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The Global Initiative
for Economic, Social and Cultural Rights

**Joint Parallel Report submitted by
FIDH (International Federation for Human Rights),
the Hellenic League for Human Rights, and
the Global Initiative for Economic, Social and Cultural Rights
to the Committee on Economic, Social and Cultural Rights
on the occasion of the consideration of the
Second Periodic Report of Greece
during the Committee's 56th Session**

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1. Introduction

1. FIDH (the International Federation for Human Rights) is an international non-governmental organisation defending all civil, political, economic, social and cultural rights set out in the Universal Declaration of Human Rights. It was founded in 1922 and brings together 178 national human rights organisations across the world. As a non-partisan, non-religious, apolitical and not-for-profit organisation, independence and objectivity are the foundation of FIDH's credibility. The protection of economic, social and cultural rights in the context of globalisation is one of FIDH's priorities.

2. The Hellenic League for Human Rights (HLHR) is the oldest and largest human rights organization in Greece. The League is an association set up under the provisions of the Civil Code with a general human rights mandate. According to its statute, the League “undertakes activities in the domain of dissemination, advocacy and development of principles that reckon to human beings rights and freedoms, integrated to social structures”.

3. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the GI-ESCR is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

4. In 2014, FIDH, HLHR and the GI-ESCR undertook a fact-finding mission to Greece and produced a detailed report entitled *Downgrading Rights: The Cost of Austerity in Greece* (December 2014). The report can be found at: <https://www.fidh.org/International-Federation-for-Human-Rights/europe/greece/16675-greece-report-unveils-human-rights-violations-stemming-from-austerity>

5. This Parallel Report is largely based on the findings and analyses in the aforementioned report, as well as updated information subsequent to its publication in December 2014. Despite commitments made by the current government, no significant change has taken place over the past seven months since the latest elections. The new bailout agreement that is to be signed between the State party and its international creditors appears to follow the same lines as previous agreements signed by former governments. As a consequence, it is to be expected that the situation as far as the respect, protection and promotion of the rights under the Covenant will not improve significantly.

2. Factual Situation and Legal Analysis: Violations of the International Covenant on Economic, Social and Cultural Rights

6. The financial crisis has had a significant impact on the socio-economic situation in Greece, to such an extent that economic, social and cultural rights (ESCR) have been affected and, in some instances, undermined, leading to a general deterioration in the respect, protection and fulfilment of Covenant rights in the State party.

7. The crisis has given rise to human rights concerns both because (a) economic hardship and austerity measures have directly impacted on people and undermined their rights; and (b) because its effects have deepened or exacerbated existing problems.

2.1 Violation of the obligation to progressively realise the rights recognised in the Covenant to the maximum available resources (Article 2, paragraph 1)

8. Under article 2 ICESCR each state party must take steps to progressively fully realise the rights recognised in the Covenant to the maximum of its available resources and by all appropriate means. This imposes “*an obligation on the State to move as expeditiously and effectively as possible towards that goal [of fully realising rights]*” and “*any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources*”.¹ The burden is on the State party to establish that it has made full use of its maximum available resources in order not to violate human rights. The ICESCR also requires State parties to demonstrate that they strive at all times to meet minimum core obligations to provide minimum essential levels of each of the rights in the Covenant.² Although any assessment as to whether a State has discharged its minimum core obligations must take account of resources constraints, “*even where the available resources is demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances*”.³

9. From a human rights perspective, austerity measures such as those adopted by Greece in response to the financial crisis can be considered as retrogressive measures. For these measures to be human rights compliant, Greece has to demonstrate that it has taken steps to progressively realise the rights enshrined in the Covenant to the maximum of its available resources and by all appropriate means. Even though the financial crisis did lead to a decrease in available resources in Greece, the State party must still demonstrate that, under the prevailing circumstances, it has made every effort to use all resources that that were at its disposal in effort to satisfy its minimum core obligations⁴ and provide the minimum essential levels for each of the rights in the Covenant. When doing this, Greece has to demonstrate in particular that any retrogressive steps taken meet the criteria that the Office of the High Commissioner for Human Rights (OHCHR) has laid for austerity measures that take into account the human rights framework.

10. The fact-finding mission found that economic, social and cultural rights have been significantly affected by the austerity measures taken by Greece in response to the financial crisis, particularly for the most vulnerable (see subsections 2.2 to 2.5 below). It also found that Greece failed to demonstrate that, under the prevailing circumstances and notwithstanding its limited resources, it has made every effort to use all resources that were at its disposal to satisfy its minimum core obligations and provide minimum essential levels for each of the rights in the Covenant. Indeed, the mission found that those minimum essential levels were not provided by Greece, notably with regard to the right to work and the right to physical and mental health, protected under articles 6-8 and 12 ICESCR, but also to article 9 (right to social security), 10 (protection of the family, mothers and children) and 11 (right to an adequate standard of living) ICESCR. Greece also failed to demonstrate that any retrogressive step taken met the criteria laid by the OHCHR to prevent human rights violations in implementing austerity or otherwise retrogressive

¹ CESCR, General Comment 3, UN DOC. E/1991/23 (1990), para. 9.

² Ibid., para. 10.

³ Ibid.

⁴ Ibid.

measures (see below under section 3 for a more detailed analysis). Greece has therefore violated article 2.1 ICESCR, as interpreted by the Committee.

2.2 Violation of the obligation to guarantee that economic, social and cultural rights are exercised without discrimination (Article 2, paragraph 2), equality between women and men (Article 3) and protection of the family, particularly mothers (Article 10, paragraph 2).

11. The fact-finding mission confirmed the findings by intergovernmental organisations (IGOs) and other civil society organisations (CSOs) when it found that the crisis and austerity measures adopted in response to it did affect all layers of society but have been particularly harmful to the most vulnerable. These have been disproportionately affected by those measures, and faced increasing discrimination based on e.g. gender, race, national or social origin and other status.

2.2.1 Right to work (Articles 6 and 7)

12. Against a background of significant cuts, reduced possibilities and increasing competition to access the labour market, vulnerable population groups face greater barriers to accessing employment. Several institutions, such as the European Parliament (EP), have emphasised that the groups that have already suffered in the past such as the long-term unemployed, women, migrant workers and persons with disabilities are currently facing even higher unemployment rates than the national average.⁵

13. As highlighted also by the European Parliament,⁶ young Greeks in particular have experienced significant difficulties accessing the labour market. In 2013, 58% of under 25 were unemployed. This was the highest rate in youth unemployment in the EU at more than twice the EU average (see ANNEX I). Faced with few prospects, young people are increasingly leaving Greece for other countries, making emigration a painful but sustainable option, particularly for the most skilled labour force. Shrinking resources in education, which suffered the cuts similar to other social services, have also had a negative impact on quality and reportedly led to technical and vocational schools' closures, thus making access to the labour market even more difficult for youths.

