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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

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)*

Summary

Since May 2010, the Government of Greece has been implementing an economic adjustment programme as a condition for securing a total financing package of €240 billion from the International Monetary Fund, the European Commission and the European Central Bank. The programme consists of stringent policy measures that entail deep public spending cuts, public sector job cuts, tax increases, the privatization of public enterprises and structural reforms (including labour market reforms), which are ostensibly aimed at reducing the country's fiscal deficit and debt to a "sustainable" level. Nevertheless, the measures have pushed the economy into recession and generally undermined the enjoyment of human rights, particularly economic, social and cultural rights, in Greece. Significantly, the public spending cuts and labour market reforms have resulted in increased unemployment (in particular among young people), homelessness, poverty and social exclusion (with approximately 11 per cent of the population living in extreme poverty), and severely reduced access to public services, such as health care and education. The impact

* Late submission.

has been particularly severe on the most vulnerable: the poor, older persons, pensioners, persons with disabilities, women, children and immigrants.

Annex

[English only]

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, on his mission to Greece

Contents

I. Introduction

1. From 22 to 27 April 2013, the Independent Expert conducted an official visit to Greece. The key purpose of his visit was to assess the impact of the economic adjustment programme adopted by the Government of Greece as a condition for financial assistance from the troika' comprising the European Commission, the European Central Bank and the International Monetary Fund (IMF) to address the country's fiscal deficit and debt, on the realization of human rights, particularly economic, social and cultural rights.

2. The Independent Expert met with senior officials from the Ministries of Foreign Affairs, Labour and Social Welfare, Finance, Education, Health, Development, Justice, and Public Order and Citizens' Protection, as well as the Hellenic Coast Guard. He also had meetings with members of Parliament (including those from the main opposition party, Syriza) and representatives of the Bank of Greece, the National Commission for Human Rights, the National Ombudsman, IMF, the European Commission and the Office of the United Nations High Commissioner for Refugees (UNHCR) in Greece, academics and civil society organizations. He also visited two volunteer community clinics in Perama and Helleniko (Attica), which provide free health care to the needy.

3. The Independent Expert is grateful to the Government for its invitation and cooperation during his mission. He also expresses his gratitude to UNHCR for its support, as well as to all those who met with him.

4. Nevertheless, he regrets the lack of support by Greece and other European Union countries for the mandate in the Human Rights Council, despite the fact that several European Union countries (including Greece) face obvious challenges in the progressive realization of economic, social and cultural rights due to the sovereign debt crisis affecting them and in the context of economic adjustment programmes adopted to address the crisis.

II. Framework for analysis: human rights in the context of economic adjustment

5. Austerity and other economic adjustment policies raise important concerns regarding the protection of economic, social and cultural rights, because they are often incompatible with the obligation of States to take steps for their progressive realization and to avoid deliberate retrogressive measures, in particular those that are incompatible with the core obligations of each right and the duty of States to use all available resources in an effort to satisfy, as a matter of priority, these minimum obligations.[1]

A. Greece's human rights obligations

6. The Constitution of Greece sets out a number of human rights obligations of the State. Article 2(1) underscores that "respect and protection of the value of the human being constitute the primary obligation of the State". Part Two of the Constitution explicitly sets out a number of other obligations of the State, including the protection of property (art. 17); family, motherhood and childhood (art. 21.1); the special care for health (art. 21(2) and (3)); the advancement of conditions of employment (art. 22(1)); and social security (art. 22(5)). Various rights correspond to these obligations, including the rights to equality of all Greeks (art. 4), social, economic and political participation (art. 5), information (art. 5A), petition (art. 10), peaceful assembly (art. 11), free public education (art. 16(2)), property (art. 17(2)), health care (art. 21(3)), work (art. 22(1)), social security (art. 22(5)) and freedom to unionize (art. 23). Article 21.4 specifies that "the acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special State care". Article 25, paragraph 1 explicitly refers to the principle of the welfare State and underscores that all public institutions are obliged to ensure the effective implementation of these rights.

7. These provisions are complemented by standards set out in several core international and regional human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the European Social Charter, to which Greece is a party.[2]

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[1] See E/2013/82. See also A/HRC/17/34, paras. 11-24.

[2] Greece is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention on the Protection of Persons from Enforced Disappearance, the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child on a communications procedure.

8. Under the International Covenant on Economic, Social and Cultural Rights, Greece is obliged to realize the rights enshrined therein progressively, using its maximum available resources. This requires it to adopt and implement laws and policies that aim to achieve incremental improvements in universal access to basic goods and services, such as health care, education, housing, social security and cultural life. While it does enjoy a "margin of appreciation within which to set (its) national, economic, social and cultural policies", including during austerity, it has the duty to "avoid at all times taking decisions which might lead to the denial or infringement of economic, social and cultural rights".[3]

9. The Committee on Economic, Social and Cultural Rights has emphasized that austerity and other adjustment policies adopted by States in times of economic crisis must comply with obligations derived from the Covenant. In particular, any measure that could impede the progressive realization of economic, social and cultural rights must (a) be temporary and restricted to the period of crisis; (b) strictly necessary and proportionate; (c) not be discriminatory and take into account all possible alternatives, including fiscal measures, to ensure the necessary measures to mitigate inequalities that may arise in times of crisis; and (d) identify the minimum core content of the rights enshrined in the Covenant, or a social protection floor, as developed by the International Labour Organization (ILO),[4] and ensure the protection of this core content at all times.[5]

10. In addition, States bear the burden of establishing that austerity measures have been introduced only after the most careful consideration of all other less restrictive alternatives.[6] States cannot therefore justify austerity measures simply by referring to the need to achieve fiscal discipline and savings; they need to show why the austerity measures were necessary for the protection of the totality of the rights provided for in the Covenant.[7]

11. It is notable that the Guiding Principles on foreign debt and human rights also underscore that States should ensure that their rights and obligations arising from external debt agreements or arrangements do not hinder the progressive realization of economic, social and cultural rights.[8]

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[3] See the letter dated 16 May 2012 addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights, available from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fSUS%2f6395&Lang=en.

[4] Social Protection Floors Recommendation, 2012 (No. 202).

[5] Ibid.

[6] E/2013/82, para. 18.

[7] Ibid., para 16. See also E/C.12/2001/1, para. 10.

[8] A/HRC/20/23, annex, para. 16.

B. The obligations of Greece's international lenders

12. It is increasingly accepted that non-State actors, including international financial institutions, have obligations to ensure that their policies and activities respect international human rights standards.[9] This obligation implies a duty to refrain from formulating, adopting, funding, promoting or implementing policies and programmes that directly or indirectly impede the enjoyment of human rights.[10]

13. It is also well established that States must adhere to their international law obligations when they act through international organizations.[11] Moreover, an important element of the duty of international cooperation as reflected in the Charter of the United Nations and binding international human rights treaties is that States parties, individually or through membership of international institutions, should not adopt or promote policies or engage in practices that imperil the enjoyment of human rights.

14. In circumstances where countries are constrained to implement adjustment programmes involving austerity, it should be ensured that efforts to protect the most basic economic, social and cultural rights are, to the maximum extent possible, factored into such programmes and policies.[12]

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[9] See for example Andrew Clapham, *Human Rights Obligations of Non-State-Actors* (Oxford, Oxford University Press, 2006), pp. 137-159; C. Lumina, “An assessment of the human rights obligations of the World Bank and the International Monetary Fund with particular reference to the World Bank’s Inspection Panel”, *Journal for Juridical Science*, vol. 31, No. 2 (2006), pp. 108-129; Roberto Dañino, “Legal Opinion on Human Rights and the Work of the World Bank”, World Bank, 27 January 2006, para. 25; August Reinisch, “The Changing International Legal Framework for Dealing with Non-State Actors”, in P. Alston (ed), *Non-State Actors and Human Rights* (Oxford, Oxford University Press, 2005); Mac Darrow, *Between Light and Shadow: the World Bank, the International Monetary Fund and International Human Rights Law* (Oxford, Hart Publishing, 2003); Sigrun Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund* (London, Cavendish, 2001); Philippe Sands and Pierre Klein, *Bowett’s Law of International Institutions*, fifth edition (London, Sweet and Maxwell, 2001), pp. 458-459. See also the Guiding Principles on foreign debt and human rights (A/HRC/20/23, annex), para. 9, and the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex).

