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增进和保护所有人权——公民权利、政治权利、经济、社会和文化权利，包括发展权

国家的外债和其他相关国际金融义务对充分享有所有人权尤其是经济、社会和文化权利的影响问题独立专家访问欧洲联盟各机构的报告

秘书处的说明

秘书处谨向人权理事会转递国家的外债和其他相关国际金融义务对充分享有所有人权尤其是经济、社会和文化权利的影响问题独立专家胡安·巴勃罗·博霍萨拉夫斯基 2016 年 5 月 30 日至 6 月 3 日访问欧洲联盟各机构的报告。

独立专家在报告中从人权角度讨论了欧洲联盟及其各机构对主权债务危机的反应，概述了欧洲联盟确保债务可持续性和财政稳定的体制和政策框架。他认为，欧洲联盟各机构在应对其成员国的债务危机时也需要尊重对各成员国具有约束力的人权义务。独立专家重点指出他在紧缩措施和经济调整方案框架内注意到的人权关切问题。他呼吁大家加强对残疾人、儿童、老人、妇女、移徙者和难民的保护。最后，他提出一系列建议，说明应如何避免、防止和减轻经济改革政策对人权的不利影响。

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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 on his mission to institutions of the European Union*

Contents

* Circulated in the language of submission only.

I. Introduction

1. Pursuant to Human Rights Council resolution 25/16, 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 conducted an official visit to Brussels from 30 May to 3 June 2016. The visit focused on the response of the European Union to the sovereign debt crisis that affected several member States and its impact on the enjoyment of human rights, in particular economic, social and cultural rights. At the core of the visit was the question of how the fiscal and economic policies of the European Union and conditionalities imposed on its member States to access financial support have had an impact on the enjoyment of economic and social rights in those States. The visit followed a visit by the Independent Expert to Greece in December 2015 (A/HRC/31/60/Add.2).

2. During the visit, the Independent Expert met with representatives of the European Commission, its Structural Reform Support Service, the European Parliament, the European External Action Service, the European Central Bank, the Eurogroup Working Group and the European Economic and Social Committee. The programme also included meetings with representatives of European national human rights institutions and civil society.

3. The Independent Expert thanks the European Union for its cooperation throughout the visit and the Regional Office for Europe of the Office of the United Nations High Commissioner for Human Rights for its support. He wishes to express his appreciation to all his interlocutors for having taken time to meet him and engaging in an open and frank dialogue.

4. The financial and economic crisis of 2009 affected the European Union as a whole, putting additional pressure on the public finances of many European Union member States. Several countries resorted to financial consolidation policies to address banking crises, public deficits and debt. Five euro-area countries — Cyprus, Greece, Ireland, Portugal and Spain — requested financial support from the Union and its member States as they experienced very serious difficulties in relation to their financial stability. Support in the form of loans from European institutions, including new financing mechanisms set up by European Union member States, and the International Monetary Fund (IMF) was provided on the condition that they implement fiscal consolidation and economic adjustment policies.

5. Fiscal adjustment policies have the potential to impair a number of internationally recognized human rights, including the rights to food, housing, health, education, social security, water and sanitation, and the right to just and favourable conditions of work.[1] The crisis and the response to it have resulted in increased poverty, homelessness, reduced gender equality, dramatically increased youth unemployment in Greece, Portugal and Spain, and cuts to social welfare benefits and pensions. Some countries witnessed drastic reductions of social and health services for persons with disabilities while the number of people not being able to access affordable health-care services has increased.

6. The Independent Expert argues in the present report that European Union member States have obligations to ensure respect for human rights when implementing austerity measures or structural reform. European Union institutions are also bound to respect international and regional human rights standards when they support economic and

[1] On the links between finance and human rights, see David Kinley, *Necessary Evil: A Human Rights Journey into the Dark Heart of Finance* (Oxford University Press, forthcoming).

financial policies that impose stringent conditionalities. He argues that coherence between economic and financial policy and external and internal human rights policy should be further enhanced. He concludes with recommendations for the consideration of European Union institutions and its member States on how human rights considerations could be better integrated into the financial and economic policies of the Union.

II. Institutional and policy framework

7. Fiscal policy in the European Union falls primarily under the responsibility of national Governments, but the European Union member States that have become part of the economic and monetary union have adopted rules concerning public finances that are enforced by the European Commission and the Council of the European Union to preserve economic stability. The main instrument is the Stability and Growth Pact, introduced in 1999, which requires Governments to ensure that their annual deficits do not exceed 3 per cent of their gross domestic product (GDP). In addition, Governments have to ensure that their public debt does not exceed 60 per cent of GDP. Furthermore, most European Union member States have ratified the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, which introduced stricter deficit criteria in 2013 that require its members to limit their structural deficits to 0.5 per cent of GDP.

8. The European Commission monitors the economic and fiscal policies of its member States in a process called the European Semester. Each year, the Commission undertakes a detailed analysis of European Union member States' plans for budgetary, macroeconomic and structural reforms, and on that basis the Council of the European Union provides them with country-specific recommendations for the next 12-18 months. In November, the Commission publishes the Annual Growth Survey and the Alert Mechanism Report, which gives an indication of whether for a particular country an in-depth review is necessary to address macroeconomic imbalances.[2] This review is based largely on economic indicators, including public sector debt and unemployment. In 2014, a more comprehensive set of social indicators was added, including long-term unemployment, youth unemployment, and people at risk of poverty or social exclusion or experiencing severe material deprivation.[3]

9. States experiencing imbalances can be requested to submit a corrective plan with a timetable for actions which "shall take into account the economic and social impact of the policy actions and shall be consistent with the broad economic policy guidelines and the employment guidelines".[4]

10. The European Semester applies to all European Union member States, except for countries subject to an ongoing stability support programme. Their economic and financial policies are analysed on the basis of review and compliance reports, which tend to have a very narrow focus on meeting financial targets and programme implementation. The Independent Expert is concerned that adverse social rights impacts in programme countries have often received even less attention than in countries reviewed in the context of the European Semester.

11. If a European Union member State breaches the official deficit or debt limits, it must demonstrate that it is taking appropriate action to fix the situation in accordance with a clear timetable. If the breaches are not temporary and of an exceptional nature, the European Commission can recommend that the Council of the European Union launch proceedings

[2] Regulation (EU) 1176/2011.
[3] See the Alert Mechanism Report 2016, available from http://ec.europa.eu/europe2020/pdf/2016/ags2016_alert_mechanism_report_en.pdf.
[4] Article 8 (1) of regulation (EU) 1176/2011.

against the country in question, using the excessive deficit procedure. In case of serious non-compliance by euro-area States, a non-interest-bearing deposit or a fine of 0.2 per cent of GDP may be levied.[5]

12. In reaction to the sovereign debt crisis, the European Union set up the European Financial Stabilization Mechanism. In parallel, the euro-area member States set up the European Financial Stability Mechanism as a temporary rescue mechanism, for which they provided guarantees.[6] In October 2012 the European Financial Stability Mechanism was replaced by the European Stability Mechanism, a permanent international financial institution set up by the euro-area member States to ensure fiscal stability within the European monetary union.[7]

13. Lending from the European Stability Mechanism is activated upon a request from a member and is subject to strict conditions, including fiscal consolidation and reform measures. Most financial assistance programmes have involved as negotiators the European Commission, the European Central Bank and IMF, a group of institutions that became known as the “troika”. They agree between them and in negotiations with the concerned country on the conditions that will accompany the financial assistance. For lending to euro-area member States, decisions about renewing a programme, the amount of lending, deficit targets and broad areas of structural reform are finalized by the Eurogroup in an informal meeting of finance ministers of the euro area, meeting usually a day before the Council of the European Union (Economic and Financial Affairs), which shall approve the macroeconomic reform programme prepared by the member State requesting financial support.[8]

14. Restoring financial stability was one of the key objectives of European Union-IMF financial assistance programmes. The programmes were implemented to restore access to foreign capital and prevent the sovereign debt crisis from spreading. Without financial support, the economic and social impact of the financial crisis may (or may not) have been worse. This is an extremely complex counterfactual exercise. However, as argued in the present report, the drastic cuts in public expenditure required as conditions for financial support not only deepened the economic crises, but also undermined economic and social rights in some of the affected countries.