14. Women also face extreme difficulty in accessing the labour market. The mission found that the crisis has exacerbated pre-existing gender inequalities and discrimination in the workplace. In a report published in December 2012, the Greek Ombudsman also indicated that women's labour rights have been affected in many fields. *“Precarious forms of employment, unilateral adverse changes in contracts, wrongful imposition of job rotation, contract terminations in maternity protection periods, moral or sexual harassment, violation of national and European legislation on equal treatment and elimination of discrimination against women, and the adverse effects of motherhood on the professional and financial development of working women”*, as well as *“the problems of dealing with stereotypical gender roles on reconciliation between work and private life, affecting the equal treatment of men to their rights as fathers”* led the Ombudsman to conclude that, rather than *“leading to greater valorisation of the full workforce of the country, the crisis reinforces gender stereotypes, which in turn tends to produce gender-based exclusions.”*⁷ The unemployment gap between women and men, having improved up until 2008, began again to regress from 2009,

⁵ European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries (2014/2007(INI))*, A7-0135/2014, 13 March 2014, para. 10. See also ILO, *Report on the High Level Mission to Greece* (Athens, 19-23 September 2011), para. 318.

⁶ Ibid., para. 9.

⁷ Greek Ombudsman, *Equal Treatment of Men and Women in Employment and Labour relations - Special Report 2012: Executive summary*, December 2012, available at <http://www.synigoros.gr/resources/gender-and-labour-relations-special-report-2012.pdf>, p. 1.

reaching almost 7 points in 2013, with 31.4% unemployed women against 24.5% unemployed men. The European Parliament has also noted, in its March 2014 Resolution,⁸ that “*the new pay-scale, grading and dismissals system in the public sector will have a gender gap impact*”. The EP also indicated that “*the ILO has expressed concern over the disproportionate impact of new flexible forms of employment on women's pay*” and that “*the gender pay gap has ceased to narrow in countries undergoing adjustment, where the disparities are wider than the EU average*”. It maintained that “*wage inequalities and the falling female employment rate need to receive greater attention in the Member States [such as Greece] undergoing adjustment*”.

15. Migrants have also been disproportionately affected in accessing the labour market since the financial crisis. In addition to pre-existing discrimination in accessing employment,⁹ migrant workers are now threatened with expulsion from the country as a consequence of falling out of employment. This because migrants' work and residence permits are renewed based on the number of points they have collected, which in turn depends on their employment status (the number of points corresponding to the number of days they have worked in a year). This system makes it difficult for unemployed migrants to have their work and residence permits renewed and exposes them to the risk of being returned to their countries. Statistical data confirm this situation: at the end of 2009, the total documented migrants population in Greece exceeded 600,000 with that figure falling below 450,000 in July 2014.¹⁰ The fact that migrant workers were highly represented in sectors that have been hit most severely by the crisis has also resulted in this population group being disproportionately affected.

2.2.4 Right to physical and mental health (Article 12)

16. Deterioration in healthcare is also affecting large population segments, but it is also hitting the most vulnerable most acutely, especially those with fewer resources or less access to social security. Disaggregated data show that vulnerable populations are those who have suffered the most from austerity measures and their impact on access to health. Unemployed people, women and the poor are all groups for which the self-reported need for medical examination (ie, the share of the population who perceive themselves as having a need for medical examination that they cannot meet for various reasons, e.g., unaffordability, waiting times, distance, fear) has increased considerably more than for the rest of the population between 2006 and 2012 (see ANNEX II).

17. Women especially face difficulties in paying for maternal healthcare.¹¹ Uninsured pregnant women are particularly vulnerable as they have to pay for pre-natal care during their pregnancy and must bear the cost of delivery in public facilities. During its field mission, FIDH generally observed women express anxiety in relation to pregnancy.

18. Migrants, particularly undocumented migrants, also face barriers and discrimination in accessing the healthcare system. The situation was already difficult for them before the crisis. Undocumented migrants have no free access to health services, unless there is an emergency or life-threatening risk¹² - a situation that the European Committee of Social Rights (ECSR) of the Council

⁸ European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries (2014/2007(INI))*, A7-0135/2014, 13 March 2014, para. 19.

⁹ European Committee of Social Rights, *Conclusions XX-1 (2012)*, January 2013, p. 7.

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

¹¹ See also Médecins du Monde, *Access to healthcare for the most vulnerable in a Europe in social crisis: Focus on pregnant women and children*, May 2014.

¹² See also Koutsogeorgopoulou, V. et al., *Fairly Sharing the Social Impact of the Crisis in Greece*, OECD Economics Department Working Papers No. 1106, 9 January 2014, p. 36.

of Europe considered to be in breach of article 13 of the European Social Charter (ESC) protecting the right to social and medical assistance.¹³ The crisis exacerbated the situation, especially following Circular Y4a/oik.456102/5/2012 issued by the Health Ministry and stating that public services, public corporate bodies, local authorities and social security institutions do not have to provide services to undocumented third-country nationals, except in emergency cases¹⁴. Migrants met during the fact-finding mission, whether regular or undocumented, expressed fear to go to public hospitals. However, there are no disaggregated data available regarding migrants' self-reported unmet need for medical examination.

19. Greece can therefore be considered in breach of articles 2.2 (non-discrimination), 3 (equality between women and men) and 10.2 (protection of the family, especially mothers) in conjunction with articles 6 (right to work), 7 (right to just and favourable conditions of work) and 12 (right to the highest attainable standard of physical and mental health) ICESCR.

2.3 Violation of Articles 6 (right to work), 7 (right to just and favourable conditions of work) and 8 (trade union rights)

2.3.1 Right to work (Article 6)

20. The right to work has been adversely affected by the economic and financial crisis in Greece. Unemployment has skyrocketed in the country from less than 8% to close to an unprecedented 28% when the crisis hit its peak in September 2013. The situation is even more alarming for the young, with the Youth Unemployment Rate having reached an all-time high at 60,8% in February 2013 and averaging at 32.74% from 1998 until 2014. Also, according to the General Confederation of Greek Workers (GSEE), met by the fact-finding mission, these statistics do not reflect the real unemployment, which can be expected to be 5 to 6% higher due to hidden unemployment (ie people not responding to surveys). The GSEE has estimated that it will take at least twenty years (with a relatively optimistic 1% in yearly growth) to bring unemployment down to pre-crisis levels¹⁵. All workers (including private and public sector employees as well as the self-employed) have been affected by the labour market cuts implemented in response to the economic crisis. Eurostat figures also show that 73.5% of people who were unemployed in Greece in 2014 had been out of work for over a year, as compared to 67.1% in 2013¹⁶.

21. This situation stems not only from the economic crisis, but also from the way in which it has been managed at the political level, namely due to specific policies enacted by the authorities. Massive cuts in the public sector were founded on the need for rapid compliance with requirements set out in Memorandums of Understanding (MoUs) between Greece and the Troika (ie European Commission, European Central Bank and International Monetary Fund), and were instigated solely for budgetary reasons. They therefore failed to take any account of the negative repercussions that they would have on the labour market, especially in an already devastated economy. The cuts were applied through the public sector seemingly without due consideration for the need to preserve minimum levels in essential services, such as healthcare. These findings are comforted by those by international organisations. The European Parliament noted in its March 2014 resolution¹⁷ that

¹³ European Committee of Social Rights, *Conclusions XX-2 (2013) on Greece*, January 2014.

