

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

# POLICY DEPARTMENT **C**

## CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Constitutional Affairs

Justice, Freedom and Security

Gender Equality

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Petitions

## The impact of the crisis on fundamental rights across Member States of the EU

## Country Report on Greece

STUDY FOR THE LIBE COMMITTEE







**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND**  
**CONSTITUTIONAL AFFAIRS**

**CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

# **The impact of the crisis on fundamental rights across Member States of the EU**

## **Country Report on Greece**

### **STUDY**

#### **Abstract**

Upon request by the LIBE Committee, this study looks into the impact of the economic crisis and the austerity measures which were introduced as a response thereto, to the enjoyment of a set of selected fundamental rights by individuals in Greece. It also contains recommendations on how to make sure that the enjoyment of these rights is ensured in the future.

**DOCUMENT REQUESTED BY THE  
COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

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European Parliament, manuscript completed in February 2015. Given the continuously changing situation in the Member State under examination, the cut-off date for the data collection was set for 30 June 2014.

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## LIST OF ABBREVIATIONS

<b>ADEDY</b>	Civil Servants' Confederation
<b>AKAGE</b>	Inter-generational Solidarity Insurance Fund (Ασφαλιστικό Κεφάλαιο Αλληλεγγύης Γενεών – ΑΚΑΓΕ)
<b>APC</b>	Administrative Procedure Code
<b>CADE</b>	Convention against Discrimination in Education
<b>CAT</b>	Committee Against Torture
<b>CCP</b>	Code of Civil Procedure
<b>CEACR</b>	Committee of Experts on the Application of Conventions and Recommendations
<b>CEDAW</b>	Committee on the Elimination of Discrimination against Women
<b>CM</b>	Committee of Ministers
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CRC</b>	Convention on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>ECB</b>	European Central Bank
<b>ECHR</b>	European Convention on Human Rights
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>ECSR</b>	European Committee of Social Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EETHDE</b>	Extraordinary Tax on the Electrified for Residential or Commercial Use Structured Surfaces (Έκτακτο Ειδικό Τέλος Ηλεκτροδοτούμενων Δομημένων Επιφανειών – ΕΕΤΗΔΕ)

<b>EFSF</b>	European Financial Stability Facility
<b>EKAS</b>	Pensioners Social Solidarity Allowance/Benefit (Επίδομα Κοινωνικής Αλληλεγγύης Συνταξιούχων – ΕΚΑΣ)
<b>ENFIA</b>	Uniform Tax on Real Estate Property (Ενιαίος Φόρος Ακινήτων Ιδιοκτησίας - ΕΝΦΙΑ)
<b>ENHRI</b>	European Network of National Human Rights Institutions
<b>EOF</b>	National Organization for Medicines
<b>EOPYY</b>	National Provider of Healthcare Services (Εθνικός Οργανισμός Παροχής Υπηρεσιών Υγείας – ΕΟΠΥΥ)
<b>ERT</b>	Hellenic Broadcasting Corporation/Greek Radio-Television (Ελληνική Ραδιοφωνία-Τηλεόραση – ΕΡΤ)
<b>ESC</b>	European Social Charter
<b>ESY</b>	Greek National Health System (Εθνικό Σύστημα Υγείας – ΕΣΥ)
<b>ETUCE</b>	European Trade Union Committee for Education
<b>GENOP-DEI</b>	General Federation of Employees of the National Electric Power Corporation
<b>GSEE</b>	Greek General Confederation of Labour
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILO</b>	International Labour Organisation
<b>IMF</b>	International Monetary Fund
<b>ITUC</b>	International Confederation of Trade Unions
<b>KEN</b>	Diagnosis-related groups (Κλειστά Ενοποιημένα Νοσήλια - KEN)
<b>MdM</b>	Doctors of the World
<b>MoU</b>	Memorandum of Understanding

<b>NCHR</b>	National Commission for Human Rights
<b>NHS</b>	National Health System
<b>OENGE</b>	National Confederation of Hospital Doctors (Ομοσπονδία Ενώσεων Νοσοκομειακών Γιατρών Ελλάδας – ΟΕΝΓΕ)
<b>OIYE</b>	Greek Federation of Private Employees
<b>OLME</b>	Greek Federation of Secondary Education State School Teachers
<b>PEDY</b>	Primal National Health Network (Πρωτοβάθμιο Εθνικό Δίκτυο Υγείας – ΠΕΔΥ)
<b>PNP</b>	Acts of a legislative content (ΠΝΠ)
<b>POEDHN</b>	National Confederation of Public Hospitals Employees (Πανελλήνια Ομοσπονδία Εργαζομένων Δημόσιων Νοσοκομείων – ΠΟΕΔΗΝ)
<b>PPC</b>	Penal Procedure Code
<b>PSI</b>	Private Sector Involvement for the restructuring of the Greek debt
<b>RESC</b>	Revised European Social Charter
<b>UDHR</b>	Universal Declaration of Human Rights
<b>WHO</b>	World Health Organisation

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## EXECUTIVE SUMMARY

After the accession of Greece to the Euro area, the State's credibility significantly increased allowing the government to borrow money at low interest costs. Nonetheless, the influx of capital at low interest rates was not used to reduce the public debt but rather to finance fiscal expansion. The average annual deficit of the general government reached almost 6% of GDP in the 2001- 2007 period, making Greece the most indebted State in the EU. This, alongside the global financial crisis of 2008 – 2009, further exacerbated the structural problems of the Greek economy.

The average Greek household has been severely affected by the crisis. Unemployment remains one of the biggest problems; currently, Greece has the highest unemployment rate in the EU (27.5% in 2013, with youth unemployment at 57.3% in Q4 2013). There is a significant increase in the number of people at risk of poverty or social exclusion (35.7% in Greece vs 24.2% in EU27 and 23% in the Euro area) as well as an increase in the percentage of the population facing severe material deprivation (20.3% in Greece vs 9.6% in the EU27 and 7.4% in the Euro area). Between 2008 and 2013 the average annual income of the Greek household fell by 31.8% (from EUR 44,581 to EUR 30,400).

Unable to meet its financing needs, on 2 May 2010 the Greek government and the joint European Commission-European Central Bank (ECB)-IMF mission ('Troika') reached an agreement at technical level on the comprehensive policy package for the period 2010 – 2013 of EUR 110 billion (First Economic Adjustment Programme). On 14 March 2012, Euro area finance ministers approved financing of the Second Economic Adjustment Programme for Greece, which included the undisbursed amounts of the first programme plus an additional EUR 130 billion for the years 2012-14. As a result of these, Greece had to adopt numerous measures in order to comply with the requirements of the Economic Adjustment Programmes, under the pressure of ensuring disbursement of the next tranche. This had an impact on the volume and clarity of the legislation as well as on the legislative procedures followed. In December 2014 the Euro area finance ministers decided a two-month extension of the bailout programme in order to finalise the review of the current programme in the beginning of 2015; in addition, they indicated that, after conclusion of the current programme, they remain *'favourably disposed to granting Greece an ESM precautionary credit line (ECCL), if Greece were to request this and subject to the finalisation of the reform measures that are still pending under the current review, continued involvement of the IMF, and the completion of relevant national and EU procedures'*.

Certain austerity measures have had an impact on the **right to education** in Greece. In the effort to ensure fiscal consolidation, the State budget for the Ministry of Education has been significantly reduced (from EUR 5,645 million in 2005 to EUR 4,540 million – projected – in 2014). Other measures introduced include: a) reductions in teachers' recruitment; b) participation of teachers in the labour reserve and labour mobility schemes; c) reductions in teachers' remuneration; d) merging/closure of school units. The rationalisation of the school network (through the merger/closure of schools) and the increase in the number of students per classroom and in weekly teaching hours brought Greece closer to the OECD average and reduced the State's needs for temporary teachers. Nonetheless, at the same time, some measures have also had negative consequences: the State budget available for schools' operational costs has been significantly reduced (e.g. according to reports from EUR 110 million to EUR 80 million between 2011 and 2012), creating difficulties in meeting basic needs (e.g. heating, stationary, maintenance of

schools). Shortages in teachers continue to be reported. According to a study, the majority of students feel that the bigger number of students in each classroom (due to the merger of schools) has made it more difficult for them to follow the class. Finally, austerity measures have had a particularly negative impact on vulnerable groups of students (Roma children, children with disabilities).

In relation to the **right to healthcare**, there was a relatively wide consensus, even before the crisis, that the Greek healthcare system was facing considerable challenges and several reform initiatives and measures were put forward in the past. The objectives under the Economic Adjustment Programmes were to improve cost efficiency and reduce public health expenditure, including public spending on outpatient pharmaceuticals.

The reform included structural changes (e.g. creation of EOPYY as a single healthcare provider/buyer, reorganization and restructuring of the NHS, including the merging of hospitals and clinics), as well as additional cost-containment measures (relating to, e.g. access to and financial contribution of citizens to healthcare services, the reimbursement of costs by EOPYY to pharmaceutical companies, contracted diagnostic clinics and doctors and the budget and accounting system of hospitals). Pharmaceutical spending was also reduced significantly (through measures, e.g. relevant to the licensing, pricing and reimbursement systems for medicines, increases in the use of generics, introduction of e-prescribing and spending cap on doctors).

In terms of macroeconomic goals, the adopted measures contributed to the reduction of public spending for health (currently public health expenditure under 6% of GDP), but universal access, equity, service adequacy and quality were often compromised. The reforms were adopted within a short time-frame and were focused primarily on the structural, financial and managerial aspects of the healthcare system and not so much on patients' needs. Provision of healthcare was at times disturbed (e.g. EOPYY suppliers refused to provide services or accept patients due to EOPYY's outstanding debts, interruption of services in primary healthcare units, occasional internal shortage of medicines), costs for citizens increased (e.g. user fees for outpatient visits and relatively high rates for afternoon visits in public hospitals, increase of contribution for several medicines, pharmaceutical material and health services, elimination of several drugs from the 'positive list') and more people reported unmet medical needs. One of the most serious concerns is the increasing number of people not covered by public health insurance. Finally, general horizontal measures applied to the public sector in general to achieve fiscal consolidation, i.e. reduction of operational costs, recruitment freeze, labour reserve and mobility schemes, seem to have magnified pre-existing shortages in the adequate delivery of healthcare services.

The **right to work** has been probably the most affected fundamental right in Greece in the course of the crisis. The main changes in the labour law applicable in the private sector concern the rules regulating: a) job protection (e.g. reduction of the notice period for dismissal; reducing levels of severance pay; facilitating the use of fixed-term contracts); b) the working time (e.g. facilitating flexible working arrangements; reducing overtime premia); and c) the setting of wages (e.g. changes in the collective bargaining process). In the public sector, the austerity measures adopted aimed at: a) reducing the cost of employment; and b) reducing the number of employees (e.g. labour reserve and mobility schemes; abolition of placements, reductions in recruitment and increases in exits).

Changes in the labour/employment field have had direct and spill-over effects both on the right to work, as well as the social situation as a whole. One of the most significant



consequences of the policies followed under the Economic Adjustment Programmes has been the substantial rise of unemployment (from 7.3% in June 2008 to 27.5% in 2013, with youth unemployment at 53% in May 2013). Between January 2010 and January 2013, public sector pay has declined by over 25% on average; in the private sector wages had declined by at least 15% in 2013 and, following the new minimum wage regulation, they were expected to decline even more. Job insecurity increased significantly in Greece between 2007 and 2012 (8.20% to 30.57% respectively). Full-time contracts are increasingly converted to part-time employment or rotating employment contracts (16,977 in 2009 vs 84,990 in 2012). Informal sector employment has also increased (36.2% in 2012 vs 25% in 2010). Women and migrants found themselves in a more vulnerable position.

Concerning the **right to pension**, the crisis put more pressure on the fragile Greek pension system which was already facing challenges. An extensive pension reform was implemented to reduce public spending on pensions in the context of fiscal consolidation and to ensure the long-term viability of the pension system. The reform included several positive elements, e.g. rationalisation, structural consolidation and computerisation of the pension system, linking of pension age to life expectancy. However, other pension reform measures affected the entitlement to future benefits by setting stricter preconditions for securing pension rights (e.g. increase of pension age and required contribution days) for all categories of beneficiaries and reduced replacement rates for future retirees. A new pension classification system, effective as of 2015, distinguishes between basic and contributory pension; the State guarantees a basic pension of EUR 360 per month, but if economic performance declines this amount may be reduced.

Furthermore, in order to reduce primary public expenditure under the Economic Adjustment Programmes, several consecutive decreases and additional levies have been imposed to already granted pensions and pension-related benefits. Most national and international compliance monitoring bodies have already noted that the continuing recession and the cumulative effect of austerity measures has caused an increasing impoverishment of the population, especially older people. The measures imposing pension cuts also raise issues of equality; while pensions up to EUR 1,000 are justly protected, it appears that the overall economic degradation and especially 'over-taxation' poses such a pressure on medium and high pensions that, in practice, leads to a disproportionately large contribution of some groups of the population to the efforts for fiscal consolidation.

As far as the **right to access to justice** is concerned, several measures were introduced to reform the Greek judicial system. The main objective was to address the long-standing, structural problem of excessive length of court proceedings, as this could also benefit the proper and fair functioning of the economy and support economic activity. The main measures aimed at clearing the existing case backlog in courts (including through the improvement and speeding-up of the judicial case processing), and at reducing the inflow of cases, primarily by increasing court-fee costs but also by introducing more stringent admissibility conditions. Other measures were aimed at changing the existing culture of dispute resolution, mainly by encouraging out-of-court settlements. Nonetheless, some of the judicial reform measures appear to have a tax-collecting character since they are perceived as aimed at reducing pending payments of tax arrears (e.g. higher amounts of judicial duty notes and obligation to pre-pay part of the disputed amount as admissibility criteria for tax cases, submission of a Tax Authority certificate of payment of the new property tax 'ENFIA' as a procedural condition in cases related to realty).

Overall, the measures were primarily focused on the quantitative aspect of the effectiveness and quality of justice; numbers demonstrate positive impacts regarding the reduction of case backlog. However, other qualitative considerations regarding the non-impediment of the right of citizens to justice were not targeted as much by the measures (e.g. infrastructure, libraries, strategic planning of court staff allocation). Most of the extra costs are set at a very early stage of the judicial proceedings (and under the penalty of inadmissibility) which could hinder citizens' right to access to justice, especially given that a very large and rapidly growing part of the population is exposed to poverty and social exclusion. Finally, austerity measures aiming to meeting general targets of decreasing public expenditure also affect the judicial system; in 2012, Greece had an annual public budget allocated to the judicial system (courts, legal aid and prosecution services) per inhabitant as part of the GDP per capita at 0.238% (below the average 0.33% of Council of Europe members).

Regarding the **right of assembly**, the severe austerity measures adopted by the Greek government during the deepening economic crisis provoked many demonstrations – the majority of them peaceful. On some occasions, though, the otherwise peaceful demonstrations turned violent when a minority of the protesters clashed with the police. Incidents of police violence have been reported, inter alia, by Amnesty International. Demonstrations have had a negative impact on economic activity in the centre of Athens; in order to address this concern, the legislation regulating restrictions of outdoor assemblies was amended to ensure that they are conducted in a manner that is not disruptive, except to the extent absolutely necessary, to the road traffic and the city socio-economic activity.

In addition to the aforementioned fundamental rights, austerity measures have had an impact also on other rights. In order to address the budget deficits, the Greek government imposed a number of tax burdens. Within the context of the deepening crisis it is not clear to what extent the aggregate of taxes and levies imposed could interfere with citizens' **right to property**. Furthermore, the restructuring of the public debt with the private sector involvement (PSI) was considered as constitutional by the Greek Courts and as not interfering, amongst others, with small bondholders' right to property. As regards the **freedom of the press**, Greece is currently considered by NGOs as having a partly free press due to, inter alia, an increasingly hostile legal, political, and economic environment for the press and a reduction in media diversity and in comprehensive and accurate reporting about the country's political and economic situation. Finally, in the last few years Greece has witnessed a steep increase in phenomena of racist violence, **discrimination** and intolerance as well as extremism; nonetheless, it should not be overseen that such incidents existed in a lesser degree even before the crisis.

Since 2010 numerous **national and international monitoring bodies** have examined measures adopted under the Economic Adjustment Programmes. National courts have ruled in favor of the constitutionality of the majority of austerity measures on the basis of an 'enhanced' overriding public interest; according to the courts, the contested measures were introduced within a broader program for fiscal consolidation and structural reforms aiming both at addressing the urgent need to cover the country's financial needs and at improving the future financial situation of the country. The National Commission of Human Rights and the Greek Ombudsman have noted the negative consequences of the crisis and adopted austerity measures on citizens' lives as well as on the provision of essential public services. Most of the monitoring bodies of the United Nations, the International Labour Organisation and the Council of Europe have stressed that the cumulative effect of

austerity measures, resulted to a devaluation of the standards of living and increased impoverishment of the people in Greece.

## **Recommendations**

### **General recommendations**

The austerity measures adopted within the context of the current economic crisis have in many instances led to tension with the obligation of the Greek State to ensure protection of fundamental rights. Maintaining a balance between the achievement of fiscal consolidation and respect of citizens' fundamental rights has not always been feasible; therefore, the Greek State should consider ways to restore equilibrium between these two objectives and ensure an adequate level of protection. In particular, Greece (and the international creditors, in case of measures adopted within the framework of Economic Adjustment Programmes) should conduct human rights impact assessments prior to the adoption of measures which may affect the enjoyment of fundamental rights; this would allow them to fully comprehend the impacts such measures may have and identify possible ways to avoid them. In this respect, they should first explore and prove with concrete references that all alternative measures were exhausted; where no other alternatives are available, it should be demonstrated that the measures to be adopted were the least detrimental for the realisation of fundamental rights. Furthermore, Greece should consider and implement, where applicable, the recommendations issued by international monitoring bodies.

As far as the specific fundamental rights examined within this study are concerned, as a general remark Greece should adopt measures not only based on quantitative targets but also consider qualitative indicators (especially in the fields of education, healthcare, social security and justice). The varying importance of different sectors for the population should also be considered when designing and implementing the relevant reforms. Furthermore, the legal framework should be progressively consolidated in order to ensure legal certainty and transparency.

### **Specific recommendations**

As regards the **right to education**, Greece should reconsider any austerity measures that have had a negative impact on the right to education, in particular for members of vulnerable groups (e.g. children with disabilities, Roma children).

Concerning the **right to healthcare**, Greece should remain committed to the rationalisation of the structure and operation of the NHS, aiming primarily at the provision of adequate, continuous and affordable healthcare services for all. Most importantly a structural long-term solution for the increasing number of uninsured should be examined.

With respect to the **right to work**, Greece should ensure that the labour market reforms introduced do not undermine the fundamental right to work or lead to a deterioration of working conditions, in particularly concerning the right to a fair remuneration and the right to freely choose and accept work. Furthermore, Greece should address the problem of rising unemployment, in particular amongst the youth, and should guarantee that structural reforms in the private and public sector do not negatively affect certain parts of the working population (e.g. women).

As regards the **right to pension**, Greece should maintain a balance between, on the one hand the objective to ensure the long-term viability and sustainability of the pension

system and, on the other hand, the need to ensure that pensions allow pensioners a decent living. While Greece should maintain the guarantees for the protection of low-pensioners, at the same time it should reconsider measures that seem to raise equality concerns in relation to other groups of citizens which seem to contribute disproportionately to the efforts for fiscal consolidation.

In relation to the **right to access to justice**, Greece should remain committed to the reform of the judicial system in order to address the long-standing issue of delays in judicial proceedings. However, quantitative targets should be complemented with other qualitative considerations regarding the non-impediment of the right of citizens to justice. National legislation should be rationalized and consolidated in a comprehensive and clear way so that fewer disputes are caused due to legal uncertainty and incorrect implementation.

Concerning the **right to peaceful assembly**, Greece should ensure that demonstrations take place without restrictions other than those permitted by law and that law enforcement officials refrain from the use of violence, except in the limited instances allowed under international law.

Regarding the adoption of taxation measures which may affect **citizens' right to property and their right to participate to public charges in proportion to their means**, Greece should introduce new measures only after aggregating the regular and special taxes imposed so far in order to consider the overall burden imposed on citizens, which has substantially affected their ability to maintain acceptable living standards.

Regarding the **freedom of the press**, Greece should undertake positive measures to enhance the guarantee of freedom of expression, information and media, which constitute one of the pillars of any democratic State.

As regards the **increase in incidents of hate crimes and hate speech**, Greece should vigorously implement the recommendations of the Council of Europe Commissioner for Human Rights, as well as ensure the effective operation of recording mechanisms at the State level.

## 1. IMPACT OF THE ECONOMIC CRISIS AND OVERVIEW OF THE MAIN MEASURES ADOPTED TO COPE WITH IT

### KEY FINDINGS

- After the accession of Greece to the Euro area, the State's credibility significantly increased allowing the government to borrow money at low interest costs. Nonetheless, the influx of capital at low interest rates was not used to reduce the public debt but rather to finance fiscal expansion. The average annual deficit of the general government reached almost 6% of GDP in the 2001- 2007 period, making **Greece the most indebted State in the EU**. This, alongside the global financial crisis of 2008 – 2009, further exacerbated the structural problems of the Greek economy.
- The average Greek household has been severely affected by the crisis. Unemployment remains one of the biggest problems; currently, Greece has the **highest unemployment rate in the EU** (27.5% in 2013, with youth unemployment at 57.3% in Q4 2013). There is a **significant increase in the number of people at risk of poverty or social exclusion** (35.7% in Greece vs 24.2% in EU27 and 23% in the Euro area) as well as an **increase in the percentage of the population facing severe material deprivation** (20.3% in Greece vs 9.6% in the EU27 and 7.4% in the Euro area). Between 2008 and 2013 the **average income of the Greek household fell by 31.8%** (from EUR 44,581 to EUR 30,400).
- Unable to meet its financing needs, on 2 May 2010 the Greek government and the joint European Commission-European Central Bank (ECB)-IMF mission ('Troika') reached an agreement at technical level on the comprehensive policy package for the period 2010 – 2013 of EUR 110 billion (**First Economic Adjustment Programme**). On 14 March 2012, Euro area finance ministers approved financing of the **Second Economic Adjustment Programme** for Greece, which included the undisbursed amounts of the first programme plus an additional EUR 130 billion for the years 2012-14.
- As a result of these, Greece had to adopt numerous measures in order to comply with the requirements of the Economic Adjustment Programmes, under the pressure of ensuring disbursement of the next tranche. This had an **impact on the volume and clarity of the legislation** as well as on the legislative procedures followed.
- In December 2014 the Euro area finance ministers decided a two-month extension of the bailout programme in order to finalise the review of the current programme in the beginning of 2015.

## 1.1. The impact of the crisis on Greece

After the accession of Greece to the Euro area, the State's credibility significantly increased – allowing the Government to borrow money at low interest rates<sup>1</sup>. The high growth that Greece experienced in the early 2000s led to the improvement of key social outcomes: unemployment fell to the Euro area average; employment increased; health status improved above the OECD average; infant mortality declined; education performance was enhanced<sup>2</sup>.

Nonetheless, the influx of capital at low interest rates was not used to reduce the public debt but rather to finance fiscal expansion. The average annual deficit of the general government reached almost 6% of GDP in the 2001-2007 period, making Greece the most indebted State in the EU<sup>3</sup>. This, alongside the global financial crisis of 2008–2009, further exacerbated the structural problems of the Greek economy, e.g. State control of the economy, the existence of a large and inefficient public administration, endemic tax evasion and widespread political clientelism – all straining public finances to an unsustainable degree<sup>4</sup>.

In the course of the current economic and financial crisis, Greece suffered one of the most substantial drops in its GDP, as indicated in Table 1, while the inflation rate is currently below the EU27 and Euro area average (see Table 2).

**Table 1: Real GDP growth rate volume – percentage change on previous year (%)<sup>5</sup>**

	2007	2008	2009	2010	2011	2012	2013
<b>Greece</b>	3.5	-0.2	-3.1	-4.9	-7.1	-7.0	-3.9
<b>EU27</b>	3.2	0.4	-4.5	2	1.7	-0.4	0.1
<b>Euro area</b>	2.9	0.4	-4.4	2	1.6	-0.7	-0.4

**Table 2: Inflation rate<sup>6</sup>**

	2007	2008	2009	2010	2011	2012	2013
<b>Greece</b>	3.0	4.2	1.3	4.7	3.1	1.0	-0.9
<b>EU27</b>	2.4	3.7	1.0	2.1	3.1	2.6	1.5
<b>Euro area</b>	2.2	3.3	0.3	1.6	2.7	2.5	1.3

<sup>1</sup> Balcerowicz, L. et al, 'Economic Growth in the European Union', Lisbon Council e-book, available at: [http://www.lisboncouncil.net/growth/documents/LISBON\\_COUNCIL\\_Economic\\_Growth\\_in\\_the\\_EU%20\(1\).pdf](http://www.lisboncouncil.net/growth/documents/LISBON_COUNCIL_Economic_Growth_in_the_EU%20(1).pdf), p. 18.

<sup>2</sup> Koutsogeorgopoulou, V. et al. (2014), 'Fairly Sharing the Social Impact of the Crisis in Greece', OECD Economics Department Working Papers, No.1106, OECD Publishing, available at: <http://dx.doi.org/10.1787/5jzb6vwk338x-en>, p. 5.

<sup>3</sup> Balcerowicz, L. et al, 'Economic Growth in the European Union', Lisbon Council e-book, available at: [http://www.lisboncouncil.net/growth/documents/LISBON\\_COUNCIL\\_Economic\\_Growth\\_in\\_the\\_EU%20\(1\).pdf](http://www.lisboncouncil.net/growth/documents/LISBON_COUNCIL_Economic_Growth_in_the_EU%20(1).pdf), p. 18.

<sup>4</sup> Nelson, R. et al, 'Greece's Debt Crisis: Overview, Policy Responses and Implications', Congressional Research Services, 18 August 2011, p. 2.

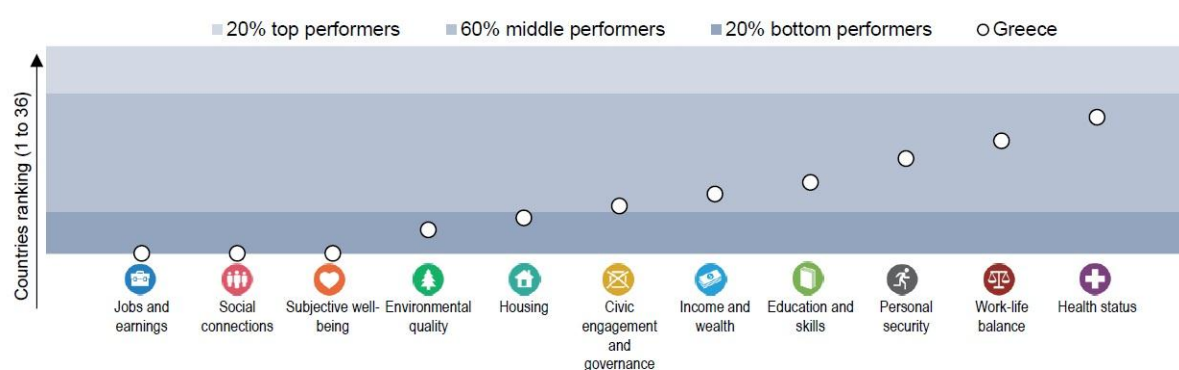
<sup>5</sup> Eurostat, available at: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00115>.

<sup>6</sup> Eurostat, available at: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=tec00118>.

The average Greek household has been severely affected by the crisis, with the impacts being most visible at household income, jobs, life satisfaction and civic engagement. More specifically, between 2007 and 2011 the cumulative decline in **real household disposable income** in Greece was the largest among the OECD countries<sup>7</sup>. **Market income inequality** also increased by 2% (as compared to the OECD average of 1.2%) between 2007 and 2010<sup>8</sup>.

The **employment rate** between 2007 and 2012 fell by almost 10%, while long-term unemployment increased by 10% and the labour conditions kept deteriorating<sup>9</sup>. All of these had a significant impact on **life satisfaction** amongst Greeks (see Figure 1); between 2007 and 2013 the percentage of Greek people declaring being very satisfied with their lives fell from 59% to 23%, the lowest share in the OECD area<sup>10</sup>.

**Figure 1: Life satisfaction in Greece<sup>11</sup>**



**Unemployment** remains one of the biggest problems of the Greek population during the crisis. Following six years of severe economic recession, many economists and policy-makers believe that the main challenge of the Greek economy over the next 10 years (and possibly more) will be the return of unemployment rates to acceptable levels. Addressing unemployment is of crucial importance as unemployment can create the seeds of social unrest, poverty, an unstable social security system – also unsustainable in terms of funding, and low productivity growth through the ongoing destruction of human capital stock<sup>12</sup>. Currently, as indicated in Tables 3 and 4, Greece has **the highest unemployment rate in the EU**, i.e. 27.5% total unemployment and 57.3% youth unemployment.

**Table 3: Unemployment in Greece<sup>13</sup>**

	2007	2008	2009	2010	2011	2012	2013
<b>Greece</b>	8.4	7.8	9.6	12.7	17.9	24.5	27.5
<b>EU27</b>	7.2	7.0	8.9	9.6	9.6	10.4	10.8
<b>Euro area</b>	7.5	7.5	9.5	10.0	10.1	11.3	12.0

<sup>7</sup> 'How is life in Greece', OECD Better Life Initiative, May 2014, available at <http://www.oecd.org/statistics/BLI%202014%20Greece%20country%20report.pdf>, p. 4.

<sup>8</sup> *ibid.*

<sup>9</sup> *ibid.*

<sup>10</sup> *ibid.*

<sup>11</sup> *ibid.*

<sup>12</sup> Eurobank Research, 'Unemployment Rate in Greece: "The" Long Run Macroeconomic Challenge', Economy & Markets, Volume IX, Issue 6, 2014, available at: [http://www.eurobank.gr/Uploads/Reports/ECONOMYMARKET1\\_JUNE2014.pdf](http://www.eurobank.gr/Uploads/Reports/ECONOMYMARKET1_JUNE2014.pdf), p. 1.

<sup>13</sup> Eurostat, 'Unemployment Rate – annual average %', available at: <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do?sessionId=9ea7d07d30d9acedbab1a06240359a6eda0585519c3f.e340a8PchaTby0Lc3aNchuNahaPe0>.



**Table 4: Youth Unemployment (under 25) in Greece<sup>14</sup>**

	2011	2012	2013	2013 Q4
<b>Greece</b>	44.4	55.3	58.3	57.3
<b>EU28</b>	21.4	23	23.4	23.1
<b>Euro area</b>	20.8	23.1	24	23.8

Moreover, there is a significant increase in the number of **people at risk of poverty or social exclusion**, i.e. well above the EU and Euro area average, as shown in Table 5, as well as an increase in the percentage of population facing **severe material deprivation**, as indicated in Table 6. It is worth noting that between 2008 and 2013 the **average income of the Greek household** fell by 31.8%, i.e. from EUR 44,581 to EUR 30,400<sup>15</sup>.

**Table 5: People at risk of poverty or social exclusion (% of total population)<sup>16</sup>**

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Greece</b>	30.9	29.4	29.3	28.3	28.1	27.6	27.7	31.0	34.6	35.7*
<b>EU27</b>		25.7*	25.3*	24.4	23.8	23.3	23.7	24.3	24.8	24.2*
<b>Euro area</b>		21.7	22.0	21.8	21.7	21.5	21.9	23.0	23.4	23.0*

\*figure estimated by Eurostat

**Table 6: Severe material deprivation rate (% of total population)<sup>17</sup>**

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Greece</b>	14.1	12.8	11.5	11.5	11.2	11.0	11.6	15.2	19.5	20.3
<b>EU27</b>	:	10.8*	9.9*	9.1	8.5	8.2*	8.4	8.8	9.9	9.6*
<b>Euro area</b>	:	5.9	5.7	5.5	5.9	5.9	5.9	6.8	7.7	7.4*

\*figure estimated by Eurostat

<sup>14</sup> Eurostat, 'Youth Unemployment, 2013 Q4', available at: [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/File:Youth\\_unemployment\\_2013Q4\\_\(%25\).png](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/File:Youth_unemployment_2013Q4_(%25).png).

<sup>15</sup> 'Reduction of household income by €14,181 in the course of the 5 years of the crisis', *Kathimerini* Newspaper, available at: <http://www.kathimerini.gr/750807/article/oikonomia/ellhnikh-oikonomia/kata-14181-eyrw--meiw8hke-to-eisodhma--sth-n-5etia-ths-krishs>, referring to statistics of the Hellenic Statistical Authority.

<sup>16</sup> Eurostat, 'People at risk of poverty or social exclusion by age and sex', available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc\\_peps01&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_peps01&lang=en).

<sup>17</sup> Eurostat, 'Severe material deprivation rate by age and sex', available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc\\_mddd11&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_mddd11&lang=en).

The rate indicates the proportion of persons who cannot afford to pay for at least four of the following items: having arrears on mortgage or rent payments, utility bills, hire purchase installments or other loan payments; not being able to afford one week's annual holiday away from home; not being able to afford a meal with meat, chicken, fish (or vegetarian equivalent) every second day; not being able to face unexpected financial expenses; not being able to buy a telephone (including mobile phone); not being able to buy a colour television; not being able to buy a washing machine; not being able to buy a car; or not being able to afford heating to keep the house warm.



## 1.2. Overview of relevant measures

### 1.2.1. Economic Adjustment Programmes for Greece

On 27 April 2009, after the Greek government submitted revised data upgrading the debt and deficit, the Council of the EU issued a decision confirming the existence of an excessive deficit in Greece<sup>18</sup>. On 19 January 2010, the Council established that Greece had not taken effective action in response to its previous decision establishing the existence of an excessive deficit<sup>19</sup> and on 16 February 2010 it gave notice to the Greek government to take measures for the deficit reduction judged necessary in order to remedy the situation (urgent fiscal measures that had to be taken by 15 May 2010; supporting measures to safeguard the 2010 budgetary targets; and other measures that had to be adopted by the end of 2010)<sup>20</sup>.

In April 2010, the Greek authorities officially requested financial assistance as they were confronted with sizeable fiscal financing needs in April and May 2010. While the April needs were met through the issuance of bonds, this was done at a high price – the average interest rate exceeded 6%. In view of worsening market conditions in April, the Greek Government requested bilateral financial assistance from Euro area Member States and a Stand-By Agreement from the International Monetary Fund (IMF)<sup>21</sup>. On 2 May 2010, the Greek Government and the joint European Commission-European Central Bank (ECB)-IMF mission reached an agreement at technical level on the comprehensive policy package for the period 2010–2013, supported by official financing of EUR 110 billion, (bilateral loans from Euro area Member States amounting to EUR 80 billion and a Stand-By Arrangement with the IMF amounting to EUR 30 billion) – the **'First Economic Adjustment Programme'**<sup>22</sup>. The main features of the First Economic Adjustment Programme are included in Table 7.

<sup>18</sup> Council Decision of 27 April 2009, on the existence of an excessive deficit in Greece, (2009/415/EC), OJ L135/21, available at [http://ec.europa.eu/economy\\_finance/economic\\_governance/sqp/pdf/30\\_edps/104-06\\_council/2009-04-27\\_el\\_104-6\\_council\\_en.pdf](http://ec.europa.eu/economy_finance/economic_governance/sqp/pdf/30_edps/104-06_council/2009-04-27_el_104-6_council_en.pdf).

<sup>19</sup> Council Decision of 19 January 2010, establishing whether effective action has been taken by Greece in response to the Council recommendation of 29 April 2010, (2010/291/EU), OJ L 125/50, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0291&qid=1421663688172&from=EN>.

<sup>20</sup> Council Decision of 16 February 2010, giving notice to Greece to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive deficit, (2010/182/EU, L83/13), available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0182&qid=1421663725803&from=EN>.

<sup>21</sup> 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61, May 2010, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), p. 8.

<sup>22</sup> 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61, May 2010, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), p. 8.

**Table 7: Key Features of the First Economic Adjustment Programme<sup>23</sup>**

Category	Measures
<b>Fiscal Policies</b>	<ul style="list-style-type: none"> <li>• Fiscal consolidation — on top of adjustment already under way, should total 11 % of GDP over three years</li> <li>• Adjustment designed to lower the general government deficit to under 3% by 2014 (compared to 13.6% in 2009)</li> </ul>
<b>Government spending</b>	<ul style="list-style-type: none"> <li>• Measures aiming at saving 5.25% of GDP through 2013</li> <li>• Reducing and freezing pension and wages</li> <li>• Reducing and abolishing Christmas, Easter and summer holiday pay</li> <li>• Protecting low-paid employees</li> </ul>
<b>Government revenues</b>	<ul style="list-style-type: none"> <li>• Measures aiming at yielding 4% of GDP through 2013</li> <li>• Increasing, amongst others, value-added tax and taxes on luxury items, tobacco and alcohol</li> </ul>
<b>Revenue administration and expenditure control</b>	<ul style="list-style-type: none"> <li>• Measures leading to total revenue gains and expenditure savings of 1.8% of GDP during the programme period</li> <li>• Strengthening of tax collection, especially from those who have not carried the fair share of the tax burden</li> <li>• Strengthening of budget controls</li> </ul>
<b>Pension reform</b>	<ul style="list-style-type: none"> <li>• Comprehensive pension reform, including reducing early retirement possibilities</li> </ul>
<b>Structural policies</b>	<ul style="list-style-type: none"> <li>• Modernising public administration</li> <li>• Strengthening labour markets and income policies</li> <li>• Improving the business environment</li> <li>• Divesting of State enterprises</li> </ul>
<b>Entitlement Programmes</b>	<ul style="list-style-type: none"> <li>• Curtailing government entitlement programmes</li> <li>• Abolishing certain social benefits (while protecting the most vulnerable)</li> </ul>
<b>Military spending</b>	<ul style="list-style-type: none"> <li>• Reducing military expenditure</li> </ul>
<b>Financial stability</b>	<ul style="list-style-type: none"> <li>• Establishing a Financial Stability Fund to ensure a sound level of bank equity</li> </ul>

On 14 March 2012, Euro area finance ministers approved the financing of the **Second Economic Adjustment Programme for Greece** (the key features of which are included in Table 8), which included the undisbursed amounts of the first programme plus, an additional EUR 130 billion for the years 2012-14. Whereas the financing of the first programme was based on bilateral loans, the second programme on the side of Euro area Member States would be financed by the European Financial Stability Facility (EFSF), which has been fully operational since August 2010<sup>24</sup>. The total financial assistance under the Second Financial Adjustment Programme is EUR 164.5 billion until the end of 2014 (EUR 144.7 billion provided via the EFSF, and an IMF contribution of EUR 19.8 billion – which is

<sup>23</sup> Information obtained from IMF Press Release 'Europe and IMF Agree €110 Billion Financing Plan with Greece', 2 May 2010, available at: <http://www.imf.org/external/pubs/ft/survey/so/2010/car050210a.htm>.

<sup>24</sup> 'Second Economic Adjustment Programme for Greece', European Commission website, available at: [http://ec.europa.eu/economy\\_finance/assistance\\_eu\\_ms/greek\\_loan\\_facility/](http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/).

part of a four-year EUR 28 billion arrangement under the Extended Fund Facility for Greece that the IMF approved in March 2012)<sup>25</sup>.

**Table 8: Key Features of the Second Economic Adjustment Programme<sup>26</sup>**

Category	Measures
<b>Structural Fiscal Reforms</b>	<ul style="list-style-type: none"> <li>• Privatisations (target: EUR 50 billion by end of 2015)</li> <li>• Tariffs increases of at least 25% by the OASA, the OSE Group and TRAINOSE (public bus and trains)</li> <li>• Reform of the tax system</li> <li>• Expenditure control</li> <li>• Public administration reform</li> <li>• Reduction of employees in the public sector, i.e. 150,000 by 2015</li> <li>• Pension reform, e.g. reduction of pensions, and reduction of disability pensions of no more than 10%</li> <li>• Healthcare system reform, e.g. total expenditure reduction to less than 6% of the GDP; reduction of contracts with private doctors to bring down the doctor-to-patients ratio; promotion of the use of generic medicines</li> </ul>
<b>Growth enhancing structural reforms</b>	<ul style="list-style-type: none"> <li>• Reduction of minimum wages established by the general collective agreement by 22% for those above 25 years of age and by 32% for those below 25 years of age</li> <li>• Changes in the collective bargaining framework, e.g. arbitration possible only if both employees and employers agree</li> <li>• Changes in the fixed fees charged by professionals in certain regulated professions, e.g. lawyers and energy inspectors</li> <li>• Package of reform measures to improve the business environment</li> <li>• Reform of the transport sector, including liberalisation of KTEL (i.e. intercity buses) and privatisation of ports.</li> <li>• Measures to increase the absorption rates of structural and cohesion funds</li> <li>• Reform of the judicial system</li> </ul>

As a condition for receiving the loans under both Economic Adjustment Programmes, the Greek Government declared through Memoranda of Understanding that it would adopt strict austerity measures. The quarterly disbursement of financial assistance is also subject to a quarterly review of conditionality. The release of the tranches is based on observance of quantitative performance criteria, and a positive evaluation of progress made with respect to policy criteria in the Memoranda of economic and financial policies, and the Memoranda on specific economic policy conditionality, which specify the detailed criteria that will be assessed in successive reviews<sup>27</sup>. In December 2014 the Euro area finance

<sup>25</sup> 'Second Economic Adjustment Programme for Greece', European Commission website, available at: [http://ec.europa.eu/economy\\_finance/assistance\\_eu\\_ms/greek\\_loan\\_facility/](http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/).

<sup>26</sup> Information to complete this table has been derived from the 'Second Economic Adjustment Programme for Greece', European Commission website, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf).

<sup>27</sup> See 'Greece – Memorandum of Understanding on Specific Economic Policy Conditionality', 3 May 2010, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), p. 59; 'Greece – Memorandum of Understanding on Specific Economic Policy Conditionality', March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p. 123; Council Decision of 12 July 2011 addressed to Greece with a view to reinforcing and deepening fiscal surveillance and

ministers decided a two-month extension of the bailout programme in order to finalise the review of the current programme in the beginning of 2015<sup>28</sup>; in addition, they indicated that, after the conclusion of the current Economic Adjustment Programme '*Euro area Member States remain favourably disposed to granting Greece an ESM precautionary credit line (ECCL), if Greece were to request this and subject to the finalisation of the reform measures that are still pending under the current review, continued involvement of the IMF, and the completion of relevant national and EU procedures*'<sup>29</sup>.

### 1.2.2. Overview of national austerity measures

The financial assistance agreements and the Memoranda of Understanding were incorporated into the Greek legal order as laws which contained the general obligations, as well as specific measures that aimed at meeting these obligations. In 2010, there was an extensive political debate and academic dialogue concerning the legal nature of the first Memorandum of Understanding and –subsequently– the constitutional parameters of its 'transposition'<sup>30</sup> to national law. In addition to these laws, a mid-term fiscal strategy was adopted for the period 2012-2015/16, consisting the basis for the adoption of a number of implementing measures. A brief overview of the relevant legislative acts is presented in Table 9 below:

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giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit, OJ L 296, 15.11.2011, p. 38–52.

<sup>28</sup> Eurogroup Statement on Greece, 8 December 2014.

<sup>29</sup> *ibid.*

<sup>30</sup> See, inter alia, Manitakis, A., 'The constitutional issues of the Memorandum in view of shared sovereignty and surveillance of fiscal policy' (*Τα συνταγματικά ζητήματα του Μνημονίου ενόψει μοιρασμένης κρατικής κυριαρχίας και επιτηρούμενης δημοσιονομικής πολιτικής*), available at: [http://constitutionalism.gr/site/wp-content/mgdata/pdf/manitakis\\_2011\\_11\\_3\\_20\\_0\\_23.pdf](http://constitutionalism.gr/site/wp-content/mgdata/pdf/manitakis_2011_11_3_20_0_23.pdf); Pavlopoulos, P., 'Observations regarding the legal nature and the legal consequences of the "Memorandum"', (*Παρατηρήσεις ως προς τη νομική φύση και τις έννομες συνέπειες του «Μνημονίου»*), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/avlopoulosmnimonio.pdf>; Katrougkalos, G., 'Memoranda sunt Servanda? The constitutionality of Law 3845/2010 and of the Memorandum for the application of the agreements with the IMF, EU and ECB' (*Memoranda sunt Servanda? Η συνταγματικότητα του νόμου 3845/2010 και του μνημονίου για τα μέτρα εφαρμογής των συμφωνιών με ΔΝΤ, ΕΕ και ΕΚΤ*), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/atrougalosmemoranda2192010.pdf>; Kassimatis, G., 'The Greek Loan Agreements with the EU and the IMF' (*Οι Συμφωνίες Δανεισμού της Ελλάδας με την ΕΕ και το ΔΝΤ*), available at: [http://constitutionalism.gr/site/wp-content/mgdata/pdf/9\\_kasimatis\\_symfoniadaneismou\\_27-11-10.pdf](http://constitutionalism.gr/site/wp-content/mgdata/pdf/9_kasimatis_symfoniadaneismou_27-11-10.pdf); Chrysogonos, K., 'The lost honor of the Greek Republic. The mechanism "to support Greek economy" through a perspective of national sovereignty and of the democratic principle' (*Η χαμένη τιμή της Ελληνικής Δημοκρατίας. Ο μηχανισμός «στήριξης της ελληνικής οικονομίας» από την οπτική της εθνικής κυριαρχίας και της δημοκρατικής αρχής*), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/xrysogonosxamenitimi.pdf>; Drossos Y., 'The "Memorandum" as a turning point in the political system' (*Το «Μνημόνιο» ως σημείο στροφής του πολιτεύματος*), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/drossosmnimonipolitevma.pdf>; Frangakis, N., 'A State's Exceptional Economic Measures under the European Convention on Human Rights. The case of the "Greek Memorandum"' in *The European Convention on Human Rights, a Living Instrument – Essays in the Honour of Christos L. Rozakis* (ed. Spielmann, D.), Bruylant, November 2011.

**Table 9: The main laws incorporating Memoranda of Understanding and laying down the mid-term fiscal strategy for 2012-2015/16.**

<b>Number and Title of legal instrument</b>
<b>Law 3845/2010</b> 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' <sup>31</sup>
<b>Law 3847/2010</b> "Redefining Christmas holidays and Easter allowances and bonuses for pensioners and beneficiaries of the public sector" <sup>32</sup>
<b>Law 3986/2011</b> 'Urgent implementing measures of the mid-term fiscal strategy 2012 – 2015' <sup>33</sup>
<b>Law 4024/2011</b> 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' <sup>34</sup>
<b>Law 4038/2012</b> 'Emergency arrangements for the implementation of the mid-term fiscal strategy framework 2012-2015' <sup>35</sup>
<b>Law 4046/2012</b> 'Approval of the Plans for Credit Facilitation Agreements between the European Financial Stability Facility (EFSF), the Hellenic Republic and the Bank of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions for reduction of public debt and recovery of the national economy' <sup>36</sup>
<b>Law 4093/2012</b> 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' <sup>37</sup>
<b>Law 4127/2013</b> 'Approval of the updating of the mid-term fiscal strategy framework 2013-2016' <sup>38</sup>

<sup>31</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

<sup>32</sup> Law 3847/2010 'Redefining Christmas holidays and Easter allowances and bonuses for pensioners and beneficiaries of the public sector' (*Επανακαθορισμός των επιδομάτων εορτών Χριστουγέννων και Πάσχα και του επιδόματος αδείας για τους συνταξιούχους και βοηθηματούχους του Δημοσίου*), Government Gazette A' 67/2010.

<sup>33</sup> Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012 – 2015' (*Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012 – 2015*), Government Gazette A' 152/2011.

<sup>34</sup> Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 226/2011.

<sup>35</sup> Law 4038/2012 'Emergency arrangements for the implementation of the mid-term fiscal strategy framework 2012-2015' (*Επείγουσες ρυθμίσεις που αφορούν την εφαρμογή του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 14/2012.

<sup>36</sup> Law 4046/2012 Approval of the Plans for Credit Facilitation Agreements between the European Financial Stability Facility (EFSF), the Hellenic Republic and the Bank of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions for reduction of public debt and recovery of the national economy (*Έγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Ευρωπαϊκής Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου χρέους και τη διάσωση της εθνικής οικονομίας*), Government Gazette A' 28/2012.

<sup>37</sup> Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (*Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016*), Government Gazette A' 222/2012.

<sup>38</sup> Law 4127/2013 'Approval of the updating of the mid-term fiscal strategy framework 2013-2016' (*Έγκριση της επικαιροποίησης του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016*), Government Gazette A' 50/2013.

In addition to the abovementioned main legal acts, several others were adopted, bringing extensive structural and substantive changes to most sectors of the economy and public activity. The measures potentially affecting the fundamental rights examined within this study are briefly presented in the following sections.

### 1.2.3. Legislative process for the adoption of national austerity measures

Since 2010, new legislation is adopted continuously, amended, and supplemented constantly and rapidly through a great number of different acts, i.e. Laws, Acts with a legislative content, Presidential Decrees, Ministerial Decisions and Circulars. According to academics and practitioners<sup>39</sup>, it is practically impossible, even for them, to keep track and be informed of all of the introduced specific measures. Most legal acts are formed as 'omnibus' laws containing provisions falling within the competence of many ministries and the titles of the acts do not reflect the content in its totality, e.g. Law 4172/2013<sup>40</sup> is entitled 'Income tax and urgent measures for implementing Laws 4046/2012, 4093/2012 and, 4127/2013 and other provisions'. This law includes, in Section I, the new Code of income tax and measures concerning the areas of competence of eight ministries, namely the Ministries of Interior, Education and Religious Affairs; Culture and Sports; Administrative Reform and E-governance; Health; Labour Social Security and Welfare; Environment, Energy and Climate Change; Justice, Transparency and Human Rights.

Moreover, the submission of pre-vote amendments (*τροπολογίες*)<sup>41</sup> which are not thematically relevant to the main act<sup>42</sup>, has increased due to the urgency in which measures need to be adopted<sup>43</sup> – often with the view of a Troika evaluation visit to secure payment of the next tranche. The volume of measures adopted in every voting procedure, combined with the tight time-frames for adoption, do not practically allow Members of Parliament to process and comprehend the measures to their full extent<sup>44</sup>. The structure of legislation has also changed, i.e. several measures are incorporated in a single article<sup>45</sup> with a view to minimising potential divergent voting by the Members of the Parliament who belong to parties of the governing coalition<sup>46</sup>.

The National Commission for Human Rights (NCHR), in 2014, also expressed its deep concern about 'the avalanche of unpredictable, complicated, conflicting and constantly modified 'austerity measures' of immediate and, often retroactive, effect, which exacerbate

<sup>39</sup> Information obtained through stakeholder consultations (Academics, Union of Administrative Judges, Magistrate Judge, NCHR), December 2014.

<sup>40</sup> Law 4172/2013 Income tax and urgent measures for implementing Laws 4046/2012, 4093/2012, 4127/2013 and other provisions (*Φορολογία εισοδήματος, επείγοντα μέτρα εφαρμογής του ν. 4046/2012, του ν. 4093/2012 και του ν. 4127/2013 και άλλες διατάξεις*), Government Gazette A'167/2013.

<sup>41</sup> 'Reactions and departures from the House on amendments barrage' (*Αντιδράσεις και αποχωρήσεις από τη Βουλή για το μπράζ τροπολογιών*), in.gr newssite, 20.12.2014, available at: <http://news.in.gr/greece/article/?aid=1231372633>.

<sup>42</sup> For example a pre-vote amendment to Law 4058/2012 entitled 'Services provided by armed security guards on merchant ships and other provisions' (*Παροχή υπηρεσιών ασφαλείας από ένοπλους φρουρούς σε εμπορικά πλοία και άλλες διατάξεις*), Government Gazette A'63/2012, was incorporated as Article 41 and brought changes to NHS provisions.

<sup>43</sup> Information obtained through stakeholder interviews (Academics, Union of Administrative Judges, NCHR), December 2014.

<sup>44</sup> Information obtained through stakeholder interviews (NCHR), December 2014.

<sup>45</sup> For example, Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (*Εγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016 – Επείγοντα Μέτρα Εφαρμογής του ν.4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016*), Government Gazette A' 222/2012 has only one article and is constructed in paragraphs and subparagraphs while its length reaches 123 pages.

<sup>46</sup> Information obtained through stakeholder interviews (Academic, NCHR), December 2014.



the general feeling of insecurity and is continuing and constantly growing'. According to the NCHR, this results to Greek legislation not having the 'quality' required under the European Convention on Human Rights (ECHR)<sup>47</sup>.

Several law practitioners have expressed concerns about an even greater degradation of the rule of law and certainty of law in the national legal order<sup>48</sup>.

### **Acts with a legislative content (Πράξεις Νομοθετικού Περιεχομένου)**

Legislative power in Greece is primarily vested upon the Parliament. Draft Laws are submitted by the Government to the Parliament, discussed, and adopted through parliamentary procedures. At the same time, the President of the Republic also has some narrowly defined legislative competences. One of these is the extraordinary legislative competence based on Article 44(1) of the Constitution, according to which, under extraordinary circumstances of an urgent and unforeseeable need, the President of the Republic may, upon proposal by the Ministers Cabinet (Υπουργικό Συμβούλιο), issue acts of legislative content (PNP). Such acts shall be submitted to Parliament for ratification, within 40 days of their issuance, or within 40 days from the convocation of a parliamentary session. If such acts are not submitted to Parliament within the above time-limits, or if they are not ratified by Parliament within three months of their submission, they cease to be in force.

The President of the Republic does not have discretionary power to accept the proposal of the Ministers Cabinet; he only has a certain margin of appreciation as to whether or not the circumstances that justify the issuances of such acts exist. This aims at minimising the danger of potential governmental abuse<sup>49</sup> that, in practice, could exclude Parliament from the adoption of substantial measures.

What should be underlined is that PNPs, prior to their ratification by the Parliament, are administrative acts, but nevertheless, considered equivalent to Laws. Hence, such acts are not subject to judicial review before the Council of State – not even in relation to the ascertainment of 'extraordinary circumstances of an urgent and unforeseeable need'.

Since 2010, the executive power (Government) is increasingly regulating and adopting measures to implement the Economic Adjustment Programmes through PNPs. Thus, in practice, a type of 'exceptional legislation' has been created – since the main means through which governmental policy is exercised, and several austerity measures are adopted, is such acts and not laws<sup>50</sup>.

<sup>47</sup> NCHR Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter (Reference Period 1.1.2009-12.31.2012), October 2014, available at: [http://www.nchr.gr/images/pdf/apofaseis/ellinikes\\_ektheseis\\_en\\_ell\\_org/CoE/GNCHR\\_Observations\\_24thReport.pdf](http://www.nchr.gr/images/pdf/apofaseis/ellinikes_ektheseis_en_ell_org/CoE/GNCHR_Observations_24thReport.pdf).

<sup>48</sup> See i.a. Gerapetritis, G., The economic crisis as element of deregulation of the hierarchy of sources of law: determinism or alibi? (*Η οικονομική κρίση ως στοιχείο απορρύθμισης της ιεραρχίας των πηγών του δικαίου: νομοτέλεια ή άλλοθι?*) NoB 10/2012, Yannakopoulos Constantin, The transformation of the subject of constitutional rights (*Η μετάλλαξη του υποκειμένου των συνταγματικών δικαιωμάτων*), Administrative Law Review (*ΕφημΔΔ*) 2/2012, Yannakopoulos Constantin, In between national and EU legal order: the "Memorandum" as a reproduction of the crisis of rule of law (*Μεταξύ εθνικής και ενωσιακής έννομης τάξης: το «Μνημόνιο» ως αναπαραγωγή της κρίσης του κράτους δικαίου*) available at: <http://www.constitutionalism.gr/site/1914-metaxy-etnikis-kai-enwsiakis-ennomis-taxis-to-mnim/> (in Greek).

<sup>49</sup> Spyropoulos, P.C., Fortsakis T.P., Constitutional Law in Greece, 2<sup>nd</sup> ed., 2013, Wolters Kluwer Law & Business, p.65-66.

<sup>50</sup> Gerapetritis, G., The economic crisis as element of deregulation of the hierarchy of sources of law: determinism or alibi? (*Η οικονομική κρίση ως στοιχείο απορρύθμισης της ιεραρχίας των πηγών του δικαίου: νομοτέλεια ή άλλοθι?*) NoB 10/2012, p. 2754 and footnote no. 21 including a very indicative example demonstrating that acts of legislative content are used, not to satisfy extraordinary circumstances of an urgent and unforeseeable need, but to regulate issues that could be subject to the ordinary legislative procedure is PNP of 9<sup>th</sup> November 2012 'Individual regulations concerning the emergency measures of the implementation of Law 4046/2012 and the

## 2. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO EDUCATION (COMPULSORY EDUCATION)

### KEY FINDINGS

- Certain austerity measures have had an impact on the right to education in Greece.
- In the effort to ensure fiscal consolidation, the **State budget for the Ministry of Education has been significantly reduced** (from EUR 5,645 million in 2005 to EUR 4,540 million – projected – in 2014).
- Other measures introduced include: a) **reductions in teachers' recruitment**; b) participation of teachers in the **labour reserve and labour mobility schemes**; c) **reductions in teachers' remuneration**; d) **merging/closure of school units**.
- The rationalisation of the school network (through the merger/closure of schools) and the increase in the number of students per classroom and in weekly teaching hours brought **Greece closer to the OECD average and reduced the State's needs for temporary teachers**.
- Nonetheless, at the same time, some measures have also had negative consequences: the **State budget available for schools' operational costs has been significantly reduced** (e.g. according to reports from EUR 110 million to EUR 80 million between 2011 and 2012), creating difficulties in meeting basic needs (e.g. heating, stationary, maintenance of schools).
- **Shortages in teachers** continue to be reported. According to a study, the majority of students feel that the bigger number of students in each classroom (due to the merger of schools) has made it more difficult for them to follow the class.
- Finally, austerity measures have had a **particularly negative impact on vulnerable groups of students** (Roma children, children with disabilities).

### 2.1. International and EU legal framework for the protection of the right to education

The right to education is defined as a universal entitlement to education, and is recognised as a right that includes the right to free, compulsory primary education for all, as well as an obligation to provide for a system of secondary education which is not necessarily free, but is available and accessible to all, while the material conditions of teaching staff shall be continuously improved in accordance with the International Covenant on Economic, Social and Cultural Rights (the 'ICESCR')<sup>51</sup>. In addition, the right to education encompasses the obligation to combat discrimination at all levels of the educational system and to set

Medium Term Fiscal Strategy Framework 2013-2016' (*Επιμέρους ρυθμίσεις επί των επειγόντων μέτρων εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013-2016*), Government Gazette A'224/2012, which amended several provisions of the 3<sup>rd</sup> MoU (Law 4093/2012). However, Law 4093/2012 was voted by the Parliament on the same day as the PNP and the PNP brought back provisions in Law 4093/2012 that were not accepted by the Parliament and were modified during the Parliamentary procedure.

<sup>51</sup>International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A (XXI) of 16 December 1966, 1976, article 13, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.



minimum standards and to improve quality of education. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities<sup>52</sup>. Education needs to be provided under the principles of: availability, accessibility, acceptability and adaptability<sup>53</sup>.

The right to education has been reaffirmed in the 1960 UNESCO Convention against Discrimination in Education, Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (the 'CEDAW'), Articles 28 and 29 of the Convention on the Rights of the Child (the 'CRC') and Article 24 of the Convention on the Rights of Persons with Disabilities (the 'CRPD'). Furthermore, it is also guaranteed by Article 2 of Protocol No. 1 to the European Convention on Human Rights (the 'ECHR').

The EU Charter guarantees the right to education and access to vocational and continuing training, with the possibility to receive free compulsory education<sup>54</sup>.

## 2.2. The right to compulsory education in Greece

The right of all citizens to education is enshrined in Article 16 of the Constitution, according to which, 'education constitutes a basic mission for the State and shall aim at the moral, intellectual, professional and physical training of Greeks, the development of national and religious consciousness and their formation as free and responsible citizens'<sup>55</sup>. The Constitution further stipulates that the number of years of compulsory education shall be no less than nine<sup>56</sup>. In addition, it provides that all Greeks are entitled to free education, at all levels, at State educational institutions, and that the State must provide financial assistance both to those who distinguish themselves, as well as to those who are in need of assistance or special protection in accordance with their abilities<sup>57</sup>.

Currently, the Greek educational system is divided into four main levels: pre-primary education; compulsory education in primary schools and lower secondary schools; post-compulsory upper secondary education; post-secondary level and higher education<sup>58</sup>. As of 2006<sup>59</sup>, compulsory education starts at the age of five (previously, compulsory education started at the age of six), before children go to primary schools at the age of six, for six years, and to lower-secondary schools, up to the age of 15<sup>60</sup>.

<sup>52</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13 – Right to education*, UN Doc. E/C.12/1999/10 (1999), §1, available at: <http://www1.umn.edu/humanrts/gencomm/escgencom13.htm>.

<sup>53</sup> *ibid*, §6.

<sup>54</sup> Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 14, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>55</sup> Article 16(2) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>56</sup> Article 16(3) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>57</sup> Article 16(4) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>58</sup> Tsatsaroni, A., 'Overcoming School Failure. Policies that work', OECD Project 2011, available at: <http://www.oecd.org/greece/49528233.pdf>, p.7.

<sup>59</sup> Law 3518/2006 'Restructuring of the branches of Pension Fund for Engineering and Public Works Contractors (TSMEDE) and regulation of other matters within the remit of the Ministry of Employment and Social Protection (B 'part of the file)' (Αναδιάρθρωση των κλάδων του Ταμείου Συντάξεων Μηχανικών και Εργοληπτών Δημοσίων Έργων (Τ.Σ.Μ.Ε.Δ.Ε.) και ρύθμιση άλλων θεμάτων αρμοδιότητας του Υπουργείου Απασχόλησης και Κοινωνικής Προστασίας (Β' μέρος του αρχείου)), Government Gazette Α' 272/2206.

<sup>60</sup> Tsatsaroni, A., 'Overcoming School Failure. Policies that work', OECD Project 2011, available at: <http://www.oecd.org/greece/49528233.pdf>, p.7.

## 2.3. The Economic Adjustment Programmes and the general obligations relevant to the right to compulsory education

Even though the **First Economic Adjustment Programme** referred to the need to amend the Greek educational system, no specific measures were stipulated in this respect<sup>61</sup>. The need to improve the efficiency of the education sector by benchmarking Greece with international best practices was recognised in the **Second Review** (Autumn 2010)<sup>62</sup>, as well as in the **Third Review of the Economic Adjustment Programme for Greece**, which also introduced an obligation for the Greek Government to start publishing a bi-annual progress report on the implementation of the law on quality assurance in primary, secondary and higher education<sup>63</sup>.

The **Fourth Review of the Economic Adjustment Programme** for Greece (Spring 2011) made specific remarks concerning educational reform. It noted that, in primary and secondary education, far-reaching reforms are taking place, e.g. the revision of curricula, the introduction of teacher evaluation, recurrent training for teachers, extension of all-day schools, closure and merger of establishments (around 30% of schools), and acknowledging that 2,000, or so, small schools had already, at that stage, been closed<sup>64</sup>.

The **Fifth Review of the Economic Adjustment Programme for Greece** (Autumn 2011) noted that, amongst the major challenges in primary and secondary education are:

- i) excessive centralised governance of the system;
- ii) inefficient use of resources, with student/teacher ratios and teachers' working time significantly lower than in other EU countries;
- iii) a lack of external assessment of schools and teaching;
- iv) excessive constraints imposed on private schools<sup>65</sup>.

Changes in the Greek compulsory education system were required under the **Second Economic Adjustment Programme for Greece** (March 2012) which referred to the need to<sup>66</sup>:

- a) improve the action plan that was drawn for the improvement of the effectiveness and efficiency of the education system;

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<sup>61</sup> European Commission, 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61 – May 2010, available at:

[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf).

<sup>62</sup> European Commission, 'The Economic Adjustment Programme for Greece, Second review – Autumn 2010', European Economy – Occasional Papers 72 – December 2010, available at:

[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp72\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp72_en.pdf), p.21.

<sup>63</sup> European Commission, 'The Economic Adjustment Programme for Greece, Third Review – Winter 2011', European Economy – Occasional Papers 77 – February 2011, available at:

[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/pdf/ocp77\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp77_en.pdf), p.118.

<sup>64</sup> European Commission, 'The Economic Adjustment Programme for Greece, Fourth Review – Spring 2011', European Economy – Occasional Papers 82 – July 2011, available at:

[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/pdf/ocp82\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp82_en.pdf), p.42.

<sup>65</sup> European Commission, 'The Economic Adjustment Programme for Greece, Fifth Review – October 2011', European Economy – Occasional Papers 87 – 2011 available at:

[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/pdf/ocp87\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp87_en.pdf), p.39.