15. The conditions linked to provision of financial assistance to euro-area countries in serious financial difficulties has now been regulated by European Union regulation 472/2013, which came into force on 30 May 2013. The regulation includes only very limited safeguards to ensure that macroeconomic adjustment programmes comply with core human rights standards. The only explicit reference to social rights is contained in article 7 (1), requiring that the draft macroeconomic adjustment programme fully observe article 28 of the Charter of Fundamental Rights of the European Union, which guarantees the right to collective bargaining and action, including strike action, by workers and employers. Article 7 (7) of the regulation specifies that “the budgetary consolidation efforts set out in the macroeconomic adjustment programme shall take into account the need to ensure sufficient means for fundamental policies, such as education and health care”, but this provision is not termed in any rights language that would make it more obvious that international human rights law remains applicable during responses to financial crises. The regulation also fails to include any legal requirement for the Commission or the respective member State to undertake a social or human rights impact assessment of the (draft) macroeconomic

[5] Regulation (EU) 1173/2011.
[6] Council regulation (EU) No. 407/2010.
[7] Treaty establishing the European Stability Mechanism, signed on 2 February 2012.
[8] See article 7 (2) of regulation (EU) 472/2013.

adjustment programme prior to, during and after its implementation; it specifies only that “the adjustment programme, its objectives and the expected distribution of the adjustment effort, shall be made public” once it has been agreed (art. 7 (8)).

16. Regulation 472/2013 does not include strong provisions to ensure the right of citizens to participate in the design or review of adjustment programmes. According to its article 8, member States shall seek the views of social partners as well as relevant civil society organizations when preparing draft macroeconomic adjustment programmes, with a view to contributing to building consensus around its content. This provision is welcome, but does not include any requirement for the European Commission to engage, during the negotiation of adjustment programmes or later during implementation in the context of assessment missions, in a meaningful dialogue with social partners or civil society organizations. Programmes need only to be published after they have been agreed between the respective Government and the institutions, limiting the ability of citizens to shape their content. The right of the European Parliament is to a large extent limited to inviting representatives of the Commission, the European Central Bank and IMF to participate in an economic dialogue (art. 3 (9)).

17. The conditions for the lending are included in a memorandum of understanding with the concerned State that is signed by the Commission on behalf of the European Stability Mechanism or the European Financial Stability Mechanism. To the extent that conditionalities fall within the competence of the European Union, the Council of the European Union, in a decision, approves the policy requirements and conditionalities for the lending, on the basis of recommendations from the Commission (art. 7 (12)). While member States can influence the design and implementation of the adjustment programme, the European Commission, the European Central Bank, the Council of the European Union and the Board of Directors of the European Stability Mechanism can to a large extent determine, in negotiation with the concerned State, the conditions that need to be fulfilled before financial support is provided. In addition, the release of credit tranches can be withheld if the concerned State fails to implement the adjustment and fiscal consolidation measures as outlined in the memorandum of understanding. The same relatively powerful position is exercised by IMF, when it is part of the programme. Member States in serious financial difficulties have in the end only two options: either they have to reach agreement on adjustment and fiscal consolidation measures with the “institutions”, or risk default.

18. The European Commission has taken several measures aimed at preventing a repetition of banking crises. They include increased capital requirements for banks, better protection for depositors, and regulations for the prevention and management of bank failures. A single resolution mechanism, financed by the banking sector, shall in the future ensure an orderly resolution of failing banks and thus minimize costs for taxpayers. In addition, the European Deposit Insurance Scheme aims to protect all deposits of less than €100,000 in the euro area. These measures are intended to enhance the protection of rights holders from losing essential savings and will hopefully also reduce the risk that failed banks will need to be bailed out again with the assistance of public funds or guarantees.

III. Human rights obligations in the context of economic adjustment

A. Obligations of European Union institutions and of the European Stability Mechanism

19. The integrity of international human rights law needs to be ensured when international organizations, international financial institutions and regional integration

organizations recommend or prescribe certain policies to their member States. International organizations have to act in accordance with human rights obligations binding on them on the basis of their own foundational treaties, customary law and general principles of international law, or human rights treaties ratified by them. In addition, they have to ensure that measures proposed or enforced by them respect the human rights obligations binding on their member States.

Obligations based on the Charter of Fundamental Rights of the European Union

20. According to article 6 (1) of the Treaty on European Union, the European Union and its institutions are bound by the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union. In addition, article 6 (3) of the Treaty specifies that fundamental rights, as guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and as they result from the constitutional traditions common to the member States, shall constitute general principles of European Union law.

21. The Charter of Fundamental Rights is based on the core principles of human dignity (art. 1), non-discrimination and equality between women and men (arts. 21 and 22), and recognizes various economic and social rights, such as the right to education, the right to fair and just working conditions, the right to social security and social assistance and the right to health care (arts. 14 and 27-38). The Charter applies to "the institutions, bodies, offices and agencies of the Union with due regard to the principle of subsidiarity and to the Member States only when they are implementing Union law" (art. 51 (1)). However, the level of protection provided by the Charter "shall not be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognized, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party" (art. 53).

22. One of the core questions in this context is whether the Charter applies when member States and European Union institutions are acting on the basis of a memorandum of understanding signed by the Commission on behalf of the European Stability Mechanism. The first aspect to consider is that the European Stability Mechanism is an institution that was set up outside the legal structure of the European Union. The European Court of Justice ruled in 2012 that member States were acting outside European Union law when they established the European Stability Mechanism.[9] It does not necessarily follow, however, that European Union institutions involved in the design, negotiation or conclusion of memorandums of understanding can ignore fundamental rights recognized in the European Union legal order. The Committee on Constitutional Affairs of the European Parliament, for example, pointed out "that the European Union institutions are fully bound by Union law, and that within the Troika they are obliged to act in accordance with fundamental rights, which, under Article 51 of the Charter of Fundamental Rights of the European Union, apply at all times".[10] A similar view in a case before the European Court of Justice was expressed by the Advocate General, who emphasized that "the Commission remains, even when it acts within the framework of the [European Stability Mechanism], an institution of the Union and as such is bound by the full extent of European Union law,

[9] Case C-370/12, *Pringle v. Government of Ireland*, judgment of 27 November 2012, para. 179. Available from http://curia.europa.eu/juris/liste.jsf?num=C-370/12.

[10] Opinion of the Committee on Constitutional Affairs on the enquiry report on the role of the troika (European Central Bank, Commission and IMF) with regard to euro-area programme countries, document 2013/277(INI), 11 February 2014, para. 11.

including the Charter of Fundamental Rights”.[11] Human rights obligations should never be circumvented on the pretext of delegation of functions.