¹⁴ See also Médecins du Monde, *Access to healthcare in Europe in times of crisis and rising xenophobia: an overview of the situation of people excluded from healthcare systems*, April 2013, p. 42.

¹⁵ Interview with FIDH and Enet, "Twenty years needed to re-create million jobs lost to crisis", 2 September 2013, available at: <http://www.enetenglish.gr/?i=news.en.article&id=1438>

¹⁶ Szu Ping Chan, "Why there's little hope for Greece's unemployed", 9 July 2015, available at :

<http://www.telegraph.co.uk/finance/economics/11554873/Why-theres-little-hope-for-Greeces-unemployed.html>.

¹⁷ European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB,*

decision-makers largely underestimated in elaborating and implementing austerity measures their impact on unemployment, partly because the authorities failed to consider employment as an essential target in the recovery, and to weigh measures against human rights obligations. The mission found that their efforts focused almost exclusively on economic and fiscal targets, neglecting the social and human rights implications of their interventions. A High Level Mission conducted by the ILO in September 2011 made similar findings. Greek Government officials interviewed by the ILO mission indicated that employment targets “*constituted at best an indirect outcome of the policies under implementation and were not taken into account when discussing the general framing of macroeconomic policies with the Troika*”.¹⁸ The ILO mission was “*struck*” by reports that during discussions with the Troika employment targets rarely figured, noting that “*international economic and financial policies seem to be largely unaware*” of the authorities’ solemn commitment to promote full, productive and freely chosen employment”.¹⁹

22. Whilst inadequate investment in policy efforts to tackle unemployment is not new, it has nevertheless worsened during the crisis. The European Committee of Social Rights had already noted in its 2011 conclusions covering the period 2007 to 2010 that “*employment policy efforts in Greece, measured both in terms of the activation rate and spending on active labour market measures, were insufficient*”.²⁰ The ECSR concluded at the time that the situation in Greece was not in conformity with Article 1§1 of the European Social Charter protecting the right to work on ground that it had not been established that employment policy efforts had been adequate in combating unemployment and promoting job creation. Furthermore, as noted above under paragraph 13, cuts in the education budget reportedly led to technical and vocational schools closures, thus making access to the labour market even more difficult, especially for the young.

23. Policies planned by the authorities to tackle unemployment and support unemployed people to seek an occupation feature in the second MoU between Greece and the Troika. Among the eight areas listed, features “*strengthening labour market institutions and promoting employment*”. However, the proposed reforms rely heavily on liberalisation, increasing flexibility in the labour market and cutting costs, while only one reform concerns “support to the unemployed”. This section contains suggestions to adopt a comprehensive action plan and introduce a means-tested income support scheme that targets the poor, including the long-term unemployed. However, these measures were only implemented by Greece with over a year’s delay (April 2014 rather than the first quarter of 2013 as originally required). Also, the mission found that such considerations continued to play a significantly less important role than securing financial and fiscal stability.

24. It can therefore be concluded that Greece has violated the right to work as protected under article 6.1 and 2 ICESCR.

2.3.2 *Right to just and favourable conditions of work (Article 7) and trade union rights (Article 8)*

25. The rights protected under article 7 ICESCR, notably the right to a fair wage and equal remuneration, particularly between women and men, to a decent living and to safe and healthy working conditions, and under article 8 ICESCR (trade union rights) have also been severely damaged by the recession and the measures adopted by the government in response to it.

26. The power relationship between employers and workers has radically changed since the financial crisis started. As noted above, employment has decreased in Greece from two thirds of the working age population in 2007 to approximately 50% in 2013. As a consequence, Greece has

Commission and IMF) with regard to euro area programme countries (2014/2007(INI)), A7-0135/2014, 13 March 2014, para. 6 and 15.

¹⁸ ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, 2011, para. 84.

¹⁹ *Ibid.*, paras. 331, 332.

²⁰ European Committee of Social Rights, *Conclusions XX-1 (2012)*, January 2013, p. 6.

undergone an 'employment crash', with the economically inactive people being more than the economically active population.²¹ In this context, and besides the constant stress and uncertainty about the future, workers often have to deal with higher demands and little ability to protest. As a consequence, the mission found that employees feel disempowered in their relations with their employers. Constantly threatened with unemployment, workers accept any contractual condition and task that are asked of them for fear that they may lose their position.

27. The February 2012 'austerity package', implemented by Law 4046/2012 cut the minimum wage by 22% for all workers aged over 25 and 32% for workers below 25, thus legalising wages below the poverty level for young people in Greece. This was found to be in violation of the right to a fair remuneration by the European Committee of Social Rights.²²

28. Labour market reforms aimed at rendering labour more flexible and protecting employers further have also contributed to shifting the balance in favour of the latter.²³ The European Economic and Social Committee (EESC) reported that over 100 provisions have been enacted since the crisis started to effect far reaching structural reforms in the labour market.²⁴

29. According to OECD data, the proportion of part-time employees involuntarily working on a part-time basis has grown from 26% in 2008 to 44% in 2012, whilst the OECD average in 2012 was 17,8%.²⁵ Similarly, although since 2000 Greece had been reducing average annual hours actually worked per worker, which was formerly the highest among OECD countries, this figure once again began to grow in 2008, reaching 2,307 hours per year, the third highest in the OECD and 15% higher than the OECD average.²⁶ These findings are supported by the ILO which reported, following an High Level Mission to Greece in 2011 that, "*wages are reportedly reduced significantly through the replacement of fixed term employment contracts paid at the full rate, by part-time, rotation and other flexible forms of employment with lower pay, which have been introduced or facilitated in the framework of the support mechanism. [...] the unilateral transformation by the employer of full-time contracts of employment into rotation contracts had dramatically increased*".²⁷ Measures to facilitate dismissal have also been introduced, for instance by reducing severance pay through shorter notice periods (Law 3863/2010).

30. As previously noted, the crisis has also exacerbated pre-existing gender inequalities in the workplace, including regarding the right to receive an equal remuneration for equal work (see above under paragraph 14 for more details).

31. Reforms also included the imposition of wage cuts outside of collective agreements, through a law that gives precedence to company level agreements over sectorial and occupational agreements, thus significantly curtailing the right to collective bargaining.²⁸ Trade unions have complained that following these laws, "*employers and their organisations have intensified pressure*

²¹ Zoe Lanara-Tzotze, *The impact of anti-crisis measures and the social and employment situation: Greece*, European Economic and Social Committee, available at <http://www.eesc.europa.eu/resources/docs/qe-31-12-350-en-c.pdf>, p. 7.

²² European Committee of Social Rights, *Complaint No. 66/2011, Decision on the Merits*, 23 May 2013.

²³ Among these: Laws 3899/2010, 3986/2011, 3996/2011, 4019/2011, 4024/2011 and 4052/2012.

²⁴ Zoe Lanara-Tzotze, *The impact of anti-crisis measures and the social and employment situation: Greece*, European Economic and Social Committee, available at <http://www.eesc.europa.eu/resources/docs/qe-31-12-350-en-c.pdf>, p. 5

²⁵ OECD Statistics, August 2014.

