



HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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GNCHR STATEMENT
on the impact of the continuing austerity measures
on human rights

The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established by Law 2667/1998 and is functioning in accordance with the UN Paris Principles. Its 32 members are nominated by institutions whose activities cover the field of human rights (NGOs, trade unions, independent authorities, universities, bar associations, political parties, Parliament and the Administration).

**Statement of the Greek National Commission for Human Rights (GNCHR)
on the impact of the continuing austerity measures on human rights***

Following its unanimous decisions on the status of human rights in Greece during the implementation of measures to address the financial crisis¹, the Greek National Human Rights Commission (GNCHR), the independent advisory body to the Greek State specialised in human rights issues (founded by Law 2667/1998),

I. Recalling

1. the judgments of the national supreme courts² as well as the decisions and reports issued by national, European and international monitoring bodies concerning the continuing violation of a significant number of human rights in Greece, due to the financial crisis and the implementation of austerity measures³,

II. Reaffirms that

2. austerity measures undermine fundamental constitutional principles and violate constitutionally guaranteed human rights such as the principle of equality (Article 4(1) of the Greek Constitution, hereinafter “the Constitution”) and its more specific expression, namely the contribution of citizens to public charges in proportion to their means (Article 4(5) of the Constitution), the right of equal access to education (Article 16(2) of the Constitution), the right to property (Article 17 of the Constitution), the right to health (Article 21(3) and Article 5(5) of the Constitution), the right to work (Article 22(1) of the Constitution), the right to social security (Article 22(5) of the Constitution), freedom of association (Article 23 of the Constitution), the principle of proportionality (Article 25(1) of the Constitution), the principle of social solidarity (Article 25(4) of the Constitution) as well as the principle of protected public trust towards State Institutions; moreover, austerity measures undermine the value of the human being, the respect and protection of which constitute the primary obligation of the State (Article 2 of the Constitution), seriously hinder the development of all persons (Article 5 of the Constitution), compromise the rule of law and the welfare State (Article 25(1) of the Constitution) and undermine the economic development of the country (Article 106 of the Constitution);

3. austerity measures violate rules of international and European human rights law, as affirmed by competent international and European monitoring bodies; and moreover the financing rules of International Financial Institutions (IFIs), namely of the International Monetary Fund or of other international or European mechanisms relating to the economic or financial support of a State, cannot circumvent the obligation to respect international and European human rights law, especially as these rules are also binding on all States participating in these mechanisms;

III. Recalls the commitments and obligations undertaken by the EU institutions and all EU member-States as these derive from

4. the EU Treaties, which place civil and social rights at the core of the EU and set social objectives (social inclusion, social justice and social progress) inextricably linked to the financial objectives and crucial to their effectiveness. Besides, the European Union “*is not merely an economic union, but is at the same time intended, by common action, to ensure social progress and seek constant improvement of the living and working conditions of the peoples of Europe, as is emphasised in the Preamble to the Treaty*”⁴;

* Adopted by the GNCHR Plenary at its session of 15 July 2015.

¹ Attached Annex, II.

² Attached Annex, II and III.

³ Attached Annex, II and III.

⁴ ECJ, Cases C-50/96 *Schröder* [2000] ECR-774 and C-270/97 *Sievers* [2000] ECR I-933. It is noted that the aforementioned remains in the Preamble of the TEU and TFEU even after the Lisbon Treaty.

5. the Charter of Fundamental Rights of the European Union which echoes the common constitutional traditions of the EU members-States and the international human rights treaties that they have all ratified; guarantees indivisible civil and social rights, first and foremost the right to human dignity; proclaims that the EU “*places the individual at the heart of its activities*”⁵ and is explicitly binding on both the member-States and the EU institutions. It is to be recalled that on the basis of this commitment, the European Network of National Human Rights Institutions (ENNHRI) has sent open letters to the Presidents of the European Commission and the European Central Bank, requesting them to take appropriate measures for the elimination of the serious violations of human rights that have been brought about by the austerity measures in Greece⁶.

IV. Observes with particular concern that the prolonged implementation of austerity measure, which eventually acquire a permanent character,

6. leads to the degradation of the protection of human rights and, ultimately, to their non-fulfilment;
7. reverses the hierarchy of values and goals of the EU, giving priority to fiscal and financial objectives to the detriment of fundamental social values and disrupting the fair equilibrium between economic and social goals during the implementation of national policies of recovery from the debt crisis;
8. undermines the State’s ability to guarantee basic economic and social rights due to drastic cuts in social expenditure;
9. dismantles the welfare State and intensifies the deterioration of living standards resulting in the impoverishment and destitution of an increasing part of the population, the widening the social divide and the disruption of the social fabric, as noted by international monitoring bodies⁷;
10. strengthens extremist and intolerant elements and undermines the democratic institutions;
11. deprives from States such as Greece, which due to their geographical position constitute main points of entry and management of immigrant and refugee flows towards the EU, the capacity to fulfil their fundamental obligations with regard to the protection of human rights;
12. erodes the institutional foundations of the EU, as a union among the peoples of Europe based on the respect and protection of human rights, human dignity, equality and solidarity.

