental principle of participation and its application in the context of globalization*, 23 December 2004, E/CN.4/2005/41. See also OHCHR, *Good Governance Practices for the Protection of Human Rights*, 2007, HR/PUB/07/4.

These principles set, at a bare minimum, a number of procedural requirements. These demand that states inform the public of their policy choices and the rationale underpinning them. Measures proposed must be compared to alternatives ('business as usual' scenarios, as well as alternative policy options) and policy measures must then be discussed transparently and openly, in a timely fashion, prior to their adoption. Finally, public participation in discussing policy measures to be adopted must be inclusive and meaningful. The 'two-tiered approach' used for Eurozone bail-outs, like in Greece, is incompatible with these principles. Under this approach, higher policy objectives are dictated unilaterally by the EU and the IMF, and States are reduced to taking 'ownership' of these objectives through unilateral pledges to adopt a raft of adjustment measures (which are then simply acknowledged by a Council decision). This procedure renders the effective participation of affected populations and open and transparent discussion of alternatives impossible.²⁸⁷ As such, it renders the adopted measures highly questionable from a human rights perspective. Although Greece agreed to the objectives set by the Troika by signing Memorandums of Understanding, it was subject to considerable pressure to adopt the measures that would enable it to attain these objectives in a short time. In particular, making the release of Greece's loan conditional on the implementation of measures to attain these goals and the short time frames imposed for their realisation, which did not allow for any further discussion or consultation, significantly reduced Greece's capacity to ensure respect for human rights principles in practice and created an imbalance of negotiating powers in favour of international lenders.

EU Member States could and should have insisted, through their voting and other conduct in the EU Council, that any programmes proposed in respect of Greece scrupulously respect the procedural and substantive requirements of international human rights law. Even if a given Member State was not in a position, due to its economic size or voting powers, to influence the conclusion of a structural adjustment programme, it could and, as a matter of law, *should* have opted out of the programme by declining to fund the assistance package. In fact, Slovakia's decision to opt out of the Greek Loan Facility structure in which bilateral loans were pooled by EU Member States to finance Greece's first economic assistance package for reasons unrelated to human rights, vividly illustrates that States were not necessarily bound to finance the programme. In sum, States retained the capacity to influence the terms and conditions being offered to Greece and could presumably have opted out of schemes they considered incompatible with their other international obligations.

A second level of responsibility for EU Member States derives from the fact that by providing aid and assistance to Greece in the implementation of structural adjustment programmes, they knowingly and substantially contributed to the rights violations committed by Greece. This principle of ancillary or derivative responsibility,²⁸⁸ embodied in Article 16 of the Articles on State Responsibility, and recognized as part of international customary law,²⁸⁹ provides that a State that aids another State in the commission of an internationally wrongful act, such as a breach of its human rights obligations, is responsible for doing so where two conditions are met: (1) that the aiding State does so with knowledge of the circumstances of the internationally wrongful act, and (2) that the act would be internationally wrongful if committed by that State. With respect to the latter requirement, all Eurozone states have ratified both International Human Rights Covenants, the European Convention on Human Rights, and the European Social Charter. In respect to the former requirement, States knew, or ought to have known, that the implementation of the MoU was very likely to breach a considerable number of Greece's international obligations with respect to human rights. Economic assistance was provided as incitement for Greece to reform, and was conditioned on Greece's full compliance with the conditions imposed by

287. It is worth noting that in more recent EU acts, this 'participation deficit' is acknowledged and measures are taken to minimize it. For instance, in *Regulation 472/2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability*, of 21 May 2013, states requesting financial assistance will draft macroeconomic adjustment programmes in liaison with the Commission, the ECB and, where appropriate, with the IMF, and such programmes 'shall fully observe Article 152 TFEU [facilitation of dialogue with social partners] and Article 28 of the Charter of Fundamental Rights of the European Union [right of collective action and bargaining]' (Article 7(1)). Moreover, Article 7(7)(2) provides that '[t]he budgetary consolidation efforts set out in the macroeconomic adjustment programme shall take into account the need to ensure sufficient means for fundamental policies, such as education and health care.'. Although such provisions are a welcome development, they are inapposite in the case of Greece, for which adjustment plans were adopted without any such concerns.

288. See ILC, *Report of the International Law Commission on the work of its fifty-third session (A/56/10)*, 3 April-1 June and 2 July-10 August 2001, p 64.

289. ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, at para. 420.

the Troika. That there could be no disbursements without strict adherence to the conditions implied, of necessity, that the violation of human rights was at least foreseeable.

Thirdly, the use of different intergovernmental agencies and organs by EU Member States to negotiate, fund and implement the adjustment programmes in Greece, thereby establishing a veil between their actions and the human rights impacts discussed in this report, constitutes a deliberate attempt to circumvent their obligations through the intermediary of these organs and agencies. The Draft Articles on the Responsibility of International Organizations²⁹⁰ state in Article 61, that a “member of an international organization incurs international responsibility if, by taking advantage of the fact that the organization has competence in relation to the subject-matter of one of the State’s international obligations, it circumvents that obligation by causing the organization to commit an act that, if committed by the State, would have constituted a breach of the obligation”.