²⁶ Ibid.

²⁷ ILO, *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, para. 311.

²⁸ Law 3899/2010. See also UN Human Rights Council, 25th session, *Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights*, Cephias Lumina – Addendum Mission to Greece (22-27 April 2013), 5 March 2014.

during collective negotiations with a view to arrive at wages below the hitherto minimum standards of wages set by the national general collective agreements, which were already low”.²⁹ In its response, the ILO Committee on Freedom of Association found that whilst it was 'deeply aware that the measures giving rise to this complaint have been taken within a context qualified as grave and exceptional, provoked by a financial and economic crisis’.³⁰ austerity measures targeting the Greek labour force eroded workers' most fundamental labour rights, seriously undermined the position of trade unions and endangered social cohesion and peace.³¹ It considered the measures taken by the authorities to constitute 'important and significant interventions in the voluntary nature of collective bargaining and in the principle of the inviolability of freely concluded collective agreements’, which “can destabilize the overall framework for labour relations in the country if the measures are not consistent with the principles of freedom of association and collective bargaining”³².

33. The ILO High Level Mission to Greece had previously expressed its criticism on the legislative reforms on freedom of association and collective bargaining stating that these “raise a number of questions in particular with regard to the need to ensure the independence of the social partners, the autonomy of the bargaining parties, the proportionality of the measures imposed in relation to their objective, the protection of the most vulnerable groups and finally, the possibility of review of the measures after a specific period of time.”³³

34. The EESC also expressed concern that :“The overall objectives of this body of permanent legislation are:

- To drastically alter the national institutional framework that hitherto served to configure universal protective minimum terms of work via free collective negotiations and binding collective agreements.
- To interfere by legislation unilaterally to alter the equilibrium in labour relations by promoting a fragmented labour market model that favours individualised contracts.
- To substantially reduce wages, squeeze labour costs in the private sector, and reinforce wage flexibility at the firm-level unilaterally by legislation.
- To significantly diminish the role of trade unions and reinforce the managerial prerogative with a view to promote flexibility while regulating labour relations.”³⁴

35. In light of the above, Greece can be found in violation of articles 7 and 8 ICESCR, namely of the right to a fair remuneration that guarantees equal pay for equal work and provides all workers with a decent living for themselves and their families, to safe and healthy working conditions and of the right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.

2.4 Violations of Article 11 (right to an adequate standard of living)

36. The available income has been considerably reduced in Greece since the financial crisis. Severely materially deprived persons, who represented an already high 11% of the population

²⁹ ILO, 365th Report of the Committee on Freedom of Association, GB. 316/INS/9/1 (1-16 November 2012), para. 805.

³⁰ ILO, *ibid.*, para. 988.

³¹ International Trade Union Confederation, “Greece: the anti-labour austerity reforms condemned by the ILO”, 4 December 2012, available at: <http://www.ituc-csi.org/greece-the-greek-anti-labour>.

³² ILO, 365th Report of the Committee on Freedom of Association, GB.316/INS/9/1 (1–16 November 2012), para. 995.

³³ ILO, Report on the High Level Mission to Greece (Athens, 19-23 September 2011), 16 December 2011, para. 304.

³⁴ Zoe Lanara-Tzotze, *The impact of anti-crisis measures and the social and employment situation: Greece, European Economic and Social Committee*, available at <http://www.eesc.europa.eu/resources/docs/qe-31-12-350-en-c.pdf>, p.

around 2007-2010, raised to close to 20% in 2012, a figure far above the EU average (10%) and much higher also than any other country hit by the financial crisis. This can be explained by the fact that Greece, unlike comparable countries like Spain or Portugal, had no safety net in place to absorb the impact that the crisis had on the most impoverished population brackets. In this context, even the national social security system no longer acts as a minimum 'shock absorber' for the middle class, with almost a quarter of the population at risk of poverty after social transfers in 2014, six points above the EU average (see ANNEX III). This constitutes a violation of Article 11, alone and in conjunction with Articles 9 (right to social security) and 2.2 due to the instances of discrimination faced by the most vulnerable population groups.

2.5 Violation of the right to physical and mental health (Article 12)

37. The economic crisis did not only lead to the economic degradation of the Greek society but also to an unprecedented humanitarian crisis. Since the crisis, cuts have been made almost indiscriminately across all public sector and austerity measures have affected social services. As such, public sector reforms and cuts in staff and expenditure have also targeted the health sector. In order to meet the 6% GDP reduction goal (reached and exceeded by Greece with a 5,9% public spending in health already in 2011 as compared to the 6,7% average in OECD countries, a cut that the parallel decrease in GDP made even more dramatic), the Greek government has implemented cuts across areas. In Athens and Thessaloniki hospitals have been merged or closed and staff numbers, including both doctors and nurses, have been drastically reduced. Interviews conducted by the fact-finding mission also revealed that hospitals stopped buying new equipment. Cuts have also led to a reduction in hospital beds, despite the fact that Greece was already below the EU average in hospital bed availability. This reduction has had devastating effects. Doctors met during the fact-finding mission have indicated that very often they have to postpone important operations (including vital surgeries for heart disease or cancer) or refuse patients due to lack of bed space. Practitioners interviewed by the delegation indicated that according to estimates two hundred deaths per year are caused by intensive care unit (ICU) bed shortage.

38. Massive staff reductions, in particular in nursing staff, have also been effected. Although Greece had the highest number of physicians per capita than any other OECD country,³⁵ reductions also affected nurses, although the country already had a nurse shortage according to OECD (i.e. 3.3 nurses per 1000 people in 2010 against a 7.8% EU average).³⁶ This not only has an impact on health services availability but results in nursing staff suffering serious stress levels, having to work several shifts in a row and not being able to take holidays for months or years, as it was reported to the mission's delegates. This not only violates people's right to health but also medical personnel's rights under article 7 b) (right to safe and healthy working conditions) and d) (right to rest, leisure, reasonable limitation of working hours and periodic holidays with pay). Furthermore, fewer staff and resources and a progressive deterioration in working conditions for medical personnel (due to e.g. understaffing, cuts in wages and increase in working hours) have also had an impact on the quality of the services provided.

39 The cuts have also affected the mental health service provision at a time when there is a greater need for mental healthcare. With population surveys suggesting "a 2.5 times increased prevalence" in depressions, from 3.3% in 2008 to 8.2% in 2011, and a 36% increase between 2009 and 2011 in suicide attempts in the month before the survey, funding for mental health were decreased by 20% between 2010 and 2011, and a further 55% between 2011 and 2012.³⁷ Although

³⁵ OECD, *Health Statistics 2013 - Country Notes, Greece*, 2014, available at <http://www.oecd.org/els/health-systems/Briefing-Note-GREECE-2013.pdf>

³⁶ OECD, *OECD Health at a Glance: Europe 2012*, OECD Publishing (2012), p. 72-73.

³⁷ Alexander Kentikelenis, Marina Karanikolos, Aarons Reeves, Martin McKee, David Stuckler, "Greece's health

cuts in mental health spending affect everyone in society (especially as economic hardship, widespread and pervasive in nature, affects the entire population), the impact is mostly visible on the most vulnerable. Children, for instance, are reported to have developed greater needs for mental health services as tensions in families have increased due to the economic situation.