23. In the meantime, with regulation 472/2013 a new European Union law has come into force, regulating the conditions related to the provision of financial assistance to member States and setting out responsibilities for the drafting and approval of macroeconomic reform programmes, including their monitoring by euro-area member States and European Union institutions. It can therefore be questioned whether European Union member States are still acting outside Union law when they design or implement macroeconomic reform programmes in accordance with this law.

24. In addition, article 13 (3) and (4) of the Treaty Establishing the European Stability Mechanism obliges the European Commission to ensure that it signs a memorandum of understanding on behalf of the Mechanism only if the memorandum is fully consistent with European Union law. It has to be inferred from this provision that measures included in a memorandum of understanding should also comply with the Charter of Fundamental Rights.

25. The Independent Expert welcomes the clarification by the European Court of Justice in a recent judgment that measures foreseen in memorandums of understanding signed by the European Commission should be consistent with the Charter of Fundamental Rights.[12] He would, however, like to add that adjustment measures and their implementation must also comply with any other human rights obligation that respective European Union member States have assumed under international law. Such obligations should be respected by the Commission and the European Central Bank during the negotiation, design, approval, review and implementation of adjustment programmes.

Obligations from international and regional human rights treaties

26. The European Union is directly bound by the Convention on the Rights of Persons with Disabilities, the only United Nations human rights treaty that allows for accession by regional integration organizations. The Convention includes several rights that may be at risk in the context of fiscal consolidation measures, such as the obligation to ensure accessibility (art. 9), the right to live independently and be included in the community (art. 19), the rights to education (art. 24), health (art. 25), work and employment (art. 27) and to an adequate standard of living and social protection (art. 28).

27. While the European Union is not party to any other international human rights treaty, all European Union member States have ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The Charter of Fundamental Rights of the European Union cannot be interpreted as restricting or adversely affecting the human rights enshrined in international treaties to which all members States are parties. From a legal point of view, European institutions are prohibited from prescribing to the European Union member States measures that would conflict with the international human rights treaties. States cannot circumvent their human rights obligations by acting through an institution they create, even if the institution is autonomous and a separate legal entity.

[11] *Pringle v. Government of Ireland*, opinion of Advocate General Kokott, 26 October 2012, para. 176.

[12] Joined cases C-8/12P to C-10/15 P, *Ledra Advertising Ltd. and Others v. European Commission and European Central Bank*, judgment of 20 September 2016, para. 67.

28. Furthermore, the Committee on Economic, Social and Cultural Rights has recalled that not only States but also international organizations and international financial institutions have certain obligations under international human rights law based on customary law and general principles of international law.[13]

29. The guiding principles on foreign debt and human rights (A/HRC/20/23, annex) endorsed by the Human Rights Council in 2012 also underline that international financial organizations have an obligation to respect human rights, including to refrain from formulating, adopting, funding and implementing policies and programmes that directly or indirectly contravene the enjoyment of human rights.

30. Additionally, European Union institutions should respect the obligations European Union member States have assumed on the basis of regional human rights law, in particular the European Convention on Human Rights, the European Social Charter and the revised European Social Charter. While the European Union has not yet become a member of the European Convention as foreseen by article 6 of the Treaty on European Union, its institutions are nevertheless bound by the rights included in the Convention, as they constitute general principles of the European Union law according to article 6 (3) of the Treaty.

31. All 28 European Union member States are parties to either the European Social Charter of 1961 or the revised Charter of 1996; only 8 member States have not joined the more recent instrument. It should be noted that the European Committee of Social Rights has found that some of the labour law reforms and pension cuts implemented in Greece have violated the right to fair remuneration and the right to social security under the European Social Charter of 1961.[14] There is a need to overcome conflicting obligations imposed on European Union member States as members of the European Union and States parties to the European Social Charter.[15] Obligations enshrined in these treaties need to be respected by the European Stability Mechanism and European Union institutions when they stipulate conditionalities for a State that is party to the respective human rights instrument.

B. Obligations of member States

32. While international human rights bodies have recognized the constraints that States may face during a financial crisis, there are limits on the extent to which States may deviate from their obligation to realize economic, social and cultural rights to comply with conditions imposed by their creditors. In its statement on public debt (E/C.12/2016/1), the Committee on Economic, Social and Cultural rights set out general principles that borrowing and lending States should observe when a State is seeking financial assistance against conditions that would require the adoption of retrogressive measures in the area of economic, social and cultural rights.

33. In the view of the Committee, retrogressive measures are justifiable only if they are unavoidable, necessary and proportionate, in the sense that the adoption of any other policy

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[13] See E/C.12/2016/1, paras. 7-8 and general comment No. 19 (2007) on the right to social security, para. 58; see also general comment No. 15 (2002) on the right to water, para. 60.

[14] See, for example, European Committee of Social Rights, complaint No. 65/2011, *General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece* and complaint No. 76/2012, *Federation of employed pensioners of Greece (IKA-ETAM) v. Greece*.

[15] See Olivier de Schutter, "The European Social Charter in the context of implementation of the EU Charter of Fundamental Rights", study prepared at the request of the Committee on Constitutional Affairs of the European Parliament, 2016.

or failure to act would be more detrimental to economic, social and cultural rights. They should remain in place only insofar as they are necessary; they should not result in discrimination; they should mitigate inequalities that can grow in times of crisis and ensure that the rights of disadvantaged and marginalized individuals and groups are not disproportionately affected; and they should not affect the minimum core content of the rights protected under the Covenant. These criteria should also inform assessments by European Union institutions of whether adjustment measures that may encroach on economic and social rights are justifiable.

C. States acting as member States of international organizations

34. Member States also have to comply with their human rights obligations when they exercise decision-making control in international organizations, for example through their membership on the boards of international financial institutions such as the European Stability Mechanism or IMF. The Committee on Economic, Social and Cultural Rights has underlined that States parties to the International Covenant on Economic, Social and Cultural Rights must respect these rights when they are acting as members of international organizations.[16]

35. Ensuring that human rights are respected in the context of financial assistance programmes is a shared responsibility of lending institutions and member States that propose and implement adjustment programmes. While economic policies of the European Union are based on the principle of subsidiarity, this principle should not be used to argue that accountability for the outcomes of adjustment programmes, including adverse impacts on social rights, rests exclusively with the concerned member State. Likewise, it would be improper to blame European or international financial institutions for adverse human rights impacts that are beyond their control and sphere of influence. Even when facing stringent conditionalities, borrowing States can implement required reforms in different ways.

D. Procedural obligations

36. Certain procedural obligations should be respected when designing, negotiating and implementing adjustment policies. These include the obligations to undertake a meaningful human rights impact assessment and to ensure transparency, participation and accountability.

Impact assessment

37. According to the Committee on Economic, Social and Cultural Rights, lending and borrowing States seeking loans with certain conditionalities are required to carry out a human rights impact assessment prior to the provision of the loan to ensure that the conditionalities do not disproportionately affect economic, social and cultural rights or lead to discrimination (see E/C.12/2016/1, para. 11).

38. Principle 12 of the guiding principles on foreign debt and human rights enjoins States to analyse policies and programmes, including those relating to external debt, macroeconomic stability, structural reform and investment, with respect to their impact on poverty and inequality, social development and the enjoyment of human rights as well as their gender implications, and adjust them as appropriate to promote a more equitable and

[16] General comments No. 14 (2000) on the right to the highest attainable standard of health, para. 39 and No. 23 (2016) on the right to just and favourable conditions of work, para. 71.

non-discriminatory distribution of the benefits of growth and services. Principle 13 specifies that such impact analyses should pay special attention to certain groups in society that may be particularly vulnerable, including children, women, persons with disabilities, older persons, persons belonging to minorities and migrant workers and members of their families. In addition, in accordance with principles 40 and 41, it is incumbent upon lenders to conduct a credible human rights impact assessment as a prerequisite to providing new loans.