In the circumstances of structural adjustment lending in the Eurozone, Member States have jointly enabled successive organs²⁹¹ to undertake the negotiation and conclusion of agreements, the monitoring of compliance, and the disbursement of funds and extension of other facilities. This complex architecture, beyond providing a convenient smokescreen for the conduct of states, is also designed to render the discrete acts implementing the adjustment programmes unassailable by judicial review or political accountability at the domestic or European level.

V. 5 Instances of Extraterritorial responsibility: the European Union, its institutions and agencies

The responsibility of the EU may be engaged on legal grounds distinct from those of its members. The EU is committed, under Articles 2, 3(1),(3) and (5), and 6 of the Treaty on the European Union (TEU), to “the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” and to “promote [...] the well-being of its peoples”, “combat social exclusion and discrimination, and [...] promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child”. Article 6 TEU provides that the Union recognises the rights, freedoms and principles set out in the EU Charter of Fundamental Rights (article 6.1) and that “fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union’s law” (article 6.3) Furthermore, Article 151 of the Treaty on the Functioning of the European Union (TFEU) states that “the Union and the Member States [...] shall have as their objectives the promotion of employment, improved living and working conditions”.

The EU is equally bound by customary rules of international law. The Court of Justice of the European Union (ECJ) has held that “[u]nder Article 3(5) TEU, the European Union is to contribute to the strict observance and the development of international law. Consequently, when it adopts an act, it is bound to observe international law in its entirety, including customary international law, which is binding upon the institutions of the European Union”.²⁹²

Financial assistance arrangements were deliberately structured outside of the European Union in order to guarantee that Member States, the ECB, and the Union did not breach TFEU provisions prohibiting financial assistance. This is because it was feared that the direct provision of financial assistance by

290. International Law Commission, *Draft Articles on the Responsibility of International Organizations*, annexed to UN General Assembly Resolution 66/100, of 27 February 2012 (A/RES/66/100).

291. For Greece’s first economic assistance package, the European Commission was charged by Council Decision 2010/320/EU of 10 May 2010, recital (8) and Article 4(3). For the second economic assistance package, and in particular for the Greek debt buyback operation of 2012, bank recapitalization measures, and further government financing needs, funds were made available through the intermediary of the European Financial Stability Facility. This organization, a special purpose vehicle, was established on 7 June 2010 by an intergovernmental agreement (EFSF framework agreement) of the Eurogroup Member States in the form of a joint-stock company (‘société anonyme’) under Luxembourg law, originally conceived with a lifespan of three years. This structure was later integrated into the permanent European Stability Mechanism.

292. See, ECJ, Case C-366/10 *Air Transport Association of America and Others v. Secretary of State for Energy and Climate Change* (Reference for a preliminary ruling), Judgment of the Court (Grand Chamber) of 21 December 2011, para. 101.

States would have infringed the ‘no-bail out clause’ contained in Article 125 of the TFEU.²⁹³ Moreover, under Article 122 the EU itself would have been prohibited from granting financial aid to states except in narrow circumstances, whilst under Article 123 TFEU, the ECB and national central banks were prevented from extending overdraft facilities or any other types of credit facility to public authorities and EU or members state bodies, or directly purchasing debt instruments from Member States.

The provision of economic assistance by Member States outside the complex institutional architecture that was created to this purpose would have been in breach of European law. In its *Pringle* ruling, the Court of Justice of the European Union (CJEU) confirmed that when carrying out policies in the field of financial stabilization, European institutions were acting “outside the framework of the Union”.²⁹⁴ The judgment recalled that in carrying out these tasks the mandates for these institutions “do not entail any power to make decisions of their own [...]”, and that their activities “within the [European Stabilisation Mechanism] Treaty²⁹⁵ solely commit the ESM”.²⁹⁶ This reasoning arguably holds in respect of other kinds of arrangement that preceded the ESM, such as those framing Greek economic assistance packages. Yet, the evolution of this institutional architecture between 2010 to 2013, has seen it grant certain EU institutions, most notably the Commission and the ECB, exclusive competence to negotiate adjustment programmes, monitor them, and effect disbursements to conditionality-compliant states. Thus, without the intermediation of these institutions, the adjustment programmes that are at the root of Greece’s human rights violations could not have been affected. Their contribution to human rights violations in Greece was therefore not only direct and sufficient in causal terms, but was also indispensable in institutional terms.

By allowing its institutions and bodies (namely, the Commission and the ECB) to be placed at the disposal of a group of States seeking to incite Greece to adopt policies that will foreseeably violate its human rights obligations, the EU has violated its obligations under Article 2, 3(1), (3) and (5) and 6 of the Treaty on the European Union. Indeed, the EU has breached its obligations towards its Member States, most notably Greece, by failing to respect its own founding values, which include respect for human rights, and circumventing its own obligation to uphold human rights - as enshrined in the EU Charter for Fundamental Rights, guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and resulting from the constitutional traditions common to the Member States - and to “promote [...] the well-being of its peoples”, “combat social exclusion and discrimination, and [...] promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child”.²⁹⁷

Indeed, these developments are deeply troubling in terms of their implications for human rights protection. By allowing its institutions to undertake financial stabilization outside of the legal framework of European Union Law, and beyond the limits and safeguards provided by the Charter of Fundamental Rights and EU primary law, the Union has created a legal void in which the socio-economic rights of persons in Greece, and elsewhere, can no longer be protected.