[10] A/HRC/20/23, para. 9.

[11] See for example *Waite and Kennedy v Germany*, Application No. 26083/94, European Court of Human Rights, Grand Chamber Judgement of 18 February 1999, para. 67; *Mathews v United Kingdom*, Application No. 24833/94, European Court of Human Rights, Grand Chamber Judgement of 18 February 1999, para. 32; Willem van Genugten, “Tilburg Guiding Principles on World Bank, IMF and Human Rights”, in Willem van Genugten, Paul Hunt and Susan Mathews (eds.), *World Bank, IMF and Human Rights* (2003), pp. 247-255; A/CN.4/564/Add.2; and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (E/C.12/2000/13), para. 19.

[12] Committee on Economic, Social and Cultural Rights, General comment No. 2, para 9. See also General comment No. 4 (right to adequate housing); General comment No. 12 (right to food); General comment No. 15 (right to water); General comment No. 18 (right to work), paras. 30 and 53; General comment No. 19 (social security), paras. 58 and 83-84.

15. In tacit recognition of their role in relation to adjustment programmes, the Committee on Economic, Social and Cultural Rights has urged international financial institutions to pay enhanced attention in their activities to respect for economic, social and cultural rights, including through the explicit recognition of these rights, assisting in the identification of country-specific benchmarks to facilitate their promotion, and facilitating the development of appropriate remedies for responding to violations, and to use social safety nets to protect the poor and vulnerable in the context of adjustment programmes.[13]

16. In Greece, the European Union, the European Central Bank and IMF play an important role in the design and monitoring of the measures under the country's adjustment programme (see paragraphs 24 and 25 below). It may therefore be contended that these institutions have a duty to respect the human rights of that country's population by ensuring that the programme does not undermine the capacity of the Government to establish and maintain the conditions for the realization of human rights, including by assuring equitable access to basic public services.[14]

III. The eeconomic adjustment programme

A. Background[15]

17. In the mid-1990s, the economy of Greece started to boom as the Government borrowed large amounts from European banks to finance its imports, including military equipment,[16] from countries such as Germany. This process intensified with the adoption of the euro in 2001. The Government also borrowed extensively to fund the 2004 Olympics Games.[17]

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[13] E/C.12/1998/26, para. 515.

[14] It should be noted the European Union and the European Central Bank are bound by the Charter of Fundamental Rights of the European Union, which enshrines economic and social, as well as civil and political, rights.

[15] For a discussion of the background to the debt crisis, see Jubilee Debt Campaign, *Life and debt: Global Studies of debt and resistance*, October 2013, available from http://jubileedebt.org.uk/wp-content/uploads/2013/10/Life-and-debt_Final-version_10.13.pdf; IMF, "Greece: Ex Post Evaluation of Exceptional Access under the 2010 Stand-By Arrangement", IMF Country Report No. 13/156, June 2013 (available from www.imf.org/external/pubs/ft/scr/2013/cr13156.pdf), pp. 5-7; Rebecca M. Nelson, Paul Belkin and Derek E. Mix, "Greece's Debt Crisis: Overview, Policy Responses, and Implications", Congressional Research Service Report for Congress, 18 August 2011, available from www.fas.org/sgp/crs/row/R41167.pdf; and Ronald Janssen, Greece and the IMF: Who Exactly is Being Saved?, Center for Economic and Policy Research, July 2010, pp. 1-2.

[16] Between 2000 and 2007, military spending reached 3 per cent of GDP – the highest in Europe.

[17] Nicole Itano, "As Olympic glow fades, Athens questions $15 billion cost", *Christian Science Monitor*, 21 July 2008. Available from www.csmonitor.com/World/2008/0721/p04s01-wogn.html.

18. The Government used its enhanced access to cheap credit (as a member State of the European Monetary Union, or euro zone) to fund public spending and offset the country's low tax revenues.[18] It also borrowed to pay for imports that were not offset by tariffs or exports. As a result, and despite annual gross domestic product (GDP) growth averaging 4.5 per cent in the period from 2000 to 2007, revenue declined substantially while the budget and trade deficits increased.

19. Widespread corruption, weak tax administration and tax evasion also put a strain on public finances.[19]

20. To keep within the euro zone guidelines, previous Governments had, for many years and with the help of foreign banks, also misreported the national economic statistics, as did a number of other European Governments. In early 2010, it emerged that, with the help of Goldman Sachs, JP Morgan Chase and other banks, specific derivatives were developed so that the actual level of debt and deficits could be hidden and Greece could gain entry into the euro zone.[20]

21. The global financial crisis of 2008 had a profound impact on tourism and shipping, two of the country's largest industries; in 2009, revenues sank by 15 per cent.[21] In this context, lending to the country increased to help cope it with the impact of lower tax revenues and the need for higher government spending.[22]

22. In October 2009, the newly elected Government of George Papandreou revealed that that previous Governments had been underreporting the budget deficit. The new Government revised the overall fiscal deficit for 2009 from 5 per cent to 13.5 per cent of GDP (and subsequently to 15.6 per cent). The figure for Government debt at the end of 2009 was also revised from €269.3 billion (113 per cent of GDP) to €299.7 billion (130 per cent).[23]

23. From November 2009, Greece suffered several speculative waves, raising the interest rate on sovereign debt to prohibitively high levels. The deteriorating fiscal results

[18] Nelson, Belkin and Mix, "Greece's Debt Crisis" (see footnote 15), p. 3.
[19] Janssen, Greece and the IMF (see footnote 15), p. 1.
[20] See for example Beat Balzli, "Greek debt crisis: how Goldman Sachs helped Greece to mask its true debt", *Spiegel Online International*, 8 February 2010, available from www.spiegel.de/international/europe/greek-debt-crisis-how-goldman-sachs-helped-greece-tomask-its-true-debt-a-676634.html.
[21] Harris A. Samaras, "Greece unlikely to escape its worst financial crisis of modern times!", Pytheas Market Focus, July 2009 (available from www.pytheas.net/docs/20090724-Greece-unlikely-to-escape-its-worst-financial-crisis-of-modern-times.pdf), p. 2.
[22] By early 2010, French, German and British banks had lent more than €70 billion to Greece.
[23] Even before the statistics were revised, Greece had exceeded during the period 2000-2010, the euro zone stability criteria, with the annual deficits exceeding the maximum limit of 3 per cent of GDP and the debt level significantly above the limit of 60 per cent of GDP.

led to downgrades of Government bonds by credit rating agencies in late April 2010. In effect, this curtailed the State’s access to the international financial markets. To avoid defaulting on its debt, Greece turned to the European Union and IMF for financial assistance.

B. The bailout programme

24. In May 2010, Greece agreed a €110 billion loan at market-based interest rates with the European Commission, the European Central Bank and IMF.[24] The loan was conditional on Greece implementing an economic adjustment programme entailing €30 billion of fiscal cuts over the period 2010-2014. The programme, which had the two broad objectives of making fiscal policy and the fiscal and debt situation sustainable, and improving competitiveness,[25] consisted of three main components: the implementation of austerity measures to restore the fiscal balance; the privatization of State assets worth €50 billion by the end of 2015, to keep the debt sustainable; and implementation of structural reforms to improve competitiveness of the economy and growth prospects.[26]

25. The loan was to be disbursed in several instalments from May 2010 until June 2013. Owing to the worsening recession, however, in October 2011, the State’s European partners agreed to provide it with a second bailout loan of €130 billion. This was conditional not only on the implementation of another austerity package (together with the privatization and structural reforms outlined in the initial programme), but also a restructuring of all Greek public debt held by private creditors (approximately 58 per cent of total public debt) so as to reduce the overall public debt burden by about €110 billion. Under this debt restructuring (known as “Private Sector Initiative”, or PSI+) creditors were asked to accept lower interest rates and a 53.5 per cent face value loss.

