

# EURO-LATIN AMERICAN PARLIAMENTARY ASSEMBLY



## **RESOLUTION:**

### **Restructuring sovereign debt**

based on the report by the Committee on Political Affairs, Security and Human Rights

Co-rapporteurs:           Ángel Rozas (Parlatino, Argentina)  
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## **EUROLAT – Resolution of 20 September 2018 – Vienna**

based on the Report by the Committee on Political Affairs, Security and Human Rights

### **Restructuring sovereign debt**

*The Euro-Latin American Parliamentary Assembly,*

- having regard to UN General Assembly resolution 68/304 of 9 September 2014: 'Towards the establishment of a multilateral legal framework for sovereign debt restructuring processes',
  - having regard to UN General Assembly resolution 69/247 of 29 December 2014: 'Modalities for the implementation of resolution 68/304',
  - having regard to UN General Assembly resolution 69/319 of 10 September 2015: 'Basic principles on sovereign debt restructuring processes',
  - having regard to UN Human Rights Council resolution 20/10 of 5 July 2012: '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',
  - having regard to the International Capital Market Association (ICMA) regulations on contractual clauses such as *pari passu* and collective action, adopted in 2014 and 2015,
- A. whereas the sovereign debt crisis has historically been a recurring problem, often associated with the difficulties facing developing countries and unconsolidated democratic systems;
- B. whereas it is important to revitalise the Global Partnership for Sustainable Development, SDG 17, the financial targets of which include action to 'Assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and address the external debt of highly indebted poor countries to reduce debt distress';
- C. whereas, in recent years, sovereign debt has ceased to be a matter solely for the least developed countries, and now affects high-income countries;
- D. whereas the international financial system currently lacks a comprehensive multilateral legal framework for the restructuring of sovereign debt that would enable countries to reach solutions within a reasonable timeframe, and make it possible for those solutions to be effective, fair, equitable, legal and sustainable;
- E. whereas, in the absence of wider consensus, efforts have centred on reforming the contractual clauses for sovereign bonds, such as *pari passu*, collective action (CACs) and aggregation clauses, which were announced by the International Capital Market Association (ICMA) in 2014 and have already begun to be used for some debt issued after 2014;

- F. whereas the stock of sovereign debt is made up of different types of debt, including bonds, bank loans, bilateral loans and multilateral loans, and problems relating to collective action occur not just in one of those categories of bonds but in several, and consequently this makes it difficult to restructure debt in one single process;
- G. whereas the inadequate management of sovereign debt and lack of clarity with regard to legal frameworks for restructuring, along with unforeseen impacts on the international economic situation or indeed natural disasters or the consequences of neighbouring conflicts, may result in crises whose effects jeopardise the sustainable development possibilities of debtor countries, which in many cases come under pressure, during their restructuring efforts, from the claims of minority groups of creditors who may take advantage of the absence of regulatory frameworks governing the subject and put their own speculative interests first;
- H. whereas the creation of a general regulatory framework, with the necessary conditionality, could offer an additional alternative in the search for faster and more sustainable solutions for the parties, making the process more predictable and enhancing its legal certainty while substantially reducing the costs associated with legal and financial services;
- I. whereas it is important to prioritise the implementation of sustainable macroeconomic policies geared to growth and job creation, and to the necessary reforms designed to guarantee fair and efficient tax systems rather than being dependent on foreign sovereign debt;
- J. whereas, despite successive debt restructuring workouts, Greece remains at unsustainable levels according to the debt sustainability analyses carried out by the IMF itself, which have highlighted the need for greater debt restructuring; whereas the case of Greece comes on top of historic maximum levels of debt in the eurozone, particularly in some Member States, and yet the European Union has no legal framework for debt restructuring;
- K. whereas every state is entitled to negotiate the restructuring of its sovereign debt; whereas that right should not be frustrated or hindered by minority groups holding non-restructured securities in that debt;
1. Believes that the challenge of restoring the sustainability of sovereign debt in the event of a crisis should not be approached exclusively on the basis of macro-economic variables but that it must be compatible with promoting and respecting democracy and human rights, including the right to development and sustained, inclusive and equitable economic growth in accordance with national circumstances and priorities; welcomes, therefore, and urges the application of the initiatives taken by the UN General Assembly in this connection;
  2. Underlines the duty of states to ensure that commitments arising from borrowing processes do not have a negative impact on well-being and protection for human rights, which means that efforts towards fiscal responsibility, government transparency and the achievement of tax justice must be intensified;
  3. Stresses that the payment of debt is only one of the various legal and constitutional

financial obligations of states, and that parliaments must guarantee that the burden of debt crises is spread fairly, preserving the provision of essential public services and protecting the rights of their citizens;