Transparency, participation and accountability

39. The guiding principles on foreign debt and human rights underline that transparency, participation and accountability are core values that should be observed in lending and borrowing decisions by States, international financial institutions and other actors. Transparency requires the full disclosure of all relevant information regarding loan agreements; participation means ensuring effective and meaningful input from all stakeholders in loan policy and resource utilization decisions; and accountability requires that decision makers be answerable and held accountable, if warranted, for their actions regarding external debt agreements and external debt policies and strategies (principles 28-31). Meaningful participation goes beyond ensuring that adjustment policies are subject to approval by national parliaments; it also requires that individuals and groups affected by policy decisions be consulted and able to provide meaningful input to decisions affecting them.

IV. Human rights impact of the debt crisis

40. A comprehensive review of the human rights impacts of the debt crisis on European Union countries is beyond the scope of the present report. The Independent Expert, in line with his discussions in Brussels, therefore focuses on impacts in euro-area countries that were subjected to strict conditionalities for receiving lending. In the report he illustrates his concerns in relation to the rights to work, to health and to social security. This does not mean that other rights or countries were not affected by the financial crisis or by austerity measures implemented by their Governments.[17] For example, in a report on this question the European Union Agency for Fundamental Rights deplored not only an increase in the number of persons at risk of poverty or social exclusion and in homelessness, but also warned about increased social unrest and violent expressions of extremist ideology and xenophobia in the context of the economic crisis, impairing civil and political rights.[18]

A. Background: increase of public debt despite austerity

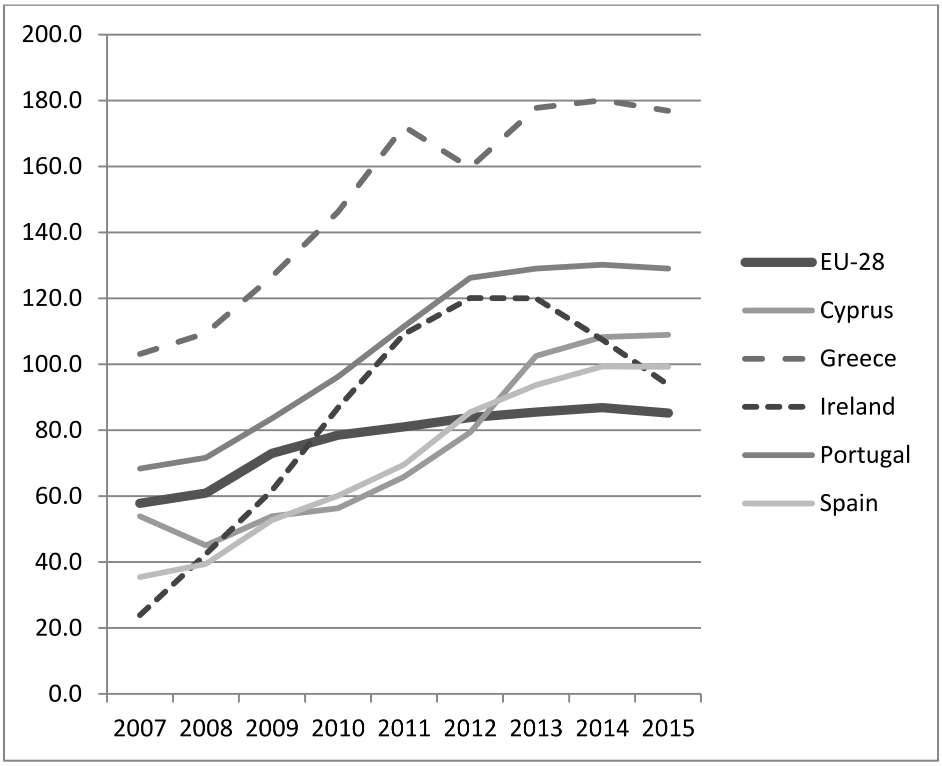
41. In the years following the financial crisis, public debt levels increased significantly in most European Union countries and have remained above the official debt ceiling set for euro-area member States at 60 per cent of GDP. In Greece, Ireland, Portugal and Spain public funds used to stabilize the financial sector and to safeguard the banking sector from collapse contributed significantly to the increase of public debt. Private debt was turned into public debt. In Greece, the present level of public debt is financially and socially unsustainable.

[17] For a more comprehensive review, see Aleksandra Ivanoković Tamamović, "The impact of the crisis on fundamental rights across Member States of the EU: comparative analysis", European Parliament, 2015.

[18] *The European Union as a Community of Values: Safeguarding Fundamental Rights in Times of Crisis*, 2013, pp. 16-19.

42. Current debt levels may easily become a risk for the enjoyment of human rights. While debt service costs in some countries may still be manageable in the short run, they could significantly increase should the period of historically low interest rates come to an end, making the refinancing of public debt more expensive. Even today, the cost of servicing debt consumes important resources that could be better used for productive and social investment to fulfil economic, social and cultural rights. This is the case in Greece in particular which, in the view of the Independent Expert, requires debt relief to boost economic and social inclusive growth (A/HRC/31/60/Add.2). Regrettably, fiscal consolidation and economic reform policies have so far largely failed to reduce public debt levels (see figure I).

Figure I
Public-debt-to-GDP ratios in per cent, 2007-2015



Source: Eurostat, Government consolidated gross debt (dataset gov_10dd_edpt1).

B. Austerity in sectors related to economic and social rights

43. Not all European Union member States embarked on fiscal consolidation in human rights-sensitive fields. In real terms, public expenditures in the European Union increased between 2008 and 2014 by 4.0 per cent in the field of health care and by 7.7 per cent for social protection, while expenditure on education was reduced by 4.8 per cent. However, the main contributing factor to greater social expenditure was not an increase in benefits for individuals. To the contrary: pensions and other social benefits were cut while total social expenditure went up, reflecting an increase in the number of individuals who were out of work or had insufficient income. Demographic trends also played a role, as increased life expectancy has increased the burden on old age pension schemes.

44. Austerity policies entrenched increased divergence between member States in the European Union, as public expenditure trends in sectors related to economic, social and cultural rights show (see the table below).

Percentage change in general government expenditure adjusted by inflation, 2008-2014

	European Union-28[a]	*Cyprus*	*Greece*	*Ireland*	*Spain*	*Portugal*
Change of consumer price index, 2008-2014	+11.3	+9.7	+ 8.1	+0.5	+ 8.9	+7.2
Total government expenditure adjusted by inflation	**+0.1**	**+6.8**	**-36.0**	**-8.3**	**-8.1**	**+3.4**
Social protection (total)	**+7.7**	**+17.6**	**-21.6**	**-1.5**	**+10.5**	**+12.6**
Old age	+10.5	+38.6	-15.2	+17.9	+27.5	+19.7
Unemployment	+5.4	+138.3	-44.0	+53.6	+4.6	+62.1
Family and children	-4.1	+23.5	-36.8	-22.2	-32.5	-23.8
Sickness and disability	+6.2	-37.7	-31.6	-24.7	-9.2	+1.3
Social exclusion	+20.4	-54.0	-66.5	-14.3	+11.1	-33.4
Health	+4.0	-19.5	-54.9	-1.1	-14.8	-22.7
Education	-4.8	-23.8	-22.3	-15.0	-19.0	-17.6

Source: Eurostat, harmonized index of consumer prices — inflation rate (dataset tec00118) and general government expenditure (dataset gov_10a_exp).