<sup>66</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', European Economy – Occasional Papers 94 – March 2012, available at:

[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.80.

- b) continue amending the existing legal and institutional framework for primary, secondary and tertiary education, with a view to increasing the efficiency and effectiveness of the educational system.

Moreover, amongst the measures to be taken in order to reach the 2012 deficit target, was the reduction of the allocations for the Ministry of Education – including for services abroad, alternate teachers in secondary schools, and operational spending for secondary schools<sup>67</sup>.

The **Fourth Review of the Second Economic Adjustment Programme for Greece** (April 2014) referred to the positive effect of the changes introduced to the Greek educational system. Nonetheless, additional steps were considered as needed, e.g. with respect to the new policy of evaluation of schools and of educational staff<sup>68</sup>.

## 2.4. The measures adopted

### 2.4.1. State Budget for the Ministry of Education and Culture

Investment in education has fallen significantly in Greece since the beginning of the financial crisis, as a result of the country's efforts for fiscal consolidation. As indicated in Figure 2 below, Greece had the biggest percentage reduction (-17%) in budget allocation for pre-primary, primary and secondary education in 2011 – compared to 2010, along with Hungary and Romania. Significant reductions on current expenditure, excluding human resources costs, also took place in Greece in 2011 (-24%) and in 2012 (-19%)<sup>69</sup>.

**Figure 2: Percentage change in budget allocations for pre-primary, primary and secondary education levels in 2012 and 2011 compared to the previous year at constant 2010 prices**<sup>70</sup>



<sup>67</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', , European Economy – Occasional Papers 94 – March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.116.

<sup>68</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.44 para. 76.

<sup>69</sup> Eurydice, 'Funding of Education in Europe – The Impact of the Economic Crisis', February 2013, available at: [http://eacea.ec.europa.eu/education/eurydice/documents/thematic\\_reports/147EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/thematic_reports/147EN.pdf), p. 37.

<sup>70</sup> Eurydice, 'Funding of Education in Europe – The Impact of the Economic Crisis', February 2013, available at: [http://eacea.ec.europa.eu/education/eurydice/documents/thematic\\_reports/147EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/thematic_reports/147EN.pdf), p. 35.

The allocation from the State Budget for the Ministry of Education – covering all levels of education and operational expenses, is expected to continue to decrease, as indicated below in Table 10:

**Table 10: Maximum budget available to the Ministry of Education<sup>71</sup>**

	2005 <sup>72</sup>	2014		2015	2016	2017	2018
	Budget	Budget	Projection	Projection	Projection	Projection	Projection
<b>State Budget (EUR)</b>	5,646	4,600	4,540	4,329	4,149	4,004	3,870
<b>Program of State Investments (EUR)</b>		490	490	476	437	438	438

#### 2.4.2. Mergers/closure of school units

One of the measures adopted, with the aim of rationalising primary and secondary education in Greece, was the merging/shutting-down of school units – required by the Memorandum of Economic and Financial Policies (2012)<sup>73</sup>. The process of establishing and merging existing school units is stipulated in Law 1566/1985<sup>74</sup>, thus allowing the Ministry of Education to reflect the changes in the distribution of the student population. Nonetheless, as of 2011, and in order to contribute to the State's efforts for fiscal consolidation, there is systematic effort to rationalise the school map with substantial merging of school units throughout the country<sup>75</sup>.

According to the Ministry of Education, decisions on merging schools are made, primarily, on the basis of educational criteria, e.g. the creation of school units that will be more robust and fully equipped with the necessary infrastructure and sufficient teaching staff. Alongside their pedagogical purposes, school mergers contribute, according to the Ministry of Education, to the rational use of existing human resources, i.e. these resources are currently unevenly distributed throughout the country because of numerous, fragmented multigrade-schools that are unable to provide quality education<sup>76</sup>.

In 2011<sup>77</sup>, the Ministry of Education decided that 1,933 school units would be merged into 877 school units, i.e. in primary education, 1523 schools were merged into 672 schools and

<sup>71</sup> 'Mid-Term Fiscal Policy 2015–2018', available at: <http://www.taxheaven.gr/pagesdata/AITIOLOGIKH%20EKTESH MPDS%202015-2018.pdf>, p. 50.

<sup>72</sup> Ministry of Economy and Finance (currently, Ministry of Finance), 'State Budget 2007', available at: <http://www.minfin.gr/budget/2007/proyp07/>, p. 84.

<sup>73</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, First Review – December 2012', available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp123\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp123_en.pdf), p. 180.

<sup>74</sup> Articles 4(1), 5(4) & (5) of Law 1566/1985 'Structure and Operation of Primary and Secondary Education and other provisions' (Δομή και λειτουργία της πρωτοβάθμιας και δευτεροβάθμιας εκπαίδευσης και άλλες διατάξεις), Government Gazette A' 167/1985.

<sup>75</sup> Ministry of Education Press Release, 'School Map 2011–2012: Merging and Establishment of Educational Establishments of Primary and Secondary Education for the academic year 2011 – 2012', 13 March 2011, p. 2.

<sup>76</sup> Ministry of Education Press Release, 'School Map 2011–2012: Merging and Establishment of Educational Establishments of Primary and Secondary Education for the academic year 2011 – 2012', 13 March 2011, p. 3–4.

<sup>77</sup> See, e.g. Ministerial Decision 71336/2011 'Merger of Schools of Secondary Education' (Government Gazette B' 1575/2011); Ministerial Decision 71327/2011 'Closure of Schools of Secondary Education' (Government Gazette B' 1575/2011).

410 schools were merged into 205 in secondary education<sup>78</sup>. According to a study by the European Trade Union Committee for Education (ETUCE), 1,053 schools were closed and 1,933 were merged between 2008 and 2012<sup>79</sup>.

The Ministry of Education has continued the program of mergers/closures of educational establishments. In the academic year 2014–2015, 231 school units were planned to be merged, 49 to be closed and 43 to be established<sup>80</sup>.

It is worth noting that in some instances the Ministry of Education at a later stage, revoked its decisions to merge/close certain school units. This practice, according to the Federation of primary teachers, creates confusion as to the applicable legal framework – which is detrimental to the quality of education, and creates uncertainty for teachers regarding their conditions of service<sup>81</sup>.

#### 2.4.3. Reduction of expenditure for employees in the educational sector; reductions in teachers' recruitment; labour reserve (*διαθεσιμότητα*) and mobility (*κινητικότητα*) schemes

A presentation of the measures adopted to reduce expenditure for employees in the public sector in Greece – including employees in the educational sector, is included in Section 4.4.2 of this study. This section aims at presenting only the main elements of the relevant policies which have, or may affect, the right to compulsory education.

The Greek Government applied different reduction rules for numerous categories of employees in the public sector, in order to reach the target of having 150,000 fewer employees by 2015 (with reference to 2010). Concerning permanent public servants, the rules implying 1 hire per 5 (or 10) retirements, as well as additional restrictions, were introduced, e.g. reductions in the recruitment of temporary teachers, which in combination with the increased retirement rate, led to significant savings<sup>82</sup>.

In order to reduce expenditure in the public sector – including the educational sector, and apart from reductions in recruitment, two other types of measures were used, i.e. the placement of employees in the labour reserve scheme (*διαθεσιμότητα*) and the placement of employees in the mobility scheme (*κινητικότητα*).

According to Law 4172/2013, 'job positions may be abolished (per category, sector, specialty) in the public sector and in the local government by decree of the Minister of Administrative Reform and of the Minister concerned, upon documentation supported by

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<sup>78</sup> Ministry of Education Press Release, 'School Map 2011–2012: Merging and Establishment of Educational Establishments of Primary and Secondary Education for the academic year 2011–2012', 13 March 2011, p. 4.

<sup>79</sup> Greek Federation of Secondary School Teachers, 'Presentation of an ETUCE study within the context of action for the economic crisis', available at: <http://olme-attik.att.sch.gr/new/wp-content/uploads/2012/06/etuce050612.pdf>, p 11–12.

<sup>80</sup> '231 educational establishments are merged in the new academic year', *Kathimerini* Newspaper, 29 May 2014, available at: <http://www.kathimerini.gr/769358/article/epikairothta/ellada/231-sxolikes-monades-sygxwneyontai-apo-th-nea-xronia>; see, e.g. Joint Ministerial Decision 72624/D4/12-05-2014 concerning the 'Establishment, Promotion, Demotion, Merger and Closure of Elementary Schools and Kindergardens' (*Ιδρύσεις, Προαγωγές, Υποβιβασμοί, Συγχωνεύσεις και Καταργήσεις Δημοτικών Σχολείων και Νηπιαγωγείων*), Government Gazette B 1239/2014).

<sup>81</sup> Greek Federation of (primary school) Teachers, 'Concerning the confusion regarding the merger of school units', Press Release, 23 July 2014, available at: [http://www.doe.gr/plugins/p2\\_news/printarticle.php?p2\\_articleid=10817](http://www.doe.gr/plugins/p2_news/printarticle.php?p2_articleid=10817).

<sup>82</sup> Ministry of Finance, 'Greek National Reforms Programme 2014', available at: [http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014\\_greece\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_greece_en.pdf), p. 28.

evaluation reports of structures and staffing plans'. Employees in these abolished positions are considered as 'non-active' and, receive 75% of their basic salary for eight months. They are also considered as having 'mobility' status, in the sense that, if possible, they will be transferred to another position within the public sector, although, if another position is not available they will be dismissed<sup>83</sup>. Moreover, the new legal framework provides the possibility to transfer employees from the public sector and local government to other agencies or organisations where there are vacant posts which match employee skills, in order to make the best use of the human resources available<sup>84</sup>.

These measures have had a significant impact on employees in the primary and secondary education in Greece, including the:

- abolishment of school guards (*σχολικοί φύλακες*), thereby placing these employees in the 'labour reserve' scheme<sup>85</sup>. Out of the 1,570 school guards, 526 were transferred to hospitals as auxiliary staff<sup>86</sup> – the rest remained in the labour reserve scheme, but by December 2014, were laid-off because the eight-month period they are allowed in the labour reserve scheme has lapsed<sup>87</sup>;
- transfer of 450 teachers from secondary education to administration<sup>88</sup>;
- transfer of 950 teachers from secondary education to primary education<sup>89</sup>, i.e. in principle, professors in the fields of gymnastics, computers, French literature, theatre, and music<sup>90</sup>;
- planned transfer of 850 teachers to administration<sup>91</sup>;
- planned transfer of 3,600 teachers to primary education<sup>92</sup>.

As a result of the changes allowing mandatory transfer of staff, in the school year 2013-2014, only 2,000 temporary teachers were required to meet demand, as opposed to 15,000 in 2011-2012<sup>93</sup>.

<sup>83</sup> Article 90 of Law 4172/2013 'Income taxation, Urgent Measures for the Implementation of Law 4046/2012 and Law 4127/2013 and other provisions' (*Φορολογία εισοδήματος, επείγοντα μέτρα εφαρμογής του ν. 4046/2012, του ν. 4093/2012 και του ν. 4127/2013 και άλλες διατάξεις*), Government Gazette A' 167/2013. See also Eurofound, 'Public sector job cuts gather pace', available at: <http://eurofound.europa.eu/observatories/eurwork/articles/other/public-sector-job-cuts-gather-pace>.

<sup>84</sup> Article 91 of Law 4172/2013 'Income taxation, Urgent Measures for the Implementation of Law 4046/2012 and Law 4127/2013 and other provisions' (*Φορολογία εισοδήματος, επείγοντα μέτρα εφαρμογής του ν. 4046/2012, του ν. 4093/2012 και του ν. 4127/2013 και άλλες διατάξεις*), Government Gazette A' 167/2013.

<sup>85</sup> Article 80 of Law 4172/2013 Income taxation, Urgent Measures for the Implementation of Law 4046/2012 and Law 4127/2013 and other provisions' (*Φορολογία εισοδήματος, επείγοντα μέτρα εφαρμογής του ν. 4046/2012, του ν. 4093/2012 και του ν. 4127/2013 και άλλες διατάξεις*), Government Gazette A' 167/2013.

<sup>86</sup> 'The 526 school guards who are transferred to hospitals', *To Vima* Newspaper, 19 March 2014, available at: <http://www.tovima.gr/society/article/?aid=578515>.

<sup>87</sup> 'Order to lay off the 'non-active' school guards and teachers', *To Vima* Newspaper, 27 March 2014, available at: <http://www.tovima.gr/society/article/?aid=580956>.

<sup>88</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, Fourth Review – April 2014', available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p. 92.

<sup>89</sup> *ibid.*

<sup>90</sup> 'Until 10 August the list of the 2,000 professors placed in the labour reserve scheme – 4,933 movements from Secondary Schools to primary schools' (Μέχρι 10 Αυγούστου η λίστα των 2.000 σε διαθεσιμότητα καθηγητών - 4.933 μετακινήσεις από Γυμνάσια-Λύκεια σε Δημοτικά), *To Vima* Newspaper, 22 July 2013, available at: <http://www.tovima.gr/society/article/?aid=523360>.

<sup>91</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, Fourth Review – April 2014', available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p. 92.

<sup>92</sup> *ibid.*

<sup>93</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, Fourth Review – April 2014', available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p. 44.



Table 11 presents information on the number of school units, teachers and students, in Greece, after the beginning of the economic crisis, with reference to the academic year 1998-1999.

**Table 11: Number of school units, teachers and students in Greece<sup>94</sup>**

	1998/ 1999	2008/ 2009	2009/ 2010	2010/ 2011	2011/ 2012	2012/ 2013
<b>A) Primary education</b>						
<b>Pre-primary (kindergartens)</b>						
School units	5,575	5,979	6,064	6,027	5,861	5,823
Teachers	9,218	13,652	13,931	13,986	14,018	13,301
Students	144,133	158,920	159,502	166,233	165,931	162,888
<b>Primary</b>						
School units	6,431	5,496	5,440	5,356	4,746	4,716
Teachers	49,850	69,018	70,475	69,985	67,314	64,166
Students	647,446	637,476	635,935	634,048	633,291	631,834
<b>B) Secondary education (lower and upper)</b>						
School units	3,219	3,335	3,326	3,226	3,149	3,162
Teachers	63,228	82,541	83,623	78,876	72,945	62,011
Students	640,730	583,041	584,379	579,225	572,119	559,016

#### 2.4.4. Reduction of expenditure for civil servants in the educational sector – reductions in remuneration

A presentation of the measures adopted to reduce expenditure on employees in the public sector in Greece – including remuneration of employees in the educational sector, is included in Section 4.4.2 of this report. This section aims to present only the main elements of the relevant policies which have, or may affect, the right to compulsory education.

Teachers' statutory salaries have been significantly affected by the austerity measures adopted by Greece, within the context of the current economic crisis as, on average, they have been reduced by roughly 40% – when compared to 2009 levels<sup>95</sup>. Teachers' salaries in primary and secondary education were worth 92% in 2010 and 77% in 2014 of what

<sup>94</sup> Hellenic Statistical Authority, 'Greece in numbers – 2014', available at: [http://www.statistics.gr/portal/page/portal/ESYE/BUCKET/General/ELLAS\\_IN\\_NUMBERS\\_GR.pdf](http://www.statistics.gr/portal/page/portal/ESYE/BUCKET/General/ELLAS_IN_NUMBERS_GR.pdf), p. 12. With respect to teachers, the figures refer to full time present teachers and absent teachers.

<sup>95</sup> 'Teachers' and School Heads' Salaries and Allowances in Europe', 2013/14, Eurydice Facts & Figures, available at: [http://eacea.ec.europa.eu/education/eurydice/documents/facts\\_and\\_figures/salaries.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/salaries.pdf), p. 19.

teachers of comparable training and experience earned in 2005<sup>96</sup>. In Greece, as indicated in Table 12 below, the salaries of teachers are well-below the OECD and EU21 average.

**Table 12: Salaries of teachers with 15 years of experience and minimum training (in USD)<sup>97</sup>**

Country/Group of countries	Pre-primary	Primary	Lower Secondary	Secondary
Greece	26,217	26,217	26,217	26,217
OECD	37,350	39,024	40,570	42,861
EU21	37,502	39,160	41,174	43,564

Apart from the reductions in basic salary, the salaries of teachers shrank because of: the imposition of additional taxes, e.g. the solidarity tax; the overall increase in the level of taxation; teachers' contributions to their insurance continuing to be calculated on the basis of their earlier higher salaries<sup>98</sup>. As an example, the yearly income of an employee with 18 years of employment had changed between 2009 and 2012 as shown in Table 13 below.

**Table 13: Change in the remuneration of teachers after the introduction of the new single payroll in 2011<sup>99</sup>**

	Yearly income in 2009 in EUR (before the Memoranda)		Yearly income in November 2011, after the adoption of Law 4024/2011		Reduction of income	Reduction of income %
	Gross	Net	Gross	Net		
<b>Unmarried</b>	25,560.92	19,140.73	20,440.00	14,762.47	4,378.25	22.87%
<b>Married with 2 children</b>	26,412.92	20,239.79	21,280.00	15,806.29	4,433.50	21.90%

## 2.5. The impact of the measures

The Fourth Review of the Second Economic Adjustment Programme for Greece (April 2014) referred to **positive steps the Greek Government has taken towards reforming the educational system**. More specifically, it noted that, in primary and secondary education the system has been significantly rationalised. The rationalisation of the school network, e.g. through the merger of schools, the increase in the number of students per classroom and in weekly teaching hours – an additional 2 hours/per week, brought Greece closer to the OECD average. Due to the changes introduced – including the mandatory transfer of

<sup>96</sup> OECD, 'Education at a Glance 2014, Country Note - Greece', available at: <http://www.oecd.org/edu/Greece-FAG2014-Country-Note.pdf>, p. 2.

<sup>97</sup> OECD, 'Education at a Glance 2014: OECD Indicators', 2014, available at: [http://www.keepeek.com/Digital-Asset-Management/oecd/education/education-at-a-glance-2014/indicator-d3-how-much-are-teachers-paid\\_eag-2014-31-en#page17](http://www.keepeek.com/Digital-Asset-Management/oecd/education/education-at-a-glance-2014/indicator-d3-how-much-are-teachers-paid_eag-2014-31-en#page17), p. 467–468.

<sup>98</sup> OECD, 'Education at a Glance 2013, Country Note - Greece', available at: [http://www.oecd.org/edu/Greece\\_FAG2013%20Country%20Note.pdf](http://www.oecd.org/edu/Greece_FAG2013%20Country%20Note.pdf), p. 1.

<sup>99</sup> Centre for Educational Research and Documentation of OLME (Greek Federation of Secondary Education State School Teachers) study, 'New Wage and Grade Grid – Assessment of Teachers', June 2012, available at: <http://kemetete.sch.gr/wp-content/uploads/2012/11/misth211112.pdf>, p. 17.



staff in the school year 2013–2014, only around 2,000 temporary teachers were needed, compared to around 15,000 in 2011–2012<sup>100</sup>.

However, the measures introduced to reduce expenditure in the public sector have also created some difficulties. The **State budget available for school operational costs**, e.g. heating, stationery and maintenance of school facilities, has been reduced, e.g. reports indicate that it was reduced from EUR 110 million to EUR 80 million between 2011 and 2012<sup>101</sup>. These reductions have created difficulties in ensuring that the basic needs of students are met, although in some instances, private initiatives have tried to mitigate these negative effects<sup>102</sup>.

In addition, it was reported that at the beginning of the academic year 2014–2015, primary and secondary schools were short of up to 12,000 teachers – partially as a result of the austerity measures and the structural challenges of the Greek educational system and public administration, even though the Ministry claimed that teachers' shortages would be minimal<sup>103</sup>. Nonetheless, in November 2014, the Greek Minister of Education stated that there were still 1,100 gaps in teachers' posts due to the lack of funds<sup>104</sup>. One of the ways the Ministry reportedly considered to address this issue was to use volunteer teachers, i.e. give them points they could use in future recruitment procedures instead of a salary<sup>105</sup>. One of the areas affected by the shortage of teachers is the operation of all-day schools (*ολοήμερα σχολεία*). In the academic year 2013–2014, the all-day program was not functioning in some kindergartens, and primary schools – due to the lack of teachers, which created significant problems for working parents who had to either be absent from their work or incur additional costs for childcare<sup>106</sup>.

Concerning the mergers of school units, a study conducted amongst lower and upper secondary school students, i.e. 12–15 and 15–18 years of age respectively, within the framework of the Children's Ombudsman, resulted in 23% of the respondents indicating that there were changes in their schools because of the new policy of merging schools. Furthermore, 63% of those respondents considered that the impacts were negative, e.g. large numbers of students in classrooms lead to noise – making it difficult to follow the lesson, and 37% considered that they were positive, e.g. making new friendships<sup>107</sup>. The merger of school units has been faced by significant opposition from the Greek Federation of Secondary Education State School Teachers of Greece (*OAME*), claiming that such

<sup>100</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, Fourth Review – April 2014', available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), para. 76.

<sup>101</sup> 'Schools in danger of having no heat' (*Σχολεία κινδυνεύουν να μην έχουν θέρμανση*), *Kathimerini* Newspaper, 20 December 2012 available at: <http://www.kathimerini.gr/476365/article/epikairothta/ellada/sxoleia-kindynevoyn-na-mhn-exoyn-8ermansh>.

<sup>102</sup> 'Soros foundation funds the heating of schools' (*Το Ίδρυμα του Σόρος χρηματοδοτεί τη θέρμανση σχολείων*); *Kathimerini* Newspaper, 12 March 2013 available at: <http://www.kathimerini.gr/30973/article/epikairothta/ellada/idryma-toy-soros-xrhmatodotei-th-8ermansh-sxoleiwn>; 'Donation of 100 tones of oil for the heating of 200 schools', *To Vima* Newspaper, 28 March 2013 available at: <http://www.tovima.gr/society/article/?aid=504900>.

<sup>103</sup> 'New school year to start with shortage of teachers', *EKathimerini* News website, 10 September 2014 available at: [http://ekathimerini.com/4dcgi/\\_w\\_articles\\_wsiste1\\_1\\_10/09/2014\\_542801](http://ekathimerini.com/4dcgi/_w_articles_wsiste1_1_10/09/2014_542801).

<sup>104</sup> 'Points instead of salary for volunteering teachers considered by Loverdos', *To Vima* Newspaper, 07 November 2014, available at: <http://www.tovima.gr/society/article/?aid=648324>.

<sup>105</sup> *ibid.*

<sup>106</sup> Greek Ombudsman, 'Annual Report 2013' available at: [http://www.synigoros.gr/resources/docs/stp\\_ethsia\\_2013.pdf](http://www.synigoros.gr/resources/docs/stp_ethsia_2013.pdf), p. 85.

<sup>107</sup> Greek Ombudsman – Children's Section, 'Presentation of the results of teenager counsels of the Children's Ombudsman on the consequences of the social and economic crisis in the students' lives', available at: <http://www.0-18.gr/downloads/Symperasmata%20ereynas%20gia%20tin%20krisi.pdf>, p.7.

practices lead to large classes of 30 students, renders access to education more difficult for children of underprivileged areas and creates employment uncertainty for professors<sup>108</sup>.

Furthermore, as a result of the mergers of school units, in some instances, students have to travel significantly longer distances in order to reach their schools. The Children's Ombudsman has identified various **deficiencies in the framework for the free transportation** of students, i.e. free transport is provided for lower secondary school students only if the distance between their homes and their schools is more than 2,5 km<sup>109</sup>. If the daily curriculum of some students is shorter than the curriculum of others in the same school, the former must be transported with the rest, thus, having to wait up to 1.5 hours, which creates concerns as to the conditions under which young children, at kindergarten or in the first classes of primary school, have to wait for their transport back home<sup>110</sup>. The framework for the transportation of students also creates particular issues for students at music and art Schools, which are regional, i.e. students have to travel longer distances, as well as **Roma children**, that often reside in isolated settlements<sup>111</sup>.

The **right of children with disabilities** to education is also particularly affected by the economic crisis. Apart from the structural deficiencies concerning special education, the allocation of resources by the State to the educational sector does not take into account the obligations arising from the legal framework on special education – with the situation deteriorating due to the current economic circumstances<sup>112</sup>. Some of the problems faced by children with disabilities include: delays in the commencement of the school year for special schools; staff shortages in special schools or general schools that children with disabilities attend; delays in the provision of additional educational support for children with disabilities<sup>113</sup>. Moreover, as children with disabilities usually attend special schools – which are limited in number, and may be located far from the child's home, the absence of free transportation either obliges parents to undertake this obligation themselves, which can be difficult for working parents<sup>114</sup>, or in some instances, leads to children being prevented from accessing education altogether<sup>115</sup>.

<sup>108</sup> 'OLME reactions to the merger and closure of schools', *Eleftherotypia* Newspaper, 14 November 2014 available at: <http://www.enet.gr/?i=news.el.article&id=259369>.

<sup>109</sup> Article 1 of the Joint Ministerial Decision 24001/2013 'Transport of Students of public schools by the Decentralised Administration' (*Μεταφορά μαθητών δημοσίων σχολείων από τις Περιφέρειες*), Government Gazette B 1449/2013.

<sup>110</sup> Article 2(4) of the Joint Ministerial Decision 24001/2003 'Transport of Students of public schools by the Decentralised Administration' (*Μεταφορά μαθητών δημοσίων σχολείων από τις Περιφέρειες*), Government Gazette B 1449/2013.

<sup>111</sup> Greek Ombudsman, 'Special Report – Problems in the transport of students of primary and secondary education as a result of the implementation of the Joint Ministerial Decision 24001/14-6-2013', available at: <http://www.synigoros.gr/resources/docs/514071.pdf>, p. 6-7.

<sup>112</sup> Greek Ombudsman, 'Annual Report 2013' available at: [http://www.synigoros.gr/resources/docs/stp\\_ethsia\\_2013.pdf](http://www.synigoros.gr/resources/docs/stp_ethsia_2013.pdf), p.87.

<sup>113</sup> *ibid.*

<sup>114</sup> Kaltsouni, S., 'Country Report on Greece for the Study on Member States' Policies for Children with Disabilities', Study of Milieu Ltd. for the European Parliament, June 2013, available at: [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474423/IPOL-LIBE\\_ET\(2013\)474423\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474423/IPOL-LIBE_ET(2013)474423_EN.pdf), p. 36.

<sup>115</sup> Greek Ombudsman, 'Annual Report 2013' available at: [http://www.synigoros.gr/resources/docs/stp\\_ethsia\\_2013.pdf](http://www.synigoros.gr/resources/docs/stp_ethsia_2013.pdf), p. 87.

### 3. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO HEALTHCARE

#### KEY FINDINGS

- In relation to **the right to healthcare**, there was a relatively wide consensus, even before the crisis, that the Greek healthcare system was facing considerable challenges and several reform initiatives and measures were put forward in the past. The objectives under the Economic Adjustment Programmes were to improve cost efficiency and reduce public health expenditure, including public spending on outpatient pharmaceuticals.
- The reform included **structural changes** (e.g. creation of EOPYY as a single healthcare provider/buyer, reorganization and restructuring of the NHS, including the merging of hospitals and clinics), as well as **additional cost-containment measures** (relating to, e.g. access to and financial contribution of citizens to healthcare services, the reimbursement of costs by EOPYY to pharmaceutical companies, contracted diagnostic clinics and doctors and the budget and accounting system of hospitals).
- **Pharmaceutical spending was also reduced significantly** (through measures, e.g. relevant to the licensing, pricing and reimbursement systems for medicines, increases in the use of generics, introduction of e-prescribing and spending cap on doctors).
- In terms of macroeconomic goals, **the adopted measures contributed to the reduction of public spending for health** (currently public health expenditure under 6% of GDP), but **universal access, equity, service adequacy and quality were often compromised**. The reforms were adopted within a **short time-frame** and were focused primarily on the **structural, financial and managerial aspects** of the healthcare system and not so much on patients' needs.
- **Provision of healthcare was at times disturbed** (e.g. EOPYY suppliers refused to provide services or accept patients due to EOPYY's outstanding debts, interruption of services in primary healthcare units, occasional internal shortage of medicines), **costs for citizens increased** (e.g. user fees for outpatient visits and relatively high rates for afternoon visits in public hospitals, increase of contribution for several medicines, pharmaceutical material and health services, elimination of several drugs from the 'positive list') **and more people reported unmet medical needs**.
- One of the most serious concerns is the **increasing number of people not covered by public health insurance**.
- Finally, **general horizontal measures** applied to the public sector in general **to achieve fiscal consolidation**, i.e. reduction of operational costs, recruitment freeze, labour reserve and mobility schemes, seem to **have magnified pre-existing shortages in the adequate delivery** of healthcare services.

### 3.1. International and EU legal framework for the protection of the right to healthcare

Article 12 of the ICESCR guarantees the highest attainable standard of health. This right is repeated in the Constitution of the World Health Organisation<sup>116</sup>. Right to health does not mean the right to be healthy, but contains different freedoms and entitlements, where the entitlements represent the right to a system of health protection, which provides equality of opportunity for people to enjoy the highest attainable standard of health. Nonetheless, a line must be drawn between the right to health and the right to healthcare. The right to health is broader and means that 'governments must generate conditions in which everyone can be as healthy as possible'<sup>117</sup>. This entails ensuring availability of health services, healthy and safe working conditions, adequate housing and nutritious food. The right to healthcare, on the other hand, is limited only to the first component – the right to have access to health services. The right to health, and implicitly the right to healthcare, needs to meet the requirements of: availability, accessibility, acceptability and quality<sup>118</sup>. This entitlement indeed represents the right to healthcare. The right to health (or healthcare) has been re-emphasised in Article 12 the CEDAW, Article 25 of the CRPD, Article 24 of the CRC and Article 11 of both the European Social Charter and the Revised European Social Charter.

Article 35 of the EU Charter guarantees the access to preventive healthcare and the right to benefit from medical treatment under the conditions established by national laws and practices.

### 3.2. The established rights and pre-existing healthcare structure

The right to health as a social right is founded on Article 21(3) of the Greek Constitution<sup>119</sup> that stipulates that 'the State shall care for the health of citizens and shall adopt special measures for the protection of youth, old age, disability and for the relief of the needy'. This constitutional provision imposes a positive obligation on the State to undertake measures for the protection of health and, most importantly, to provide healthcare at the highest level possible. In this context, the State shall ensure the functioning of primary healthcare services so that citizens can turn to them under any circumstances<sup>120</sup>. The National Health System (NHS) in Greece was established as an integrated and decentralised structure through Law 1397/1983<sup>121</sup> which, until today, sets the fundamental principle that health is a social good which should be provided equally to all citizens by the State – irrespective of their economic, social and professional status<sup>122</sup>.

<sup>116</sup> Constitution of the World Health Organisation, preamble.

<sup>117</sup> WHO, *Factsheet 323 on the right to health*, available at: <http://www.who.int/mediacentre/factsheets/fs323/en/> (last accessed 23 October 2014).

<sup>118</sup> United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 14 – The right to highest attainable standard of health', UN Doc. (E/C.12/2000/4).

<sup>119</sup> Article 21(3) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggluko.pdf>.

<sup>120</sup> Ktistaki, S., 'The impact of the economic crisis on social rights' (Η επίδραση της οικονομικής κρίσης στα κοινωνικά δικαιώματα), *Social Security Law Review* 4/635, July-August 2012, available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/edka2012.pdf> (in Greek), p.485.

<sup>121</sup> Law 1397/1983, 'National Health System' (Εθνικό Σύστημα Υγείας), Government Gazette Α' 143/1983.

<sup>122</sup> Article 1 of Law 1397/1983, 'National Health System' (Εθνικό Σύστημα Υγείας), Government Gazette Α' 143/1983.

Even before the crisis, there was relatively wide consensus<sup>123</sup> that the Greek NHS was facing considerable challenges and inefficiencies, inter alia, in relation to the: level of healthcare contributions; related services provided across the population; quality of the services provided; efficiency of resource allocation; technical adequacy<sup>124</sup>. During the period 2000-2007, several reform initiatives and measures were put forward for the reorganisation of the healthcare system, touching, more or less, upon similar issues as the measures adopted from 2010 onwards<sup>125</sup>.

The health legislation adopted since 2010, under the Memoranda of Understanding, either modified pre-existing provisions or, introduced new stand-alone measures. This resulted in a highly-fragmented non-consolidated and, in some cases, confusing legal framework for the regulation of the right to access to healthcare – which could be considered as impeding, in practice, the enjoyment of the right<sup>126</sup>.

<sup>123</sup> Economou, Ch., 'The performance of the Greek healthcare system and the economic adjustment programme: "economic crisis" versus "system specific deficits" driven reform', Social and Political Theory Review 2, 2012, available at: [http://www.academia.edu/1826612/The\\_performance\\_of\\_the\\_Greek\\_health\\_care\\_system\\_and\\_the\\_economic\\_adjustment\\_programme](http://www.academia.edu/1826612/The_performance_of_the_Greek_health_care_system_and_the_economic_adjustment_programme); Kentikelenis A., Karanokolos M., Reeves A., McKee M., Stuckler D., 'Greece's health crisis: from austerity to denialism', Lancet 2014, 383/9918, p.748-53, available at: <http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf>; Economou, Ch., 'Austerity is bad for the health...', available at: <http://foreignaffairs.gr/articles/69587/xaralampos-oikonomoy/i-litotita-blapte-i-sobara-tin-ygeia...?page=show> (in Greek); Mossialos, E., Allin, S., Davaki, K., 'Analysing the Greek health system: a tale of fragmentation and inertia', Health Econ. 2005, 14(Suppl 1):S151-68.

<sup>124</sup> Economou Ch., 'The performance of the Greek healthcare system and the economic adjustment programme: "economic crisis" versus "system specific deficits" driven reform', Social and Political Theory Review 2, 2012, available at: [http://www.academia.edu/1826612/The\\_performance\\_of\\_the\\_Greek\\_health\\_care\\_system\\_and\\_the\\_economic\\_adjustment\\_programme](http://www.academia.edu/1826612/The_performance_of_the_Greek_health_care_system_and_the_economic_adjustment_programme).

<sup>125</sup> Law 2889/2001 'Improvement and modernisation of the NHS and other provisions' (Βελτίωση και εκσυγχρονισμός του Εθνικού Συστήματος Υγείας και άλλες διατάξεις), Government Gazette A' 16/2037/2001, provided for new management structures, established 17 regional health authorities (called PeSYs), afternoon hospital services in public facilities and introduced new types of employment relations for public hospital doctors. A regulatory framework for healthcare supply contracts was introduced by Law 2955/2001 'Supplies of hospitals and of other health units of NHS and other provisions' (Προμήθειες Νοσοκομείων και λοιπών μονάδων υγείας των Π.Ε.Σ.Υ. και άλλες διατάξεις), Government Gazette A' 256/2001, and a body of Inspectors for Health and Welfare Services was established with Law 2920/2001 'Inspectorate of Health and Welfare Services SEYYP and other provisions' (Σώμα Επιθεωρητών Υπηρεσιών Υγείας και Πρόνοιας Σ.Ε.Υ.Υ.Π. και άλλες διατάξεις), Government Gazette A' 131/2001. Law 3029/2002 'Reform of the social insurance system' (Μεταρρύθμιση Συστήματος Κοινωνικής Ασφάλισης), Government Gazette A' 160/2002 foresaw, for the first time, the creation of a legal framework for the establishment and operation of professional insurance funds as private legal entities.

All social care responsibilities were decentralised through Law 3106/2003 'Reorganization of national system on welfare services and other provisions' (Αναδιοργάνωση του Εθνικού Συστήματος Κοινωνικής Φροντίδας και άλλες διατάξεις), Government Gazette A' 30/2003. Law 3172/2003 'Organisation and modernisation of Public Health Services and other provisions' (Οργάνωση και εκσυγχρονισμός των Υπηρεσιών Δημόσιας Υγείας και άλλες διατάξεις), Government Gazette A' 197/2003, aimed at modernising the public health services and at rationalising resource allocation and Law 3235/2004 'Primary health care' (Πρωτοβάθμια Φροντίδα Υγείας), Government Gazette A' 53/2004, provided for the optional establishment by social insurance organizations of primary health care networks and family doctors, the transformation of social insurance polyclinics into urban health centres and the establishment of new services for home care, post-hospital care and rehabilitation.

These last two laws were abolished after the elections of 2004 by the new government which introduced its own reform initiatives. Law 3329/2005 'National System of Health and Social Solidarity' (Εθνικό Σύστημα Υγείας και Κοινωνικής Αλληλεγγύης και λοιπές διατάξεις), Government Gazette A' 81/2005, brought back political hospital administration and decreased the number of regional health authorities. Law 3370/2005 'Organisation and operation of Public Health services and other provisions' (Οργάνωση και λειτουργία των υπηρεσιών Δημόσιας Υγείας και λοιπές διατάξεις), Government Gazette A' 176/2005, introduced new organizational structures for health services. Law 3457/2006 'Reform of Pharmaceutical Care System' (Μεταρρύθμιση του Συστήματος Φαρμακευτικής Περίθαλψης), Government Gazette A' 93/2005, abolished the 'positive list' and launched the use of a 'recovery price' (τιμή ανάκτησης).

For a more detailed presentation of 2000-2007 legislation see Economou Ch., 'The performance of the Greek health care system and the economic adjustment programme: "economic crisis" versus "system specific deficits" driven reform', Social and Political Theory Review 2, 2012, available at [http://www.academia.edu/1826612/The\\_performance\\_of\\_the\\_Greek\\_health\\_care\\_system\\_and\\_the\\_economic\\_adjustment\\_programme](http://www.academia.edu/1826612/The_performance_of_the_Greek_health_care_system_and_the_economic_adjustment_programme).

<sup>126</sup> Information obtained through stakeholder consultations (Union of Administrative Judges, NCHR), December 2014.



In order to better comprehend the rationale of the measures taken in response to the crisis, and to fully conceive their impact on the right to healthcare, it is necessary to understand the organisation of the Greek healthcare system prior to the measures adopted under the Memoranda of Understanding. The State directly administered the NHS, which delivered most of the hospital services and primary medical care in rural areas. At the same time, more than 30 health funds operated their own networks of mainly urban outpatient facilities on the basis of different regulations, contribution rates, coverage and access conditions for their members who were compulsorily insured – depending on their profession. Accordingly, public health was funded from a mixture of general taxation and social security contributions. It should be noted that there was a high degree of inconsistency concerning the status, type of contracts and compensation of the medical staff. Private services provided by independent medical offices, diagnostic centres and hospitals complemented the public schemes<sup>127</sup>.

### 3.3. The Economic Adjustment Programmes and the general obligations relevant to healthcare

According to the **First Economic Adjustment Programme**<sup>128</sup> (May 2010) a reform of the healthcare sector was urgently needed, as public expenditure on health accounted for 5.9% of GDP in 2008 and public per-capita expenditure grew at an average rate of 5.4% between 2004 and 2008. The overarching objective of this reform would be to improve the cost efficiency of the system and keep public health expenditure at or below 6% of the GDP, while maintaining universal access and improving the quality of care delivery. Law 3845/2010<sup>129</sup> incorporated the first Memorandum of Understanding into the national legal order and replicated the relevant obligations. Therefore, under Law 3845/2010, the healthcare system, where there have been major expenditure overruns, had to be overhauled through reforms in management, accounting and financing structures. The Government was required to: implement double-entry accrual accounting in hospitals; comply with regular publication of audited accounts; improve pricing and costing mechanisms; separate health funds from administration of pensions; merge funds to simplify the overly-fragmented system; bring all health-related activities under one ministry.

The healthcare reform continued to be a crucial component of Greece's fiscal consolidation efforts under the **Second Economic Adjustment Programme**<sup>130</sup> (March 2012), where the objective of keeping public health expenditure at or below 6% of GDP was maintained. The goals of bringing average public spending on outpatient pharmaceuticals to about 1% of GDP (in line with the EU average) by the end of 2014 and, reducing further hospital

<sup>127</sup> For a detailed presentation of the health care system in Greece see Economou Ch.- Giorno Cl., 'Improving the performance of the Public Health care system in Greece', OECD – Economic Department Working Paper No. 722, 2009, available at [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=eco/wkp\(2009\)63](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=eco/wkp(2009)63).

<sup>128</sup> European Commission, 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61 – May 2010, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf).

<sup>129</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο), Government Gazette A' 65/2010.

<sup>130</sup> European Commission, 'The Second Economic Adjustment Programme for Greece', European Economy – Occasional Papers 94 – March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf),

operating costs by 8% in 2012, were also introduced. The Second Economic Adjustment Programme noted that, despite efforts and some progress in reforming the system, major weaknesses still needed to be addressed to increase the efficiency, cost-effectiveness and equity of the system. According to the Troika, the institutional setup remained fragmented, leading to reduced policy coherence; corruption was reported; data availability was still inadequate and the lack of effective monitoring and control mechanisms for prescribing medicines was hampering achievement of the targets. Delays were also observed in the implementation of policy measures on pharmaceuticals. However, progress was reported in areas such as hospital accounting and centralised procurement, leading to some savings in the hospital sector<sup>131</sup>.

The **Fourth Review of the Second Economic Adjustment Programme** (April 2014) highlighted that important challenges were ahead concerning the deepening and fine-tuning of healthcare reforms. Despite the observed progress, pharmaceutical expenditure was above the monthly target for 2013 by about EUR 150 million<sup>132</sup>. Rationalising the social health insurance system and ensuring the financial stability of the newly-established single healthcare provider (EOPYY) is always amongst the goals set in the reviews of the Economic Adjustment Programme. In this regard, it is repeatedly noted that the financial situation of the EOPYY remains difficult and that more could be done regarding NHS (ESY) facilities and hospital spending in a number of areas, e.g. streamlining the hospital network, reforming emergency and on-call structures, and increasing health staff mobility.

Based on the abovementioned general obligations, undertaken by the Greek government under the Memoranda of Understanding, national measures were adopted on two main axes:

- Introduction of general structural reforms of the healthcare system, i.e. unification of healthcare funds under the EOPYY, reorganisation and restructuring of the NHS
- Reduction of the cost of pharmaceuticals and health services, i.e. pricing, prescribing, and the use of generic medicines

A brief overview of these measures is presented in the following section.

### **3.4. Reducing public health expenditure: overview of austerity measures**

As mentioned above in Sections 1.2.2. and 1.2.3, the volume of new legislation has increased since 2010. Apart from the laws generally implementing Memoranda obligations (see above Section 1.2.2.), other laws brought changes to the healthcare system in Greece during the crisis. Most of these are briefly presented in the following sections in regards of the main measures they introduced. Despite the scarcity of legislation, references to the corresponding acts, are linked to the described measures to the extent possible.

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<sup>131</sup> European Commission, 'The Second Economic Adjustment Programme for Greece', Occasional Papers 94, March 2012, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.36-37.

<sup>132</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review', European Economy - Occasional Papers 192 - April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.41.

### 3.4.1. General structural reforms of the healthcare system and services

The creation and transformation of EOPYY: a single healthcare provider/purchaser of health care services

*Prior to 2010, there were more than 30 separate insurance funds per sector/category of employment, e.g. for employees in the private sector, employees in the public sector, farmers, lawyers, and doctors. Each individual insurance scheme had different contribution and benefit rules and was responsible for pension and health coverage coverage of its insured members. The health branches of the four main social security funds, i.e. IKA, OGA, OAEF and OPAD, covered 95% of the country's population.*

*The health funds were separated from the administration of pensions<sup>133</sup> and the healthcare sectors of all major social insurance funds (IKA, OGA, OAEF, OPAD<sup>134</sup>) were merged to a single healthcare insurance fund and provider – the EOPYY<sup>135</sup>. In 2014, the EOPYY was transformed from a health provider to a unique buyer of medicines and healthcare services for all those insured<sup>136</sup>. The EOPYY would have greater bargaining power over suppliers with joint purchase of medical services. Law 4238/2014 introduced further structural and organisational changes<sup>137</sup>, e.g. the parting of polyclinics from EOPYY and their affiliation with the NHS health centres, under newly established health authorities of a regional character<sup>138</sup>.*

The creation of the EOPYY was complemented with a line of measures bringing increases in co-payments and fees and a significant roll-back of provisions<sup>139</sup> relating to:

- access and financial contribution of citizens to healthcare services;
- reimbursement of costs by the EOPYY to its suppliers.

More specifically, the EOPYY Single Regulation on Health Services<sup>140</sup> was issued, a claw-back mechanism<sup>141</sup> (*Μηχανισμός αυτόματων επιστροφών*) was put in place, as well as an expenditure ceiling and a rebate system for suppliers, pharmaceuticals, diagnostic tests, physiotherapy and the use of private clinics and hospitals<sup>142</sup>.

The EOPYY Regulation, inter alia, set:

<sup>133</sup> Law 3863/2010 'New insurance system and related provisions, regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις, ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A'115/2010.

<sup>134</sup> Later, more separate funds were incorporated.

<sup>135</sup> Law 3918/2011 'Structural Changes on the health system and other provisions' (*Διαρθρωτικές αλλαγές στο σύστημα υγείας και άλλες διατάξεις*), Government Gazette A' 31/2011, in force as amended with numerous Laws in 2012, 2013 and 2014.

<sup>136</sup> Article 8 of Law 4238/2014. 'Primary Healthcare Network PEDY, change of purpose of EOPYY and other provisions' (*Πρωτοβάθμιο Εθνικό Δίκτυο Υγείας Π.Ε.Δ.Υ., αλλαγή σκοπού ΕΟΠΥΥ και λοιπές διατάξεις*), Government Gazette A'38/2014.

<sup>137</sup> Polyzos et al, The introduction of Greek Central Health Fund: Has the reform met its goal in the sector of Primary Health Care or is there a new model needed?, BMC Health Services Research, 2014, available at <http://www.biomedcentral.com/1472-6963/14/583>, p.5.

<sup>138</sup> Articles 1-3 of Law 4238/2014 instituted within the NHS a nationwide Primary Healthcare Network (*Πρωτοβάθμιο Εθνικό Δίκτυο Υγείας - PEDY*), operating through regional health administrations (*Διοικήσεις Υγειονομικών Περιφερειών - DYPe*). Country.

<sup>139</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.17.

<sup>140</sup> Single Regulation on Health Services for EOPYY (*Ενιαίος Κανονισμός Παροχών Υγείας ΕΟΠΥΥ*), Government Gazette B' 2456/2011, as amended in 2012.

<sup>141</sup> A system that ensures a payback by pharmaceutical companies and private providers of all the expenditure in excess of the expenditure ceiling set for specific EOPYY spending categories.

<sup>142</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review', European Economy- Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.43.



- stricter requirements for diagnostic tests and specialised therapies, e.g. physiotherapy, speech therapy and psychotherapy;
- a contribution of 15% from the insured for paraclinical tests, e.g. microbiological tests, x-rays and ultrasounds;
- an obligation to obtain approval for tests that cost more than EUR 100;
- a contribution of 25% for consumable medical supplies;
- strict requirements and maximum amounts of remuneration for therapeutic/corrective means, e.g. glasses, hearing aids and breathing apparatus;
- a maximum remuneration of EUR 8 for daily pharmaceutical expenditure in case of hospitalization;
- exceptions from the covered daily hospital charges, e.g. for dialysis;
- a maximum amount for hospital charges in special units, e.g. intensive care, rehabilitation centres;
- elimination of remuneration for exclusive nurses in private clinics and hospitals.

Another major development was the introduction of diagnosis-related groups (*κλειστά ενοποιημένα νοσήλια* – KEN)<sup>143</sup> to classify and reimburse hospital cases, setting a maximum cost and average duration of hospitalisation for each group, e.g. for heart transplants the maximum duration of hospitalisation and cost is 40 days and EUR 34,000 respectively<sup>144</sup>.

The EOPYY inherited a large stock of arrears from the previous system – thus its budget was insufficient to cover the health expenditure of the insured population due to under-financing and low-liquidity<sup>145</sup>. Additional measures were taken to control EOPYY costs, namely, reductions in EOPYY employees and contracted doctors in order to decrease administrative and medical staff expenses. Moreover, the EOPYY has extended a capitation system for payments of private physicians who are also restricted to a maximum number of visits, i.e. 10 per working day and 200 per month<sup>146</sup>. A charge of EUR 10 to EUR 20 is born by patients for visits over this limit<sup>147</sup>.

Apart from the structural changes that, in practice, brought changes to the interaction of citizens with the public healthcare services, the system for making appointments also changed, i.e. all appointments with EOPYY doctors (and now with the Primal National Health Network - PEDY<sup>148</sup>) are now made exclusively through a single telephone number administered by a private phone company determining the call price-list.

<sup>143</sup> Lists of KENs and relevant information is available at Ministry of Health's website: <http://www.moh.gov.gr/articles/health/domes-kai-drasesis-gia-thn-ygeia/kwdikopoihseis/709-kleista-enopoihmena-noshlia-1>

<sup>144</sup> Joint Ministerial Decision 85649/27.07.2011 'Close Unified Hospitalisation Expenses and Daily Hospitalisation Expenses at the NHS' (*Κλειστά Ενοποιημένα Νοσήλια και Ημερήσιο Νοσήλιο στο ΕΣΥ*), Government Gazette B' 1702/2011, in force as amended in 2012.

<sup>145</sup> Karakolias S.E., Polyzos N.M., 'The Newly Established Unified Healthcare Fund (EOPYY): Current Situation and Proposed Structural Changes, towards an Upgraded Model of Primary Health Care, in Greece' Health 6,2014, p.809-821, available at: <http://dx.doi.org/10.4236/health.2014.69103>.

<sup>146</sup> Economou Ch., 'Austerity is bad for the health...' (*Η λιτότητα βλάπτει σοβαρά την υγεία...*), Foreign Affairs The Hellenic edition, 21.11.13, available at: <http://foreignaffairs.gr/articles/69587/xaralampos-oikonomoy/i-litotita-blaptei-sobara-tin-ygeia...?page=show> (in Greek).

<sup>147</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.17.

<sup>148</sup> 'The system of phone appointments at PEDY opens' (*Ανοίγει το σύστημα των τηλεφωνικών ραντεβού στο ΠΕΔΥ*), Kathimerini Newspaper, 23.04.2014, available at: <http://www.kathimerini.gr/763650/article/epikairothta/ellada/anoigei-to-systhma-twn-thlefwnikwn-rantevoy-sto-pedy>.

## Reorganisation and restructuring of the NHS (ESY)

*Greece, under the Second Economic Adjustment Programme (March 2012), set a goal to reduce hospital costs by at least 10% in 2011, and by an additional 5% in 2012<sup>149</sup>.*

*With that in mind, some of the relevant measures focused on merging hospitals within the same district and health region and reducing the number of hospital beds. Public hospitals were merged – resulting in a reduction of 137 to 83. 330 out of 1,950 clinics in public hospitals were also merged, and distributed among hospitals. Functional beds were reduced from approximately 36,000 to 32,000 – 550 of which attributed to private practice<sup>150</sup>. The merged hospital units were given an independent legal status and their fiscal and other procedural obligations were specified<sup>151</sup>.*

*The National Confederation of Public Hospitals Employees (POEDHN) and the National Confederation of Hospital Doctors (OENGE), recently reported that 11 hospitals have turned into 'building-corpses', while 880 clinics and 30,000 healthcare posts have been eliminated<sup>152</sup>.*

The system of social welfare establishments, e.g. clinics for chronic illnesses, rehabilitation centres and specialised clinics for children and people with disabilities, was also reformed<sup>153</sup>. Mental health institutions were shut down or subject to staff cuts<sup>154</sup>.

As in the case of the EOPYY, apart from the structural reforms, several other measures were adopted that related to the overall functioning of the Greek NHS. These measures concern:

- direct costs imposed on citizens to access healthcare services;
- management of human and other resources, e.g. medical supplies.

Hospital-user fees were increased from EUR 3 to EUR 5 for outpatient visits<sup>155</sup>, with some exemptions for vulnerable groups, e.g. persons without insurance coverage and persons with a certified economic weakness, emergency patients. In January 2014, an additional fee of EUR 25 was introduced for in-patient admission<sup>156</sup>. The Government rolled-back and

<sup>149</sup> European Commission, 'The Second Economic Adjustment Programme for Greece', European Economy - Occasional Papers 94 - March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.63.

<sup>150</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), footnote 12, p.17.

<sup>151</sup> Ministry of Health, Circular 8949/25.01.2012 'Financial management of merged health units' (Οικονομική διαχείριση ενοποιημένων μονάδων υγείας), available at: <http://www.kainotom.gr/userfiles/file/9849-2012.pdf> (in Greek).

<sup>152</sup> Joint press conference of National Confederation of Public Hospitals Employees (POEDHN) and the National Confederation of Hospital Doctors (OENGE), Press release, 25.09.2014, available at: <http://www.poedhn.gr/deltia-typoy/item/1169-koini-synentefksi-typou-poedin---oenge-tin-pemphi-2592014> (in Greek).

<sup>153</sup> Law 4025/2011 'Reform of Centres of Social Solidarity, Rehabilitation Centres, Restructuring of NHS and other provisions' (Ανασυγκρότηση Φορέων Κοινωνικής Αλληλεγγύης, Κέντρα Αποκατάστασης, Αναδιάρθρωση Ε.Σ.Υ. και άλλες διατάξεις), Government Gazette Α' 228/2011.

<sup>154</sup> Kentikelenis A., Karanokolos M., Reeves A., McKee M., Stuckler D., 'Greece's health crisis: from austerity to denialism', Lancet 383/9918, 2014, p.748–53, available at: <http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf>.

<sup>155</sup> Ministerial Decision Y4a/οικ.165114 'Determination of hospital user fees for Hospitals and Health Centres' (Καθορισμός αμοιβής εξετάστρων των προσερχόμενων στα Νοσηλευτικά Ιδρύματα και στα Κέντρα Υγείας), Government Gazette Β' 2080/2010.

<sup>156</sup> Ministry of Health, Circular 120068/31.12.2013 (Y4a/οικ.120068), 'Clarifications on the application of the requirements of the provisions of the case 12 of subparagraph IV.2 paragraph IB of the first article of Law. 4093/2012, as applicable, on payments to NHS Hospitals' (Διευκρινίσεις σχετικά με την εφαρμογή των οριζόμενων στις διατάξεις της περίπτωσης 12 της υποπαραγράφου IB.2 της παραγράφου IB του πρώτου άρθρου του

withdrew this measure a few days later<sup>157</sup>, following mounting reactions from all of the health sector stakeholders, e.g. the Athens Medical Board, the Greek Federation of Hospital Doctors, as well as from public opinion and parliamentary pressure<sup>158</sup>. Moreover, the mandatory all-day (24hr) functioning of public hospitals ('afternoon shift') and surgeries<sup>159</sup> was introduced. The cost of the visits during the afternoon shift ranges from EUR 45 to EUR 90, depending on the seniority and managing position of the attending doctor<sup>160</sup>.

In the framework of restructuring the NHS, a goal set in the Economic Adjustment Programme, was to increase the mobility of healthcare staff<sup>161</sup> – this measure was also relevant to the goal of reducing the overall number of civil servants.

According to public hospital employees, the measures of labour reserve and mobility would eventually lead to lay-offs<sup>162</sup>. Changes were introduced on the types of employment contracts<sup>163</sup> of doctors. The new single payroll for all public sector employees had an impact on all categories of healthcare professionals e.g. healthcare staff, doctors, specializing doctors and nurses and their wages were significantly reduced, i.e. in 2013 wages were almost 50% lower compared to the beginning of the crisis<sup>164</sup>. Law 3868/2010<sup>165</sup> significantly reduced the overtime remuneration (*εφημερίες*) of public hospital doctors –the relevant budget allocation was cut by almost EUR 75 million in 2010 compared to<sup>166</sup>.

Regarding the overall management of hospitals, measures were introduced to control the calculation of stocks and flows of medical supplies, e.g. there is an obligation to submit reports every three months on pharmaceutical expenditure. Hospital computerisation is underway – along with an upgrade of hospital budgeting and accounting systems, i.e.

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N.4093/2012, όπως αυτές ισχύουν, σχετικά με την καταβολή ποσών στα Νοσοκομεία του ΕΣΥ), 31.12.2013 available at: <http://95.211.37.130/laws/circular/view/id/17901>.

<sup>157</sup> Ministry of Health, Circular 863/07.01.2014, available at: [http://www.aktinotechnologia.eu/pasyta/images/stories/pdf/25\\_euro.pdf](http://www.aktinotechnologia.eu/pasyta/images/stories/pdf/25_euro.pdf).

<sup>158</sup> 'Strong reactions to the €25 ticket for hospitals' (*Έντονες αντιδράσεις για το εισιτήριο των 25 ευρώ στα νοσοκομεία*) skai.gr newssite, 02.01.2014, available at: <http://www.skai.gr/news/health/article/249087/edones-adidraseis-gia-to-eisitirio-ton-25-euro-sta-nosokomeia/>; 'Strong reactions to the €25 ticket for hospitals' (*Έντονες αντιδράσεις για το εισιτήριο των 25 ευρώ στα νοσοκομεία*), *Naftemporiki* Newspaper, 02/01/2014, available at: <http://www.naftemporiki.gr/story/748752/entones-antidraseis-gia-to-eisitirio-ton-25-euro-sta-nosokomeia>.

<sup>159</sup> 'Private surgeries at NHS in the afternoons' (*Ιδιωτικά χειρουργεία στο ΕΣΥ τα απογεύματα*) *Kathimerini* Newspaper, 03.05.2014, available at: <http://www.kathimerini.gr/765278/article/epikairothta/ellada/idiwtika-xeiryrgia-sto-esy-ta-apogeymata>.

<sup>160</sup> Ministerial Decision Y4a/147881/2010, 'All-day functioning of hospitals' (*Ολοήμερη λειτουργία νοσοκομείων*), Government Gazette B', 1851/2010.

<sup>161</sup> MD 3/2013, 'Instructions on the mobility of employees of the Ministry of Health who that have been placed under 'availability'', Government Gazette B' 2247/2013, and relevant post on Ministry of Health website <http://www.ydmed.gov.gr/?p=6039>. Also relevant: Ministry of Health Circular 19561/28.02.2014 (Y10β/Γ.Ποικ.19561).

<sup>162</sup> 'Mobility scheme leads with surgical precision to lay-offs', (*Η κινητικότητα οδηγεί με χειρουργική ακρίβεια σε απολύσεις*), *Eleftherotypia* Newspaper, 23.08.2013, available at: <http://www.enet.gr/?i=news.el.article&id=381577>.

<sup>163</sup> 'Doctors as independent professionals in the hospitals' (*Το ΕΣΥ θα προσλαμβάνει ιδιώτες γιατρούς με μπλοκάκι*), *Kathimerini* Newspaper, 08.10.2013, available at: <http://www.kathimerini.gr/55744/article/epikairothta/ellada/to-esy-8a-proslamvanei-idiwtes-giatroys-me-mplokaki>, and 'The NHS will hire doctors as independent professionals' (*Ιδιώτες με μπλοκάκι στα νοσοκομεία*), *Kathimerini* Newspaper, 12.10.2013, available at: <http://www.kathimerini.gr/501036/article/epikairothta/ellada/idiwtes-me-mplokaki-sta-nosokomeia>.

<sup>164</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.20.

<sup>165</sup> Law 3868/2010

<sup>166</sup> Petmesidou M., Annual National Report 2011 – Pensions, Health Care and Long-term Care – Greece, May 2011, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at [http://socialprotection.eu/files\\_db/1224/asisp\\_ANR12\\_Greece.pdf](http://socialprotection.eu/files_db/1224/asisp_ANR12_Greece.pdf), p.23.

double-entry accrual accounting systems, and rationalisation of medical procurement procedures<sup>167</sup>.

#### 3.4.2. Cost of pharmaceuticals and health services

In addition to the general macroeconomic goals on public health expenditure, the stated aim on pharmaceutical expenditure was to reduce spending from EUR 4.37 billion in 2010 to EUR 2 billion by 2014 with an interim target of EUR 2.88 billion for 2012<sup>168</sup>. The Government has introduced measure (see below Table 14) to reduce and control public expenditure on pharmaceuticals and medical services in general.

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<sup>167</sup> *ibid.*, p.20.

<sup>168</sup> Kentikelenis A., Karanokolos M., Reeves A., McKee M., Stuckler D., 'Greece's health crisis: from austerity to denialism', *Lancet* 383/9918, 2014, p.748–53, available at: <http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf>.

**Table 14: Measures relevant to pharmaceutical spending**

<b>Measures relevant to pharmaceutical spending</b>	
<b>Pharmacies</b>	Law 3918/2011 <sup>169</sup> introduced provisions relevant to licensing, pricing and reimbursement systems for medicines, as well as to the operation of pharmacies, inter alia by easing the population-based restrictions, increasing opening hours, and allowing new pharmacists to form partnerships with incumbents. It also reduced the effective profit margin for pharmacies through a system of rebates.
<b>Lists of medicines</b>	<p>The National Organisation for Medicines (EOF) was given the responsibility of pricing medicines<sup>170</sup>, while all other aspects of pharmaceutical policy remain under the competence of the Ministry of Health. The price list is updated regularly<sup>171</sup>.</p> <p>Law 3816/2010<sup>172</sup> included the provision of a list of medicines for which reimbursement is possible, i.e. a 'positive list'<sup>173</sup>. Since April 2011, the 'negative list' of medicines<sup>174</sup> includes pharmaceutical products that are exempted from social security coverage and, therefore, are not reimbursed. There was also a restriction in the non-generic drugs previously included in the positive list while, at the same time, that list was updated by moving some medicines to the negative list<sup>175</sup>. Patients' contributions were increased for medicines prescribed for several severe and chronic illnesses such as Alzheimer, dementia, epilepsy, pulmonary hypertension, rheumatoid arthritis, liver cirrhosis, osteoporosis, and Crohn's disease<sup>176</sup>.</p>
<b>Increased use of generic medicaments</b>	Prescription by active substance (INN) was made compulsory in 2012 <sup>177</sup> , and dynamic pricing for generic medicines was introduced. In 2013, the price of generic medicines was set at 65% percent of the price of off patent <sup>178</sup> .

<sup>169</sup> Law 3918/2011, 'Structural Changes in the health system and other provisions', (Διαρθρωτικές αλλαγές στο σύστημα υγείας και άλλες διατάξεις), Government Gazette A' 31/2011.

<sup>170</sup> Press Release of the National Organisation for Medicines, available at: [http://www.eof.gr/web/guest/home.jsessionid=0152c671ea643031bb7111fad6aa?p\\_p\\_id=62\\_INSTANCE\\_2WKd&p\\_p\\_lifecycle=0&p\\_p\\_state=maximized&p\\_p\\_mode=view&62\\_INSTANCE\\_2WKd\\_struts\\_action=%2Fjournal%2Fview&62\\_INSTANCE\\_2WKd\\_groupId=12225&62\\_INSTANCE\\_2WKd\\_articleId=290140&62\\_INSTANCE\\_2WKd\\_version=1.0](http://www.eof.gr/web/guest/home.jsessionid=0152c671ea643031bb7111fad6aa?p_p_id=62_INSTANCE_2WKd&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&62_INSTANCE_2WKd_struts_action=%2Fjournal%2Fview&62_INSTANCE_2WKd_groupId=12225&62_INSTANCE_2WKd_articleId=290140&62_INSTANCE_2WKd_version=1.0) (in Greek).

<sup>171</sup> Petmesidou M., Annual National Report 2011 – Pensions, Health Care and Long-term Care – Greece, May 2011, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1224/asisp ANR12 Greece.pdf](http://socialprotection.eu/files_db/1224/asisp ANR12 Greece.pdf), p.20.

<sup>172</sup> Law 3816/2010 'Arrangement of Business and professional debts owed to the credit institutions, provisions for economic behaviour data processing and other provisions (Ρύθμιση επιχειρηματικών και επαγγελματικών οφειλών προς τα πιστωτικά ιδρύματα, διατάξεις για την επεξεργασία δεδομένων οικονομικής συμπεριφοράς και άλλες διατάξεις), Government Gazette A' 6/2010, Article 12 'Reintroduction of the list of prescribed medicines and rationalization of the framework of providing pharmaceuticals for serious disease' (Επανεισαγωγή καταλόγου συνταγογραφούμενων φαρμακευτικών ιδιοσκευασμάτων και εξορθολογισμός πλαισίου χορήγησης ιδιοσκευασμάτων για σοβαρές ασθένειες).

<sup>173</sup> Ministerial Decision Φ80000/οικ.11385/1394, 'Approval of the catalogue of granted medicinal products under the provisions of para. 2 of Article 12 of Law. 3816/2010' (Έγκριση καταλόγου χορηγούμενων φαρμακευτικών ιδιοσκευασμάτων βάσει των διατάξεων της παρ. 2 του άρθρου 12 του ν. 3816/2010), Government Gazette B' 569/2010. The positive list has since been amended several times following the price list.