26. According to information available to the Independent Expert, approximately 15,000 Greek families holding Government bonds were included in the Private Sector Initiative

[24] IMF was to provide €30 billion under a stand-by arrangement, while euro zone countries would provide €80 billion.

[25] IMF Country Report No. 13/154 (www.imf.org/external/pubs/ft/scr/2013/cr13154.pdf), p. 5. See also IMF, Greece: Request for Stand-By Arrangement, IMF Country Report No. 10/111, May 2010 (available from www.imf.org/external/pubs/ft/scr/2010/cr10111.pdf), p. 4.

[26] These measures were outlined in a memorandum of understanding that has been updated several times. See European Commission, “The Second Economic Adjustment Programme for Greece – Third Review, July 2013” (available from http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp159_en.pdf), pp. 99-222.

without their consent.[27] At current market prices, their bonds have less than 30 per cent of their nominal value.

27. The Independent Expert is concerned at allegations that, when purchasing their bonds, some Greek investors were misled by bank personnel who failed to adhere to the Markets in Financial Instruments Directive (MiFID Directive 2004/39/EC). He also received information that other bondholders relied on representations contained in official European Union and European Central Bank documentation as, well as statements made by public institutions, namely the Bank of Greece and the Public Debt Management Agency, on the State’s economic health.

28. The Independent Expert is also concerned that the new maturity period for the bonds (30 years) may be too long for some older individual bondholders, who do not expect to live long enough to enjoy the return on their investment. Furthermore, some of the bondholders who invested a substantial amount of savings in bonds that they understood to be relatively safe investments for their retirement, or had planned to fund their own health-care needs or care of disabled family members from these savings, are experiencing serious financial hardship, particularly against the backdrop of severe cuts to pensions and other social benefits. He therefore urges the Government to address urgently the plight of these investors, particularly the elderly, to investigate fully the claims that public employees misled bondholders, and to take appropriate action against those found to have done so.

C. Austerity measures

29. Under the adjustment programme, the Government committed to implement rigorous austerity measures to bring the deficit down to 3 per cent of GDP by 2014. In addition to increases in value-added-tax rates, the measures included reducing public sector jobs by 150,000 through 2015, a recruitment freeze in the public sector, reduction of public sector wages, raising the retirement age, cuts in social benefits amounting to 1.5 per cent of GDP (elimination of pension bonuses, a nominal pension freeze and the introduction of means testing for unemployment benefits), eliminating bonuses and allowances, and cutting investment spending. The Government has committed to further spending cuts over the fiscal period 2013/14.[28]

[27] This was possible because Law 4050/2012 required that a majority of bondholders convene and that a “super majority” agree to tender their bonds for exchange and accept amendments to their terms.

[28] Memorandum of understanding, 21 December 2012 (www.imf.org/external/np/loi/2012/grc/122112.pdf), pp. 17-19.

D. Privatization

30. A key component of the adjustment programme is the sale of State-owned enterprises and assets in order to contribute to the reduction of the public debt.[29] It was initially assumed that €50 billion would be generated through the privatization process by the end of 2015. The privatization programme has not, however, been as successful as anticipated; for example, revenues generated by the end of 2012 amounted to only €1.6 billion, and proceeds in 2013 were “below expectations”. The target has therefore been reduced to €24.2 billion by 2020.

31. The Independent Expert is concerned that several of the enterprises targeted for privatization provide essential public services, such as water and sanitation, transportation and energy, and that there is a likelihood of a significant increase in user fees for the services offered by these entities after privatization, with a potential negative impact on the enjoyment of basic rights. Consequently, he considers that privatization should be undertaken cautiously and with sensitivity to the rights of the population.

32. Furthermore, if the intention is to raise funds to pay down the debt, the decision to privatize the Greek national lottery, one of the most profitable in the world, may be called into question.

E. Structural reforms

33. The adjustment programme includes several “structural reforms” aimed at boosting competitiveness and enabling Greece to emerge from the crisis quickly. These include modernizing public administration by reorganizing recruitment procedures; liberalizing trade; opening up regulated professions; ensuring greater labour market “flexibility” to reduce labour entry and exit costs; strengthening the anti-corruption framework; and improving the business environment through by addressing inefficiencies in the judicial system.

34. Since 2010, a series of labour market reforms (laws 4019/2011, 3996/2011, 3986/2011, 4024/2011 and 4052/2012) have been implemented with the professed aim of increasing the competitiveness of the economy and boosting growth prospects. Specific measures include labour cost reduction and encouraging employment through the repeal of allowances and benefits; reduction of the time of notification of dismissals (Law

[29] The programme is overseen by the Hellenic Asset Development Fund, which includes representatives of the European Union and IMF.

3863/2010); making collective bargaining "more flexible", including by waiving the so-called "principle of favourability" in collective bargaining, and firm-level agreements taking precedence over any other favourable collective (sectoral or professional) agreement (Law 3899/2010); introducing flexible forms of employment by extending the maximum duration of successive fixed-term contracts from two to three years (Law 3986/2011); and reduction of the monthly minimum wage in the private sector by 22 per cent for workers over 25 years and by 32 per cent for those under 25 (Law 4046/2012).

35. The above-mentioned measures may well violate the standards set out in the treaties to which Greece is a party; for example, the European Committee of Social Rights of the Council of Europe has held that the reduced minimum wage for employee under 25 years violates the right to a fair remuneration in article 4 (1) of the European Social Charter, as it provides a minimum wage below the poverty level.[30]

IV. Debt sustainability

36. According to IMF, Greece's public debt was expected to peak at around 176 per cent of GDP in 2013[31] before declining to 124 per cent in 2020 and "substantially below 110 per cent of GDP in 2022".[32] In June 2013, gross external debt was estimated at 233 per cent of GDP but was expected to peak at around 240 per cent of GDP during the same year, then decline to around 145 per cent in 2020.[33] Net external debt was projected to fall from approximately 130 per cent of GDP in 2012 to around 75 per cent in 2020.[34]

37. These projections are based on the assumption that the Government will be able to maintain a primary surplus of 4 per cent in the long run, generate about €22 billion from privatization through 2020, and continue to rely on official loans at relatively low interest

[30] See Complaint No. 66/2011, Decision on the Merits, 23 May 2013, available from www.coe.int/t/dGHl/monitoring/Socialcharter/Complaints/CC66Merits_en.pdf.

[31] Other estimates put public external debt at 180 per cent of GDP; see for example Jubilee Debt Campaign, *Life and debt* (see footnote 15) p. 11; and Economist Intelligence Unit, Country Report: Greece, London, July 2013, available from www.eiu.com/FileHandler.ashx?issue_id=240687008&mode=pdf.

[32] IMF, Greece: Fourth Review under the Extended Arrangement under the Extended Fund Facility, and Request for Waivers of Applicability and Modification of Performance Criterion – Staff Report; Staff Statement; Press Release; and Statement by the Executive Director for Greece, IMF Country Report No. 13/241, July 2013 (available from www.imf.org/external/pubs/cat/longres.aspx?sk=40838.0), p. 64. See also IMF Country Report No. 13/154, p. 49. Greece's public debt-to-GDP ratio rose from 143 per cent in 2010 to 165 per cent in 2011. This indicates that, despite declining budget deficits, GDP growth was insufficient to support a decline in the debt-to-GDP ratio during that period.