V. Urgently calls, once again, upon the EU institutions, the EU member-States as well as the Greek authorities to

13. immediately and jointly mobilize towards the preservation of the values on which the European civilisation has been founded: human dignity and value, respect for human rights, equality, freedom and solidarity;

14. act in unison for the creation of a permanent mechanism that would evaluate and assess the impact of austerity measures on both the enjoyment of and access to human rights by all those living on EU territory (Human Rights Impact Assessment)⁸;

with a view to

15. restoring the regulatory *gravitas* of human rights in the process of financial policy-making,

16. constantly weighing the impact of fiscal measures on social protection and security as well as committing to protect social cohesion, which the EU institutions and all EU member-States jointly and separately are bound to safeguard.

⁵ Charter of Fundamental Rights of the European Union, Preamble.

⁶ Attached Annex, II.

⁷ Attached Annex, II and III.

⁸ Attached Annex, IV.

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I. DECISIONS-OPINIONS OF GNCHR

GNCHR Unanimous Decisions on Austerity Measures and Human Rights

- *GNCHR Decision on The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis* (7.6.2010), available from: http://www.nchr.gr/images/English_Site/CRISIS/2010_Crisis.pdf.
- *GNCHR Recommendation: On the imperative need to reverse the sharp decline in civil liberties and social rights* (8.12.2011), available from: http://www.nchr.gr/images/English_Site/CRISIS/nchr_crisis.pdf.
- *The NCHR Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards* (27.6.2013), available from: http://www.nchr.gr/images/English_Site/AusterityMeasuresHR/gnchr.austeritymeasures.2013.pdf.

II. FINDINGS NATIONAL, EUROPEAN AND INTERNATIONAL INSTITUTIONS

Decisions and Findings of National Institutions

- **Supreme Courts**

Symvoulio tis Epikrateias (Supreme Administrative Court)

Symvoulio tis Epikrateias, Plenary, no. 1972/2012 declaring that the possibility of Public Power Corporation (AEH) to interrupt the power supply, constitutes a constitutionally impermissible interference in the contractual relationship between the consumer and the electricity supplier, which is in breach of Article 5(1) of the Constitution (economic freedom and freedom of contract) and the principle of proportionality, as it leads to an infringement of the universality of providing a network of public utilities services, for a reason which is not related to the provision of that service.

Symvoulio tis Epikrateias, Plenary, no. 3354/2013 declaring unconstitutional the measure of pre-retirement suspension regime, as insufficiently justified, not necessary, inadequate and based on illicit criteria, such as age.

Symvoulio tis Epikrateias, Plenary, no. 1906/2014 declaring unconstitutional the transfer from the State to Hellenic Republic Asset Development Fund (HRADF-ΤΑΙΠΕΔ) of shares corresponding to 34,033% of the share capital of Athens Water Supply and Sewerage Company (EYDAP S.A.). It was considered that the alienation of the Greek government from the majority of the share capital of EYDAP SA, whose preservation is necessary as to avoid the transformation of the public enterprise into private, infringes Articles 5(5) and 21 of the Constitution.

Symvoulio tis Epikrateias, Plenary, no. 2192-2196/2014 declaring unconstitutional the retrospective pension and salaries reductions of armed military and security forces, in implementation of Law 4093/2012.

Symvoulio tis Epikrateias, Plenary, no. 2307/2014 declaring that the provisions of Article 3(1), (2) and (4) of the Ministerial Council Act 6/2012 abolishing the right to unilaterally resort to arbitration are contrary to article 22(2) of the Constitution.

Symvoulio tis Epikrateias, Plenary, no. 4003/2014 declaring that the administrative omission of readjusting the objective property values as imposed by article 41(1) of the Law 1249/1982 was unlawful.

Symvoulio tis Epikrateias, Plenary, no. 4741/2014 declaring unconstitutional the cuts in the remuneration and the benefits of high level academic personnel to the national Higher Education Institutions.

Symvoulia tis Epikrateias, Plenary, no. 2287-2290/2015 declaring unconstitutional the main and supplementary pension cuts enacted by Laws 4051/2012 and 4093/2012.

