



## END OF MISSION STATEMENT

### **United Nations 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**

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Athens, 8 December 2015

Today I end my official country visit to Greece which began on 30 November 2015. I would like to thank the Government of Greece for inviting me and its full cooperation during the visit.

I have benefitted from discussions with several members of the Greek cabinet and with senior government official from the ministries of Justice, Transparency and Human Rights, Education, Economy, Development and Tourism, Finance, Foreign Affairs, Health, Interior and Administrative Reconstruction, and Labour, Social Security and Social Solidarity. I was honoured to be received by the Deputy Prime Minister, Presidents of the Supreme Court and of the Council of State and had meetings with members of the Hellenic Parliament, the Central Bank of Greece, the Office of the Greek Ombudsman and the National Commission for Human Rights. My programme included meetings with the Structural Reform Support Service of the European Commission, the IMF, the General Confederation of Greek Workers, Employers' organisations, the United Nations High Commissioner for Refugees, members of the former Truth Committee on Public Debt, experts from academia, as well as many civil society representatives. I would like to thank all my interlocutors for taking the time to meet with me and for our very open and frank dialogue.

Although this was my first visit to Greece as an Independent Expert of the United Nations, my visit took place nearly three years after my predecessor, Mr. Cephastus Lumina, visited the country and made recommendations to the Greek Government and its international lenders to address certain human rights concerns arising out of the debt crisis and the structural adjustment programme.<sup>1</sup> Next year I intend to undertake an official visit to European institutions in Brussels. Today I present my preliminary views on which I will further reflect in a future report to the Human Rights Council.

Many changes have taken place since April 2013. A new Government was elected in January 2015 with the notable ambition of implementing reforms and avoiding excessive austerity measures, without being forced to leave the European Monetary Union. A third adjustment programme was therefore agreed upon in August 2015. In addition, Greece is witnessing an unprecedented flow of refugees through its territory, mainly from conflict affected countries such as Syria and Afghanistan.

The European Central Bank (ECB), European institutions and the IMF have provided over the last years a financial package to prevent a banking collapse in the country and to stabilise the Greek

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<sup>1</sup> See his report, UN Doc. [A/HRC/25/50/Add.1](#).

economy. While a banking collapse would have had unpredictable further negative social impacts, it is equally important to prevent onerous human rights costs caused by austerity measures implemented in order to repay the funds used for bailing out the banks. The core idea of bailing out the banking system with public funds is that people of the country will be better off. In terms of procedural rules, the ECB decision to reduce emergency credits to Greek banks shortly before the referendum on 5 July 2015 was delicate, as it has been perceived by some observers as an attempt to influence the outcome of the democratic decision making process in Greece.

After more than five years of adjustment policies, indicators tracking economic, social and cultural rights in Greece have not improved. To the contrary in many areas they have even worsened. Human rights obligations of Greece and its international lenders towards rights-holders within the country continue to be side-lined, both in the design of adjustment policies and in the implementation of much needed structural reforms.

Some few figures may corroborate the seriousness of the situation: An estimated number of 2.5 million people with limited or no health insurance, and public health services are frequently overburdened when ensuring effective access to the right to adequate health care.<sup>2</sup> Civil society initiatives are filling the gaps in public services by looking after a growing number of people within Greece that cannot afford medical services or medication. In this context I welcome that the Government has decided for the first time in many years to allocate additional funds for public health care in the 2016 budget and wants to roll out a plan to improve access to health care services.

The rights to work and social security continue to be in a state of disarray. Greece has the highest unemployment rate in the Eurozone, with youth unemployment remaining at 47.9 percent.<sup>3</sup> Equally worrying is the increase in long-term unemployment and the fact that only one out of ten registered unemployed persons receive unemployment benefits. While there are plans to roll out a nationwide social welfare benefit of last resort in the form of a Guaranteed Minimum Income scheme, millions are currently left without basic social security. The situation is further aggravated by the fact that many of them cannot rely anymore on family based solidarity networks as they have frequently been stretched to their limits.