[33] IMF Country Report No. 13/241 (see footnoteabove), p. 67.

[34] Ibid.

rates.[35] It is also based on the assumption that the economy will start to grow from 2014 and that Greece will secure additional contingent debt relief of about 4 per cent of GDP from its European partners, to be determined in 2014/15. These projections appear, however, to be overly optimistic. Indeed, it is evident that IMF has consistently underestimated the loss of GDP for Greece, lowering its projections by 6.9 per cent since its first review of the stand-by arrangement in September 2010. In June 2013, IMF admitted that it had underestimated the impact of austerity measures on the country's economy and debt sustainability.[36] Furthermore, failures with the privatization programme – the trend to date – would also raise the debt-to-GDP ratio.[37]

38. Significantly, Greece's debt, as IMF has acknowledged, is likely to remain high "well into the next decade".[38] It is also notable that its external debt burden, particularly on short-term maturities, is significant. Government annual external debt payments are estimated at €23 billion (29 per cent of revenue and 42 per cent of exports).[39]

39. From a human rights viewpoint, the IMF debt sustainability assessment has limitations. It is too narrowly focused on debt repayment capacity. As the Independent Expert has stressed on previous occasions, debt sustainability analyses should include an evaluation of the level of debt that a country can carry without undermining its capacity to fulfil its human rights obligations.[40]

V. Impact of the adjustment programme on human rights

40. The economic and social costs of the adjustment programme have been substantial.[41] The economy remains in recession while output has fallen by nearly 25 per cent since 2007.[42]

41. The measures implemented as part of adjustment, in particular the job cuts, and cuts to wages and pensions, have had the overall effect of compromising the living standards of

[35] Ibid, p. 63.
[36] See IMF Country Report No. 13/156 (see footnote15).
[37] Although the adjustment programme assumed large revenues from privatization (about 15 per cent of GDP between 2010-2011 and 22 per cent of GDP by 2017), there has been little forthcoming from privatization since 2010.
[38] IMF Country Report No. 13/153 (available from www.imf.org/external/country/GRC/index.htm?type=42), p. 23.
[39] Jubilee Debt Campaign, *Life and debt* (see footnote 15), p. 11.
[40] See A/HRC/23/37, para. 41 and A/65/260, para. 33.
[41] IMF Country Report 13/241 (see footnote 32), p. 4.
[42] Although IMF is projecting economic growth for 2014, this is due to a €7.5 billion (2.7 per cent of GDP) stimulus programme involving highway construction approved by the Parliament of Greece in December 2013, not because of the adjustment programme. Most of the financing will come from European Union grants, and will not therefore add to State debt.

the population and the enjoyment of human rights. According to the National Ombudsman, "the drastic adjustments imposed on the Greek economy and society as a whole have had dramatic consequences on citizens, while vulnerable groups increase and multiply".[43] In a similar vein, the National Human Rights Commission observed a "rapid deterioration in living standards coupled with the dismantling of the welfare State and the adoption of measures incompatible with social justice, which are undermining social cohesion and democracy".[44]

42. The burden of adjustment does not appear to be shared fairly,[45] and the impact has been particularly severe for the most vulnerable sectors of the population: the poor, older persons, pensioners, women, children, people with disabilities and immigrants.

43. Owing to space limitations, the Independent Expert will only highlight the impact of the adjustment programme on the rights to work, social security, health, education and adequate housing, as well as its contribution to poverty and social exclusion.

A. Work

44. One of the most profound consequences of the adjustment programme has been the exponential rise in unemployment. Under the programme, the Government committed to cut 150,000 public sector jobs (about 22 per cent of public employment) by 2015. Some 80,000 to 120,000 public sector workers had already lost their jobs at the time of the Independent Expert's visit. As a result, unemployment grew from 7.3 per cent in June 2008 to 27.9 per cent in June 2013,[46] the highest in the European Union (see figure below). There are around 1.4 million unemployed people in Greece; about 778,000 persons lost their jobs during the period 2010-2013 alone. Further lay-offs in the public sector are planned. Youth unemployment reached an unprecedented rate of 64.9 per cent in May 2013 (compared with an average of 24.4 in the euro zone).[47] Thus, the prospects of a significant part of the population to access the job market and for securing an adequate standard of living have been compromised.

[43] Greek Ombudsman, 2011 Annual Report, English summary, (available from www.synigoros.gr/resources/ee2011-english_translation-final.pdf), p. 4.

[44] National Commission for Human Rights, Annual Report 2011 (available from http://www.rwi.lu.se/NHRIDB/Europe/Greece/NationalCommissionforHumanRightsAnnualReport2011.pdf), pp. 71-72.

[45] See IMF, Country Report No. 13/155 (available from www.imf.org/external/country/GRC/index.htm?type=42), p. 18.

[46] Hellenic Statistical Authority, Labour Force Survey June 2013, press release, 12 September 2013,available from www.statistics.gr/portal/page/portal/ESYE/BUCKET/A0101/PressReleases/A0101_SJO02_DT_MM_06_2013_01_F_EN.pdf.

45. In addition, the labour market reforms under the adjustment programme have undermined the realization of the right to work. Together with successive wage cuts and tax hikes, the reforms have failed to achieve the stated goal of promoting secure growth and employment. Conversely, they have resulted in massive lay-offs, a deterioration in labour standards, increased job insecurity and widespread precariousness, with over-flexible low-paid jobs, where women and young people are predominant. The minimum wage has been pushed below poverty thresholds and has, to a large extent, lost its function as a tool for poverty alleviation.[48] In addition, more than 120,000 professionals – including doctors, engineers and scientists – have emigrated since 2010.[49]

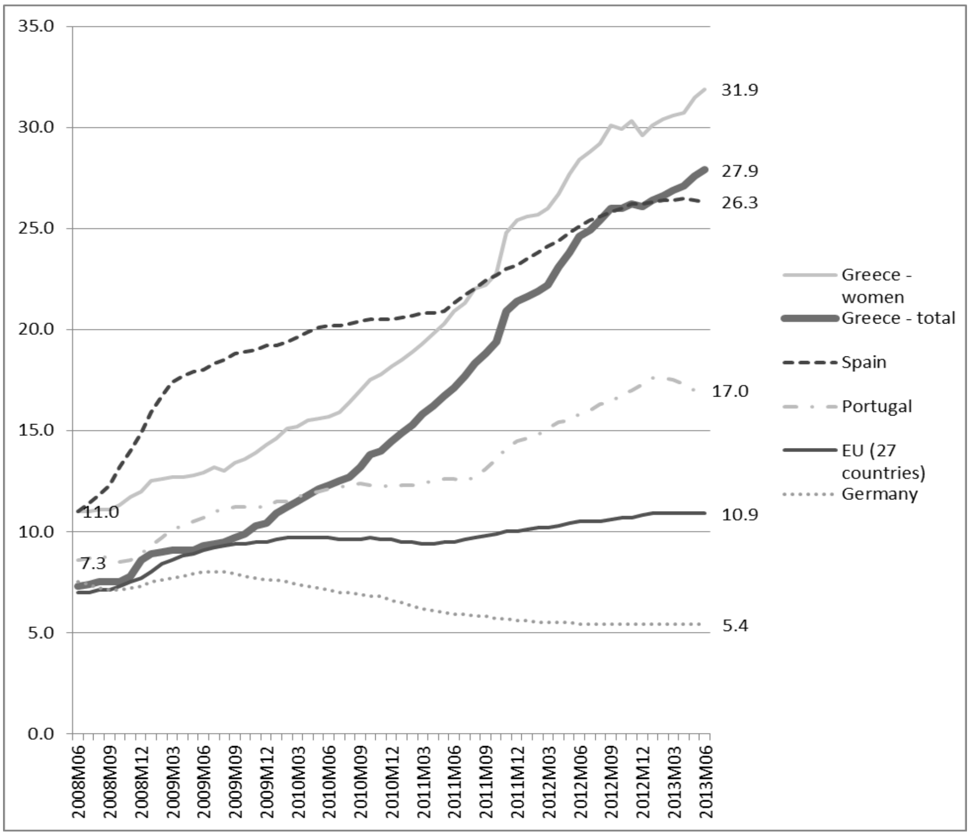
46. It may be contended that this situation is at odds with the obligation of the State under article 22(1) of the Constitution to protect the right to work and to create conditions of employment for all citizens.