[a] For subcategories on social protection, data are available only for European Union — 25 countries.

45. As the table shows, during the period 2008-2014, overall government expenditure hardly changed in real terms for the European Union as a whole. However, in Greece public expenditure was in free fall, with extreme cuts in the field of health care. While the number of unemployed persons in Greece increased from 380,000 in 2008 to 1,270,000 in 2014, spending on unemployment benefits went down, indicating that the majority of the unemployed had either never received unemployment benefits or had lost their entitlement to receive them owing to long-term unemployment. On the other hand, Cyprus, Ireland and Portugal significantly increased spending on unemployment benefits.

46. Government expenditure in Ireland was reduced in real terms, with particularly harsh cuts in education, benefits and services for persons with disabilities, the sick, families and children. Portugal made large spending cuts in health and education. Overall government expenditure contracted in Spain, where significant cuts were made in family and child benefits, education and public health care; only expenditure on old age pensions increased.

47. Cyprus, Greece, Ireland and Portugal reduced funds for combating social exclusion and poverty. This raises the question of whether mitigating negative social impacts on vulnerable groups was actually as much of a priority as claimed in some official policy documents.

48. Expenditure on benefits for sick persons and persons with disabilities was also slashed significantly in Cyprus, Greece, Ireland and Spain. The Independent Expert is concerned that the economic reform policies implemented across the European Union have

caused severe cutbacks in health services and social welfare entitlements for persons with disabilities. These cuts have undermined their right to an independent living, reduced support services for families with disabled children, inhibited the deinstitutionalization of persons with disabilities and restricted the right of children with disabilities to live in family settings. The right to an adequate standard of living and social protection was also disproportionately affected (see CRPD/C/EU/CO/1, paras. 56-57 and 66-67).

49. Reducing expenditure does not of course necessarily always mean a reduction in the quality of social, health or education services for rights holders. For example, efforts were made to reduce health expenditures by increased use of less expensive generic drugs or by reducing drug prices. However, the capacity of States to realize such “efficiency gains” within a few years without affecting the quality, accessibility or affordability of public services for rights holders is limited.

C. Impact on the right to work

50. The right to work must be understood as the right of everyone to the opportunity to gain a living by work that is freely chosen and accepted, including the right not to be deprived of work unfairly (art. 6 of the International Covenant on Economic, Social and Cultural Rights). While recognizing that States parties may not be in a position to ensure full employment, they nevertheless have an obligation to adopt policies aimed at overcoming unemployment and to allocate resources aimed at reducing the unemployment rate, in particular among women and disadvantaged and marginalized groups.[19]

51. Fiscal consolidation policies often included reducing the number of public employees. Restrictions on hiring in the public sector were introduced in Cyprus, Greece, Ireland, Portugal and Spain. In Greece, measures also included a labour reserve scheme aimed at transferring or dismissing workers employed in the public sector. Conditions for collective dismissals were relaxed in Greece and Spain. Public sector wages were cut in Cyprus, Greece, Ireland and Portugal and minimum wages frozen in Portugal and cut in Greece, including to levels below the statutory minimum wage for young workers entering the labour market.[20]

52. The number of unemployed persons in the European Union increased to about 22.9 million in 2015, 6.1 million more than in 2008, before the financial crisis.[21] Within the European Union, the highest unemployment rates can still be observed in Greece (23.4 per cent as at June 2016), followed by Spain (19.5 per cent in August 2016). Unemployment in Cyprus (12.1 per cent) and Portugal (11.0) has also remained above the European Union average (8.6 per cent). More worrying, 10.9 million persons, or nearly one in two job seekers, have been without a job for more than 12 months. Long-term unemployment has remained high, particularly in countries that underwent adjustment programmes. In Greece, 73.1 per cent of all unemployed have been without a job for more than 12 months; in Ireland, Portugal and Spain the figures are 56.2 per cent, 57.4 per cent and 51.6 per cent respectively.[22]

53. In the European Union as a whole, 4.2 million people between the ages of 16 and 25 are without a job, with youth unemployment rates reaching 47.7 per cent in Greece and

[19] Committee on Economic, Social and Cultural Rights, general comment No. 18 (2005) on the right to work.

[20] Ivanoković Tamamović, “The impact of the crisis”, pp. 62-70.

[21] Eurostat, Total unemployment rate, code: tsdec450 (accessed on 23 October 2016).

[22] Eurostat, Long-term unemployment rate, code: tsdsc350 (accessed on 23 October 2016).

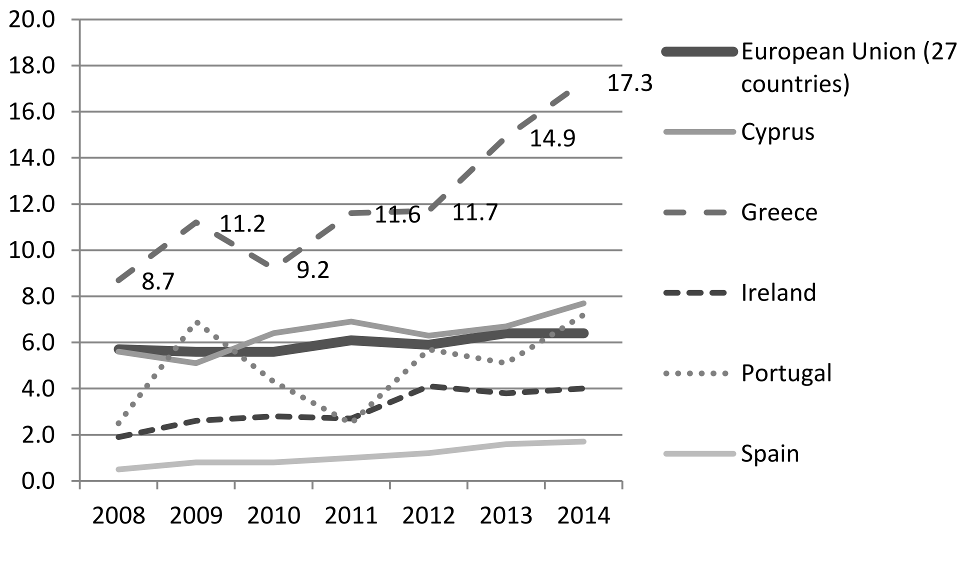
43.2 per cent in Spain.[23] Women are still more frequently affected by unemployment than men within the European Union. In Greece, this difference is particularly marked: the female unemployment rate stands at 27.8 per cent, compared with 19.8 per cent for men. A similar pattern can be observed in Spain (21.5 per cent versus 17.7 per cent).

D. Impact on the right to health

54. The fiscal consolidation policies have limited the affordability and accessibility of public health-care services in programme countries. In Greece, a large number of individuals dropped out of the public health insurance schemes. Reform measures included reduction of health-care staff, reduction in the number of public hospital beds and an increase in co-payments for outpatient treatment or medication, effectively shifting the cost burden from public budgets to citizens. Waiting times for medical examinations and surgery increased in Cyprus, Greece, Ireland and Spain. In Greece, social clinics and social pharmacies staffed by volunteer doctors and nurses have been set up to service patients who are not able to get adequate treatment in public health-care facilities. Access to health care has been a particular concern in relation to undocumented migrants and refugees. In 2012, Spain limited access of undocumented migrants to the public health-care system (see E/C.12/ESP/CO/5, para. 19).