<sup>174</sup> Ministerial Decision ΔΥΓ3α/οικ.32294 'List of pharmaceutical products subject to medical prescription and which are not reimbursed by social insurance agencies' (Κατάλογος φαρμακευτικών ιδιοσκευασμάτων που χορηγούνται με ιατρική συνταγή και δεν αποζημιώνονται από τους Φορείς κοινωνικής ασφάλισης), Government Gazette B' 559/2011.

<sup>175</sup> Psychogiopoulou E., 'Welfare rights in crisis in Greece: The role of fundamental rights challenges' EUI Working papers, LAW 2014/05, available at: <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf?sequence=1>, p.5.

<sup>176</sup> 'Zero contribution is abolished' (Καταργείται η μηδενική συμμετοχή), MEGAtv website, available at: <http://www.megatv.com/megagegonota/article.asp?catid=27374&subid=2&pubid=29960558>.

<sup>177</sup> Ministerial Decision EMP4/17.11.2012 'Mechanism for the application and information of doctors for the prescription of medicines on the basis of active substance and exemptions from the prescription system on the basis of active substance' (Μηχανισμός εφαρμογής και ενημέρωσης ιατρών για τη συνταγογράφηση βάσει δραστικής ουσίας και εξαιρέσεις από το σύστημα συνταγογράφησης βάσει δραστικής ουσίας), Government Gazette B' 3057/2012.

<sup>178</sup> Ministerial Decision οικ.113429, 'Drugs' pricing provisions' (Διατάξεις Τιμολόγησης Φαρμάκων), Government Gazette B' 3117/2013. Replaced by Ministerial Decision οικ.3457, 'Arrangement of drugs' pricing issues' (Ρύθμιση θεμάτων τιμολόγησης φαρμάκων), Government Gazette B' 64/2014.

In addition to the above measures directly affecting pharmaceutical costs, Law 3892/2010<sup>179</sup> established the system of e-prescription for all physicians associated with social security institutions, doctors of public health service units, and pharmacists. E-prescribing applies to medicines, diagnostics and doctors' referrals to all social security funds, health centres and hospitals.

In January 2014, the Government introduced a spending cap and an effective prescription budget for each doctor<sup>180</sup>. As an enforcement measure to the prescribing monitoring, sanctions and penalties are foreseen for doctors<sup>181</sup>.

### 3.5. The impact of the measures

In 2009, health spending in Greece accounted for 10.0% of the GDP and was reduced to around 9.3% of the GDP in 2012<sup>182</sup> (see Table 15). To date, Greece has satisfied the macroeconomic goal of maintaining public health expenditure at less than 6% of the GDP. It could be contested, however, whether or not this was achieved 'while maintaining universal access and improving the quality of care delivery', as stated in a declarative manner in the Economic Adjustment Programme and the Memoranda of Understanding.

**Table 15: Healthcare expenditure in Greece, public and private, 2004-2013, in % of the GDP<sup>183</sup>**

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Financing agent: general government</b>	5.1	5.7	6.0	5.8	:	7.0	6.3	6.6	6.2	:
<b>Financing agent: private sector</b>	3.3	3.6	3.4	3.6	:	3.1	3.0	3.1	2.9	:
<b>Total</b>	8.4	9.3	9.4	9.4	:	10.1	9.3	9.7	9.2	:

As can be seen in Figure 3 below, the decrease of health expenditure, in real terms, was very large compared to the OECD average. In Greece, there were significant annual drops in total expenditure since 2009 – in the years 2010 and 2012 they were double-figures. The drastic decrease in Greek total health expenditure, between 2008 and 2012, was 25%. Conversely, the OECD average showed even annual increases – albeit very small.

**Figure 3: Health expenditure growth rates (in real terms) since 2004, Greece and OECD average<sup>184</sup>**

<sup>179</sup> Law 3892/2010, 'Electronic registration and execution of medical prescriptions and medical referrals' (Ηλεκτρονική καταχώριση και εκτέλεση ιατρικών συνταγών και παραπεμπτικών ιατρικών εξετάσεων), Government Gazette A' 189/2010.

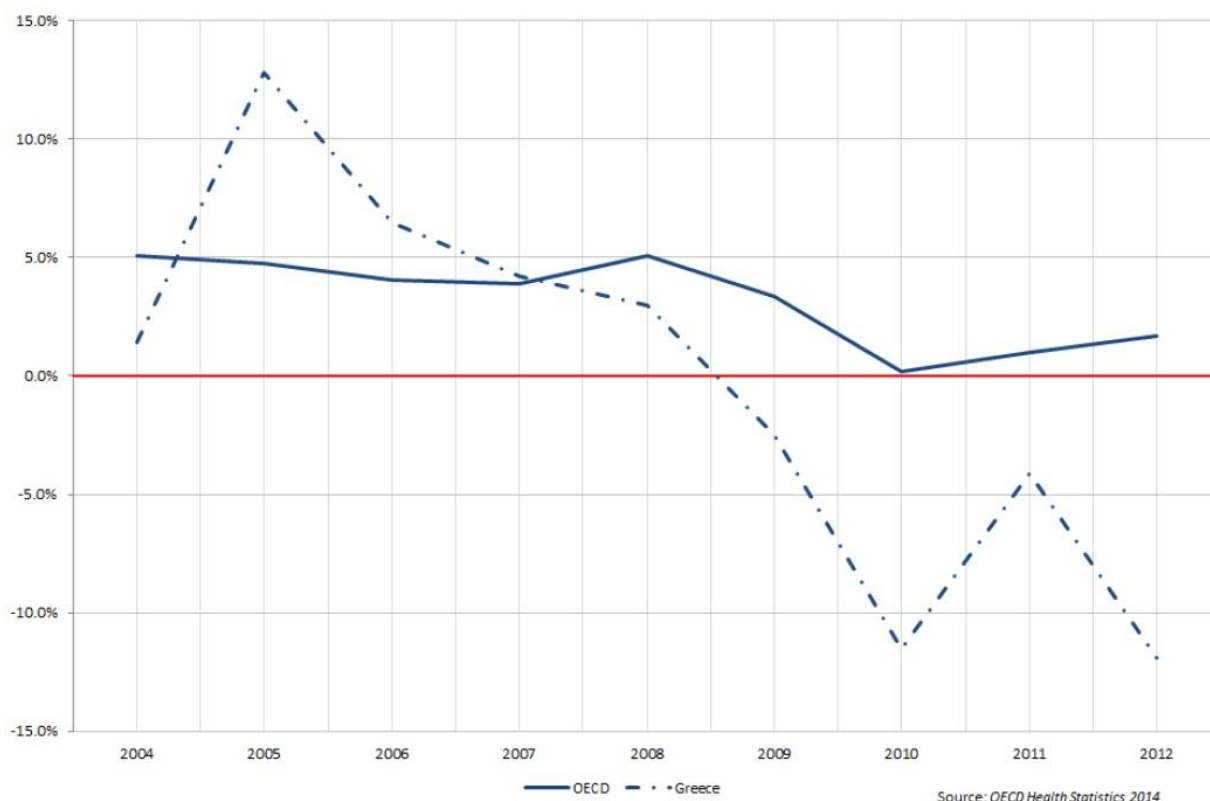
<sup>180</sup> European Commission 'The Second Economic Adjustment Programme for Greece – Fourth Review', European Economy- Occasional Papers 192 - April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf).

<sup>181</sup> Articles 95 – 99 of Law 4172/ 2013 'Income taxation, urgent implementing measures of Law 4046/2012, Law 4093/2012 and Law 4127/2013' (Φορολογία εισοδήματος, επείγοντα μέτρα εφαρμογής του ν. 4046/2012, του ν. 4093/2012 και του ν. 4127/2013 και άλλες διατάξεις), Government Gazette A' 167/2013.

<sup>182</sup> 'OECD Health Statistics 2014: How does Greece compare?' available at: <http://www.oecd.org/els/health-systems/Briefing-Note-GREECE-2014.pdf>.

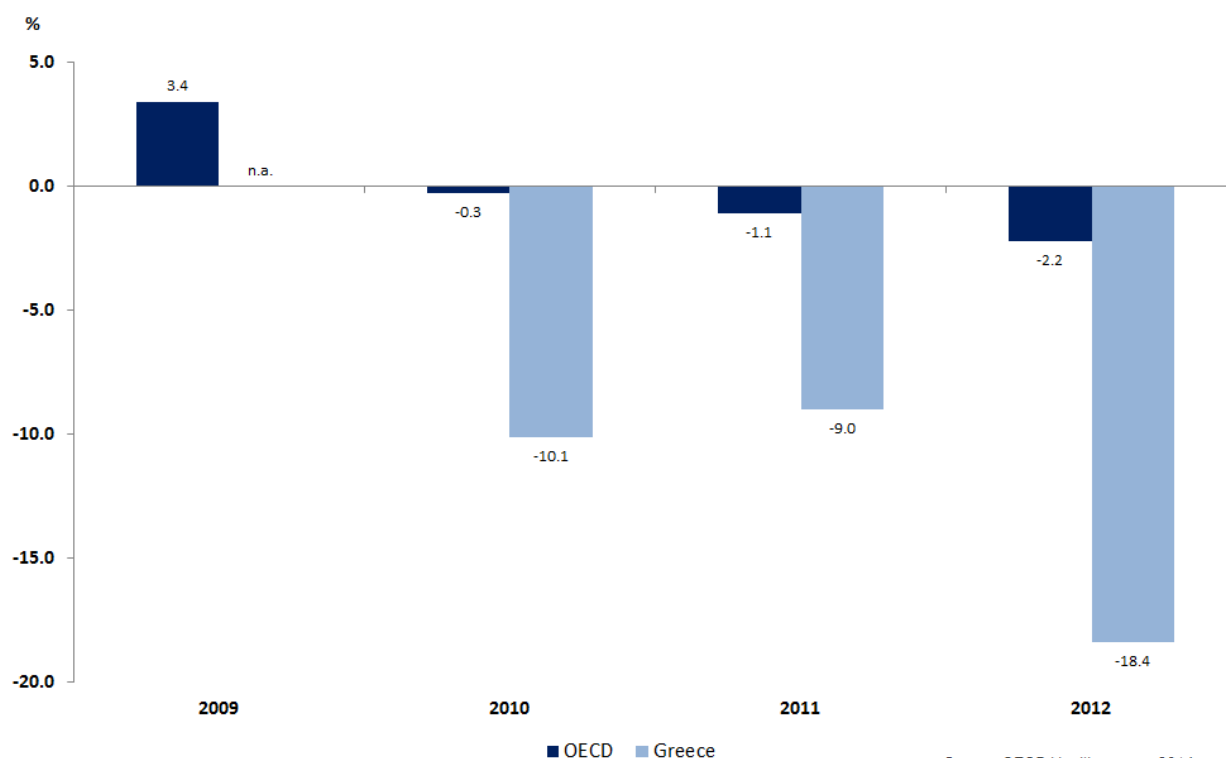
<sup>183</sup> OECD StatExtracts, available at: [http://stats.oecd.org/index.aspx?DataSetCode=HEALTH\\_STAT](http://stats.oecd.org/index.aspx?DataSetCode=HEALTH_STAT), dataset: Health expenditure and financing, Main Indicators, Health Expenditure since 2000.





Part of the health expenditure cuts related to pharmaceutical spending. As can be seen in Figure 4 below, the goals set concerning pharmaceutical expenditure led to a significant reduction in pharmaceutical spending following the measures described above. Again, the annual growth of pharmaceutical spending was negative in each of the years 2010, 2011 and 2012. The decrease in Greece was much higher than the OECD average. Between 2011 and 2012, for example, the decrease was nine times the OECD average, i.e. pharmaceutical expenditure in Greece decreased by 18%, while on average, the OECD decreased by 2%.

<sup>184</sup> OECD Health Statistics 2014 'How does Greece compare?', p.1, OECD website, available at: <http://www.oecd.org/els/health-systems/Briefing-Note-GREECE-2014.pdf>.

**Figure 4: Annual growth of pharmaceutical spending (in real terms) since 2009, Greece and OECD average**

The drastic measures presented above were adopted within a very short time-frame and under extreme pressure to secure the disbursement of the next tranche. These measures focused primarily on the structural, financial and managerial aspects of the NHS, and not so much on patients' needs. Fiscal discipline is the main drive of reforms, while equity and accessibility concerns play minor roles<sup>185</sup>. The inherent pathologies of the Greek public administration – magnified during the crisis, and the measures adopted, undermined the adequacy of its healthcare services<sup>186</sup>, e.g. the measures of lay-offs and recruitment freeze to reduce public sector spending contributed further to already-existing administrative staff shortages<sup>187</sup>, and the 4,500 planned placements of doctors did not take place because of the recruitment freeze<sup>188</sup>. Furthermore, the reduction of hospital beds at a time of rising demand had an impact on adequacy<sup>189</sup>. The labour reserve and mobility schemes of the public sector also applied to healthcare personnel, thus affecting service delivery, e.g. a shortage of nursing staff in some of the main Athens hospitals resulted in a ratio of one nurse per 20 or more patients and, around 25% of intensive care beds are not

<sup>185</sup> Petmesidou, M., Annual National Report 2011 – Pensions, Health Care and Long-term Care – Greece, May 2011, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1224/asisp\\_ANR12\\_Greece.pdf](http://socialprotection.eu/files_db/1224/asisp_ANR12_Greece.pdf), p.5.

<sup>186</sup> Information obtained through stakeholder consultations (Union of Administrative Judges, NCHR), December 2014.

<sup>187</sup> Petmesidou, M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.17.

<sup>188</sup> Petmesidou, M., Annual National Report 2011 – Pensions, Health Care and Long-term Care – Greece, May 2011, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1224/asisp\\_ANR12\\_Greece.pdf](http://socialprotection.eu/files_db/1224/asisp_ANR12_Greece.pdf), p.20.

<sup>189</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', available at <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p.23.



operational<sup>190</sup>. Law 3868/2010<sup>191</sup> significantly reduced the overtime (*εφημερίες*) remuneration of public hospital doctors, i.e. the relevant budget allocation was cut by almost EUR 75 million in 2010 compared to 2009<sup>192</sup>. It is argued<sup>193</sup> that, while progress is being made in terms of cost-containment and efficiency, performance of the healthcare system in terms of equity, equality and responsiveness to users has degraded, efficiency gains are not channeled and utilised to improve universal access, and quality indicators for service provisions are not included in the reform.

Healthcare staff and professionals, as well as citizens, have **difficulties in keeping up with the changes**. The healthcare system continues to be complex – even relatively simple changes, e.g. the new system for making appointments over the phone proved to be challenging in its implementation and triggered the intervention of the Greek Ombudsman. In his letter to the Minister of Health<sup>194</sup>, the Ombudsman contested that the use of call centres was problematic because: doctors were unable to control the daily list of patients compiled by the private phone companies; there was no way of communication and management between doctors and call centres; it was impossible to arrange or annul an appointment, in person, at one of the branches of the EOPYY.

The **introduction of diagnosis-related groups (KENs)** has also raised concerns. If hospitals, with the aim of controlling costs, discharge patients according to the number of days for which they can be reimbursed by the EOPYY, these patients could be discharged before their full recovery<sup>195</sup>.

Under the new system for reimbursement of costs by the EOPYY to its suppliers, many contracted **diagnostic centres, clinics and doctors have declared work retention** (*επίσχεση εργασίας*) against the EOPYY **and refused to provide services or accept patients** because of the EOPYY's outstanding debts<sup>196</sup>. Clinics and medical centres do not accept the imposed rebate and claw-back system of payments and brought a legal action to contest them<sup>197</sup>. Structural reforms in the services and clinics of the EOPYY also led to some interruptions in the provision of healthcare services<sup>198</sup>. During preparation, and

<sup>190</sup> Petmesidou, M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.17-18.

<sup>191</sup> Law 3868/2010, 'Enhancement of National Health System and other provisions of Ministry of Health and Solidarity jurisdiction' (Αναβάθμιση του Εθνικού Συστήματος Υγείας και λοιπές διατάξεις αρμοδιότητας του Υπουργείου Υγείας και Κοινωνικής Αλληλεγγύης), Government Gazette Α' 129/2010.

<sup>192</sup> Petmesidou, M., Annual National Report 2011 – Pensions, Health Care and Long-term Care – Greece, May 2011, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1224/aspis\\_ANR12\\_Greece.pdf](http://socialprotection.eu/files_db/1224/aspis_ANR12_Greece.pdf), p.23.

<sup>193</sup> Petmesidou, M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.24.

<sup>194</sup> Greek Ombudsman, 'Operation of system of medical appointments through five-digit phone numbers' (Λειτουργία συστήματος ιατρικών ραντεβού ΕΟΠΥΥ μέσω πενταψήφιων τηλεφωνικών γραμμών), Letter no. 1000.2/44452/2012, 17.12.2012, available at: <http://www.synigoros.gr/?i=health-and-social-welfare.el.protobathmia-perithalpsi.110766>.

<sup>195</sup> This issue was raised by the Head of the nephrology clinic in Rhodes, 'Major issue for the hospital the introduction of closed unified hospitalisation costs' (Μείζον ζήτημα στο Νοσοκομείο με Κλειστά Ενοποιημένα Νοσηλία), *Democratic of Rhodes* newspaper, 15.10.2011, available at: <http://www.ygeianet.gr/box/cal/25694.pdf>.

<sup>196</sup> 'Lien of services to EOPYY by doctors of private clinics and medical labs (Έπίσχεση στον ΕΟΠΥΥ οι γιατροί ιδιωτικών κλινικών και εργαστηρίων)', *To Vima* Newspaper, 14.12.2012, available at: <http://www.tovima.gr/society/article/?aid=488744>.

<sup>197</sup> 'Private clinics move towards a lien of services to EOPYY' (Σε επίσχεση εργασίας προς τον ΕΟΠΥΥ προχωρούν οι ιδιωτικές κλινικές), *Ta Nea* Newspaper, 01.07.2014, available at: <http://www.tanea.gr/news/greece/article/5137071/se-episxesh-ergasias-pros-ton-eopyy-proxwroyn-oi-idiwtikes-klinikes/>.

<sup>198</sup> See relevant articles in *To Vima* (English) Newspaper on closure of EOPYY clinics and suspension of personnel, in February 2014: 'EOPYY shuts down for a month - 8,500 doctors & employees suspended' 18.02.2014, available

parliamentary procedures for the adoption of Law 3918/2011<sup>199</sup>, public sector doctors and pharmacists organised strikes and protests - causing disturbances to service provision, e.g. the IKA doctors' strike lasted almost two weeks and over 300,000 appointments were cancelled nationwide<sup>200</sup>.

Moreover, **interventions in the pharmaceuticals market and the pricing of medicines have sometimes led to an internal shortage**. Exports have increased while internal demand was not always covered<sup>201</sup>. Concerning the shortage of some medicines, the National Organization for Medicines (ΕΟΦ) issued an announcement noting that, the economic crisis hinders transactions between pharmaceutical companies and pharmacies, causing delays and shortages<sup>202</sup>. Under tightened budgets and more stringent systems of supply, the shortage of medicines and other pharmaceutical materials has also been reported in hospitals<sup>203</sup>.

Funding of the NHS from the State budget and social security contributions was reduced between 2009 and 2011, i.e. 87% and 83.3% respectively, while funding from households has increased 13% and 18.7% respectively<sup>204</sup>. Most of the measures previously mentioned, resulted in an **increase of direct costs to citizens**: user fees for out-patient visits; relatively high rates for afternoon visits to public hospitals; increased contribution to several medicines<sup>205</sup>; pharmaceutical materials and health services; elimination of several drugs from the 'positive list'<sup>206</sup>. The new phone-appointment system for all healthcare providers of the ΕΟΠΥΥ is also said to have imposed an additional cost to individuals seeking healthcare<sup>207</sup>. Finally, Law 4093/2012<sup>208</sup> introduced a fee of EUR 1 per prescription

at: <http://www.tovima.gr/en/article/?aid=568782> and 'Doctors hold demonstration outside ΕΟΠΥΥ central offices', 19.02.2014: <http://www.tovima.gr/en/article/?aid=569160>.

<sup>199</sup> Law 3918/2011 'Structural Changes in the health system and other provisions' (Διαρθρωτικές αλλαγές στο σύστημα υγείας και άλλες διατάξεις), Government Gazette Α' 31/2011.

<sup>200</sup> Petmesidou, M., Annual National Report 2011 – Pensions, Health Care and Long-term Care – Greece, May 2011, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at [http://socialprotection.eu/files\\_db/1224/asisp\\_ANR12\\_Greece.pdf](http://socialprotection.eu/files_db/1224/asisp_ANR12_Greece.pdf), p.23.

<sup>201</sup> See statement made by the President of the Association of Pharmacists of Attica: 'Lurantos: The shelves of pharmacies are being left empty from basic medicines' (Λουράντος: Αδειάζουν από βασικά φάρμακα τα ράφια των φαρμακείων), in.gr newssite, 21.03.2014, available at: <http://news.in.gr/greece/article/?aid=1231305243>.

<sup>202</sup> Announcement of the National Organisation for Medicines, available at: [http://www.eof.gr/web/quest/home;jsessionid=752a91d1ca0f47fb80d7691b72b4?p\\_p\\_id=62\\_INSTANCE\\_2WKd&p\\_p\\_lifecycle=0&p\\_p\\_state=maximized&p\\_p\\_mode=view&62\\_INSTANCE\\_2WKd\\_struts\\_action=%2Fjournal\\_articles%2Fview&62\\_INSTANCE\\_2WKd\\_groupId=12225&62\\_INSTANCE\\_2WKd\\_articleId=48330&62\\_INSTANCE\\_2WKd\\_version=1.0](http://www.eof.gr/web/quest/home;jsessionid=752a91d1ca0f47fb80d7691b72b4?p_p_id=62_INSTANCE_2WKd&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&62_INSTANCE_2WKd_struts_action=%2Fjournal_articles%2Fview&62_INSTANCE_2WKd_groupId=12225&62_INSTANCE_2WKd_articleId=48330&62_INSTANCE_2WKd_version=1.0).

<sup>203</sup> 'Hospitals without medicines – Limited hospital funds – Shortages endanger patients' lives' (Νοσοκομεία χωρίς φάρμακα- Περιορισμένα τα κονδύλια στα νοσηλευτικά ιδρύματα - Οι ελλείψεις βάζουν σε κίνδυνο τη ζωή ασθενών), To Vima Newspaper, 02.02.2014, available at: <http://www.tovima.gr/society/article/?aid=563138>.

<sup>204</sup> Economou Ch., 'Austerity is bad for the health...' (Η λιτότητα βλάπτει σοβαρά την υγεία...), Foreign Affairs The Hellenic edition, 21.11.13, available at: <http://foreignaffairs.gr/articles/69587/xaralampos-oikonomoy/i-litotita-blaptei-sobara-tin-ygeia...?page=show> (in Greek).

<sup>205</sup> See articles relevant to the increase caused by the new pricing system from newspapers: 'At risk the life of dialysis patients because they cannot pay the medicines (Σε κίνδυνο η ζωή νεφροπαθών λόγω αδυναμίας να πληρώσουν τα φάρμακα) To Vima Newspaper, 14.04.2014, available at: <http://www.tovima.gr/society/article/?aid=586659> and 'The scam which inflames the involvement if insured in medicines' (Η κομπίνα που εκτοξεύει τη συμμετοχή των ασφαλισμένων στα φάρμακα) Kyriakatiki Eleytherotypia Newspaper, 16.03.2014 available at <http://www.enet.gr/?i=news.el.article&id=420876>.

<sup>206</sup> Petmesidou, M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.18.

<sup>207</sup> See announcement of Karditsa's Medical Board regarding the reaction of Athens Medical Board and ΕΟΠΥΥ's reply at: <http://www.isarkadias.gr/17383/news/%CE%B5%CE%BF%CF%80%CF%85%CF%85-%CE%BE%CE%B5%CF%87%CE%AC%CF%83%CF%84%CE%B5-%CF%84%CE%BF-184-%CE%B3%CE%B9%CE%B1-%CF%81%CE%B1%CE%BD%CF%84%CE%B5%CE%B2%CE%BF%CF%8D-%CF%83%CF%84%CE%BF-14884-%CE%BA%CE%B1/>.

<sup>208</sup> Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' ('Εγκριση Μεσοπρόθεσμου

executed in private pharmacies, which is paid by patients 'in favour of the EOPYY' (υπέρ ΕΟΠΥΥ)<sup>209</sup>.

*Compared to 2007<sup>210</sup>, around 1.5 times more people reported **unmet medical needs** in 2011<sup>211</sup>. For older people, i.e. older than 65 years, the increase was slightly higher<sup>212</sup>. Concerning the reasons for these unmet needs, there were around 1.4 times as many persons reporting that they could not afford medical care<sup>213</sup>, around 1.2 times as many persons reporting that it was due to the waiting list<sup>214</sup>, and 2.8 times as many people reporting that healthcare was too far away<sup>215</sup>.*

*The proportion of people reporting cost as a barrier is higher (31%) than in other MS, e.g. Cyprus (28%), Italy (23%) and Poland (21%)<sup>216</sup>. Cost-related difficulties and waiting-time-related difficulties, i.e. delays in getting an appointment and time waiting on the day of the appointment, have affected all income groups<sup>217</sup>. Finally, unmet medical needs increased among unemployed and employed people<sup>218</sup>.*

Several healthcare related measures were contested before the **Council of State**. Regarding the **monthly spending cap and the effective prescription budget set for each doctor**, despite the reasonable aim of reducing pharmaceutical expenditure, the Supreme Administrative Court's decision on a request for interim measures found that this measure could lead to a reduction in the level of health services provided to citizens. Having balanced the public interest of reducing public expenditure on health with the public interest to preventing potential harm in public health, the Supreme Administrative Court ordered the suspension of the enforcement of this measure<sup>219</sup>. The main trial took place at the start of November 2014 and judgment is still pending<sup>220</sup>.

The Council of State has also ruled in favor of the **obligation to prescribe by active substance**<sup>221</sup>. Regarding the **EOPYY Single Regulation**, the Council of State also ruled in favor of its constitutionality<sup>222</sup>, in particular as regards: reimbursement of medical costs only when services are provided by the EOPYY's contractors; acknowledgement of costs for medical services included only in the State price list, an obligation to obtain certification from a doctor or director of a public hospital clinic, or a university clinic in order to be

Πλαισίου Δημοσιονομικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette Α' 222/2012.

<sup>209</sup> See relevant announcement by EOPYY: 'What does the insured pay for the purchase of medicines which are prescribed in a medical recipe' (Τι πληρώνει ο ασφαλισμένος για αγορά φαρμάκων που έχουν συνταγογραφηθεί σε συνταγή), EOPYY website, available at: <http://www.eopyy.gov.gr/Faq/DisplayFaq/2f9f2359-63ae-4ba5-8abd-3e8a18dc7f09>

<sup>210</sup> Kentikelenis, A., Karanokolos, M., Reeves, A., McKee, M., Stuckler, D., 'Greece's health crisis: from austerity to denialism', Lancet 383: 748–53, 2014, p. 749/750, tables 1 and 2. Analysis based on Eurostat Cross-sectional European Union Statistics on Income and Living Conditions (EU-SILC), 2007 and 2011 users database/, available at: <http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf>.

<sup>211</sup> *ibid.*, OR (odd ratio) for unmet medical need 2011 relative to 2007: 1.47 (CI: 1.30-1.66) (N=24,177).

<sup>212</sup> *ibid.*, OR (odd ratio) for unmet medical need 2011 relative to 2007/ age > 65 years: 1.63 (1.32-2.00).

<sup>213</sup> *ibid.*, OR (odd ratio) for unmet medical need 2011 relative to 2007/ could not afford: 1.39 (1.19-1.61).

<sup>214</sup> *ibid.*, OR (odd ratio) for unmet medical need 2011 relative to 2007/ Waiting list: 1.24 (0.83-1.85).

<sup>215</sup> *ibid.*, OR (odd ratio) for unmet medical need 2011 relative to 2007/ too far to travel: 2.78 (1.64-4.70).

<sup>216</sup> 'Impacts of the crisis on access to healthcare services in the EU', Eurofound, 2013, p.15, available at: [http://eurofound.europa.eu/sites/default/files/ef\\_files/pubdocs/2013/85/en/1/EF1385EN.pdf](http://eurofound.europa.eu/sites/default/files/ef_files/pubdocs/2013/85/en/1/EF1385EN.pdf)

<sup>217</sup> *ibid.*, p. 17, 21-22.

<sup>218</sup> *ibid.*, p.13.

<sup>219</sup> Council of State judgment 59/2014 (interim measures), available at [http://www.dsanet.gr/Epikairothta/Nomologia/ste%2059\\_2014.htm](http://www.dsanet.gr/Epikairothta/Nomologia/ste%2059_2014.htm) and judgment 274/2014 (interim measures).

<sup>220</sup> Information obtained through the Council of State Registrar (15 December 2014).

<sup>221</sup> Council of State (Plenary), judgment 3802/2014, available at <http://www.dsanet.gr/Epikairothta/Nomologia/steol3802.htm>.

<sup>222</sup> Council of State (Plenary) judgment 3962/2014.

reimbursed for products of special nutrition; certification from a public, university or military hospital for the reimbursement of transport costs for a patient who needs to be hospitalised – including hospitalisation abroad<sup>223</sup>.

One of the most serious consequences of the crisis is that, an increasing number of long-term unemployed and self-employed professionals – who are unable to pay their social security contributions, are **not covered by public health insurance**. This is also noted as 'a considerable concern' in the Fourth Review of the Second Economic Adjustment Programme<sup>224</sup>. According to the OECD<sup>225</sup>, in 2013, around 10% of the population was not eligible for health insurance. Although some of these people could have access to limited basic healthcare services on the basis of a means test, several vulnerable groups, e.g. illegal immigrants and the self-employed, who have ceased to operate their businesses and are not provided with tax clearance certificates, and households exceeding the means test, do not have access to any healthcare services. However, some measures were introduced to counter-balance these adverse effects, e.g. a temporary extension of health and pharmaceutical coverage for the unemployed<sup>226</sup>. A health voucher programme<sup>227</sup> was launched in 2013<sup>228</sup> – for 2013 and 2014 with a budget of EUR 46 million, to provide access to primary healthcare services for 100,000 uninsured people per year, on a means-test basis and under specific conditions<sup>229</sup>.

As the **UN Independent Expert** noted during his mission to Greece<sup>230</sup>, in the context of severely reduced access to the public healthcare system, people seek **alternative care**. More and more people resort to 'social clinics'<sup>231</sup> and 'social pharmacies' staffed by volunteer doctors and nurses. National stakeholders, e.g. the Athens Medical Association<sup>232</sup> undertake such activities. Doctors of the World (*Médecins du Monde - MdM*) operate 11 polyclinics in Greece, in which nearly half of the patients are now Greek citizens (up to 88% at one clinic), and many of them have passed retirement age (up to 28% are over 60 years old in the same clinic). The MdM teams in Greece note that they have patients who may have to choose between eating and buying their medicines<sup>233</sup>. In his end-of-mission statement<sup>234</sup>, the UN Independent Expert expressed the concern 'that the public health

<sup>223</sup> 'Council of State: The requirements to provide healthcare to EOPYY members are constitutional' (ΣΤΕ: Συνταγματικές οι προϋποθέσεις παροχής υγείας στους ασφαλισμένους του ΕΟΠΥΥ), Kathimerini newspaper, 10.12.14, available at: <http://www.kathimerini.gr/795358/article/oikonomia/ellhnikh-oikonomia/ste-syntagmatikes-oi-proupotheseis-paroxhs-ygeias-stoys-asfalismenous-toy-eopyy>.

<sup>224</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review', European Economy – Occasional Papers 192 – April 2014, p.4, 41, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf).

<sup>225</sup> OECD Economic Surveys: Greece (Overview), November 2013, OECD website, p.31, available at [http://www.oecd.org/eco/surveys/GRC\\_Overview\\_Eng\\_2013.pdf](http://www.oecd.org/eco/surveys/GRC_Overview_Eng_2013.pdf).

<sup>226</sup> Ministry of Labour, Social Security and Welfare, Circular Φ40021/οικ. 4284/175 'Verification of patients' booklets for insured at IKA- ETAM and extension of health coverage of unemployed' (Θεώρηση βιβλιαρίων ασθενείας ασφαλισμένων Ι.Κ.Α.-Ε.Τ.Α.Μ και παράτασης ασφαλιστικής κάλυψης ανέργων), 25.02.14, available at <http://www.taxheaven.gr/laws/circular/view/id/18273>.

<sup>227</sup> A relevant website operates <http://www.healthvoucher.gr/> including information on the requirements and benefits provided under this programme.

<sup>228</sup> 'Health voucher for un-insured' (Κουπόνι Υγείας για ανασφάλιστους), Ant1 News' website, 16.08.2013, available at <http://www.antenna.gr/news/Society/article/313106/koyponi-ygeias-gia-anasfalistoys>.

<sup>229</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.22.

<sup>230</sup> UN Special Rapporteur Cephias Lumina, Mission to Greece, UN A/HRC/25/50/Add.1.

<sup>231</sup> NGO Klimaka, 'List of Social Clinics in Greece' (Λίστα Με Τα Κοινωνικά Ιατρεία σε όλη την Ελλάδα), available at <http://klimaka-socialservice.blogspot.be/2013/05/blog-post.html>.

<sup>232</sup> 'Social Mission Medical Offices NGO', available at <http://www.isathens.gr/ika/index.php/en/>.

<sup>233</sup> Doctors of the World, Access to Healthcare in Europe in a Time of crisis and Rising Xenophobia, 2013, available at <http://www.medecinsdumonde.org/Access-to-healthcare-in-Europe-in-times-of-crisis-and-rising-xenophobia>

<sup>234</sup> 'United Nations Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Cephias Lumina Mission to Greece, 22-26 April 2013 End of mission statement Athens', 26.04.2013 available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13272&>.



system has become increasingly inaccessible, in particular for poor citizens and marginalised groups, due to increased fees and co-payments, closure of hospitals and health care centres and, more and more people losing public health insurance cover – mainly due to prolonged unemployment'. He remarked that an additional pressure on the public health system was apparent – increased waiting times both for hospitalisation and for out-patient and emergency visits and, according to the Expert, many citizens belonging to higher income groups also resort to public healthcare because of reductions in their incomes.

**Preventive and protective healthcare has also been affected by austerity measures.** In 2010, the number of syringes and condoms distributed to drug-users decreased and, despite some improvement, distribution remains low<sup>235</sup>. A 52% increase in HIV infections was reported from 2010 to 2011 – however this trend has decreased in 2014<sup>236</sup>. Cuts to public health preventive measures, e.g. municipal anti-mosquito spraying programmes, allowed the re-emergence of locally transmitted malaria for the first time in 40 years<sup>237</sup>.

The Government introduced<sup>238</sup> measures<sup>239</sup> to constrain the propagation of diseases which, allows the police to detain and test citizens for hepatitis, HIV, other sexually transmitted infections and communicable diseases. Several NGOs, e.g. Amnesty International<sup>240</sup> and Human Rights Watch<sup>241</sup>, UN Bodies, e.g. the Committee against Torture<sup>242</sup> and the Joint United Nations Programme on HIV/AIDS (UNAIDS)<sup>243</sup>, as well as the Greek Ombudsman<sup>244</sup>, expressed concerns on the impact of this measure on human rights – especially in relation to sex workers, migrants and drug users<sup>245</sup>.

<sup>235</sup> Kentikelenis, A., Karanokolos, M., Reeves, A., McKee, M., Stuckler, D., 'Greece's health crisis: from austerity to denialism', Lancet 383/9918, 2014, p.748–53, available at: <http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf>.

<sup>236</sup> The Hellenic Centre for Disease Control & Prevention (ΚΕΛΠΝΟ), has reported a decrease in HIV infections since January 2014, in relation to the period 2011–2013, see relevant article 'Center for Control and Prevention of Diseases: Less infections from HIV this year- Curbing the epidemic within the drugs users too' ΚΕΛΠΝΟ: Λιγότερες λοιμώξεις από τον HIV φέτος - Αναχαίτιση της επιδημίας και στους χρήστες, in.gr newssite, 20.11.2014, available at: <http://news.in.gr/greece/article/?aid=1231365230> (in Greek).

<sup>237</sup> Kentikelenis, A., Karanokolos, M., Reeves, A., McKee, M., Stuckler, D., 'Greece's health crisis: from austerity to denialism', Lancet 383/9918, 2014, p.748–53, available at: <http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf> and A/HRC/25/50/Add.1, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina (Addendum) - Mission to Greece (22 – 27 April 2013), available at: <http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/CountryVisits.aspx>, p.17.

<sup>238</sup> This measure was first introduced in April 2012, repealed in April 2013 and re-introduced in July 2013.

<sup>239</sup> Health provision 39A/2012 'Sanitary Regulation 39a / 2012 "to reduce the spread of infectious diseases' (Υγειονομική Διάταξη 39a/2012 για τον «περιορισμό της διάδοσης λοιμωδών νοσημάτων») Government Gazette B' 1002/2012.

<sup>240</sup> Amnesty International, 'Greece – Annual Report 2013', available at: <http://www.amnesty.org/en/region/greece/report-2013>.

<sup>241</sup> Human Rights Watch, 'Greece: Repeal Abusive Health Regulation', available at <http://www.hrw.org/news/2013/07/03/greece-repeal-abusive-health-regulation>.

<sup>242</sup> CAT/C/GRC/CO/5-6, 'Consideration of reports submitted by States parties under article 19 of the Convention - Concluding observations of the Committee against Torture: Greece', Committee against Torture 48<sup>th</sup> session 7 May–1 June 2012, 27.06.2012, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/GRC/CO/5-6&Lang=Fr](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/GRC/CO/5-6&Lang=Fr).

<sup>243</sup> UNAIDS Press Statement of 31 July 2013, available at: <http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2013/july/20130731greece/>.

<sup>244</sup> Greek Ombudsman, 'Legality issues of the regulations to limit the spread of infectious diseases' (Ζητήματα νομιμότητας των ρυθμίσεων για τον περιορισμό της διάδοσης λοιμωδών νοσημάτων), 2012, available at: <http://www.synigoros.gr/resources/eggrafo-stp--10.pdf>.

<sup>245</sup> 'The first cuts in diagnostic tests covered by ΕΟΠΥΥ began' (Αρχίζουν οι πρώτες περικοπές σε διαγνωστικές εξετάσεις κάλυψης ΕΟΠΥΥ) Ethnos Newspaper, available at: <http://www.ethnos.gr/article.asp?catid=22768&subid=2&pubid=64060412>.

## 4. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO WORK

### KEY FINDINGS

- The **right to work** has been probably **the most affected fundamental right** in Greece in the course of the crisis.
- The main changes in the labour law applicable in the **private sector** concern the rules regulating: a) **job protection** (e.g. reduction of the notice period for dismissal; reducing levels of severance pay; facilitating the use of fixed-term contracts); b) **the working time** (e.g. facilitating flexible working arrangements; reducing overtime premia); and c) **the setting of wages** (e.g. changes in the collective bargaining process).
- In the **public sector**, the austerity measures adopted aimed at: a) **reducing the cost of employment**; and b) **reducing the number of employees** (e.g. labour reserve and mobility schemes; abolition of placements, reductions in recruitment and increases in exits).
- Changes in the labour/employment field have had direct and spill-over effects both on the right to work, as well as the social situation as a whole. One of the most significant consequences of the policies followed under the Economic Adjustment Programmes has been the **substantial rise of unemployment** (from 7.3% in June 2008 to 27.9% in June 2013, with youth unemployment at 64.9% in May 2013). Between January 2010 and January 2013, **public sector pay has declined by over 25% on average**; in the **private sector wages had declined by at least 15% in 2013** and, following the new minimum wage regulation, they were expected to decline even more.
- **Job insecurity increased significantly** in Greece between 2007 and 2012 (8.20% to 30.57% respectively). **Full-time contracts are increasingly converted** to part-time employment or rotating employment contracts (16,977 in 2009 vs 84,990 in 2012). **Informal sector employment** has also increased (36.2% in 2012 vs 25% in 2010). **Women and migrants** found themselves in a more vulnerable position.

### 4.1. International and EU legal framework for the protection of the right to work

There is no blanket guarantee in the international law of the right to work, if understood as the right of have and maintain gainful employment. Article 6 of the ICESCR recognises the right to work in the sense of opportunity of everyone to gain their living by freely chosen or accepted work. In that regard, States Parties are expected to take appropriate steps to safeguard this right, including by providing vocational and technical training and economic policies aimed at steady economic development and full employment. This right, according to the ICESCR implies that the Parties must guarantee equal access to employment and protect workers from being unfairly deprived of their employment, including by preventing discrimination. This right depends on a number of interdependent and essential elements, implementation of which will depend on the conditions present in each State Party, which

may be identified as: availability, accessibility, acceptability and quality, while the states have the general obligation to respect, protect and fulfil this right<sup>246</sup>. Moreover, the International Labour Organization (the 'ILO') has the right to work as the core of its activities, and numerous conventions have been adopted within its framework to protect and improve the enjoyment of the right to work.

Similarly, the EU Charter guarantees to everyone the right to engage in work and to pursue a freely chosen or accepted occupation<sup>247</sup>, which corresponds to the guarantee from the ICESCR. The EU Charter, furthermore, provides for a guarantee for everyone to a free placement service<sup>248</sup>, protection from unjustified dismissal<sup>249</sup> and the right to fair and just working conditions<sup>250</sup>.

## 4.2. The right to work in Greece

The right to work is constitutionally protected in Greece<sup>251</sup> and constitutes a more narrowly-defined facet of the general principle of economic freedom<sup>252</sup>. Within the Greek legal order, the right to work is a right of a mixed character, i.e. it is both a social<sup>253</sup> and a civil right<sup>254</sup>. The positive freedom of labour does not give individuals the right to legal action against the State – rather, it represents an obligation on behalf of the State to take the necessary steps to create jobs and to reduce unemployment, while ensuring the best possible working conditions for employees<sup>255</sup>. The negative expression of this right entails the prohibition of compulsory work<sup>256</sup>.

<sup>246</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 18 – Right to work*, UN Doc. E/C.12/GC/18 (2006).

<sup>247</sup> Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 15(1), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>248</sup> Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 29, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>249</sup> Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 30, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>250</sup> Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 31, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>251</sup> Article 22 of the Greek Constitution available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>252</sup> Article 5(1) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>253</sup> Article 22(1) of the Greek Constitution stipulates 'Work constitutes a right and shall enjoy the protection of the State, which shall care for the creation of conditions of employment for all citizens and shall pursue the moral and material advancement of the rural and urban working population. All workers, irrespective of sex or other distinctions, shall be entitled to equal pay for work of equal value'.

<sup>254</sup> Article 22(4) of the Greek Constitution stipulates 'Any form of compulsory work is prohibited. Special laws shall determine the requisition of personal services in case of war or mobilization or to face defence needs of the country of urgent social emergencies resulting from disasters or liable to endanger public health, as well as the contribution of personal work to local government agencies to satisfy local needs'.

<sup>255</sup> Spyropoulos, P., Fortsakis, T., *Constitutional Law in Greece* (Kluwer Law International, 2009), p.246.

<sup>256</sup> Article 22(4) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

### 4.3. The Economic Adjustment Programmes and the general obligations relevant to the right to work

#### 4.3.1. The Economic Adjustment Programmes and private sector employment

The **First Economic Adjustment Programme** was based on the assumption that the Greek labour market was largely inflexible and, thus, legislative action was necessary in order to deregulate and/or increase its institutional flexibility. In this direction, measures should be adopted in order to implement an intensive policy of internal devaluation, aimed at reducing wage and non-wage costs, since the expectation was that such reductions would lead to price reductions and to export expansion. Increases in exports of goods could compensate the falling internal demand due to reduced private consumption and State expenditure<sup>257</sup>.

More specifically, the **First Economic Adjustment Programme** required, inter alia, the Greek Government to<sup>258</sup>:

- prepare the revision of the private sector wage bargaining system and contractual arrangements;
- reform employment protection legislation, i.e. extend the probationary period for new jobs to one year, reduce the overall level of severance payments, raise the minimum threshold for activating rules on collective dismissals, put measures in place to guarantee that current minimum wages remain fixed in nominal terms for 3 years, and facilitate the use of temporary contracts and part-time work;
- reform minimum wages;
- increase the flexibility of working hours, i.e. adjust legislation to introduce annual time accounts and reduce overtime pay
- fight undeclared work.

The **Second Economic Adjustment Programme** for Greece noted that, in 2011, a number of measures were adopted to allow a greater role of firm level negotiations in the wage bargaining process. Nonetheless, although firm-level collective contracts increased in importance, the continuing deterioration in economic activity, the increase in unemployment, as well as the persistence of large external imbalances were, according to the Commission, a clear indication that further labour market reforms were necessary – allowing wages and hours to adjust faster, and in line with the needs of businesses and economic activity<sup>259</sup>.

Furthermore, the Second Economic Adjustment Programme indicated that a broader reform of the wage-setting system, at national level, was necessary as the current system set

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<sup>257</sup> Dedoussopoulos, A. et al., 'Assessing the impact of the memoranda on Greek labour market and labour relations', ILO Working Paper No. 53, available at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_232796.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_232796.pdf), p.2.

<sup>258</sup> European Commission, 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61 – May 2010, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), p.79–80.

<sup>259</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', European Economy – Occasional Papers 94 – March 2012, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.37–38.



different minimum wages – without these differences necessarily reflecting productivity<sup>260</sup>. The updated Memorandum of Economic and Financial Policies stipulated that, if the (then) ongoing social dialogue proved unsuccessful in finding ways to reduce unit labour costs, the Government would take legislative measures in the urgent public interest to allow wage and non-wage costs to adjust as needed<sup>261</sup>.

According to the **Fourth Review of the Second Adjustment Programme**, the comprehensive range of labour market reforms has delivered results. Accordingly, new job creation depends upon reforms and adjustment in other areas of the economy and on continued improvement in labour market institutions, e.g. increasing the employability of long-term unemployed, eliminating disincentives to investment in view of the rigidities in corporate restructuring and collective dismissal rules, and facilitating temporary work<sup>262</sup>.

#### 4.3.2. The Economic Adjustment Programmes and employment in the public sector

Concerning public sector employees, the First Economic Adjustment Programme required the Greek Government, amongst others, to:

- reduce the Easter, summer and Christmas bonuses and allowances paid to civil servants<sup>263</sup>;
- implement the rule of replacing only 20% of retiring employees in the public sector<sup>264</sup>;
- simplify the remuneration system for public sector employees<sup>265</sup>;
- to reduce public employment on top of the rule of 1 recruitment for each 5 retirements<sup>266</sup>;

Under the **Second Economic Adjustment Programme for Greece**, the Greek Government, concerning employees in the public sector, undertook, amongst others, the following obligations to:

- reform the public sector employee compensation by adjusting the payroll for special regimes – including judges, diplomats, doctors, professors, police and armed forces, while protecting those at lower pay scales<sup>267</sup>;
- adopt additional fiscal measures concerning the public sector payroll, e.g. eliminate public sector seasonal bonuses of employees of the State and local governments,

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<sup>260</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', European Economy – Occasional Papers 94 - March 2012, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.37–41.

<sup>261</sup> *ibid.*, p. 109.

<sup>262</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.47.

<sup>263</sup> European Commission, 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61 – May 2010, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), p.59.

<sup>264</sup> *ibid.*, p.62.

<sup>265</sup> *ibid.*, p.65.

<sup>266</sup> *ibid.*, p. 71.<sup>267</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', European Economy – Occasional Papers 94 – March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.97.

<sup>267</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', European Economy – Occasional Papers 94 – March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.97.

suspend the fiscal and performance bonuses of public sector employees and extend the 1:5 hiring rule for general government employees through 2016<sup>268</sup>;

- reduce general government employment by at least 150,000 in the period 2011-2015. This would be achieved by continuing to apply the existing 1:5 hiring ration (1:10 for State-owned enterprises) as well as the newly established pre-retirement scheme, by reducing contractual employment and putting redundant public sector employees into the labour reserve scheme<sup>269</sup>;
- introduce controls on hiring<sup>270</sup>;
- place 25,000 government employees in the mobility scheme, where transferred personnel could remain for up to one year with reduced rates of pay<sup>271</sup>;
- to adopt legislation on mobility between ministries in the interests of the services<sup>272</sup>.

The **Fourth Review of the Second Economic Adjustment Programme** acknowledged the progress made by Greece in achieving its targets in relation to the reduction in general government employment by 150,000 by 2015<sup>273</sup>.

However, amongst others, the Greek Government was required to:

- establish, within the public administration, an internal job market to give all employees the opportunity to find new positions<sup>274</sup>;
- conduct a broad review of Government employment levels and remuneration structure, in consultation with the EC-ECB-IMF, to ensure that they are consistent with high-quality provision of public services employment levels. The remuneration structure needs to be comprehensively reviewed in parallel with the preparation of the 2014 budget in order to replace the existing wage grid<sup>275</sup>;
- introduce a new 'mobility' scheme as a permanent mechanism for voluntary and mandatory transfers<sup>276</sup>.

## 4.4. The measures adopted

### 4.4.1. The measures adopted with respect to employment in the private sector

Major labour market reforms have taken place in Greece in the last few years, and since an extensive analysis of the relevant measures exceeds the scope of this study, Table 16

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<sup>268</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – First Review – December 2012', European Economy – Occasional Papers 123 – December 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp123\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp123_en.pdf), p. 180.

<sup>269</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.97.

<sup>270</sup> *ibid.*, p.97.

<sup>271</sup> *ibid.*, p.205.

<sup>272</sup> *ibid.*, p.205.

<sup>273</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.38.

<sup>274</sup> *ibid.*, p.39.

<sup>275</sup> *ibid.*, p.39 and p.206.

<sup>276</sup> *ibid.*, p.39.

below provides a summary of these reforms, with an analysis of the most significant following in the subsequent sections.

**Table 16: Main changes in the labour legislation in the private sector<sup>277</sup>**

<b>Main changes in labour law in the private sector</b>	
<b>Job protection</b>	<ul style="list-style-type: none"> <li>- Extending the probation period for new hires to 12 months (2010)</li> <li>- Reducing the period for dismissal notice (2010 and 2012)</li> <li>- Reducing the levels of severance pay (2012)</li> <li>- Relaxing the threshold for collective dismissal (2010)</li> <li>- Aligning labour conditions in former state-owned enterprises with those in the rest of the private sector (2012)</li> <li>- Expanding possibilities for the use of fixed term contracts (2011)</li> <li>- Raising the maximum work period under temporary working agencies to 3 years (2010)</li> </ul>
<b>Working time</b>	<ul style="list-style-type: none"> <li>- Reducing overtime premia (2010)</li> <li>- Increasing opportunities for working time arrangements by increasing the possible maximum duration of their application with a reference period of 12 consecutive months; and, eliminating the wage top-up for work in excess of the reduced hours of the period of reduced hours (2010 and 2011)</li> <li>- Allowing for workers' representatives – other than trade unions, to negotiate firm-level collective agreements, if they represent at least three-fifths of the undertaking workforce (2011)</li> <li>- Extending part-time shift work (or partial lay-off) to nine months</li> </ul>
<b>Wage-setting</b>	<ul style="list-style-type: none"> <li>- Suspension of the extension of occupational and sector collective agreements (2011)</li> <li>- Suspension of the favourability clause (2011)</li> <li>- Allowing workers' representatives – other than trade unions, to negotiate firm-level collective agreements, as far as they represent at least three-fifths of the undertaking workforce (2011)</li> <li>- Setting the maximum duration of collective agreements at 3 years (2012)</li> <li>- Revising the regime of 'after effects' of expired collective agreements to a maximum period of 3 months after expiration (2012)</li> <li>- Reducing, and subsequently freezing, minimum wages (2012)</li> <li>- Creating apprenticeships, contracts, and sub-minima wages for youths (2010, 2011 and 2012)</li> <li>- Reforming the minimum wage framework to make it statutory, and set by the Government after consultation with social partners (2013)</li> <li>- Allowing recourse to arbitration to set negotiation disputes only by mutual agreement (2010 and 2012)</li> </ul>

<sup>277</sup> *ibid.*, p.49.

- **Measures aimed at facilitating part-time employment**

During the crisis, legislative interventions aimed at further facilitating the conclusion of part-time employment contracts by;

- a) abolishing the 7.5% surcharge on the salary of part-time employees working less than 4 hours a day – which was established with Law 3846/2010<sup>278</sup>;
- b) recognising the management's right to require employees to work additional hours to those initially agreed – if the employees are in a position to work these additional hours and their refusal is against good faith<sup>279</sup>. It is worth noting that, previously, if part-time employees worked overtime, they were entitled to additional pay with a surcharge of 10%<sup>280</sup> while, before 2010, employers could not require part-time employees to work additional hours if the employees had other employment or family obligations<sup>281</sup>.

It should also be highlighted that the legislation adopted during the crisis, for the first time, explicitly provided that part-time employees should not be treated unfavourably when compared with full-time employees – unless there are objective reasons which justify such a differentiation, e.g. different working hours<sup>282</sup>.

- **Measures aimed at facilitating temporary agency work**

Regulation of temporary agency work has significantly changed in the course of the crisis<sup>283</sup> – the objective of these changes was to provide businesses with the necessary flexibility to adjust to the upswing in economic activity and changes in their hiring needs<sup>284</sup>, while also transposing into the national legal order the provisions of Directive 2008/104/EC<sup>285</sup>. In

<sup>278</sup> Article 38(9) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101, as amended with Law 3899/2010.

<sup>279</sup> Article 38(9) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101, as amended with Law 3899/2010.

<sup>280</sup> Article 38(9) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101, as amended with Law 3846/2010 (which, however, was repealed with Law 3899/2010).

<sup>281</sup> Article 38(9) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101, as amended with Law 2639/1998.

<sup>282</sup> Article 38(2)(b) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101, as amended with Law 3846/2010 and Law 3899/2010.

<sup>283</sup> Temporary agency work was originally regulated with Law 2956/2001 'Reform of OAED and other provisions' (*Αναδιάρθρωση Ο.Α.Ε.Δ. και άλλες διατάξεις*), Government Gazette A' 2956/2001, which was amended with Law 3846/2010 and Law 3899/2010. Law 2956/2001 was repealed with Law 4052/2012 the provisions of which on temporary agency work are in force as amended, amongst others, with Law 4144/2013 and Law 4254/2014.

<sup>284</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/greece/pdf/20140425\\_report\\_on\\_4th\\_review.pdf](http://ec.europa.eu/greece/pdf/20140425_report_on_4th_review.pdf), p.48.

<sup>285</sup> Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, OJ L 327, 5.12.2008, p. 9–14, transposed into the Greek legal order with Law 4052/2012 'Law within the competence of the Ministry of Health and Social Solidarity and the Ministry of Employment and Social Welfare for the implementation of the law "on the approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic, and the Bank Of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions on the decrease of the national debt and the rescue of the national economy" and other provisions' (*Νόμος αρμοδιότητας Υπουργείων Υγείας και Κοινωνικής Αλληλεγγύης και Εργασίας και Κοινωνικής Ασφάλισης για εφαρμογή του νόμου «Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της*

comparison to the legal framework regulating temporary agency before 2010, the most important changes are the following:

- a) Before 2010, the establishment and operation of temporary work agencies was conditional on the granting of a special permission by the Minister of Labour and Social Security, after the Control Committee of Temporary Work had issued an opinion in this respect<sup>286</sup>. Today, temporary work agencies are only required to notify the commencement of the relevant activities to the Employment Directorate of the Ministry of Labour, Social Security and Welfare<sup>287</sup>.
- b) Before the crisis, temporary work agencies could be established only as limited liability companies with a capital of at least 60,000,000 drachmae – equivalent to approximately EUR 180,000<sup>288</sup>. Law 4052/2012 amended this requirement by indicating that both natural and legal persons could establish temporary work agencies with a capital of at least EUR 176,083<sup>289</sup>; the minimum capital requirement was abolished in 2013<sup>290</sup>.
- c) The scope of activities of temporary work agencies was broadened in 2012, by allowing them to also engage in employment counselling and guidance<sup>291</sup>.

*Ευρωπαϊκής Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου χρέους και τη διάσωση της εθνικής οικονομίας» και άλλες διατάξεις), Government Gazette A' 41/2012.*

<sup>286</sup> Article 21(2) Law 2956/2001 'Reform of OAED and other provisions' (Αναδιάρθρωση Ο.Α.Ε.Δ. και άλλες διατάξεις), Government Gazette A' 2956/2001.

<sup>287</sup> Article 123(2) Law 4052/2012 'Law within the competence of the Ministry of Health and Social Solidarity and the Ministry of Employment and Social Welfare for the implementation of the law "on the approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic, and the Bank Of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions on the decrease of the national debt and the rescue of the national economy" and other provisions' (Νόμος αρμοδιότητας Υπουργείων Υγείας και Κοινωνικής Αλληλεγγύης και Εργασίας και Κοινωνικής Ασφάλισης για εφαρμογή του νόμου «Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Ευρωπαϊκής Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου χρέους και τη διάσωση της εθνικής οικονομίας» και άλλες διατάξεις), Government Gazette A' 41/2012.

<sup>288</sup> Article 21(1) Law 2956/2001 'Reform of OAED and other provisions' (Αναδιάρθρωση Ο.Α.Ε.Δ. και άλλες διατάξεις), Government Gazette A' 2956/2001.

<sup>289</sup> Article 123(1) of Law 4052/2012 'Law within the competence of the Ministry of Health and Social Solidarity and the Ministry of Employment and Social Welfare for the implementation of the law "on the approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic, and the Bank Of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions on the decrease of the national debt and the rescue of the national economy" and other provisions' (Νόμος αρμοδιότητας Υπουργείων Υγείας και Κοινωνικής Αλληλεγγύης και Εργασίας και Κοινωνικής Ασφάλισης για εφαρμογή του νόμου «Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου Ευρωπαϊκής χρέους και τη διάσωση της εθνικής οικονομίας» και άλλες διατάξεις), Government Gazette A' 41/2012.

<sup>290</sup> *ibid.* as amended with Law 4093/2012.

<sup>291</sup> Article 122(1) Law 4052/2012 'Law within the competence of the Ministry of Health and Social Solidarity and the Ministry of Employment and Social Welfare for the implementation of the law "on the approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic, and the Bank Of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions on the decrease of the national debt and the rescue of the national economy" and other provisions' (Νόμος αρμοδιότητας Υπουργείων Υγείας και Κοινωνικής Αλληλεγγύης και Εργασίας και Κοινωνικής Ασφάλισης για εφαρμογή του νόμου «Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου Ευρωπαϊκής χρέους και τη διάσωση της εθνικής οικονομίας» και άλλες διατάξεις), Government Gazette A' 41/2012, as amended with Law 4093/2012.

- d) Initially, the assignment of a temporary worker to an indirect employer was allowed only when justified by exceptional, temporary, or seasonal needs<sup>292</sup>. While this requirement was kept in the 2012 legislation regulating temporary agency work, it was abolished in 2014<sup>293</sup>.
- e) Some of the conditions under which a temporary worker can provide his/her services to an indirect employer have been relaxed. As of 2014, indirect employers cannot hire temporary workers if: (i) in the preceding three months they have fired employees of the same specialty for economic-technical reasons<sup>294</sup> – before 2014, the prohibition referred to the preceding six months<sup>295</sup>; (ii) in the preceding six months they have made collective dismissals<sup>296</sup> – before 2014, the prohibition referred to the preceding 12 months<sup>297</sup>; (iii) the employee falls within the special provisions for blue-collar builders, with the exception of blue-collar builders working on projects whose budget exceeds EUR 10,000,000 and which are (co-)funded by the State budget – before 2014, there was no exception<sup>298</sup>.

- **Measures aimed at facilitating rotating employment (*εκ περιτροπής εργασία*) in the private sector**

According to Law 1892/1990<sup>299</sup>, when employers' activities are reduced, they are allowed instead of dismissing the employees, to impose a system of 'rotating employment', i.e. where employees work fewer days a week or fewer weeks a month or fewer months per a year when compared to full employment. Whereas under the previous legal framework this measure could not exceed six months per year, from of 2010, it can be imposed for nine months per year<sup>300</sup>, thus increasing business flexibility to adapt to changing needs.

- **Measures aimed at facilitating the placement of employees in a labour reserve (*διαθεσιμότητα*)**

In the event of a shortage of business activity, employers (even before the crisis) were allowed to place their employees in a labour reserve (*διαθεσιμότητα*) for up to three months

<sup>292</sup> Article 20(4) Law 2956/2001 'Reform of OAED and other provisions' (*Αναδιάρθρωση Ο.Α.Ε.Δ. και άλλες διατάξεις*), Government Gazette A' 2956/2001, as amended with Law 3846/2010.

<sup>293</sup> Article Only Section IA.4 Law 4254/2014 'Measures for support and development of the Greek economy under the implementation of Law 4046/2012 and other provisions' (*Μέτρα στήριξης και ανάπτυξης της ελληνικής οικονομίας στο πλαίσιο εφαρμογής του ν. 4046/2012 και άλλες διατάξεις*), Government Gazette A' 85/2014.

<sup>294</sup> Article 116(b) Law 4052/2012 'Law within the competence of the Ministry of Health and Social Solidarity and the Ministry of Employment and Social Welfare for the implementation of the law "on the approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic, and the Bank Of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions on the decrease of the national debt and the rescue of the national economy" and other provisions' (*Νόμος αρμοδιότητας Υπουργείων Υγείας και Κοινωνικής Αλληλεγγύης και Εργασίας και Κοινωνικής Ασφάλισης για εφαρμογή του νόμου «Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου Ευρωπαϊκής χρέους και τη διάσωση της εθνικής οικονομίας» και άλλες διατάξεις*), Government Gazette A' 41/2012, as amended with Law 4254/2014.

<sup>295</sup> *ibid.*

<sup>296</sup> *ibid.* as amended with Law 4254/2014.

<sup>297</sup> *ibid.*

<sup>298</sup> *ibid.* as amended with Law 4254/2014.

<sup>299</sup> Law 1892/1990, 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990.

<sup>300</sup> Article 38(3) of Law 1892/1990, 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101, as amended with Law 3899/2010.



per year, during which time they were paid half of their salary<sup>301</sup>. This provision was amended in 2010 by requiring employees to consult with union representatives before placing their employees in the labour reserve scheme and, by indicating that the same employees could be placed again in the labour reserve only after three months from the previous time they were placed there<sup>302</sup>. Furthermore, while public utility companies with more than 5,000 employees used to be able to place their employees in the labour reserve scheme only after the approval of the Minister of Labour and Social Security and Welfare, this requirement was abolished in 2014<sup>303</sup>, thus providing the companies with additional flexibility.

- **Rules on the organisation of working time (διευθέτηση χρόνου εργασίας)**

The possibility of enterprises to manage and re-allocate the total working time of their employees – in an easy, fast and flexible manner, is related to the possibility of calculating working time in periods which are larger than daily or weekly employment. This means that employers can apply a work schedule with increased working hours per day (usually over 8 hours), for a period of time, in return for reduced working hours per day at a later stage – thereby maintaining an average working time and salary and, not having to pay overtime or any other surcharges due to the additional work<sup>304</sup>.

Even though the Greek State, as early as 1990, has tried to regulate the way employers organise their employees' working time (διευθέτηση χρόνου εργασίας), further significant changes have been made with the legislation adopted within the context of the Economic Adjustment Programmes to provide employers with additional flexibility. Amongst other:

- (a) Law 1892/1990, as amended with Law 3385/2005, provided that employers could require employees to work additional hours for a period of time – if there was increased business activity due to the nature or subject of the employer's activities, or due to unusual or unforeseeable circumstances<sup>305</sup>. Nonetheless, this requirement was abolished in the latest amendment of Article 41 of Law 1892/1990 with Law 3986/2011<sup>306</sup>.
- (b) The total period of increased and reduced employment has been increased from four months per year<sup>307</sup> to six months per 12-month reference period<sup>308</sup>.

<sup>301</sup> Article 10 of Law 3198/1955, 'Regarding the modification and supplementation of the provisions regarding employment relationship termination' (Περί τροποποίησης και συμπλήρωσης των περί καταγγελίας της σχέσεως εργασίας διατάξεων), Government Gazette 98/1955.

<sup>302</sup> *ibid.* as amended with Article 4 of Law 3846/2010.

<sup>303</sup> Article One section IA.6(4) of Law 4254/2014 'Measures for support and development of the Greek economy under the implementation of Law 4046/2012 and other provisions' (Μέτρα στήριξης και ανάπτυξης της ελληνικής οικονομίας στο πλαίσιο εφαρμογής του ν. 4046/2012 και άλλες διατάξεις), Government Gazette A' 85/2014.