293. See ECJ, Case C-370/12, *Thomas Pringle v Government of Ireland, Ireland and The Attorney General*, [2012] OJ C 303, 6.10.2012 (Reference for a preliminary ruling), para. 136: ‘[Article 125 TFEU] prohibits the Union and the Member States from granting financial assistance as a result of which the incentive of the recipient Member State to conduct a sound budgetary policy is diminished. As is apparent from paragraph 5 of the ECB opinion (...) the activation of financial assistance by means of a stability mechanism such as the ESM is not compatible with Article 125 TFEU unless it is *indispensable for the safeguarding of the financial stability of the euro area as a whole and subject to strict conditions.*’ (emphasis added).

294. Case C-370/12, *Thomas Pringle v Government of Ireland, Ireland and The Attorney General*, [2012] OJ C 303, 6.10.2012 (Reference for a preliminary ruling), para. 158: ‘...it is apparent from the case-law of the Court that the Member States are entitled, in areas which do not fall under the exclusive competence of the Union, to entrust tasks to the institutions, *outside the framework of the Union*, such as the task of coordinating a collective action undertaken by the Member States or managing financial assistance, provided that those tasks do not alter the essential character of the powers conferred on those institutions by the EU and FEU Treaties’ (emphasis added; references omitted).

295. The European Stability Mechanism (ESM) is a permanent international organisation located in Luxembourg established on 27 September 2012 and which replaced the temporary EU funding programmes: the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM). It aims at being a firewall for the Eurozone and at providing instant access to financial assistance programmes for Eurozone countries in financial difficulty. It was created by the Treaty Establishing the European Stability Mechanism, which was signed on 2 February 2012 and entered into force the 27 September 2012. It is available here: <http://www.european-council.europa.eu/media/582311/05-tesm2.en12.pdf>.

296. Case C-370/12, *Thomas Pringle v Government of Ireland, Ireland and The Attorney General*, [2012] OJ C 303, 6.10.2012 (Reference for a preliminary ruling), para. 161.

297. Consolidated version of the Treaty on the European Union, 26 November 2012, Article 3, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012M/TXT&from=EN>.

V.6 Instances of Extraterritorial Responsibility: the International Monetary Fund

The IMF is a specialized agency of the UN by virtue of Article 57 of the UN Charter. As such, it should respect the core mission of the UN: the protection of human rights as set forth in Article 55 of the UN Charter²⁹⁸, which include universal respect for, and observance of human rights and fundamental freedoms for all. In the context of Greek economic assistance packages, the IMF has been an important but secondary actor. As a Troika member, the organization has been directly involved in the negotiation of the underlying agreements, and has contributed roughly a quarter of the funds for the first economic assistance programme, and 12% of the second programme.

Unlike the EU, the Fund's Articles of Agreement make no specific mention of human rights.²⁹⁸ Indeed, the IMF is expected to be agnostic regarding political systems and to base its decisions on purely economic criteria.²⁹⁹ However, there are considerable difficulties in distinguishing the limits of purely economic considerations when deciding what adequate safeguards the Fund must impose on borrowing countries. Political stability and democratic ownership of the reform process are certainly related to greater programme success, and are therefore important predictors of the likelihood of repayment.

Although treaty law is of limited relevance to the Fund's position on human rights issues, customary rules and general principles of international law are both relevant to determining the duties of the organization. The prohibition of genocide, slavery, racial discrimination, and the right of peoples to self-determination are among those obligations applicable to the IMF through customary law. As outlined above, the IMF's obligation to respect Greece's right to self-determination implies both procedural and substantive aspects. At a minimum, the procedural aspects of the obligation require that the IMF abstain from imposing conditions on Greece that would deprive the population of the ability to express its will in a meaningful and timely manner regarding policy choices adopted to satisfy conditions attached to loans.³⁰⁰ At a minimum, the substantive aspects of the obligation imply the duty to respect core minimum obligations.³⁰¹

The IMF has sought to minimize its responsibility for the loans that it has provided by recalling that it can neither preclude, nor contribute significantly to violations of international obligations by loan recipients. In this sense, the Fund has argued that States can always choose to ignore loan conditions, and that the general character of funding combined with the fungible nature of financial resources implies of necessity that the Fund can never contribute significantly to wrongful conduct by the State.³⁰² It has thereby concluded that Fund loans cannot give rise to responsibility.

298. Article V(3)(a) of the Fund's Articles of Agreements state that "[t]he Fund shall adopt policies on the use of its general resources, including policies on stand-by or similar arrangements, [...] that will establish *adequate safeguards* for the temporary use of the general resources of the Fund." (emphasis added).

299. See, for instance, the views expressed by the former General Counsel, François Gianviti, in *Economic, Social and Cultural Rights and the International Monetary Fund*, 2002, available at: <https://www.imf.org/external/np/leg/sem/2002/cdmfl/eng/gianv3.pdf>. Here, he states that "[...] the Fund and the [World] Bank saw themselves as purely technical and financial organizations, whose Articles of Agreement enjoined them (explicitly in the case of the Bank, implicitly in the case of the Fund) from taking political considerations into account in their decisions. Their role as financial institutions was to provide economic assistance, not to dictate political changes." (p. 5).