It has actually come to a point where a highly developed country within Europe, is partially unable to safeguard the enjoyment of essential minimum levels of economic, social and cultural rights enshrined in binding international human rights law to many of its own people. 36.0 per cent of the population, i.e. a total of 3.76 million people, are at risk of poverty and social exclusion. The number of people facing material deprivation has nearly doubled between 2009 and 2014 rising from 11 percent to 21.5 percent of the population.<sup>4</sup>

It is therefore justified to speak about a humanitarian and human rights crisis in the field of economic and social rights in Greece. In my view both the Greek Government and the Eurozone States must act

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<sup>2</sup> World Health Organization, *Barriers and facilitating factors in access to health care services in Greece*, Copenhagen, WHO Regional Office for Europe, 2015, available at: <http://www.euro.who.int/en/countries/greece/publications/barriers-and-facilitating-factors-in-access-to-health-services-in-greece-2015>.

<sup>3</sup> Hellenic Statistical Authority, *Labour Force Survey, August 2015*, 11 November 2015, page 2. available at: [www.statistics.gr](http://www.statistics.gr)

<sup>4</sup> 2014 Eurostat data available at, <http://ec.europa.eu/eurostat/web/income-and-living-conditions/data/main-tables>

now decisively to avoid that this deep social crisis undermines the prospects for a successful economic reform.

In addition, Greece is facing an unprecedented inflow of refugees. I would like to stress that there have been several positive developments in relation to the Greek Government policy towards refugees and irregular migrants including a reduction of administrative detention. Owing to austerity and the economic crisis, the Greek State is in a difficult position to deal adequately with the largest refugee crisis facing Europe since the Second World War, which is even a challenge for countries in a much better economic situation. European and international support in the form of personnel, material and finance is required to ensure appropriate health care, food and housing for refugees. It is difficult to understand why Eurozone States have not relaxed budgetary restrictions that would ensure that Greece can further strengthen its response to the crisis in a manner reflecting best practices and standards in the field of human rights and refugee law. It is not only refugees who have recently arrived who need protection. It is equally important to ensure that asylum seekers, migrants, and persons with humanitarian status that have resided in Greece for many years can access the labour market and are eligible to social welfare benefits in a non-discriminatory manner.

Greece has debt obligations that should be served. But it cannot be ignored that under international law, human rights enjoy a status of primacy as a result of the *jus cogens* character of core human rights. Compromise is necessary if two strands of law are in conflict with each other. The current Memorandum should at least be interpreted and, if necessary, reviewed in the light of the human rights obligations of both Eurozone States and Greece, with the view to identifying red lines that should not be crossed. Adjustment policies in Greece need to be implemented with due respect for human rights, taking fully into account recommendations by European and international human rights bodies,<sup>5</sup> including the Concluding Observations of the International Committee on Economic and Social and Cultural Rights and the Human Rights Committee that reviewed Greece in October and November this year.<sup>6</sup> The United Nations Guiding Principles on foreign debt and human rights can also provide useful guidance.<sup>7</sup>

Both the Government and its international lenders need to undertake a comprehensive human rights impact assessment that lives up to its name. Such an impact should include an evaluation of past failures to protect the vulnerable in Greek society and *ex-ante* forecasts of the social and human rights impacts that particular adjustment measures will have.

I welcome that for the first time the European Commission has published a social impact assessment for the third adjustment programme in August this year.<sup>8</sup> However, I regret to say that in my view the study remains disappointing in many respects. First, it is limited in scope and far from being the kind of human rights impact assessment recommended by my predecessor. Even if taken as a kind of purely social impact assessment, it lacks any evaluation of the social impacts caused by the first and the second adjustment programme and thus fails to draw any lessons from what went wrong. With its

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<sup>5</sup> See for example decisions of the European Committee on Human Rights relating to Greece, available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp)

<sup>6</sup> UN Doc. E/C.12/GRC/CO/2 and CCPR/C/GRC/CO/2, available at: <http://www.ohchr.org/EN/countries/ENACARegion/Pages/GRIndex.aspx>

<sup>7</sup> UN Doc. [A/HRC/20/23](#).