<sup>304</sup> Kyriakoulis, P., 'Industrial relations after the Memorandum- Overview of the reform of the labour legislation 2010-2012' (Οι εργασιακές σχέσεις μετά το Μνημόνιο- Πανόραμα της μεταρρύθμισης της εργασιακής νομοθεσίας 2010-2012), National Institute for Labour and Human Resources, March 2012, available at [http://www.eiead.gr/publications/docs/EIEAD\\_arthra\\_kai\\_meletes\\_2-2012.pdf](http://www.eiead.gr/publications/docs/EIEAD_arthra_kai_meletes_2-2012.pdf), p.39.

<sup>305</sup> It should be noted that this requirement was preserved in Article 7 of Law 3846/2010 'Guarantees for job security and other provisions' (Εγγυήσεις για την εργασιακή ασφάλεια και άλλες διατάξεις), Government Gazette A' 66/2010, which replaced Article 41 of Law 1892/1990 'on modernisation and development and other provisions' (Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις), Government Gazette A' 101/1990.

<sup>306</sup> Article 42 of Law 3986/2011, 'Urgent implementing measures of the medium-term fiscal strategy 2012-2015' (Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012-2015), Government Gazette A'152/2011.

<sup>307</sup> Article 41(1) of Law 1892/1990 'On modernisation and development and other provisions' (Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις), Government Gazette A' 101/1990, as amended with Law 3846/2010.

<sup>308</sup> Article 41(1) of Law 1892/1990 'On modernisation and development and other provisions' (Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις), Government Gazette A' 101/1990, as amended with Law 3986/2011.



- (c) The surcharge for additional hours worked in periods of reduced employment has been reduced. More specifically, the surcharges for overtime used to be: the legal hourly rate plus 30% for the first 5 hours (for five-day/week employment) or the first 8 hours (for six-day week employment) of additional work (*υπερεργασία*); the legal hourly rate plus 75% for legal overtime (*υπερωρία*); the legal hourly rate plus 100% for exceptional overtime<sup>309</sup>. Now, this work is compensated by: the legal hourly rate plus 20% for additional work; the legal hourly rate plus 40% for the first 120 hours of overtime; the legal hourly rate plus 60% for any additional hours of overtime<sup>310</sup>.
- (d) The possibility for sectoral trade unions, or respective federations, to participate in negotiations concerning working time arrangements in those instances where businesses do not have an enterprise association, a workers' council or association of persons (*επιχειρησιακό σωματείο ή συμβούλιο εργαζομένων ή ένωση προσώπων*), or employ less than 20 employees<sup>311</sup>, has been abolished<sup>312</sup>. Similarly, the possibility to refer the matter to mediation and arbitration under the auspices of the Organisation for Arbitration and Mediation has been abolished as well<sup>313</sup>. Now, negotiations for the organisation of working time take place at enterprise level – with enterprise associations, workers' councils or association of persons. In these instances, an association of persons can be established with 25% of workers in enterprises, with more than 20 employees, or with 15% of employees in enterprises with fewer than 20 employees<sup>314</sup>, to negotiate working time organisation.

Apart from the rules above relating to the organisation of employee total working time, several other changes have been introduced with respect to employee working arrangements, including the following:

- a) Disconnection between employee working hours and the working hours of retail stores, i.e. employees may work outside of the retail stores' working hours but only in activities which support the operation of the store, e.g. cleaning and stocking – which before, only took place during the stores' working hours<sup>315</sup>.
- b) For the first time, the law explicitly allows the intermittent employment of employees in stores, regardless of whether the stores operate with an intermittent or continuous schedule. In this case, the resting time of employees cannot be less than three hours<sup>316</sup>.

<sup>309</sup> Article 41(5)(b) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990, as amended with Law 3385/2005 (and maintained with Law 3846/2010).

<sup>310</sup> Article 41(5)(b) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990, as amended with Law 3986/2011.

<sup>311</sup> Article 41(6) and (7) of Law 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990, as amended with Law 3846/2010.

<sup>312</sup> Article 41(6) 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990, as amended with Law 3986/2011.

<sup>313</sup> Article 41(6) 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990, as amended with Law 3846/2010.

<sup>314</sup> Article 41(6) 1892/1990 'On modernisation and development and other provisions' (*Για τον εκσυγχρονισμό και την ανάπτυξη και άλλες διατάξεις*), Government Gazette A' 101/1990, as amended with Law 3986/2011.

<sup>315</sup> Article One section IA.10 of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (*Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016*), Government Gazette A' 222/2012.

<sup>316</sup> Article One section IA.10 of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016'

- c) Abolition of the mandatory 5-day week for employees in stores. Collective labour agreements may freely determine issues related to the number of working days per week, provided that the working week is 40 hours<sup>317</sup>. This implies that, unless otherwise agreed in a collective labour agreement, the employer can organise employment in a five-day/week or six-day/week basis, observing the 40 hours per week.
- d) Reduction of the minimum period of rest from 12 to 11 hours every 24 hours<sup>318</sup>.
- e) Abolition of the requirement to have the segmentation of annual leave approved by the Labour Inspectorate<sup>319</sup>.

- **Measures aimed at facilitating the dismissal of employees**

Even though employers could dismiss employees even without cause – in contracts of indefinite duration, Greek labour law was accused of inflexibility due to: high levels of severance pay compared to other EU countries and rigidity of the legal regime for collective redundancies<sup>320</sup>.

Amendments to labour legislation adopted during the crisis have brought significant changes, namely<sup>321</sup>:

- a) the drastic reduction of the notice period, up to 80%, e.g. for an employee with 28 years of work experience with the same employer, the notice period was reduced from 24 months to 4 months<sup>322</sup>. This affects the severance pay paid to dismissed employees – the amount of severance pay is calculated on the basis of the monthly salary and the seniority of the employee. However, if the employer complies with the notice period, then the amount of compensation is reduced by 50%. Previously, due to its long duration employers did not respect the notice period, thus, the reduction of its length made compliance significantly easier for them;
- b) the abolition of employers' obligations to pay the whole severance pay or, in case the severance pay exceeded six months of salary, the obligation to pay this amount upfront and then pay the balance in quarterly instalments of three months of salary each. Currently, when severance pay exceeds two months of salary, the employer is

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(Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette Α' 222/2012.

<sup>317</sup> Article One section IA.14(1) of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette Α' 222/2012.

<sup>318</sup> Article One section IA.14(2) of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette Α' 222/2012.

<sup>319</sup> Article One section IA.14(3) of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette Α' 222/2012.

<sup>320</sup> Papadimitriou, C., 'The Greek labour law face to the crisis: A dangerous passage towards a new juridical nature', European Labour Law Network Working Paper 3/2031, p. 10.

<sup>321</sup> Kyriakoulis, P., 'Industrial relations after the Memorandum- Overview of the reform of the labour legislation 2010-2012' (Οι εργασιακές σχέσεις μετά το Μνημόνιο- Πανόραμα της μεταρρύθμισης της εργασιακής νομοθεσίας 2010-2012), National Institute for Labour and Human Resources, March 2012, available at: [http://www.eiead.gr/publications/docs/EIEAD\\_arthra\\_kai\\_meletes\\_2-2012.pdf](http://www.eiead.gr/publications/docs/EIEAD_arthra_kai_meletes_2-2012.pdf), p.42.

<sup>322</sup> Article 74(2)(B)(1) Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις, Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette Α' 115/2010, as amended with Law 4093/2012.

obliged to pay this amount upfront and the balance is paid in instalments equal to two months of salary every two months<sup>323</sup>.

- c) the abolition of employers obligations to pay severance pay to dismissed employees who have been working with them only for a year – according to new legislation, with an employment of indefinite duration, the first year is considered as a probation period and the employee can be laid off without a notice period and without severance pay<sup>324</sup>;
- d) the abolition of the 'self-insurance' regime, with the participation of the employer in the self-insurance of his/her employees (for employees aged between 55 and 60, former employers paid for three years, 50 % to the self-insurance of their laid-off employees, with the balance paid by the Manpower Employment Organisation (OAEΔ). Similarly for employees aged between 60 and 64, former employers paid for three years, 80 % to the self-insurance of their laid-off employees, with the balance paid by the Manpower Employment Organisation (OAEΔ))<sup>325</sup>. This measure was introduced in 2010 and aimed at discouraging the dismissal of employees close to retirement age, along with other measures with similar objectives, e.g. for dismissals, only 10% of laid-off employees could be of the age group 55–64 years of age<sup>326</sup>);
- e) the increase in the limits for collective dismissals. Dismissals may occur, on a monthly basis, for up to 6 employees by employers with 20 to 150 employees<sup>327</sup> (before this, it was 4 employees for employers with 20 to 200 employees). Similarly, 5% of the workforce, or up to 30 employees, may be dismissed per month by employers with more than 150 employees<sup>328</sup> (before this, it was 2%-3% of the workforce and up to 30 employees for companies with more than 200 employees).

- **The right to collective bargaining and the determination of the minimum wage in the private sector**

The freedom of association in order to form trade unions and the right to collective bargaining have been subject to significant changes in the course of the crisis, the most significant of which concern the operation of arbitration (and mediation), as means of resolving collective labour disputes, and the introduction of a new system for the determination of the minimum salary.

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<sup>324</sup> Article 74(2)(A) Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις, Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>324</sup> Article 74(2)(A) Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις, Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>325</sup> Article One section IA.6(3) Law 4254/2014 'Measures for support and development of the Greek economy under the implementation of Law 4046/2012 and other provisions' (Μέτρα στήριξης και ανάπτυξης της ελληνικής οικονομίας στο πλαίσιο εφαρμογής του ν. 4046/2012 και άλλες διατάξεις), Government Gazette A' 85/2014.

<sup>326</sup> Article 74(7) Law 3863/2010, 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>327</sup> Article 74(1) Law 3863/2010, 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>328</sup> Article 74(1) Law 3863/2010, 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

The arbitration and mediation mechanisms have undergone successive changes in the course of the last 5 years; initially, Law 3871/2010 provided that arbitration decisions would not be valid if they provided for wage increases in 2010 and the first semester of 2011<sup>329</sup>; in addition, any arbitration decisions adopted after Law 3845/2010 came into force could be appealed before a three-member arbitration board if they provided for wage increases<sup>330</sup>.

Law 3899/2010 completely reformed the mediation and arbitration process, as also required by the First Economic Adjustment Programme<sup>331</sup>. The main changes to the procedure were the following:

- a) Employers were awarded the right to unilaterally make recourse to arbitration after the mediator had made a proposal, (whereas, previously, this right was reserved for workers' trade unions, if they had accepted the mediator's proposal which was rejected by employers)<sup>332</sup>.
- b) Arbitrators could decide only on the basic wage whereas under the previous regime they could rule in general on payment and working conditions<sup>333</sup>.
- c) Arbitrators (and mediators) need to consider the general economic situation, the development of competitiveness and the production activity the collective dispute refers to when deciding upon the collective labour dispute<sup>334</sup>.
- d) The workers' right of strike was suspended for 10 days also where the employer unilaterally appealed to arbitration (previously, this was the case only when workers unilaterally opted for arbitration)<sup>335</sup>.

Under the Second Economic Adjustment Programme, which was incorporated into the national legal order with Law 4046/2012, Greece was required to eliminate **unilateral recourse to arbitration**<sup>336</sup>; in this regard, under Act of Cabinet 6 of 28 February 2012, issued on authorisation of Law 4046/2012, provided that only if both parties agreed (i.e., both the workers' trade unions and the employers' federations) could they resort to arbitration<sup>337</sup>.

Nonetheless, the **Greek Council of State in its decision 2307/2014** held that the elimination of unilateral recourse to arbitration for the resolution of collective labour disputes as well as the restriction imposed upon arbitrators to rule only on the basic wage was in violation of Article 22(2) of the Constitution, according to which '*General working conditions shall be determined by law, supplemented by collective labour agreements concluded through free negotiations and, in case of the failure of such, by rules determined by arbitration*'<sup>338</sup>; thus, the Court held that the relevant provisions must be repealed. The government issued Law 4303/2014 in order to comply with the Council of State's decision,

<sup>329</sup> Article 51(1) Law 3871/2010.

<sup>330</sup> Article 51(2) Law 3871/2010.

<sup>331</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), p. 48.

<sup>332</sup> Article 15(1) of Law 1876/1990, as amended with Law 3899/2010.

<sup>333</sup> Article 15(3) of Law 1876/1990, as amended with Law 3899/2010.

<sup>334</sup> Article 15(5) Law 1876/1990, as amended with Law 3899/2010.

<sup>335</sup> Article 15(8) Law 1876/1990, as amended with Law 3899/2010.

<sup>336</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), 110.

<sup>337</sup> Article 3 of Act of Cabinet 6 of 28 February 2012 'Regulation of issues for the implementation of paragraph 6 of Article 1 of Law 4046/2012' (Ρύθμιση θεμάτων για την εφαρμογή της παρ. 6 του άρθρου 1 του ν. 4046/2012), Government Gazette Α' 38/2012.

<sup>338</sup> Council of State (in plenary) judgment no. 2307/2014, available at <http://www.dsanet.gr/Epikairothta/Nomologia/ste%202307.htm>, paras 32 – 33.

thus allowing once again unilateral recourse to arbitration and removing the restrictions over the issues arbitrators can rule on<sup>339</sup>.

In addition to the above, Act of Cabinet 6 of 28 February 2012 brought changes in the duration of the collective agreements<sup>340</sup> and prohibited automatic periodic wage increases until unemployment falls below 10%<sup>341</sup>. It is worth noting that in its judgment 2307/2014 the Council of State did not consider that these provisions were in violation of the Constitution and the European Convention on Human Rights as the provisions of the act, considered as a whole, do not affect the core of the rights to work and to strike, collective autonomy and trade union rights nor do they restrict these rights to an extent which breaches the principle of proportionality<sup>342</sup>. In addition, the Court considered that these provisions do not violate ILO Convention 87 (Freedom of Association and Protection of the Right to Organise) and ILO Convention 98 (Right to Organise and Collective Bargaining), as these conventions only provide guidance to the State parties which have ratified them and, in any case, the relevant guidance has already been realised in Articles 22(2) and 23(1) of the Constitution<sup>343</sup>.

Furthermore, Law 4093/2012 introduced a new system for the determination of the minimum salary, as required under the Second Economic Adjustment Programme<sup>344</sup>. More specifically, it abolished the annual practice of setting minimum wages through collective bargaining via the General National Collective Labour Agreement<sup>345</sup>; thus, for the first time the minimum wage is set by the government<sup>346</sup>. Under Law 4093/2012 the minimum wage for employees of 25 years of age and above was set at EUR 586,08 whereas for employees of 25 years of age and above at EUR 510,95 EUR<sup>347</sup>, a reduction of 22% and 32% respectively as to the previously applicable minimum wages<sup>348</sup>.

<sup>339</sup> Article 15 of Law 1876/1990, as amended with Article 4(3) of Law 4303/2014, Government Gazette A 231/2014.

<sup>340</sup> Article 2 of Act of Cabinet 6 of 28 February 2012 'Regulation of issues for the implementation of paragraph 6 of Article 1 of Law 4046/2012' (*Ρύθμιση θεμάτων για την εφαρμογή της παρ. 6 του άρθρου 1 του ν. 4046/2012*), Government Gazette A' 38/2012.

<sup>341</sup> Article 4 of Act of Cabinet 6 of 28 February 2012 'Regulation of issues for the implementation of paragraph 6 of Article 1 of Law 4046/2012' (*Ρύθμιση θεμάτων για την εφαρμογή της παρ. 6 του άρθρου 1 του ν. 4046/2012*), Government Gazette A' 38/2012.

<sup>342</sup> Council of State (Plenary) judgment 2307/2014, available at <http://www.dsanet.gr/Epikairothta/Nomologia/ste%202307.htm>, paras 32 – 33.

<sup>343</sup> Council of State (Plenary) judgment 2307/2014, available at <http://www.dsanet.gr/Epikairothta/Nomologia/ste%202307.htm>, para. 40.

<sup>344</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), 110.

<sup>345</sup> Mitsopoulou E., Kyriazi I., 'Greece' in *The Employment Law Review* (ed. Collins., E.), Fifth edition, Law Business Research Ltd, available at <http://www.kglawfirm.gr/docs/536cc0cabcd9a.pdf>, p. 266.

<sup>346</sup> Article One Paragraph 11A(1) of Law 4093/2012.

<sup>347</sup> Article One Paragraph 11A(3) of Law 4093/2012.

<sup>348</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), 110; Section V(5)(4.1) of Law 4046/2012; Article 1 of Act of Cabinet 6 of 28 February 2012 'Regulation of issues for the implementation of paragraph 6 of Article 1 of Law 4046/2012' (*Ρύθμιση θεμάτων για την εφαρμογή της παρ. 6 του άρθρου 1 του ν. 4046/2012*), Government Gazette A' 38/2012.

#### 4.4.2. The measures adopted with respect to employment in the public sector

In the course of the last decades, the Greek public sector grew fast – both in terms of public sector expenditure in GDP, e.g. in the range of 45% in 2000–2005, and in the range of 50% in 2006–2010, despite a permanent 10% gap in public sector revenue, and in terms of employment<sup>349</sup>. The Greek economic crisis was not only due to the global financial crisis but also as a result of unsustainable public sector deficits rendering the reduction of the Greek public sector a priority for the Economic Adjustment Programmes. This reduction is oriented in two directions: (a) reducing the cost of employment in the public sector, and (b) reducing the number of those employed in the public sector.

- **Measures aimed at reducing the cost of employment in the public sector**

Several measures have been introduced, within the context of the Economic Adjustment Programmes, with the goal of reducing the remuneration of public sector employees, i.e. basic salaries and allowances. The most important of these measures are summarised in Table 17 below:

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<sup>349</sup> Ioannou, C., 'Greek public service employment relations in the era of sovereign default: a Gordian knot', July 2012, available at <http://ilera2012.wharton.upenn.edu/NonRefereedPapers/CHRISTOS%20A.%20IOANNOU%20-%20extended%20summary.pdf>, p.2.



**Table 17: Main measures aimed at reducing the cost of employment in the public sector**

Legal Instrument	Main Measures
Law 3833/2010 'Protection of the national economy – Emergency measures to tackle the fiscal crisis'	<ul style="list-style-type: none"> <li>- Freezing of all salaries in the public sector for 2010 (Article 3)</li> <li>- Prohibition and abolition of collective labour agreements and individual contracts in the public sector if they overturn the fiscal policy (Article 3(1))</li> <li>- Provisions on the reduction of income in the public sector supersede the collective agreements in force (Article 1(5))</li> <li>- Reduction of 30% for employee statutory payments for annual leave, Christmas and Easter holidays in the entire public sector (Article 1(2))</li> <li>- Reduction by 12% of all allowances in the public sector (Article 1(2))</li> <li>- Reduction by 30% of the ceiling for overtime in the public sector (Article 6).</li> </ul>
Law 3845/2010 'Measures for application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund'	<ul style="list-style-type: none"> <li>- No salary increases in the entire public sector for 2011 (Article 3)</li> <li>- Further reduction of salaries in the broader public sector by 3% (Article 3(4))</li> <li>- Additional reduction of 8% of allowances and payments (Article 3(1))</li> <li>- Pay for annual leave, Christmas and Easter was abolished and replaced by a EUR 1,000 flat fee for employees whose monthly salary is below 3,000 (Article 3(6))</li> </ul>
Law 3899/2010 'Urgent measures for the implementation of the support programme to the Greek economy'	<ul style="list-style-type: none"> <li>- Zero salary increases in the entire public sector (Article 3(1))</li> <li>- Reduction by 10% of salaries in public utility companies (ΔΕΚΟ) for those having a salary of EUR 1800 and above (Article 2(18))</li> </ul>
Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015'	<ul style="list-style-type: none"> <li>- Introduction of a new system for the determination of salaries for all employees in the public sector in a uniform way (new single payroll)</li> <li>- Salary is dependent on the grade; abolishment of unimpeded salary and grade promotion</li> <li>- abolishment, amongst others, of the family allowance for married employees without children (EUR 35)</li> </ul>
Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013-2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013-2016'	<ul style="list-style-type: none"> <li>- Abolishment of holiday (Easter and Christmas) and leave allowances (Article Only Paragraph C (1))<sup>350</sup></li> <li>- Reductions in all 'special payroll' (ειδικά μισθολόγια) categories (Article Only Paragraph C (13) – (39))</li> </ul>

<sup>350</sup> Article 1(C) of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013-2016), Government Gazette Α' 222/2012.



Several challenges against measures aimed at reducing public expenditure on the remuneration of employees have been brought before Greek Courts. The Greek Council of State in its **first judgment assessing the compliance of the First Economic Adjustment Programme with the Constitution (judgment no. 668/2012<sup>351</sup>)**, held that the cuts in salaries and benefits of employees in the public sector (as well as the cuts in pensions) under Laws 3833/2010 and 3845/2010 constituted part of a broader program for fiscal consolidation and structural reforms which aimed – both at addressing the urgent need (according to the legislator) to cover the country’s financial needs and, at improving the future financial situation of the country. Therefore, according to the Council of State, they substantially served the public interest and the common interest of the Euro area Member States. These measures contributed, as is their very nature, to the reduction of public spending. According to the Council of State, considering the situation at hand, the contested measures were neither manifestly inappropriate nor disproportionate in achieving their objectives (taking also into account that the legislature’s assessment – as to the measures to be adopted to address the critical financial situation, are subject only to marginal judicial review). Thus, **the Court held that the contested provisions did not violate**, amongst others: Article 1 of the First Additional Protocol; Article 25(1) of the Constitution (principle of proportionality); Article 17 of the Constitution (right to property); the principle of protection of legitimate expectations – as neither the Constitution nor any other legal instrument guarantees a certain level of salaries or pensions and, thus, it is not excluded that these may be changed, depending on the circumstances; Article 4(5) of the Constitution (participation in public charges in proportion to each citizens’ means)<sup>352</sup>.

Similarly, Greek courts have held as constitutional, the reductions in the remuneration of: university professors (it should be noted however that, even though one of the Chambers of the Council of State held that the reductions in remuneration were constitutional<sup>353</sup>, the matter was referred to the Plenary in view of the importance of the issues); employees in the Ministry of Finance, under Law 4024/2011 (where the employees indicated that Law 4024/2011 led to a reduction in their remuneration of 25% while they have suffered an overall reduction of remuneration of 60% since the beginning of the crisis)<sup>354</sup>; employees of the Hellenic Capital Market Commission and the Regulatory Authority for Energy<sup>355</sup>.

On the other hand, Greek courts have deemed **unconstitutional** the reduction in the remuneration of: those serving in the armed forces, the police and the port authority, under Law 4093/2012 and the relevant ministerial decisions – since their income should be proportionate to the importance of their mission for the State<sup>356</sup>; judges under Law

<sup>351</sup> Council of State (Plenary) judgment 668/2012, available at:

<http://www.dsanet.gr/Epikairothta/Nomologia/668.htm>.

<sup>352</sup> Council of State (Plenary) judgment 668/2012, available at:

<http://www.dsanet.gr/Epikairothta/Nomologia/668.htm, paras 34-35>.

<sup>353</sup> Council of State judgment 2704/2014.

<sup>354</sup> ‘The Council of State holds that reductions in the remuneration of employees in the Ministry of Finance are legal’ (Νόμιμες έκρινε το ΣτΕ τις περικοπές των υπαλλήλων του ΥΠΟΙΚ), To Vima Newspaper, 29.09.2014, available at: <http://www.tovima.gr/society/article/?aid=636361>.

<sup>355</sup> ‘Council of State: Constitutional the cuts in salaries of employee series’ (ΣτΕ: Συνταγματικές οι περικοπές αποδοχών σειράς εργαζομένων), To Vima Newspaper, 21.01.2014, available at: <http://www.tovima.gr/society/article/?aid=559350>.

<sup>356</sup> Council of State (Plenary) judgment 2193/2014, available at:

<http://www.dsanet.gr/Epikairothta/Nomologia/steo2193.htm>; Council of State (Plenary) judgment 2194/2014,

available at: <http://www.taxheaven.gr/laws/circular/view/id/19058>; Council of State (Plenary) judgment

2195/2014, available at: <http://www.taxheaven.gr/laws/circular/view/id/19057>; Council of State (Plenary)

judgment 2196/2014, available at: <http://www.taxheaven.gr/laws/circular/view/id/19056>.

4093/2012 – since reductions between 19–24%<sup>357</sup> violated Articles 87(1) and 88(2) of the Constitution which require that the remuneration of judges is commensurate to their office and guarantees their independence<sup>358</sup>.

- **Measures aimed at reducing the number of employees in the public sector – labour reserve and mobility schemes**

In order to reduce employment in the public sector, the Greek Government introduced the 'labour reserve' scheme – according to which 'surplus staff' in public enterprises and State entities would be placed in a labour reserve for a year (and exceptionally for two years), and would be paid 60% of their salary. After being subject to an evaluation process, they could be placed in another position in the public sector, or be fired<sup>359</sup>. Initially, this measure was envisaged to apply only to the surplus staff of legal persons of private law (Law 3986/2011), while Law 4024/2011 was expanded to the broader public sector and the core public sector. At the time, the Government intended to place 14,000 employees in the labour reserve scheme<sup>360</sup>.

Challenges against the compliance of the labour reserve scheme with the Greek Constitution have been brought before the Greek courts. The Council of State held that this measure (as envisaged under Law 4024/2011) was unconstitutional since it violated the principles of equality and meritocracy (Article 103 of the Constitution), and since, amongst others, the decision to place employees in the scheme was not based on an evaluation of the needs of the State and on the competences of each employee but on random criteria, e.g. age and years of service<sup>361</sup>. It was reported that the measures of Law 4024/2011<sup>362</sup> had been enforced on at least 1,750 employees<sup>363</sup>, while trade unions claimed that they had been applied on at least 3,000 employees in the public sector<sup>364</sup>. Employees who had been placed in the labour reserve on the basis of Law 4024/2011 could request to be reinstated<sup>365</sup>.

<sup>357</sup> 'Unconstitutional the reduction in the salaries of judges' (Αντισυνταγματικές οι μειώσεις στις αποδοχές δικαστικών λειτουργών), *To Vima* Newspaper, 07.11.2012, available at: <http://www.tovima.gr/society/article/?aid=482756>.

<sup>358</sup> Special Court of Article 88(2) of the Constitution (Remuneration Court) Judgment 88/2013, available at [http://netlaw.gr/media/File/Case\\_Law/Misthodiikeio\\_88\\_2013.pdf](http://netlaw.gr/media/File/Case_Law/Misthodiikeio_88_2013.pdf).

<sup>359</sup> Article 37(7) of Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012 – 2015' (Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012 – 2015), Government Gazette Α' 152/2011., as amended with Law 4024/2011.

<sup>360</sup> 'What does the placement of employees in labour reserve scheme mean?' (Τι σημαίνει η ένταξη υπαλλήλων σε εργασιακή εφεδρεία), *Kathimerini* Newspaper, 08.09.2011, available at: <http://www.kathimerini.gr/436750/article/oikonomia/ellhnikh-oikonomia/ti-shmainei-h-enta3h-ypallhlwn-se-ergasiakh-efedreia>.

<sup>361</sup> Council of State (Plenary) judgment no. 3354/2013, available at: <http://www.dsanet.gr/Epikairothta/Nomologia/steol%203354.2013.htm>.

<sup>362</sup> Law 4024/2011 'Pension regulations, uniform pay scale, rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012–2015' (Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015), Government Gazette Α' 226/2011.

<sup>363</sup> 'Unconstitutional- The first 'labour reserve' collapsed' (Αντισυνταγματική- Κατέρρευσε η πρώτη «εργασιακή εφεδρεία» του 2011), *Imerisia* Newspaper, available at: <http://www.imerisia.gr/article.asp?catid=26510&subid=2&pubid=112997207>.

<sup>364</sup> 'Council of State: Unconstitutional the first labour reserve in the public sector' (ΣΤΕ: Αντισυνταγματική η πρώτη εφεδρεία στο δημόσιο), *To Vima* Newspaper, 20.02./2014, available at: <http://www.tovima.gr/society/article/?aid=499224>.

<sup>365</sup> 'The civil servants who had been placed in labour reserve are reinstated [to their positions]' (Επιστρέφουν οι δημόσιοι υπάλληλοι που είχαν τεθεί σε εφεδρεία), *To Vima* Newspaper, 11.03.2014, available at: <http://www.tovima.gr/society/article/?aid=575719>.

Nonetheless, before the Council of State issued its judgment on the constitutionality of the labour reserve scheme under Law 4024/2011<sup>366</sup>, the Greek State introduced a revised labour reserve scheme under Law 4093/2012<sup>367</sup>. Under the new scheme, civil servants and employees with contracts of indefinite duration in the public sector, whose positions are eliminated are placed on the labour reserve scheme. During their placement in this scheme, they can be: transferred to other positions (mandatorily or obligatorily<sup>368</sup>); cover temporary needs of the core or broader public sector; follow training<sup>369</sup>. These employees could remain in the labour reserve for eight months – before 2014 they remained in the labour reserve for one year, however, this was revised in order to meet exit targets<sup>370</sup>, during which time they receive  $\frac{3}{4}$  of their salary. They are also considered as having ‘mobility’ status, in the sense that, if possible, they will be transferred to another position within the public sector. If that is not possible, they are considered as laid off<sup>371</sup>. Furthermore, Law 4093/2012 introduced the possibility for the Greek Government to mandatorily transfer civil servants and employees with private law contracts of indefinite duration to other positions in the public sector (mobility scheme)<sup>372</sup>. The labour reserve and mobility schemes of Law 4093/2012 have been challenged before the Council of State<sup>373</sup> – nonetheless, a decision on their constitutionality has not been issued yet.

In total, according to the Greek Government, 20,458 employees are included in the labour reserve scheme (7,659 employees from EOPYY) whereas, 1,600 employees will be placed in the mobility scheme. In addition, 3,395 teachers will be transferred mandatorily from the Ministry of Education, 3,572 employees from the Ministry of Finance will be mandatorily transferred, and 3,000 employees from the Ministry of Interior (decentralised

<sup>366</sup> Law 4024/2011 ‘Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012–2015’ (Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015), Government Gazette A’ 226/2011.

<sup>367</sup> Law 4093/2012 ‘Ratification of Mid-term Fiscal Strategy 2013–2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013–2016’ (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A’ 222/2012.

<sup>368</sup> It should be noted however that as of 2014, employees who do not accept their mandatory transfer to another position cannot apply for a voluntary transfer (Article Only Section Z(1) of Law 4093/2012 ‘Ratification of Mid-term Fiscal Strategy 2013–2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013–2016’ (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A’ 222/2012’, as amended with Law 4254/2014).

<sup>369</sup> Article Only Section Z(1) and (3) of Law 4093/2012 ‘Ratification of Mid-term Fiscal Strategy 2013–2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013–2016’ (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A’ 222/2012.

<sup>370</sup> European Commission, ‘The Second Economic Adjustment Programme for Greece – Third Review – July 2013’, European Economy – Occasional Papers 159 – July 2013, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2013/pdf/ocp159\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp159_en.pdf), p.153.

<sup>371</sup> Article Only Section Z(2) and (4) of Law 4093/2012 ‘Ratification of Mid-term Fiscal Strategy 2013–2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013–2016’ (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A’ 222/2012, as amended with Law 4250/2014.

<sup>372</sup> Article Only Section Z.1 of Law 4093/2012 ‘Ratification of Mid-term Fiscal Strategy 2013–2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013–2016’ (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A’ 222/2012, as amended.

<sup>373</sup> ‘Challenges against mobility’ (Προσφυγή κατά της κινητικότητας), skai.gr newssite, 05.03.2013, available at: <http://www.skai.gr/news/greece/article/225350/prosfugi-kata-tis-kinitikotitas/>.

administration) will be placed in the mobility scheme under the competence of the Ministry of Interior<sup>374</sup>.

- **Measures aimed at reducing the number of employees in the public sector – abolition of placements, reduction in hiring and exits**

In order to reduce the number of employees (civil servants and employees with contracts) in the public sector, the Greek Government has adopted an array of measures, the most significant of which are included in Table 18 below:

**Table 18: Measures aimed at reducing the number of employees in the public sector**

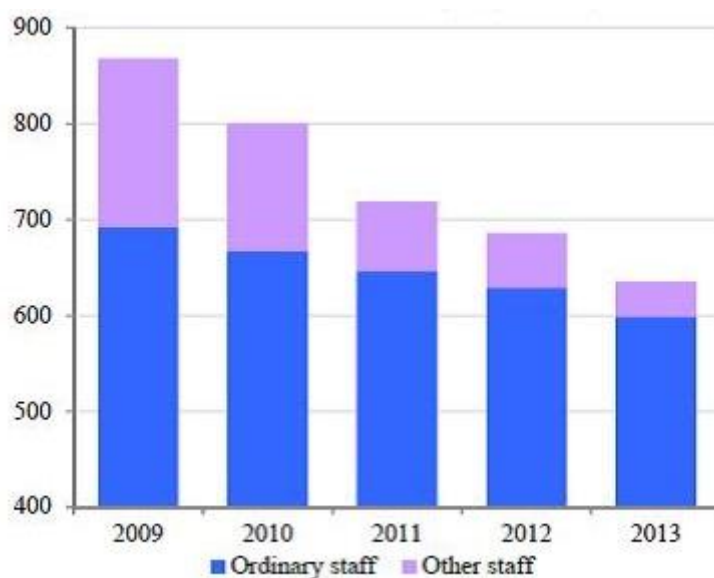
Legal Instrument	Main Measures
Law 3833/2010 'Protection of the national economy – Emergency measures to tackle the fiscal crisis'	<ul style="list-style-type: none"> <li>- Suspension of recruitment and of appointments in the public sector for 2010, with the exception of recruitment in the fields of education, health and safety (Article 10)</li> <li>- Establishment of the ratio 1:5 for recruitment and exits in the public sector, with exceptions in the fields of education, health and safety, where the ratio is 1:1 (Article 11(1) and (2))</li> <li>- Reduction by 30% of the recruitment of staff with indefinite and definite duration contracts and works contracts in the public sector for 2010 (Article 11(7))</li> </ul>
Law 3899/2010	<ul style="list-style-type: none"> <li>- Abolishment of all exceptions in the principle of 1:5 for the relationship between recruitment/exits in the public sector (Article 3(4)(b)(2c))</li> <li>- Reduction by 15% in the recruitment of employees with contracts of definite duration and works contracts as compared to 2010 (Article 3(4) last indent)</li> </ul>
Law 3986/2011	<ul style="list-style-type: none"> <li>- Voluntary conversion of full employment to part-time employment in the public sector with a reduction up to 50% of the working time for five years (Article 37(5))</li> <li>- Expansion of the ratio 1:5 for recruitments/exits in the public sector until 2015 (Article 37(2))</li> <li>- Establishment of the ratio 1:10 for recruitments/exits in the public sector for 2011 (Article 37(2))</li> <li>- Reduction in the recruitment of employees with contracts of definite duration or works contracts by 50% for 2011 and 10% for 2012–2015 (Article 37(3))</li> </ul>
4093/2012	<ul style="list-style-type: none"> <li>- Abolishment of positions of employees with contracts of indefinite duration in the public sector; these employees are placed in the labour reserve scheme (Article Only Section Z.4)</li> <li>- Establishment of the ratio 1:5 for recruitments/exits in the public sector as a whole, with further reduction in the temporary employment positions (Article Only Section Z.5(1))</li> <li>- Further restrictions in the recruitment with contracts of definite duration and works contracts in the public sector (Article Only Section Z.5(2))</li> </ul>

<sup>374</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.91.

According to the Greek Government, the cumulative number of exits by 28.02.2014 was 5,392 employees – 2,500 employees from shutting down ERT, the national TV-radio provider (see also Section 8.2); 1,235 employees from disciplinary and incompetency cases; 1,657 employees from temporary injunctions. Furthermore, the Government has estimated another 3,000 mandatory exits from EOPYY and 140 exits from other organisations<sup>375</sup>.

As a consequence of the measures above, and as indicated in Figure 5 below, total employment in the public sector has been significantly reduced.

**Figure 5: Greek General Government employment<sup>376</sup>**



Source: MAREG, Census databases and MOF Special Secretariat for State-Owned Enterprises

<sup>375</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.92. It should be noted, however, that in May 2014 the management of EOPYY announced that 3,000 doctors who were not transferred to the NHS as well as those whose contracts were not renewed could conclude a six-month contract with EOPYY, 'Inclusion of 3,000 doctors to the EOPYY network', (Ενταξη 3.000 γιατρών στο δίκτυο του ΕΟΠΥΥ), Kathimerini newspaper, 16.05.2014, available at <http://www.kathimerini.gr/767408/article/epikairothta/ellada/enta3h-3000-giatrwn-sto-diktyo-toy-eopyy>.

<sup>376</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – Fourth Review – April 2014', European Economy – Occasional Papers 192 – April 2014, available at [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.38.



## 4.5. The impact of the measures

The measures adopted in response to the crisis, and especially in the employment field, have had direct and spill-over effects both on the right to work, as well as the social situation as a whole. The impact of the various austerity measures was unevenly felt by employees, pensioners and law-abiding taxpayers. This uneven distribution of economic and social costs was due to the difficulties faced by the Greek government to address chronic structural flaws in the Greek administration, such as the tax evasion<sup>377</sup>. Therefore, whenever the Greek Government could not attain the demanding fiscal targets set in the Economic Adjustment Programmes, it seemed to resort to wage and pension cuts, in combination with increased taxation measures<sup>378</sup>. The successive wage cuts and tax measures have not promoted secure growth and employment – to the contrary, according to the UN independent expert, they involved massive lay-offs, a deterioration in labour standards, increased job insecurity and widespread precariousness, with over flexible low-paid jobs, where women and young people are predominantly affected<sup>379</sup>.

According to some authors, the First Economic Adjustment Programme failed to achieve its targets – especially with respect to public debt reduction, and to anticipate the depth of recession to which it led. The policy design of the Second Economic Adjustment Programme was based on the assumption that the policy advocated in the first programme was correct and that the problems faced were due to its inefficient implementation. It is also argued that both packages of policy measures lacked the flexibility necessary to accommodate failures in targeting and results. Furthermore, specifically concerning labour market policies, it is advocated that the changes brought were profound and their impact both harsh and lasting<sup>380</sup>.

One of the most significant consequences of the policies followed under the Economic Adjustment Programmes has been the **substantial rise in unemployment in Greece**. As a result of the measures adopted in order to reduce employment in the public sector, plus the policies adopted in the private sector, combined with all other austerity measures, unemployment has grown from 7.3% in June 2008 to 27.9% in June 2013, with youth unemployment at 64.9% in May 2013. In 2013, there were around 1.4 million unemployed people in Greece with around 778,000 losing their jobs during the period 2010–2013 alone<sup>381</sup>.

Between January 2010 and January 2013, **public sector pay has declined by over 25%** on average, public sector recruitment has been frozen, and labour laws have been

<sup>377</sup> Lanara-Tzotze, Z., 'The impact of anti-crisis measures, and the social and employment situation – Greece', European Economic and Social Committee Workers' Group, available at: <http://www.eesc.europa.eu/resources/docs/grece-en.pdf>, p.6.

<sup>378</sup> Lanara-Tzotze, Z., 'The impact of anti-crisis measures, and the social and employment situation – Greece', European Economic and Social Committee Workers' Group, available at: <http://www.eesc.europa.eu/resources/docs/grece-en.pdf>, p.6.

<sup>379</sup> UN Independent Expert, '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, Cephass Lumina', Addendum – Mission to Greece (22–27 April 2013), 5 March 2014, A/HRC/25/50/Add.1, available at: [http://cadtm.org/IMG/pdf/A\\_HRC\\_25\\_50\\_Add1\\_AEV.pdf](http://cadtm.org/IMG/pdf/A_HRC_25_50_Add1_AEV.pdf), p.16 para.45.

<sup>380</sup> Dedoussopoulos, A. et al., 'Assessing the impact of the memoranda on Greek labour market and labour relations', ILO Working Paper No. 53, available at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_232796.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_232796.pdf) pp.79–80.

<sup>381</sup> '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, Cephass Lumina', Addendum – Mission to Greece (22–27 April 2013), March 2014, A/HRC/25/50/Add.1, [http://cadtm.org/IMG/pdf/A\\_HRC\\_25\\_50\\_Add1\\_AEV.pdf](http://cadtm.org/IMG/pdf/A_HRC_25_50_Add1_AEV.pdf), p.15 para. 44.

substantially deregulated. Furthermore, in the **private sector, wages had declined by at least 15%** in 2013 and, following the new minimum wage regulation, they were expected to decline even more (as in Greece practically all wages are indexed to the minimum wage)<sup>382</sup>.

**Employment in the public sector** has also significantly decreased due to the measures adopted within the Economic Adjustment Programmes in order to ensure the fiscal consolidation (see Table 19 below).

**Table 19: Evolution of employment in the public sector<sup>383</sup>**

	31.12.2009	31.12.2010	31.12.2011	31.12.2012	31.12.2013
<b>Total</b>	942,625	866,658	772,460	735,561	675,530
<b>Core public sector</b>	865,153	796,947	715,686	682,289	635,338
<b>Legal Persons in Private Law (except public utilities companies which are traded in the stock exchange)</b>	77,472	69,711	56,774	53,272	40,192

According to research by Eurofound, **job insecurity increased significantly** in Greece between 2007 and 2012. In 2007, 8.20% of working people thought it was very likely or quite likely that they would lose their job within the next six months. In 2012, this percentage had risen to 30.57%, the second biggest increase in the countries under review<sup>384</sup>.

**Part-time employment is also on the rise in Greece.** While in 2001, only 4% of the total workforce was part-time workers, in the last quarter of 2011, this had risen to 7.1% (the EU average in 2010 was 19.2%). It is, however, important to note that 58.3% of part-time workers were in this position because they could not find full-time employment<sup>385</sup>. Table 20 below presents the contracts per type of employment submitted to the Labour Inspectorate between 2005 and 2012.

<sup>382</sup> Monastiriotes, V., 'A Very Greek Crisis' in 'Austerity Measures in Crisis Countries – Results and Impact on Mid-Term Development', Intereconomics 2013, p.7.

<sup>383</sup> Register of Greek Public Sector Payroll, 'Development of employment in public sector (31.12.2009-31.12.2013) 1/' (Εξέλιξη της απασχόλησης στο Δημόσιο Τομέα (31.12.2009 - 31.12.2013) 1/), available at: [http://apografi.yap.gov.gr/apografi/Flows\\_2009\\_2013.htm](http://apografi.yap.gov.gr/apografi/Flows_2009_2013.htm).

<sup>384</sup> Eurofound, 'Impact of the crisis on working conditions in Europe', available at: [http://eurofound.europa.eu/sites/default/files/ef\\_files/docs/ewco/tn1212025s/tn1212025s.pdf](http://eurofound.europa.eu/sites/default/files/ef_files/docs/ewco/tn1212025s/tn1212025s.pdf), p.9-10.

<sup>385</sup> Kaminiotou, OI., 'The status quo of the labour market in the middle of economic crisis' (Τα δεδομένα της αγοράς εργασίας εν μέσω οικονομικής κρίσης), National Institute of Labour and Human Resources, July 2012, available at: <http://www.eiead.gr/publications/docs/ta%20dedomena%20tis%20agoras%20ergasias%20en%20meso%20tis%20oikonomiki%20krisis.pdf>, p.49.



**Table 20: Contracts per type of employment submitted to the Labour Inspectorate**<sup>386</sup>

Year	Part-time work	Rotating work	Contracts for services – independent professionals	Contracts based on the number of units produced (παραγωγή φασόν ανα μονάδα εργασίας)	Total
2012	332.167	94.021	2.979	910	430.077
2011	300.230	84.519	4.345	194	389.288
2010	340.619	90.158	16.515	628	447.920
2009	272.561	57.825	35.526	1.991	367.903
2008	332.695	46.212	66.617	435	445.959
2007	282.255	47.275	62.537	750	392.817
2006	287.749	37.154	43.830	913	369.646
2005	238.637	42.097	42.330	666	323.730

It is worth noting that in 2012:

- out of 94,021 contracts for rotating employment, 65,615 concerned new hires;
- out of 332,167 part time contracts, 241,985 concerned new hires;
- 49,640 contracts were converted from full-time to part-time work and 34,850 contracts were converted from full-time to rotating work<sup>387</sup>.

In 2012, contracts for full-time employment were 55% of the new contracts concluded (59.7% in 2011 and 66.9% in 2010). On the other hand, the percentage of part-time contracts has increased: in 2012 they were 35.4% of all the new contracts concluded (32% in 2011 and 26.5% in 2010). Contracts for rotating employment have also increased to 9.6% in 2012 (8.1% in 2011 and 6.6% in 2010)<sup>388</sup>.

From the above, it can be deduced that, increasingly, **full-time contracts are converted to part-time employment or rotating employment** contracts (see Table 21 below). In 2011, 58,962 full-time contracts were converted to other types of flexible employment contracts – this number is increased by 124.6% when compared with 2010. In 2012, 84,490 contracts for full-time employment were converted to other types of flexible employment contracts – this number is increased by 43.3% when compared to 2011<sup>389</sup>.

<sup>386</sup> Labour Inspectorate, 'Annual Review 2012' (Έκθεση πεπραγμένων Σ.ΕΠ.Ε, έτους 2012), available at: <http://www.ypakp.gr/uploads/docs/6810.pdf>, p. 50.

<sup>387</sup> Labour Inspectorate, 'Annual Review 2012' (Έκθεση πεπραγμένων Σ.ΕΠ.Ε, έτους 2012), available at: <http://www.ypakp.gr/uploads/docs/6810.pdf>, p.50.

<sup>388</sup> Labour Inspectorate, 'Annual Review 2012' (Έκθεση πεπραγμένων Σ.ΕΠ.Ε, έτους 2012), available at: <http://www.ypakp.gr/uploads/docs/6810.pdf>, p.53.

<sup>389</sup> Labour Inspectorate, 'Annual Review 2012' (Έκθεση πεπραγμένων Σ.ΕΠ.Ε, έτους 2012), available at: <http://www.ypakp.gr/uploads/docs/6810.pdf>, p.53.

**Table 21: Conversion of full-time employment contracts to other flexible employment contracts<sup>390</sup>**

	2009	2010		2011		2012	
		Number	Increase	Number	Increase	Number	Increase
<b>Part-time contracts</b>	12,219	18,713	53.1%	32,420	73.2%	49,640	53.1%
<b>Rotating employment contracts, upon the agreement of employees and employers</b>	4,146	6,527	54.7%	19,128	193%	21,478	12.3%
<b>Rotating employment contracts, with a unilateral decision of employers</b>	612	1,103	65.5%	7,414	631.8%	13,372	80.4%
<b>Total</b>	16,977	26,253	54.6%	58,962	124.5%	84,490	43.3%

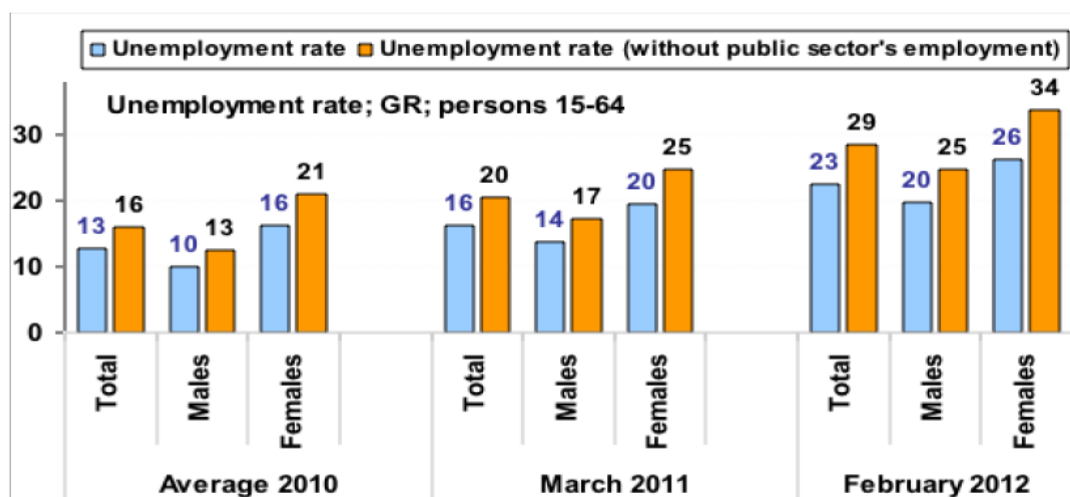
Employment in the **informal sector** (*αδήλωτη εργασία*) **has increased**. According to the Labour Inspectorate in 2012, employment in the informal sector was 36.2% whereas, in 2010, it was 25%<sup>391</sup>.

During the crisis, **unemployment of women** rose significantly. Considering that one-in-four women in employment in Greece holds a tenured position in the public sector, the risk that women not employed in the public sector becoming unemployed becomes much higher (see Figure 6 below)<sup>392</sup>.

<sup>390</sup> Labour Inspectorate, 'Annual Review 2012' (Έκθεση πεπραγμένων Σ.ΕΠ.Ε, έτους 2012), available at: <http://www.ypakp.gr/uploads/docs/6810.pdf>, p.55.

<sup>391</sup> Labour Inspectorate, 'Annual Review-2012' (Έκθεση πεπραγμένων Σ.ΕΠ.Ε, έτους 2012), available at: <http://www.ypakp.gr/uploads/docs/6810.pdf>, p.67.

<sup>392</sup> Lyberaki, A. 'Greece: Gender Equality, Development and Women's Rights in the EU Mediterranean basin in the years of financial, political and social crisis', available at: [http://www.unicri.it/news/files/VAW\\_draft\\_last\\_lowq.pdf](http://www.unicri.it/news/files/VAW_draft_last_lowq.pdf), p. 78.

**Figure 6: Unemployment rate, by gender, with and without public sector's employment Greece<sup>393</sup>**

Source: Author's calculations based on LFS data

According to the Greek Ombudsman, the economic crisis may be used as leverage by employers against their employees or those seeking work. Employees and job seekers, and in particular, **women, are in a particularly vulnerable position** as they are exposed to a larger extent to indecent employment conditions, threatened with dismissal (especially when they are pregnant or on maternity leave), and are forced to accept flexible employment contracts<sup>394</sup>. In order not to lose their work, they even accept violations of their rights<sup>395</sup>.

**Migrants** have also been particularly affected by the financial crisis in Greece. Many used to work in the informal sector but, due to the economic crisis, have lost their jobs. The presence of a large number of migrants in Athens, many of whom are unemployed and even homeless, has led to some political and social tension, as also discussed in Section 8.3 of this study<sup>396</sup>.

<sup>393</sup> Lyberaki, A. 'Greece: Gender Equality, Development and Women's Rights in the EU Mediterranean basin in the years of financial, political and social crisis', available at: [http://www.unicri.it/news/files/VAW\\_draft\\_last\\_lowq.pdf](http://www.unicri.it/news/files/VAW_draft_last_lowq.pdf), p. 79.

<sup>394</sup> Greek Ombudsman, 'Ombudsman and gender discrimination: Equal treatment of men and women in employment and occupation', Speech 17.10.2014, available at: <http://www.synigoros.gr/resources/141021-omilia.pdf>, p.1.

<sup>395</sup> Greek Ombudsman, 'Ombudsman and gender discrimination: Equal treatment of men and women in employment and occupation', Speech 17.10.2014, available at: <http://www.synigoros.gr/resources/141021-omilia.pdf>, p.1.

<sup>396</sup> A/HRC/23/46/Add.418, UN Special Rapporteur on the human rights of migrants, François Crépeau, 'Regional study: management of the external borders of the European Union and its impact on the human rights of migrants', 24 April 2013, available at [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46_en.pdf), p.4, para. 7.

## 5. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO PENSION

### KEY FINDINGS

- Concerning the **right to pension**, the crisis put more pressure on the fragile Greek pension system which was already facing challenges.
- An **extensive pension reform** was implemented to reduce public spending on pensions in the context of fiscal consolidation and to ensure the long-term viability of the pension system.
- The reform included several **positive elements**, e.g. rationalisation, structural consolidation and computerisation of the pension system, linking of pension age to life expectancy.
- However, **other pension reform measures affected the entitlement to future benefits** by setting stricter preconditions for securing pension rights (e.g. increase of pension age and required contribution days) for all categories of beneficiaries and reduced replacement rates for future retirees.
- A **new pension classification system**, effective as of 2015, distinguishes between basic and contributory pension; the State guarantees a basic pension of EUR 360 per month, but if economic performance declines this amount may be reduced.
- Furthermore, in order to reduce primary public expenditure under the Economic Adjustment Programmes, **several consecutive decreases and additional levies have been imposed to already granted pensions and pension-related benefits**.
- Most national and international compliance monitoring bodies have already noted that the **continuing recession and the cumulative effect of austerity measures** has caused an increasing impoverishment of the population, especially older people.
- The measures imposing pension cuts also raise **issues of equality**; while pensions up to EUR 1,000 are justly protected, it appears that the overall economic degradation and especially 'over-taxation' poses such a pressure on medium and high pensions that, in practice, leads to a **disproportionately large contribution of some groups** of the population to the efforts for fiscal consolidation.

## 5.1. International and EU legal framework for the protection of the right to pension

There is no internationally guaranteed right to pension. However, pensions, including the contributory pensions, as well as the so-called social pensions (in so far as provided by applicable legislation), have been observed through the lenses of the right to property. Namely, having developed the doctrine of pensions as acquired rights, the European Court of Human Rights has observed pensions through the lenses of the right to property as guaranteed by Article 1 of Protocol No. 1 to the ECHR<sup>397</sup>.

With this understanding, Article 17 of the EU Charter guarantees the right for everyone 'to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss.'

## 5.2. The right to pension in Greece

Article 22(5) of the Greek Constitution sets minima on the general principle to a right to social security<sup>398</sup>. The constitutional provision requires that 'the State shall care for the social security of the working people, as specified by law'; even though it does not contain detailed State obligations it establishes a relevant social *acquis* (σχετικό κοινωνικό κεκτημένο)<sup>399</sup>. In this context, well-established settled national case-law<sup>400</sup> has recognised that, in principle, laws can modify the amount of pensions and conditions for retirement in order to serve the general interest – in view of current living needs and the financial capacity of insurance organisations<sup>401</sup>. The European Court of Human Rights (ECtHR) also recognises that States can enjoy a wide margin of appreciation in the area of social legislation – in some cases, also in relation to legitimate concerns about tackling financial difficulties. However, according to the ECtHR, the level of such interference shall maintain a fair balance between the demands of the general interest and the requirements of protecting the fundamental rights of individuals and shall not result in the impairment of the essence of pension rights<sup>402</sup>.

<sup>397</sup> See e.g. *Gaygusuz v. Austria*, case no. 17371/90, judgment of 16 September 1996, §41. For a full list of references to the regime of 'acquired rights' see *Grudić v. Serbia*, case no. 31925/08, judgment of 17 April 2012, §72.

<sup>398</sup> Article 22(5) of the Greek Constitution, available at <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agliko.pdf>.

<sup>399</sup> Ktistaki S., 'The impact of the economic crisis on social rights', *Social Security Law Review* 4/635, July-August 2012, available at <http://constitutionalism.gr/site/wp-content/mgdata/pdf/edka2012.pdf> (in Greek), p.482-483. Chrysogonos K., Kaidatzis A., 'Pension reform and Constitution. A first assessment, in view of the decision 668/2012 of the Council of State' (Συνταξιοδοτική μεταρρύθμιση και Σύνταγμα. Μια πρώτη αποτίμηση, ενόψει και της απόφασης ΣτΕ (Ολ.) 668/2012), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/suntaxiodotikimetarruthmisi.pdf>, p.5-6.

<sup>400</sup> Council of State (Plenary) judgment 542/1999, Council of State (First Chamber) judgment 1799/2001.

<sup>401</sup> Chrysogonos K., Kaidatzis A., 'Pension reform and Constitution. A first assessment, in view of the decision 668/2012 of the Council of State' (Συνταξιοδοτική μεταρρύθμιση και Σύνταγμα. Μια πρώτη αποτίμηση, ενόψει και της απόφασης ΣτΕ (Ολ.) 668/2012), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/suntaxiodotikimetarruthmisi.pdf>, p.5.

<sup>402</sup> ECtHR, *Ásmundsson v. Iceland*, no. 60669/00, 12 October 2004, available at: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-67030#{\"itemid\":\"001-67030\"}\]](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-67030#{\)

The Greek social protection system developed since the 1950s was fragmented and founded on heterogeneous measures with no specific connective overview and planning<sup>403</sup>. Despite the recent reforms, the overall structure remains, to some extent, fragmented and complex<sup>404</sup>. Main pensions (*κύριες συντάξεις*) are provided by different pension funds depending on the profession, e.g. IKA-ETAM for the vast majority of private employees and employees entering the public sector from 01.01.2011 onwards, OAEE for the self-employed, ETAA for specific groups of professionals e.g. lawyers and doctors, ETAP-MME for the media sector, and OGA for farmers. A separate fund exists for Bank of Greece employees. Supplementary and lump-sum pensions (*επικουρικές συντάξεις - εφάπαξ*) complementary to the main pensions, are also provided by separate funds e.g. ETEAM, TEADY and MTPY<sup>405</sup>. Within each pension fund, different rules apply to their beneficiaries, e.g. depending on the time they first entered the insurance scheme (*νέοι και παλαιοί ασφαλισμένοι*), for women with dependent children, for people working in arduous or unhygienic occupations (*βαρέα και ανθυγιεινά επαγγέλματα*).

### 5.3. The Economic Adjustment Programmes and the general obligations relevant to the right to pension: Reforming the pension system to support fiscal consolidation

The **First Economic Adjustment Programme** ascertained that the unreformed and unsustainable pension system posed a threat to the long-term sustainability of public finances and made Greece vulnerable to an increase of risk aversion in the international capital markets<sup>406</sup>. The debt projections in 2010 established that debt would start increasing after a period of stabilisation (at a level of around 100% of GDP), if medium term consolidation was implemented without making structural reforms to the pension system<sup>407</sup> (See Figure 7).

<sup>403</sup> 'OECD Public Governance Reviews Greece: Reform of Social Welfare Programmes', 2013, available at: [http://www.keepeek.com/Digital-Asset-Management/oecd/governance/greece-social-welfare-programmes\\_9789264196490-en#page31](http://www.keepeek.com/Digital-Asset-Management/oecd/governance/greece-social-welfare-programmes_9789264196490-en#page31), p.31.

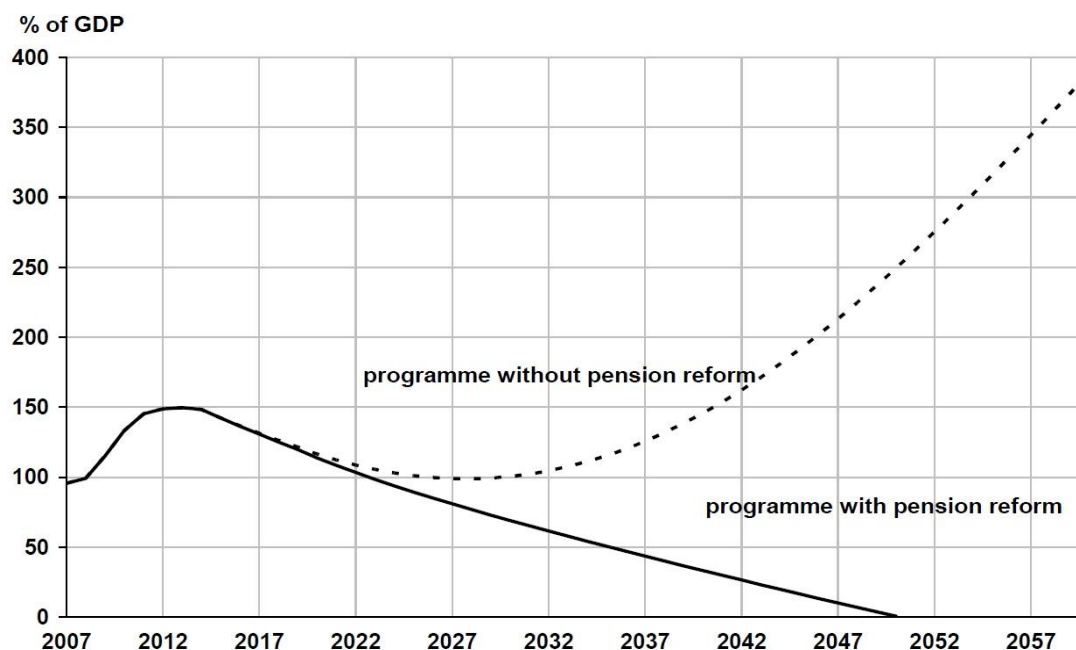
<sup>404</sup> *ibid.*, p.21.

<sup>405</sup> For a more detailed overview of the organisation of the Greek social welfare system see 'OECD, Public Governance Reviews Greece: Reform of Social Welfare Programmes, 2013, available at: [http://www.keepeek.com/Digital-Asset-Management/oecd/governance/greece-social-welfare-programmes\\_9789264196490-en#page111](http://www.keepeek.com/Digital-Asset-Management/oecd/governance/greece-social-welfare-programmes_9789264196490-en#page111), p.82-84 and 109-122.

<sup>406</sup> European Commission, 'The Economic Adjustment Programme for Greece', European Economy – Occasional Papers 61 – May 2010, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/pdf/ocp61\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/pdf/ocp61_en.pdf), pp.4-6.

<sup>407</sup> *ibid.* p.19.



**Figure 7: Two scenarios for very long-term government debt projections, taking into account pension reform<sup>408</sup>**

According to the Programme, in 2009, the wage and pension bill amounted to around three-quarters of total primary expenditure, and cuts in average wages and pensions were, therefore, noted as indispensable to achieve the required adjustment. Under the Programme, cuts in pensions also consisted of the abolition of the Easter, summer and Christmas bonuses and their replacement by a flat bonus<sup>409</sup>. The overall goal set was to implement a comprehensive pension reform that would reduce the projected increase in public spending on pensions over the period 2010-60 to 2.5% of GDP<sup>410</sup>, from a projection of 12.5% of GDP<sup>411</sup>.

The **Second Economic Adjustment Programme** explicitly referred to, raised concerns regarding the social implications of the adjustment programme and noted that 'although correcting large and unsustainable external and fiscal imbalances in the space of a few years does impose a reduction in living standards which are borne by the entire Greek Society, social considerations have always been present in the design of the programme'<sup>412</sup>. It was recognised that pension cuts were adopted on several occasions during the period 2010-2012, inevitably due to the large proportion of pensions in total Government expenditure, but the Programme argued that these cuts aimed at protecting the lowest pensions<sup>413</sup>. In this context, the overarching target of reducing the overall increase of public sector pension spending (basic, contributory, supplementary and any other related scheme, including lump sums at retirement), over the period 2009-60, to under 2.5% of GDP, was maintained<sup>414</sup>. Furthermore, it was omitted that the large remaining fiscal

<sup>408</sup> *ibid.* p.19.

<sup>409</sup> *ibid.* p.15.

<sup>410</sup> *ibid.* p.75.

<sup>411</sup> European Commission, 'The Second Economic Adjustment Programme for Greece – March 2012', European Economy – Occasional Papers 94 – March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.98.

<sup>412</sup> *ibid.* p.8.

<sup>413</sup> *ibid.* p.8.

<sup>414</sup> *ibid.* p.59 and 98.

adjustment would necessarily have to involve further pension adjustments, but it was declared that this would be done in a way that would protect low-income pensioners. The Government committed to undertake upfront relevant measures, e.g. to reduce, with a progressive schedule, supplementary pensions above EUR 200 per month and to reduce by an additional 12% the portion of main pensions exceeding EUR 1,300 a month, in order to generate savings of about EUR 450 million in 2012<sup>415</sup>. **The Fourth Review of the Second Economic Adjustment Programme** acknowledged that substantial progress has been achieved since 2010, but that important challenges remained, e.g. to further rationalise and consolidate the system and ensure its overall actuarial balance and fiscal sustainability<sup>416</sup>.

Finally, in the midst of the economic crisis and given the challenge of an ageing population, a main concern was ensuring long-term sustainability of the pension system<sup>417</sup>. The long-standing high number of early retirements, the increase in unemployment, and the continuing economic recession, encumbered the pension funds reserves (*αποθεματικά ασφαλιστικών ταμείων*) and significantly reduced their revenues.

## 5.4. The measures adopted

In order to address the urgent need for overall fiscal consolidation and viability of the pension system, the interventions that have taken place since 2010 comprised of:

- structural and organisational reforms, e.g. consolidation of pension funds, introduction of a distinction between basic (*βασική*) and contributive (*ανταποδοτική*) pension; intensification of the link between contributions and benefits; gradual decrease of State contribution to pensions<sup>418</sup>; creation of a National Register of Beneficiaries of social and welfare benefits;
- measures affecting the entitlement to benefits, e.g. more stringent retirement conditions; changes to the retirement age;
- measures affecting the amount of granted and future pensions and pension related benefits.