300. Some level of acknowledgement of this obligation is included in the 2001 updated IMF Guidelines on Conditionality at paragraph 3: "In the process, tensions arose between the desire to cover aspects of policy central to program objectives and the importance of minimizing intrusion into national decision-making processes. Against this background, the 1979 Guidelines on Conditionality underscored the principle of parsimony and the need to limit performance criteria to the minimum number needed to evaluate policy implementation. They also stressed that the Fund should pay due regard to the country's social and political objectives, economic priorities, and circumstances".

301. The Committee on Economic Social and Cultural Rights upheld this position in its Concluding Observations on Israel (E/C.12/1/Add.90), adopted 23 May 2003, at para. 31: "The Committee repeats its position that even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law."

302. International Law Commission, *Responsibility of International Organisations - Comments and observations received from international organisations*, A/CN.4/582, of 1 May 2007, p.11.

However, under the present circumstances Greece could not ignore the loan conditions set out in its Exchange of Letters with the IMF if it expected continued disbursement of funds. Furthermore, the policy prescriptions conditioning access to IMF funds are in no way 'general' but are in fact focused, clearly measurable and strictly monitored every trimester. In these circumstances, it is difficult for the IMF to claim that it has no responsibility for the effects that such policies have had on the people of Greece.

VI. Conclusions

This report depicts a country in which human rights – that is, civil, political, economic and social rights – have been openly challenged and violated across all sectors. This has not only been felt in sectors such as work and healthcare, where the State has implemented austerity measures that had an adverse impact on human rights, but are equally visible in the curtailment of fundamental freedoms, such as media freedom and the right to voice dissent through peaceful public protest. This regression in the human rights situation in Greece is in part the result of pre-existing conditions and practices already hindering equal access to economic and social rights and the exercise of civil liberties before the crisis, and now exacerbated by shrinking resources and rising political and social tensions.

The research on which this report is based suggests that the economic crisis and accompanying austerity measures cannot be seen as solely responsible for the current situation. A complex and inextricably entangled blend of old and deeply rooted weaknesses inherent to the Greek state and new trends common to other countries experiencing recession and structural reform in exchange for international bailouts, is a key determining factor. These trends have brought to the fore a readiness, at both the national and international level, to sacrifice nearly everything to economic recovery. Nevertheless, it is evident that both the crisis and austerity have played an important role in aggravating pre-existing human rights issues and have in some cases, as this report exposes, directly impacted upon or violated rights themselves.

Those who have contributed to elaborating responses to the crisis tend to argue that, in the circumstances, the response ultimately chosen was the only possible way forward and that any negative human rights impacts were unavoidable and therefore excusable. This report establishes that this reasoning is flawed. Even without entering into debate over what kind of alternatives might be envisaged to the actual approach taken by states and the international community, from a human rights perspective, the way in which the policies pursued were adopted and implemented failed to respect international standards, even in light of the exceptional circumstances characterising the financial crisis.

Also, the fact that governing elites at both national and international (notably, EU) level, do not always seem to perceive the issues highlighted in this report as human rights violations, neither in the Greek nor other contexts, is extremely concerning. In discussions with Greek government and EU representatives alike, a narrow or flawed perception of what constitutes a human rights violation emerged as an alarming trend. Moreover, any violations that were recognised as such tended to be dismissed as ‘a necessary evil’ of broader crisis management.

As far as economic and social rights are concerned, austerity policies have failed to meet the criteria outlined by the UN CESCR in respect of retrogressive measures, rendering them inadmissible under international law. As such, those who enacted them must be subject to scrutiny and accountability for the human rights violations that resulted from them. Concerning civil and political rights, restrictions to fundamental rights and freedoms documented in this report have also failed to meet the criteria under which they can exceptionally be restricted under international law. The report also points to serious infringements of basic principles concerning participation and democratic oversight, with anti-crisis policies and measures being elaborated and implemented in blatant disregard of all regular channels for decision-making.

However, the Greek state is not solely responsible for the violations that have resulted from austerity programmes or other measures linked to the current crisis. In devising and implementing its response to the crisis, it had to abide by the strict conditions set by its international creditors. This created a situation in which not only the Greek state but other actors contributing to the austerity process bear responsibility for the human rights violations that derived from the implementation of policies they designed or endorsed.

The complex institutional set-up behind the so-called ‘Troika’ has served as a smokescreen shielding its constituents from responsibility for human rights violations for too long. However, the Troika is not an empty shell: it is composed of international organisations, and through them, their Member States, all of whom carry human rights obligations relevant to this specific context.

This is the case for both the EU and IMF, who have been leading efforts to devise anti-crisis policies and programmes. These institutions are bound by international law to respect and protect universal human rights standards. The EU is further bound to uphold human rights through its own founding treaties and the EU Charter of Fundamental Rights. These instruments should bind its institutions at all times, including when operating out of their usual competence or mandate.

This observation applies similarly to other EU Member States. By setting up the Troika and endorsing its proposals, these states have breached their own positive obligations to assist Greece in fulfilling its human rights commitments. They have also breached the negative obligation requiring states to abstain from impairing another country's capacity to respect its international human rights obligations. Member States can in no way be considered as being discharged from this obligation when acting through separate international entities that they themselves have created, like the Troika.