40. Reduced access to basic health care and cuts in preventive medicine has also seen the re-emergence of illnesses and epidemics formerly considered as extinct such as tuberculosis or locally transmitted malaria.³⁸ Also, scarce funding led to cuts to street work programmes, which have been reduced by a third despite a documented rise in heroin use.³⁹ This again particularly affects the most vulnerable, especially the young and the unemployed.

41. Vulnerable and marginalised categories, including women and migrants, have suffered disproportionately from health budget reductions. Women have been particularly affected by the cuts in health services, especially during pregnancy (see above under paragraph 17). Undocumented migrants continue to be denied access to healthcare, except in emergency cases, a situation which a 2012 circular issued by the Health Ministry has perpetuated and aggravated⁴⁰.

42. The right to health has been undermined by the measures taken in response to the economic crisis also in its accessibility dimension. This is partly due to the barriers that certain population groups still face when accessing the public health system (as highlighted above under paragraph 2.2). Also, a large share of the population does not have access to healthcare because it no longer benefits from healthcare coverage. Indeed, nearly a third of the Greek population is not covered by health insurance.⁴¹ Although the second MoU contained provisions for a Health Voucher programme intended to provide free access to primary healthcare for the uninsured, the existing programme in 2014 still appeared to cover less than 10 % of the uninsured people.⁴² In its fourth review to the second MoU, Greece's creditors required that *"the Government finalises the analysis regarding the number and healthcare needs of uninsured people in the country"* and implement by June 2014 *"policies that ensure universal access to necessary care including cost-effective primary healthcare, pharmaceuticals, diagnostics and elective hospital care, in conjunction with existing policies such as the poverty booklet and the social voucher programmes"*⁴³. Common Ministerial Decision Y4a/GP/oik./48985/2014, defining conditions, criteria and health access to unsecured and economically weak citizens, which entered into force in July 2014, has been a step forward. However, the reform does not cover outpatient laboratory tests, and whilst patients requiring hospitalisation are covered in emergency cases, for scheduled admissions a complex and time consuming bureaucratic process hinders access to healthcare to patients in practice. A new ministerial decision which would guarantee full healthcare access to the unsecured population has not yet been issued.

43. Indeed, the impoverishment of the population in Greece is combined with an increase in the cost of access to healthcare, which results in the population suffering from the double blow of both rising poverty and increased costs in access to healthcare. This is particularly evident in the 'cost-shifting-to-patients' policies implemented by the government since the crisis. *"In 2011 user fees were increased from 3 to 5 Euros for outpatient visits (with some exemptions for vulnerable groups), and co-payments for certain medicines have increased by 10 % or more depending on the*

crisis: from austerity to denialism", Lancet 2014; 383: 748-53, p. 750.

³⁸ Ibid., p. 748.

³⁹ Ibid.

⁴⁰ Article 84, Law 3386/2005 and, more recently, Circular Y4a/oik.456102/5/2012.

⁴¹ Médecins du Monde, *Access to healthcare for the most vulnerable in a Europe in social crisis: Focus on pregnant women and children*, May 2014, p. 33

⁴² Ibid.

⁴³ European Commission, *The Second Economic Adjustment Programme for Greece, Fourth Review' – April 2014*, Occasional Papers No. 192 (April 2014), p. 221.

disease. New fees for prescriptions (1 Euro per prescription) came into effect in 2014. An additional fee of 25 Euros for inpatient admission was introduced in January 2014, but was rolled back within a week after mounting public and parliamentary pressure”.⁴⁴ Other measures, such as the limitation of free consultation provided per month (up to 200) by doctors under the social security scheme (beyond this limit, patients are charged with the full cost of the visit) contribute to making it very difficult for patients to know in advance how much they will pay⁴⁵. The situation has not improved significantly despite new measures enacted in April 2015 which abolished the 5 Euros fee for visits in public hospitals.⁴⁶ The World Health Organisation has also reached similar findings⁴⁷. Several sources, including a recent OECD study, confirm that access to healthcare may also have been affected by the rise in costs for health services to patients following recent reforms.⁴⁸

44. As a consequence, 'social clinics' have developed across the country, offering free primary healthcare to people who can no longer access free healthcare and do not have the means to pay for it. These clinics, which originally provided healthcare to undocumented migrants and other vulnerable groups, now mainly target the Greek population, particularly the uninsured, who turn to them as they are unable to pay for their basic healthcare in public structures. Data and information collected by the fact-finding mission through its visits to some social clinics in Athens and Thessaloniki⁴⁹ and by Médecins du Monde in its polyclinics in Greece⁵⁰ confirm these findings. However, the clinics only offer primary healthcare, leaving uninsured people in need for hospital treatment and who cannot afford to pay for it unable to access medical services.

45. Statistics regarding self-reported unmet need for medical examination show that excessive cost is the primary cause for such unmet need in Greece. This has significantly increased since the crisis, contributing to a general growth from an already high 7.3% before the crisis (2006) to 9.9% in 2012 (a third increase in only six years) and over 50% higher than the EU 27 average (see ANNEX IV).⁵¹

46. In light of the above, it can be concluded that Greece has breached Article 12 (right of everyone to the enjoyment of the highest attainable standards of physical and mental health) of the Covenant, alone and in conjunction with Article 9 (right to social security).

3. The International Covenant on Economic, Social and Cultural Rights in the Context of Austerity Measures

47. As outlined above, *Downgrading Rights: The Cost of Austerity in Greece* examined the

⁴⁴ Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, “Greece’s health crisis: from austerity to denialism”, *Lancet* 2014; 383: 748–53, p. 749

⁴⁵ Koutsogeorgopoulou, V. et al., *Fairly Sharing the Social Impact of the Crisis in Greece*, OECD Economics Department Working Papers, No. 1106, 9 January 2014, p. 36.

⁴⁶ Εφημερίδα της Κυβερνήσεως (Newspaper of the Government) second edition, issue 490, 1 April 2015, Decision A3 (γ) /ΓΠ/οικ.23754 for the abolition of the obligation for fee payment of 5 Euro in the National Healthcare System, April 2015, available at: <http://www.tovima.gr/files/1/2015/04/01/document%20%281%29.pdf>.

⁴⁷ Philipa Mladovsky, Divya Srivastava, Jonathan Cylus, Marina Karanikolos, Tamás Evetovits, Sarah Thomson, Martin McKee, *Health policy responses to the financial crisis in Europe*, WHO, Policy Summary 5, 2012.

⁴⁸ Koutsogeorgopoulou, V. et al., *Fairly Sharing the Social Impact of the Crisis in Greece*, OECD Economics Department Working Papers No. 1106, 9 January 2014, p. 36

⁴⁹ More information available at the website of the NGO Praxis: <http://www.praxis.gr/> and of the Social Clinic of Solidarity in Thessaloniki: <http://kiathess.gr/>.