Given the number of changes and the scope of the present study, this section will mainly examine the measures affecting entitlement to benefits, and measures affecting the amount of granted and future pensions, and pension related benefits – focusing on those more likely to have greater potential impact on acquired and future rights to pension.

<sup>415</sup> *ibid.* p.98.

<sup>416</sup> European Commission, 'The Second Economic Adjustment Programme for Greece, Fourth Review – April 2014', European Economy- Occasional Papers 192 – April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.4, 43-44.

<sup>417</sup> INE GSEE, 'Social security and the impact of the aging of the population in the social security system of Greece 2013-2050' (Κοινωνική ασφάλιση και οι επιπτώσεις της γήρανσης του πληθυσμού στο ασφαλιστικό σύστημα της Ελλάδος 2013-2050), 2013, available at: [http://www.gsee.gr/userfiles/file/2013\\_NEWS\\_KEIMENA/2013\\_12\\_09\\_Ageing\\_Population%20Pensionsn\\_INE.pdf](http://www.gsee.gr/userfiles/file/2013_NEWS_KEIMENA/2013_12_09_Ageing_Population%20Pensionsn_INE.pdf), p.20. See also relevant article: 'The crisis of the Funds is in front of us' (*Η κρίση των Ταμείων είναι μπροστά μας*), *To Vima* newspaper, 23.03.2014, available here: <http://www.tovima.gr/finance/article/?aid=579542>.

<sup>418</sup> Paparrigopoulou – Pechlivanidis, P., 'Pension reforms in the period 2008-2012 in Greece: critical assessment and recommendations' (*Οι συνταξιοδοτικές μεταρρυθμίσεις της περιόδου 2008-2012 στην Ελλάδα: κριτική αποτίμηση και προτάσεις*), *Social Security Law Review* 6, 2012, p.882-899.

#### 5.4.1. Measures affecting the entitlement to benefits

As mentioned above (Section 5.2), the social security system in Greece has been fragmented into different pension funds. Adopted measures introduced changes to the preconditions to secure pension rights for all categories of beneficiaries (men, women, women with dependent children and people working in arduous or unhygienic occupations), both for ordinary and early retirement<sup>419</sup>.

Law 3863/2010<sup>420</sup> introduced several changes, including the following<sup>421</sup>:

- increase of the general statutory age limit from 58 years to 60 years (increasing by one year each year starting 01.01.2012);
- increase of the generally required contribution days from 10,500 in 2010 to 12,000 in 2015;
- women (4,500 contribution days): increase of the pension age for from 60 to 65 for full pension (increasing by one year each year starting 01.01.2012 - equation with men) and from 55 to 60 for reduced pension;
- women (10,000 contribution days): increase of pension age to 60 for full pension (from 57) and to 58 for reduced pension (from 55), while contribution days also increased from 10,000 to 12,000;
- men (10,000 contribution days): increase of pension age from 62 to 65.

The right to pension for those fulfilling the requirements to receive pension within the previous legal framework, when the new law entered into force, was safeguarded<sup>422</sup>.

Under Law 4093/2010, the above requirements changed again. The main changes, effective from 2013, were<sup>423</sup>:

- the general statutory age limit was raised to 67 years and the minimum contribution years to 15;
- the general requirement for full pension was set to 62 years and 40 contribution years;
- women (4,500 contribution days): increase of the pension age for from 60 to 67 for full pension and from 55 to 62 for reduced pension;

<sup>419</sup> See overview of changes in article 'The age limits for pension from IKA - Brutal "toss" the retirement age by two years' (*Τα όρια ηλικίας για σύνταξη από το ΙΚΑ - Βίαιη «εκτίναξη» των ορίων συνταξιοδότησης κατά δύο έτη*), *To Vima* Newspaper, 26.05.2013, available at: <http://www.tovima.gr/finance/article/?aid=514655>.

<sup>420</sup> Law 3863/2010 'New insurance system and related provisions, regulation of working relations' (*Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις, ρυθμίσεις στις εργασιακές σχέσεις*), Government Gazette A'115/2010, in force as amended.

<sup>421</sup> Ministry of Labour and Social Security, Circular Φ80000/ οικ.19160/1420 'Notification of the publication of Law 3863/2010 and instructions its implementation' (*Εγκύκλιος: Γνωστοποίηση δημοσίευσης του ν. 3863/2010 και παροχή οδηγιών για την εφαρμογή του*), 04.08.2010, available at: <http://www.kepea.gr/uplds1/File/egkiklioι%20ika.pdf>.

<sup>422</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>423</sup> Ministry of Labour, Social Security and Welfare, Circular Φ.80000/ οικ. 27040 /1798 'Notification of the publication of Law 4093/2012 and instructions its implementation' (*Εγκύκλιος: Γνωστοποίηση δημοσίευσης του ν. 4093/2012 και παροχή οδηγιών για την εφαρμογή του*), 21.11.2012, available at: <http://www.taxheaven.gr/laws/circular/view/id/15063>.

- women (10,000 contribution days): increase of pension age from 57 to 62 for full pension and from 55 to 61.5 for reduced pension – until 2017, when the right to reduced pension will be abolished, and contribution days also increased from 10,000 to 12,000;
- men (10,000 contribution days): increase of the pension age from 62 to 67 for full pension and from 60 to 62 for reduced pension.

Similar interventions were made to pension requirements in the public sector under Law 3865/2010<sup>424</sup>.

Law 3996/2011<sup>425</sup> introduced extra conditions for retirement of parents with children with disabilities<sup>426</sup> – applicable to pension applications already pending at the time of its publication. The Greek Ombudsman raised concerns about the retroactive effect of the measure. Pending applications that did not meet the new, stricter requirements were rejected, while at the same time, applicants had already terminated their employment and it was not easy, under the current conditions, to return to the job-market<sup>427</sup>. In 2012<sup>428</sup>, these extra conditions were made applicable only to applications filed after August 2011.

A new set of eligibility criteria for the pensioners social solidarity allowance/benefit (EKAS) was also introduced with Law 3996/2011<sup>429</sup>, e.g. the maximum total net annual income from pensions – to justify granting this benefit, was set to EUR 8,472.09 (from EUR 6,824.45). The maximum total personal taxable income was set to EUR 9,884.11 (from EUR 7,961.87), the beneficiaries must be permanent residents in the Greek territory. Law 4093/2012<sup>430</sup> raised the minimum age limit for receiving the EKAS from 60 to 65<sup>431</sup>. The

<sup>424</sup> Law 3865/2010 'Reform of public pension schemes and related provisions' (*Μεταρρύθμιση Συνταξιοδοτικού Συστήματος του Δημοσίου και συναφείς διατάξεις*), Government Gazette A' 120/2010.

<sup>425</sup> Law 3996/2011 'Reforming the Labour Inspectorate, social security settings and other provisions' (*Αναμόρφωση του Σώματος Επιθεώρησης Εργασίας, Ρυθμίσεις θεμάτων Κοινωνικής Ασφάλισης και άλλες διατάξεις*), Government Gazette A' 170/2011.

<sup>426</sup> *ibid.* Article 37.

<sup>427</sup> Greek Ombudsman, 'Retirement of parents with children with disabilities- Sudden change of the legal framework for pending applications (N.3996 / 2011, Article 37)' (*Συνταξιοδότηση γονέων αναπήρων τέκνων – Αιφνιδιαστική αλλαγή νομικού πλαισίου για τις εκκρεμείς αιτήσεις (N.3996/2011 άρθρο 37)*), available at: <http://www.synigoros.gr/?i=health-and-social-welfare.el.files.71659>.

<sup>428</sup> Law 4052/2012 'Law within the competence of the Ministry of Health and Social Solidarity and the Ministry of Labour and Social Welfare for the implementation of the law "on the approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic, and the Bank Of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions on the decrease of the national debt and the rescue of the national economy" and other provisions' (*Νόμος αρμοδιότητας Υπουργείων Υγείας και Κοινωνικής Αλληλεγγύης και Εργασίας και Κοινωνικής Ασφάλισης για εφαρμογή του νόμου «Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Ευρωπαϊκής Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου χρέους και τη διάσωση της εθνικής οικονομίας» και άλλες διατάξεις*), Government Gazette A' 41/2012.

<sup>429</sup> Article 34 of Law 3996/2011 'Reforming the Labour Inspectorate, social security settings and other provisions' (*Αναμόρφωση του Σώματος Επιθεώρησης Εργασίας, Ρυθμίσεις θεμάτων Κοινωνικής Ασφάλισης και άλλες διατάξεις*), Government Gazette A' 170/2011.

<sup>430</sup> Article 1 sub-paragraph IA.4 (6) of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (*Εγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016*), Government Gazette A' 222/2012, as amended by Article 34 par.3 of Law 4111/2013.

<sup>431</sup> See also 'OECD Public Governance Reviews Greece: Reform of Social Welfare Programmes', 2013, available at: [http://www.keepeek.com/Digital-Asset-Management/oecd/governance/greece-social-welfare-programmes\\_9789264196490-en#page105](http://www.keepeek.com/Digital-Asset-Management/oecd/governance/greece-social-welfare-programmes_9789264196490-en#page105), p.104.

EKAS was planned to be abolished from 2015 onwards<sup>432</sup>, but the competent Ministry reassured that it would be maintained for at least until 2016, despite differing opinions of the Troika<sup>433</sup>

#### 5.4.2. Measures affecting the amount of pensions and pension related benefits

Consecutive decreases and additional levies have been imposed on pension and pension-related benefits. An overview of the relevant measures is presented in Table 22 below.

**Table 22: Measures reducing pensions and pension related benefits**

Legal Instrument	Measures
Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund'	The <b>Easter, summer and Christmas bonuses</b> were abolished and were <b>replaced by a flat bonus</b> of EUR 200, EUR 200 and EUR 400 respectively, paid to pensioners over 60 years old <sup>434</sup> – provided that the total amount they receive per month does not exceed EUR 2,500 <sup>435</sup> .
Law 3863/2010 'New insurance system and related provisions, regulation of working relations'	A <b>pensioners social solidarity contribution</b> (εισφορά αλληλεγγύης συνταξιούχων) was imposed on main pensions over EUR 1,400 and levied on a sliding scale <b>between 3% and 10%</b> depending on the amount of the pension (see below Table 23). For pensioners receiving a pension between EUR 1,400 and EUR 1,700 this contribution should not result to a pension below EUR 1,400 <sup>436</sup> .  The amounts collected through this contribution go to an independent account, the <b>Inter-generational Solidarity Insurance Fund</b> (Ασφαλιστικό Κεφάλαιο Αλληλεγγύης Γενεών - AKAGE). The main purpose of this account is to cover the deficits of pension funds <sup>437</sup> .
Law 3865/2010 'Reform of public pension schemes and related provisions'	The same <b>pensioners social solidarity contribution</b> (εισφορά αλληλεγγύης συνταξιούχων) was imposed on <b>pensioners in the public sector</b> <sup>438</sup> .

<sup>432</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.7.

<sup>433</sup> Article 'End of era for EKAS that will be abolished in 2016 under Troika pressure' (Τέλος εποχής για το ΕΚΑΣ, που καταργείται το 2016 υπό την πίεση της τρόικας), Kathimerini Newspaper, 14.09.2014, available at: <http://www.kathimerini.gr/783799/article/oikonomia/ellhnikh-oikonomia/telos-epoxhs-gia-to-ekas-poy-katargeitai-to-2016-ypo-thn-piesh-ths-troikas>.

<sup>434</sup> Article 3(10) of Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο), Government Gazette A' 65/2010. Article 3(11) granted these flat bonuses in some cases irrespective the age of the beneficiaries e.g. disability pensioners.

<sup>435</sup> *ibid.* Article 3(14).

<sup>436</sup> Article 38 of Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>437</sup> *ibid.* Article 38(1).

<sup>438</sup> Article 11 of Law 3865/2010 'Reform of public pension schemes and related provisions' (Μεταρρύθμιση Συνταξιοδοτικού Συστήματος του Δημοσίου και συναφείς διατάξεις), Government Gazette A' 120/2010.

Legal Instrument	Measures
Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012 – 2015'	<p>Changes were brought to the <b>pensioners' social solidarity contribution</b> (εισφορά αλληλεγγύης συνταξιούχων). Effective August 2011, it was imposed on pensions over EUR 1,700 and levied on an <b>increased sliding scale between 6% and 10%</b> depending on the amount of the pension<sup>439</sup>. An <b>extra, additional levy was imposed on pensioners below 60 years old</b><sup>440</sup> (see below Table 23). For pensioners receiving a pension between EUR 1,700.01 and EUR 2,300, the reduction after the extra levy, should not result to a pension below EUR 1,700<sup>441</sup>.</p> <p>The <b>pensioners social solidarity contribution</b> (εισφορά αλληλεγγύης συνταξιούχων) was <b>expanded to supplementary pensions</b> (επικουρικές συντάξεις) as well. Pensioners receiving more than EUR 300 were subject to a reduction on a sliding scale between 3% and 10% depending on the amount of the supplementary pension<sup>442</sup> (see below Table 24). For pensioners receiving a supplementary pension between EUR 300 and EUR 350 the reduction after the extra levy should not result to a pension below EUR 300<sup>443</sup>.</p> <p><b>Cuts of 10% and 15%</b> (depending on whether the awarding decision has already been issued or not) were also imposed on <b>pension lump-sums</b> (εφάπαξ) attributed to pensioners belonging to specific pension funds<sup>444</sup>.</p>
Law 4024/2011 'Pension regulations, uniform pay scale, rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015'	<p>For <b>main pensions that exceed EUR 1,000</b> after the deduction of the pensioners social solidarity contribution (main and extra), <b>a further cut of 40% to the amount exceeding EUR 1,000</b> is imposed on pensioners below 55 years of age<sup>445</sup>. For pensioners receiving <b>main pensions that exceed EUR 1,200</b> after the deduction of the pensioners social solidarity contribution (main and extra), <b>a further cut of 20% to the amount exceeding EUR 1,200</b> is imposed<sup>446</sup>.</p> <p>The amounts derived from the above reductions constitute income for the respective pensioners funds<sup>447</sup> or public revenue<sup>448</sup>.</p>

<sup>439</sup> Article 44(10) of Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012-2015' (Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012-2015), Government Gazette A' 152/2011.

<sup>440</sup> *ibid.* Article 44(11).

<sup>441</sup> *ibid.* Article 44(11).

<sup>442</sup> *ibid.* Article 44 (13).

<sup>443</sup> *ibid.* Article 44(13).

<sup>444</sup> *ibid.* Article 44(5).

<sup>445</sup> Article 1(10) of Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012-2015' (Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015), Government Gazette A' 226/2011.

<sup>446</sup> *ibid.* Article 1(10).

<sup>447</sup> *ibid.* Article 2(2).

<sup>448</sup> *ibid.* Article 1(10.d).



Legal Instrument	Measures
	The <b>cuts to pension lump-sums</b> ( <i>εφάπαξ</i> ) attributed to pensioners belonging to specific pension funds <b>increased</b> , ranging from 15% to 30% (depending on whether the awarding decision has already been issued or not and the date of retirement) <sup>449</sup> .
Law 4051/2012 'Pension Content provisions and other urgent implementation provisions of the Memorandum of Understanding set in Law 4046/2012'	<p><b>Main pension amounts over EUR 1,300</b> are subject to a further <b>12% decrease</b>. This decrease shall not result to a pension below EUR 1,300<sup>450</sup>.</p> <p><b>Supplementary pensions</b> are also subject to a <b>reduction</b> on a sliding scale <b>between 10% and 20%</b> depending on the total amount of the supplementary pension<sup>451</sup> (see Table 25 below).</p> <p>These cuts were enforced retroactively<sup>452</sup>.</p> <p>The amounts derived from the above reductions constitute income for the respective pensioners fund<sup>453</sup>.</p>
Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013-2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013–2016'	<p><b>Additional cuts</b> were introduced, effective January 2013, to the monthly pension or the sum of monthly pensions (main and supplementary) <b>over EUR 1,000</b>, on a sliding <b>scale between 5% and 20%</b>, depending <b>on the total amount that remains after the deduction of the decreases imposed by Laws 3863/2010, 3986/2011, 4024/2011 and 4051/2012</b><sup>454</sup>. The already reduced Easter, summer and Christmas bonuses were abolished<sup>455</sup></p>

<sup>449</sup> *ibid.* Article 2(6).

<sup>450</sup> Article 1(1) and Article 6(1) of Law 4051/2012 'Pension Content provisions and other urgent implementation provisions of the Memorandum of Understanding set in Law 4046/2012' (*Ρυθμίσεις συνταξιοδοτικού περιεχομένου και άλλες επείγουσες ρυθμίσεις εφαρμογής του Μνημονίου Συνεννόησης του ν. 4046/2012*), Government Gazette Α'40/2012.

<sup>451</sup> *ibid.* Article 6(2).

<sup>452</sup> Law 4051/2012 was published on 29.02.2012 and the reductions applied to pensions already paid since 01.01.2012. The amounts corresponding to the reductions of January to April were deducted from May onwards in eight instalments.

<sup>453</sup> Article 6(5) of Law 4051/2012 'Pension Content provisions and other urgent implementation provisions of the Memorandum of Understanding set in Law 4046/2012' (*Ρυθμίσεις συνταξιοδοτικού περιεχομένου και άλλες επείγουσες ρυθμίσεις εφαρμογής του Μνημονίου Συνεννόησης του ν. 4046/2012*), Government Gazette Α'40/2012.

<sup>454</sup> Article 1(B.3) and Article 1(IA.5) of Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' ('Εγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016'), Government Gazette Α' 222/2012. See also Ministry of Labour, Social Security and Welfare, Circular Φ80020/οικ.26785/987 'Notification of the provisions of Article 1 paragraph IA subparagraph IA.5. case 1 of n.4093 / 2012 on the reduction of pensions. (Γνωστοποίηση ρυθμίσεων του άρθρου πρώτου παράγραφος ΙΑ υποπαράγραφος ΙΑ.5. περίπτωση 1 του ν.4093/2012, σχετικά με την μείωση των συντάξεων), 21.11.2012, available at: <http://www.tovima.gr/files/1/2012/11/21/msyntax.pdf>.

<sup>455</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.8.

The measures listed above, resulted, in some cases, to cumulative decreases of different types of old-age pensions. Tables 23 to 26 below illustrate these reductions per type of old-age pension.

**Table 23: Pensioners' social solidarity contribution imposed on main pension**

Main pension	Law 3863/2010 and Law 3865/2010	Law 3986/2011 (60 years and older)	Law 3986/2011 (below 60 years old) <sup>456</sup>
€1,400.01 - €1,700.00	3%	3%	3%
€1,700.01 - €2,000.00	4%	6%	6% and 6% extra
€2,000.01 - €2,300.00	5%	7%	7% and 6% extra
€2,300.01 - €2,600.00	6%	9%	9% and 8% extra
€2,600.01 - €2,900.00	7%	10%	10% and 8% extra
€2,900.01 - €3,200.00	8%	12%	12% and 10% extra
€3,200.01 - €3,500.00	9%	13%	13% and 10% extra
€3,500.01 and more	10%	14%	14% and 10% extra

**Table 24: Pensioners' social solidarity contribution imposed on supplementary pension**

Supplementary pension	Law 3986/2011
€300.01 - €350.00	3%
€350.01 - €400.00	4%
€400.01 - €450.00	5%
€450.01 - €500.00	6%
€500.01 - €550.00	7%
€550.01 - €600.00	8%
€600.01 - €650.00	9%
€650.01 and more	10%

**Table 25: Reductions on supplementary pension (Law 4051/2012)**

	Reduction	Minimum level of remaining supplementary pension
up to €250.00	10%	€200
€250.01 - €300.00	15%	€225
€300.01 and more	20%	€255

**Table 26: Reductions on total pension (Law 4093/12)**

Pension	Reduction	Minimum level of remaining pension
€1,000.01 - €1,500.00	5%	€1,000.01
€1,500.01 - €2,000.00	10%	€1,425.01
€2,000.01 - €3,000.00	15%	€1,800.01
€3,000.00 and more	20%	€2,550.01

<sup>456</sup> Article 44(11) of Law 3986/2011 added an extra levy for pensioners that haven't reached 60 years of age. This extra contribution would be calculated and extracted on the basis of the pension remaining after the deduction of the initial contribution.

Finally, it should be noted that specific vulnerable groups, e.g. people with disabilities, were exempted from the abovementioned cuts<sup>457</sup>.

#### 5.4.3. The new system applicable from 2015: basic and contributive pension (βασική και ανταποδοτική σύνταξη)

Laws 3863/2010<sup>458</sup> and 3865/2010<sup>459</sup>, introduced a new pension classification system that shifted from a greatly-fragmented, Bismarckian social insurance system, to a unified, multi-tier system that distinguishes between a basic (quasi-universal) non-contributory (βασική) and a contributory (ανταποδοτική) pension, applicable from January 2015.

The basic pension of EUR 360 per month, guaranteed by the State (unless economic performance deteriorates, in which case, the amount may be reduced)<sup>460</sup>, is not linked to insurance contributions and is also attributed to uninsured persons over 65 that meet certain means-test and residence in Greece criteria.

The contributive pension corresponds to the amount of contributions for insurance years from 01.01.2011 onwards. This proportional amount is payable by the pension funds (or the State for public sector pensioners).

The new measures safeguarded the right to pension, as established through the previous legal framework, for people already meeting the retirement requirements<sup>461</sup>.

## 5.5. The impact of the measures

The longstanding problems of the Greek pension system were already known well before the crisis, e.g. an ageing population, long-term granting of rather 'generous' benefits (corresponding to a relatively high replacement rate) that exceeded the capacity of the social security funds, and high early retirement<sup>462</sup>. Since 2008, the crisis brought more pressure on the already fragile system, e.g. unemployment in the private sector, and staff reductions in the public sector were counterbalanced by 'retirement incentives' (κίνητρα συνταξιοδότησης) that further increased the number of pensioners and reduced the inflow of contributions<sup>463</sup>. The reserves of the social security funds suffered great losses<sup>464</sup> (of

<sup>457</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>458</sup> Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>459</sup> Law 3865/2010 'Reform of public pension schemes and related provisions' (Μεταρρύθμιση Συνταξιοδοτικού Συστήματος του Δημοσίου και συναφείς διατάξεις), Government Gazette A' 120/2010.

<sup>460</sup> Petmesidou, M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.5.

<sup>461</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>462</sup> Paparrigopoulou – Pechlivanidis, P., 'Thoughts in respect of decisions 3410 and 3663/2014 of the Council of State concerning cuts in main and supplementary pensions' (Σκέψεις με αφορμή τις αποφάσεις 3410/2014 και 3663/2014 του ΣΤΕ σχετικά με περικοπές κύριων και επικουρικών συντάξεων μισθωτών), available at: [https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF%CF%83%CF%84%CE%B9%CF%82\\_%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82\\_%CE%84%CE%BF%CF%85\\_%CE%A3%CF%84%CE%95\\_3410\\_%CE%BA%CE%B1%CE%B9\\_3663\\_2014\\_%CE%B3%CE%B9%CE%B1\\_%CE%84%CE%B9%CF%82\\_%CE%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82\\_%CE%84%CF%89%CE%BD\\_%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD\\_%CE%BA%CE%B1%CE%B9\\_%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E%CE%BD\\_%CE%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD](https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF%CF%83%CF%84%CE%B9%CF%82_%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82_%CE%84%CE%BF%CF%85_%CE%A3%CF%84%CE%95_3410_%CE%BA%CE%B1%CE%B9_3663_2014_%CE%B3%CE%B9%CE%B1_%CE%84%CE%B9%CF%82_%CE%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82_%CE%84%CF%89%CE%BD_%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD_%CE%BA%CE%B1%CE%B9_%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E%CE%BD_%CE%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD).

<sup>463</sup> *ibid.*

over 50%<sup>465</sup>) due to the Private Sector Involvement (PSI) in reducing national debt<sup>466</sup> and contributions evasion remained high<sup>467</sup>. The Greek pension system was in need of reform to ensure its long-term viability, which was a core element of the fiscal consolidation programme under the Economic Adjustment Programmes and the Memoranda of Understanding. The 2010 pension reform included several positive elements, e.g. the rationalisation and structural consolidation of the pension system<sup>468</sup>, the computerisation of the system, and the linking of pension age to life expectancy<sup>469</sup>. It should also be mentioned that the creation of a National Register of Beneficiaries (*Ενιαίο Σύστημα Ελέγχου & Πληρωμών Συντάξεων – ΗΛΙΟΣ*)<sup>470</sup> increased transparency and efficiency in granting pensions – contributing to the reduction of pension-fraud<sup>471</sup>.

Several pension reform measures, including the ones presented above, significantly reduced pension benefits of current pensioners and provided a drastic cut in replacement rates for future retirees<sup>472</sup>. The main impacts of these measures were highlighted by most of the international compliance monitoring bodies (see in detail below section 9).

The **UN Independent Expert**<sup>473</sup> and the **European Committee of Social Rights**<sup>474</sup> ascertained that the 'cumulative effect' of the measures introduced since 2010 was 'bound

<sup>464</sup> 'Funds lost 8.3 bln euros in PSI', ekathimerini newssite, 04.09.2012, available at: [http://www.ekathimerini.com/4dcgi/\\_w\\_articles\\_ws2\\_1\\_04/09/2012\\_459737](http://www.ekathimerini.com/4dcgi/_w_articles_ws2_1_04/09/2012_459737).

<sup>465</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.14.

<sup>466</sup> Paparrigopoulou – Pechlivanidis P., 'Thoughts in respect of decisions 3410 and 3663/2014 of the Council of State concerning cuts in main and supplementary pensions' (Σκέψεις με αφορμή τις αποφάσεις 3410/2014 και 3663/2014 του ΣΤΕ σχετικά με περικοπές κύριων και επικουρικών συντάξεων μισθωτών), available at: [https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF\\_%CF%83%CF%84\\_%CE%B9%CF%82\\_%CE%B1%CF%80%CF%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82\\_%CF%84%CE%BF%CF%85\\_%CE%A3%CF%84%CE%95\\_3410\\_%CE%BA%CE%B1%CE%B9\\_3663\\_2014\\_%CE%B3%CE%B9%CE%B1\\_%CF%84%CE%B9%CF%82\\_%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82\\_%CF%84%CF%89%CE%BD\\_%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD\\_%CE%BA%CE%B1%CE%B9\\_%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E\\_%CE%BD\\_%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD](https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF_%CF%83%CF%84_%CE%B9%CF%82_%CE%B1%CF%80%CF%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82_%CF%84%CE%BF%CF%85_%CE%A3%CF%84%CE%95_3410_%CE%BA%CE%B1%CE%B9_3663_2014_%CE%B3%CE%B9%CE%B1_%CF%84%CE%B9%CF%82_%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82_%CF%84%CF%89%CE%BD_%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD_%CE%BA%CE%B1%CE%B9_%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E_%CE%BD_%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD).

<sup>467</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.14.

<sup>468</sup> Chrysogonos, K., Kaidatzis, A., 'Pension reform and Constitution. A first assessment, in view of the decision 668/2012 of the Council of State' (Συνταξιοδοτική μεταρρύθμιση και Σύνταγμα. Μια πρώτη αποτίμηση, ενόψει και της απόφασης ΣΤΕ (Ολ.) 668/2012), available at <http://constitutionalism.gr/site/wp-content/mgdata/pdf/suntaxiodotikimetarruthmisi.pdf>, p.6.

<sup>469</sup> Paparrigopoulou – Pechlivanidis, P., 'Thoughts in respect of decisions 3410 and 3663/2014 of the Council of State concerning cuts in main and supplementary pensions' (Σκέψεις με αφορμή τις αποφάσεις 3410/2014 και 3663/2014 του ΣΤΕ σχετικά με περικοπές κύριων και επικουρικών συντάξεων μισθωτών), available at: [https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF\\_%CF%83%CF%84\\_%CE%B9%CF%82\\_%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82\\_%CF%84%CE%BF%CF%85\\_%CE%A3%CF%84%CE%95\\_3410\\_%CE%BA%CE%B1%CE%B9\\_3663\\_2014\\_%CE%B3%CE%B9%CE%B1\\_%CF%84%CE%B9%CF%82\\_%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82\\_%CF%84%CF%89%CE%BD\\_%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD\\_%CE%BA%CE%B1%CE%B9\\_%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E\\_%CE%BD\\_%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD](https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF_%CF%83%CF%84_%CE%B9%CF%82_%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82_%CF%84%CE%BF%CF%85_%CE%A3%CF%84%CE%95_3410_%CE%BA%CE%B1%CE%B9_3663_2014_%CE%B3%CE%B9%CE%B1_%CF%84%CE%B9%CF%82_%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82_%CF%84%CF%89%CE%BD_%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD_%CE%BA%CE%B1%CE%B9_%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E_%CE%BD_%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD).

<sup>470</sup> See web-platform <http://www.idika.gr/esepsyntax>.

<sup>471</sup> Press release of the Ministry of Labour, Social Security and Welfare, 22.04.2013, available at: <http://www.ypakp.gr/uploads/docs/6584.pdf>. See also article concerning public sector pensions 'Recovery of EUR 42 mil. from "fake" pensions' (Ανάκτηση 42 εκ. από πλαστές συντάξεις), skai.gr newssite, 16.09.2014, available at: <http://www.skai.gr/news/finance/article/265652/staikouras-anakithikan-42-ekat-euro-apo-plastes-sudaxeis/>.

<sup>472</sup> Petmesidou, M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.13.

<sup>473</sup> A/HRC/25/50/Add.1, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina (Addendum) – Mission to Greece (22–27 April 2013). Available at: <http://www.ohchr.org/EN/Issues/Development/IFDebt/Pages/CountryVisits.aspx>, par.55.

to bring a significant degradation of the standard of living and the living conditions of many of the pensioners concerned'. According to the ECSR, despite the pressuring need to adopt measures very quickly, the Government breached Article 12(3) of the ESC, because it should have better examined the potential impacts on vulnerable groups and taken appropriate measures to preserve at least an adequate level of protection. The legitimate expectation of pensioners that adjustments to their social security entitlements would be implemented considering their vulnerability, settled financial outlooks, and their right to adequate social protection and social security, was disregarded.

The **Committee of Ministers**<sup>475</sup> underlined that, however tough the new 2010 pension reform rules happened to be, they stayed within the minimum standards of protection prescribed by the European Code of Social Security, and applied equally to all insured persons so that all current and future workers shared the burden on a pro-rata basis. However, subsequent to the 2010 reform, further measures were taken in 2011 and several times in 2012 (see above section 5.4.), in such a way that, according to the Committee of Ministers, the adverse fiscal and economic situation of Greece and the social austerity measures taken in law and practice have resulted in the reduction of many social security benefits which seriously impacts the application of all accepted Parts of the Code.

In its most recent Observations<sup>476</sup>, as regards Social Security (Minimum Standards) Convention (No.102), the **ILO Committee of Experts on the Application of Conventions and Recommendations**, noted 'the Government's efforts to shield low-income pensioners from new reductions', but observed that 'existing thresholds and safeguards are largely insufficient to prevent poverty in old age'. The report on the Convention indicated that 'the rates of relative poverty and the material deprivation for people over 65 have worsened more than for the population on average'. As indicated by most international bodies, the main emerging issue is now the appearance of conditions of extreme poverty as a consequence of the overall economic situation, mainly the ongoing drastic reduction of pensions and wages and the simultaneous increase of taxation and cost of life<sup>477</sup>.

In a way, the fiscal crisis was transformed to an 'inequality crisis'<sup>478</sup> as the main burdens were imposed mainly on wages and pensions. The pension cuts were implemented to

<sup>474</sup> ECSR, Federation of employed pensioners of Greece (IKA-ETAM) v. Greece, complaint no. 76/2012, decision on the merits of 7 December 2012. Available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC76Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC76Merits_en.pdf). ECSR, Panhellenic Federation of Public Service Pensioners (POPS) v. Greece, complaint No.77/2012, decision on the merits of 7 December 2012. Available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC77Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC77Merits_en.pdf). ECSR, Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece, complaint No. 78/2012, decision on the merits of 7 December 2012. Available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC78Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC78Merits_en.pdf). ECSR, Panhellenic Federation of pensioners of the Public Electricity Corporation (POSDEI) v. Greece, complaint no. 79/2012, decision on the merits of 7 December 2012. Available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC79Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC79Merits_en.pdf). ECSR, Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece, complaint No. 80/2012. Available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC80Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC80Merits_en.pdf).

<sup>475</sup> Resolution CM/ResCSS(2013)21 on the application of the European Code of Social Security by Greece (Period from 1 July 2011 to 30 June 2012). Available at: <https://wcd.coe.int/ViewDoc.jsp?id=2115379&Site=CM>.

<sup>476</sup> Observation (CEACR) - adopted 2013, published 103rd ILC session (2014), available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3150771,102658,Greece,2013](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3150771,102658,Greece,2013).

<sup>477</sup> Information obtained through stakeholder consultations (Academic, NCHR), December 2014.

<sup>478</sup> Stergiou, A., 'Pension cuts under the light of Article 1 of the 1<sup>st</sup> Additional Protocol of the ECHR' (Οι περικοπές των συντάξεων υπό το πρίσμα του Άρθρου 1 του Π.Π.Π. της ΕΣΔΑ), available at: <http://www.constitutionalism.gr/site/wp-content/uploads/2013/06/%CE%9F%CE%B9-%CE%80%CE%B5%CE%81%CE%B9%CE%BA%CE%BF%CE%80%CE%AD%CE%82-%CE%84%CE%89%CE%BD->



pensions above EUR 1,000. Approximately 67.5% of pensioners (with pensions of EUR 1,000 and below)<sup>479</sup> were not subject to these reductions<sup>480</sup>. Medium and high pensioners (between EUR 2,500 and EUR 1,500) were the ones most affected by the horizontal cuts<sup>481</sup>. In 2010, the Greek Ombudsman indicated that the way that pensioners' social solidarity contribution (*εισφορά αλληλεγγύης συνταξιούχων*) was being imposed, could, in some cases, lead to discrimination, i.e. pensioners that have worked more years and received higher salaries, are placed in a superior pension scale and are entitled to a higher pension, however after the levy, they could receive the same or lower pension than pensioners who met different retirement requirements<sup>482</sup>.

The **Council of State** has ruled on adopted measures, regarding the right to pension, on several occasions. In 2012<sup>483</sup>, (see also above section 4.4.2. on the right to work, regarding judgment 668/2012), the Greek Supreme Administrative Court held that the **abolition of the Easter, summer and Christmas bonuses for pensioners** below the age of 60 years, and their replacement by a flat bonus of EUR 200, and EUR 200 and EUR 400 respectively only for pensioners over 60 years old, receiving a maximum of EUR 2,500 per month, did not contradict any national or international legal acts. These measures were part of a broader program for fiscal consolidation and structural reforms aimed at addressing the urgent need (according to the legislator) to cover the country's financial needs and, improving the future financial situation of the country. Therefore, according to the Court they substantially served the public interest and the common interest of the Euro area Member States. These measures contributed, as is their very nature, to the reduction of the costs of social insurance schemes and, subsequently, to public spending. According to the Council of State, considering the situation at hand, the contested measures were neither manifestly inappropriate nor disproportionate to achieve these objectives. In 2014<sup>484</sup>, the Council of State followed the same approach and, furthermore, made a distinction between '**measures of direct efficiency**' (*μέτρα άμεσης απόδοσης*) and '**structural measures**' (*διαρθρωτικά μέτρα*); the abovementioned abolition of pension

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<sup>479</sup> Paparrigopoulou – Pechlivanidis, P., 'Thoughts in respect of decisions 3410 and 3663/2014 of the Council of State concerning cuts in main and supplementary pensions' (*Σκέψεις με αφορμή τις αποφάσεις 3410/2014 και 3663/2014 του ΣΤΕ σχετικά με περικοπές κύριων και επικουρικών συντάξεων μισθωτών*), available at: <https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF-%CF%83%CF%84%CE%B9%CF%82-%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82-%CF%84%CE%BF%CF%85-%CE%A3%CF%84%CE%95-3410-%CE%BA%CE%B1%CE%B9-3663-2014-%CE%B3%CE%B9%CE%B1-%CF%84%CE%B9%CF%82-%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82-%CF%84%CF%89%CE%BD-%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD-%CE%BA%CE%B1%CE%B9-%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E-%CE%BD-%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD>.

<sup>480</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>481</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>482</sup> Greek Ombudsman, Letter to the Ministry of Finance on the Implementation of the pensioners' social solidarity contribution (*Πόρισμα - Εφαρμογή της Εισφοράς Αλληλεγγύης Συνταξιούχων*), available at: <http://www.synigoros.gr/resources/docs/210449.pdf>.

<sup>483</sup> Council of State (Plenary), judgment 668/2012, available at <http://www.dsnet.gr/Epikairothta/Nomologia/668.htm> and Council of State (Plenary) judgments 1283-1286/2012.

<sup>484</sup> Council of State (First Chamber) judgment 3663/2014 (on supplementary pensions) and Council of State (First Chamber) judgment 3410/2014 (on main pensions).



bonuses constituted a measure of direct efficiency, while the **pension cuts** that followed<sup>485</sup> were in fact structural measures that were part of an overall reform of the social security system, of an apparent fiscal character.

According to the Council of State, the particularity of these cuts was that they financed the deficits of the pension funds, thus, the pensioners were also the beneficiaries and, at the same time, served the goal to reduce the dependence of the pension funds on State funding. Regarding the **criterion of the amount of pension for the imposition of the pensioners' social solidarity contribution** (from which pensions of EUR 1,000 and below were exempted), the Council of State found that the legislator, facing the economic collapse of the country and unable to keep on financing the social security funds, established a new social security scheme. Within the new scheme, certain categories of pensioners undergo sacrifices in favour of restoring fiscal balance and ensuring the viability of social security funds. In neither of its recent judgements (3663/2014 and 3410/2014), did the Greek Supreme Administrative Court acknowledge a contradiction of the measures in relation to the Greek Constitution or the ECHR. It did, however, set the principle that **the legislature is limited by the obligation to ensure the pensioners an income that allows them a 'decent living'** (*αξιοπρεπή διαβίωση*) – meaning an income sufficient to cover not only terms of physical existence (nutrition, clothing, housing, essential household goods, heating, sanitation), but also the ability to participate in social life. The same cases were brought before the plenary of the Council of State beginning of December 2014 and judgment is still pending<sup>486</sup>.

The **Court of Audit** (*Ελεγκτικό Συνέδριο*) has ruled on some of the pension-related measures, in exercising its advisory and judicial competences. According to the Greek Constitution<sup>487</sup>, the Court of Audit shall issue a (non-binding) opinion regarding draft laws that concern pensions in any way. In this context, in its opinion of October 2012<sup>488</sup>, the plenary of the Court of Audit marked a significant disjuncture from the judicial stance thus far<sup>489</sup>. The plenary ascertained that, despite the fact that a pension of a specific amount was not guaranteed under the Greek Constitution, nor the ECHR, any restrictions should respect the right to a decent living for more-financially-vulnerable groups<sup>490</sup>, and respect the principles of equality<sup>491</sup> and proportionality<sup>492</sup>. Given that the Greek legislator had adopted numerous acts to reduce pension and related benefits in a relatively short period

<sup>485</sup> On the basis of Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (*Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις*), Government Gazette A' 115/2010, Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012–2015' (*Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012–2015*), Government Gazette A' 152/2011 and Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012–2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 226/2011.

<sup>486</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>487</sup> Article 73 par.2 of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggllo.pdf>

<sup>488</sup> Court of Audit, Proceedings of the 3rd special session of the plenary, 30.10.2012, available at: <http://www.elsyn.gr/elsyn/files/anakoinoseis/syn.eidik.3.pdf> and Court of Audit, Proceedings of the 4th special session of the plenary, 31.10.2012, available at: <http://www.elsyn.gr/elsyn/files/anakoinoseis/syn.eidik.4.pdf>.

<sup>489</sup> Psychogiopoulou E., 'Welfare rights in crisis in Greece: The role of fundamental rights challenges' EUI Working papers, LAW 2014/05. Available at: <http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%20242014.pdf?sequence=1>, p.12.

<sup>490</sup> Article 2 par.1 of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggllo.pdf>.

<sup>491</sup> Article 4 par.5 of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggllo.pdf>.

<sup>492</sup> Article 25 par.1 of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggllo.pdf>.

of time, the proposed measures (which were the ones that followed the restrictions imposed by laws 3845/2020, 3865/2010, 3986/2011, 4002/2011, 4024/2011 and 4051/2012), raised issues of constitutionality. According to the Court of Audit, these measures had a purpose of public interest, but their appropriateness, necessity and namely, the depletion of any other available measures, were not proven. These measures would burden, yet again, the same group of citizens, without differentiation. The Court of Audit released a similar opinion in February 2013<sup>493</sup>.

Within its judicial competences, the Court of Audit tries appeals of civil servants concerning pensions. During the first semester of 2013, 5,834 cases were brought before the Court of Audit; the vast majority of these cases involved pension cuts<sup>494</sup> imposed by Law 4093/2012<sup>495</sup>. At the end of 2014, the Court of Audit found that the cuts imposed retroactively since August 2012, in the pensions of those serving the armed forces and the police, of university professors, doctors-directors of the NHS, were unconstitutional<sup>496</sup>. A pilot case is also pending before the Court of Audit with the respect to the social solidarity contribution imposed on pensioners of special payrolls, e.g. armed forces, judiciary<sup>497</sup>.

The austerity measures adopted in relation to the right to pension have also had an impact on the **quality of the applicable legislation** (see also above section 1.2.3.). As the **Greek Ombudsman** observed<sup>498</sup> the **social security legal framework was rather perplexing and became more complex following subsequent changes throughout the period 2010-2014** – 17 alterations of the social security legislation were made and around 40 Circulars were issued. According to the Ombudsman, the 'malfunction of the social security services continues to burden the citizens' and 'the social security legislation continues to be complex and unclear, impairs the enjoyment of the citizens' rights and impedes the fulfilment of their obligations towards the social security funds'. The social security services encounter difficulties in interpreting and implementing relevant provisions. The speed of changes renders their monitoring and understanding, difficult, even for experts<sup>499</sup>. In practical terms, the services are not always able to respond to citizens'

<sup>493</sup> Court of Audit, Proceedings of the 2<sup>nd</sup> special session of the plenary, 27.02.2012, available at <http://www.elsyn.gr/elsyn/files/anakoinoseis/syn.eidik.2.pdf>.

<sup>494</sup> 'Parliament: Up to 5,834 the number of appeals and lawsuits before the Court of Audit since 2013 for special payroll pension cuts and their retroactive application' (Βουλή: Στις 5.834 οι εφέσεις και αγωγές στο Ελεγκτικό συνέδριο από το 2013 για μειώσεις συντάξεων ειδικών μισθολογίων και αναδρομικής εφαρμογής τους.), *Kathimerini* Newspaper, 26.06.2013, available at <http://www.kathimerini.gr/44114/article/epikairothta/politikh/voylh-stis-5834-oi-efeseis-kai-agwges-sto-elegktiko-synedrio-apo-to-2013-gia-meiwseis-syntaxes-eidikwn-misθologiw-n-kai-anadromikh-s-efarmogh-s-toys>.

<sup>495</sup> Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' ('Εγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016 – Επείγοντα Μέτρα Εφαρμογής του ν.4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016'), Government Gazette Α' 222/2012.

<sup>496</sup> "Hole" in the budget from the retroactive reimbursement of pensions' («Τρύπα» στον προϋπολογισμό από την αναδρομική επιστροφή συντάξεων), *Kathimerini* newspaper, 02.12.2014, available at <http://www.kathimerini.gr/794030/article/oikonomia/ellhnikh-oikonomia/trypa-ston-proupologismo-apo-thn-anadromikh-epistrofh-syntaxes> and in *Ant1 News* website, 30.11.2012, 'Retroactive pension cuts in special payrolls found unconstitutional: Judgement of the plenary of the Court of Audit' (Αντισυνταγματικές οι αναδρομικές περικοπές σε συντάξεις ειδικών μισθολογίων: Απόφαση της Ολομέλειας του Ελεγκτικού Συνεδρίου), available at <http://www.antenna.gr/news/Society/article/376272/antisyntagmatikes-oi-anadromikes-perikopes-se-syntaxeis-eidikon-misthologion>.

<sup>497</sup> 'Pensioners' social solidarity contribution in pilot trial before the Court of Audit', (Ελεγκτικό Συνέδριο: Σε «πilotική δίκη» η Εισφορά Αλληλεγγύης Συνταξιούχων), *Ethnos* newspaper, 05.07.2014, available at <http://www.ethnos.gr/article.asp?catid=22770&subid=2&pubid=64032538>.

<sup>498</sup> Greek Ombudsman Report 2013 (Αποτίμηση του έργου του Συνηγόρου για το 2013 – Ετήσια Έκθεση 2013), available at [http://www.synigoras.gr/?i=kdet.el.ehtisies\\_ektheseis\\_documents.167685](http://www.synigoras.gr/?i=kdet.el.ehtisies_ektheseis_documents.167685), p.18.

<sup>499</sup> Greek Ombudsman Report 2013 (Αποτίμηση του έργου του Συνηγόρου για το 2013 – Ετήσια Έκθεση 2013), available at [http://www.synigoras.gr/?i=kdet.el.ehtisies\\_ektheseis\\_documents.167685](http://www.synigoras.gr/?i=kdet.el.ehtisies_ektheseis_documents.167685), p.44.

questions regarding the requirements for retirement or amounts of pensions<sup>500</sup> – sometimes a meeting is necessary before responding to a simple citizens' query<sup>501</sup>, while at the same time, there is reasonable anxiety and insecurity amongst citizens and pensioners about their future<sup>502</sup>.

Finally, the **Greek Ombudsman** has repeatedly found **restrictions and delays in awarding and granting social security benefits, lump-sum allowances and pensions**, which prevent citizens from making their basic financial planning<sup>503</sup>. Many citizens have filed complaints on the long delays in the administrative procedure of issuing pension award decisions, e.g. in IKA branches of the main cities, in 2012, the delay in issuing the duration of work certificate exceeded one year and, as a result, the final decision granting the pension could be issued with a delay of more than two years<sup>504</sup>.

In 2012, the Greek Ombudsman also observed that, since 2010, the delays in handling public sector pension grant applications had increased because of the increase in the number of submitted applications and the reduction of personnel in the Greek Treasury (*Γενικό Λογιστήριο του Κράτους*). In this respect, the Ombudsman suggested that existing legislation should adjust to the real conditions, by considering granting an 'in advance' pension payment that would allow the people retiring to face the pressing problem of everyday survival that comes with extreme delays in granting their pensions<sup>505</sup>. In its reply, the Ministry of Finance informed the Ombudsman that the issue has been brought to Parliament as an action to be taken during 2013<sup>506</sup>. Following the recommendation to grant an 'in advance' pension payment, the Ombudsman welcomed the adoption of a relevant measure by the Government. However, the problems deriving from the lack of human resources in administration persisted. In March 2013, in response to subsequent complaints about delays in protocol and granting pensions, the Greek Treasury informed the Ombudsman that the suspension of hiring had created a grave staff inadequacy problem in all its services<sup>507</sup>.

<sup>500</sup> Information obtained through stakeholder consultation (Academic), December 2014. See also Katrougkalos G., Morfakidis Ch., *Law in books and law in action: The uncertainty in the implementation of social security law after the reform of 2010-2011 (Law in books and law in action: Η αβεβαιότητα στην εφαρμογή του δικαίου κοινωνικής ασφάλισης μετά την ασφαλιστική μεταρρύθμιση του 2010-2011.)*, Social Security Law Review 2011, p.657, available at <http://eekp.gr/wp-content/uploads/2013/09/arxeio15.2.pdf> (in Greek).

<sup>501</sup> Paparrigopoulou – Pechlivanidis, P., 'The impact of the "Memoranda interventions" on social security' (*Οι επιπτώσεις των «μνημονιακών παρεμβάσεων» στην κοινωνική ασφάλιση*), Social Security Law Review 9/10, 2014, p.492.

<sup>502</sup> *ibid.*

<sup>503</sup> Greek Ombudsman, 'Annual Report 2013' (*Αποτίμηση του έργου του Συνηγόρου για το 2013 – Ετήσια Έκθεση 2013*), available at [http://www.synigoros.gr/resources/docs/stp\\_ethsia\\_2013.pdf](http://www.synigoros.gr/resources/docs/stp_ethsia_2013.pdf), p.44-45.

<sup>504</sup> Greek Ombudsman, 'Mediation summary- IKA has committed to speed up the process of granting pensions, after Ombudsman intervention', June 2012, (*Σύνοψη διαμεσολάβησης: Το ΙΚΑ δεσμεύτηκε να επιταχύνει τη διαδικασία έκδοσης συντάξεων, μετά την παρέμβαση του Συνηγόρου του Πολίτη*), available at: <http://www.synigoros.gr/resources/docs/304553.pdf>.

<sup>505</sup> Greek Ombudsman, Letter to Ministry of Finance, 25.11.2011, available at: <http://www.synigoros.gr/resources/nomo8etikh-protash-gia-tis-trimhnes-apodoxes--tis-ka8ysterhseis-sthn-katavolh-synta3hs--2.pdf> and relevant Press Release by the Greek Ombudsman, 01.11.2012, available at: <http://www.synigoros.gr/resources/deltio-typoy--7.pdf>.

<sup>506</sup> Reply of the Ministry of Finance to the Greek Ombudsman, 25.11.2012, available at: <http://www.synigoros.gr/resources/apanthtikio-eggrafo-toy-ypourgeioy-oikonomikwn.pdf>.

<sup>507</sup> Greek Ombudsman, 'Mediation summary - Ombudsman intervention for solving the problem of delays in protocolling and responding of the Pensions Directorate of the Treasury', May 2013 (*Σύνοψη διαμεσολάβησης: Παρέμβαση του Συνηγόρου για την επίλυση του προβλήματος της καθυστέρησης πρωτοκόλλησης και της ανταπόκρισης της Διεύθυνσης Συντάξεων του Γενικού Λογιστηρίου του Κράτους στα αιτήματα των πολιτών*), available at: <http://www.synigoros.gr/resources/docs/376890.pdf>.

## 6. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT OF ACCESS TO JUSTICE

### KEY FINDINGS

- As far as the **right to access to justice** is concerned, several measures were introduced to reform the Greek judicial system.
- The main objective was to address the long-standing, structural problem of **excessive length of court proceedings**, as this could also benefit the proper and fair functioning of the economy and support economic activity.
- The main measures aimed at **clearing the existing case backlog in courts** (including through the improvement and speeding-up of the judicial case processing), and at **reducing the inflow of cases**, primarily by increasing court-fee costs but also by introducing more stringent admissibility conditions.
- Other measures were aimed at **changing the existing culture of dispute resolution**, mainly by encouraging out-of-court settlements.
- Nonetheless, some of the **judicial reform measures** appear to have a **tax-collecting character** since they are perceived as aimed at reducing pending payments of tax arrears (e.g. higher amounts of judicial duty notes and obligation to pre-pay part of the disputed amount as admissibility criteria for tax cases, submission of a Tax Authority certificate of payment of the new property tax 'ENFIA' as a procedural condition in cases related to realty).
- Overall, the measures were **primarily focused on the quantitative aspect** of the effectiveness and quality of justice; numbers demonstrate **positive impacts regarding the reduction of case backlog**. However, **other qualitative considerations** regarding the non-impediment of the right of citizens to justice **were not targeted as much** by the measures (e.g. e.g. infrastructure, libraries, strategic planning of court staff allocation).
- **Most of the extra costs are set at a very early stage** of the judicial proceedings (and under the penalty of inadmissibility) which could hinder citizens' right to access to justice, especially given that a very large and rapidly growing part of the population is exposed to poverty and social exclusion.
- Finally, **austerity measures aiming to meeting general targets of decreasing public expenditure** also affect the judicial system; in 2012, Greece had an annual public budget allocated to the judicial system (courts, legal aid and prosecution services) per inhabitant as part of the GDP per capita at 0.238% (below the average 0.33% of Council of Europe members).

## 6.1. International and EU legal framework for the protection of the right of access to justice

While access to justice has not been explicitly guaranteed by international human rights law as such, it has however figured highly in the general requirements of the respect of rights of individuals. Hence, the UDHR, ICCPR, or ECHR, while guaranteeing procedural rights by means of the right to a fair hearing (or trial), do not make a reference to access to justice. The absence of a guarantee of the right of access to justice, has not prevented the ECtHR to effectively provide protection of this right by expanding the guarantee from Article 6 of the right to a fair trial to also mean the guarantee of the right to access to a court. Furthermore, Article 13 of the ECHR guarantees the right to legal remedy, which is also an important element of access to justice.

More recently, however, the Convention on the Rights of Persons with Disabilities<sup>508</sup> guarantees the right of people with disabilities on access to justice on an equal basis with others.

Access to justice is guaranteed by Article 47 of the EU Charter, which guarantees the right of everyone to an effective remedy before a tribunal established by the law, by means of a fair and public hearing within a reasonable time, with access to legal aid, if necessary. However, even though it is seen to typically mean 'having a case heard in a court, it can more broadly be achieved or supported through mechanisms such as national human rights institutions, equality bodies and ombudsman institutions, as well as European Ombudsman at the EU level<sup>509</sup>.'

## 6.2. The Economic Adjustment Programmes and the general obligations relevant to the right to access to justice: reforming the judicial system to support economic activity

The Greek Constitution safeguards the right to legal protection. Everyone's right of access to courts is guaranteed through Article 20(1) of the Greek Constitution<sup>510</sup>. This right guarantees the organisation of an efficient, full and effective system for administering justice<sup>511</sup>. Under the Economic Adjustment Programmes and the subsequent Memoranda of Understanding, the overall objective of the reform of the Greek judicial system is linked to the proper and fair functioning of the economy<sup>512</sup> and the support of economic activity<sup>513</sup>, 'without prejudice to the constitutional principles and the independence of justice'. As further elaborated by the European Commission, 'the efficiency of justice is a fundamental consideration when making investment decisions or launching new business operations.

<sup>508</sup> CRPD, Article 13, available at: <http://www.un.org/disabilities/convention/conventionfull.shtml>.

<sup>509</sup> FRA, *Themes: Access to justice*.

<sup>510</sup> Article 20(1) of the Greek Constitution stipulates:

'Every person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law.'

<sup>511</sup> Spyropoulos, P.C., Fortsakis, T.P., *Constitutional Law in Greece*, 2<sup>nd</sup> ed., 2013, Wolters Kluwer Law & Business, p.213-214.

<sup>512</sup> European Commission – DG for Economic and Financial Affairs, 'The Economic Adjustment Programme for Greece – Fifth review', Occasional Papers 87, October 2011, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/pdf/ocp87\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp87_en.pdf), p.85.

<sup>513</sup> European Commission – DG for Economic and Financial Affairs, 'The Second Economic Adjustment Programme for Greece – Fourth Review', Occasional Papers 192, April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.239.



Efforts to decrease the average length of trials and the backlog of court cases therefore bring significant positive economic effects<sup>514</sup>.

Within this context of the Economic Adjustment Programmes and Memoranda of Understanding, Greece has undertaken commitments to reform the judicial system<sup>515</sup>, through adopting measures to:

- **clear the existing case backlog in courts**, e.g. through terminating proceedings (*εκκαθάριση πινακίων*) in cases of immigration law, with a decision of a court where a legal authorisation to the lawyer was not submitted by the client within a specific deadline<sup>516</sup>, **reducing the inflow of cases** – with particular focus on tax-cases, and mainly by increasing court-fee costs;
- set up a **performance and accountability framework** for courts, by presenting work plans and judicial statistics on a quarterly basis<sup>517</sup>;
- **improve and speed-up judicial case processing** through, e.g. the use of e-registration, e-tracking and e-filing<sup>518</sup>, the introduction of 'pilot cases'<sup>519</sup>, and the obligation to determine the first hearing within specific timeframes from submission of the introductory court document by the applicant<sup>520</sup>;
- change the existing **culture of dispute resolution**, mainly by encouraging out-of-court settlements through mediation<sup>521</sup>, arbitration and pre-trial conciliation.

There is also a repeated commitment and goal to further reform civil justice through a 'fundamental reform of civil procedure' – the new draft was submitted for public consultation in March 2014<sup>522</sup>.

<sup>514</sup> European Commission – DG for Economic and Financial Affairs, 'Market Reforms at Work in Italy, Spain, Portugal and Greece', European Economy 5/2014, available at: [http://ec.europa.eu/economy\\_finance/publications/european\\_economy/2014/pdf/ee5\\_en.pdf](http://ec.europa.eu/economy_finance/publications/european_economy/2014/pdf/ee5_en.pdf), p.3.

<sup>515</sup> For an indicative, general overview of commitments relevant to the judicial system see European Commission – DG for Economic and Financial Affairs, 'The Economic Adjustment Programme for Greece – Fifth review', Occasional Papers 87, October 2011, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/pdf/ocp87\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp87_en.pdf), p.39, 85-89, 123-124, 157-160; European Commission – DG for Economic and Financial Affairs, 'The Second Economic Adjustment Programme for Greece', Occasional Papers 94, March 2012, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp94\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf), p.81-83, 112, 162-163 and European Commission – DG for Economic and Financial Affairs, 'The Second Economic Adjustment Programme for Greece – Fourth Review', Occasional Papers 192, April 2014, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2014/pdf/ocp192\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf), p.59, 113, 115, 128, 165, 239-240, 256.

<sup>516</sup> Article 8(6) of Law 4198/2013 Preventing and combating human trafficking and protecting its victims and other provisions (*Πρόληψη και καταπολέμηση της εμπορίας ανθρώπων και προστασία των θυμάτων αυτής και άλλες διατάξεις*), Government Gazette A'215/2013, as amended by Law 4267/2014 Sexual abuse and exploitation of children and child pornography and other provisions (*Καταπολέμηση της σεξουαλικής κακοποίησης και εκμετάλλευσης παιδιών και της παιδικής πορνογραφίας και άλλες διατάξεις*), Government Gazette A'137/2014.

<sup>517</sup> The obligation was introduced with Law 4046/2012 and detailed statistics per court can be found on the [portal](#) of the Ministry of Justice, Transparency and Human Rights.

<sup>518</sup> Presidential Decree 25/2012 Electronic filing of court documents, certificates and other documents by the Courts of the country (*Ηλεκτρονική κατάθεση δικογράφων, χορήγηση πιστοποιητικών και λοιπών εγγράφων από τα Δικαστήρια της χώρας*), Government Gazette A'53/2012, Presidential Decree 40/2013 Electronic filing of court documents, electronic administration of relevant certificates and other documents in the Council of State and Administrative Courts (*Ηλεκτρονική κατάθεση δικογράφων, ηλεκτρονική χορήγηση σχετικών πιστοποιητικών και λοιπών εγγράφων στο Συμβούλιο της Επικρατείας και στα Τακτικά Διοικητικά Δικαστήρια*), Government Gazette A'75/2013 and Presidential Decree 95/2014 Electronic filing of court documents and electronic certificates in the Court of Auditors (*Ηλεκτρονική κατάθεση δικογράφων και ηλεκτρονικά πιστοποιητικά στο Ελεγκτικό Συνέδριο*), Government Gazette A'162/2014.

<sup>519</sup> Law 3900/2010 (Article 1) provided for 'pilot cases' before the Council of State and Law 4055/2012 (Article 69) for 'pilot cases' before the Court of Auditors.

<sup>520</sup> For example Article 672A CPC, as amended by Law 4055/2012 and Law 4172/2013 sets a limit of 60 days for the hearing to take place as regards specific labour law cases e.g. void dismissal and delayed salaries.

<sup>521</sup> Law 3898/2010 Mediation in civil and commercial cases (*Διαμεσολάβηση σε αστικές και εμπορικές υποθέσεις*), Government Gazette A'211/2010.



It should be noted that, even before the crisis, the Greek judicial system was facing considerable challenges and demonstrated important inefficiencies. During the period 1959-2010, 65% of the total violations found by the ECtHR related to a violation of Article 6 (right to a fair trial) -out of 473 violations, 353 were due to the excessive length of court proceedings<sup>523</sup>. In 2012, Greece was rated fourth among 47 members of the Council of Europe because of systematic violations of 'reasonable time' of court proceedings<sup>524</sup>, and the ECtHR had already issued 'pilot judgments' condemning Greece for excessive length of sets of proceedings in all three jurisdictions of the Greek judicial system<sup>525</sup> – indicating a 'structural problem'. It cannot, therefore, be contested that there was much room for improvement with respect to the efficiency of the Greek judicial system, as the enormous<sup>526</sup> delays practically lead to the non-attribution of justice (*αρνησιδικία*).

Most legislative measures adopted since 2010 with respect to the judicial system amended the Procedural Codes (Administrative, Civil and Penal) and some introduced new elements, e.g. mediation<sup>527</sup>, and appropriate and sufficient redress in cases of excess of reasonable time<sup>528</sup>. The main Laws adopted were: Law 3898/2010<sup>529</sup> on mediation in civil and commercial cases; Law 3900/2010<sup>530</sup> bringing significant changes to Administrative Courts; Law 3904/2010<sup>531</sup> aimed at improving criminal justice; Law 3994/2011<sup>532</sup> aimed at improving civil justice; Law 4055/2012<sup>533</sup> amending several provisions of the three Procedural Codes; Law 4129/2013<sup>534</sup> concerning the Court of Auditors; Law 4194/2013<sup>535</sup>

<sup>522</sup> See compiled stakeholders views in Article from in.gr (*Εμποδίζουν την άσκηση θεμελιωδών δικαιωμάτων- Αντίθετοι στις αλλαγές στον Κώδικα Πολιτικής Δικονομίας φορείς της Δικαιοσύνης*), available at: <http://news.in.gr/greece/article/?aid=1231365027> (in Greek).

<sup>523</sup> Koutsopoulou, K. – Kosma, A., 'The gradual inclusion of Greek constitutional protection of individual rights in the provisions of the European Convention on Human Rights through the profile of the "Greek" decisions of the European Court of Human Rights and their influence in Greece', contribution to the 3rd Common Seminar of Constitutional Law, Volos, 24 March 2011, publ. N.K.U.A. 2011, p.257-293.

<sup>524</sup> Justification report for Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012,p.1, available at: [http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=5453eb70-0c94-4928-9446-7d10fb5b4042](http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=5453eb70-0c94-4928-9446-7d10fb5b4042) (in Greek)

<sup>525</sup> ECtHR, *Athanasίου and Others v. Greece*, application no. 50973/08, 21 December 2010 (for administrative courts), *Michelioudakis v. Greece*, no. 54447/10, 3 April 2012 (for criminal courts), *Glykantzi v. Greece*, no. 40150/09, 30 October 2012 (for civil courts).

<sup>526</sup> It is mentioned in the Justification report for Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012,p.1, available at: [http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=5453eb70-0c94-4928-9446-7d10fb5b4042](http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=5453eb70-0c94-4928-9446-7d10fb5b4042) (in Greek), that one of the ECtHR judgements referred to a delay of 27 years.

<sup>527</sup> Law 3898/2010 'Mediation in civil and commercial cases' (*Διαμεσολάβηση σε αστικές και εμπορικές υποθέσεις*), Government Gazette A' 211/2010.

<sup>528</sup> Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012 and Law 4239/2014 'Just satisfaction for exceeding the reasonable duration of proceedings in civil and criminal courts and the Court of Auditors and other provisions' (*Δίκαιη ικανοποίηση λόγω υπέρβασης της εύλογης διάρκειας της δίκης, στα πολιτικά και ποινικά δικαστήρια και στο Ελεγκτικό Συνέδριο και άλλες διατάξεις*), Government Gazette A'43/2014.

<sup>529</sup> Law 3898/2010 on mediation in civil and commercial cases (*Διαμεσολάβηση σε αστικές και εμπορικές υποθέσεις*), Government Gazette A'211/2010

<sup>530</sup> Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010.

<sup>531</sup> Law 3904/2010 'Streamlining processes and improving the conferment of criminal justice and other provisions' (*Εξορθολογισμός και βελτίωση στην απονομή της ποινικής δικαιοσύνης και άλλες διατάξεις*), Government Gazette A'218/2010.

<sup>532</sup> Law 3994/2011 'Streamlining processes and improving the conferment of civil justice and other provisions' (*Εξορθολογισμός και βελτίωση στην απονομή της πολιτικής δικαιοσύνης και άλλες διατάξεις*), Government Gazette A'165/2011.

<sup>533</sup> Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012.

<sup>534</sup> Law 4129/2013 'Ratification of the Code of Laws for the Court of Auditors' (*Κύρωση του Κώδικα Νόμων για το Ελεγκτικό Συνέδριο*), Government Gazette A'52/2013.

<sup>535</sup> Law 4194/2013 'Code of Lawyers' (*Κώδικας Δικηγόρων*), Government Gazette A'208/2013.

introducing the new Code of Lawyers; Law 4239/2014<sup>536</sup> introducing a judicial remedy in cases of excess of reasonable time for all jurisdictions.