Although the factual elements in this report are specific to Greece, its conclusions as far as responsibilities are concerned are valid far beyond the Greek case. They apply to all countries undergoing economic assistance in response to severe economic recession. The report exposes the risks inherent in a situation where measures are taken that fail to consider their potential to undermine human rights and democratic principles in the countries concerned.

In this context, it is impossible to overlook the fact that what started as an economic and financial breakdown has turned into an unprecedented assault on human rights and democratic standards in Greece and all countries sharing a similar fate. While governments, under pressure from international lenders, have responded to the economic hardship experienced by their people by enacting increasingly stringent austerity measures with a view to regaining the confidence of the financial markets and restoring the economy, it has become increasingly clear to human rights experts and the public alike that what has been shrinking alongside public budgets, in Greece and elsewhere in Europe, is the space for individual rights and freedoms. These, unlike national budgets, cannot benefit from international bailouts.³⁰³

As limitations on human rights have increasingly been imposed and economic constraints evoked as cause for further restrictions, the founding principles of democracy, and the European project that builds on them, are dangerously and irretrievably at stake.

Europe can no longer allow itself to dismiss serious human rights violations such as those we are witnessing today in Greece as inevitable collateral damage in pursuing economic and financial stability. A swift change in approach is needed to prevent a grave and potentially irreversible shift from the very foundations on which the Union is built. It is time for the European Union and its Member States to act to ensure that not only the economy but their own founding principles are rescued. They must do so before Europe slides away from these principles into what history has taught us happens when these are obliterated.

FIDH and the Hellenic League for Human Rights call on Greece, the European Union and its Member States in particular, to collectively address the specific human rights violations and related responsibilities presented in this report. We also urge them to prevent similar violations from occurring in other countries in a similar situation. This should be done by, amongst other things, ensuring that a genuine pan-European debate is launched on the best way to collectively address the challenges posed by the economic crisis whilst respecting, protecting and promoting human rights.

In particular, FIDH and the Hellenic League for Human Rights recommend:

303. This partly depends also on the fact that austerity has been imposed by international lenders without any consideration for the specific context in the countries in which they intervened and failing to grasp the socio-economic and political specificities in these countries. As a result, the same solutions have been applied to extremely different contexts, thus exacerbating pre-existing issues, while condemning themselves to failure.

VII. Recommendations

To Greece:

- Ensure that human rights are central to any present and future discussion and negotiation with international creditors over programmes aimed at providing economic assistance to the country in a crisis situation.
- Ensure when incurring international financial obligations, including in the context of economic assistance programmes, that these are human rights compliant and do not violate nor impair the state's capacity to respect its constitutional, regional and international human rights commitments. Greece should withdraw and refrain from entering into any further agreement on economic assistance that gives rise to obligations that violate or impair its capacity to meet its human rights commitments.
- To this end, Greece should ensure that human rights impact assessments are conducted prior to, during and after the enactment of measures to assess their potentially adverse impacts on human rights and best avoid such impacts. Human rights impact assessments (HRIA) should ensure participation of those who can potentially be affected by such measures and that specific attention is given to impacts on marginalised and vulnerable groups, amongst other things³⁰⁴
- In cases where no other alternatives are available that would have a less detrimental effect on human rights, Greece should demonstrate in a public and transparent manner that there were no such alternatives that would ensure the realisation of all human rights and that the option chosen was the least detrimental for the realisation of these rights. In addition, Greece should show that every effort has been made to use all resources at its disposal in an effort to meet minimum core obligations. This should include proving that any retrogressive steps taken were essential in the public interest, narrowly tailored to meet that interest whilst causing the least harm, that the retrogressive measures are time bound, and that those affected could actively, freely and meaningfully participate in the decision-making process.
- Implement Greece's international financial obligations, including those forming part of the economic assistance programme, without resorting to further public spending cuts or other austerity measures that may undermine human rights, particularly economic, social and cultural rights, as recommended by the former UN Independent Expert, Cephias Lumina, in his March 2014 report to the Human Rights Council following his visit to Greece.
- Ensure when adopting and implementing austerity measures that sufficient resources are preserved to ensure minimum essential levels for economic and social rights, as recommended by the former UN Independent Expert, Cephias Lumina, in his March 2014 report, and by the Council of Europe (CoE) Commissioner for Human Rights in his November 2013 issue paper '*Safeguarding Human Rights in Times of Economic Crisis*'. In particular, Greece should ensure:
 - o that any reform to the public health system and cut to the public health budget does not undermine people's fundamental right to health, as defined in Article 12 ICESCR. To this end, ensure that conditions are created that would ensure to all adequate medical services and attention in the event of sickness. This should include those who are not covered by medical insurance.

304. The UN Guiding Principles on human rights impact assessment of trade and investment agreements could provide guidance in this respect. UN Human Rights Council, Report of the Special Rapporteur on the Right to Food, Olivier De Schutter: Guiding principles on human rights impact assessment of trade and investment agreements, UN Doc. A/HRC/19/59/Add. 5 (19 December 2011).