⁵⁰ Médecins du Monde, Highlights of the Communication by Médecins du Monde - Doctors of the World International Network to the Committee on Employment and Social Affairs of the European Parliament, available at http://www.europarl.europa.eu/meetdocs/2009_2014/documents/empl/dv/mdm_key_points/_mdm_key_points_en.pdf

⁵¹ Eurostat, August 2014.

impacts of austerity measures on certain rights under the Covenant, particularly the right to work and the right to the highest attainable standard of physical and mental health. The report found that the enjoyment of these rights was eroded on account of austerity measures.

48. As articulated by the Office of the High Commissioner for Human Rights in its *Report on Austerity Measures and Economic and Social Rights*, submitted pursuant to UN General Assembly resolution 48/141 (2012), austerity measures must meet certain criteria to remain within the human rights framework. These criteria lay out five broad areas that must be taken into consideration to prevent human rights violations in the implementation of austerity or otherwise retrogressive measures. First, austerity measures must only be considered to address the existence of a compelling State interest; second, the necessity, reasonableness, temporariness and proportionality of austerity measures must be considered; third, there must be no other feasible alternative or less restrictive measure that could respond to the compelling State interest; fourth, the measures must be non-discriminatory; fifth, the protection of a minimum core content of each right must be a component of the measures; and finally, there must be genuine participation of affected groups and individuals in determining the measures and considering these criteria.

49. Applying these criteria to Greek austerity measures demonstrates that both Greece and other actors, including other states with relevant extra-territorial human rights obligations (see Section 4 below), have failed to react to the crisis in a manner that is human rights compliant under the International Covenant on Economic, Social and Cultural Rights.

50. First, whilst addressing financial crisis can indeed be considered a compelling State interest, OHCHR's commentary to its criteria, states that such compelling interest must be assessed "*by reference to the totality of the rights provided for in the [ICESCR] and in the context of the full use of the maximum available resources.*" Furthermore, it places the burden of proof on the State to demonstrate that "*austerity measures are justified when factors beyond its control have led to a decrease in the available resources.*" Even here, austerity measures should affect those who are better off with a view to maintaining existing levels of rights enjoyment for more vulnerable members of society. Even if the financial crisis was substantially caused by factors beyond Greece's control, and led to a decrease in available resources, Greece has the burden to establish that in this context it has made full use of its maximum available resources in order not to violate human rights (as detailed above under section 2.1). Indeed, the fact-finding mission has found that the rights enjoyment of those most economically vulnerable have substantially deteriorated as a consequence of austerity measures. Greece has thus failed to abide by the first criterion.

51. The second and fourth criteria (namely: necessity, reasonableness, temporariness and proportionality, and non-discrimination) are interrelated in the Greek context. Greek austerity measures are both unreasonable and disproportionate, particularly in disproportionately impacting on already marginalized and vulnerable groups. This finding is substantiated by the European Parliament, as discussed below. As a result, the austerity measures have had a discriminatory effect based on socio-economic status, in contravention of international law. Furthermore, the measures appear to have been implemented horizontally across public sectors without any prior assessment as to their potential adverse impacts on human rights and how to best avoid them. Also, they are not time bound; as implemented, they indicate a more structural shift than a temporary solution to a temporary crisis, as required under international human rights law.

52. The third and sixth criteria are also interrelated. Specifically, Greece has failed to demonstrate that it explored all other feasible alternatives or less restrictive measures to respond to the financial crisis,⁵² and has clearly failed to involve the genuine participation of those affected or

⁵² Counter-cyclical approaches in general have "helped to reduce the depth and duration of the impact and to leverage

provide timely, relevant and sufficient information necessary for those individuals and groups to meaningfully participate. The criteria reaffirm that *“the degree of genuine participation of affected groups and individuals in examining the proposed austerity measures and alternatives is highly relevant to the necessity and permissibility of those measures”*⁵³ under the ICESCR.

53. As to the obligation to maintain a minimum core of each right, the Committee on Economic, Social and Cultural Rights’ Concluding Observations on Spain from 2012 are relevant. Here, the Committee expressed concern that the levels of effective protection for the rights enshrined in the Covenant have been reduced as a result of the austerity measures adopted by the State party, which disproportionately curtail the enjoyment of their rights by disadvantaged and marginalized individuals and groups, especially the poor, women, children, persons with disabilities, unemployed adults and young persons, older persons, gypsies, migrants and asylum seekers.⁵⁴ The Committee went on to recommend that Spain *“ensure that all the austerity measures adopted reflect the minimum core content of all the Covenant rights and that it take all appropriate measures to protect that core content under any circumstances, especially for disadvantaged and marginalized individuals and groups”*.⁵⁵ It recommended that in order to do so the state *“compile disaggregated statistical information with a view to identifying the individuals and groups affected and that it increase the effectiveness of its efforts to protect their economic, social and cultural rights.”*⁵⁶

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

55. The European Committee of Social Rights has also considered the effect of austerity measures taken as a whole, the process by which they were adopted, and the fact that they have generally been imposed by inter-governmental organizations. With respect to the right to social security, guaranteed by Article 12 of the European Social Charter, the Committee has held that: *“Even though restrictions to the benefits available in a national social security system do not under certain conditions breach the Charter, the cumulative effect of restrictions made as austerity measures, together with the procedures applied to put them into place, amounted to a violation of the right to social security.”* In arriving at this finding, the Committee considered that even though

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

⁵³ Committee on Economic, Social and Cultural Rights, *General Comment No. 19*, para. 42.

⁵⁴ Committee on Economic, Social and Cultural Rights, *Concluding Observations: Spain*, UN Doc. E/C.12/ESP/CO/5 (6 June 2012) at para. 8.

⁵⁵ Ibid.

⁵⁶ Ibid.

severe legal restrictions were imposed on Greece by the Troika, Greece still retained its legal obligations under the Charter. The Committee took into account the financial crisis faced by Greece, but ultimately found the state in violation of Article 12(3). It stated that:

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

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

a) Right to work

56. As the previous section examines, draconian cuts were made to public sector employment. These cuts had a disproportionate impact on less fortunate segments of society. As emphasised by the European Parliament, they have failed *“to protect the most vulnerable against poverty, in-work poverty and social exclusion”* and in fact *“the most vulnerable groups in the labour market are those which are suffering most: young people, the long-term unemployed, women, immigrants and persons with disabilities.”*⁵⁷

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

*“Social dialogue has perhaps been the principal victim of the programmes. [...] social agents at national level have been neither consulted nor included in the process of designing the programmes and, furthermore, [...] their autonomy has been undermined through the automatic renewal of collective agreements, revision of sectoral agreements and the introduction of laws freezing or reducing minimum wages established in collective bargaining agreements.”*⁵⁸

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

b) Right to health

59. Again, the European Parliament mirrored the findings of our report in expressing its concern that *“among the conditions for financial assistance, the programmes include*

⁵⁷ European Parliament, *Resolution on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries*, 13 March 2014.