The right to access to justice has substantive, procedural and institutional dimensions. This study focuses mainly on the measures adopted that could be considered as having an impact on the enjoyment of this right in relation to:

- financial cost;
- more stringent admissibility conditions;
- quality and performance of the judicial system.

These measures are briefly presented below. Measures introduced in respect of tax-cases are presented separately, as more stringent goals were set in the context of the Economic Adjustment Programmes and Memoranda of Understanding. Moreover, tax cases are also linked to the enjoyment of another fundamental right, the right to property. Therefore, access to justice is essential as a means for the protection of citizens.

### 6.3. The measures adopted

The Justification report for Law 3900/2010<sup>537</sup>, that introduced changes in the field of administrative justice, explicitly refers to case overload and attributes this problem to maladministration, 'labyrinthine overregulation', the lack of provisions that would discourage the exercise of precocious or manifestly unfounded legal applications, as well as the reckless pursuit of remedies by the Government and public entities. Although the abovementioned Law deals with changes in procedures before administrative courts, the same rationale was the basis for the adoption of measures in the civil and criminal justice. At the same time, other structural reforms aimed at reducing public expenditure in general, e.g. the reduction of salaries and the number of public servants, were also applied in respect of the judicial system, having an impact on the overall efficiency of the courts and, ultimately, on the substantive aspect of the right to access to justice.

#### 6.3.1. Measures increasing costs relevant to legal and judicial services

In 2010<sup>538</sup>, 23% VAT was imposed on legal services, thus increasing the amount invoiced by lawyers to their clients. Moreover, in the context of the liberalisation of key professions, a new Code of Lawyers<sup>539</sup> was adopted. The new Code requires a fixed amount to be prepaid by lawyers for each procedural act, submission or court appearance. Non-compliance with the obligation to prepay these amounts, and non-submission of the relevant advance fee collection note (γραμμάτιο προείσπραξης δικηγορικής αμοιβής), results

<sup>536</sup> Law 4239/2014 'Just satisfaction for exceeding the reasonable duration of proceedings in civil and criminal courts and the Court of Auditors and other provisions' (*Δίκαιη ικανοποίηση λόγω υπέρβασης της εύλογης διάρκειας της δίκης, στα πολιτικά και ποινικά δικαστήρια και στο Ελεγκτικό Συνέδριο και άλλες διατάξεις*), Government Gazette A'43/2014.

<sup>537</sup> Justification report of Law 3900/2010 (*Αιτιολογική έκθεση στο σχέδιο νόμου: Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), p.1, available at [http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=9f66f052-b60f-49a9-9124-e79f0c49208f](http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=9f66f052-b60f-49a9-9124-e79f0c49208f) (in Greek).

<sup>538</sup> Article 62(3) of Law 3842/2010 'Restoring fiscal justice, tackling tax evasion and other provisions' (*Αποκατάσταση φορολογικής δικαιοσύνης, αντιμετώπιση της φοροδιαφυγής και άλλες διατάξεις*), Government Gazette A' 58/2010.

<sup>539</sup> Article 6(1) of Law 4194/2013 'Code of Lawyers' (*Κώδικας Δικηγόρων*), Government Gazette A' 208/2013, as amended by article 7(8a) of Law 4205/2013.

in non-acceptance (inadmissibility) of the procedural act by the courts<sup>540</sup>. National courts already apply this provision and reject applications on this ground<sup>541</sup>. It should be noted, however, that citizens eligible for legal aid are exempted from these fees<sup>542</sup>.

In Greece, different categories of judicial fees are imposed in the introductory phase. Some are paid in the form of stamps (*χαρτόσημα*) placed on the court document for submission and others are submitted in the form of a judicial duty note (*δικαστικό ένσημο*). Since 2010, there were increases in all categories of these fees:

- In 2012<sup>543</sup>, the amounts for judicial stamp duties necessary for every procedural act, submission and court appearance, payable to the Funding Facility for Court Buildings (*μεγαρόσημο υπέρ Ταμείου Χρηματοδότησης Δικαστικών Κτιρίων- ΤΑ.Χ.ΔΙ.Κ*) were increased, e.g. from EUR 0.50 to EUR 3 in first instance courts; from EUR 1 to EUR 5 in second instance courts; from EUR 2 to EUR 15 for supreme courts; from EUR 0.50 to EUR 2 for every certified copy.
- The amounts of judicial duty notes also increased<sup>544</sup>. Although these amounts are refundable to the applicant if the outcome of the proceedings is favourable, there is very strict obligation to pay the relevant sums and submit the notes very early in the proceedings (and in any case no later than the first hearing), otherwise the application is rejected as inadmissible. When legal aid is granted, it also covers the fees for judicial duty notes<sup>545</sup>. Tables 27 to 29 below indicatively demonstrate the increase of fees, in every jurisdiction:

<sup>540</sup> Article 6(3) of Law 4194/2013 'Code of Lawyers' (*Κώδικας Δικηγόρων*), Government Gazette A' 208/2013

<sup>541</sup> District civil court of Chania (Ειρηνοδίκη Χανίων) judgment 809/2013.

<sup>542</sup> Article 62(3) of Law 3842/2010 'Restoring fiscal justice, tackling tax evasion and other provisions' (*Αποκατάσταση φορολογικής δικαιοσύνης, αντιμετώπιση της φοροδιαφυγής και άλλες διατάξεις*), Government Gazette A' 58/2010.

<sup>543</sup> Law 4043/2012 'Measures for the improvement of the conditions in the detention facilities and other provisions' (*Μέτρα για τη βελτίωση των συνθηκών διαβίωσης στα καταστήματα κράτησης και άλλες διατάξεις*), Government Gazette A' 25/2012 and Law 4046/2012 Approval of the and Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012 amended article 10 of Legislative Decree 1017/1971 as it was in force since 2001 (Ministerial Decision 190585/19.12.2001, Government Gazette B'1710/2001).

<sup>544</sup> Information obtained through stakeholder consultations (Magistrate Judge and Union of Administrative Judges), December 2014.

<sup>545</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.83.

**Table 27: Increase of fees in Administrative Courts**

	2009	2014
Submitting an application for annulment ( <i>αίτηση ακυρώσεως</i> ), appeal ( <i>έφεση</i> ), third-party opposition ( <i>τριτανακοπή</i> ), employee's appeal ( <i>υπαλληλική προσφυγή</i> ) and application for appeal in cassation for social security matters ( <i>αίτηση αναίρεσέως για διαφορές κοινωνικής ασφάλισης</i> ) before the Council of State <sup>546</sup>	€100	€150
Submitting an application for suspension ( <i>αίτηση αναστολής</i> ), an application for interim measures ( <i>αίτηση ασφαλιστικών μέτρων</i> ) and an application for correction or interpretation of a judgment ( <i>αίτηση διόρθωσης και ερμηνείας</i> ) before the Council of State <sup>547</sup>	€50	€100
Submitting an application for appeal in cassation ( <i>αίτηση αναίρεσέως</i> ) before the Council of State <sup>548</sup>	€200	€250
Submitting an application for interim measures ( <i>αίτηση ασφαλιστικών μέτρων</i> ) in public contract cases <sup>549</sup>	€100	1% on the value of the contract (max EUR 50,000)
Submitting a recourse ( <i>προσφυγή ή ανακοπή</i> ), an application for suspension ( <i>αίτηση αναστολής</i> ) and an application for correction or interpretation of a judgment ( <i>αίτηση διόρθωσης και ερμηνείας</i> ) before the Ordinary Administrative Courts <sup>550</sup>	€25	€100
Submitting a recourse regarding social security ( <i>προσφυγή ασφαλισμένου</i> ) <sup>551</sup>	€25	€25
Submitting an appeal ( <i>έφεση/αντέφεση</i> ), third-party opposition ( <i>τριτανακοπή</i> ) and an application for review ( <i>αίτηση αναθεώρησης</i> ) before the Ordinary Administrative Courts <sup>552</sup>	€50	€150

<sup>546</sup> Article 36 Presidential Decree 18/1989 for the Council of State (PD18/1989), as amended by article 8 of Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010.

<sup>547</sup> Article 36 Presidential Decree 18/1989 for the Council of State (PD18/1989), as amended by article 8 of Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010 and then replaced by article 21 of Law 4274/2014 'Penal and Correctional Law and other provisions' (*Ρυθμίσεις Ποινικού και Σωφρονιστικού Δικαίου και άλλες διατάξεις*), Government Gazette A' 147/2014.

<sup>548</sup> Article 36 Presidential Decree 18/1989 for the Council of State (PD18/1989), as amended by article 8 of Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010 and then replaced by article 21 of Law 4274/2014 'Penal and Correctional Law and other provisions' (*Ρυθμίσεις Ποινικού και Σωφρονιστικού Δικαίου και άλλες διατάξεις*), Government Gazette A' 147/2014.

<sup>549</sup> Article 5 of Law 3886/2010 'Judicial protection in public procurement - Harmonisation of Greek legislation with Directive 89/665 / EEC of 21 June 1989 (L 395) and Directive 92/13 / EEC of 25 February 1992 (L 76), as amended by Directive 2007/66 / EC of the European Parliament and of the Council of 11 December 2007 (L 335)' (*Δικαστική προστασία κατά τη σύναψη δημοσίων συμβάσεων - Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 89/665/EOK του Συμβουλίου της 21ης Ιουνίου 1989 (L 395) και την Οδηγία 92/13/EOK του Συμβουλίου της 25ης Φεβρουαρίου 1992 (L 76), όπως τροποποιήθηκαν με την Οδηγία 2007/66/EK του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 11ης Δεκεμβρίου 2007 (L 335)*), Government Gazette A' 173/2010. as amended by Article 28 of Law 4111/2013. However, this provision will be repealed, effective March 2015, and Article 187 of Law 4281/2014 will apply. Under this law the fee will be calculated on the basis of staggered calculation but on the amount excluding TVA. The new provision sets the 1% as a maximum together with a minimum of 200€ and a maximum of €50,000. All other details e.g. staggered calculation scale, time of payment etc will be further specified by a Presidential Decree.

<sup>550</sup> APC as codified by Law 2717/1999 for the administrative courts, article 277 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010 and Law 3994/2011 'Streamlining processes and improving the conferment of civil justice and other provisions' (*Εξορθολογισμός και βελτίωση στην απονομή της πολιτικής δικαιοσύνης και άλλες διατάξεις*), Government Gazette A' 165/2011.

<sup>551</sup> APC as codified by Law 2717/1999 for the administrative courts, article 277 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010 and Law 3994/2011 'Streamlining processes and improving the conferment of civil justice and other provisions' (*Εξορθολογισμός και βελτίωση στην απονομή της πολιτικής δικαιοσύνης και άλλες διατάξεις*), Government Gazette A' 165/2011.

**Table 28: Increase of fees in Civil Courts**

	2009	2014
Submitting an action (αγωγή) <sup>553</sup>	4‰ on the value of the dispute	8‰ on the value of the dispute
Submitting an appeal (έφεση) <sup>554</sup>	0	€200
Submitting an appeal in cassation (αναίρεση) <sup>555</sup>	0	€300
Submitting an appeal to reopen the case (αναψηλάφηση) <sup>556</sup>	0	€400

**Table 29: Increase of fees in Criminal Courts**

	2009	2014
Submitting a complaint (έγκληση) or report (μήνυση) <sup>557</sup>	€10	€100
Submitting a request to become a civil claimant (παράσταση πολιτικής αγωγής) <sup>558</sup>	€10	€50
Submitting a recourse against summons (προσφυγή κατά κλητήριου θεσπίσματος) <sup>559</sup>	0	€300
Submitting a recourse against a prosecution order rejecting a complaint (προσφυγή κατά εισαγγελικής διάταξης που απορρίπτει έγκληση) <sup>560</sup>	0	€300

Finally, it should be mentioned that **legal aid** is provided on a means-test basis and was recently expanded to cover proceedings before administrative courts as well<sup>561</sup>. Between

<sup>552</sup> APC as codified by Law 2717/1999 for the administrative courts, article 277 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις), Government Gazette A'213/2010 and Law 3994/2011 'Streamlining processes and improving the conferment of civil justice and other provisions' (Εξορθολογισμός και βελτίωση στην απονομή της πολιτικής δικαιοσύνης και άλλες διατάξεις), Government Gazette A' 165/2011.

<sup>553</sup> Article 2(1) of Law ΓΠΟΗ/1912, Government Gazette A'3/1912 as amended by Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής-Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A'222/2012 and Law 4111/2013. Athens Bar Announcement available at <http://www.lawnet.gr/news/dsa-ypologismos-dikastikou-ensimou-meta-kai-to-n-41112013-28877.html>. This fee was expanded from cases where the plaintiff is seeking a court order to satisfy a specific claim (διεκδικητικές αγωγές) to cases where the plaintiff is merely seeking for a declaratory judgment of a pre-existing right (αναγνωριστικές αγωγές) as well.

<sup>554</sup> Article 495 CPC, as amended by article 12 of Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012.

<sup>555</sup> Article 495 CPC, as amended by article 12 of Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012.

<sup>556</sup> Article 495 CPC, as amended by article 12 of Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012.

<sup>557</sup> Articles 42(4) and 46(2) PPC, as amended by article 28 of Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012.

<sup>558</sup> Article 63 PPC, as amended by Ministerial Decision 123827/23.12.2010, Government Gazette B'1991/2010.

<sup>559</sup> Article 322 PPC as amended by article 33 of Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012.

<sup>560</sup> Article 48 PPC, as amended by article 28 of Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012.

<sup>561</sup> Article 31 of Law 4274/2014 'Penal and Correctional Law and other provisions' (Ρυθμίσεις Ποινικού και Σωφρονιστικού Δικαίου και άλλες διατάξεις), Government Gazette A' 147/2014 expanded the application of Law 3226/2004 'Providing legal assistance to low-income citizens and other provisions' (Παροχή νομικής βοήθειας σε πολίτες χαμηλού εισοδήματος και άλλες διατάξεις), Government Gazette A'24/2004, in administrative judicial proceedings.



2010 and 2012, the budget allocated to legal aid was increased by 232%<sup>562</sup>. In 2012, the annual public budget allocated to legal aid per inhabitant, as part of the GDP per capita in Greece, was 0,00437%, i.e. below the average 0,02394% of Council of Europe members, and below other EU MS, e.g. Ireland 0,051%, Belgium 0.02293%, Portugal 0,0337%, Germany 01319%,<sup>563</sup> and the annual public budget allocated to legal aid, in euros, per inhabitant, was EUR 0.75, i.e. below the average EUR 8.63 and median EUR 2.30 of Council of Europe members, and below other EU MS, e.g. Ireland EUR 18.11, Belgium EUR 7.80, Portugal EUR 5.26, Germany EUR 4.29<sup>564</sup>. Legal aid beneficiaries are exempted from the fixed amount to be prepaid by lawyers, and from judicial duty note fees. However, since 2012, the fees of technical experts are not covered by legal aid<sup>565</sup> and this cost was shifted to citizens.

### 6.3.2. Measures introducing more stringent admissibility conditions

To reduce the inflow of cases, especially before the higher and supreme courts, apart from increasing the court fees, more stringent admissibility conditions were imposed, e.g.:

- The admissibility criteria for appeal in cassation (*αναίρεση*) before the Council of State were amended by Law 3900/2010<sup>566</sup>. Since 2010, an appeal in cassation is allowed before the Council of State only when it is stated upfront by the applicant that there is no case-law on the matter, or that his/her case differs to settled case-law, and only when the financial value at stake is more than EUR 40,000 for cases other than those dealing with periodic benefits, entitlement to pension, or to other lump sum benefits. As for cases regarding public contracts, no appeal is admissible if the financial value is less than EUR 200,000.
- The time limit to submit an appeal before the Court of Auditors was abridged from a year to 30 days<sup>567</sup>, and then to 60 days<sup>568</sup>.
- The condition to be granted interim measures was amended from 'irreparable or difficult to repair' (*ανεπανόρθωτη ή δυσχερώς επανορθώσιμη*) damage to 'irreparable' damage only (*ανεπανόρθωτη*)<sup>569</sup>.
- A procedural condition of a fiscal character was introduced in relation to tangible actions from realty (*εμπράγματα αγωγές επί ακινήτων*): Law 4174/2013<sup>570</sup> stipulates that these actions are inadmissible if they are not accompanied by the Tax Authority certificate of payment of the new property tax 'ENFIA' (*Ενιαίος Φόρος Ιδιοκτησίας Ακινήτων – ΕΝΦΙΑ*).

<sup>562</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.49.

<sup>563</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.48.

<sup>564</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.47.

<sup>565</sup> Article 6(9) of Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012.

<sup>566</sup> Information obtained through consultation with stakeholders (Academic), December 2014.

<sup>567</sup> Article 67(8) of Law 3842/2010 Restoring fiscal justice, tackling tax evasion and other provisions (*Αποκατάσταση φορολογικής δικαιοσύνης, αντιμετώπιση της φοροδιαφυγής και άλλες διατάξεις*), Government Gazette A' 58/2010.

<sup>568</sup> Article 80 of Law 4129/2013 'Ratification of the Code of Laws for the Court of Auditors' (*Κύρωση του Κώδικα Νόμων για το Ελεγκτικό Συνέδριο*), Government Gazette A' 52/2013.

<sup>569</sup> APC as codified by the law 2717/1999 for the administrative courts, article 202 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010.

<sup>570</sup> Article 54A(5).



### 6.3.3. Measures affecting the quality and performance of the judicial system

Structural reforms aimed at increasing the effectiveness of public administration and reducing public expenditure were also applied in respect of the judicial administration – having an impact on the overall efficiency of the courts and, ultimately, on the exercise of the right of access to justice. There was a two-fold decrease in court personnel (*δικαστικοί υπάλληλοι*). On one hand, the pension reform measures led to increased uncertainty and a tendency for retirement, while, at the same time, restrictions in public sector recruitment affected the staffing of courts<sup>571</sup>. Reductions in wages were imposed on court personnel as well as members of the judiciary of all jurisdictions and all instances<sup>572</sup>.

## 6.4. Tax-cases: access to justice and the obligation for fiscal discipline on the spotlight of the measures

*Under the Economic Adjustment Programmes and the Memoranda of Understanding, the Government was expected to meet a 15% reduction target for tax cases by the end of 2011, and to establish a work-plan for clearing the backlog of tax cases in all administrative tribunals and administrative courts of appeal by the end of July 2013, with semi-annual intermediate targets for reducing the backlog by at least 50% by the end of July 2012, and 80% by the end of 2012<sup>573</sup>.*

*According to the OECD<sup>574</sup>, at the end of 2009, there was EUR 33 billion (14% of the GDP) in hard-to-collect tax arrears of 1.3 million taxpayers. More than 4 million tax cases were pending audit and more than 150,000 other cases pending before the courts. The link between the efficiency of 'tax-justice' and fiscal consolidation was quite apparent – hence more measures targeted the function of the courts in respect of tax cases.*

The main changes, regarding tax and custom cases (*φορολογικές και τελωνειακές εν γένει διαφορές*) and their judicial handling, were the following:

- The judicial duty notes for submitting recourses (*προσφυγή*) changed from EUR 100 (fixed sum) to a sum of 2% of the disputed amount<sup>575</sup> and up to a maximum of EUR 10,000. A third of this amount has to be paid with the submission of the introductory application, e.g. recourse or appeal, and the remaining two-thirds by the first hearing, otherwise the application is rejected as inadmissible. Failure to pay this sum and submit to the court the corresponding judicial duty note cannot be remedied in a short period of time following the first hearing, as might happen with other cases<sup>576</sup>.

<sup>571</sup> Information obtained through stakeholder consultation (Magistrate Judge), December 2014.

<sup>572</sup> Information obtained through stakeholder consultations (Magistrate Judge, Union of Administrative Judges, Academic), December 2014.

<sup>573</sup> European Commission – DG for Economic and Financial Affairs, 'The Economic Adjustment Programme for Greece – Fifth review', Occasional Papers 87, October 2011, available at: [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/pdf/ocp87\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp87_en.pdf), p.85.

<sup>574</sup> OECD Economic Surveys: Greece 2011, available at: [http://eapan2.antagonistikotita.gr/uploads%5CEkthesi\\_OACD.PDF](http://eapan2.antagonistikotita.gr/uploads%5CEkthesi_OACD.PDF), p.86.

<sup>575</sup> Prior to Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010, this analog sum of 2% of the disputed amount was applicable only for the submission of appeals (*έφεση και αντέφεση*), without a set maximum amount. The Council of State found this provision unconstitutional (Decision 246/2010).

<sup>576</sup> APC as codified by Law 2717/1999 for the administrative courts, article 277 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010 and Law

- In addition to the above 2% of the amount as judicial duty note fee, especially regarding appeals, the appellant is also obliged to deposit to the competent tax authority, 50% of the disputed amount as defined in the first instance judgment by the first hearing, and submit proof of the deposit note. Otherwise the appeal is rejected as inadmissible unless suspension of execution has been granted<sup>577</sup>.
- Since 2011, an additional procedural burden (and related financial cost) rolled-over from the court administration to the citizens. The applicant is obliged to serve by bailiff the submitted recourse to the competent tax or customs authority within 20 days from the deadline for submission. Otherwise, the submission of the recourse is inadmissible, unless the authority is present during the first hearing and does not object<sup>578</sup>.
- The ex-officio judicial review of elements that may lead to the repeal of the administrative act in question, in tax cases, was limited to the violation of precedent (whereas previously they covered other elements, e.g. issuing authority's lack of competence, legal basis).
- A mandatory internal review unit (*Υπηρεσία Εσωτερικής Επανεξέτασης της Φορολογικής Διοίκησης*) has been put in place to which taxpayers must submit their extra-judicial administrative appeals (*ενδικοφανής διοικητική προσφυγή*), prior to them being able to go to court<sup>579</sup>. Such an administrative appeal can allow deferring the payment of 50% of the disputed amount, provided that the applicant pays the other 50% of the disputed amount. It should be underlined that, under the Greek legal system, when an extra-judicial administrative appeal is provided by law, it constitutes an obligatory procedural step. Submitting an application to court without having first submitted the administrative appeal renders the court application inadmissible.

Some stakeholders have argued that the above measures have a tax-collecting character and aim to reduce pending payments of tax arrears, as well as reduce the inflow of tax-cases before national courts<sup>580</sup>.

3994/2011 'Streamlining processes and improving the conferment of civil justice and other provisions' (*Εξορθολογισμός και βελτίωση στην απονομή της πολιτικής δικαιοσύνης και άλλες διατάξεις*), Government Gazette A' 165/2011.

<sup>577</sup> APC as codified by Law 2717/1999 for the administrative courts, article 93 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010.

<sup>578</sup> APC as codified by Law 2717/1999 for the administrative courts, Article 126 as amended by Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010.

<sup>579</sup> Articles 63-65 of Law 4174/2013 Fiscal procedures and other provisions (*Φορολογικές διαδικασίες και άλλες διατάξεις*), Government Gazette A'170/2013.

<sup>580</sup> Information obtained through stakeholder consultation (Academic), December 2014.

## 6.5. Impact of the measures

According to the statistical data published on the portal of the Greek Ministry of Justice, the case backlog has reduced between 2012 and 2014 – especially before the administrative courts which were extremely overburdened (see Table 30 below). Some of the measures have had a positive impact, e.g. the introduction of 'pilot cases' for matters of general interest affecting a wider circle of persons, had a very positive outcome for courts and citizens in terms of managing the inflow of potentially identical cases and of safeguarding legal certainty through a supreme court ruling<sup>581</sup>. The gradual introduction<sup>582</sup> of e-tracking and e-filing has, overall, facilitated the judicial procedure<sup>583</sup>.

**Table 30: Pending cases before administrative courts 2012 and 2014<sup>584</sup>**

	2012 <sup>585</sup>	2014 <sup>586</sup>
Administrative Courts		
Pending Cases before the Council of State ( <i>Συμβούλιο της Επικρατείας</i> )	32,134	22,180
Pending Cases before Ordinary Administrative Courts of 2 <sup>nd</sup> Instance ( <i>Διοικητικά Εφετεία</i> )	57,606	49,175
Pending Cases before Ordinary Administrative Courts of 1 <sup>st</sup> Instance ( <i>Διοικητικά Πρωτοδικεία</i> )	403,087	319,226

Similar to the legislation affecting other fundamental rights, the measures reforming the judicial system were adopted under an urgent need imposed by the economic adjustment financial management and, in the general interest of the country's economic sustainability. The majority of these measures dealt with long-standing structural problems, i.e. the extremely lengthy duration of proceedings and the significant case backlog pending before the national courts. Moreover, the right to judicial protection enshrined in Article 20(1) of the Greek Constitution and Article 6(1) of the ECHR does not preclude the legislature to establish procedural requirements (even in the form of financial burdens) to safeguard the efficiency of the courts.

The measures were primarily focused on the quantitative aspect of the effectiveness and quality of justice, i.e. the number of pending and new cases as well as the number of issued judgments<sup>587</sup>. Other determinant factors of the quality of the judicial system were not targeted as much by the measures, e.g. the ability to access justice and the

<sup>581</sup> 'Direct clearance with pilot proceedings' (*Άμεση εκκαθάριση με την πιλοτική δίκη*), Kathimerini newspaper, 18.05.2013, available at: <http://www.kathimerini.gr/488512/article/epikairothta/ellada/amesh-ekka8arish-me-thn-pilotikh-dikh>.

<sup>582</sup> Magistrate Judge noted that the practical implementation of these measures has not yet expanded to all courts and districts.

<sup>583</sup> As indicated during an interview with an academic, e-submission is for now only available in civil courts of Athens and full e-monitoring of the progress of a case is available in the Council of State and Administrative Courts of 2nd Instance. According to stakeholders, partial e-monitoring is also available in civil and penal proceedings.

<sup>584</sup> Data available at the Greek Ministry of Justice [portal](#) (in Greek).

<sup>585</sup> 1<sup>st</sup> trimester.

<sup>586</sup> 2<sup>nd</sup> trimester.

<sup>587</sup> Information obtained through consultation with stakeholders (Magistrate Judge), December 2014.

completeness and effectiveness of the judicial protection provided<sup>588</sup>. Almost all of the extra costs, or other procedural requirements, are set at a very early stage in judicial proceedings (under the penalty of inadmissibility), and therefore, seem to have affected a wide majority of citizens in their enjoyment of the right to access to justice<sup>589</sup>.

The NCHR has repeatedly indicated<sup>590</sup> that a very large and rapidly growing part of the population is exposed to poverty and social exclusion and, thus, the increase of judicial duty notes would severely affect these persons' right to access to justice<sup>591</sup>. Moreover, according to the NCHR, this impediment is unilaterally imposed only on citizens, and not on the Public Administration – which is also responsible for the courts' overload, as a 'punishment' and in contrast to the principle of equality of parties. This is even more crucial in a period where numerous measures are adopted, often in the form of Ministerial Decisions or other Administrative Acts, and the right to access to justice is a citizens' only means of defence.

Lawyers are also affected by the new measures – mainly young lawyers who work as independents and are not in a position to absorb some of the increases without increasing their fees, e.g. the 23% TVA, or the extra fees for obtaining certified copies of court documents – a cost that used to be minor but has now become unbearable<sup>592</sup>. The high increase in judicial duty notes also raised severe concerns among law practitioners, in relation to the right of citizens to access justice<sup>593</sup>. The admissibility criterion of prepaying fixed amounts and submitting the relevant advance fees collection note (*γραμμάτιο προείσπραξης δικηγορικής αμοιβής*) seems to be a measure that primarily aims at reducing tax-evasion by lawyers<sup>594</sup> – although, these extra costs are now transferred to their clients<sup>595</sup>.

<sup>588</sup> Yannakopoulos Constantin, 'The transformation of the subject of constitutional rights' (*Η μετάλλαξη του υποκειμένου των συνταγματικών δικαιωμάτων*), *Administrative Law Review (Εφημερίδα)* 2/2012, p. 169 with further relevant references.

<sup>589</sup> Information obtained through stakeholder interviews (Magistrate Judge), December 2014.

<sup>590</sup> Observations and Recommendations on draft Law 3900/2010, p.10-11, available here: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/Paratiriseis\\_dioikitiki\\_diki\\_final2010.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/Paratiriseis_dioikitiki_diki_final2010.pdf), on draft Law 4055/2012, p.8-11, available here: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/EFDA\\_parat\\_polunomosxedio\\_tel.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/EFDA_parat_polunomosxedio_tel.pdf) and on draft Law 4239/2014, not available on-line but obtained during interviews.

<sup>591</sup> Observations and Recommendations on draft Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/Paratiriseis\\_dioikitiki\\_diki\\_final2010.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/Paratiriseis_dioikitiki_diki_final2010.pdf), p.10-11, on draft Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/EFDA\\_parat\\_polunomosxedio\\_tel.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/EFDA_parat_polunomosxedio_tel.pdf), p.8-11 and on draft Law 4239/2014 'Just satisfaction for exceeding the reasonable duration of proceedings in civil and criminal courts and the Court of Auditors and other provisions' (*Δίκαιη ικανοποίηση λόγω υπέρβασης της εύλογης διάρκειας της δίκης, στα πολιτικά και ποινικά δικαστήρια και στο Ελεγκτικό Συνέδριο και άλλες διατάξεις*), Government Gazette A'43/2014, not available on-line but obtained during interviews.

<sup>592</sup> This was highlighted during interviews with academic and is also presented in this article entitled 'Expensive justice' (*Ακριβή δικαιοσύνη*), available at: <http://www.protagon.gr/?i=protagon.el.article&id=20750>.

<sup>593</sup> See Article from Kathimerini entitled 'Hand deep into the pocket for the judicial duty notes' (*Βαθιά το χέρι στην τσέπη για τα παράβολα*), available at: <http://www.kathimerini.gr/415744/article/epikairothta/ellada/va8ia-to-xeri-sthn-tseph-gia-ta-paravola> (in Greek) and intervention of Administrative Judge. Faitas V. in conference 'Economic crisis and Justice' organised by the Union of Administrative Judges and Panteion University, available at: <http://www.edd.gr/index.php/views/35-views/74-limiting-judicial-protection> (in Greek).

<sup>594</sup> Information obtained through consultation with stakeholders (Academic), December 2014.

<sup>595</sup> Information obtained through consultation with stakeholders (Academic), December 2014.

**National courts** do not follow the same approach on all increases and other adopted measures, e.g.:

- The **Council of State** has ruled that the **increase in judicial duty notes** is compatible with the Constitution and the ECHR<sup>596</sup>, and has accepted the imposition of the **analog sum of 2%** of the disputed amount and up to a maximum of EUR 10,000<sup>597</sup> and the **obligation to pay to the competent tax authority 50% of the disputed amount** as an admissibility criterion for appeals<sup>598</sup> in tax cases. However, it has held that the **payment of 1% of the value of the public contract**, in totality, and by the first hearing of the case at the latest, as an admissibility criterion for an application for interim measures, constitutes an unreasonable restriction of the right to judicial protection and violates the principle of proportionality<sup>599</sup>. It also followed a broad interpretation of the **amendment of the condition to be granted interim measures** from 'irreparable or difficult to repair' damage (*ανεπανόρθωτη ή δυσχερώς επανορθώσιμη*) to 'irreparable' (*ανεπανόρθωτη*) damage, establishing that the two terms were equivalent and that the courts always remain competent to assess the nature of potential damage, taking into consideration the specific financial and other circumstances of the applicant<sup>600</sup>.
- **Civil Courts** have also ruled on several of the abovementioned measures. The Athens Single-Member Court of First Instance (*Μονομελές Πρωτοδικείο Αθηνών*) has found that the increase of **court fees from 4‰ to 8‰** under the present socioeconomic circumstances, constitutes a manifestly unconstitutional measure that violates Article 20(1) of the Greek Constitution<sup>601</sup>. The Chania Single-Member Court of First Instance (*Μονομελές Πρωτοδικείο Χανίων*) noted that the amount of fee and its expansion to actions for declaratory judgments (*αναγνωριστικές αγωγές*) deprives citizens from their right to stop the statute of limitations against their rights or from clarifying the existence of their rights for cash-collective purposes<sup>602</sup>.

However, the Thessaloniki Single-Member Court of First Instance (*Μονομελές Πρωτοδικείο Θεσσαλονίκης*) has issued an opposite judgment, justifying this increase<sup>603</sup>. This issue has not yet been brought before the Supreme Court (*Άρειος Πάγος*). The Appeal Court of Ioannina (*Εφετείο Ιωαννίνων*) has ruled that the **EUR 200 judicial duty note imposed on appeal submissions** before civil courts, is in contrast to the Constitution and the ECHR<sup>604</sup>. According to the Court's reasoning<sup>605</sup>,

<sup>596</sup> Council of State (Plenary - pilot case) judgment 601/2012.

<sup>597</sup> Council of State judgment (Plenary - pilot case) 1619/2012, available at <http://www.taxheaven.gr/laws/circular/view/id/14068> and Council of State (plenary - pilot case) judgment 761/2014.

<sup>598</sup> Council of State (Plenary - pilot case) judgment 1619/2012, available at <http://www.taxheaven.gr/laws/circular/view/id/14068>.

<sup>599</sup> Council of State (interim measures) judgment 136/2013, available at [http://www.dsnet.gr/Epikairothta/Nomologia/Ste\\_136\\_2013.htm](http://www.dsnet.gr/Epikairothta/Nomologia/Ste_136_2013.htm). During stakeholder consultation (Academic), December 2014 it was clarified that this amount is now paid in three different phases of the procedure: 1/3 with submission, 1/3 with discussion and 1/3 in case of a negative decision.

<sup>600</sup> Council of State (interim measures - pilot case) judgment 496/2011, available at [http://www.dsnet.gr/Epikairothta/Nomologia/ste469\\_2011.htm](http://www.dsnet.gr/Epikairothta/Nomologia/ste469_2011.htm).

<sup>601</sup> Athens Single-Member Court of First Instance judgment 669/2013.

<sup>602</sup> Chania Single-Member Court of First Instance, judgment 3/2013.

<sup>603</sup> Thessaloniki Single-Member Court of First Instance, judgment 22937/2013.

<sup>604</sup> 'The Appeal Court of Ioannina has ruled that the EUR 200 judicial duty note imposed on appeal submission before civil courts is in contrast to the Constitution' (Αντισυνταγματικό το παράβολο των €200 για τις εφέσεις, αποφάνθηκε το Εφετείο Ιωαννίνων), Τα Νέα newspaper, 07.09.2014, available at <http://www.tanea.gr/news/greece/article/5156654/monomeles-efeteio-antisynagmatiko-to-parabolo-twn-200-eyrw-gia-tis-efeseis/>.



this measure is purely cash-collective and does not aim at improving the effectiveness of the judicial system. The more stringent admissibility requirement of **submitting the Tax Authority certificate of payment of the new property tax 'ENFIA'** was found in contrast to the Constitution as well<sup>606</sup> – on the grounds that it supports a mere cash-flow interest and not an overriding public interest. The Multi-member Court of First Instance of Thessaloniki (*Πολυμελές Πρωτοδικείο Θεσσαλονίκης*) ruled that this measure results to unequal treatment of citizens as the State, in practice, uses the judicial system and the right to access as a means of pressure for meeting tax obligations.

Regarding tax cases, the Greek Union of Administrative Judges (*Ένωση Διοικητικών Δικαστών*) has issued an official public statement noting that, because of the measures adopted (increased fees and extra-judicial administrative appeal), 'there is an objective inability of a significant proportion of citizens to challenge before courts the legality of acts or omissions of tax authorities that affect their legitimate interests. [...] especially when the amount is relatively small, citizens often divest the right to judicial protection since the difficulty of exercising this right is clearly disproportionate to the benefit of any positive outcome of a court proceeding'<sup>607</sup>. Several law practitioners also noted the potential impact of these measures on the right to access to justice<sup>608</sup>. The stricter and separate targets set for tax cases, created, in practice, a 'two speed justice'. Before Greek administrative courts, tax cases were given a far higher priority, while non-tax cases (concerning, among others, pensions and social security) were not treated in the same way<sup>609</sup>.

The more stringent admissibility criteria for appeal in cassation before the Council of State have made submission significantly more burdensome. In particular, the criterion of non pre-existing relevant case-law which has created a 'precedent' on the basis of which the Council of State cannot reverse its own case-law<sup>610</sup>.

Regarding the planned reform of civil procedure and the draft law submitted for public consultation in March 2014<sup>611</sup> – the draft has been submitted to Parliament in November 2014, there have been strongly-negative reactions from all relevant stakeholders, including lawyers, judges, and notaries who believe that the proposed changes will seriously undermine the exercise of citizens' fundamental rights, e.g. through the elimination of hearings of witnesses, the more stringent provisions on auctions for debt collection, and the preservation of high court fees<sup>612</sup>. The Union of Members of the Greek Legal Council of State has also issued a relevant public statement, sharing the views and considerations of the national legal community<sup>613</sup>.

<sup>605</sup> Appeal Court of Ioannina, judgment 108/2014.

<sup>606</sup> Multi-member Court of First Instance of Thessaloniki, judgment 15203/2014.

<sup>607</sup> Press Release of the Union of Administrative Judges on 21.10.2014, available at: <http://www.edd.gr/index.php/views/23-news/announcements/141-press-release-20oct> (in Greek).

<sup>608</sup> Yannakopoulos Constaninos, 'Public interest in the light of the economic crisis: Reflections on the occasion of Decisions 693/2011, 1620/2011 and 2094/2011 of the Council of State' (*Το δημόσιο συμφέρον υπό το πρίσμα της οικονομικής κρίσης –Σκέψεις με αφορμή τις αποφάσεις ΣτΕ Β' 693/2011, ΣτΕ ΣΤ' 1620/2011 και ΣτΕ Α' 2094/2011*), *Administrative Law Review (Εφημερίδα)* 1/2012, p. 102 with further relevant references.

<sup>609</sup> Information obtained through stakeholder consultation (Union of Administrative Judges), December 2014.

<sup>610</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>611</sup> Ministry of Justice website, 'Public consultation on Draft New Code of Civil Procedure', March 2014, available at <http://www.opengov.gr/ministryofjustice/?p=5472>.

<sup>612</sup> See compiled stakeholders views in Article from in.gr (*Εμποδίζουν την άσκηση θεμελιωδών δικαιωμάτων- Αντίθετοι στις αλλαγές στον Κώδικα Πολιτικής Δικονομίας φορείς της Δικαιοσύνης*), available at: <http://news.in.gr/greece/article/?aid=1231365027> (in Greek).

<sup>613</sup> Public Statement of the Union of Members of the Greek Legal Council of State, 25.11.2014, available at: <http://www.nsk.gov.gr/webnsk/anakoinwsh.jsp?id=240> and reproduced in 'State Legal Council Reacts to the new



It should also be mentioned that, according to stakeholders<sup>614</sup>, other austerity measures could also have an impact on the right to access to justice, e.g. court personnel (δικαστικοί υπάλληλοι) has decreased and this means that less assistance is provided to judges in order to adjudicate cases and secretariats have reduced competence to deal with citizens' requests, etc.<sup>615</sup>. The budget attributed to the judicial system, reflects the rationale and objective of fiscal consolidation. Amongst 44 of the 47 members of the Council of Europe, Greece had the greatest decrease in budget that was allocated to all courts and public prosecution services (without legal aid) between 2010 and 2012. The average annual variation of the budget allocated to all courts and public prosecution services (without legal aid) between 2010 and 2012 was -28.7%, while the average between the Council of Europe members was +4.5%<sup>616</sup>. In 2012, the total annual budget allocated to the judicial system (courts, legal aid and public prosecution) in euros, per inhabitant, was EUR 40.8 (below the average EUR 60.6 and median EUR 46.2 of Council of Europe members, and below other EU MS, e.g. Ireland EUR 50.3, Belgium EUR 89.4, Portugal EUR 57.8, Germany EUR 114.3)<sup>617</sup>. In 2012, Greece was ranked at 21 in the list of 27<sup>618</sup> EU MS, with its annual public budget allocated to the judicial system (courts, legal aid and prosecution services), per inhabitant, as part of the GDP per capita at 0.238%, i.e. below the average 0.33% of the Council of Europe members<sup>619</sup>.

Reductions have also been imposed on the salaries of judges. All members of the judiciary strongly objected to the subsequent reductions<sup>620</sup> and, in 2013, the Special Court of Article 88(2) of the Greek Constitution competent for cases regarding remuneration of judicial functionaries (*Ειδικό Δικαστήριο άρθρου 88(2) Συντάγματος – Μισθοδικείο*)<sup>621</sup>, found that the cuts imposed with Law 4093/2012<sup>622</sup>, following the three previous cuts of almost 40% through Laws 3833/2010<sup>623</sup>, 3845/2010<sup>624</sup> and 4002/2011<sup>625</sup>, were unconstitutional

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Civil Procedure Code: its members pledged support to the abstinence of lawyers, *Vima* Newspaper, 25.11.2014, available at: <http://www.tovima.gr/society/article/?aid=653771>.

<sup>614</sup> Information obtained through consultation with stakeholders (Magistrate Judge and Academic), December 2014.

<sup>615</sup> Information obtained through consultation with stakeholders (Magistrate Judge and Union of Administrative Judges), December 2014.

<sup>616</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.53.

<sup>617</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.57.

<sup>618</sup> Data not available for Spain.

<sup>619</sup> Council of Europe - European Commission for the Efficiency of Justice (CEPEJ), 'Report on European judicial systems - Edition 2014 (2012 data): efficiency and quality of justice', available at: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf), p.58.

<sup>620</sup> See joint announcement by the Union of Judges and District Attorneys, the Union of the Judiciary of the Council of State, the Union of Administrative Judges, the Union of District Attorneys, the Union of the Judiciary of the Court of Auditors and the Union of the Members of the Greek Legal Council of State with strong concerns about the measures imposed by Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 - 2015 - Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 - 2016' (*Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013-2016*), Government Gazette A' 222/2012, available at: [http://www.edil-ste.gr/show\\_epik.asp?ids=75](http://www.edil-ste.gr/show_epik.asp?ids=75) (in Greek).

<sup>621</sup> Special Court of Article 88(2) of the Greek Constitution Judgment 88/2013, available at [http://netlaw.gr/media/File/Case\\_Law/Misthodiikeio\\_88\\_2013.pdf](http://netlaw.gr/media/File/Case_Law/Misthodiikeio_88_2013.pdf).

<sup>622</sup> Law 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 - 2015 - Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 - 2016' (*Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής- Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013-2016*), Government Gazette A' 222/2012.

<sup>623</sup> Law 3833/2010 'Protection of the national economy - Emergency measures to tackle the fiscal crisis' (*Προστασία της εθνικής οικονομίας - Επείγοντα μέτρα για την αντιμετώπιση της δημοσιονομικής κρίσης*), Government Gazette A' 40/2010.

because salaries were meant to guarantee the institutional independence of the judiciary<sup>626</sup> (see also Section 4.3.2).

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<sup>624</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

<sup>625</sup> Law 4002/2011 'Modification of the pension legislation of the State - Settings for growth and fiscal consolidation - issues of competence Finance Ministries of Culture and Tourism and Labour and Social Security' (*Τροποποίηση της συνταξιοδοτικής νομοθεσίας του Δημοσίου - Ρυθμίσεις για την ανάπτυξη και τη δημοσιονομική εξυγίανση – θέματα αρμοδιότητας Υπουργείων Οικονομικών, Πολιτισμού και Τουρισμού και Εργασίας και Κοινωνικής Ασφάλισης*), Government Gazette A' 180/2011.

<sup>626</sup> Article from Kathimerini entitled 'The judicial power and the judges' salaries' (*Αποψη: Η δικαστική εξουσία και οι μισθοί των δικαστών*), available at: <http://www.kathimerini.gr/774888/article/epikairothta/ellada/apoyh-h-dikastikh-e3oysia-kai-oi-mis8oi-twn-dikastwn>.

## 7. RIGHT TO FREEDOM OF EXPRESSION AND ASSEMBLY: PROTESTS AGAINST AUSTERITY MEASURES

### KEY FINDINGS

- Regarding the right of assembly, the severe austerity measures adopted by the Greek government during the deepening economic crisis **provoked many demonstrations** – the majority of them peaceful.
- On some occasions, though, the otherwise peaceful demonstrations turned violent when a minority of the protesters clashed with the police. **Incidents of police violence** have been reported, inter alia, by Amnesty International.
- Demonstrations have had a **negative impact on economic activity in the centre of Athens**; in order to address this concern, the legislation regulating restrictions of outdoor assemblies was amended to ensure that they are conducted in a manner that is not disruptive, except to the extent absolutely necessary, to the road traffic and the city socio-economic activity.

### 7.1. International and EU legal framework for the protection of the freedom of expression and assembly

Freedoms of expression and assembly are guaranteed by Articles 20 and 23 of the UDHR, Articles 21 and 22 of the ICCPR, Article 8 of the IESCR, Articles 10 and 11 of the ECHR and Articles 5 of both ESC and RESC. Article 11 of the EU Charter guarantees the right of freedom of expression and information, while Article 12 provides for the protection of freedom of assembly and association.

Indeed, freedom of expression and freedom of assembly are two separate rights. The former guarantees the 'right to hold opinions and to receive and impart information and ideas without interference by public authority'<sup>627</sup>, whereas the latter provides for the protection of the 'right to freedom of peaceful assembly'<sup>628</sup>. However, in the context of this particular study, they are being observed at the same time, and in relation with the same events – the protests in the Member States which were provoked by the austerity measures, and which at the same time served to express their opinions, however quite often by means of collective public assembly, through protests and other forms of manifestations, hence calling for the protection from either or both of these guarantees.

Like all other rights dealt with in the present study, these two rights are not absolute. In other words, they are guaranteed, but only under certain conditions. In that regard, one important element has to be present – the assembly needs to be peaceful. As soon as the assembly loses this attribute, the State has not only the right, but also the duty to intervene, in order to protect the rights and freedoms of others. At the same time, the opinion needs to be expressed without interference by a public authority, unless such an interference is 'necessary in a democratic society, in the interests of national security,

<sup>627</sup> ECHR, Article 10, available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf) and Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 11, available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

<sup>628</sup> ECHR, Article 11, available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf) and Charter of Fundamental Rights of the European Union (2010/C 83/02), 30.03.2010, Article 12, available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary<sup>629</sup>.

## 7.2. The right to assembly in Greece

The severe austerity measures adopted by the Greek Government during the deepening economic crisis provoked many demonstrations – the majority of them peaceful. On some occasions, though, the otherwise peaceful demonstrations turned violent when a minority of the protesters clashed with the police<sup>630</sup>. The Greek Constitution grants to citizens the right to assemble peaceably and unarmed<sup>631</sup>; nonetheless, the preventive prohibition of outdoor assemblies is constitutionally accepted, when so ordered by a reasoned decision of the police authority – if a serious threat to public security is imminent and, if a serious disturbance of social and economic life is threatened<sup>632</sup>.

The conditions under which outdoor assemblies may be prohibited are further specified in the Legislative Decree 794/1971<sup>633</sup>, which have been interpreted by the Supreme Court as follows: a) prohibition of outdoor assemblies is legitimate only if the relevant police authority has issued specifically and thoroughly-reasoned decisions, which specify the vague concepts of 'serious threat to public security and 'serious disturbance of social and economic life'; (b) restriction of outdoors assemblies is legitimate only if not in conflict with the principle of proportionality, i.e. if the relevant danger cannot be averted with milder means<sup>634</sup>.

## 7.3. Main anti-austerity demonstrations in Greece as a reaction to the economic crisis

The **first cycle of anti-austerity demonstrations** took place in early 2010. The then government's decision to commence a harsh austerity programme in exchange for financial assistance from the EU and the IMF led to a nationwide strike. The strike in Athens became extremely violent, with vandalism by some protesters who, using petrol bombs, set fire to dozens of buildings in the city centre. As a result, three bank employees suffocated in the fires<sup>635</sup>.

<sup>629</sup> ECHR, Article 10, available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>630</sup> Amnesty International 'Police Violence in Greece – Not Just 'Isolated Incidents'', 2012, available at: <http://www.amnesty.org/en/library/asset/EUR25/005/2012/en/edbf2deb-ae15-4409-b9ee-ee6c62b3f32b/eur250052012en.pdf>, p.10.

<sup>631</sup> Article 11(1) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggluko.pdf>.

<sup>632</sup> Article 11(2) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggluko.pdf>. This provision is also replicated in Article 131(1) of Presidential Decree 141/1991 'Responsibilities of bodies and staff of the Ministry of Public Order and issues of service organization' (Αρμοδιότητες οργάνων και υπηρεσιακές ενέργειες του προσωπικού του Υπουργείου Δημόσιας Τάξης και θέματα οργάνωσης Υπηρεσιών), Government Gazette A'58/1991.

<sup>633</sup> Legislative Decree 794/1971 'on public assemblies' (Περί δημοσίων συναθροίσεων), Government Gazette A' 1/1971.

<sup>634</sup> Supreme Court judgment 1766/1988.

<sup>635</sup> Pappas, T., *Populism and Crisis Politics in Greece* (Palgrave Macmillan, 2014), p. 82 – 83. 'Three dead as Greece protest turns violent', BBC News, 5/5/2010, available at: <http://news.bbc.co.uk/2/hi/8661385.stm>.

The **second cycle of social unrest** began on 25 May 2011, with peaceful protests against the new round of austerity measures in over 38 cities. In Athens, following a massive rally with approximately 30,000 people<sup>636</sup>, a group of protestors remained in Syntagma Square overnight, occupying the square<sup>637</sup>. Between May and July 2011, the 'Greek Indignants' – named after the Spanish Indignados movement, enjoyed significant publicity in national and international media. On 28 June, while the Government was trying to adopt a new round of austerity measures to receive the agreed financing by the EU and the IMF, the labour unions called for a 48-hour strike<sup>638</sup>. On the eve of 28 June, the protests once again turned violent, with some of the protestors throwing stones and petrol bombs, while the police made extensive use of chemicals. The police made at least 19 arrests while, according to the Hellenic Police, 38 policemen were injured<sup>639</sup>. Approximately 270 citizens had to seek help at an improvised clinic and 10 of them were transferred to the hospital<sup>640</sup>. By the eve of 29 June, these numbers were 700 and 45 respectively<sup>641</sup>. The Ministry of Health announced that, by the end of the riot, 99 persons had been taken to various hospitals in Athens<sup>642</sup>. The BBC correspondent reported that 'The riot police engaged in behaviour that would never be tolerated in other parts of Europe, throwing stones back at the protesters [...] Police corralled demonstrators into the metro station outside parliament in Syntagma Square, and fired tear gas down the stairwells [...] Meanwhile, protesters set fire to a post office on the ground floor of the finance ministry in the square'<sup>643</sup>.

The **third cycle of anti-austerity demonstrations** began on 12 February 2012, amid anger over austerity measures proposed by the (interim) coalition government of Lucas Papademos. Some reports noted that, as many as 80,000 people joined the demonstration in Athens and 20,000 people in Thessaloniki<sup>644</sup>. As the Parliament debated over the new measures, according to news reporters, police turned tear gas and stun grenades on demonstrators outside Parliament. Several buildings, cafes and a movie theatre in Athens were set ablaze, 25 protesters and 40 officers were injured in the clashes and authorities detained at least 30 people<sup>645</sup>. In his speech before the vote, former Prime Minister Papademos stated 'This vandalism, violence, they have no place in a democracy and will not be tolerated [...] At this critical time, we don't have the luxury of such conflicts'<sup>646</sup>.

Apart from the anti-austerity demonstrations mentioned above, which are linked to the conclusion of the First and Second Economic Adjustment Programmes for Greece, and the Mid-Term Fiscal Strategies, numerous strikes and demonstrations have taken place in Greece over the last four years, in reaction to measures affecting specific professions, e.g.

<sup>636</sup> 'In the footsteps of the Spanish Indignados' (Στα χνάρια των Ισπανών αγανακτισμένων), skai.gr newssite, 25.05.2011, available at: <http://www.skai.gr/news/greece/article/170468/oi-aganaktismenoi-diadilonoun-stis-ellinikes-poleis-/>.

<sup>637</sup> Simiti, M., 'Rage and Protest: the case of the Greek Indignant movement', Hellenic Observatory Papers on Greece and Southeast Europe, GreeSE Paper No. 82, February 2014, p. 5.

<sup>638</sup> Pappas, T., *Populism and Crisis Politics in Greece* (Palgrave Macmillan, 2014), p. 83.

<sup>639</sup> 'New tensions and traffic chaos' (Νέα ένταση και κυκλοφοριακό χάος), skai.gr newssite, 29.06.2011, available at: <http://www.skai.gr/news/greece/article/173486/nuhta-edasis-sto-sudagma/>.

<sup>640</sup> *ibid.*

<sup>641</sup> 'Stone-war until late in Syntagma square', skai.gr newssite, 29.06.2011, available at: <http://www.skai.gr/news/greece/article/173545/se-pedio-mahis-ehei-metatrapei-to-sudagma/>.

<sup>642</sup> 'The Centre of Athens is as if bombarded – 99 persons in hospitals', *Aggelioforos* Newspaper, 29/11/2014, available at: <http://www.aggelioforos.gr/default.asp?pid=7&ct=1&artid=100099>.

<sup>643</sup> 'Greece passes key austerity vote', BBC News, 29 Jun 2011, available at: <http://www.bbc.co.uk/news/world-europe-13960947>.

<sup>644</sup> 'Buildings ablaze as Greek MPs vote on austerity plan', BBC News, 12 February 2012, available at: <http://www.bbc.co.uk/news/world-europe-17003432>.

<sup>645</sup> 'Amid clashes, Greek Parliament approves austerity measures', CNN News, 13 February 2012, available at: <http://edition.cnn.com/2012/02/12/world/europe/greece-debt-crisis/index.html>.

<sup>646</sup> 'Amid clashes, Greek Parliament approves austerity measures', CNN News, 13 February 2012, available at: <http://edition.cnn.com/2012/02/12/world/europe/greece-debt-crisis/index.html>.

taxi-drivers, doctors, judges, lawyers, teachers, and tax authorities<sup>647</sup>, or to specific government measures, e.g. shutting down of the State radio-television network, ERT<sup>648</sup>.

## 7.4. Restrictions to outdoor assemblies/demonstrations

During the six years of recession, demonstrations became a common occurrence in Greece – in some cases, with devastating results. As a result of the demonstrations on 12 February 2012, approximately 175 businesses in the centre of Athens suffered damage and 45 were completely destroyed<sup>649</sup>. The estimated cost of the destruction of facilities and equipment and of thefts may have amounted to millions of Euros – according to the Athens Chamber of Commerce and Industry<sup>650</sup>. In 2012, 796 demonstrations, with fewer than 200 participants, took place in Athens, making the city centre unapproachable<sup>651</sup>. Apart from the damages, the inability of the State to ensure order in the city has led businesses to close one-after-the-other because of the losses that they suffered, i.e. up to 25% of their turnover,<sup>652</sup> consumers are afraid to shop, and visitors are hesitant to visit the city centre<sup>653</sup>. According to a study conducted by the Athens Traders Association, 45.7% of the respondents, i.e. 832 owners of businesses in the city centre, considered that the reduction in their turnover was a result of the frequent demonstrations, whereas 37.5% considered that it was a result of the reduced income of citizens, and 16.8% considered that it was a result of the feeling of insecurity citizens have in the city centre<sup>654</sup>.

In order to minimise the demonstrations, the Greek police have made use of the option to ban demonstrations on several occasions, including for when the German Chancellor, Angela Merkel and the German Federal Minister of Finance, Wolfgang Schäuble, visited Greece in April 2014 and July 2013 respectively<sup>655</sup>, during the Eurogroup meeting in Athens in the course of the Greek presidency of the Council of the EU in April 2014<sup>656</sup>, and during the Government events on the occasion of assuming the Presidency of the EU<sup>657</sup>.

<sup>647</sup> See, e.g. 'Strike "fever" in the country after the Government measures', *Ta Nea* Newspaper, 07/09/2011, available at: <http://www.tanea.gr/news/greece/article/4655229/?iid=2>.

<sup>648</sup> 'Thousands congregate outside ERT facilities in solidarity', *To Vima* Newspaper, 13/06/2013, available at: <http://www.tovima.gr/en/article/?aid=517725>.

<sup>649</sup> Speech of the President of the Athens Chamber of Commerce and Industry, at the conference of the Athens Chamber of Commerce and Industry 'The free movement of citizens – New scheme for protests and demonstrations in the centre of Athens', 14/03/2012, available at: [http://www.acci.gr/acci/PressOffice/View\\_Press\\_Releases/tabid/521/ItemID/2848/View/Details/language/en-US/Default.aspx](http://www.acci.gr/acci/PressOffice/View_Press_Releases/tabid/521/ItemID/2848/View/Details/language/en-US/Default.aspx).

<sup>650</sup> *ibid*.

<sup>651</sup> 'With a common understanding [of the need] to establish restrictions for small demonstrations', *Naftemporiki* Newspaper, 04/06/2013, available at: <http://www.naftemporiki.gr/story/660962/mikres-diadiloseis-sunantilipsi-gia-ti-thespisi-periorismon>.

<sup>652</sup> Athens Chamber of Tradesmen, Statement of General Secretary, 'Problems from demonstrations in the centre', 31.05.2013, available at: <http://www.eea.gr/gr/el/articles/q-xatzitheodosioy-ta-provlimata-apo-diadiloseis-sto-kentro-vinteo>

<sup>653</sup> Speech of the President of the Athens Chamber of Commerce and Industry, at the conference of the Athens Chamber of Commerce and Industry 'The free movement of citizens – New scheme for protests and demonstrations in the centre of Athens', 14/03/2012, available at: [http://www.acci.gr/acci/PressOffice/View\\_Press\\_Releases/tabid/521/ItemID/2848/View/Details/language/en-US/Default.aspx](http://www.acci.gr/acci/PressOffice/View_Press_Releases/tabid/521/ItemID/2848/View/Details/language/en-US/Default.aspx); 'Over 40 Athens hotels have closed down since 2010', *Kathimerini* Newspaper, 30/01/2013, available at: [http://www.ekathimerini.com/4dcgi/\\_w\\_articles\\_ws2e2\\_1\\_30/01/2013\\_481361](http://www.ekathimerini.com/4dcgi/_w_articles_ws2e2_1_30/01/2013_481361).

<sup>654</sup> 'The conditions for the particularly small demonstrations', *Kathimerini* Newspaper, 02/06/2013, available at: <http://www.kathimerini.gr/489865/article/epikairothta/ellada/oi-oroi-gia-tis-idiaitera-mikres-diadhlwseis>.

<sup>655</sup> 'Demonstrations banned in Athens for duration of Merkel visit', *To Vima* Newspaper, 11/04/2014, available at: <http://www.tovima.gr/en/article/?aid=585731>; 'Protest ban in Athens ahead of German Finance Minister visit', *Euronews*, 18/07/2013, available at: <http://www.euronews.com/2013/07/18/protest-ban-in-athens-ahead-of-german-finance-minister-visit/>.

<sup>656</sup> 'European Finance Ministers Approve New Loans for Greece', *The New York Times*, 01/04/2014, available at: <http://www.nytimes.com/2014/04/02/business/international/european-ministers-approve-new-loans-for->



In June 2013, the Government amended legislation regulating restrictions of outdoor assemblies<sup>658</sup>. More specifically, assemblies must be conducted in a manner that is not disruptive, except to the extent absolutely necessary for road traffic and the city's socio-economic life. In cities with populations of over 100,000, particularly small assemblies are not allowed to occupy the whole road and completely disrupt the movement of vehicles. The assessment of what constitutes a 'particularly small assembly', and the possibility of limiting it to part of the road, belongs to the competent Police Director who issues a relevant decision that must be notified directly to the interested stakeholders. Initially, this decision can be oral, however, it must also be delivered in writing within 24 hours. When making this decision, the criteria that must be taken into account are the number of participants and the importance of the specific road to the movement of mass transportation vehicles, tourism, smooth access to archeological or historical sites, and the overall commercial and economic activity.

The restrictions above do not apply to assemblies and demonstrations which are organised by political parties of the Greek parliament, by third-level trade unions, or for assemblies of historical or anniversary character.

It is worth noting that the legislative restriction of 'small' assemblies has met reactions from the General Confederation of Workers in Greece, and certain political parties, as restricting civil and social rights<sup>659</sup>.

## 7.5. Allegations of police violence

Policing demonstrations can be challenging and law enforcement officials may, at times, have to use lawful force in order to maintain public order and prevent crime. Nonetheless, in those instances, police enforcement officials must comply with international law and standards<sup>660</sup>. According to Amnesty International, with respect to the demonstrations against austerity measures, 'numerous allegations have been received regarding excessive use of force, including the use of chemical irritants against peaceful or largely peaceful demonstrators, and the use of stun grenades in a manner that violates international standards'<sup>661</sup>. The organisation has also reported cases where journalists have been ill-treated by the police while trying to cover anti-austerity and other demonstrations in Greece – with detrimental effects on the freedom of expression<sup>662</sup>. According to Amnesty

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[greece.html?\\_r=0](http://www.reuters.com/article/2014/03/31/us-greece-ecofin-protests-idUSBREA2U0XR20140331); 'Greek police ban protests during EU meetings in Athens', Reuters, 31/03/2014, available at: <http://www.reuters.com/article/2014/03/31/us-greece-ecofin-protests-idUSBREA2U0XR20140331>.

<sup>657</sup> 'Athens: Ban of demonstrations and traffic arrangements on Wednesday due to the Presidency – Reactions by political parties', skai.gr newssite, 07/01/2014, available at: <http://www.skai.gr/news/greece/article/249362/apagoreusi-ton-diadiloseon-stin-athina-tin-tetarti-logo-proedrias-adidrasi-surizad/>.

<sup>658</sup> Article 131(1) of Presidential Decree 141/1991 'Responsibilities of bodies and staff of the Ministry of Public Order and issues of service organization' (Αρμοδιότητες οργάνων και υπηρεσιακές ενέργειες του προσωπικού του Υπουργείου Δημόσιας Τάξης και θέματα οργάνωσης Υπηρεσιών), Government Gazette A'58/1991

<sup>659</sup> 'The General Confederation of Workers in Greece also reacts to the restrictions to demonstrations', *To Vima* Newspaper, 28/05/2013, available at: <http://www.tovima.gr/society/article/?aid=515114>.

<sup>660</sup> Amnesty International, 'Greece: Unlawful police violence during protests must end and perpetrators held accountable', 21/11/2014, available at: <http://www.amnesty.org/en/library/asset/EUR25/009/2014/en/4c26389f-cf18-4043-9543-f12058a244e2/eur250092014en.html>.

<sup>661</sup> Amnesty International, 'Police Violence in Greece – Not Just 'Isolated Incidents'', 2012, available at: <http://www.amnesty.org/en/library/asset/EUR25/005/2012/en/edbf2deb-ae15-4409-b9ee-ee6c62b3f32b/eur250052012en.pdf>, p.10.

<sup>662</sup> 'Amnesty International, 'Greece: Attacks against journalists during protests have detrimental effect on freedom of expression', 01/05/2012, available at: <http://www.amnesty.org/en/library/asset/EUR25/003/2012/en/4ddfb2a2-9af7-4278-810b-c3a360381494/eur250032012en.html>; Amnesty International, 'Greece: Unlawful police violence

International, 'despite the large number of allegations a [sic] of human rights violations by riot police, the Minister responsible and the Headquarter of the Greek Police very rarely condemn misconduct. They either fail to acknowledge violations or describe them as "isolated". Only very few Investigations [sic] into cases resulting in serious injuries to protesters or journalists covering protests have progressed, calling into question the willingness of the Greek authorities to eradicate such abuses'<sup>663</sup>.

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during protests must end and perpetrators held accountable', 21/11/2014, available at: <http://www.amnesty.org/en/library/asset/EUR25/009/2014/en/4c26389f-cf18-4043-9543-f12058a244e2/eur250092014en.html>.

<sup>663</sup> Amnesty international, 'A law unto themselves: A culture of abuse and impunity in the Greek police', 2014, available at: <http://www.amnesty.org/en/library/asset/EUR25/005/2014/en/47005cd7-f536-4c21-851f-e595076dcaef/eur250052014en.pdf>, p. 11.

## 8. OVERVIEW OF THE IMPACT OF THE AUSTERITY MEASURES ON OTHER FUNDAMENTAL RIGHTS IN GREECE

### KEY FINDINGS

- In addition to the aforementioned fundamental rights, austerity measures have had an impact also on other rights. In order to address the budget deficits, the Greek government imposed a **number of tax burdens**. Within the context of the deepening crisis it is not clear to what extent the aggregate of taxes and levies imposed **could interfere with citizens' right to property**.
- Furthermore, the restructuring of the public debt with **the private sector involvement (PSI)** was considered as constitutional by the Greek Courts and as not interfering, amongst others, with small bondholders' right to property.
- As regards the **freedom of the press**, Greece is currently considered by NGOs as having a partly free press due to, inter alia, an increasingly hostile legal, political, and economic environment for the press and a reduction in media diversity and in comprehensive and accurate reporting about the country's political and economic situation.
- Finally, in the last few years Greece has witnessed a **steep increase in phenomena of racist violence, discrimination and intolerance as well as extremism**; nonetheless, it should not be overseen that such incidents existed in a lesser degree even before the crisis.