- that any reform to the labour market does not undermine people's fundamental right to work, as defined in article 6 and 7 ICESCR. To this end Greece should set up specialised services to assist and support individuals and enable them to find available employment, as recommended by the CESCR (General Comment 18); and ensure that any labour market reform does not result in a deterioration in working conditions, particularly as regards the right to fair remuneration and the right to freely choose and accept work, which the recent shift in the power balance between employers and employees has compromised. As far as the right to a fair remuneration is concerned, Greece should comply with the decision by the European Committee on Social Rights, which deemed cuts to the minimum wage, particularly for under 25s, incompatible with the European Social Charter. Measures should be enacted to limit the disproportionate impact that the current situation in the labour market is having on vulnerable categories and tackle inequalities and non-discrimination in the workplace. Special measures should be adopted in particular to address the difficulties faced by the younger generation in accessing the labour market and fair and favourable conditions of work without discrimination. Collective bargaining should be reinstated, following recommendations by the ILO Committee on Freedom of Association in its November 2012 report. The right to strike should be guaranteed.
- Enact measures that would address the adverse impact that austerity measures have on human rights in the country. This includes adopting programmes for the restoration of social rights and institutions for social dialogue, as recommended by the Committee on Social Affairs, Health and Sustainable Development's Sub-Committee on the European Social Charter of the Parliamentary Assembly of the Council of Europe (PACE) in its Declaration adopted at the High-level Conference on the European Social Charter on 17-18 October 2014. It also includes adopting measures that would help compensate for the disproportionate impact that the crisis and austerity measures combined have had on vulnerable groups.
- With regard to the social rights protection mechanisms in particular Greece should lift any national reservations and opt-outs concerning specific articles in the revised European Social Charter, as also recommended by the PACE Sub-Committee in its October 2014 Declaration.
- Ratify key international human rights treaties to which the State is not yet a party, in particular, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, as also recommended by the former UN Independent Expert, Cephias Lumina, in its March 2014 report
- Implement decisions and conclusions by international mechanisms and treaty bodies, including the European Committee on Social Rights and the UN Committee on Economic, Social and Cultural Rights.
- Ensure that any process leading to the adoption of further measures that could have a potential negative human rights impacts respect participation, accountability, transparency and non-discrimination principles. In particular ensure active, free and meaningful participation in elaborating responses to the crisis by those who could be potentially affected by measures. Systematic dialogue and consultation with the affected population should also be promoted.
- Ensure respect for civil and political rights in the country, which have also suffered from the climate generated by the current crisis situation. In particular:
 - guarantee the right to peaceful assembly and public protest, by ensuring that demonstrations can take place without restrictions other than those permitted and clearly circumscribed by law and that the life and security of all persons are respected and protected during demonstrations. This includes ensuring that law enforcement officials refrain from using force against protesters, except in the limited circumstances permitted under international law;

- ensure respect at all times by all persons, including law enforcement officials, for the absolute prohibition against torture and ill-treatment;
- ensure that arbitrary arrests do not take place during demonstrations and that any arrest or detention respects international standards, including international standards for a fair trial;
- ensure that efforts are made to tackle impunity and that any allegations of abuse by law enforcement officials are promptly, thoroughly and impartially investigated and prosecuted. To this end, establish independent and effective complaint mechanisms or reform existing mechanisms to ensure that they meet these criteria;
- address the increase in racist violence and ensure that efforts are made to tackle impunity for perpetrators of crimes committed with racist or discriminatory motives. To this end, ensure that any allegation is promptly, thoroughly and impartially investigated and that an effective remedy is made available and accessible to victims. This includes ensuring that victims, including those who do not hold regular residence permits can report crimes under safe conditions and exercise their right to participate in legal proceedings without fear of being criminalised or deported;
- take measures to combat violent extremism in accordance with international human rights law, as recommended by the CoE Commissioner for Human Rights in his November 2013 Issue Paper. Address criminal acts committed by extremist groups and ensure that any such acts are promptly, thoroughly and impartially investigated and their perpetrators held to account. Counter violent rhetoric from these groups, including by countering hate speech, in line with international standards
- Ensure respect for freedom of expression, information and media freedom, by facilitating access to information and lifting all other restrictions to these rights. Ensure respect for freedom of expression on-line. Ensure a diversified and independent media market.

To EU Member States:

- Fulfil their positive obligation under international law to assist Greece and other countries receiving economic assistance to comply with their own human rights commitments by ensuring that human rights are taken into account when negotiating, concluding and financing programmes aimed at providing such assistance.
- Abstain from impairing the ability of Greece, and other countries receiving economic assistance, to respect their international human rights commitments due to the negotiation, conclusion and financing of economic assistance programmes that do not account for their human rights obligations and that Member States know, or ought to know, would breach such obligations.
- Refrain from participating in and financing, and withdraw from, economic assistance programmes that could lead to human rights violations.
- Ensure that human rights impact assessments are conducted prior to, during and after the enactment of measures to assess their potentially adverse impacts on human rights and best avoid such impacts. HRIAs should ensure participation of those who can potentially be affected by such measures and that specific attention is given to impacts on marginalised and vulnerable groups, amongst other things