[47] Hellenic Statistical Authority, Labour Force Survey May 2013, press release, 8 August 2013.

[48] The reduction of the national minimum wage by 32 per cent to €426.64 for workers below 25 years violates their right to a fair remuneration, given that it should be above the poverty line in any given country defined at 50 per cent of national average wage, and that the lower minimum wage for young workers violates the principle of non-discrimination. See Council of Europe, Committee of Ministers, Resolution CM/ResChS(2013)3 (https://wcd.coe.int/ViewDoc.jsp?id=2029587&Site=CM).

[49] See "Brain drain: 120,000 professionals leave Greece amid crisis", *Spiegel Online International*, 10 Arpil 2013. Available from http://www.spiegel.de/international/europe/unemployment-and-recession-in-greece-lead-to-brian-drain-a-893519.html.

Unemployment rate in per cent (June 2008 to June 2013)



Source: Eurostat

47. As the figure above shows, the crisis has had a disproportionate impact on women. The rate of unemployment among women, currently estimated at 31.9 per cent, is 7 percentage points higher than that for men.[50] In addition, there has been a strong increase in involuntary part-time work since 2008, in particular among women. Some 61 per cent of all part-timers did not choose this status, an increase of 16 per cent.[51]

48. According to the Ombudsman, there have been an increasing number of complaints relating to unfair dismissal due to pregnancy, indicating increased pressures on women to turn to unpaid work or the informal economy, thereby compounding inequalities.[52]

49. The economic crisis has also contributed to rising tensions in the informal sector, where a significant number of the estimated 470,000 irregular migrants are employed.[53] These individuals face the risk of exposure to exploitative labour conditions. They also lack

[50] Ibid. In June 2008, the difference was 6.1 per cent.
[51] ETUI, *Benchmarking Working Europe 2013* (Brussels, ETUI aisbl, 2013), pp.12 and 65.
[52] See Greek Ombudsman, Gender and Labour Relations, Special Report 2011, executive summary, available from www.synigoros.gr/resources/docs/executive_summary.pdf.

protection, as they have little access to legal redress mechanisms owing to fear of being detected by the authorities, detained and ultimately deported. The shooting of 33 migrant workers at a strawberry farm in Manolada in April 2013 following a labour dispute underscores the gravity of the problem.

50. The Independent Expert commends the Government for the measures it has taken to expand employment and training programmes. These include the youth internship and employment voucher programme, which supports six-month vocational training and internships for 45,000 beneficiaries.[54] He considers it unlikely, however, that these measures can, against the backdrop of the deep reforms to the labour market, provide a sustainable solution to the country's profound youth unemployment problem or provide opportunities for decent work in line with international standards.

B. Social security

51. Significant spending cuts under the adjustment programme have affected a range of benefits, including unemployment benefits, pensions and family benefits.[55] To compound the problem, there are significant delays in issuing pension decisions, paying pensions and benefits and interpretative problems in the implementation of new pension legislation.[56]

52. Owing to the rise in long-term unemployment, only a fraction of all registered unemployed persons receive benefits (27 per cent as at February 2013). Moreover, unemployment benefits expire after 12 months, resulting in the loss of public health insurance cover. Many young people are not eligible for support because they have never had a job and have not paid the required national insurance contributions.

53. The Independent Expert notes that a modified assistance scheme to be introduced as of 1 January 2014 will expand unemployment support to all long-term unemployed persons below retirement age. Those with a family income below €10,000 will be entitled to monthly assistance of €200 per month. Nevertheless, he is of the view that this may be insufficient to protect the individuals concerned and their dependants from falling into poverty. It should be noted that the number of people living in jobless households increased from around 600,000 in 2009 to about 1.48 million during the first quarter of 2013, while

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[53] See A/HRC/23/46/Add.5, para. 4.

[54] See Country Report No. 13/241(see footnote 32), p. 83.

[55] Social welfare expenditure in Greece is relatively low when compared with other European countries. See OECD, *Greece: Reform of Social Welfare Programmes*, 2013 (available from www.oecd-ilibrary.org/governance/greece-social-welfare-programmes_9789264196490-en), p. 26.

the number of children living in such households grew even faster from 93,375 in 2009 to 277,149 in the first quarter of 2013.[57]

54. Consecutive cuts have reduced pensions by up to 60 per cent (for higher pensions) and between 25 and 30 per cent for lower ones. The total monthly pension income in excess of €1,000 has been reduced by 5 to 15 per cent, while Christmas, Easter and summer bonuses for pensioners have been abolished. These wholesale pension cuts have pushed a large proportion of the population into poverty.

55. The Independent Expert shares the view of the European Committee of Social Rights that the "cumulative effect" of the various laws introduced as "austerity measures" in Greece since May 2010, restricting and reducing both public and private pension benefits, constituted a violation of the right to social security enshrined in article 12(3) of the European Social Charter.[58] As the Committee noted, ultimately, the pension cuts are likely to occasion "a significant degradation of the standard of living and the living conditions of many of the pensioners concerned".[59] It is therefore critical that the Government make efforts to ensure a sufficient level of protection for the most vulnerable sectors of the population.

56. In 2011 and 2012, several family benefits were abolished and replaced by a single means-tested family benefit provided according to family income.[60] The new benefit amounts to €40 per month per child (with slightly higher benefits per child for families with three or more children). However, only families with an annual income under €18,000 are eligible.

57. While the changes to the family benefit system ensure that support is provided in a more targeted fashion to those in need, the Independent Expert is concerned that eligibility criteria are very strict and require (since February 2011) 10 years of permanent and

[56] See Greek Ombudsman, Annual Report 2011 (see footnote 44), p. 19; *Annual Report 2012*, pp. 38-39. It should be noted that law 4151/2013 which established advance payments of pensions is intended to speed up access to pension benefits.

[57] Hellenic Statistical Authority, Living Conditions in Greece, 6 September 2013 (available from www.statistics.gr/portal/page/portal/ESYE/BUCKET/General/LivingConditionsInGreece_0913.pdf), pp. 38-39..

[58] See *Federation of Employed Pensioners of Greece (IKA-ETAM) v. Greece*, Complaint No. 76/2012, Decision on Merits, 7 December 2012; *Panhellenic Federation of Public Service Pensioners (POPS) v Greece*, Complaint No. 77/2012; *Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v Greece,* Complaint No. 78/2012; *Panhellenic Federation of Pensioners of the Public Electricity Corporation (POS-DEI) v Greece,* Complaint No. 79/2012; and *Pensioners' Union of the Agricultural Bank of Greece (ATE) v Greece,* Complaint No. 80/2012.

[59] See for example *Federation of Employed Pensioners of Greece (IKA-ETAM) v. Greece*, Complaint No. 76/2012, Decision on merits, 7 December 2012, para. 78.

[60] Overall spending on insurance and assistance-based family benefits fell dramatically from around €1.6 billion in 2009 to €900 million by 2011. See OECD, *Greece: Reform of Social Welfare Programmes* (see footnote 55), pp. 52-53.

continuous residence in Greece. This has the effect of excluding large numbers of immigrants, and needs to be addressed.