### 8.1. The right to property

Even though the power to levy taxes constitutes one of the attributes of national sovereignty, still courts (including the ECtHR) can review, amongst others, the proportionality between the level of taxes imposed and the means of those required to pay them<sup>664</sup>, to decide whether they could be considered as interfering with persons' right to enjoy their property. In Greece, in order to address the budget deficits, the government imposed a number of tax burdens on Greek citizens in the course of the crisis; special levies and 'emergency taxes' have been imposed on pensions, self-employed and liberal professions, properties and large incomes, while the structure of personal income tax has changed three times<sup>665</sup>. Indirect taxation also increased: the standard rate of VAT was raised from 19% to 23% in two steps between March and May 2010; base and reduced rates were increased from 4.5% to 5.5% and from 9% to 13% respectively; and excise duty on alcohol, tobacco, luxury items, and especially heating oil, also went up<sup>666</sup>.

The section below provides a brief description of: a) certain special levies/taxes imposed on individuals; b) certain extraordinary taxes/levies imposed on real estate property; c) the impact on bondholders of the Private Sector Involvement (PSI) in the restructuring of the

<sup>664</sup> Council of Europe, 'The European Convention on Human Rights and property rights', Human rights files, No. 11 rev., available at: [http://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-11\(1998\).pdf](http://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-11(1998).pdf), p. 25.

<sup>665</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 11.

<sup>666</sup> Leventi, C., Matsaganis, M., 'Distributional Implications of the Crisis in Greece in 2009 – 2012', EUROMOD Working Paper 14/13, available at <https://www.iser.essex.ac.uk/research/publications/working-papers/euromod/em14-13.pdf>, p. 10.

Greek debt. As Greek Courts have been called in many instances to assess the constitutionality of these measures, a concise description of the most important relevant court judgments is also provided where applicable.

#### 8.1.1. Examples of special levies/taxes imposed on individuals

The Greek Government imposed, in 2009, a **special one-off levy** (έκτακτη εισφορά) on individuals who, in 2008, declared income of over EUR 60,000<sup>667</sup>. The special levy was progressive, as indicated in Table 31 below:

**Table 31: Special Levy under Law 3758/2009**

Annual personal income in 2008	Special levy according to Law 3758/2009
EUR 60,001 – EUR 80,000	EUR 1,000
EUR 80,001 – EUR 100,000	EUR 2,000
EUR 100,001 – EUR 150,000	EUR 3,000
EUR 150,001 – EUR 300,000	EUR 5,000
EUR 301,000 – EUR 500,000	EUR 10,000
EUR 500,001 – EUR 700,000	EUR 15,000
EUR 701,000 – EUR 900,000	EUR 20,000
Over EUR 901,000	EUR 25,000

With judgment **1685/2013** the **Plenary of the Council of State** held that **this special levy does not violate the Greek Constitution**. More specifically, the Court held that when the State's exceptional financial needs arose due to the economic crisis, natural persons had not filed their tax returns for 2009 yet and, thus, the legislator reasonably considered the previous tax returns in order to determine the taxpayers' abilities – to impose this special levy. Therefore, consideration of the 2008 tax returns did not amount to retroactive taxation which would violate Article 78(2) of the Constitution<sup>668</sup>. Furthermore, the Council of State ruled that the special levy is not unconstitutional merely because it was not included in the law with which the State budget had been adopted (Article 79 of the Constitution)<sup>669</sup>. Moreover, the Court ruled that, the fact that legal persons are not subject to similar taxation, does not violate Article 4(5) of the Constitution – according to which '*Greek citizens contribute without distinction to public charges in proportion to their means*', since legal persons were also subjected to similar special levies under other legal instruments<sup>670</sup>. The system of computing taxes was also considered as legal while the Court held that the applicant did not have the right to be previously heard by the Administration before being subject to this levy, as its imposition is not dependent on his/her actions but on objective facts<sup>671</sup>.

<sup>667</sup> Article 18 Law 3758/2009 'Debtors' Information Companies for overdue receivables and other provisions' (Εταιρείες Ενημέρωσης οφειλετών για ληξιπρόθεσμες απαιτήσεις και άλλες διατάξεις), Government Gazette A' 68/2009.

<sup>668</sup> Council of State (Plenary) judgment 1685/20013, available at [http://www.dsanet.gr/Epikairothta/Nomologia/ste1685\\_13.htm](http://www.dsanet.gr/Epikairothta/Nomologia/ste1685_13.htm), para. 11.

<sup>669</sup> *ibid.*, para. 12.

<sup>670</sup> *ibid.*, para. 14.

<sup>671</sup> *ibid.*, para. 17.

Law 3986/2011 imposed a **special solidarity tax** (*ειδική εισφορά αλληλεγγύης*) on natural persons whose net income exceeds EUR 12,000 in the fiscal years 2010 to 2014<sup>672</sup>, with certain exceptions for vulnerable groups of citizens, e.g. the long-term unemployed<sup>673</sup>. The special solidarity tax for the years 2010 to 2014 is computed as follows:

**Table 32: Special solidarity tax under Law 3986/2011**

Annual net income	Special solidarity levy rate (i.e. as a percentage of citizens' annual net income)
EUR 12,001 – EUR 20,000	1%
EUR 20,001 – EUR 50,000	2%
EUR 50,001 – EUR 100,000	3%
Over EUR 100,001	4%
Annual net income of high public officials (including the President of the Republic, the President of the Parliament, the Prime Minister, the Members of the Parliament, Ministers, etc.)	5%

In 2014, the imposition of the social solidarity tax was extended for the years 2015 and 2016, however, with the relevant rates reduced by 30%<sup>674</sup>.

#### 8.1.2. Examples of extraordinary levies/taxes imposed on real estate property

An extraordinary property tax was introduced in 2011 in favour of the Greek State; Article 53 of the Law 4021/2011 imposed (with various exemptions and special provisions) an **extraordinary tax on the electrified for residential or commercial use structured surfaces** (*ΕΕΤΗΔΕ* – *Έκτακτο Ειδικό Τέλος Ηλεκτροδοτούμενων Δομημένων Επιφανειών, Ε.Ε.Τ.Η.Δ.Ε.*), on properties that, on 17 September of each year, are subject to the property tax referred to in Article 24(1) of the Law 2130/1993. The tax is computed considering the size of the property which receives electricity, the age of that property, the zone price of its location and the tax is collected with the electricity bills. Failure to pay the tax, would result in the interruption of the power supply by the power providers<sup>675</sup>. This

<sup>672</sup> Article 29(1) Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012 – 2015' (*Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012 – 2015*), Government Gazette Α' 152/2011.

<sup>673</sup> Article 29(2) Law 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012 – 2015' (*Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012 – 2015*), Government Gazette Α' 152/2011, as amended by Article 38(5b) of Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο – βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette Α' 226/2011.

<sup>674</sup> Article 52(2) of Law 4305/2014 'Open disposal and use of documents, information and data of public sector, modification of Law. 3448/2006 (Α 57), adapting national legislation to the provisions of Directive 2013/37 / EU of the European Parliament and of the Council, further strengthening transparency, regulation of matters Entrance examination Ε.Σ.Δ.Δ.Α. and other provisions' (Ανοικτή διάθεση και περαιτέρω χρήση εγγράφων, πληροφοριών και δεδομένων του δημόσιου τομέα, τροποποίηση του ν. 3448/2006 (Α' 57), προσαρμογή της εθνικής νομοθεσίας στις διατάξεις της Οδηγίας 2013/37/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, περαιτέρω ενίσχυση της διαφάνειας, ρυθμίσεις θεμάτων Εισαγωγικού Διαγωνισμού Ε.Σ.Δ.Δ.Α. και άλλες διατάξεις), Government Gazette Α' 237/2014.

<sup>675</sup> Article 53(11) of Law 4021/2011 'Enhanced surveillance and consolidation measures of Credit Institutions - Set of financial issues - Ratification of the Convention - under the European Financial Stability Fund and its amendments and other provisions' (Ενισχυμένα μέτρα εποπτείας και εξυγίανσης των Πιστωτικών Ιδρυμάτων – Ρύθμιση θεμάτων χρηματοπιστωτικού χαρακτήρα – Κύρωση της Σύμβασης – Πλαίσιο του Ευρωπαϊκού Ταμείου

extraordinary property tax was originally planned to be imposed for the years 2011 and 2012<sup>676</sup>.

With **judgment 1972/2012, the Greek Council of State (Plenary)** examined the constitutionality of the extraordinary property tax of Law 4021/2011. The Court ruled that the tax **did not violate the Constitution** – especially the provisions protecting the right to property, proportionality, equality, the distribution of tax burdens, or the ECHR, maintaining that the limitation of the right to property is constitutionally tolerable under these special economic circumstances – considering the temporary nature of the measure and the small percentage of tax, when compared to the value of the property (up to 8%). According to the Council of State, this measure was introduced in the public interest and aimed at directly covering the additional budgetary deficits in a situation of economic slowdown. In addition, it was of a temporary nature and did not amount to a confiscation measure<sup>677</sup>. Even though the majority of the Court held that the contested tax, in combination with the other taxation measures, increased the overall burden imposed upon citizens, this – according to the Court, did not amount to an intolerable restriction on the right to property in view of the serious and urgent financial circumstances within which it was imposed<sup>678</sup>. In contrast, the minority argued that the extraordinary property tax was contrary to constitutional provisions and the ECHR and did not take into account each citizen's tax-paying ability.

Nonetheless, in the same judgment, the Council of State held that **the interruption of the electricity supply to those not paying the extraordinary property tax was unconstitutional**. More specifically, the Court considered that this constituted an unconstitutional interference in the contractual relationship between the consumer and the supplier of electricity and, in the right of the former to freely enjoy his/her rights under the relevant contract<sup>679</sup>. The Plenary of the Council of State held that the interruption of electricity supply to the taxpayer because he/she failed to pay the extraordinary property tax, which is unrelated to his/her obligations under the contract with the electricity supplier, violates the principle of proportionality<sup>680</sup>. Some members of the Court also expressed the view that this measure violates not only the constitutionally protected right to economic freedom but also the constitutional protection of human value, because the interruption of electricity results in the loss of a good which is indispensable for decent living<sup>681</sup>.

It is worth noting that, two years after the aforementioned judgment of the Council of State, the **Fourth Chamber of the Supreme Court** reached, in November 2014, a **different conclusion as to the constitutionality of the extraordinary property tax of Law 4021/2012 and its compliance with the European Convention on Human Rights**, with a majority of three in favour and two against, thus referring the issue to the

Χρηματοπιστωτικής Σταθερότητας και των τροποποιήσεών της και άλλες διατάξεις), Government Gazette Α' 218/2011.

<sup>676</sup> Article 53(4) of Law 4021/2011 'Enhanced surveillance and consolidation measures of Credit Institutions - Set of financial issues - Ratification of the Convention - under the European Financial Stability Fund and its amendments and other provisions' (Ενισχυμένα μέτρα εποπτείας και εξυγίανσης των Πιστωτικών Ιδρυμάτων - Ρύθμιση θεμάτων χρηματοπιστωτικού χαρακτήρα - Κύρωση της Σύμβασης - Πλαίσιο του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας και των τροποποιήσεών της και άλλες διατάξεις), Government Gazette Α' 218/2011.

<sup>677</sup> Council of State (Plenary) judgment 1972/2012, para. 16, available at: <http://www.taxheaven.gr/laws/circular/view/id/14660>.

<sup>678</sup> *ibid.*, para. 16.

<sup>679</sup> *ibid.*, para. 25.

<sup>680</sup> *ibid.*, para. 25.

<sup>681</sup> *ibid.*, para. 25.



Plenary. More specifically, the Fourth Chamber of the Supreme Court considered that the tax was imposed on the basis of the characteristics of the property (e.g. square meters) and not on the basis of each citizen's economic situation, and who has already been subject to various salary and pension reductions and taxes. Furthermore, the Supreme Court indicated that this tax cannot be considered as 'extraordinary' (*εκτακτός*) since it aims at preventing budget deficits and it was already imposed in 2013<sup>682</sup>. Moreover, the contested taxation measure affects citizens' real estate property, which has already suffered severe losses in value since the deep economic crisis resulted in a dramatic reduction of real estate transactions and an increase in the number of properties that confer no income to their owners. The *travaux préparatoires* of Law 4021/2011 indicate that the legislature based itself only on the number of real estate properties in Greece and their value and, on this basis, determined total State revenues from this tax. Thus, according to the Supreme Court, Article 53 of Law 4021/2011 is contrary to Articles 4(5)<sup>683</sup> and 78(3)<sup>684</sup> of the Constitution because it imposes an additional tax burden on Greek citizens without taking into account the overall tax burden imposed on them by aggregating regular and special taxes, imposed so far, which have negative effects on a citizen's ability to pay and still maintain acceptable living standards. The Supreme Court also noted that the disputed tax did not make an exemption for citizens' first residences which, especially amid a deep economic crisis, are essential for maintaining decent living conditions and for the protection of the family, protected under Articles 2 and 21(1) of the Constitution respectively, which are thus violated by the imposition of the disputed tax<sup>685</sup>. At the same time, the Supreme Court held that the extraordinary property tax violated the First Additional Protocol of the ECHR as it imposes a substantial burden on taxpayers and undermines their financial situation<sup>686</sup>.

Law 4223/2013 introduced a new property tax referred to as '**uniform tax on real estate property ('ENFIA' – *Ενιαίος Φόρος Ακινήτων Ιδιοκτησίας, Ε.Ν.Φ.Ι.Α.*)**' which, as of 1 January 2014, replaced the previously applicable property tax regime, namely the Annual Property Tax on Real Estate ('FAP') and the Special Real Estate Special Duty ('EETA'), which followed the extraordinary tax on the electrified for residential or commercial use structured surfaces established under Law 4021/2011, and discussed above.

ENFIA comprises a 'main tax' and a 'supplementary tax'. The main tax is computed on an asset-per-asset basis, depending on the location, surface, use, age, floor and number of facades of the building. Furthermore, separate formulas apply for buildings, plots (*οικοπεδα*) and fields (*αγροτεμάχια*)<sup>687</sup>. The supplementary tax is computed on the basis of a progressive tax scale for individuals and flat rates for legal persons. As regards individuals, the tax-free bracket is up to EUR 300,000. The tax rates for values exceeding

<sup>682</sup> Supreme Court (Fourth Chamber) judgment 293/2014, para 4(d), available at: [http://www.areiospagos.gr/nomologia/apofaseis\\_DISPLAY.asp?cd=WXX4Q619XUNWRAO6DH7G5MQ6D2DRBB&apof=293\\_2014](http://www.areiospagos.gr/nomologia/apofaseis_DISPLAY.asp?cd=WXX4Q619XUNWRAO6DH7G5MQ6D2DRBB&apof=293_2014).

<sup>683</sup> Article 4(5) of the Constitution stipulates 'Greek citizens contribute without distinction to public charges in proportion to their means'.

<sup>684</sup> Article 78(3) of the Constitution stipulates 'Exceptionally, in the case of imposition or increase of an import or export duty or a consumer tax, collection thereof shall be permitted as of the date on which the Bill shall be tabled in Parliament, on condition that the statute shall be published within the time-limit specified in article 42 paragraph 1, and in any case not later than ten days from the end of the Parliamentary session'.

<sup>685</sup> Supreme Court (Fourth Chamber) judgment no. 293/2014, para 4(d).

<sup>686</sup> Supreme Court (Fourth Chamber) judgment no. 293/2014, para 4(d).

<sup>687</sup> Article 3 of Law 4223/2013 'Single Property Tax and other provisions (*Ενιαίος Φόρος Ιδιοκτησίας Ακινήτων και άλλες διατάξεις*), Government Gazette A' 4223/2013.

EUR 300,000 range between 0.1% and 1% over the value of the property. As regards legal persons, there is no tax-free bracket and the applicable tax rate is 0.5%<sup>688</sup>.

ENFIA raised significant objections by Members of the Parliament, and the coalition government, the opposition and citizens<sup>689</sup>. According to reports<sup>690</sup>, the Ministry of Finance recognised two main problems:

- a) errors and omissions in the returns filed by taxpayers, e.g. errors in surfaces, floors, facades;
- b) distortions and problems resulting from the legislation's non-exhaustive coverage of all possible cases.

Law 4223/2013 has been subject to amendments in order to address some of the concerns expressed by citizens and the political world, e.g. introduction of exemptions for properties which are empty and without electricity<sup>691</sup>.

However, some economists argued that, by amending the scope of ENFIA, e.g. by removing certain properties from the legislation's scope, the State received significantly less revenues<sup>692</sup>. In order to cover this loss, real estate with an objective value exceeding EUR 300,000 was subject both to the ENFIA and to the FAP in 2014. Furthermore, the 2014 FAP was computed on the basis of the objective values of the real estate in 2007 which, in most cases, were much higher than the current market values; the FAP could be 4-10 times the value of the ENFIA tax, leading to the depreciation of property above EUR 300,000<sup>693</sup>. In his report, the Governor of the Bank of Greece indicated that, in the fourth quarter of 2012 the fall in real estate prices was 27.9%<sup>694</sup> and 33.4%<sup>695</sup> in 2013. The numerous taxation measures have aggravated recession in the real estate market and have significantly reduced demand<sup>696</sup>. The distortion caused by the existence of objective values – which in many cases, e.g. large properties in 'expensive' areas and depressed areas of central Athens, considerably exceed market values – leads to artificial over-taxation of real estate<sup>697</sup>.

In this respect it is worth noting that the **Council of State in its judgment 4003/2014<sup>698</sup> held that there is unlawful failure on the part of the administration to comply with its obligation under Article 41 of Law 1249/1982 to adjust the objective**

<sup>688</sup> Article 4 of Law 4223/2013 'Single Property Tax and other provisions (Ενιαίος Φόρος Ιδιοκτησίας Ακινήτων και άλλες διατάξεις)', Government Gazette A' 4223/2013.

<sup>689</sup> 'Radical changes in EFTIA after the "storm"' (Ριζικές αλλαγές στον ΕΝΦΙΑ μετά τη θύελλα), *Ethnos* newspaper, 07.08.2014, available at <http://www.ethnos.gr/article.asp?catid=22767&subid=2&pubid=64047002>.

<sup>690</sup> 'Ministry of Economy on ENFIA: The aim is to eliminate rapidly and fully all possible wrongdoings' (ΥΠΟΙΚ για ΕΝΦΙΑ: Στόχος να εξαλειφθούν ταχύτατα και πλήρως όλες οι πιθανές αδικίες), *Skai.gr* news website, 04.08.2014, available at <http://www.skai.gr/news/finance/article/263317/upoik-gia-enfia-tha-exaleifthoun-tahutata-kai-pliros-oles-oi-pithanes-adikies/>.

<sup>691</sup> Article 3(5) of Law 4223/2013 'Single Property Tax and other provisions (Ενιαίος Φόρος Ιδιοκτησίας Ακινήτων και άλλες διατάξεις)', Government Gazette A' 4223/2013, as amended by Article 18(9) of Law 4286/2014.

<sup>692</sup> Alpha Bank, 'Greek Economy Review', (Επισκόπηση: Ελληνική Οικονομία), *Weekly Economic Development Review*, 08.08.2014, available at [http://www.alpha.gr/files/deltia\\_typou/weekly08082014.pdf](http://www.alpha.gr/files/deltia_typou/weekly08082014.pdf), p. 4.

<sup>693</sup> *ibid.*

<sup>694</sup> Bank of Greece, 'Annual Report of the Governor 2012' (Έκθεση του Διοικητή της Τραπέζας της Ελλάδος για το έτος 2012), February 2013, available at <http://www.bankofgreece.gr/BogEkdoseis/ekthdkt2012.pdf>, p.70.

<sup>695</sup> Bank of Greece, 'Annual Report of the Governor 2013' (Έκθεση του Διοικητή της Τραπέζας της Ελλάδος για το έτος 2013), February 2014, available at <http://www.bankofgreece.gr/BogEkdoseis/ekthdkt2013.pdf>, p.69.

<sup>696</sup> *ibid.*, p.71.

<sup>697</sup> *ibid.*

<sup>698</sup> Council of State, judgment 4003/2014, available at <http://www.taxheaven.gr/laws/circular/view/id/19942>.

**values of real estate property** every two years – the last time such adjustment took place in 2007<sup>699</sup>. The Council of State emphasised that even though it would normally have to retroactively annul this failure, after balancing the citizens' interests with the intense public interest to avoiding a sudden loss of tax revenues under the current financial conditions, it decided to give a six-month period to the Ministry of Finance to make the relevant adjustment<sup>700</sup>.

### 8.1.3. The Greek PSI and small bondholders

#### *The restructuring of Greek debt and the PSI<sup>701</sup>:*

*At two consecutive Euro Summits held on 11 and 25 March 2011, and subsequently, following an ad hoc decision taken at the Euro Summit of 21 July 2011, a new financial Support Programme was adopted for Greece to cover the country's financing needs until mid-2014, including the participation of the private sector.*

*Under the initial design of the Private Sector Involvement (PSI), private sector holders of Greek Government Bonds (GGBs) were invited to voluntarily exchange their holdings of existing GGBs for new bonds with longer maturities and lower coupons. This would incur a loss of about 21% on average, in Net Present Value (NPV) terms, for private bond- holders. In view of its implementation, Greek banks recorded related provisions in their June 2011 financial statements.*

*The Euro Summit statement of 26 October 2011, however, acknowledged that a deeper PSI would play a vital role in establishing the sustainability of Greek sovereign debt. Thus a modified PSI was adopted – envisaging a significant reduction in face amount terms of Greek sovereign debt – together with an ambitious programme of structural reforms for the Greek economy, aimed at bringing down the Greek debt-to-GDP ratio to 120% by 2020. In particular, this GGBs exchange programme, which was completed on 25 April 2012, involved a discount of 53.5% on the face amount of Greek debt held by private investors. Specifically, the participation rate in the swap reached 96.9% of the total out-standing amount of eligible bonds. This rate is equivalent to €199 billion worth of bonds out of the total €205.5 billion in eligible paper, which was exchanged for:*

*(i) New Bonds issued by the Hellenic Republic having an aggregate face amount of €62.4 billion (31.5% of the principal amount of the bonds tendered for exchange);*

*(ii) PSI Payment Notes issued by the European Financial Stability Facility (EFSF) in two series maturing on 12 March 2013 and 12 March 2014, respectively, having an aggregate face amount of €29.7 billion (15% of the principal amount of the bonds exchanged), and*

*(iii) Detachable GDP-linked securities of the Hellenic Republic having a notional amount equal to the principal amount of the New Bonds issued.*

*In addition, private investors received short term EFSF bills, having an aggregate face amount of €4.9 billion, for the accrued interest of the exchanged GGBs at the settlement date of the exchange.*

*The scope of the PSI programme also included certain loans to the broader public sector,*

<sup>699</sup> *ibid.*, para 12-13.

<sup>700</sup> Council of State, judgment 4003/2014, para. 15.

<sup>701</sup> Bank of Greece, 'Report on the recapitalisation and restructuring of the Greek Banking sector', December 2012, available at [http://www.bankofgreece.gr/BogEkdoseis/Report\\_on\\_the\\_recapitalisation\\_and\\_restructuring.pdf](http://www.bankofgreece.gr/BogEkdoseis/Report_on_the_recapitalisation_and_restructuring.pdf), p.12-13.

*which were also exchanged for new Hellenic Republic bonds and EFSF Payment Notes under the same terms as for GGBs. These were mostly loans to large state-owned enterprises, such as the Athens Urban Transport Organisation (OASA), TRAM S.A., the Hellenic Railways Organisation (OSE) and Hellenic Defence Systems (EAS), totalling [sic] €4.9 billion.*

The exchange of Greek Government bonds under the PSI contributed to the deterioration of the already difficult financial situation of private bondholders and insurance funds<sup>702</sup>. The large losses that the **insurance funds** suffered due to the exchange of bonds coincided with the dramatic effects of the downturn in the flows of their revenues. More specifically, the insurance funds had placed, with decisions of their Administrations, EUR 7.4 billion in bonds and EUR 15 billion in the Common Capital of the Bank of Greece<sup>703</sup>. In total, before the PSI, about EUR 21 billion was placed in bonds. As a result of the PSI the reserves of insurance funds decreased by 53% in nominal values and above 70% in real values, taking into account the trading price of the new bonds (maturing 2023 to 2042) on the secondary market<sup>704</sup>.

Around 15,000 of small **bondholders** were also significantly affected by their participation in the Greek PSI<sup>705</sup>. Approximately 10,000 bondholders (individuals, companies and funds) filed over 150 challenges against the Greek PSI before the Greek Courts<sup>706</sup>. Nonetheless, the **Greek Council of State**, amongst others, in its **decisions 1116/2014<sup>707</sup> and 1117/2014<sup>708</sup>, held (in majority) that, the PSI was constitutional and imperative for reasons of public interest** and, in particular, in order to avoid a State default. More specifically, in its judgment 1116/2014 the Council of State held that even though bondholders suffered a particularly serious loss, it was still not inappropriate, unnecessary or disproportionate in order to be considered as violating the Greek Constitution, including: Article 17(1) (right to property); Article 25(1) (protection of legitimate expectations and legal certainty in financial transactions, as specific expressions of the principle of the rule of law, expressly enshrined in Article 25(1) of the Constitution); Article 4 (principle of equality)] or Article 1 of the First Additional Protocol of the ECHR.

Amongst others, the Court held that the PSI was not beyond what was necessary and/or appropriate in order to achieve the reduction of public debt and thus avoid a default which could have unpredictable social and economic consequences and which would pose a serious risk in the enjoyment of the rights of all natural and legal persons who have invested in the Greek debt<sup>709</sup>. The Council of State noted that Law 4050/2012, which provides for the exchange of bonds issued or guaranteed by the Greek Government with new titles, was established in accordance with international commercial practice<sup>710</sup>. Furthermore, the Court rejected the claims of the bondholders that the PSI violated the

<sup>702</sup> INE GSEE, 'Greek Economy and employment- Annual Report 2012' (*Η ελληνική οικονομία και η απασχόληση - Ετήσια Έκθεση 2012*), August 2012, available at <http://www.inegsee.gr/wp-content/uploads/2014/02/files/EKTHESH%2014.pdf>, p.287.

<sup>703</sup> *ibid.*

<sup>704</sup> *ibid.*

<sup>705</sup> 'Bakoyanni criticises government for delays in supporting small bondholders', skai.gr Newssite, 29/10/2014, available at: <http://www.skai.gr/news/politics/article/268543/oligoria-sti-stirixi-gia-mikro-omologiouhous-kataggellei-i-bakogianni/>.

<sup>706</sup> 'Council of State: trial on the challenge of small bondholders against the haircut', *To Vima* Newspaper, 22/03/2013, available at: <http://www.tovima.gr/society/article/?aid=503998>.

<sup>707</sup> Council of State (Plenary), judgment 1116/2014, available at [http://www.dsanet.gr/Epikairothta/Nomologia/STE1116\\_14.htm](http://www.dsanet.gr/Epikairothta/Nomologia/STE1116_14.htm).

<sup>708</sup> Council of State (Plenary), judgment 1117/2014, available at [http://www.dsanet.gr/Epikairothta/Nomologia/ste%201117\\_14.htm](http://www.dsanet.gr/Epikairothta/Nomologia/ste%201117_14.htm).

<sup>709</sup> Council of State (Plenary), judgment 1116/2014, available at [http://www.dsanet.gr/Epikairothta/Nomologia/STE1116\\_14.htm](http://www.dsanet.gr/Epikairothta/Nomologia/STE1116_14.htm), para. 32.

<sup>710</sup> *ibid.*, para. 24.

principle of equality, as its provisions were generally applicable<sup>711</sup>, or that the PSI resulted in the expropriation and reduction of their property, as the requirement of fair balance was preserved<sup>712</sup>. Finally, it is worth noting that the Council of State held that the conditions for submitting a request for a preliminary ruling to the Court of Justice of the EU were not met in this case<sup>713</sup>.

## 8.2. Freedom of the press

As in most democratic countries, the Greek Constitution: protects freedom of expression; protects the freedom of the press; safeguards the freedom of information; safeguards the right to participate in the information society<sup>714</sup>. The freedom of speech and the freedom of the press impose upon the State the duty not to interfere in their functioning, as well as the positive obligation to create an environment where free press can flourish<sup>715</sup>. Freedom of the press is recognised only with respect to the printed press, while freedom of expression also applies to broadcasting and the internet. In the latter, however, broadcast media are under the 'direct control of the State', which aims at 'the objective and on equal terms transmission of information and news reports, as well as works of literature and art'<sup>716</sup>. The importance of ensuring transparency and pluralism in information across the media is also stipulated in the Constitution<sup>717</sup>.

Despite the constitutional guarantees for freedom of expression and the freedom of the press, the domestic policy concerning the media, since the liberalisation of the market in the late 1980s, has been subject to strong politicisation, thus substantially affecting the way in which the State has tried to balance the economic interests of the sector against the values of freedom of expression and freedom of information, the media's social responsibility, and media plurality<sup>718</sup>. The interconnections between the political system and the media in Greece, and their impact on the media's independence, have transformed over time, as the political dynamics and economic conditions have changed along with the possibilities introduced by technological developments<sup>719</sup>.

According to the NGO 'Reporters Without Borders', freedom of information is repeatedly flouted in Greece, which has fallen more than 68 positions in the press freedom index since 2008 (see Figure 8)<sup>720</sup>; in 2014 Greece was ranked 99<sup>th</sup> in the press freedom index<sup>721</sup>,

<sup>711</sup> *ibid.*, para. 36.

<sup>712</sup> *ibid.*, para. 30.

<sup>713</sup> Para. 27.

<sup>714</sup> Article 14(1) and (2) and Article 5 of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>715</sup> Psychogiopoulou E., Anagnostou D., Kandyla A., 'Case study report: Does media policy promote media freedom and independence? The case of Greece', ELIAMEP, December 2011, available at <http://www.mediadem.eliamep.gr/wp-content/uploads/2012/01/Greece.pdf>, p.8.

<sup>716</sup> Article 15(2) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>717</sup> Article 14(9) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>.

<sup>718</sup> Psychogiopoulou E., Anagnostou D., Kandyla A., 'Case study report: Does media policy promote media freedom and independence? The case of Greece', ELIAMEP, December 2011, available at <http://www.mediadem.eliamep.gr/wp-content/uploads/2012/01/Greece.pdf>, p.6.

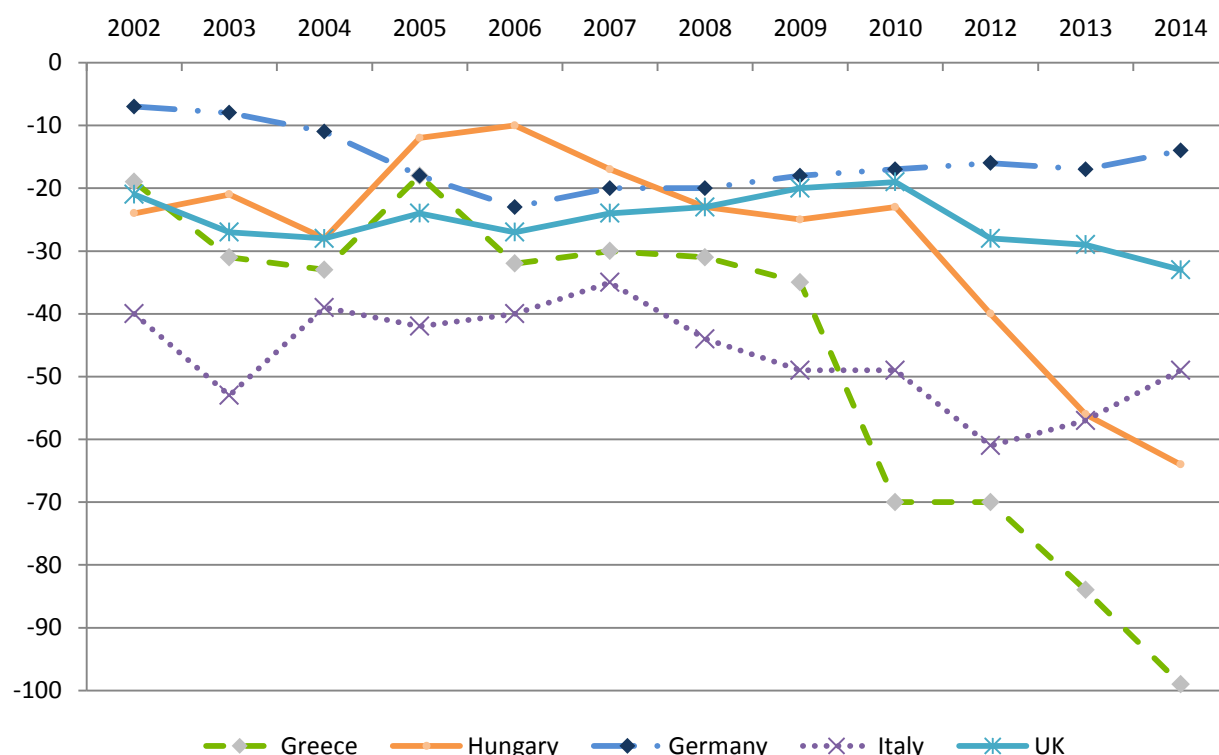
<sup>719</sup> *ibid.*

<sup>720</sup> Reporters without Borders, 'World Press Freedom Index 2014', available at: [http://rsf.org/index2014/data/index2014\\_en.pdf](http://rsf.org/index2014/data/index2014_en.pdf), p. 26.

<sup>721</sup> Reporters without Borders, 'World Press Freedom Index 2014', available at: [http://rsf.org/index2014/data/index2014\\_en.pdf](http://rsf.org/index2014/data/index2014_en.pdf), p. 8.

being second to last amongst the EU countries (with the last one being Bulgaria)<sup>722</sup>. According to the Reporters Without Borders, the economic crisis hit the Greek media hard; those financing the national media moved their investments into more profitable sectors leading to massive journalist layoffs<sup>723</sup>. Furthermore, reporters are also frequently the victims of physical violence by both the police and demonstrators who accuse them of colluding with the Government<sup>724</sup>.

**Figure 8: Freedom of Press Index**<sup>725</sup>



**Source:** Reporters without borders, Freedom of Press Index 2002-2014, available at: <http://fr.rsf.org>; Milieu presentation.

The 'Freedom House' NGO (an independent watchdog organisation dedicated to the expansion of freedom around the world) changed the country's press status from 'Free' to 'Partly Free', in 2013, due to 'an increasingly hostile legal, political, and economic environment for the press; a rise in intimidation of and attacks against journalists; closures of, or cutbacks at, numerous print and broadcast outlets, as a result of the economic crisis; and a consequent reduction in media diversity and in comprehensive and accurate reporting about the country's political and economic situation'<sup>726</sup>. According to the Freedom

<sup>722</sup> Reporters without Borders, 'World Press Freedom Index 2014', available at: [http://rsf.org/index2014/data/index2014\\_en.pdf](http://rsf.org/index2014/data/index2014_en.pdf), p. 31.

<sup>723</sup> Reporters without Borders, 'World Press Freedom Index 2014', available at: [http://rsf.org/index2014/data/index2014\\_en.pdf](http://rsf.org/index2014/data/index2014_en.pdf), p. 26.

<sup>724</sup> Reporters without Borders, 'World Press Freedom Index 2014', available at: [http://rsf.org/index2014/data/index2014\\_en.pdf](http://rsf.org/index2014/data/index2014_en.pdf), p. 26.

<sup>725</sup> Note that rankings are presented on a negative scale for the purpose of illustration. The figures of the ranking remain the same, e.g. Greece ranked in place 99 in 2014. The countries presented were randomly chosen aiming at representing different regions.

<sup>726</sup> Freedom House, 'Freedom of the Press 2013', available at: <https://www.freedomhouse.org/report/freedom-press/2013/greece>.



House, even though both public and private media are largely free from Government restrictions, State-owned media tend to have a pro-government bias. At the same time, many media owners have close ties with the Government, which is often reflected in the absence of critical commentary on key issues, including with respect to the financial crisis<sup>727</sup>. According to a report by the 'Fédération internationale des ligues des droits de l'homme', several cases of press suppression have been recorded over the last few years, with pressure directed against 'those who attempt to speak out against or criticise the bailout agreements and related austerity plans, or denounce the widespread corruption and misadministration that contributed to causing the crisis'<sup>728</sup>.

In June 2013, in order to reduce public spending and under the pressure of the Troika to eliminate 2,000 public sector jobs, the Government closed the State-owned national broadcaster, ERT, consisting of four TV stations and five radio stations, leading to the dismissal of 2,700 employees<sup>729</sup>. The shutdown of ERT particularly affected citizens in rural areas and close to the borders, where Greek private broadcasters and other Greek media are often unavailable<sup>730</sup>. The decision to close the ERT was faced with intense criticism, including criticism over the process followed by the Government which, according to the FIDH, 'was paved with irregularities, in having escaped parliamentary scrutiny and lacking transparency and accountability'<sup>731</sup>. The Government announced the creation of a new state broadcaster, NERIT, which officially started operating in May 2014.

The Government's decision to shut down the ERT was challenged before the Greek courts. The **Council of State in its judgment 1901/2014**<sup>732</sup>, held that the closure of the ERT was 'constitutional, legal and not contrary to EU law' (with a majority of 15 in favour and 10 against), thus rejecting the appeal of the 'Hellenic Federation of Associations Personal Business Radio – Television' (POSPERT) and its President. The court ruling noted that, as of 2011, under the Economic Adjustment Programmes, the public broadcasting service was included in the plans for the reform, merger and consolidation of 'non-essential public bodies'. Furthermore, the Council of State held that Article 15 of the Constitution does not require the operation of a public television and radio broadcasting service.

According to the ruling, the legislature 'shall be entitled, taking into account the financial capacity of the State in any given period, to choose whether, based on the effective application of the constitutional requirements for broadcasting, it is necessary and possible to establish a public broadcasting entity'. However, if the legislature opts to establish a public broadcasting service, in accordance with the Constitution, it must be pluralistic and organised in a way that prevents Government and party influences and must strictly operate on the basis of the principles of objectivity, impartiality and pluralism. The Council of State further held that, apart from the financial needs, the ERT was shut down with the intention to establish a new broadcasting service (established with Law 4173/2013), while

<sup>727</sup> Freedom House, 'Freedom of the Press 2013', available at: <https://www.freedomhouse.org/report/freedom-press/2013/greece>. Freedom House, 'Freedom of the Press 2014', available at: <https://www.freedomhouse.org/report/freedom-press/2014/greece>.

<sup>728</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 49.

<sup>729</sup> Freedom House, 'Freedom of the Press 2014', available at: <https://www.freedomhouse.org/report/freedom-press/2014/greece>.

<sup>730</sup> Freedom House, 'Freedom of the Press 2014', available at: <https://www.freedomhouse.org/report/freedom-press/2014/greece>.

<sup>731</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 52.

<sup>732</sup> Council of State (Plenary) judgment 1901/2014, available at: [http://www.dsnet.gr/Epikairothta/Nomologia/ste%201901\\_2014.htm](http://www.dsnet.gr/Epikairothta/Nomologia/ste%201901_2014.htm).

an interim service was established until the operation of NERIT. Furthermore, the Plenary held that the closure of the ERT does not violate Article 10 of the ECHR – especially since the closure aimed at the establishment of a new entity, nor the Charter of Fundamental Rights of the EU and the TFEU (Protocol 29 on the system of public broadcasting in the Member States). In addition, the Council of State unanimously held that the law on collective dismissals (Law 1387/1990) and Directive 75/129/EEC concerning collective redundancies does not apply on workers employed by public bodies exercising public power.

### 8.3. Prohibition of discrimination – racist attacks and xenophobic violence and speech

In the last few years, Greece has witnessed a steep increase in the phenomena of racist violence, discrimination and intolerance, as well as extremism. This can be attributed to the combination of two interlinked factors: (a) the social and political impact of the acute economic crisis that the country has been undergoing since 2008, including the significant rise of youth unemployment; (b) the significant number of third-country nationals, mostly asylum seekers and irregular migrants, who live under conditions of severe deprivation in the streets of Athens<sup>733</sup>. Undocumented migration and crime were high in the agenda of the 2012 national elections, where parties across the ideological spectrum explicitly linked irregular migration to urban degradation, crime and public health problems.<sup>734</sup> The populist, right-wing party 'Golden Dawn' gained popularity in recent years, in part, because it exploited the anti-immigrant sentiment.<sup>735</sup> However, even though the intensity and frequency of racist violence and intolerance has recently grown, reports of the National Commission for Human Rights, the Council of Europe Commission against Racism and Intolerance, as well as the FRA, have highlighted persistence in the course of many years of racism and intolerance phenomena, even though in a lesser degree, and the lack of effective measures to tackle them<sup>736</sup>.

In Greece there are no official data on racially motivated offences as noted in the ECRI Report (fourth monitoring cycle)<sup>737</sup> and as mentioned by the Greek National Commission for Human Rights<sup>738</sup>. In 2011 the Racist Violence Recording Network was established upon the initiative of the UN Refugee Agency and the National Commission for Human Rights and in September 2013 comprised as members 34 NGOs and other bodies which provide legal, medical, social or other support services and come into contact with racist violence victims<sup>739</sup>.

<sup>733</sup> FRA 'Racism, discrimination, intolerance and extremism: Learning from experiences in Greece and Hungary', 2013, available at: [http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3_en_1.pdf), p. 9.

<sup>734</sup> Human Rights Watch, 'Hate on the Streets', 10 July 2012, available at: [http://www.hrw.org/sites/default/files/reports/greece0712ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/greece0712ForUpload_0.pdf), p. 35.

<sup>735</sup> Human Rights Watch, 'Hate on the Streets', 10 July 2012, available at: [http://www.hrw.org/sites/default/files/reports/greece0712ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/greece0712ForUpload_0.pdf), p. 36.

<sup>736</sup> FRA 'Racism, discrimination, intolerance and extremism: Learning from experiences in Greece and Hungary', 2013, available at: [http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3_en_1.pdf), p. 10.

<sup>737</sup> ECRI Report on Greece (fourth monitoring cycle) adopted on 2 April 2009, para. 82, p. 28.

<sup>738</sup> Greek National Commission for Human Rights, 'Racist violence: Legislative, Judicial and Police Responses', p. 15. See also the Rights Equality & Diversity European Network, 'Annual Report 2011', available at: <http://www.red-network.eu/resources/toolip/doc/2012/03/17/annualreport-2011.pdf> which notes that there are no official data collection mechanisms in Greece (p. 127) and that there is no official data on Court cases on hate crime (p. 241).

<sup>739</sup> Link to the website of the Racist Violence Recording Network, available at: <http://www.unhcr.gr/1againstracism/%ce%bc%ce%ad%ce%bb%ce%b7-%cf%84%ce%bf%cf%85-%ce%b4%ce%b9%ce%ba%cf%84%cf%8d%ce%bf%cf%85->

Between 1 January 2012 and 30 April 2013, the Greek Ombudsman reported on: the basis of NGOs' and the Ombudsman's records 281 incidents of hate crimes – 253 of which took place in 2012. The offenders were, in principle, citizens below 40 years of age. In 71 instances, there was an alleged involvement of members of the Golden Dawn and, in 47 instances, an alleged involvement of officials of the Greek police, the local police and the port authorities (σώματα ασφαλείας)<sup>740</sup>. Incidents of racist violence increased dramatically as of May 2012; while between January and April 2012, there were 7.7 reported incidents per month (31 in total), between May and December 2012, the average reported incidents of racist violence per month rose to 27.75 (222 in total)<sup>741</sup>. According to the Greek Ombudsman, the dramatic increase in the number of complaints of racist attacks and the escalating intensity of the violence used reflects, amongst others, the socio-political developments which allowed the Golden Dawn Party to gain, for the first time in history, 6.92% of the votes and 18 seats in the Greek Parliament.<sup>742</sup> According to the Greek police, the number of recorded incidents with an alleged racial motive was 3 in 2010, 22 in 2011 and 84 in 2012.<sup>743</sup> An OSCE report on hate crimes in the OSCE Region indicates that, in 2013, 109 hate crimes were recorded by the police (2 homicides; 51 physical assaults; 1 incitement to violence; 8 threats/threatening behaviour; 42 unspecified) and 9 cases were prosecuted<sup>744</sup>. As no information was provided by the Greek Government for the previous years, the information is not comparable.

Until 2014, the principal legal instrument addressing hate crime and hate speech in Greece was Law 927/1979 'on punishing acts, or activities aimed at racial discrimination'. In May 2013, the then Minister of Justice sent to the Parliament a new Draft Law 'Combating Manifestations of Racism and Xenophobia'. The Bill proved extremely contentious and, due to a disagreement amongst the (then three) members of the coalition government over its content,<sup>745</sup> the law was voted only in September 2014 after being resubmitted to the Parliament<sup>746</sup>.

A recent FRA report examining minorities as victims of five crime types (theft of or from a vehicle; burglary or attempted burglary; theft of personal property not involving force or threat (personal theft); assault or threat; and serious harassment) notes that the overall victimisation rate of Roma in Greece is 54% (EU average 32%)<sup>747</sup>. In particular, the Roma

[http://www.synigoros.gr/resources/docs/eidiki\\_kthesiratsistikivia.pdf](http://www.synigoros.gr/resources/docs/eidiki_kthesiratsistikivia.pdf), p. 6. A summary of the report in English is available at: <http://www.synigoros.gr/resources/docs/sronracistviolencesummary2013.pdf>.

<sup>740</sup> Greek Ombudsman 'The phenomenon of racist violence in Greece and how it is combated', September 2013, available at: [http://www.synigoros.gr/resources/docs/eidiki\\_kthesiratsistikivia.pdf](http://www.synigoros.gr/resources/docs/eidiki_kthesiratsistikivia.pdf), p. 6. A summary of the report in English is available at: <http://www.synigoros.gr/resources/docs/sronracistviolencesummary2013.pdf>.

<sup>741</sup> Greek Ombudsman 'The phenomenon of racist violence in Greece and how it is combated', September 2013, available at: [http://www.synigoros.gr/resources/docs/eidiki\\_kthesiratsistikivia.pdf](http://www.synigoros.gr/resources/docs/eidiki_kthesiratsistikivia.pdf), p. 7.

<sup>742</sup> Greek Ombudsman 'The phenomenon of racist violence in Greece and how it is combated', September 2013, available at: [http://www.synigoros.gr/resources/docs/eidiki\\_kthesiratsistikivia.pdf](http://www.synigoros.gr/resources/docs/eidiki_kthesiratsistikivia.pdf), p. 8.

<sup>743</sup> Greek Ombudsman 'The phenomenon of racist violence in Greece and how it is combated', September 2013, available at: [http://www.synigoros.gr/resources/docs/eidiki\\_kthesiratsistikivia.pdf](http://www.synigoros.gr/resources/docs/eidiki_kthesiratsistikivia.pdf), p. 16.

<sup>744</sup> OSCE, Office for Democratic Institutions and Human Rights 'Hate Crime Reporting 2013 – Greece', available at: <http://hatecrime.osce.org/greece?year=2013>.

<sup>745</sup> 1 Against Racism (website run by the UNCHR in Greece), 'New friction over the anti-racism bill', 18/8/2014, available at: <http://www.unhcr.gr/1againstracism/erchete-nea-kontra-gia-to-antiratsistiko/>; Nektaria Stamouli and A. Granitsas, 'Greece's Parliament Approves Hate-Crime Law', *Wall Street Journal*, 9/9/2014, available at: <http://www.wsj.com/articles/greeces-parliament-approves-hate-crime-law-1410293907>.

<sup>746</sup> Law 4285/2014 'Modification of Law 927/1979 (A' 139) and adaptation to framework decision 2008/913 / JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law (L 328) and other provisions' (Τροποποίηση του ν. 927/1979 (Α' 139) και προσαρμογή του στην απόφαση – πλαίσιο 2008/913/ΔΕΥ της 28ης Νοεμβρίου 2008, για την καταπολέμηση ορισμένων μορφών και εκδηλώσεων ρατσισμού και ξενοφοβίας μέσω του ποινικού δικαίου (L 328) και άλλες διατάξεις), Government Gazette Α' 191/2014.

<sup>747</sup> FRA Report 'Minorities as victims of Crime', 2012, available at: [http://www.red-network.eu/resources/toolip/doc/2012/11/29/fra-2012-eu-midis-dif6\\_0.pdf](http://www.red-network.eu/resources/toolip/doc/2012/11/29/fra-2012-eu-midis-dif6_0.pdf), p. 8.

face high likelihood of having their houses burgled (29% as opposed to EU average 10%). Furthermore, 26% of Roma in Greece considered that they were victims of serious harassment, assault or threats, in the examined period, on a racist motive (as opposed to EU average 18%)<sup>748</sup>. With respect to theft, 21.1% of Roma and 6.7% of Albanians experienced theft in 2012, in comparison with 3.5% of the majority population<sup>749</sup>.

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<sup>748</sup> *ibid*, p.11.

<sup>749</sup> *ibid*, p.15

## 9. MONITORING COMPLIANCE OF NATIONAL MEASURES WITH FUNDAMENTAL RIGHTS

### KEY FINDINGS

- Since 2010 numerous national and international monitoring bodies have examined measures adopted under the Economic Adjustment Programmes.
- **National courts have ruled in favor of the constitutionality of the majority of austerity measures** on the basis of an 'enhanced' overriding public interest; according to the courts, the contested measures were introduced within a broader program for fiscal consolidation and structural reforms aiming both at addressing the urgent need to cover the country's financial needs and at improving the future financial situation of the country.
- The **National Commission of Human Rights** and the **Greek Ombudsman** have noted the negative consequences of the crisis and adopted austerity measures on citizens' lives as well as on the provision of essential public services.
- Most of the **monitoring bodies of the United Nations, the International Labour Organisation and the Council of Europe** have stressed that the **cumulative effect** of austerity measures resulted to a **devaluation of the standards of living and increased impoverishment** of the people in Greece.

### 9.1. Monitoring compliance at national level

Supervision of the respect of fundamental rights is vested at the national level upon national courts, the National Commission for Human Rights and the Greek Ombudsman.

#### 9.1.1. National Courts

The first case directly referring to the constitutionality of the Memorandum of Understanding under the First Economic Adjustment Programme (May 2010), was brought before the Council of State by more than 30 citizens and legal entities representing common interests, e.g. the Athens Lawyers Bar, the Civil Servants' Confederation (ADEDY), the Panhellenic Federation of Public Service Pensioners, the journalists' union (ESIEA), the Technical Chamber of Greece and the academic personnel of the Faculty of Social Sciences of the University of Crete. The Greek Supreme Administrative Court addressed the complaint in plenary and delivered judgement 668/2012<sup>750</sup>. This decision contained extensive reasoning based on the institutional and legal framework of the EU<sup>751</sup> and the IMF<sup>752</sup>, the factual background and pragmatic conditions of the Greek economy since 2003, and the establishment of the support mechanism and the conclusion of the Memorandum of Understanding in 2010<sup>753</sup>. This reasoning established that Law 3845/2010<sup>754</sup> introduced a broader program for fiscal consolidation and, structural reforms aimed at addressing the

<sup>750</sup> Judgment 668/2012 (Plenary), available at <http://www.dsanet.gr/Epikairothta/Nomologia/668.htm>.

<sup>751</sup> *ibid.*, para6-7.

<sup>752</sup> *ibid.*, para8.

<sup>753</sup> *ibid.*, para9-14.

<sup>754</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

urgent need to cover the country's financial needs, improving the future financial situation of the country, substantially serving the public interest and the common interest of the Euro area Member States. In judgment 668/2012, the Court ruled in favour of the constitutionality of the procedure under which the Memorandum agreements were introduced and incorporated into the national legal order. Law 3845/2010<sup>755</sup> included in its Annexes the agreements between the Greek authorities, the European Commission, the European Central Bank and the International Monetary Fund. It was brought to the Greek Parliament as a 'framework-law' (νόμος πλαίσιο) which was urgently adopted on the basis of Article 76(4) of the Constitution, as 'very urgent' (κατεπείγον)<sup>756</sup>, after a limited debate in one sitting. The Council of State did not accept the complainant arguments and found that this was not in breach of Article 28(2)<sup>757</sup> of the Greek Constitution – that required an enhanced majority of three-fifths for ratifying treaties or agreements that vest authority in agencies of international organisations<sup>758</sup>, nor in breach<sup>759</sup> of Articles 28(3)<sup>760</sup> and 36(2)<sup>761</sup>.

Judgment 668/2012 also found that reductions to wages and pensions were not in breach of the Greek Constitution and the European Convention on Human Rights (see above sections 4.4. and 5.4). It should be noted that the judgment also included dissenting opinions.

The Greek Council of State, as well as other national courts of lower instance, have examined cases relating to specific austerity measures introduced during the period 2010-2014. The case-law relevant for each fundamental right examined within this study is analysed in the respective section.

<sup>755</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο), Government Gazette A' 65/2010.

<sup>756</sup> Pavlopoulos, P., 'Observations regarding the legal nature and the legal consequences of the "Memorandum"', (Παρατηρήσεις ως προς τη νομική φύση και τις έννομες συνέπειες του «Μνημονίου»), available at: <http://constitutionalism.gr/site/wp-content/mgdata/pdf/avlopoulosmnimonio.pdf>, p.1 (footnote 5).

<sup>757</sup> Article 28(2) stipulates: 'Authorities provided by the Constitution may by treaty or agreement be vested in agencies of international organizations, when this serves an important national interest and promotes cooperation with other States. A majority of three-fifths of the total number of Members of Parliament shall be necessary to vote the law ratifying the treaty or agreement', available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf>.

<sup>758</sup> Judgment 668/2012, para 27-29.

<sup>759</sup> Judgment 668/2012, para 30-33.

<sup>760</sup> Article 28(3) stipulates: 'Greece shall freely proceed by law passed by an absolute majority of the total number of Members of Parliament to limit the exercise of national sovereignty, insofar as this is dictated by an important national interest, does not infringe upon the rights of man and the foundations of democratic government and is effected on the basis of the principles of equality and under the condition of reciprocity', Conventions on trade, taxation, economic cooperation and participation in international organizations or unions and all others containing concessions for which, according to other provisions of this Constitution, no provision can be made without a statute, or which may burden the Greeks individually, shall not be operative without ratification by a statute voted by the Parliament.

<sup>761</sup> Article 36(2) stipulates: 'Conventions on trade, taxation, economic cooperation and participation in international organizations or unions and all others containing concessions for which, according to other provisions of this Constitution, no provision can be made without a statute, or which may burden the Greeks individually, shall not be operative without ratification by a statute voted by the Parliament', Conventions on trade, taxation, economic cooperation and participation in international organizations or unions and all others containing concessions for which, according to other provisions of this Constitution, no provision can be made without a statute, or which may burden the Greeks individually, shall not be operative without ratification by a statute voted by the Parliament.



### 9.1.2. National Commission of Human Rights (Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου - NCHR)

The official State consultative body for human rights – the National Commission of Human Rights (NCHR), issued several Decisions and Recommendations since 2010 (See Table 33 below), underlining the need for constant respect of fundamental rights during the implementation of the national strategy to exit the economic crisis.

**Table 33: Main interventions of the National Commission of Human Rights concerning the crisis**

NCHR main interventions	
Decision of 10.06.2010 <sup>762</sup>	With this decision, the NCHR noted that the social equilibrium has been disturbed at the expense of human rights, due the national economic situation and the international financial pressure. It further stressed the need for ongoing respect of the Constitution and International Conventions, despite the circumstances.
Recommendation of 18.12.2011 <sup>763</sup>	<p>In this Recommendation, the NCHR reported a rapid deterioration of living standards and a deconstruction of the welfare State, concluding that the measures adopted were not in alignment with social justice. The NCHR expressed a stronger concern, inter alia, in relation to the on-going drastic reduction of pensions and wages, the weakening of collective labour agreements and facilitation of dismissals, the lack of support to mothers and children, the increase of taxation (even retroactively) that results to deprivation of essential goods, the burdensome conditions for access to justice. The NCHR called upon the Greek Government and Parliament to weight the consequences of fiscal measures on social protection and security, which they should guarantee.</p> <p>This Recommendation was broadly reproduced and quoted by international bodies<sup>764</sup> in their decisions and reports on Greece.</p>

During the crisis, the NCHR also expressed concerns in relation to specific issues:

- **The quality of Greek legislation:** As mentioned above (Section 1.2.3), the NCHR in its Observations<sup>765</sup> on the 24th Greek Report on the application of the European Social Charter, and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter, noted that 'the avalanche of unpredictable, complicated, conflicting and constantly modified "austerity measures" of immediate

<sup>762</sup> NCHR, 'Decision on the need for constant respect of fundamental rights during the exercise of the exit strategy of the economy and the society from the debt crisis' (Απόφαση για την ανάγκη διαρκούς σεβασμού των θεμελιωδών δικαιωμάτων κατά την άσκηση της στρατηγικής εξόδου της οικονομίας και της κοινωνίας από την κρίση του εξωτερικού χρέους), June 2010, available at [http://www.nchr.gr/images/pdf/apofaseis/oikonomikh\\_krish/EEDA\\_Oikonomiki\\_krisi.pdf](http://www.nchr.gr/images/pdf/apofaseis/oikonomikh_krish/EEDA_Oikonomiki_krisi.pdf).

<sup>763</sup> NCHR 2011 Recommendation On the imperative need to reverse the sharp decline in civil liberties and social rights (Σύσταση ΕΕΔΑ: Επιτακτική ανάγκη να αντιστραφεί η πορεία καταρράκωσης των ατομικών και κοινωνικών δικαιωμάτων), December 2011, available at: [http://www.nchr.gr/images/pdf/apofaseis/oikonomikh\\_krish/EEDA\\_Krisi.pdf](http://www.nchr.gr/images/pdf/apofaseis/oikonomikh_krish/EEDA_Krisi.pdf) (in Greek) and [http://www.nchr.gr/English\\_Site/CRISIS/nchr\\_crisis.pdf](http://www.nchr.gr/English_Site/CRISIS/nchr_crisis.pdf) (in English).

<sup>764</sup> Namely the European Committee on Social Rights, the Council of Ministers and the Commissioner for Human Rights of the Council of Europe.

<sup>765</sup> NCHR Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter (Reference Period 1.1.2009-12.31.2012), October 2014, available at: [http://www.nchr.gr/images/pdf/apofaseis/ellinikes\\_ektheseis\\_en\\_ell\\_org/CoF/GNCHR\\_Observations\\_24thReportf.pdf](http://www.nchr.gr/images/pdf/apofaseis/ellinikes_ektheseis_en_ell_org/CoF/GNCHR_Observations_24thReportf.pdf).

and often retroactive effect' resulted in Greek legislation not having the 'quality' required under the ECHR.

- **Social rights:** In the above Observations<sup>766</sup>, the NCHR noted that none of the measures which the European Social Rights Committee (ECSR) had found to be in violation of the European Social Charter had been repealed or modified and that the situation in Greece continued to deteriorate through, amongst others, the measures imposed by Law 4093/2012 that reduced the level of workers' protection in terms of working time, salary cuts and salary 'freezes' under Law 4046/2012<sup>767</sup>, and a 32% reduction of minimum wage for all workers under 25 years of age.
- **Access to justice:** The NCHR has issued Observations and Recommendations regarding all main draft Laws bringing reforms to the judicial system, namely Laws 3900/2010, 4055/2012, 3904/2010 and 4239/2014, expressing concerns about the impediments on the right to access to justice (see above Section 6)<sup>768</sup>.
- **Protection of childhood:** In its Recommendations<sup>769</sup> on the protection of childhood (May 2014) the NCHR noted that the social and economic crisis increasingly affects social protection programmes and that, in 2013, 20% of children (in relation to 4% in 2009) live in families that are not able to afford goods that are indispensable for a minimum level of decent living<sup>770</sup>.
- **Draft Law on Special Education** released for public consultation in April 2014<sup>771</sup>: The Draft Law aimed at regulating the organisation and operations of special education, but according to the NCHR 'the proposed legislative initiative reduces the quality of education as a whole', while some provisions on the process of appointment and recruitment of teachers of Special Education and Special Auxiliary

<sup>766</sup> NCHR Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter (Reference Period 1.1.2009-12.31.2012), October 2014, available at: [http://www.nchr.gr/images/pdf/apofaseis/ellinikes\\_ektheseis\\_en\\_ell\\_org/CoE/GNCHR\\_Observations\\_24thReport.pdf](http://www.nchr.gr/images/pdf/apofaseis/ellinikes_ektheseis_en_ell_org/CoE/GNCHR_Observations_24thReport.pdf) (in English).

<sup>767</sup> Law 4046/2012 Approval of the Plans for Credit Facilitation Agreements between the European Financial Stability Facility (EFSF), the Hellenic Republic and the Bank of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions for reduction of public debt and recovery of the national economy ('Εγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Ευρωπαϊκής Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου χρέους και τη διάσωση της εθνικής οικονομίας'), Government Gazette A'28/2012.

<sup>768</sup> Observations and Recommendations on draft Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις), Government Gazette A'213/2010, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/Paratiriseis\\_dioikitiki\\_diki\\_final2010.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/Paratiriseis_dioikitiki_diki_final2010.pdf), on draft Law 3904/2010 'Streamlining processes and improving the conferment of criminal justice and other provisions' (Εξορθολογισμός και βελτίωση στην απονομή της ποινικής δικαιοσύνης και άλλες διατάξεις), Government Gazette A'218/2010, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/Veltiosi\\_poinikon\\_dikon\\_2010.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/Veltiosi_poinikon_dikon_2010.pdf), on draft Law 4055/2012 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/EEEDA\\_parat\\_polunomosxedio\\_tel.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/EEEDA_parat_polunomosxedio_tel.pdf), on draft Law 4239/2014, 'Just satisfaction for exceeding the reasonable duration of proceedings in civil and criminal courts and the Court of Auditors and other provisions' (Δίκαιη ικανοποίηση λόγω υπέρβασης της εύλογης διάρκειας της δίκης, στα πολιτικά και ποινικά δικαστήρια και στο Ελεγκτικό Συνέδριο και άλλες διατάξεις), Government Gazette A'43/2014, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/SN%20Dikaih%20Ikanopoihsh.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/SN%20Dikaih%20Ikanopoihsh.pdf).

<sup>769</sup> NCHR recommendations on the Protection of childhood (Συστάσεις της ΕΕΔΑ για την Προστασία της παιδικής ηλικίας), May 2014, available at: [http://www.nchr.gr/images/pdf/apofaseis/paidia/apofasi\\_mhxanismoι\\_prostasias\\_paidikis\\_hlikias.pdf](http://www.nchr.gr/images/pdf/apofaseis/paidia/apofasi_mhxanismoι_prostasias_paidikis_hlikias.pdf).

<sup>770</sup> The NCHR Recommendation quotes data analysis made by the Policy Analysis Research Unit of the Athens University of Economics and Business in the 5<sup>th</sup> Newsletter 'Poverty in Greece: trends in 2013', available at: [http://www.paru.gr/files/newsletters/NewsLetter\\_05.pdf](http://www.paru.gr/files/newsletters/NewsLetter_05.pdf) (in Greek).

<sup>771</sup> Draft Law on Special Education as released for public consultation, available here: <http://www.opengov.gr/ypepth/?p=1963>.

Personnel, were considered as discriminatory and did not seem to favour the social and educational inclusion of people with disabilities<sup>772</sup>. The adoption of this law did not go forward<sup>773</sup>.

The economic crisis has had multi-level implications in Greece. It is often said that the crisis is not only financial but also social and political, touching upon the function and effectiveness of democratic institutions. The NCHR itself met challenges in responding adequately to human rights issues in the context of the economic crisis. Besides pragmatic impediments, e.g. insufficient funding, which were also indicated by the UN Independent Expert (see below section 8.2.2.), other challenges relate to the national institutional framework. In December 2012, the NCHR sent an official letter to the Government claiming that it does not receive sufficient institutional and financial support<sup>774</sup>. In 2012, the NCHR did not have any of the three members of scientific personnel/human right scientific officers required by law<sup>775</sup>.

### 9.1.3. Greek Ombudsman (Συνήγορος του Πολίτη)

The Greek Ombudsman is an independent authority established by the Constitution<sup>776</sup>. It is vested with the competence to protect citizens' rights against mal-administration and any infringement or violation of their rights and legal interests. Any person or legal entity, regardless of nationality, can submit a complaint to the Ombudsman concerning administrative acts, omissions or material actions. In response to submitted complaints, the Ombudsman carries out its mission 'to mediate between public administration and citizens in order to help citizens to exercise their rights effectively'<sup>777</sup>, and makes recommendations and proposals to the public authorities and services concerned.