- Refrain from setting up and using mechanisms, such as the European Stability Mechanism (ESM) and its predecessors the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM), facilitating the circumvention of human rights obligations. This is the case when these mechanisms are created and used to elaborate, negotiate and implement economic assistance programmes that make their members' access to vital financial resources contingent on conditions that, had they been imposed by Member States individually or together, would constitute human rights violations.
- Ensure respect for participation, accountability, non-discrimination and transparency principles when negotiating and concluding economic assistance programmes. Effective, inclusive and meaningful participation by potentially affected people and an open and transparent discussion over policy choices and alternatives should be ensured. Also, address the accountability gap that derives from the fact that the Troika is not accountable to national parliaments or the European Parliament for its decisions by establishing a regular dialogue between the Troika, national parliaments and the European Parliament and ensuring that the Troika reports to them. This has likewise been requested by the European Parliament in its March 2014 *Resolution on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries*. In any event, ensure access to documents to allow for public scrutiny.
- Demand, and ask fellow Member States to demand, of the international organisations of which they are members (namely, the ESM, the EU and the IMF), that any programmes proposed for Greece or other countries receiving economic assistance are consistent with and respect international and European human rights law, in both substance and procedure.

To the European Union:

- Launch a debate at the EU level on the best way to collectively address the challenges posed by the economic and financial crisis and ensure that human rights are central to any such debate.
- Ensure that any agreement on economic assistance negotiated and concluded between its institutions and bodies and Member States is consistent with its own human rights commitments as enshrined in international law, its own founding treaties (especially articles 2, 3 (1), (3), (5) and 6 TEU) and the EU Charter for Fundamental Rights. This should include cases when EU institutions and bodies act outside their strict EU competence, such as when they are acting within the Troika. In this respect, the Union should ensure that its institutions and bodies respect EU law, including the EU Charter for Fundamental Rights, under all circumstances, as also recommended by the European Parliament in its March 2014 *Resolution on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries*.
- To this end, ensure that human rights impact assessments are conducted prior to, during and after the enactment of measures to assess their potentially adverse impacts on human rights and best avoid such impacts. HRIAs should ensure participation of those who can potentially be affected by such measures and that specific attention is given to impacts on marginalised and vulnerable groups, amongst other things
- In negotiating conditions attached to stabilisation loans, refrain from setting conditions that would lead to human rights violations or impede the effective realisation of human rights.
- In monitoring the implementation of the second economic assistance programme for Greece and any future programmes and assessing whether the state has attained the goals set therein, ensure that consideration is given to the impacts that the measures enacted by the state to implement programmes have had or are likely to have on human rights and address any negative impacts,

particularly with respect to economic and social rights. Require that a human rights impact assessment be conducted by the programme country prior to adopting measures that would implement the programme and that any potential negative impact is assessed and avoided. The Commission should report on the monitoring conclusions to the European Parliament.

- In providing technical assistance to Greece in implementing the programmes through the EU Task Force for Greece, consideration should be given to human rights respect and protection. To this end, human rights expertise should be built into the Task Force to assist Greece in the difficult task of implementing the programmes whilst respecting human rights.
- Ensure that the targets set in the economic assistance programmes are consistent with those that the EU set itself and to its Member States in other policy areas such as employment, social inclusion, equality and non-discrimination. These include the promotion of employment and improved living and working conditions, social protection, dialogue between management and labour and the combating of exclusion, as provided under article 151 TFEU.
- In particular, ensure that pursuing economic and financial stability does not undermine social stability, the European social model and the social rights of everyone within the EU, as recommended also by the European Parliament in its March 2014 *Resolution on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries*. This includes ensuring that social partners are involved in the design and implementation of current and future economic assistance programmes.
- When assessing countries under the European semester monitoring exercise, ensure that an evaluation is made as to how the attainment by Greece of its employment and social targets has been affected by measures that have implemented economic assistance programmes. This monitoring should not be suspended during economic assistance nor substituted by monitoring conducted in this context.
- Ensure that any financial stabilisation programme and any mechanism created to deal with such stabilisation, as well as the process through which the programmes are adopted and implemented, are firmly grounded on EU law and the EU legal framework. Ensure that no decision is taken over economic assistance, no measure adopted or implemented and no mechanism created that violates, either substantially, procedurally or both, EU or Member States' obligations under EU law and the Charter of Fundamental Rights of the European Union (the Charter). Ensure that any decision taken or action carried out by EU institutions, even when acting outside their strict EU competence, triggers their own or the Union's responsibility where there is a failure to respect obligations under EU law or the Charter.
- In any event, refrain from setting up or participating in mechanisms, such as the ESM and its predecessors the EFSF and EFSM, which allow the circumvention of the EU's human rights obligations to avoid responsibility for actions that, if committed by its institutions, would violate the EU's human rights obligations. Ensure that the ESM is made accountable to both the European Parliament and Council.
- Ensure respect for participation, transparency, accountability and non-discrimination principles in any process leading to the elaboration and implementation of economic assistance programmes and in the setting up and functioning of mechanisms entrusted with elaborating and implementing those programmes. This includes ensuring participation of potentially affected people in the decision-making process, transparency over policies and processes and accountability in the form of public scrutiny and democratic oversight over policies and programmes, as also recommended by the European Parliament in its March 2014 *Resolution on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries*. In particular, ensure that the Commission is fully accountable when it acts in its capacity as a member of the Troika and reports regularly to the European Parliament, as the Resolution also requests.
- Explore alternatives to the current programmes that would ensure Greece's economic recovery

and debt reduction whilst addressing and containing the costs that these have exacted on the population in terms of human rights. Involve the population in any discussions over alternatives.