55. In Greece, 17.3 per cent of all persons belonging to the lowest income quintile reported in 2014 not to have been able to undergo a necessary medical treatment, either because of waiting lists, cost, or because services were too far away. A similar, less drastic trend can be seen in Cyprus. Survey data in Ireland and Spain also show a significant increase in the number of individuals reporting unmet health care needs (see figure II).

Figure II
Percentage of people in the lowest income quintile self-reporting unmet needs for medical examination because of cost, distance or waiting list, 2008-2014



Source: Eurostat dataset hlth_silc_08.

[23] Eurostat, "August 2016: euro area unemployment at 10.1%", news release 186/2016, 30 September 2016.

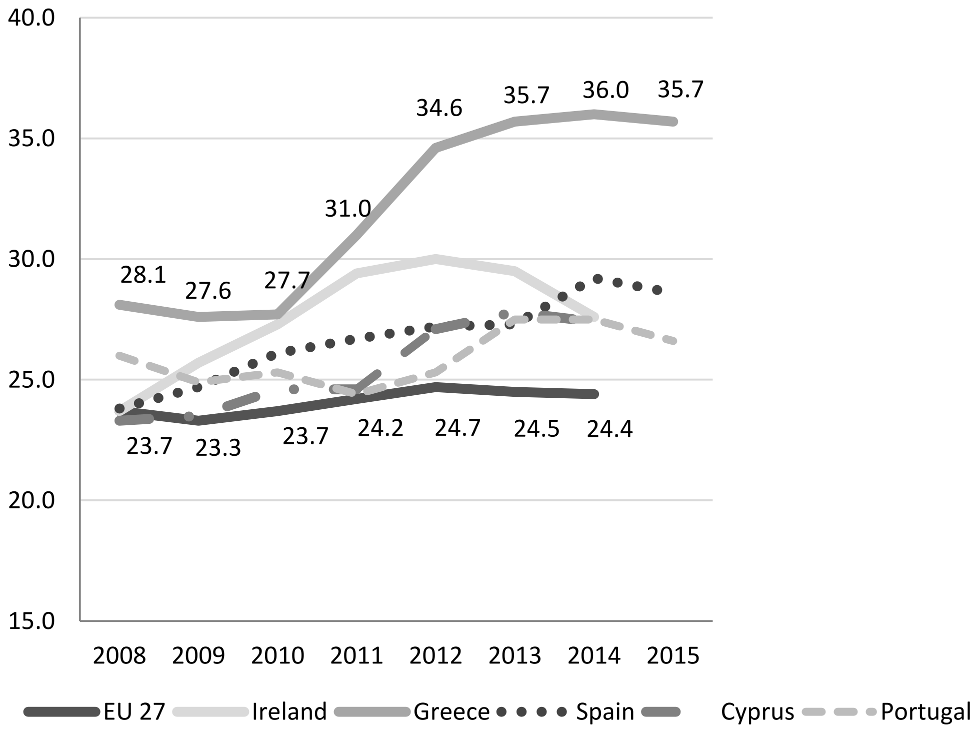
E. Impact on the right to social security

56. Measures implemented in countries affected by adjustment included reform of pension and social welfare systems, including unemployment benefits or benefits for families, children and persons with disabilities. The reform measures have so far not been able to reduce poverty and material deprivation, in particular among children, migrants, the unemployed, single-parent households and female pensioners.

57. In several countries, the official retirement age was increased and measures taken to reduce early retirement. In addition, existing and future pensions were cut. In Greece, Portugal and Spain, bonuses were cut or completely abolished. In Portugal, all pensions except the minimum social security pension were frozen, and some were reduced.

58. However, the number of persons inadequately covered by social security, unemployment or social welfare benefits has increased. About 121 million people in the European Union were at risk of poverty or social exclusion in 2014, 4.7 million more than in 2008; this increase was concentrated mainly in euro-area countries implementing austerity measures and structural reforms. In Cyprus, Greece, Ireland, Portugal and Spain there were 3.8 million more persons at risk of poverty and social exclusion in 2014 than in 2008. Furthermore, it is unlikely that the European Union will reach its own target of reducing the number of people at risk of poverty or social exclusion by 20 million by 2020 (see figure III).

Figure III
Percentage of people at risk of poverty or social exclusion, 2008-2015



Source: Eurostat dataset ilc_peps01.

59. In Greece, one out of every two people aged 16-24 is at risk of poverty or social exclusion (49.7 per cent of the population faced that risk in 2015). Foreigners who are citizens of non-European Union countries are particularly at risk, which has reached very

high levels in Greece (67.1 per cent) and Spain (62.9 per cent) as compared with 48.2 per cent across the European Union in the same year. The risk of poverty or social exclusion of children increased in the entire European Union by 0.5 per cent from 2008 to 2015, but was much higher in Cyprus, where it increased by 3 per cent, Greece (9.1 per cent), Ireland (3.7 per cent) and Spain (up 4.3 per cent).

60. Social protection systems in countries affected by adjustment programmes were ill-equipped to prevent poverty and material deprivation spreading further. Notwithstanding efforts to close gaps in social protection, States either failed or, because of conditionality, were not in a position, to comply fully with their obligation to allocate the maximum of available resources for the realization of the right to social security and ensure the protection of its core content to all individuals.

F. Efforts to counter adverse social rights impacts

61. The European Union should be commended for several initiatives to mitigate the consequences of the economic and financial crisis. For example, in 2013 the European Council endorsed the Youth Employment Initiative to address youth unemployment,[24] and in the same year the European Commission published a recommendation titled "Investing in children: breaking the cycle of disadvantage".[25] In 2014, the European Commission initiated an investment plan for Europe to boost growth and employment.[26] The Commission has also urged its member States, through its Social Investment Package, to invest more in people and their skills and has provided guidance to member States in using their social budgets more effectively to ensure adequate and sustainable social protection. The Independent Expert welcomes these initiatives, but they do not yet appear to have been able to address in a satisfactory manner the poverty and unprecedented levels of youth unemployment in European Union member States.

V. Integrating human rights into economic and fiscal policies

62. The Independent Expert welcomes the considerable effort made by the European Union to incorporate a human rights-based approach in its development cooperation and its external policies. For example, in its Action Plan on Human Rights and Democracy, the European Union recognizes the human rights dimension in the areas of social policy, health, education and access to food and water, and promotes and supports the development and increased coverage of national social protection floors for the promotion of economic, social and cultural rights. In the area of trade and investment policy the Action Plan specifies that the European Union will continue to develop by 2017 a robust and methodologically sound approach to the analysis of human rights impacts on trade and investment agreements in ex ante impact assessments, sustainability impact assessments and ex post evaluations.[27]

63. In the view of the Independent Expert, there is, however, a need to enhance policy coherence in the field of external and internal human rights policies of the European Union. No credible argument can be made that what can be done externally for the benefit of rights holders outside the European Union cannot be done internally, for the benefit of its own

[24] See http://ec.europa.eu/social/main.jsp?catId=1176.
[25] Document C(2013) 778 final.
[26] Document COM(2014) 903 final.
[27] Council of the European Union, *EU Action Plan on Human Rights and Democracy* (Brussels, 2015), pp. 28 and 39.

citizens and residents. A human rights-based approach should therefore also guide country-specific recommendations and inform the lending of European institutions to its own member States.