<sup>8</sup> European Commission, *Assessment of the Social Impact of the new Stability Support Programme for Greece*, Commission Staff Working Document, 19 August 2015, SWD(2015) 162 final., available at: [http://ec.europa.eu/economy\\_finance/assistance\\_eu\\_ms/greek\\_loan\\_facility/pdf/assessment\\_social\\_impact\\_en.pdf](http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/pdf/assessment_social_impact_en.pdf)

limited scope it is not surprising that it does not include any reference to rulings by the Greek Council of State<sup>9</sup>, recommendations by the Greek National Commission on Human Rights<sup>10</sup>, or the comprehensive country study carried out on behalf of the European Parliament on the impact of the crisis on fundamental rights in Greece<sup>11</sup>. Nor does it consider the views of the Council of Europe, the European Social Committee monitoring the implementation of the European Social Charter,<sup>12</sup> or findings and recommendations by human rights mechanism of the United Nations, including those of my predecessor. I am honestly struck by the fact that the social impact assessment of the European Commission does not mention the term “human rights” even once.

This underlines the need for more coherence among sovereign debt, social and human rights policies of the European Union. Such coherence is as well needed for the governmental response to the financial crisis. I hope these observations will encourage Greek authorities, European institutions and the IMF to carry out a comprehensive and robust human rights impact assessment and to improve the design and implementation of adjustment policies to ensure respect for human rights.

In this context I would highlight that one of the recommendations of my predecessor, namely to undertake a debt audit, has been implemented by the Greek State in the form of the debt audit carried out by a committee established by the Hellenic Parliament, the Truth Committee on Public Debt.<sup>13</sup> While the Committee has been formally dissolved recently, I think there is a need to continue such work and to draw lessons from the past, including in the field of establishing better judicial and administrative accountability for Government officials and decision makers in the private sector. The work of the Special Investigation Commission of the Parliament in Iceland that was established after the banking collapse in that country could provide inspiration in that respect.<sup>14</sup>

Greece should not go the way of limiting access to justice in times of crisis. While judicial reform should aim at reducing the time span between filing a case and a judicial decision, increasing efficiency should not become a mantra for abolishing access to legal recourse. Judicial reform should not impose new barriers preventing rights-holders from seeking essential relief through the judicial system or non-judiciary mechanism. In particular access to justice of persons in situation of vulnerability, such as persons living in poverty, refugees, irregular migrants or Roma, needs to be

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<sup>9</sup> See for example the judgement of the Council of State, 2287-2290/2014 holding that some pension reductions imposed in 2012 violate article 2(1) of the Greek Constitution that states that “respect and protection of the value of the human being constitute the primary obligation of the State”.

<sup>10</sup> See for example *GNCHR Statement on the impact of the continuing austerity measures on human rights*, from 17 July 2015, available at: [http://www.nchr.gr/images/English\\_Site/CRISIS/GNCHR\\_Statement\\_%20impact\\_of\\_austerity\\_measures\\_on\\_HR\\_2015\\_.pdf](http://www.nchr.gr/images/English_Site/CRISIS/GNCHR_Statement_%20impact_of_austerity_measures_on_HR_2015_.pdf)

<sup>11</sup> European Parliament, *The Impact of the crisis on fundamental rights across Member States of the EU – Country Report on Greece*, Brussels 2015, PE 510.014, available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510014/IPOL\\_STU\(2015\)510014\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510014/IPOL_STU(2015)510014_EN.pdf)

<sup>12</sup> See footnote 5 above.

<sup>13</sup> See for example Hellenic Parliament, *Truth Committee on Public Debt: Preliminary report*, (18 June 2015), available at : <http://www.hellenicparliament.gr/en/Enimerosi/Grafeio-Typou/Deltia-Typou/?press=f660f87e-9410-414c-9476-a4bb016e6c48>.