- In devising economic assistance programmes, act in synergy with other international and regional institutions and mechanisms, including the CoE, the CoE Commissioner for Human Rights, the European Committee on Social Rights, the UN Committee for Economic, Social and Cultural Rights, UN special procedures and the ILO, and implement their recommendations
- In devising economic assistance programmes, ensure that those European Commission services responsible for employment, social affairs and fundamental rights are involved in discussions and consulted and that they provide input in order to ensure that these aspects are taken into account and that economic assistance is not detached from other EU policy targets and is consistent with EU law and the Charter
- Involve the European Parliament in any discussion over the elaboration, negotiation and implementation of economic assistance programmes and the establishment and functioning of mechanisms entrusted with elaborating, negotiating and implementing programmes.
- Implement the European Parliament's recommendation, as expressed in its March 2014 *Resolution on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries* to conduct a study on the economic and social consequences- including for ECSR - of economic assistance programmes in the countries in which these have been implemented, including Greece, in order to better understand and map their short- and long-term impacts. In conducting this study, consult with relevant bodies, including the EU Agency for Fundamental Rights (FRA) and civil society, and cooperate fully with the European Parliament.
- The European Parliament should consider adopting a resolution assessing the impact that the economic and financial crisis and austerity measures have had on economic, civil, cultural, social and political rights in Greece and the other countries that received economic assistance. Such a resolution should mirror the one adopted by the European Parliament in April 2013 on the impact of the crisis on third countries.

To international financial institutions (IFIs):

- Ensure that all financial assistance is measured against human rights indicators and is not conditional on policies that may undermine human rights, as recommended by the former UN Independent Expert, Cephias Lumina, in his March 2014 report following his visit to Greece. This should include:
 - o in negotiating and implementing conditions attached to stabilisation loans, refraining from imposing conditions that would lead to human rights violations or otherwise impair the borrowing state's capacity to respect its international human rights obligations, particularly minimum core obligations;
 - o refraining from imposing conditions that would deprive the population of its right to participate regarding policy choices in a meaningful and timely manner;
 - o reforming internal rules and procedures to ensure that policies and strategies are aligned with human rights standards. Such procedures should explicitly incorporate reference to those standards, and require that HRIAs are conducted prior to, during

and after the enactment of measures to assess their potentially adverse impacts on human rights and best avoid such impacts.

- Ensure that conditionalities imposed on borrowing countries are human rights compliant. To this end, conditions attached to loans and other financial support should be reviewed to ensure that such conditions, especially those requiring structural reforms in exchange for financial support, are compatible with the international human rights standards and that they do not impair the state's capacity to fulfil its human rights obligations.
- Demand from the countries with which the IMF negotiates and concludes economic assistance programmes sufficient guarantees as regards respect for human rights and refrain from entering into, or withdraw from, agreements with countries that do not offer those guarantees.

To the UN:

- Ensure follow-up to the recommendations made by the former UN Independent Expert, Cephias Lumina, in his March 2014 report to the Human Rights Council following its visit to Greece.
- Ensure that any examination conducted by competent treaty bodies and special procedures looks in particular at the adverse impact that austerity measures are having on human rights, particularly economic and social rights, but also civil and political rights, and issue recommendations to Greece aimed at countering such effects.
- Ensure that specialised agencies, including those within the World Bank Group, comply with universal human rights standards and that adequate monitoring is conducted to ensure that this is the case.



Sida

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Establishing the facts

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Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

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The Hellenic League for Human Rights (HLHR)

is the oldest and biggest human rights organization in Greece. The League is an association set up under the provisions of the Civil Code with a general human rights mandate. According to its statute, the League «undertakes activities in the domain of dissemination, advocacy and development of principles that reckon to human beings rights and freedoms, integrated to social structures».

The League was set up in 1936 and was dissolved by the dictatorship of the 4th of August. It was reinstated in 1953. The 1967 coup dissolved HLRH. During the dictatorship (1967-1974) its members were of the main witnesses against the Greek government in the infamous “Greek case” at the Council of Europe. After the fall of the junta, the League was set up again and since then operates with a continuous presence and activity. Since its creation, the League is a permanent member of the International Federation for Human Rights.

The HLHR was founded and developed in an environment

of a shrinking and ailing democracy; an environment where the struggle for the protection of human rights was politically dangerous but nevertheless focused on its goals. The post-1974 period in Greece provided a safer environment for human rights defenders. Nevertheless, this new era revealed itself to be a lot more complex in what concerns understanding, preventing and challenging the new forms of violations which arise from the social complexity of our times.

The debt crisis that engulfed Greece from 2009 onwards and the continuous decline of the Greek economy bring about unprecedented challenges in what concerns the protection of rights. Within this framework, the protection of human rights and a strategic approach to their promotion is of central importance in the League's work.

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inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

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Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

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