Symvoulia tis Epikrateias, Suspension Commission, no. 59/2014 on a request for suspension of the enforcement of regulatory acts based on Article 21(5) of Law 4052/2012 (as supplemented by Law 4093/2012), which introduced, in order to reduce public expenditure on health, pursuant to the second Memorandum, limits on prescription, including monthly spending cap per physician. Because this measure “could lead to a reduction in the level of health services provided to citizens” and “having balanced the public interest of reducing public expenditure on health with the public interest to preventing potential harm in public health”, the Suspension Commission of the Council of State ordered the suspension of the enforcement of this measure.

Areios Pagos (Supreme Court for Civil Cases)

Areios Pagos no. 293/2014 (referral to Plenary) declaring unconstitutional the “extraordinary property tax in favour of the Greek State to the electrified for residential or commercial use structured surfaces”.

Special Court of Article 88(2) of the Constitution (Remuneration Court)

Judgment no. 88/2013 declaring unconstitutional the provisions of Law 4093/2012 which introduced a new fourth) drastic reduction of the salaries of the judges, with retroactive effect and the obligation to reimburse salaries which had been lawfully collected.

- **Hellenic Parliament**

Truth Committee on Public Debt, *Preliminary Report*, June 2015, available from: http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/Report_web.pdf.

Decisions and Recommendations of International Institutions on Greece

- **United Nations (UN)**

Treaty Bodies

CEDAW, Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Greece*, CEDAW/C/GRC/CO/7, available from: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGRC%2fCO%2f7&Lang=en.

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▪ **European Network of National Human Rights Institutions**

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III. INTERNATIONAL AND EUROPEAN PAPERS ON ECONOMIC CRISIS AND HUMAN RIGHTS

▪ **UN**

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IV. HUMAN RIGHTS IMPACT ASSESSMENT: AN INSTRUMENT FOR THE PROTECTION OF HUMAN RIGHTS ESPECIALLY IN TIMES OF FINANCIAL CRISIS

Introductory Remarks

The GNCHR, an independent advisory body to the Greek State on matters pertaining to human rights protection, examines *inter alia* the compatibility and adaptation of the Greek legislation to the provisions of international human rights law, issues opinions to state authorities and submits recommendations and proposals for taking legislative, administrative or other measures which will contribute to the improvement of the protection of human rights (GNCHR founding Law 2667/1998, Article 1(7) (b) and (i)).

In this context, the GNCHR Plenary has unanimously adopted, since 2010, a series of recommendations regarding the negative impact of the financial crisis and the austerity measures on the enjoyment of human rights in Greece⁹. In these decisions, the GNCHR has underlined the rapid and dramatic deterioration of the living standards of the population and the dismantling of the Welfare State, have contributed to the pauperization of a significant part of the population, the widening the social divide, the disruption of the social fabric, the strengthening of extremist and intolerant elements and the undermining of democratic institutions.

Furthermore, the GNCHR has highlighted that the human rights impact of austerity measures which are continuously imposed in the context of the “support mechanism” to the Greek economy, has not been assessed, as it should in consultation with the relevant stakeholders¹⁰.

Consequently, with a view to specifying its recommendations, the GNCHR¹¹ reiterates that the Impact Assessment on Human Rights may become a key tool for protecting human rights in times of crisis and describes its key features.

In drafting the present report¹², the GNCHR has taken into account the following references:

Documents / Reports:

Symvoulío tis Epikrateias (Supreme Administrative Court)

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⁹ See GNCHR, *The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis* (June 2010), available from: http://www.nchr.gr/images/English_Site/CRISIS/2010_Crisis.pdf ; NCHR *Recommendation: On the imperative need to reverse the sharp decline in civil liberties and social rights* (December 2011), available from: http://www.nchr.gr/images/English_Site/CRISIS/nchr_crisis.pdf and *The NCHR Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards* (June 2013), available from: http://www.nchr.gr/images/English_Site/AusterityMeasuresHR/gnchr.austeritymeasures.2013.pdf.

¹⁰ GNCHR, *NCHR Recommendation: On the imperative need to reverse the sharp decline in civil liberties and social rights* (December 2011), *op. cit.* and *The NCHR Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards* (June 2013), *op. cit.*, par. 63.

¹¹ The issue of Impact Assessment on Human Rights has received special attention by the National Human Rights Institutions in Europe (NHRIs). In the Athens Declaration 2006 the European National Institutions for the Promotion and Protection of Human Rights recommended the development of a model impact assessment based on the case-law of the European Committee of Social Rights (adopted at the Fourth Round Table of European National Human Rights Institutions for the Promotion and Protection of Human Rights and the Council of Europe Commissioner for Human Rights, 27–28 September 2006), 20 November 2006, CommDH/NHRI(2006)10, available from: [www.coe.int/t/commissioner/Source/CommDH-NHRI\(2006\)10_E.doc](http://www.coe.int/t/commissioner/Source/CommDH-NHRI(2006)10_E.doc), par. 4.

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