58. It is notable that, to date, Greece is the only euro zone member State without a comprehensive social assistance scheme serving as a social safety net of last resort. The Independent Expert is concerned that, rather than maintain or expand social security spending to mitigate the negative social impact of the adjustment programme, the initial mid-term fiscal strategy envisioned that social programmes (excluding pensions and health) would contribute 1.5 per cent of GDP to fiscal consolidation.

59. The Independent Expert welcomes the steps taken by the Government to enhance social protection, including, inter alia, a health voucher programme, which will provide 100,000 long-term uninsured citizens with access to primary health-care services, and a review of the effectiveness of its income support programmes.[61] Nonetheless, he urges the Government to extend coverage to all, including immigrants, in accordance with the human rights obligation of non-discrimination. He also urges the Government to ensure participation of affected individuals and communities, as well as civil society organizations, in the review, design and implementation of any proposed social protection measures.

C. Health

60. A combination of cuts to health-care spending to below 6 per cent of GDP (approximately €12.4 billion in 2012) from around 10 per cent in recent years, job cuts in the public health sector, increased fees and co-payments,[62] the closure/merger of hospitals and health-care facilities, the reduction in the number of hospital beds and an increasing number of people losing public health insurance (mainly due to long-term unemployment)[63] has undermined the availability of and access to quality health care, particularly for the poorest.

[61] IMF Country Report No. 13/241(see footnote 32), pp. 83-84.

[62] In October 2010, additional user fees were imposed, ranging from €3 to €5 in outpatient departments of public hospitals and health centres. In January 2012, a 15 per cent co-payment for clinical tests was introduced for all persons insured with EOPYY, in tandem with a 25 per cent co-payment for a range of prosthetic devices, orthopaedic materials and respiratory devices. Law 4093/2012 introduced a €25 patient admission fee at public hospitals and a fee of €1 for each prescription issued by the national health-care system as of 1 January 2014.

[63] At the beginning of the crisis, it was estimated that 85 per cent of the population had public health insurance. An increasing number of people have, however, lost insurance cover owing to long-term unemployment.

61. Since 2010, Greece has reduced health-care spending significantly, to levels below the average in the European Union.[64] Public health expenditure fell from 7.1 per cent of GDP in 2010 to 5.8 per cent in 2012, and was projected to drop to 5.3 per cent in 2013, well below the 6.3 per cent average for European Union member States. Overall, the health budget has been cut by about 40 per cent.

62. The austerity policies are also creating ancillary problems with serious health implications; for example, cuts to public health spending have meant that diseases thought to have long been eradicated in the country, such as malaria, have resurfaced owing to the discontinuation of anti-mosquito spraying programmes.[65]

63. A 52 per cent increase in HIV infections was reported from 2010 to 2011.[66] Reports indicate that, although initially blamed on sex workers and irregular migrants, the outbreak was mainly due to unsafe injecting practices among drug addicts, especially desperate young Greeks facing unemployment who had turned to drugs.[67]

64. The Independent Expert is concerned that, in response to the above situation, the authorities issued a directive (Health Regulation No. GY/39A) in April 2012, which allowed the Health Department to forcibly test anyone for certain infectious diseases, including influenza, tuberculosis, polio, hepatitis and sexually transmitted diseases, including HIV. The Independent Expert is also concerned that Regulation No. GY/39A was reinstated on 26 June 2013 only a few months after it was repealed.[68]

65. It should be noted that the detention of persons for the purposes of forcibly testing them for HIV violates the right to security of the person (International Covenant on Civil and Political Rights, art. 9), as well as the International Guidelines on HIV/AIDS and Human Rights.[69] Furthermore, the publication of sensitive personal and medical data, such as the HIV status of persons, by the Hellenic Police and local media violates the rights to

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[64] Within the first two years of austerity, the total expenditure of the Ministry of Health fell by €1.8 billion (a reduction of 23.7 per cent between 2009 and 2011). See Elias Kondilis et al., “Economic Crisis, Restrictive Policies, and the Population’s Health and Health Care: The Greek Case”, *American Journal of Public Health*, vol. 103, No. 6 (2013), p. 973.

[65] See S. Bonovas and G. Nikolopoulos, “High-burden epidemics in Greece in the era of economic crisis. Early signs of a public health tragedy”, *Journal of Preventive Medical Hygiene*, vol. 53 (2012), pp. 169-171. See also David Stuckler and Sanjay Basu, *The Body Economic: Why Austerity Kills* (New York, Basic Books, 2013), pp. 86-88; and Kondilis et al., p. 976.

[66] Kondilis et al., p. 976.

[67] European Centre for Disease Prevention and Control/World Health Organization, Mission Report, Joint technical mission: HIV in Greece, 28-29 May 2012 (Stockholm, January 2013) (available from http://ecdc.europa.eu/en/publications/publications/hiv-joint-technical%20mission-hiv-in-greece.pdf), p. 1. See also David Stuckler and Sanjay Basu, *The Body Economic: Why Austerity Kills* (New York, Basic Books, 2013) p. 23.

[68] See “HIV testing in Greece: repeating past mistakes”, *Lancet*, vol. 382 (2013), p. 102; and Human Rights Watch, “Greece: Repeal Abusive Health Regulation”, 4 July 2013.

[69] See comments on guideline 3, para. 20 (b), and guideline 5, 22(j).

privacy (International Covenant on Civil and Political Rights, art. 17) and the confidentiality of personal health information (International Covenant on Economic, Social and Cultural Rights, art. 12).

66. There has also been a rise in mental health problems. Suicides have risen by 37 per cent since the onset of the debt crisis (from 677 in 2009 to 927 in 2011).[70] According to some studies, the rise in suicides and suicide attempts can, to a large extent, be attributed to the financial and social strain imposed on individuals by the economic crisis.[71]

67. In the context of severely reduced access to the public health-care system, there has been an increase in the number of community clinics serving a population unable to afford health insurance, nor pay for treatment and medicines. More and more Greek citizens are turning to these clinics, which were initially established to help immigrant communities, are staffed by volunteer doctors and nurses and provide free services and medicines (which are donated).

68. Access to medicines has also become a problem. In February 2013, more than 200 medical products were in short supply at hospitals and pharmacies, including drugs for arthritis, hepatitis C and hypertension, cholesterol-lowering agents, antipsychotics and antibiotics.[72] The introduction of co-payments has compounded the problem, since many patients cannot afford, in the context of severe austerity, to pay for their medication.

69. In June 2013, the National Organization for Health-care Provision (EOPYY) started to hand out free medicines to about 50,000 unemployed and uninsured persons through a network of "social" pharmacies located in Attica.[73] The Independent Expert welcomes this initiative, but is of the view that the programme needs to be significantly expanded in volume and geographical scope so as to ensure affordable access to medicines by all that need them.

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[70] "Greece suicide rate skyrockets, police data shows", *Ekathimerini*, 22 November 2012. See also "ELSTAT says 1,245 Greeks killed themselves in 2009-11 period", *Ekathimerini*, 28 June 2013. Official statistics might not, however, give an accurate reflection of the situation owing to the fact that many suicides are not reported as such because the Greek Orthodox Church refuses religious funerals to those whose deaths are classified as suicides.

[71] See David Stuckler et al.,"Effects of the 2008 recession on health: a first look at European data", *Lancet*, vol. 378 (2011), pp. 124-125; and M. Economou et al., "Suicidal ideation and reported suicide attempts in Greece during the economic crisis", *World Psychiatry*, vol. 12, No. 1 (2013), pp. 53-59.

[72] Elizabeth Sukkar and Helena Smith, "Panic in Greek pharmacies as hundreds of medicines run short", *Guardian*, 27 February 2013, available from www.theguardian.com/world/2013/feb/27/greece-blames-drug-companies-shortages.