Besides addressing individual complaints, the Ombudsman issues annual reports which summarise its work and present an overview of submitted complaints<sup>778</sup>, as well as special reports dedicated to specific issues of importance<sup>779</sup>. The current introductory note on the Ombudsman webpage is representative of the challenges brought by the crisis upon the Greek people: 'The unprecedented financial crisis has had dramatic consequences on citizens' lives and the function of the state and its services. A strong feeling of insecurity has shaken Greek society and the State's difficulty in meeting its obligations has created an extremely challenging and demanding environment. Within this environment, the Greek Ombudsman is called on to intensify its extrovert profile, to be near citizens and express, in a structured manner, their problems and displeasure. More significantly, it is called upon to find constructive and realistic alternative solutions.'

<sup>772</sup> NCHR recommendations in response to the Draft Law on Special Education (Συστάσεις της ΕΕΔΑ με αφορμή το Σχέδιο Νόμου για την Ειδική Αγωγή και Εκπαίδευση), July 2014, available at: <http://www.nchr.gr/images/pdf/apofaseis/amea/SxN%20Eidiki%20ekpaideysi%202014.pdf> (in Greek).

<sup>773</sup> Information obtained through stakeholder consultation (NCHR), December 2014.

<sup>774</sup> NCHR official letter to the Prime Minister, 21.12.2012, available at: [http://www.nchr.gr/images/pdf/nea\\_epikairothta/deltia\\_tupou/epistoli\\_primeminister\\_12.pdf](http://www.nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/epistoli_primeminister_12.pdf).

<sup>775</sup> Information obtained through stakeholder consultation (NCHR), December 2014.

<sup>776</sup> Article 103(9) of the Greek Constitution, available at: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf>.

<sup>777</sup> Information Sheet 'Who and what is the Greek Ombudsman?' available at: <http://www.synigoros.gr/resources/toolip/doc/2014/01/23/s-pol-agliko.pdf>.

<sup>778</sup> Annual reports of the Greek Ombudsman are available at: <http://www.synigoros.gr/?i=stp.el.annreports>.

<sup>779</sup> Special reports of the Greek Ombudsman are available at: <http://www.synigoros.gr/?i=stp.el.eidikesekttheseis>.

## 9.2. Monitoring compliance at supranational level

### 9.2.1. Monitoring at European level

#### 9.2.1.1. Court of Justice of the European Union

ADEDY and two of its members brought an action for annulment of Council Decision 2010/320/EU<sup>780</sup> and Council Decision 2010/486/EU<sup>781</sup>, with a view to remedying the excessive Greek deficit which had required the Greek State to abolish seasonal pension bonuses and ensure the medium and long-term sustainability of the Greek pension system. However, the General Court dismissed the action, asserting that the Council's decisions were not of direct concern to the applicants, and therefore did not meet the requirements of Article 263 TFEU on *locus standi*<sup>782</sup>.

#### 9.2.1.2. European Network of National Human Rights Institutions (ENHRI)

Relevant to the initiatives carried out by the NCHR, the European Network of National Human Rights Institutions addressed an open letter to the President of the European Commission (ENHRI) and the President of the ECB, in January 2014, concerning an upcoming scheduled Troika visit to Greece<sup>783</sup>. ENHRI expressed 'its deep concern regarding the negative human rights impact of the requirements of the Troika' and ascertained that 'several requirements set by the respective Memoranda of Understanding have been, and are being, fulfilled at the expense of the full enjoyment of human rights by the people in Greece, including civil and political rights as well as economic, social and cultural rights'. The ENHRI referred to the report of the UN Independent Expert (see Section 8.2.2. below) and the Decisions of the European Committee of Social Rights (see Section 8.2.3. below) and pointed out a number of austerity measures having a serious impact on human rights, namely dismissals, salary cuts and tax increases, cuts to pensions and other welfare benefits, reduction on public health expenditure and privatisation of public utilities, termination of the employment contract without notice and severance allowance, reduction of minimum wage for workers etc.

### 9.2.2. Monitoring mechanisms within the United Nations framework

#### 9.2.2.1. UN Independent Expert

The UN 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, visited Greece in April 2013. His

<sup>780</sup> Council Decision of 10 May 2010 addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421083145545&uri=CELEX:32010D0320>.

<sup>781</sup> Council Decision of 7 September 2010 amending Decision 2010/320/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421083236556&uri=CELEX:32010D0486>.

<sup>782</sup> General Court, Order in case T-541/10, Adedy, Papaspyros and Iliopoulos v. Council, 27 November 2012.

<sup>783</sup> European Network of National Human Rights Institutions (ENNHRI), 'Open letter to the President of the European Commission (ENHRI) and the President of the ECB, in January 2014, concerning an upcoming scheduled Troika visit to Greece', 10 January 2014, available at: [http://www.nchr.gr/images/English\\_Site/NEWS/OpenletterENNHRI\\_EUausterity.pdf](http://www.nchr.gr/images/English_Site/NEWS/OpenletterENNHRI_EUausterity.pdf).

mission report<sup>784</sup> to the UN Human Rights Council presented an overview of the situation in the country since 2010, focusing on key fundamental rights, e.g. right to work, right to social security, adequate housing etc. The Independent Expert indicated that the austerity measures 'have pushed the economy into recession and generally undermined the enjoyment of human rights, particularly economic, social and cultural rights'. Mr Lumina underlined that access to public services, e.g. healthcare and education, had been subordinated to the increasingly elusive goal of restoring a sustainable public budget, while unemployment, homelessness, poverty and social exclusion significantly increased, as a result of the measures. He concluded that 'the impact has been particularly severe on the most vulnerable: the poor, older persons, pensioners, persons with disabilities, women, children and immigrants<sup>785</sup>'. In his end -of-mission statement<sup>786</sup> he 'called upon the Government and the Troika to adopt a human rights-based approach to the design and implementation of the fiscal consolidation and reform policies in Greece to ensure that these policies are consistent with the obligations for the promotion of economic, social and cultural rights that the country has assumed through ratification of core international human rights instruments'.

#### 9.2.2.2. UN Treaty Bodies

Since 2008, several UN treaty bodies referred to the crisis in their concluding observations; these references were not always linked to a specific austerity measure but acknowledge that the overall situation in the country often prevents the effective implementation of UN Human Rights Conventions. The most significant, and most recent, UN Treaty Bodies interventions are presented in table 34 below.

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<sup>784</sup> A/HRC/25/50/Add.1, 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), available at: <http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/CountryVisits.aspx>.

<sup>785</sup> *ibid*, at pp.1-2.

<sup>786</sup> United Nations Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Cephias Lumina Mission to Greece, 22-26 April 2013 End of mission statement Athens, 26 April 2013, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13272&>.

**Table 34: Most significant UN Treaty Bodies interventions**

Document		UN Treaty & Body
<b>CEDAW/C/GRC/CO/7<sup>787</sup></b>	<p>CEDAW welcomed the adoption of the National Programme for Preventing and Combating Violence against Women (2009 – 2013) and the National Action Plan for Substantive Gender Equality (2010 –2013). However, it noted with concern that ‘the current financial and economic crisis and measures taken by the State party to address it within the framework of the policies designed in cooperation with the European Union institutions and the International Monetary Fund (IMF) are having detrimental effects on women in all spheres of life’ and reminded that ‘even in times of fiscal constraints and economic crisis, special efforts must be made to respect human rights, sustain and expand social investment and social protection and to employ a gender-sensitive approach, giving priority to women in vulnerable situations’. CEDAW recommended that Greece seeks targeted assistance and support from the EU and IMF to ensure the full implementation of the Convention.</p> <p>The Committee also noted that, specific measures in the area of employment seem to have a bigger impact on women, e.g. the new public service statute (Law 4024/2011<sup>788</sup>) that introduced wage cuts up to 50%, and could further increase the wage gap between sexes, the reduction of pensions for widows, the measures protecting working mothers (Laws 3896/2010<sup>789</sup> and 3996/2011<sup>790</sup>) had resulted in them being offered part-time and rotation</p>	<b>Committee on the Elimination of Discrimination against Women CEDAW</b> (Convention on the Elimination of All Forms of Discrimination against Women)

<sup>787</sup> CEDAW/C/GRC/CO/7, Concluding observations on the seventh periodic report of Greece adopted by the Committee at its fifty fourth session (11 February – 1 March 2013), March 2013, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGRC%2fCO%2f7&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGRC%2fCO%2f7&Lang=en).

<sup>788</sup> Law 4024/2011 ‘Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015’ (Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015), Government Gazette A’ 226/2011.

<sup>789</sup> Law 3896/2010 ‘Implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation – Harmonisation of the current legislation with the EU Directive 2006/54 / EC of the European Parliament and of the Council of 5 July 2006 and other related provisions’ (Εφαρμογή της αρχής των ίσων ευκαιριών και της ίσης μεταχείρισης ανδρών και γυναικών σε θέματα εργασίας και απασχόλησης – Εναρμόνιση της κείμενης νομοθεσίας με την Οδηγία 2006/54/EK του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, της 5ης Ιουλίου 2006 και άλλες συναφείς διατάξεις), Government Gazette A’ 207/2010.

<sup>790</sup> Law 3996/2011 ‘Reforming the Labour Inspectorate, social security settings and other provisions’ (Αναμόρφωση του Σώματος Επιθεώρησης Εργασίας, Ρυθμίσεις θεμάτων Κοινωνικής Ασφάλισης και άλλες διατάξεις), Government Gazette A’170.



Document		UN Treaty & Body
	work in many cases with reduced levels of pay. It also observed significant interruptions in the functioning of nurseries and child-care facilities.	
<b>CRC/C/GRC/CO/2-3<sup>791</sup></b>	<p>In the same spirit as CEDAW, the CRC noted that 'the recession and the current financial and economic crisis are taking their toll on families and on public social investment, including the prospects of implementing the Convention, especially with regard to Article 4', and reminded that, in similar times, efforts should enhance in the field of social protection with priority given to the most vulnerable, e.g. children.</p> <p>The Committee underlined the negative effects that the crisis has on public spending, 'affecting services provided to children and on subsistence costs incurred by families for basic needs such as food, fuel and housing, including increasing demands on payments for public services such as health care'. According to the CRC, the national budget and the budget process in Greece 'do not allow for a clear understanding and identification of financial resources allocated for the implementation of the rights of children'.</p> <p>It should also be mentioned that, in its concluding observations with respect to the Optional Protocol on the sale of children, child prostitution and child pornography<sup>792</sup>, the CRC expressed its concern on the fact that, due to the budgetary constraints imposed by the current difficulties in public finances in Greece, in 2010 and 2011, Hellenic Aid has not issued its annual call for proposals, addressed to Greek NGOs, for anti-trafficking or other projects.</p>	<b>Committee on the Rights of the Child CRC</b> (Convention on the Rights of the Child)

<sup>791</sup> CRC/C/GRC/CO/2-3, Consideration of reports submitted by States parties under article 44 of the Convention - Concluding observations: Greece, August 2012, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGRC%2fCO%2f2-3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGRC%2fCO%2f2-3&Lang=en).

<sup>792</sup> CRC/C/OPSC/GRC/CO/1, Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography - Concluding observations: Greece, July 2012, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGRC%2fCO%2f2-3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGRC%2fCO%2f2-3&Lang=en).

Document		UN Treaty & Body
<b>CAT/C/GRC/CO/5-6<sup>793</sup></b>	<p>CAT welcomed the adoption of measures aiming to improve the asylum procedure and conditions for the treatment of third-country nationals irregularly entering the country, e.g. the 'National Action Plan for Migration Management' (2010), P.D. 114/2010<sup>794</sup> and Law 3907/2011<sup>795</sup>.</p> <p>However, according to the Committee, principal subjects of concern were, inter alia, the persistent allegations of torture and ill-treatment by law enforcement officials during arrest or detention, the excessive use of force by the police, the ill-treatment of undocumented migrants, asylum seekers, minorities and Roma and the non-improvement of the conditions of detention in police stations and prisons.</p>	<b>Committee Against Torture CAT</b> (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)

#### 9.2.2.3. International Labour Organisation (ILO)

A High Level Mission visited Greece from 19 to 23 September 2011. The Report on the High Level Mission to Greece<sup>796</sup> concluded that the package of adjustment measures implemented in the context of the crisis led to the implementation of not only fiscal and financial measures but also structural reforms to the labour market institutions. The report covered a wide range of issues that raised concerns, e.g. in respect of collective bargaining, wages, pensions, etc.

#### 9.2.2.4. ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR)

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) issued numerous<sup>797</sup> Observations concerning the application of several ILO Conventions in Greece, though not always relating to austerity measures adopted within the Economic Adjustment Programmes.

<sup>793</sup> CAT/C/GRC/CO/5-6, Consideration of reports submitted by States parties under article 19 of the Convention - Concluding observations of the Committee against Torture: Greece, June 2012, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT%2fC%2fGRC%2fCO%2f5-6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT%2fC%2fGRC%2fCO%2f5-6&Lang=en).

<sup>794</sup> P.D. 114/2010.

<sup>795</sup> Law 3907/2011 'Establishment of Asylum Service and First Reception Service, adaptation of the Greek legislation to the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals" and other provisions' (Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/EK «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις), Government Gazette A' 7/2011.

<sup>796</sup> ILO Report on the High Level Mission to Greece (Athens, 19-23 September 2011), available at: [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@normes/documents/missionreport/wcms\\_170433.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/missionreport/wcms_170433.pdf)

<sup>797</sup> An advanced search on NORMLEX for the period between 2008 and 2014 showed that CEACR issued 52 Observations concerning Greece. Listing of the search results can be found [here](#)

However, it should be noted that, since 2010, the CEACR consistently submitted Observations in respect of the three core working Conventions, namely the Protection of Wages Convention (No. 95)<sup>798</sup>, the Right to Organise and Collective Bargaining Convention (No.98)<sup>799</sup> and the Social Security (Minimum Standards) Convention (No.102)<sup>800</sup>. Table 35 below presents the main issues raised by the most recent of these Observations.

**Table 35: Main issues raised by the ILO Committee of Experts on the Application of Conventions and Recommendations**

ILO Convention		CEACR Observations
<b>Protection of Wages Convention (No. 95)</b>	The CEACR expressed a 'deep concern about the marked intensification of infringements of the labour legislation concerning the regular payment of wages' resulting from the deepening economic and social crisis which impacts heavily on the business climate, as well as about the cumulative effect that the considerable wage	Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) <sup>801</sup>

<sup>798</sup> Observations (CEACER) adopted 2010, published 100th ILC session (2011) *Protection of Wages Convention, 1949 (No. 95) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:2323299,102658,Greece,2010](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2323299,102658,Greece,2010), Observations (CEACER) adopted 2011, published 101st ILC session (2012), *Protection of Wages Convention, 1949 (No. 95) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:2698850,102658,Greece,2011](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2698850,102658,Greece,2011), Observations (CEACER) adopted 2012, published 102nd ILC session (2013) *Protection of Wages Convention, 1949 (No. 95) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3085303,102658,Greece,2012](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3085303,102658,Greece,2012).

<sup>799</sup> Observations (CEACER) adopted 2010, published 100th ILC session (2011) *Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Greece (Ratification: 1962)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:2323306,102658,Greece,2010](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2323306,102658,Greece,2010), Observations adopted 2011, published 101st ILC session (2012), *Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Greece (Ratification: 1962)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:2698934,102658,Greece,2011](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2698934,102658,Greece,2011), Observations (CEACER) adopted 2012, published 102nd ILC session (2013), *Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Greece (Ratification: 1962)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3086195,102658,Greece,2012](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3086195,102658,Greece,2012), Observations (CEACER) adopted 2013, published 103rd ILC session (2014), *Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Greece (Ratification: 1962)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3149782,102658,Greece,2013](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3149782,102658,Greece,2013).

<sup>800</sup> Observations (CEACER) adopted 2010, published 100th ILC session (2011), *Social Security (Minimum Standards) Convention, 1952 (No. 102) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:2323320,102658,Greece,2010](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2323320,102658,Greece,2010), Observations (CEACER) adopted 2011, published 101st ILC session (2012), *Social Security (Minimum Standards) Convention, 1952 (No. 102) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:2699205,102658,Greece,2011](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699205,102658,Greece,2011), Observations (CEACER) adopted 2012, published 102nd ILC session (2013), *Social Security (Minimum Standards) Convention, 1952 (No. 102) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3088061,102658,Greece,2012](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3088061,102658,Greece,2012), Observations (CEACER) adopted 2013, published 103rd ILC session (2014), *Social Security (Minimum Standards) Convention, 1952 (No. 102) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3150771,102658,Greece,2013](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3150771,102658,Greece,2013).

<sup>801</sup> Observations (CEACER) adopted 2012, published 102nd ILC session (2013), *Protection of Wages Convention, 1949 (No. 95) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3085303,102658,Greece,2012](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3085303,102658,Greece,2012).

ILO Convention		CEACR Observations
	cuts in the public sector have had on workers' income level and living standards and on compliance with labour standards related to wage protection.	
<b>Right to Organise and Collective Bargaining Convention (No.98)</b>	The CEACR reiterated that measures imposed through Laws 3845/2010 <sup>802</sup> and 4024/2011 <sup>803</sup> , could have a severely detrimental impact upon the foundation of collective bargaining in the country.	Observation (CEACR) - adopted 2013, published 103rd ILC session (2014) <sup>804</sup>
<b>Social Security (Minimum Standards) Convention (No.102)</b>	<p>The CEACR noted that the 'the continuing contraction of the economy, employment and public finances caused by the policy of continuous austerity threatens the viability of the national social security system and has resulted in the increased impoverishment of the population, which seriously undermines the application of all accepted Parts of the Convention'.</p> <p>It recalled past Observations referring, amongst others, to pension and wages reforms and cuts implemented through Laws 3863/2010<sup>805</sup>, 4024/2011<sup>806</sup> and 4051/2012<sup>807</sup>, and observed that 'after six straight years of recession and four years of austerity policies, the country has</p>	Observation (CEACR) - adopted 2013, published 103rd ILC session (2014) <sup>808</sup>

[13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3085303,102658,Greece,2012.](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3085303,102658,Greece,2012)

<sup>802</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

<sup>803</sup> Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 226/2011.

<sup>804</sup> Observations (CEACR) adopted 2013, published 103rd ILC session (2014), *Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Greece (Ratification: 1962)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3149782,102658,Greece,2013.](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3149782,102658,Greece,2013)

<sup>805</sup> Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (*Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις*), Government Gazette A' 115/2010.

<sup>806</sup> Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 226/2011.

<sup>807</sup> Law 4051/2012 'Pension Content provisions and other urgent implementation provisions of the Memorandum of Understanding set in Law 4046/2012' (*Ρυθμίσεις συνταξιοδοτικού περιεχομένου και άλλες επείγουσες ρυθμίσεις εφαρμογής του Μνημονίου Συνεννόησης του ν. 4046/2012*), Government Gazette A'40/2012.

<sup>808</sup> Observations (CEACR) adopted 2013, published 103rd ILC session (2014), *Social Security (Minimum Standards) Convention, 1952 (No. 102) - Greece (Ratification: 1955)*, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3150771,102658,Greece,2013.](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3150771,102658,Greece,2013)

ILO Convention		CEACR Observations
	<p>been led to an economic and humanitarian catastrophe unprecedented in peacetime' and that 'existing thresholds and safeguards are largely insufficient to prevent poverty in old age'. Furthermore, it reminded that Greece continues to be 'the only Eurozone country with no basic social assistance scheme providing a safety net at the subsistence level determined in terms of the basic needs and the minimum consumer basket', it welcomed the intention to safeguard a minimum guaranteed income scheme (introduced by Law 4093/2012) and to revise the benefit for the long-term unemployed; however, the CEACR also underlined that 'in the present situation the establishment of the basic social assistance scheme, in line with the Convention, becomes an urgent necessity'.</p>	

#### 9.2.2.5. ILO Committee on Freedom of Association

In 2010, the Greek General Confederation of Labour (GSEE), the Civil Servants' Confederation (ADEDY), the General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and the Greek Federation of Private Employees (OIYE) supported by the International Confederation of Trade Unions (ITUC) filed complaints before the ILO Committee on Freedom of Association, contesting measures adopted under Law 3833/2010<sup>809</sup>, Law 3845/2010<sup>810</sup>, Law 3896/2010<sup>811</sup>, Law 3899/2010<sup>812</sup>, Law 4024/2011<sup>813</sup> and Law 4046/2012<sup>814</sup>. The ILO Committee recognised that the measures that gave rise to the complaint 'have been taken within a context qualified as grave and exceptional, provoked by a financial and economic crisis', and acknowledged the Government's and

<sup>809</sup> Law 3833/2010 Protection of the national economy – Emergency measures to tackle the fiscal crisis' (*Προστασία της εθνικής οικονομίας - Επείγοντα μέτρα για την αντιμετώπιση της δημοσιονομικής κρίσης*), Government Gazette A' 40/2010.

<sup>810</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

<sup>811</sup> Law 3896/2010 'Implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation – Harmonisation of the current legislation with the EU Directive 2006/54 / EC of the European Parliament and of the Council of 5 July 2006 and other related provisions' (*Εφαρμογή της αρχής των ίσων ευκαιριών και της ίσης μεταχείρισης ανδρών και γυναικών σε θέματα εργασίας και απασχόλησης – Εναρμόνιση της κείμενης νομοθεσίας με την Οδηγία 2006/54/EK του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, της 5ης Ιουλίου 2006 και άλλες συναφείς διατάξεις*), Government Gazette A' 207/2010.

<sup>812</sup> Law 3899/2010 'Urgent measures for the implementation of the support programme to the Greek economy' (*Επείγοντα μέτρα εφαρμογής του προγράμματος στήριξης της Ελληνικής Οικονομίας*), Government Gazette A' 212/2010.

<sup>813</sup> Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 226/2011.

<sup>814</sup> Law 4046/2012 Approval of the Plans for Credit Facilitation Agreements between the European Financial Stability Facility (EFSF), the Hellenic Republic and the Bank of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other urgent provisions for reduction of public debt and recovery of the national economy.



social partners' efforts to confront the situation. However, it recommended that the institutional framework for collective bargaining is strengthened, that social dialogue be held on all issues raised in the complaint and that the statutory enforceability of collective agreements is ensured. Finally it requested that the Government considers ILO assistance to address the issues raised with the complaint<sup>815</sup> and that it is kept informed of developments.

### 9.2.3. Monitoring mechanisms within the Council of Europe framework

#### 9.2.3.1. European Court of Human Rights (ECtHR)

The first case introduced to the ECtHR regarding austerity measures (Laws 3833/2010<sup>816</sup>, 3845/2010<sup>817</sup>, 3847/2010<sup>818</sup> and Law 4024/2011<sup>819</sup>) was found inadmissible as manifestly ill-founded. In *Koufaki and Adedy v. Greece*<sup>820</sup>, the Strasbourg Court considered that the contested salary reduction from EUR 2,435.83 to EUR 1,885.79 and the removal of the 13<sup>th</sup> and 14<sup>th</sup> months' pensions were not incompatible with Article 1 of Protocol No. 1. The ECtHR held that, so long as the legislature did not overstep the limits of its margin of appreciation (which in relation to addressing political, economic and social issues linked with public expenditure is relatively wide), it was not for the Court to say whether they had chosen the best means of addressing the crisis in public finances, or whether they could have used their power differently. In assessing the public interest of the measures in question, the Court quoted and attached particular weight to the reasoning of judgment no. 668/2012 of the Greek Council of State (see above section 9.1.1.).

Another ECtHR case that should be noted is *M.S.S. v. Belgium and Greece*<sup>821</sup>. Although not directly related to adopted austerity measures, this judgment indicates the impact of the economic crisis and austerity policies on the rights of vulnerable groups, e.g. immigrants and asylum seekers. The Court found that the overall socioeconomic conditions in Greece brought the applicant before inhumane conditions. The fact that he had to live in the streets with no resources or access to sanitary facilities and without any means of providing for his essential needs, was considered by the ECtHR as a violation of Article 3 of the Convention<sup>822</sup>.

<sup>815</sup> See Case No. 2820 in GB.316/INS/9/1, 365th Report of the Committee on Freedom of Association, par. 784-1003, p.223-274, available at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/%20documents/meetingdocument/wcms\\_193260.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/%20documents/meetingdocument/wcms_193260.pdf).

<sup>816</sup> Law 3833/2010 Protection of the national economy – Emergency measures to tackle the fiscal crisis' (*Προστασία της εθνικής οικονομίας - Επείγοντα μέτρα για την αντιμετώπιση της δημοσιονομικής κρίσης*), Government Gazette A' 40/2010.

<sup>817</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

<sup>818</sup> Law 3847/2010 'Redefining Christmas holidays and Easter allowances and bonuses for pensioners and beneficiaries of the public sector' (*Επανακαθορισμός των επιδομάτων εορτών Χριστουγέννων και Πάσχα και του επιδόματος αδείας για τους συνταξιούχους και βοηθηματούχους του Δημοσίου*), Government Gazette A' 67/2010.

<sup>819</sup> Law 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' (*Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*), Government Gazette A' 226/2011.

<sup>820</sup> ECtHR, *Koufaki and Adedy v. Greece*, no. 57665/12 and 57657/12, 7 May 2013.

<sup>821</sup> ECtHR, *M.S.S. v. Belgium and Greece* no. 30696/09, 21 January 2011.

<sup>822</sup> See relevant analysis in Langford M. Lillian, 'The Other Euro Crisis: Rights Violations under the Common European Asylum System and the Unraveling of EU Solidarity', *Harvard Human Rights Journal* / Vol. 26, p.217-264, available at: <http://harvardhri.com/wp-content/uploads/2013/05/V26-Langford.pdf> and in CDDH(2014)011, Council of Europe Steering Committee for Human Rights, 'The impact of the economic crisis and austerity measures on human rights in Europe - Preliminary study on existing standards and outstanding issues', June 2014, available at: [http://www.coe.int/t/dghl/standardsetting/cddh/CDDH-DOCUMENTS/CDDH\(2014\)011\\_EN.pdf](http://www.coe.int/t/dghl/standardsetting/cddh/CDDH-DOCUMENTS/CDDH(2014)011_EN.pdf).



## 9.2.4. European Committee of Social Rights (ECSR)

The European Committee of Social Rights (ECSR) addressed the impact of measures adopted in response to the crisis in several cases since 2011 (see Table 36 below).

**Table 36: Complaint before the European Committee of Social Rights**

<p><b>Complaint No 65/2011<sup>823</sup></b></p> <p><i>(probation period – termination without notice and severance pay)</i></p>	<p>The ECSR found that provision of Law 3899/2010<sup>824</sup> establishing that for employment contracts of indefinite duration the first 12 months constitute a probationary period that can be terminated without notice and severance pay, unless the parties agree differently, violated the right of all workers to a reasonable period of notice in case of termination of employment under Article 4(4) ESC.</p> <p>The Committee could not examine the compliance of the national measure according to which remuneration and working conditions specified in so-called special enterprise collective agreements could deviate from the provisions of the relevant sectoral collective agreement, because the right to collective bargaining is protected under Article 3(1a) of the 1988 Additional Protocol to the 1961 Charter which Greece has not accepted.</p>
<p><b>Complaint No 66/2011<sup>825</sup></b></p> <p><i>(minimum wage below the poverty level for workers under 25 - special apprenticeship contracts)</i></p>	<p>The ECSR held that the provisions of Law 3863/2010 and Ministerial Council Act No 6 of 28-2-2012 violated Article 4(1) of the ESC by setting a minimum wage below the poverty level for all workers under the age of 25, thus interfering with their right to a remuneration safeguarding a decent standard of living and their right to enjoy social rights without discrimination.</p> <p>Regarding special apprenticeship contracts<sup>826</sup>, the Committee also found a violation of Articles 7(2) and 7(0) in respect of the exemption of minors (between 15 and 18 years of age) from the right to paid annual leave and, of Article 10(2) in respect of the non-provision of an adequate system of apprenticeship and other systematic arrangements for training young people in their various forms of employment. Moreover, it also assessed that, by excluding minors from sickness allowances and the reimbursement of prescription charges, and by setting occupational accident coverage at a rate of 1%, Law 3863/2010 'has the practical effect of establishing a distinct category of workers who are effectively</p>

<sup>823</sup> ECSR, General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, complaint no. 65/2011, decision on the merits of 23 May 2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC65Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC65Merits_en.pdf).

<sup>824</sup> Law 3899/2010 'Urgent measures for the implementation of the support programme to the Greek economy' (Επείγοντα μέτρα εφαρμογής του προγράμματος στήριξης της Ελληνικής Οικονομίας), Government Gazette A' 212/2010, Article 17(5), amending Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010.

<sup>825</sup> ECSR, The General Federation of employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, complaint no. 66/2011, decision on the merits of 23 May 2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC66Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC66Merits_en.pdf).

<sup>826</sup> Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις), Government Gazette A' 115/2010, Article 74.

	excluded from the general range of protection offered by the social security system at large and that this represents a deterioration of the social security scheme', in violation of Article 12(3) of the Charter.
<b>Complaints No 76/2012 to 80/2012<sup>827</sup></b>  <b>(pension system reforms)</b>	<p>The five collective complaints contested provisions of Laws 3845/2010<sup>828</sup>, 3847/2010<sup>829</sup>, 3863/2010<sup>830</sup>, 3865/2010<sup>831</sup>, 3986/2011 and 4024/2011 which introduced cuts in pensions (primary and auxiliary), cuts in bonuses, the imposition of a social solidarity contribution deducted from pensions, and measures to reduce pensions in cases of parallel occupation.</p> <p>The ECSR noted that the obligations Greece undertook within the framework of its economic adjustment did not exclude the national austerity measures from the scope of the ESC.</p> <p>Not all contested measures were found incompatible with the ESC, i.e. restrictions of seasonable bonuses and restrictions on pension rights over a certain level of pensions under a certain age. However, the ECSR ascertained that the cumulative effect<sup>832</sup> of the</p>

<sup>827</sup> ECSR, Federation of employed pensioners of Greece (IKA-ETAM) v. Greece, complaint no. 76/2012, decision on the merits of 7 December 2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC76Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC76Merits_en.pdf); ECSR, Panhellenic Federation of Public Service Pensioners (POPS) v. Greece, complaint No.77/2012, decision on the merits of 7 December 2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC77Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC77Merits_en.pdf); ECSR, Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece, complaint No. 78/2012, decision on the merits of 7 December 2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC78Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC78Merits_en.pdf); ECSR, Panhellenic Federation of pensioners of the Public Electricity Corporation (POSDEI) v. Greece, complaint no. 79/2012, decision on the merits of 7 December 2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC79Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC79Merits_en.pdf); ECSR, Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece, complaint No. 80/2012, available at: [http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC80Merits\\_en.pdf](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Complaints/CC80Merits_en.pdf).

<sup>828</sup> Law 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010.

<sup>829</sup> Law 3847/2010 'Redefining Christmas holidays and Easter allowances and bonuses for pensioners and beneficiaries of the public sector' (*Επανακαθορισμός των επιδομάτων εορτών Χριστουγέννων και Πάσχα και του επιδόματος αδείας για τους συνταξιούχους και βοηθηματούχους του Δημοσίου*), Government Gazette A'67/2010.

<sup>830</sup> Law 3863/2010 'New insurance system and related provisions. Regulation of working relations' (*Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις*), Government Gazette A' 115/2010.

<sup>831</sup> Law 3865/2010 'Reform of public pension schemes and related provisions' (*Μεταρρύθμιση Συνταξιοδοτικού Συστήματος του Δημοσίου και συναφείς διατάξεις*), Government Gazette A' 120/2010.

<sup>832</sup> The cumulative effect was established by the ECSR in relation to measures adopted with laws 3833/2010 'Protection of the national economy – Emergency measures to tackle the fiscal crisis' (*Προστασία της εθνικής οικονομίας - Επείγοντα μέτρα για την αντιμετώπιση της δημοσιονομικής κρίσης*), Government Gazette A' 40/2010, 3845/2010 'Measures for the application of the support mechanism for the Greek economy by Euro area Member States and the International Monetary Fund' (*Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό Ταμείο*), Government Gazette A' 65/2010, 3847/2010 'Redefining Christmas holidays and Easter allowances and bonuses for pensioners and beneficiaries of the public sector' (*Επανακαθορισμός των επιδομάτων εορτών Χριστουγέννων και Πάσχα και του επιδόματος αδείας για τους συνταξιούχους και βοηθηματούχους του Δημοσίου*), Government Gazette A'67/2010, 3863/2010 'New insurance system and related provisions. Regulation of working relations' (*Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις εργασιακές σχέσεις*), Government Gazette A' 115/2010, 3865/2010 'Reform of public pension schemes and related provisions' (*Μεταρρύθμιση Συνταξιοδοτικού Συστήματος του Δημοσίου και συναφείς διατάξεις*), Government Gazette A' 120/2010, 3866/2010 'Ratification of the 26 May 2010 legislative act "Suspension of the proceedings of judicial services of the Court House of Thessaloniki, the deadlines and Auctions" and other provisions' (*Κύρωση της από 26 Μαΐου 2010 Πράξης Νομοθετικού Περιεχομένου "Αναστολή των εργασιών των δικαστικών υπηρεσιών του Δικαστικού Μεγάρου Θεσσαλονίκης, των προθεσμιών και των πλειστηριασμών" και άλλες διατάξεις*), Government Gazette A' 124/2010, 3986/2011 'Urgent implementing measures of the medium-term fiscal strategy 2012 – 2015' (*Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012 – 2015*), Government Gazette A'

measures introduced since 2010 was 'bound to bring a significant degradation of the standard of living and the living conditions of many of the pensioners concerned'. Despite the pressuring need to adopt measures very quickly, the Government breached Article 12(3) of the ESC because it should have better examined the potential impacts on vulnerable groups and taken appropriate measures to preserve at least an adequate level of protection.

According to the ECSR's assessment, the legitimate expectation of pensioners that adjustments to their social security entitlements would be implemented considering their vulnerability, settled financial outlooks, and their right to adequate social protection and social security, was disregarded.

#### 9.2.4.1. Committee of Ministers (CM)

The Committee of Ministers, in its most recent<sup>833</sup> Resolution CM/ResCSS(2013)21<sup>834</sup>, on the application of the European Code of Social Security by Greece (Period from 1 July 2011 to 30 June 2012) found that 'the adverse fiscal and economic situation of Greece and the social austerity measures taken in law and practice have resulted in the reduction of many social security benefits which seriously impacts the application of all accepted Parts of the Code'.

The main points of the CM analysis and conclusions were:

- The profound reform of the pension system through Law 3863/2010, however tough, 'stayed within the minimum standards of protection prescribed by the Code and applied equally to all insured persons so that all current and future workers shared the burden on a pro-rata basis', while the subsequent austerity measures that further reduced pensions and social benefits led to a devaluation of the standards of living of Greek people. However, overall, 'pension cuts across the board have put a large percentage of the Greek population into instant poverty with no indication of how and when this population would recover'.
- Given that, currently, in Greece, 'large segments of the population live below the poverty threshold, wages and benefits should be linked to indicators of the physical

152/2011, Law 4002/2011 'Modification of the pension legislation of the State - Settings for growth and fiscal consolidation - issues of competence Finance Ministries of Culture and Tourism and Labour and Social Security' (Τροποποίηση της συνταξιοδοτικής νομοθεσίας του Δημοσίου - Ρυθμίσεις για την ανάπτυξη και τη δημοσιονομική εξυγίανση – θέματα αρμοδιότητας Υπουργείων Οικονομικών, Πολιτισμού και Τουρισμού και Εργασίας και Κοινωνικής Ασφάλισης), Government Gazette A' 180/2011, 4024/2011 'Pension regulations, uniform pay scale – rank scale, labour reserve and other provisions for the implementation of the medium-term fiscal strategy 2012 – 2015' *Συνταξιοδοτικές ρυθμίσεις, ενιαίο μισθολόγιο - βαθμολόγιο, εργασιακή εφεδρεία και άλλες διατάξεις εφαρμογής του μεσοπρόθεσμου πλαισίου δημοσιονομικής στρατηγικής 2012-2015*, Government Gazette A' 226/2011, 4051/2012 'Pension Content provisions and other urgent implementation provisions of the Memorandum of Understanding set in Law 4046/2012' (Ρυθμίσεις συνταξιοδοτικού περιεχομένου και άλλες επείγουσες ρυθμίσεις εφαρμογής του Μνημονίου Συνεννόησης του ν. 4046/2012), Government Gazette A'40/2012 and 4093/2012 'Ratification of Mid-term Fiscal Strategy 2013 – 2015 – Urgent Regulations relating to the implementation of Law 4046/2012 and the Mid-term Fiscal Strategy 2013 – 2016' (Έγκριση Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής-Επείγοντα Μέτρα Εφαρμογής του ν. 4046/2012 και του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2013–2016), Government Gazette A' 222/2012.

<sup>833</sup> Previous relevant document Committee of Ministers, Resolution CM/ResCSS(2012)8 of 12 September 2012 on the application of the European Code of Social Security and its Protocol by Greece, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1970639&Site=CM>.

<sup>834</sup> Resolution CM/ResCSS(2013)21 on the application of the European Code of Social Security by Greece (Period from 1 July 2011 to 30 June 2012), available at: <https://wcd.coe.int/ViewDoc.jsp?id=2115379&Site=CM>.

subsistence of the population determined in terms of the basic needs and the minimum consumer basket’.

- Regarding the principles of justice and equality in relation to social austerity measures, the Code demands that the cuts in benefits, and their costs, shall be borne collectively, taking into account the economic situation of the classes of persons protected<sup>835</sup>. Nonetheless, the CM understands that the situation in Greece does not meet this requirement. Direct cuts in wages and pensions placed a disproportionately large share of the country’s efforts on the ordinary people and the CM recommended that the Government, together with the Troika, assesses the resources available ‘to those who evade contributing to the country’s efforts, in order to ensure that they are forced to contribute by all possible legal means’.
- Greece, through constant social security reforms in a context of social austerity policy, ‘has shifted the balance between its social responsibility towards its people and the fiscal responsibility towards its creditors in favour of the latter’.
- The CM noted with regret ‘that the evolution of the situation in Greece confirms its previous conclusion that, applying exclusively financial solutions to the economic and social crisis could eventually lead to the collapse of the internal demand and the social functioning of the State, condemning the country to years of economic recession and social unrest’.

#### 9.2.4.2. Commissioner for Human Rights

The Issue Paper<sup>836</sup> published by the Commissioner, in December 2013, included several references to the situation in Greece. It quoted findings on human rights violations ascertained by other institutions and bodies, e.g. the ILO Committee on Freedom of Association (see Section 8.2.2.), the European Committee on Social Rights (see Section 8.2.3.) and noted that the crisis has been identified as a key driver of expanding homelessness in Greece and that health-related spending cuts, e.g. the goal of maximum 6% of GDP set for public spending on health in Greece, have affected the right to enjoy the highest attainable standard of health.

Moreover, Commissioner Nils Muižnieks and his delegation visited Greece from 28 January to 1 February 2013, focusing on the protection of human rights in response to a large increase in manifestations of intolerance and racist and other hate crimes in the country, ‘in a context marked by an acute economic and social crisis’. Besides analysing the rise of intolerance and hate crimes, his report<sup>837</sup> focused on combating the impunity of perpetrators of hate crimes, victims’ access to justice and protection, the role of law enforcement officials in combating racist and other hate crimes and certain major shortcomings of Greek asylum and immigration law and practice. It should be noted that the Commissioner welcomed the efforts made by the Greek authorities since 2011 to rebuild the national asylum system, despite the current challenges, e.g. the lack of staff and technical equipment for registering asylum claims, which is also linked to the general efforts to reduce public spending.

<sup>835</sup> Article 70(1).

<sup>836</sup> CommDH/IssuePaper (2013)2, Safeguarding human rights in times of economic crisis, Issue Paper published by the Council of Europe Commissioner for Human Rights, December 2013, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2530030&SecMode=1&DocId=2144886&Usage=2>.

<sup>837</sup> CommDH (2013)6 Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights Following his visit to Greece, from 28 January to 1 February 2013, April 2013, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2053611>.

#### 9.2.4.3. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

The CPT visited Greece in January 2011, not in the context of the economic crisis, but in respect of long-standing recommendations in key areas covered by the Committee's preventive mandate which had still not been implemented. The CPT reviewed the treatment and conditions of detention of migrants held in aliens' detention centres, and in police and border guard stations, and examined in-depth the situation of several prison establishments, including the provision of healthcare and the regime offered to inmates. It expressed serious concerns regarding the lack of effective action to tackle systemic deficiencies concerning the conditions of detention of irregular migrants and the situation in the prisons. At the same time, it fully recognised the challenge faced by Greece in having to cope with a constant influx of irregular migrants – which did not seem likely to diminish in the near future. The CPT called the international community and, particularly, the European Union, to assist the Greek authorities to meet this challenge<sup>838</sup>.

Following its most recent visit in April 2013, the CPT noted that the situation has not improved. According to the News Flash<sup>839</sup> published by the Committee, the problem of ill-treatment by the police appeared to be growing and there was little evidence that allegations of ill-treatment are investigated promptly and thoroughly, leading some police officers to believe that they have impunity. In its report<sup>840</sup> the CPT recognised that Greece's ability to deal with the increased influx of irregular immigrants is compounded by the current economic crisis.

#### 9.2.4.4. European Commission against Racism and Intolerance (ECRI)

Concerning the rights of immigrants, in the ECRI's conclusions on the implementation of the recommendations in respect of Greece, subject to interim follow-up (June 2012)<sup>841</sup>, it is noted that, according to the Greek Ombudsman the administrative reform of 2010<sup>842</sup> resulted in additional structural problems within the administration. The transfer of the competence for issuing and renewing residence permits from the regions to the prefectural districts continued to slow down the whole process. It is noted that Law 4018/2011 providing a 'one-stop shop' residence-permits system, constitutes a step towards simplification of the procedure.

<sup>838</sup> CPT/Inf (2011) 10, Public Statement concerning Greece, 15 March 2011, available at: <http://www.cpt.coe.int/documents/grc/2011-10-inf-eng.htm>; Full report- CPT/Inf (2012) 1, 'Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 19 to 27 January 2011, 10 January 2012, available at: <http://www.cpt.coe.int/documents/grc/2012-01-inf-eng.pdf>.

<sup>839</sup> CPT News Flash, 'Council of Europe anti-torture Committee publishes report on Greece', released on 16 October 2014, available at: <http://www.cpt.coe.int/documents/grc/2014-10-16-eng.htm>.

<sup>840</sup> Full report- CPT/Inf (2014) 26, 'Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 16 April 2013', 16 October 2014, available at: <http://www.cpt.coe.int/documents/grc/2014-26-inf-eng.pdf>.

<sup>841</sup> Full text of Conclusions- ECRI, CRI(2012)47, 'ECRI Conclusions on the implementation of the recommendations in respect of Greece subject to interim follow-up', 22 June 2012, available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-IFU-IV-2012-047-ENG.pdf>.

<sup>842</sup> Law 3852/2010 'New Architecture of Self-regulation and Decentralized Administration – Programme "KALLIKRATIS"' (*Νέα Αρχιτεκτονική της Αυτοδιοίκησης και της Αποκεντρωμένης Διοίκησης - Πρόγραμμα "ΚΑΛΛΙΚΡΑΤΗΣ"*), Government Gazette A' 87/2010.



## 10. CONCRETE PROPOSALS FOR IMPROVING THE RESPECT OF FUNDAMENTAL RIGHTS IN TIMES OF ECONOMIC CRISIS

### KEY FINDINGS

- *The austerity measures adopted within the context of the current economic crisis have in many instances led to tension with the obligation of the Greek State to ensure protection of fundamental rights.*
- *Maintaining a **balance between the achievement of fiscal consolidation and respect of citizens' fundamental rights** has not always been feasible; therefore, the Greek State should consider **ways to restore equilibrium** between these two objectives and ensure an adequate level of protection.*
- *In particular, Greece (and the international creditors, in case of measures adopted within the framework of Economic Adjustment Programmes) should **conduct human rights impact assessments** prior to the adoption of measures which may affect the enjoyment of fundamental rights; this would allow them to fully comprehend the impacts such measures may have and identify possible ways to avoid them.*
- *In this respect, they should **first explore and prove with concrete references that all alternative measures were exhausted**; where no other alternatives are available, it should be demonstrated that the measures to be adopted were the least detrimental for the realisation of fundamental rights.*
- *Furthermore, Greece should **consider and implement**, where applicable, the **recommendations issued by international monitoring bodies**.*
- *As far as the specific fundamental rights examined within this study are concerned, as a general remark **Greece should adopt measures not only based on quantitative targets but also consider qualitative indicators** (especially in the fields of education, healthcare, social security and justice).*
- *The **varying importance of different sectors for the population should also be considered** when designing and implementing the relevant reforms.*
- *Furthermore, the **legal framework should be progressively consolidated** in order to ensure legal certainty and transparency.*

The analysis provided in the previous sections indicates that the austerity measures adopted within the context of the current economic crisis have in many instances led to tension with the obligation of the Greek State to ensure protection of fundamental rights<sup>843</sup>; it has even been argued that what started in Greece as an economic and financial crisis has turned into a human rights crisis<sup>844</sup>. It should be noted that when devising and implementing its response to the crisis, Greece had to comply with strict conditions set by

<sup>843</sup> NCHR, 'Decision on the need for constant respect of fundamental rights during the exercise of the exit strategy of the economy and the society from the debt crisis' (Απόφαση για την ανάγκη διαρκούς σεβασμού των θεμελιωδών δικαιωμάτων κατά την άσκηση της στρατηγικής εξόδου της οικονομίας και της κοινωνίας από την κρίση του εξωτερικού χρέους), June 2010, available at [http://www.nchr.gr/images/pdf/apofaseis/oikonomikh\\_krish/EEDA\\_Oikonomiki\\_krisi.pdf](http://www.nchr.gr/images/pdf/apofaseis/oikonomikh_krish/EEDA_Oikonomiki_krisi.pdf).

<sup>844</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 69.



its international creditors, i.e. the EU and the IMF<sup>845</sup>. Nonetheless, both those international organisations are bound by international law to respect and protect universal human rights - while the EU is further bound by its own founding Treaties and the EU Charter on Fundamental Rights<sup>846</sup>. In order to ensure respect for fundamental rights, Greece should:

- Implement its obligations under the economic adjustment programmes without making further spending cuts or introducing additional austerity measures which may undermine the realisation of economic, social and cultural rights<sup>847</sup>;
- Ensure that human rights are central to current and future discussions with the Troika over the financial assistance programmes<sup>848</sup>;
- Conduct human rights impact assessments prior to the adoption of measures which may affect the enjoyment of fundamental rights in order to fully comprehend the impacts that such measures may have, and identify possible ways to avoid them<sup>849</sup>;
- Introduce/reinforce institutions, e.g. Greek Ombudsman, the National Commission of Human Rights, and use human rights experts when making macro-economic decisions<sup>850</sup>;
- Balance the need for the adoption of budgetary measures with the impacts those may have on social security and safety - which the State must guarantee<sup>851</sup>. Take immediate measures to ensure an adequate basic social assistance scheme<sup>852</sup>. Intensify efforts to address the emerging conditions of extreme poverty that threatens - unequally - several groups of the population and consider coordinating centrally welfare initiatives undertaken by private and public law entities, e.g. municipalities, NGOs, and the Church of Greece, i.e. soup-kitchens, homeless hospitality, donations of clothes and other basic goods<sup>853</sup>;
- When negotiating and/or adopting future measures that could directly, or indirectly, burden the same groups of citizens - usually employees and pensioners-, first

<sup>845</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 68.

<sup>846</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 69.

<sup>847</sup> Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina', Addendum - Mission to Greece (22 - 27 April 2013), 7 March 2014, A/HRC/25/50/Add.1, para. 92.

<sup>848</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 70.

<sup>849</sup> Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina', Addendum - Mission to Greece (22 - 27 April 2013), 7 March 2014, A/HRC/25/50/Add.1, para. 92; FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 69.

<sup>850</sup> <http://www.nchr.gr/images/banners/OpenLetterMiller.pdf>, p. 4; see also Mary Dowell-Jones, 'The Sovereign Bond Markets and SocioEconomic Rights: Understanding the Challenge of Austerity' in *Economic, Social, and Cultural Rights: Contemporary Issues and Challenges* (eds Riedel, E., Giacca, G., and Golay, C.) Oxford, p. 83 where she indicates that human rights negotiators should have been involved in the debt rescheduling talks and a baseline of human rights protections should have been agreed with all creditors and with Greece.

<sup>851</sup> NCHR 2011 Recommendation On the imperative need to reverse the sharp decline in civil liberties and social rights (Σύσταση ΕΕΔΑ: Επιτακτική ανάγκη να αντιστραφεί η πορεία καταρράκωσης των ατομικών και κοινωνικών δικαιωμάτων), December 2011, available at: [http://www.nchr.gr/images/pdf/apofaseis/oikonomikh\\_krishi/EEEDA\\_Krishi.pdf](http://www.nchr.gr/images/pdf/apofaseis/oikonomikh_krishi/EEEDA_Krishi.pdf) (in Greek), p. 2.

<sup>852</sup> CEACR Observations on the Social Security (Minimum Standards) Convention (No.102), adopted 2013, published 103rd ILC, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3150771,102658,Greece\\_2013](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3150771,102658,Greece_2013).

<sup>853</sup> Information obtained through stakeholder consultation (Academic), December 2014.

explore and prove, with concrete references, that all alternative measures were exhausted<sup>854</sup>. Where no other alternatives are available, demonstrate in a public and transparent manner, that the measures to be adopted were the least detrimental to fundamental rights<sup>855</sup>;

- Measures aimed at reducing operational costs in the public sector should not be implemented horizontally but should take into account the different needs and importance of the services provided to the population. This would be particularly applicable to reductions in personnel in the healthcare, judicial and educational sectors which, at times, were implemented within a short timeframe without sufficient strategic planning;
- While even before the crisis the Greek legislation comprised numerous legal acts - as there is no consolidation of the legislation - the situation has deteriorated in the course of the crisis. The Greek legislator and executive power had to adopt numerous legal instruments in order to implement the requirements of the Economic Adjustment Programmes. Therefore, Greece should progressively move towards consolidating legislation to ensure legal certainty and transparency.

Regarding, in particular, the fundamental rights examined within the context of this study, the following recommendations can be made:

- Concerning the **right to education**: Greece should reconsider any austerity measures that have had a negative impact on the right to education - in particular for members of vulnerable groups, e.g. children with disabilities and Roma children<sup>856</sup>. In addition, it should ensure that teachers, and substitute teachers, are assigned to their positions before the commencement of the academic year, in order to avoid disruptions in the education provided<sup>857</sup>. Finally, some expect that the radical funding cuts, which were introduced in a very short timeframe, could have some negative impacts on the quality of public education<sup>858</sup>. Therefore, the Greek State should consider how such impacts can be alleviated.
- Regarding the **right to healthcare**: Greece should remain committed to the rationalisation of the structure and operation of the NHS, aiming primarily to provide

<sup>854</sup> Reasoning of the Greek Court of Audit as regards further pension cuts during its Proceedings of the 3rd special session of the plenary, 30.10.2012, available at: <http://www.elsyn.gr/elsyn/files/anakoinoseis/syn.eidik.3.pdf> and its Proceedings of the 4th special session of the plenary, 31.10.2012, available at: <http://www.elsyn.gr/elsyn/files/anakoinoseis/syn.eidik.4.pdf>.

<sup>855</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p.70.

<sup>856</sup> A/HRC/25/50/Add.1, 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), 7 March 2014, available at: <http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/CountryVisits.aspx>, para. 92; see also The Greek Ombudsman, 'Parallel Report to the UN Committee on the Rights of the Child: Finding and recommendations of the Independent Authority "the Greek Ombudsman" on the implementation of Children's Rights in Greece (July 2003-December 2011)', April 2012, available at: <http://www.synigoros.gr/resources/parallel-report-un.pdf>, p. 18.

<sup>857</sup> Greek Ombudsman, 'Report to the UN Committee on the Rights of the Child - Findings and recommendations of the Independent Authority for the implementation of children's rights in Greece (July 2003 – January 2011)' (*Εκθεση προς την Επιτροπή Δικαιωμάτων του Παιδιού του Ο.Η.Ε. – Διαπιστώσεις και προτάσεις της Ανεξάρτητης Αρχής για την εφαρμογή των δικαιωμάτων του παιδιού (Ιούλιος 2003 - Δεκέμβριος 2011)*), April 2012, available at <http://www.synigoros.gr/resources/docs/ek8esh-pros-thn-epitroph-dikaiomatwn-toy-paidiou-toy-ohe.pdf>, p.17.

<sup>858</sup> A/HRC/25/50/Add.1, 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), 7 March 2014, available at: <http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/CountryVisits.aspx>, para. 75.

adequate, continuous and affordable<sup>859</sup> healthcare services for all<sup>860</sup>. The implementation of all cost-containment measures, that were adopted to reach macroeconomic targets of public expenditure on healthcare and pharmaceuticals, should be accompanied by efficient and independent monitoring of the actual effects of the cuts on the quality and range of public care services, and on access to services<sup>861</sup>. Moreover, quality indicators for service provision that reflect performance in terms of adequacy, responsiveness to users, equity and equality, should complement the already existing benchmarking indicators used to monitor performance - which are purely quantitative, e.g. the number of staff and beds, operating costs, average length of stay, bed occupancy rates, use of generics, prescription ceilings and the prescription behaviour of doctors<sup>862</sup>. Most importantly, apart from positive initiatives to address the increasing number of uninsured citizens, e.g. health vouchers and extension of coverage for unemployed, a structural long-term solution for this vulnerable group should be examined<sup>863</sup>.

- With respect to the **right to work**: Greece should ensure that labour market reforms do not undermine the fundamental right to work, or lead to a deterioration in working conditions – particularly concerning the right to fair remuneration and the right to freely choose and accept work, which, some argue, has been compromised by the recent shift in power between employers and employees<sup>864</sup>. Furthermore, Greece should address the problem of rising unemployment - particularly for the youth - through the expansion of existing training programmes and the adoption of proactive labour policies<sup>865</sup>. Reduction of unemployment should also be included as a measurable target and monitored within the context of the ongoing adjustment programme and of any future financial assistance programme<sup>866</sup>. Furthermore, Greece should make efforts to guarantee that structural reforms in the private and public sector do not negatively affect certain groups of the working population - e.g. women.
- Regarding the **right to pension**: Greece should maintain a balance between the objective to ensure long-term viability and sustainability of the pension system, with the need to ensure that pensions allow pensioners a decent living, in the sense of an income sufficient to cover not only basic physical needs, e.g. nutrition, clothing,

<sup>859</sup> A/HRC/25/50/Add.1, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina (Addendum) - Mission to Greece (22 – 27 April 2013), 7 March 2014, available at: <http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/CountryVisits.aspx>, p.23.

<sup>860</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p.70.

<sup>861</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.20.

<sup>862</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.23-24.

<sup>863</sup> Petmesidou M., Country Document 2013 – Pensions, health and long-term care – Greece, November 2013, Analytical Support on the Socio-Economic Impacts of Social Protection Reforms, available at: [http://socialprotection.eu/files\\_db/1443/EL\\_asisp\\_CD13.pdf](http://socialprotection.eu/files_db/1443/EL_asisp_CD13.pdf), p.24.

<sup>864</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 71.

<sup>865</sup> A/HRC/25/50/Add.1, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina', Addendum – Mission to Greece (22 – 27 April 2013), 7 March 2014, available at: <http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/CountryVisits.aspx>, para. 92.

<sup>866</sup> United Nations Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Cephas Lumina Mission to Greece, 22-26 April 2013 End of mission statement Athens', 26.04.2 013 available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13272&>.

housing, essential household goods, heating and sanitation, but also the ability to participate in social life<sup>867</sup>. The level of 'decent living' should be assessed in the context of the overall economic situation, as well as in conjunction with all other financial burdens imposed cumulatively by other austerity measures, e.g. tax measures such as the special one-off levy (*έκτακτη εισφορά*) and the uniform tax on real estate property ('ENFIA')<sup>868</sup>. Some argue that, while low pensions (up to EUR 1,000) are justly protected, 'over-taxation' poses such a pressure on medium and high pensions that, in practice, this leads to a disproportionately large contribution<sup>869</sup> by some groups of the population, to the efforts for fiscal consolidation. Therefore, Greece should maintain guarantees for the protection of low-income pensioners and, at the same time, reconsider measures that seem to raise equality and proportionality concerns in relation to other groups of citizens. To this direction, it could be useful to examine the average pensioner's truly disposable income (*διαθέσιμο εισόδημα*) before, and after, the crisis and offer an adequate level of protection to pensioners already disproportionately burdened<sup>870</sup>.

- In relation to the **right to access to justice**: Greece should remain committed to the reform of the judicial system in order to address the long-standing issue of delays in judicial proceedings. However, while until today, the main focus was on reducing the inflow of new cases by increasing court fees and speeding up judicial case-processing by setting quantitative targets, other qualitative considerations regarding non-impediment of the right of citizens to justice, should be included in reform efforts, e.g. infrastructure, libraries and strategic planning of court staff allocations<sup>871</sup>. Given that a very large and rapidly growing part of the population is exposed to poverty and social exclusion, the increase of judicial duty notes could affect the right to access to justice<sup>872</sup>, and this should be taken into consideration,

<sup>867</sup> Principle set by the Greek Council of State in Decision 3663/2014 (on supplementary pensions) and decision 3410/2014 (on main pensions).

<sup>868</sup> Information obtained through stakeholder consultation (Academic), December 2014.

<sup>869</sup> Paparrigopoulou – Pechlivanidis P., 'Thoughts in respect of decisions 3410 and 3663/2014 of the Council of State concerning cuts in main and supplementary pensions' (*Σκέψεις με αφορμή τις αποφάσεις 3410/2014 και 3663/2014 του ΣΤΕ σχετικά με περικοπές κύριων και επικουρικών συντάξεων μισθωτών*), available at: <https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF%CF%83%CF%84%CE%B9%CF%82%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82%CF%84%CE%BF%CF%85%CE%A3%CF%84%CE%95%3410%CE%BA%CE%B1%CE%B9%3663%2014%CE%B3%CE%B9%CE%B1%CF%84%CE%B9%CF%82%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82%CF%84%CF%89%CE%BD%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD%CE%BA%CE%B1%CE%B9%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E%CE%BD%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD>, p.7-8.

<sup>870</sup> Paparrigopoulou – Pechlivanidis P., 'Thoughts in respect of decisions 3410 and 3663/2014 of the Council of State concerning cuts in main and supplementary pensions' (*Σκέψεις με αφορμή τις αποφάσεις 3410/2014 και 3663/2014 του ΣΤΕ σχετικά με περικοπές κύριων και επικουρικών συντάξεων μισθωτών*), available at: <https://www.academia.edu/9767436/%CE%A3%CF%87%CF%8C%CE%BB%CE%B9%CE%BF%CF%83%CF%84%CE%B9%CF%82%CE%B1%CF%80%CE%BF%CF%86%CE%AC%CF%83%CE%B5%CE%B9%CF%82%CF%84%CE%BF%CF%85%CE%A3%CF%84%CE%95%3410%CE%BA%CE%B1%CE%B9%3663%2014%CE%B3%CE%B9%CE%B1%CF%84%CE%B9%CF%82%CF%80%CE%B5%CF%81%CE%B9%CE%BA%CE%BF%CF%80%CE%AD%CF%82%CF%84%CF%89%CE%BD%CE%BA%CF%8D%CF%81%CE%B9%CF%89%CE%BD%CE%BA%CE%B1%CE%B9%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CF%85%CF%81%CE%B9%CE%BA%CF%8E%CE%BD%CF%83%CF%85%CE%BD%CF%84%CE%AC%CE%BE%CE%B5%CF%89%CE%BD>, p.8.

<sup>871</sup> Information obtained through stakeholder consultations (Magistrate Judge, Union of Administrative Judges), December 2014.

<sup>872</sup> NCHR, Observations and Recommendations on draft Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (*Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις*), Government Gazette A'213/2010, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/Paratiriseis\\_dioikitiki\\_diki\\_final2010.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/Paratiriseis_dioikitiki_diki_final2010.pdf), p.10-11, on draft Law 4055/2012 'Fair trial and its reasonable duration' (*Δίκαιη δίκη και εύλογη διάρκεια αυτής*), Government Gazette A'51/2012, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/EEDA\\_parat\\_polunomosxedio\\_tel.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/EEDA_parat_polunomosxedio_tel.pdf), p.8-11.

especially regarding the very early stage at which these costs are imposed. In speeding up the procedures, equal priority should be given to all types of cases and not only to cases which have direct fiscal dimensions, e.g. tax cases<sup>873</sup>. Efforts should also be made to render mediation better known to the public in order to reduce the number of disputes taken before the courts. Moreover, national legislation should be rationalised and consolidated in a comprehensive and clear way - so that fewer disputes are due to legal uncertainty and incorrect implementation<sup>874</sup>.

- Regarding the **right to peaceful assembly**: Greece should ensure that demonstrations take place without restrictions other than those permitted by law and that law enforcement officials refrain from the use of violence, except in the limited instances allowed under international law<sup>875</sup>.
- Concerning the adoption of taxation measures which may affect **citizens' right to property and their right to participate to public charges in proportion to their means**: Greece should introduce new measures only after aggregating the regular and special taxes imposed, so far, in order to consider the overall burden imposed on citizens - which has substantially affected their ability to maintain acceptable living standards<sup>876</sup>.
- Regarding **freedom of the press**: Greece should undertake positive measures to enhance the guarantee of freedom of expression, information and media<sup>877</sup>, which constitute one of the pillars of any democratic State.
- With respect to the **increase in incidents of hate crimes and hate speech**: Greece should vigorously implement the recommendations of the Council of Europe Commissioner for Human Rights<sup>878</sup>, as well as ensure the effective operation of recording mechanisms at the State level.

<sup>872</sup> NCHR, Observations and Recommendations on draft Law 3900/2010 'Streamlining processes and accelerating administrative courts proceedings and other provisions' (Εξορθολογισμός διαδικασιών και επιτάχυνση της διοικητικής δίκης και άλλες διατάξεις), Government Gazette A'213/2010, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/Paratiriseis\\_dioikitiki\\_diki\\_final2010.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/Paratiriseis_dioikitiki_diki_final2010.pdf), p.10-11, on draft Law 4055/2012, 'Fair trial and its reasonable duration' (Δίκαιη δίκη και εύλογη διάρκεια αυτής), Government Gazette A'51/2012, available at: [http://www.nchr.gr/images/pdf/apofaseis/dikaih\\_dikh/EEEDA\\_parat\\_polunomosxedio\\_tel.pdf](http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/EEEDA_parat_polunomosxedio_tel.pdf), p.8-11.

<sup>873</sup> Information obtained through stakeholder consultation (Union of Administrative Judges), December 2014.

<sup>874</sup> Information obtained through stakeholder consultations (Magistrate Judge, Union of Administrative Judges, Academics), December 2014.

<sup>875</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 71.

<sup>876</sup> See the reasoning of the Supreme Court (Fourth Chamber) judgment no. 293/2014.

<sup>877</sup> FIDH & Hellenic League for Human Rights Report, 'Downgrading rights: the cost of austerity in Greece', December 2014, available at: <https://www.fidh.org/IMG/pdf/grece646a2014.pdf>, p. 72.

<sup>878</sup> A/HRC/25/50/Add.1, 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), 7 March 2014, available at: <http://www.ohchr.org/EN/Issues/Development/IFDebt/Pages/CountryVisits.aspx>, para. 92.



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## ANNEX - OVERVIEW OF RELATED STUDIES

<b>Name of the Study</b>	<b>PE number</b>	<b>ISBN number</b>
The impact of the crisis on fundamental rights across Member States of the EU - Comparative analysis	<b>PE 510.021</b>	<b>978-92-823-6598-4 print edition</b> <b>978-92-823-6599-1 online edition</b>
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Belgium	<b>PE 510.015</b>	<b>978-92-823-6553-3 print edition</b> <b>978-92-823-6552-6 online edition</b>
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Ireland	<b>PE 510.016</b>	<b>978-92-823-6547-2 print edition</b> <b>978-92-823-6546-5 online edition</b>
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Greece	<b>PE 510.014</b>	<b>978-92-823-6539-7 print edition</b> <b>978-92-823-6538-0 online edition</b>
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Spain	<b>PE 510.019</b>	<b>978-92-823-6569-4 print edition</b> <b>978-92-823-6568-7 online edition</b>
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## DIRECTORATE-GENERAL FOR INTERNAL POLICIES

# POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS **C**

## Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

## Policy Areas

- Constitutional Affairs
- Justice, Freedom and Security
- Gender Equality
- Legal and Parliamentary Affairs
- Petitions

## Documents

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