A. Human rights impact assessments

64. There is an established practice for undertaking social and human rights impact assessments within the European Commission,[28] including a general recognition that impact assessments should not be limited to European Union legislation. According to views expressed by the European Commission, impact assessments should be carried out "on initiatives expected to have significant economic, social or environmental impacts. These can be: legislative proposals; non-legislative initiatives (e.g. financial programmes, recommendations for the negotiations of international agreements) [and] implementing delegated acts."[29]

65. Against this background, it is deplorable how little lending conditionalities were formally assessed for their potential harm to human rights holders before they were implemented. Guidance published by the European Commission suggests that in the field of economic governance, including "recommendations, opinions and adjustment programmes", impact assessments are not a priori necessary, on the basis that such "specific processes are supported by country specific analyses".[30] It may therefore not be surprising that the European Commission did not publish any social or human rights impact assessments in relation to the financial assistance programmes implemented in Cyprus, Ireland, Portugal or Spain.

66. Moving forward, the Independent Expert calls for a change of approach. He therefore welcomes the first social impact assessment by the European Commission, undertaken in August 2015 for the third economic reform programme currently being implemented in Greece.[31] It is a first step in the right direction, although the social impact assessment, which was produced on short notice, was not able to assess the economic reform measures against international human rights standards.

67. There is also significant room for improving the monitoring of social and human rights impacts of financial assistance programmes in the context of official programme reviews or evaluation reports. For example, the fourth and last review report of the second adjustment programme for Greece provides very limited analysis of the impact of the programme on employment levels or income distribution, nor does the report discuss whether adjustment measures might have contributed to an increase in poverty or social exclusion.[32]

[28] European Commission, "Operational guidance on taking account of fundamental rights in Commission impact assessments", document SEC(2011) 567 final, 6 May 2011; "Guidance for assessing social impacts in the Commission impact assessment system", 17 November 2009; "Better Regulation guidelines", document SWD(2015) 111 final; Better Regulation toolbox, tool No. 24, Fundamental rights and human rights, available from http://ec.europa.eu/smart-regulation/guidelines/tool_24_en.htm.

[29] See http://ec.europa.eu/info/law-making-process/planning-and-proposing-law/impact-assessments_en.

[30] Better Regulation toolbox, tool No. 5, When is an impact assessment necessary?, available from http://ec.europa.eu/smart-regulation/guidelines/tool_5_en.htm.

[31] European Commission, document SWD(2015) 162 final.

[32] European Commission, *The Second Economic Adjustment Programme for Greece, Fourth Review — April 2014*, European Economy, Occasional Paper 192 (Brussels, 2014).

68. Official ex post evaluation and programme review documents of financial assistance programmes of the Commission published for Ireland,[33] Portugal[34] and Spain[35] are similarly disappointing. For example, the evaluation report on Ireland reads largely as a success story, describing how the programme allowed Ireland to regain financial market access and return to sustainable growth and arguing that the measures to stabilize the banking sector were appropriate and successful, although acknowledging that public debt remained high.[36] Adverse social impacts of the reform policies are covered in only a few paragraphs. A closer look however supports the view that more could have been done to prevent the harmful impacts of adjustment programmes. It is noted in the report that, for example, "distributional issues could have been more clearly, explicitly and systematically" addressed and that young adults in Ireland have seen the sharpest decrease in their standard of living. Ireland's social safety net was praised as being relatively successful at "cushioning the impact of rising unemployment, falling wages and austerity measures on poverty levels", but at the same time material deprivation rose sharply, from 11.8 per cent in 2007 to 22.6 per cent in 2010 and 30.5 per cent in 2013.[37]

B. Enhancing transparency, consultation and participation in programme design, review and evaluation

69. There is widespread concern that fiscal consolidation programmes and adjustment policies are designed by technical experts behind closed doors without adequate participation by national parliaments, social partners and civil society representatives. For example, the European Parliament in a resolution denounced the lack of transparency in the negotiations on the memorandum of understanding, noting the need to evaluate whether formal documents were clearly communicated to and considered in due time by the national parliaments and the European Parliament and adequately discussed with the social partners. The Parliament also regretted the general "weak democratic accountability" of the troika, noting that when consulted, national parliaments were faced with a choice between eventually defaulting on their debt or accepting the memorandums of understanding negotiated between the troika and national authorities, thus leaving only limited scope for public scrutiny, changing or improving adjustment programmes.[38]

70. The European Commission has released extensive guidance on consultation processes with interested parties. The European Union impact assessment toolbox stresses consultation with affected groups as an avenue to ensure that the "initial design, evaluation or revision of policy interventions benefits from considering the input and views provided by stakeholders, including those who will be directly impacted by the policy but also those who are involved in ensuring its correct application".[39] The Independent Expert was briefed during his visit about the efforts made by the Commission to meet social partners, members

[33] European Commission, *Ex post Evaluation of the Economic Adjustment Programme: Ireland, 2010-2013*, European Economy, Institutional Paper 004 (Brussels, 2015).

[34] European Commission, *The Economic Adjustment Programme for Portugal, 2011-2014*, European Economy, Occasional Paper 202 (Brussels, 2014).

[35] European Commission, *Evaluation of the Financial Sector Assistance Programme: Spain, 2012-2014*, European Economy, Institutional Paper 019 (Brussels, 2016).

[36] See, in contrast, the concerns expressed by the Committee on Economic, Social and Cultural Rights, (E/C.12/IRL/CO/3, para. 11) and the Committee on the Rights of the Child (CRC/C/IRL/CO/3-4, paras. 15-16).

[37] European Commission, *Ex Post Evaluation of the Economic Adjustment Programme: Ireland, 2010-2013*, pp. 94-95.

[38] Resolution P7_TA(2014)0239, paras. 30 and 56.

[39] European Commission, document SWD(2015) 111 final, p. 63.

of parliaments and other stakeholders in programme countries. However, in his view, efforts to enhance consultation with and participation of civil society organizations during the negotiation of adjustment programmes and review missions should be further strengthened.

C. Integrating social rights into the European Semester

71. In 2010 the European Union launched its Europe 2020 targets, covering employment, climate change and education and fighting poverty and social exclusion, which are monitored in the context of the European Semester. Additional efforts should be made to establish a comprehensive monitoring and accountability framework within the European Union covering economic, social and cultural rights and the implementation of the 17 Sustainable Development Goals. Progress on meeting the Sustainable Development Goal targets in European Union member States should not only be monitored, but also accompanied by an accountability mechanism that would more strongly encourage member States to take adequate action. In this context, the Independent Expert welcomes the communication issued by the European Commission outlining how it intends to contribute to the Goals. An annual report documenting progress by the European Union and its member States towards the implementation of the 2030 Agenda for Sustainable Development will be a useful contribution to this effort.[40]

72. Currently, member States may be sanctioned only if they fail to address certain macroeconomic imbalances or do not meet deficit targets. No similar mechanism exists, however, if a member State fails to undertake sufficient efforts to reduce poverty. The Independent Expert welcomes the efforts made by the European Union to further reinforce policy coordination with the aim of making social protection systems more adequate, sustainable and effective. However, social targets should be given the same level of attention as economic targets in a fully “socialized” European Semester to ensure compatibility between macroeconomic and social policy objectives of the European Union.