<sup>14</sup> See the report on my visit to Iceland [A/HRC/28/59/Add.1](http://www.unhcr.org/refugees/2015/12/5660f87e-9410-414c-9476-a4bb016e6c48.html); and the website of the Parliamentarian Icelandic Special Investigation Commission, <http://www.rna.is/eldri-nefndir/addragandi-og-orsakir-falls-islensku-bankanna-2008/skyrsla-nefndarinnar/english/>

further strengthened. This includes making legal aid more broadly available for those that do not have sufficient means.

Non-judicial mechanisms in Greece that have been established to ensure responsiveness of the public administration and to provide advice on human rights issues, should not become victims of austerity when they are most needed. The Government of Greece should make sure that the Greek Ombudsman, who has received a significantly increased number of complaints relating to social, economic and cultural rights during the last years, continues to receive sufficient support to perform its functions. Similarly, through its recommendations the National Commission on Human Rights has played an important role in the advocacy for economic and social rights during the economic crisis.<sup>15</sup> Therefore it is essential that the Secretariat of the Commission should receive more resources, including staff.

I would like to reiterate the recommendation to the Greek Government to ratify the Optional Protocol to the Covenant on Economic, Social and Cultural Rights, which allows rights-holders to submit individual complaints to the Committee on Economic, Social, and Cultural Rights after exhaustion of domestic remedies. This would be an important step towards ensuring that economic and social rights can be better enforced.

I would also recommend to the Greek Government to endorse the UN “Basic Principles on Sovereign Debt Restructuring Processes”<sup>16</sup> and the UNCTAD “Principles on Responsible Sovereign Lending and Borrowing”<sup>17</sup> as both instruments establish principles that are crucial for building consensus around human rights-centered solutions. This includes good faith negotiations among lenders and debtors in situations where sovereign debt has become unsustainable. Germany and Italy have expressed support to the UNCTAD principles. This could serve as a basis for consensus building on applicable legal standards in the context of the Greek debt crisis.<sup>18</sup>

Let me now turn to the third Memorandum and the economic prospects for the country. A few months ago the Greek government and the IMF had fundamental doubts about the sustainability of the country’s sovereign debt. Which assumptions have changed that justify the current view that the debt will be fully repaid? What is the growth strategy in the third adjustment programme that would boost the economy benefiting both the population and the lenders? Did the debt sustainability analysis underlying the third Memorandum include the political and social feasibility of implementing further cuts in social expenditures? What is the “human rights resilience” of the Greek people? Are there any estimates as to how the cuts in the educational system may undermine the quality of education and the potential for innovation, and how this will affect the prospects of economic growth in the future? How much human development has been lost because of economic stress, substance abuse, the increase in mental sickness and psychological distress that is reflected in increasing suicide rates? Has the economic impact of the brain drain of highly qualified Greek nationals to other countries been considered? What are the long-term economic costs of keeping an entire generation out of work for

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<sup>15</sup> See for example their statement mentioned in footnote 10 above.

<sup>16</sup> UN General Assembly resolution [69/319](#).

<sup>17</sup> Available at: [http://unctadxiii.org/en/SessionDocument/gdsddf2012misc1\\_en.pdf](http://unctadxiii.org/en/SessionDocument/gdsddf2012misc1_en.pdf)

<sup>18</sup> See UNCTAD, Principles on sovereign lending and borrowing: UNCTAD kick starts endorsement process, Doha, 22 April 2012, available at: <http://unctad.org/en/pages/InformationNoteDetails.aspx?OriginalVersionID=20>

several years? These questions challenge the assumption that lenders should reasonably and legitimately expect to be repaid in full at the expense of the Greek population.

I met people desperately waiting to see how their situation will further worsen as a result of the additional cuts. I also met governmental officials who are strongly committed to change and openly acknowledged the present human rights challenges the country is facing, but whose hands were tied by the fiscal targets.

In my view Greece needs debt relief in order to trigger socially inclusive growth. Debt relief should be specifically turned into an investment package to boost the real economy through public investment in infrastructure, research, development, and education. Debt relief needs to ensure that sufficient funds are available for reforming public services, improving service delivery and closing gaps in its social welfare net, including the implementation of the National Strategy for Social Inclusion developed by the Ministry of Labour, Social Security and Social Solidarity.