4. Calls on parliaments and assemblies to promote the establishment of parliamentary committees for monitoring debt, oversight of the taking on of debt, changes to debt, the reasonableness of the deadlines and interest, debt management and payments, as well as legal proceedings relating to these issues, with a special focus on reporting any irregularities that may have occurred;
5. Points out that governments cannot consider legal obligations deriving from a bond or loan as an obligation that ranks higher than other obligations such as the payment of pensions or the provision of basic public services;
6. Highlights the role played by the different international stakeholders (international financial institutions, international intergovernmental organisations, civil society, non-governmental organisations) in the process of restructuring sovereign debt, in particular that played by parliaments, which have to promote the adoption of tangible measures such as the introduction of international commitments in their national legislation, working together towards preventing future crises, including collective action clauses (CACs) and aggregation clauses in future loans, mobilising international efforts, etc.;
7. Reiterates the need to work towards setting up an agreed international sovereign debt restructuring mechanism that will provide predictability for the parties and promote the implementation of policies to prevent international financial crises and strengthen domestic financial systems;
8. Reaffirms its conviction that countries' efforts to restructure their sovereign debt, in crisis situations, should not be interfered with or frustrated by commercial creditors specialised in financial speculation;
9. Welcomes the adoption by the United Nations General Assembly of the nine Basic Principles on Sovereign Debt Restructuring Processes, through resolution 69/319 of 10 September 2015, which should be interpreted in such a way as to ensure harmony between those principles; takes the view that these principles constitute a precedent in the debate geared to the possible adoption of an agreed multilateral legal framework that will help to unify criteria, boost efficiency and order in sovereign debt restructuring processes and favour the opportune resolution of crises without delays, and their application will open the way to a more predictable and legally certain process;
10. Recognises the right of sovereign States to decide their macroeconomic policies, including the restructuring of their sovereign debt, as well as the principles of good faith, transparency, impartiality, equal treatment, sovereign immunity from jurisdiction and execution regarding sovereign debt restructuring in relation to foreign domestic courts, legitimacy, sustainability and majority restructuring;
11. Urges the international community to continue working towards the development of a full and comprehensive response to all the issues linked to the contracting of loans, sovereign debt crises and sovereign debt restructuring;

12. Invites the EU-CELAC partnership to include the issue of sovereign debt in its bilateral dialogue in order to make progress in the exchange of experience and shared work at international level; invites the partnership in particular to promote alternative proposals, both contractual and statutory, that will add to the solutions to these issues, including the possibility to create a register of bondholders that would allow only those who had effective ownership of the bond at the time when payments ceased to litigate on the original terms;
13. Urges the eurozone to hold a European debt conference with the participation of a wide range of actors, including parliaments and civil society, to address the restructuring needs of the whole of the currency area and make progress towards a genuinely European legal framework for restructuring processes;
14. Urges European and Latin American governments to combine their efforts with a view to making progress towards an international legal framework for sovereign debt restructuring, and to incorporate contractual modifications in relation to collective action clauses and pari passu based on the ICMA proposals;
15. Instructs its Co-Presidents to forward this resolution to the Council of the European Union and the European Commission, to the parliaments of the Member States of the European Union and of all the countries of Latin America and the Caribbean, to the Latin American Parliament, the Central American Parliament, the Andean Parliament and the Mercosur Parliament, the Secretariat of the Andean Community, the Committee of Permanent Representatives of Mercosur, the Community of Latin American and Caribbean States, the Permanent Secretariat of the Latin American Economic System, the CELAC Pro-Tempore Presidency and the countries making up the CELAC Troika, and the Secretaries-General of the Organization of American States, the Union of South American Nations and the United Nations.