⁵⁸ Ibid.

recommendations for specific cuts in real social spending in fundamental areas, such as ... health care and, in some cases, pharmaceutical products for the basic protection of the most vulnerable.” Specifically, the Parliament expressed concern at “*cutbacks in access to healthcare and medicines ... and ... increased co-payment, higher prices for medicines and wage and staff reductions in health centres.*”⁵⁹ Like the right to work, these austerity measures affecting the right to health are not time bound and disproportionately impact more vulnerable populations. Also, less restrictive measures were not considered and the affected persons and groups were not allowed to meaningfully participate in decisions regarding responses to the financial crisis. Consequently, austerity measures in the health sector also amount to violations of social rights guaranteed by the ICESCR.

4. International Context: Extra-Territorial Obligations of other States that impact Covenant Rights in Greece

60. While it is understood that the present periodic review focuses on the human rights obligations of Greece, the context in which Greece is presently operating engages extra-territorial human rights obligations of other States Parties to the Covenant. These extra-territorial obligations (ETOs) include both the ETOs of States directly as well as the ETOs of States acting within inter-governmental organizations (IGOs) such as the International Monetary Fund (IMF) and the European Union (EU).

61. The IMF is a specialised agency of the UN by virtue of Article 57 of the UN Charter. Under Article 59 of the UN Charter specialised agencies are created “for the accomplishment of the purposes set forth in [the UN Charter] Article 55”, which include universal respect for, and observance of human rights and fundamental freedoms for all. Similarly, the European Union is committed, under Articles 2, 3(1),(3) and (5), and 6 of the Treaty on the European Union (TEU), to “the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” and to “promote [...] the well-being of its peoples”, “combat social exclusion and discrimination, and [...] promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child”. Article 6 TEU provides that the Union recognises the rights, freedoms and principles set out in the EU Charter of Fundamental Rights (article 6.1) and that “fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union’s law” (article 6.3) Furthermore, Article 151 of the Treaty on the Functioning of the European Union (TFEU) states that “the Union and the Member States [...] shall have as their objectives the promotion of employment, improved living and working conditions”.

62. In addition to the obligations of the IMF and the EU, it is clear that Member States of IGOs all are bound individually by their human rights obligations, based on treaty or general international law, including outside their borders and in regard to their conduct as members of IGOs. States are not permitted by international law to ignore, and ultimately violate, their respective human rights obligations simply by organizing themselves into IGOs or by using an IGO as an agent to carry out policies or practices that violate their respective international human rights obligations.

⁵⁹ Ibid.

63. Indeed, in its guidelines for the periodic reports to be submitted by States, the Committee requires States to provide information on:

*“Mechanisms in place to ensure that a State party’s obligations under the Covenant are fully taken into account in its actions as a member of international organizations and international financial institutions ... in order to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined; ...”*⁶⁰62. Furthermore, several of its Concluding Observations on the periodic reports of developed countries have indicated that it is necessary for those States to *‘to do all [they] can to ensure that the policies and decisions of international financial institutions are in conformity with the obligations of States parties under the Covenant ...’*⁶¹63. Finally, the Maastricht Principles on Extra-Territorial Obligations address this issue.⁶² Maastricht Principle 11 states that a State can be held responsible under international law for conduct attributable to it, whether acting separately or jointly with other States or entities, if such conduct breaches its international human rights obligations within its territory or extraterritorially.

64. Regarding obligations of States as members of international organizations, Maastricht Principle 15 states that:

As a member of an international organisation, the State remains responsible for its own conduct in relation to its human rights obligations within its territory and extraterritorially. A State that transfers competences to, or participates in, an international organisation must take all reasonable steps to ensure that the relevant organisation acts consistently with the international human rights obligations of that State.

65. As such, State parties to the Covenant that took part in the negotiations, conclusions and financing of the adjustment programmes had both positive and negative obligations to assist Greece in meeting its human rights obligations. These general obligations derive from the UN Charter and the International Covenant on Economic Social and Cultural Rights. They include the ETO to respect by not causing any harm that rises to a violation of the Covenant, the ETO to protect by ensuring other entities cause no harm that rises to a violation of the Covenant, and the ETO to fulfill by ensuring that any decisions actually further the enjoyment of Covenant rights.

66. State parties must also abstain from impairing Greece’s capacity to respect its international human rights commitments. These duties ought to have been discharged through participation in the Troika deliberations that led to the adoption of the economic assistance programmes – by framing the programme in a way that accounted for human rights obligations – and, failing this, by refusal to take part in adjustment programmes that knowingly led to widespread rights violations.

⁶⁰ CESCR, 'Reporting Guidelines' (2009) UN Doc E/C.12/2008/2 para. 3 (c).

⁶¹ For example, CESCR, 'Concluding Observations: Germany' (2001) UN Doc E/C.12/1/Add.68 para 31. Germany claimed in its subsequent report that it had *‘used its influence with the World Bank to ensure that its decisions and commitments were in tune with the undertakings entered into by the States parties’*, Government of Germany, 'Implementation of the ICESCR: Fifth periodic report' (2010) UN Doc E/C.12/DEU/5 para. 16.

⁶² The Maastricht Principles on extra-territorial obligations are a restatement of existing conventional and customary international law in the area of extra-territorial human rights obligations.

5. Suggested Concluding Observations

67. The State Party should ensure that it abides by its obligations under the International Covenant on Economic, Social and Cultural Rights in the context of retrogressive measures taken within austerity measures.

68. The State Party should ensure that it has met and continues to meet the criteria laid by the Office of the High Commissioner for Human Rights in its *Report on Austerity Measures and Economic and Social Rights*, submitted pursuant to UN General Assembly resolution 48/141 (2012). The Committee also draws the State party's attention to its open letter of 16 May 2012 to States parties on economic, social and cultural rights in the context of the economic and financial crisis.

69. The State party should particularly ensure that all the austerity measures adopted reflect the minimum core content of all the Covenant rights and that it takes all appropriate measures to protect that core content under any circumstances, especially for disadvantaged and marginalized individuals and groups. In that regard, the Committee recommends that the State party compile disaggregated statistical information with a view to identifying the individuals and groups affected and that it increases the effectiveness of its efforts to protect their economic, social and cultural rights.

70. The State party should ensure that any reform to the public health system and cut to the public health budget does not undermine people's fundamental right to health, as defined in Article 12 of the Covenant. To this end, it should ensure that conditions are created that would guarantee to all adequate medical services and attention in the event of sickness. This should include those who are not covered by medical insurance and other vulnerable and marginalised individuals and groups.

71. The State party should ensure that any reform to the labour market does not undermine people's fundamental right to work, as defined in Article 6 and 7 of the Covenant. To this end, Greece should set up specialised services to assist and support individuals and enable them to find available employment, as recommended by the Committee in its General Comment 18. The State party should also ensure that any labour market reform does not result in a deterioration in working conditions, particularly as regards the right to a fair remuneration and the right to freely choose and accept work, which the recent shift in the power balance between employers and employees has compromised. The State party should enact measures to limit the disproportionate impact that the current situation in the labour market is having on vulnerable categories and tackle inequalities and discrimination in the workplace. Special measures should be adopted in particular to address the situation faced by the younger generation in accessing the labour market and fair and favourable conditions of work without discrimination. The State party should reinstate collective bargaining and ensure respect of other rights protected under Article 8 of the Covenant.