[73] "EOPYY to give out free medicines to 50,000 Greeks", *Ekathimerini*, 1 June 2013,www.ekathimerini.com/4dcgi/_w_articles_wsite1_1_01/06/2013_502099.

70. The reforms have also restricted access to health care for undocumented migrants. Although in theory they have access to free health-care services in cases of emergency or if there is a risk to their life, in practice such access cannot be assured since it is at the discretion of medical personnel. Moreover, an official directive issued on 2 May 2012 (amending the Law 3386/2005, §84) states clearly 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 an emergency.[74]

71. The Independent Expert acknowledges the need for reform of the Greek health-care system. Nevertheless, he considers that the massive cuts to public funding to the health sector and the introduction of user fees, which have resulted in a large section of the population being unable to enjoy the minimum essential levels of the right to the highest attainable standard of health, as enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights, constitute retrogressive measures. He underscores that health is an important condition for the individual's well-being and dignity.[75] Greece therefore has an obligation to establish conditions under which the health of all individuals can be protected and promoted.

D. Education

72. Annual public spending on education was cut from €7.23 billion in 2009 to €5.84 billion in 2013, a reduction of 30 per cent. The education budget has been reduced by cutting government spending on human resources, as well through drastic cuts in daily operational and maintenance costs for schools and costs for purchasing educational material. These expenditures were reduced by 24 per cent in 2011 and by a further 19 per cent in 2012.[76]

73. As part of austerity, between school years 2009-2010 and 2013-2014, approximately (14.5 per cent of all school units of primary education (including pre-primary schools) and 4 per cent of school units in secondary education have been merged. The closure of schools has in certain instances significantly increased the distance for children to reach school, and

[74] Médicines du Monde, *Access to healthcare in Europe in times of crisis and rising xenophobia* Paris, 2013 (available from www.medecinsdumonde.org/content/download/13840/165088/file/DP+crisis+and+rising+xenophobia.pdf), p. 42.

[75] See E/C.12/2000/4, para. 1.

[76] See European Commission, "Funding of Education in Europe 2000-2012: The impact of the economic crisis", Eurydice Report, 2013 (available from http://eacea.ec.europa.eu/education/eurydice.../documents/thematic_reports/147EN.pdf), p. 37.

limited access and increased school drop-out rates, especially among Roma children, remain a concern.[77]

74. In addition, the number of secondary school teachers has been reduced, , mainly through retirement and restrictions placed on new recruitments from mid-2010, in particular for the school year 2012-13 by about 11 per cent. It is planned that 2,500 more teachers will be placed in the mobility scheme and may eventually be retrenched. The salaries of teachers in public schools have also been cut.

75. According to the Ministry of Education, however, these funding cuts have not resulted in a deterioration of the right to education as many teachers will been reassigned according to need. Nonetheless, the Independent Expert considers that these cuts in a very short time cannot realistically be absorbed without any negative impact on the quality of public education.[78]

E. Adequate housing

76. As a result of the recession and the adjustment programme, there has been an increase in homelessness since 2009, estimated at 25 per cent. Non-governmental organizations estimate that at least 20,000 people are now homeless. Many of the "neo-homeless" are relatively well-educated who have found themselves in this situation owing to the financial difficulties occasioned by loss of employment and benefits.

77. As part of the fiscal consolidation, the Workers' Housing Organization, the only major institution providing housing benefits, was abolished in February 2012 and its competences transferred to the Manpower Employment Organization. The Workers' Housing Organization had provided, inter alia, a rental subsidy to nearly 120,000 households and housing benefits for non-insured elderly persons.[79]

78. At the same time, reductions in social service budgets have severely affected the ability of support services to provide assistance to the homeless at a time when they were already struggling to meet the increasing demand. For example, in November 2010, 61 of

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77 See also CRC/C/GRC/CO/2-3, paras. 60-61.
78 See for example Iordanis Paraskevopoulos and John Morgan, "Greek Education and the Financial Crisis. Education System with a Bleak Future?", *Weiterbildung*, 5/2011, pp. 38-41.
79 See A/HRC/23/51, communication GRC 1/2013 and reply of the Government of Greece dated 16 April 2013.

the 85 staff members at the City of Athens Homeless Foundation were laid off, greatly reducing the services that could be provided.[80]

79. In 2009, the Government took measures to protect low- and middle-income homeowners unable to service their mortgages from bank foreclosures. To this end, the Government imposed a ban on banks from repossessing primary residences worth up to €200,000. The Independent Expert understands, however, that the State's international lenders have pressed the Government to end the ban. He calls upon these lenders to avoid prescribing policy actions that may undermine Greece's international human rights obligations, including the right to adequate housing.

80. The Independent Expert shares the concern expressed by the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context that the phasing out of housing subsidies, changes to the legal protection against evictions and the emergency property tax have had a detrimental impact on the realization of the right to adequate housing for the poorest and most marginalized segments of society.[81] He calls upon the Greek authorities to introduce a comprehensive means-tested housing benefit targeted at the poor and their families, to close the social protection gap in the area of housing exacerbated by the dissolution of the Workers' Housing Organization. It should be noted that housing, like employment, is an important guarantor of human dignity.

F. Poverty and social exclusion

81. Although Greece already had the highest poverty rate in the euro zone prior to 2009, the austerity measures, particularly job redundancies and cuts to wages and benefits, have pushed even more people into poverty. Approximately 11 per cent of the population is living in extreme poverty.[82] These poverty levels have contributed to increasing inequality and social exclusion.

82. According to a study by the Athens University of Economics and Business and University of Essex, the relative poverty rate (namely, the percentage of persons having less than 60 per cent of the median income at their disposal) increased from 20 per cent in 2009

[80] Nicole Fondeville and Terry Ward, "Homelessness during the crisis", research note 8/2011, European Commission - Directorate- General for Employment, Social Affairs and Inclusion, November 2011, p. 14.

[81] See https://spdb.ohchr.org/hrdb/23rd/public_-_AL_Greece_19.02.13_(1.2013).pdf.

[82] See Jubilee Debt Campaign, *Life and debt* (see footnote 15), p. 12.

to 21.29 per cent in 2012.[83] In particular, the unemployed (relative poverty rate of 41.08 per cent) and many children (26.75 per cent) have dropped under the relative poverty threshold. Data from the Hellenic Statistics Authority for 2011 indicating that 44 per cent of all unemployed have fallen under the poverty threshold confirm this trend. It should be noted that single parent households with children face a similar risk of poverty (rate of 43.2 per cent).[84]

83. Income inequality has also increased. Overall, the Gini index, taking values from 0 (total equality) to 1 (total inequality), moved from 0.3449 in 2009 to 0.3678 in 2012.[85] Although the austerity measures included elements requiring a greater contribution to the fiscal savings by the more affluent, the adjustment has nevertheless further reduced the income of population groups that were already at the bottom of income distribution in 2009, thus exacerbating their poverty. People in the lowest income decile lost 24.2 per cent of their pre-crisis income between 2009 and 2012. If income deciles are adjusted on the basis of the 2012 income distribution, the income loss of the poorest 10 per cent of the population rises to an alarming 56.5 per cent.[86]

84. It is difficult to isolate the distributive effects of the austerity policies from the wider recession, as both are closely connected. Experts nevertheless conclude that the 63.3 per cent of the population that found itself below the fixed poverty line in 2010 and 2011 did so as a consequence of austerity policies alone – meaning they can be directly attributed to changes imposed by taxation, and wage and social benefit cuts. They also note that the sharp rise in poverty and inequality was mostly due to the large drop in the income share of the poorest 10 per cent of the population.[87]

G. Other rights

85. The negative impact of the adjustment programme extends to civil and political rights; for example, the widespread public protests held against the harsh austerity measures were reportedly dealt with in a heavy-handed manner by the authorities.[88] In May 2013, the Government invoked national emergency legislation allowing it to compel public sector

[83] Chrysa Leventi and Manos Matsaganis, Distributional Implications of the Crisis in Greece in 2009-2012, EUROMOD Working Paper No. EM 14/13, August 2013 (available from www.iser.essex.ac.uk/publications/working-papers/euromod/em14-13). See also Eurostat news release 171/2012, 3 December 2012, available from http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-03122012-AP/EN/3-03122012-AP-EN.PDF.