I welcome that the Government insisted during the negotiations with the institutions to provide better protection from foreclosure for the first residence of home owners with low incomes. However the situation in the housing market needs to be monitored closely. Homelessness has already increased as a consequence of the crisis. Greece has currently the highest rate of housing cost overburden in the European Union. This means that Greek people spent more of their disposable income to cover housing costs, including electricity, heating and water than in any other European country.<sup>19</sup> Greek society cannot afford to be pushed into a situation where the right to adequate and affordable housing becomes a luxury for the few. Therefore it would be essential to introduce a means-tested housing benefit, for all low-income households struggling to meet housing costs.

Private debt, including debt owed to tax authorities or social security funds cannot reasonably be paid back in full by persons stripped of their income. Private debt should not result in a situation that individuals find themselves excluded from certain social benefits which they desperately need.

Very small and middle sized businesses make up the largest majority of the Greek economy. Their lack of access to credit and a huge stock of non-performing loans have resulted in a situation inhibiting investment, creation of employment and economic growth. Yet, in Greece, the chances of overcoming the recession through a revival of private investment seem to be minimal. The widespread hope that private investment could be the primary engine to growth and development might prove to be illusive, given that capacity utilization is at historical low levels; the income expectations of the majority of the citizens are extremely depressed and there still is uncertainty about whether the recession will be overcome. As European monetary policy is restricted by the zero bound of interest rates to further stimulate private investment, the European economies are in a phase of long-lasting stagnation and further risks for the global economy are materializing. The only way to give a positive impulse to an economy stuck in deflation and depression is by enabling the government to launch an investment initiative. To finance this initiative public debt should be restructured in a way that would create the policy space for the government to launch projects to improve the situation of the poor and the unemployed.

Currently there is intense pressure on the Government to make further cut backs in pensions. In my view there is the need to reform the pension system based on the principle of inter-generational

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<sup>19</sup> According to Eurostat data for 2014, the housing cost overburden rate in Greece is at 40.7 percent compared to an EU average of 11.4 percent. It nearly doubled since 2009.

solidarity to make it financially sustainable and prevent old age poverty. This would be probably best secured by introducing a modest, tax funded basic pension for all elderly persons that will be topped by a contribution related proportional pension.

The country needs a reform of the existing system into a modern social welfare system that is just, efficient, sufficiently funded, targeted to those in need, and protecting core social, economic and cultural rights in a comprehensive and non-discriminatory manner. It is essential to roll-out the guaranteed-minimum income scheme that will provide a means-tested support for the poor as quickly as reasonably possible. Greece needs a social welfare system which assists and encourages taking up employment as soon as it becomes available. However, under current economic conditions, coverage of benefits for the unemployed needs to be expanded, to ensure that unemployment receive benefits for up to 24 months. Furthermore, the extremely limited tax funded unemployment schemes need to be enlarged, in order to support more unemployed workers in low-income households. In this context it would also be essential to increase support to affected individuals through the European Social Fund (ESF). The aim should be a reliable and responsive social welfare net that ensures that persons who are either unable to find jobs or physically unable to work can enjoy a life in dignity.

In order to counter problems in access to health care, Greece should focus on strengthening the role of primary health care and of the general practitioner. A basic package of health care services, including out-patient services, hospitalization and medicines should be made available to all, irrespective of social insurance affiliation, at zero or near-zero cost.

Greece has a challenging structural reform agenda: improving the social security system; ensuring access to health care for all; professionalizing the public administration; introducing a more progressive tax system - in particular by reducing tax evasion and unjustifiable tax exemptions for certain privileged groups; boosting the economy; reducing inequality; repaying a considerable amount of debt; and ensuring the human rights of the people. It is hard to believe that such far-reaching reforms can be implemented effectively if the Greek peoples' views are not seriously taken into consideration when defining the objectives, scope, sequence and pace of these reforms and if they appear to be imposed by lenders with the sole goal of repayment. National ownership of these reforms can only be ensured through public consultation, social dialogue and if the structural reforms are implemented with full respect to democratic participation and human rights.

Thank you.