72. The Committee recommends that the State party adopts measures that would address the adverse impact that austerity measures have on human rights, including programmes aimed at restoring social rights and institutions for social dialogue. The State party should also adopt measures that would help compensate for the disproportionate impact that the crisis and austerity measures had on disadvantaged and marginalised individuals and groups.

73. The State party should ensure, when incurring international financial obligations, including in the context of economic assistance programmes, that these are human rights compliant and do not violate nor impair the State's capacity to respect, protect and fulfil its obligations under the

Covenant.

74. To this end, the State party should ensure that human rights impact assessments are conducted prior to, during and after the enactment of measures to assess their potentially adverse impact on human rights and best avoid such impacts. Human rights impact assessments (HRIA) should ensure active, free and meaningful participation of those who can potentially be affected by such measures and that specific attention is given to impacts on marginalised and vulnerable groups. The State party should also ensure that mechanisms are put in place to grant affected individual and groups the opportunity to seek redress for violations.

75. The State Party should ensure that other States, including as Member States of inter-governmental organizations, and those inter-governmental organisations as legal entities, abide by their extra-territorial obligations under the Covenant regarding decisions and actions that impact Covenant rights in Greece.

76. The Committee recommends that the State party ratifies the Optional Protocol to the present Covenant, so as to strengthen the protection granted to the rights under the Covenant.

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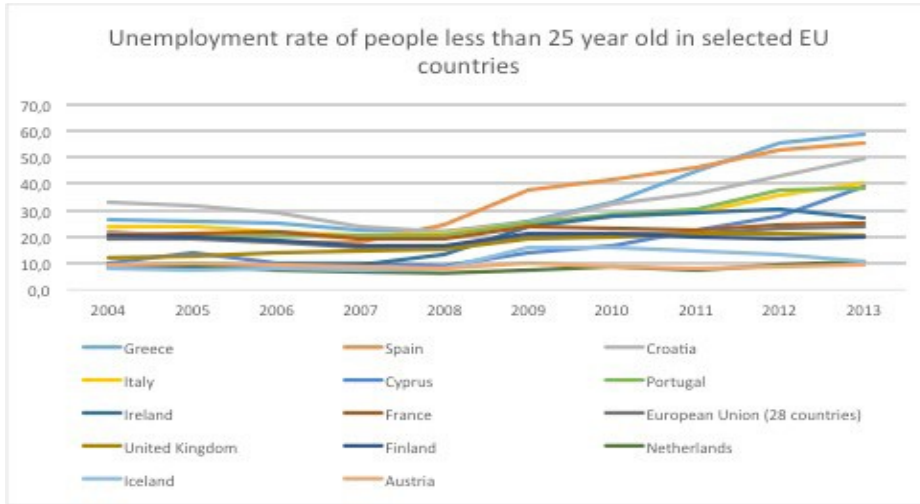
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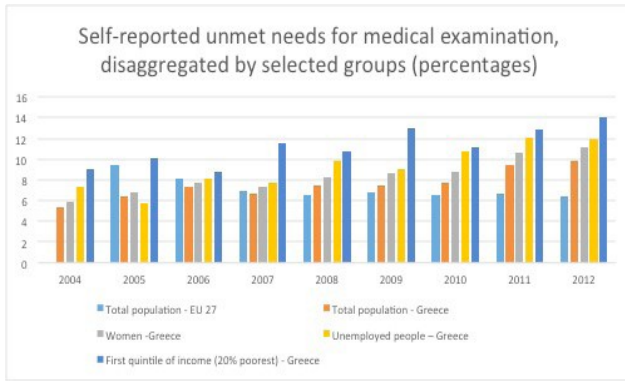
ANNEXES

ANNEX I



ANNEX II

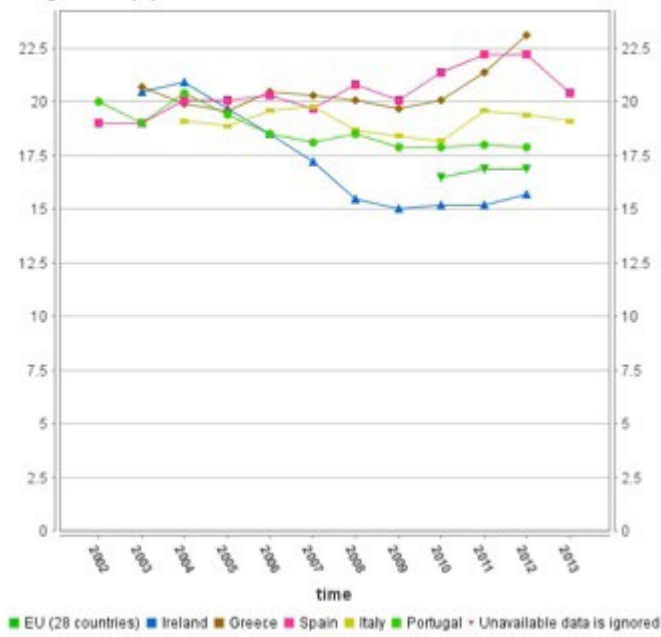
Self-reported unmet needs for medical examination, disaggregated by selected groups (percentages) ⁶³										
Population group	2004	2005	2006	2007	2008	2009	2010	2011	2012	Difference 2006 – 2012
Total population - EU 27		9.4	8.1	6.9	6.5	6.8	6.6	6.7	6.4	-21%
Total population – Greece	5.3	6.4	7.3	6.7	7.4	7.5	7.7	9.4	9.9	+36%
Women – Greece	5.9	6.8	7.7	7.3	8.2	8.7	8.8	10.6	11.1	+44%
Unemployed people – Greece	7.3	5.7	8.1	7.7	9.8	9.1	10.7	12.1	12	+48%
First quintile of income (20% poorest) – Greece	9	10.1	8.8	11.6	10.7	13	11.2	12.9	14	+59%



ANNEX III

People at risk of poverty after social transfers
% and 1 000 persons

Percentage of total population



ANNEX IV

Self-reported unmet needs for medical examination, disaggregated by cause (percentages)⁶⁴										
Reason	2004	2005	2006	2007	2008	2009	2010	2011	2012	Difference 2006 - 2012
Too expensive	3.1	3.2	4.5	4.6	4.2	4	4.2	6.2	6.5	+44%
Too far to travel	0.5	0.6	0.4	0.2	0.3	0.5	0.4	0.5	0.3	-25%
No time	0.4	0.6	0.6	0.5	0.6	0.7	1	0.5	0.8	+33%
Did not know a good doctor or specialist	0	0.1	0	0	0	0	0	0.1	0	0%
Waiting time	0.4	0.8	0.8	0.6	1	1	0.9	0.8	1.2	+50%
Fear of doctor, hospital, examination or treatment	0.3	0.4	0.3	0.2	0.5	0.4	0.4	0.4	0.3	0%
Wanted to wait and see	0.5	0.5	0.5	0.3	0.6	0.6	0.6	0.4	0.3	-40%
Other reasons	0.1	0.2	0.2	0.2	0.2	0.3	0.2	0.5	0.5	+150%