[84] Hellenic Statistical Authority, Living Conditions in Greece (see footnote 57), p. 47-49.

[85] Leventi and Matsaganis, Distributional Implications (see footnote 83), p. 22.

[86] Ibid., p. 28.

[87] Ibid., p. 35.

[88] Greek Ombudsman, *Annual Report 2011* (see footnote 43), pp. 28-29.

employees to work to ban a planned strike by the National Union for High School Teachers against austerity measures during university entrance examinations. The Government argued that the measure was necessary to prevent a severe disturbance to the social and financial life of the country and to safeguard public order, as well as the health of prospective university students.

86. The Independent Expert considers, however, that such responses are disproportionate and may violate the freedoms of assembly and association, which are also guaranteed in the Constitution.

87. There has also been a rise in hate crimes and xenophobia against the country's immigrant community, largely targeted in an attempt to find a scapegoat for the crisis.[89] In April 2013, UNHCR, the National Commission for Human Rights and a coalition of 30 non-governmental organizations documented 154 incidents of racist violence in 2012 alone, of which 151 committed against refugees and migrants and three against European citizens. It is believed that most attacks were committed by members of extremist groups, and that only a fraction of all cases are actually documented.[90]

88. The Independent Expert is concerned at reports of the failure of the police to protect victims or to respond to such attacks and to investigate them diligently.[91] He welcomes the establishment of 70 anti-racist police units throughout the country and the appointment of a special prosecutor responsible for the coordination and proper investigation of racist crimes by the prosecuting authorities as an important step to combat such incidents. He also welcomes the submission to the Hellenic Parliament on 20 November 2013 of a new law aimed at combatting racism and xenophobia (Amendment of law 927/1979).

89. Lastly, the enjoyment of human rights has been further undermined by the limited ability of public accountability bodies, such as the Greek Ombudsman and the National Commission for Human Rights, to respond adequately to human rights issues in the context of the economic crisis owing to insufficient funding for operations. Other barriers to access to justice include lengthy proceedings before civil and administrative courts, higher fees for

[89] Ibid., pp. 28-29. See also "The Greek Ombudsman on incidents of racist violence", press release, 3 July 2012, available from www.synigoros.gr/resources/press-release-on-racist-violence--2.pdf.

[90] UNHCR, Racist Violence Recording Network, 2012 annual report, available from www.unhcr.gr/1againstracism/en/2012-annual-report-of-the-racist-violence-recording-network/. See also the report by the Council of Europe Commissioner for Human Rights following his visit to Greece, Strasbourg 16 April 2003, CommDH(2013)6; Human Rights Watch, "Hate on the Streets. Xenophobic violence in Greece", July 2012; and Amnesty International, "Police violence in Greece", July 2012, pp. 17-23.

[91] Greek Ombudsman, "The phenomenon of racist violence", special report, 25 September 2013 (available in Greek fromwww.synigoros.gr).

initiating legal proceedings and inadequate funding for legal aid.[92] The Independent Expert urges the Government of Greece to address these challenges as a matter of urgency and notes in this context that, on 12 February 2014, the Hellenic Parliament adopted a new law (4239/2014) aimed at providing fair satisfaction for exceeding the reasonable duration of proceedings in civil and criminal courts and in the Court of Audit.

VII. Conclusions and recommendations

90. **The adjustment programme and, in particular, the excessively rigid austerity measures implemented since May 2010 have exacted substantial economic and social costs for the Greek population. The programme has pushed the economy into recession, compromised the standard of living of the majority of the population and generally undermined the enjoyment of human rights in Greece. A large proportion of bailout loans has been used to pay off the banks that lent money recklessly to Greece, while increasing the country's debt. Regrettably, the role of the State as provider of accessible public services has been subordinated to the increasingly elusive goal of restoring a sustainable public budget.**

91. **On the basis of the findings set out in this report, the Independent Expert makes the recommendations below.**

A. Government of Greece

92. **The Independent Expert recommends that the Government:**

(a) Implement its international financial obligations, including those under the adjustment programme, without resorting to further public spending cuts and other austerity measures that may undermine the realization of economic, social and cultural rights in the country;

(b) Ensure that it preserves sufficient resources to enable it utilize its "maximum available resources" for the realization of all human rights and, in particular, to ensure the enjoyment of the minimum essential levels of economic and social rights in line with its international obligations;

[92] According to the Ministry of Justice, some 4,000 applications are made annually for legal aid, 95 per cent of which is devoted to criminal matters.

(c) Conduct an independent, transparent and participatory audit of its debt in order to determine its origins and to identify and to hold to account those found responsible for the debt;

(d) Conduct human rights impact assessments to identify the potential negative impact of the adjustment programme and the necessary policies to address it;

(e) Intensify its efforts to combat tax avoidance and evasion and, in particular, to improve collection of outstanding tax debts;

(f) Urgently devote sufficient resources to close gaps in the social protection system;

(g) Consider expanding existing programmes aimed at addressing unemployment, particular among youth, through training and proactive labour policies;

(h) Increase the minimum wage (after taxes) as soon as possible to levels above the poverty threshold;

(i) Consider expanding the means-tested guaranteed minimum income scheme to be piloted in two regions in 2014 at the national level to close gaps in the welfare safety net, in accordance with ILO Social Protection Floors Recommendation, 2012 (No. 202);

(j) Urgently repeal or adjust any austerity measures that have had a regressive impact on income distribution;

(k) Ensure affordable access to primary health care without discrimination, and address the drop-out of persons from medical insurance owing to long-term unemployment or other reasons;

(l) Repeal as a matter of urgency Health Regulation No. GY/39A;

(m) Reconsider the reform measures that have had a negative impact on the right to education, particularly for members of vulnerable groups;

(n) Enhance support for homeless persons and increase efforts to prevent further homelessness; consider establishing a housing benefit for low-income households to fill the gap caused by the closure of the Workers' Housing Organization, and continue protection of low-income homeowners and their families who are not able to serve their mortgages against possible eviction from their own homes;

(o) Implement recommendations by the Council of Europe Commissioner for Human Rights to curb the increase in racist attacks and xenophobic violence; and continue to take decisive measures to combat violent extremism in accordance with international human rights law;

(p) Consider ratifying core 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.

B. International lenders

93. **The Independent Expert calls upon the country's international lenders:**

(a) To avoid providing financial assistance with intrusive and onerous policy conditions that may undermine the country's growth prospects and the realization of all human rights;

(b) To support the undertaking by the Government of Greece to conduct an independent, transparent and participatory audit of the State's public debt;

(c) To consider a further reduction of the public debt of Greece, including a write-down of Greek bonds held by the European Central Bank, to allow the country to reduce its debt to a more sustainable level as defined in the present report;

(d) To include the reduction of unemployment and poverty as measurable targets in the ongoing adjustment programme, and to monitor progress regularly;

(e) To ensure transparency in their dealings with the Government of Greece in a manner that fully respects the rights of the people of Greece, including the right to public participation;

(f) With particular reference to IMF, to ensure that debt sustainability assessments take into consideration the other demands on the Government's available resources, particularly those required for social investment and establishment of the conditions for the full realization of all human rights, particularly economic, social and cultural rights;

(g) To consider preparing a new adjustment programme for Greece with better conditions that will allow it to address its deficit and debt problems without undermining the enjoyment of human rights.