73. Country-specific recommendations should be scrutinized with regard to their potential human rights impact and social policy targets need to be adequately reflected therein. For example, the Social Protection Committee, a European Union advisory policy committee reporting to the Employment and Social Affairs Council, is already monitoring social developments within the European Union very closely.[41] However, it appears that its reports do not always inform policy recommendations in the context of the European Semester, including country-specific recommendations. It recently noted with concern “the limited focus on poverty reduction, which is explicitly mentioned only in two [country-specific recommendations] even though there are no signs of a rapid improvement in reaching the poverty and social inclusion target of the Europe 2020 Strategy”.[42]

D. European Pillar of Social Rights

74. It is time to revive social rights within the European Union. In the view of the Independent Expert, the recent initiative of the European Commission, the European Pillar

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40 European Commission, document COM(2016) 739 final.

41 See, for example, the 2015 Social Protection Performance Monitor dashboard results, available from http://ec.europa.eu/social/main.jsp?catId=758.

42 Council of the European Union, Special Protection Committee, “Assessment of the 2016 country-specific recommendations (CSRs) and implementation of the 2015 CSRs”, document 9684/2016, 9 June 2016, p. 13.

of Social Rights, may contribute to this aim. According to the Commission, the Pillar does not seek to restate or modify existing rights, but to complement them with essential principles that should become common to participating member States for the conduct of their employment and social policies. The Commission envisages that the Pillar would become a reference framework to screen the employment and social performance of participating member States, to drive reforms at national level and, more specifically, to serve as a compass for renewed upward social convergence within the euro area.[43]

75. In the view of the Independent Expert, such a pillar needs to be based on a solid foundation. This foundation should not only reflect the fundamental rights obligations emanating from the Charter of Fundamental Rights of the European Union and the social *acquis* of the Union, but also build on the international human rights obligations of European Union member States. Furthermore, the pillar should set out how rights holders can enjoy better access to justice if their social rights are violated and how social rights can be more effectively enforced, through judicial and non-judicial mechanisms or through country-specific recommendations in the context of the European Semester.

76. Taking into consideration that all European Union member States have ratified or signed relevant international and regional human rights standards on social rights, there is no objective reason to limit the scope of application of the Pillar of Social Rights to euro-area countries; that would defeat the very concept of human rights as protecting all individuals wherever they live.

VI. Conclusions and recommendations

77. **Ensuring financial stability and controlling public debt are important tasks. However, the Independent Expert is deeply concerned about the paradigmatic shift that has taken root in the European Union in recent years that is undermining a previously balanced approach to ensuring economic stability, equality and social cohesion in favour of a disproportionate focus on budgetary discipline and competitiveness. Austerity policies have unfortunately all too often gone hand-in-hand with undermining economic, social and cultural rights. At the same time, inequalities in income and wealth have increased within the European Union and its member States.**

78. **Fiscal consolidation and structural reform policies implemented in Cyprus, Greece, Ireland, Portugal and Spain have deepened economic recessions and further increased unemployment and poverty. Harsh cuts to public expenditure on social protection, health care and education cast doubt on whether sufficient priority was given to sheltering vulnerable groups from the effects of the crisis. In addition, social partners, civil society organizations and affected groups and individuals should be better consulted in programme design, review and evaluation.**

79. **Economic reform programmes agreed between European Union member States, the European Commission and the European Central Bank were implemented without any official assessments of their impacts on economic, social and cultural rights or on vulnerable groups. Programme reviews and official evaluations by the European Commission were concerned mainly with whether economic and fiscal targets were met and contained only limited analyses of adverse social impacts and how they could be better prevented in the future. To regard human rights considerations as exogenous to such economic reforms not only ignores international**

[43] European Commission, document COM (2016) 127 final.

human rights law obligations, but also deprives the relevant policy discussions of a critical perspective.

80. **In the view of the Independent Expert, economic reform programmes should undergo human rights as well as social impact assessments, whose results can change policy choices. Such assessments should be carried out in consultation with affected rights holders and civil society and be more than an exercise in ticking boxes to be meaningful. In addition, evaluations of past reform programmes should not only assess whether they managed to reduce budget deficits, restore debt sustainability or enhance economic growth, but whether they ensured a fair and equal distribution of the burden of adjustment within society.**

81. **The review of economic and financial policies of European Union member States in the context of the European Semester should be further strengthened to ensure that the social rights obligations of European Union member States and progress to attain the Sustainable Development Goals are given the same level of attention as economic and fiscal targets.**

82. **The economy is society's servant, not its master, and financial policy is a tool that Governments must ensure serves the best interests of all, and not just the privileged and powerful. It is therefore absolutely relevant to know the extent to which economic and social rights have been successfully protected, what gaps exist and who is most affected by lack of protection of their rights. This exercise would not only allow lessons to be learned from past mistakes to be better equipped for the future, but would ensure that identified infringements of social and economic rights can be addressed and corrected.**

83. **In the light of the present conclusions, the Independent Expert recommends to the European Commission, the Council of the European Union and European Union member States that they:**

(a) **Ensure that human rights impact assessments of macroeconomic reform and financial assistance programmes supported by the European Union are prepared before, during and after their implementation;**

(b) **Develop particular guidelines for conducting human rights impact assessments for macroeconomic reform programmes, building on the normative components of internationally recognized economic, social and cultural rights and on existing impact assessment guidelines and tools;**

(c) **Ensure that financial assistance programmes are regularly reviewed and evaluated not only in relation to their economic and fiscal targets but also against a set of social policy targets, including reducing unemployment, poverty and social exclusion and ensuring access to affordable health care, housing, education and water and sanitation;**

(d) **Incorporate human rights obligations into debt sustainability analysis to ensure that debt service does not undermine the fiscal space of States for ensuring social protection and accessible and affordable public services in the field of education and health care;**

(e) **Incorporate the Sustainable Development Goals into the policy goals of the European Union and ensure that recommendations made in the context of the European Semester are coherent with them;**

(f) **Devise a monitoring and accountability mechanism for ensuring the protection and realization of social rights in the context of the European Semester;**

(g) **Strengthen the mandate and capacity of the European Union Agency for Fundamental Rights to analyse the enjoyment of economic, social and cultural rights in member States and to promote a rights-based review of economic and fiscal policies in the context of the European Semester;**

(h) **Ensure that the European Pillar of Social Rights will apply to all European Union member States and will be built on the obligations that member States have assumed under international and regional human rights law. The Pillar should include measures to enhance access to justice for affected individuals and to improve the enforcement of social rights through judicial and non-judicial mechanisms;**

(i) **Take urgent measures, in cooperation with member States and representative organizations of persons with disabilities, to prevent adverse and retrogressive effects of the austerity measures on social and economic rights (see CRPD/C/EU/CO/1);**

(j) **Monitor the poverty reduction efficiency of current social protection systems and benefit schemes, including in the areas of housing, health care and taxation, with a particular focus on the groups at risk, including persons with disabilities, long-term unemployed people, single parents, children, migrants and refugees;**

(k) **Pursue efforts to allow the European Union to accede to the European Convention on Human Rights and to consider acceding to the revised European Social Charter in recognition of the interdependence, indivisibility, an equal importance of all human rights;**

84. **The Independent Expert encourages European Union member States to:**

(a) **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, allowing individual complaints, and the revised European Social Charter as well as its Additional Protocol Providing for a System of Collective Complaints;**

(b) **Follow the Social Protection Floors Recommendation, 2012 (No. 202) of the International Labour Organization in an effort to build comprehensive social security systems and extend social security coverage;**

(c) **Implement minimum income schemes that efficiently reduce the number of persons at risk of poverty and eliminate extreme poverty;**

(d) **Adjust minimum wages to a level that, in combination with other benefits available to the individual, allows an individual’s household to cover basic needs and to live in dignity.**