

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

Neofytou Vamva 6 (3rd floor), GR 106 74 Athens, Greece, Tel: +30 210 7233221-2;
fax: +30 210 7233217; e-mail: info@nchr.gr, website: www.nchr.gr

<p>The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis</p>

**“The National Commission for Human Rights, in the context of its
statutory role as the main consultative institution with the Greek
State on issues pertaining to the protection of Human Rights**

I. Taking into account:

A. On the one hand:

1) the rapid developments of significant impact on Greek economy, which appears to be a link in the “crisis-chain” of national economies, as well as the implementation and the obligations undertaken in order to activate the support mechanism of the Euro zone Member States and the International Monetary Fund;

2) the broad authorization granted by the provisions of Law 3845/2010 for the adoption of additional measures, that are related to fundamental civil and social rights, mainly by Presidential Decrees;

3) the fact that the financial and debt crisis is not solely an economic issue, but it also has serious political, legal, social and moral dimensions;

4) the fact that the current economic crisis has already and will continue to have serious impact on the social fabric, by leading to a serious downturn of living standards and threatening vulnerable groups of the population with social exclusion.

B. On the other hand, the Government's due commitment by:

1) the constitutional framework for the protection of fundamental human rights;

2) the international and European safeguards for human rights and the fundamental principles that are binding for Greece, as a member state of the European Union, the Council of Europe and the United Nations;

3) the settled case law "shield" already established at the national, the international and European levels aiming at the full and equal enjoyment of all human rights ;

requiring:

i) the due undeviating respect of the principle of proportionality while adopting measures which aim to serve the public interest, even in particularly difficult or/and extraordinary conditions in times of peace, so as that adopted measures do not burden unilaterally, unjustly and disproportionately only a part of the population and especially the most vulnerable social groups with a serious and permanent impact on the enjoyment of their fundamental human rights (art. 25 paragraph 1 of the Greek Constitution),

ii) the respect of the principle of necessity and adequacy in a democratic society, that respects and protects the human value and dignity and does not deviate neither from the principle of equity nor from the principle of each citizen's contribution to public charges in proportion to his/her means (art. 4 paragraphs 1 & 5 of the Greek Constitution),

iii) the promotion of social justice during the enactment of economic policy with rules of transparency and with undeviating respect of fundamental rights, as well as the State's proactive involvement in order to secure social peace and social cohesion (art. 25 paragraph 4 of the Greek Constitution),

iv) the respect of the principle of public trust towards State Institutions, which sustains the principle of the Welfare State's rule of law as a resultant vector of the principle of proportionality, and the principle of good and accountable governance according to the Constitution (art. 1 and 25 paragraph 1 of the Greek Constitution),

v) the State's duty to take steps, individually and through international assistance and co-operation, to the maximum of its available resources, with a view to progressively achieve the full realization of economic and social rights (art. 2 paragraph 1 of the International Covenant on Economic, Social and Cultural Rights),

vi) the realization, through international co-operation of the inter-dependant and mutually supportive targets for peace, security, development and respect of human rights.

II. Reminding to the State the Commission's previous opinions on:

1) the urgent need to adopt measures to safeguard and shield fundamental individual and social rights during the financial crisis by establishing conditions of economic and social development, intergenerational solidarity and social trust through economic equity and social justice;

2) the civil society's common demand in the current socio-economic situation, for the due respect, under conditions of equity, of all individual and social rights, such as the value and dignity of the human being (art. 2 paragraph 1), the right of equal access to healthcare (art. 21 paragraph 3) and education (art. 16 paragraph 2), the right to full, stable and decent work with social security based on redistribution (art. 22), the freedom of association and the right to organize and free collective bargaining (art. 23 of the Greek Constitution).

III. Conveys to the State:

1) the NCHR's great concern, already declared in previous Resolutions, that developments in the national economic environment, further exacerbated by global financial pressures and the reluctance of international creditors to find sustainable, long-term solutions to the debt crisis, severely disrupt social equilibrium at the expense of human rights, and have multiple chain effects on the enjoyment of social rights, while putting civil liberties at risk and vice versa;

2) the consistency of its opinion that the protection of fundamental human rights should not be treated with marginal or without any attention during the exit strategy out of the debt crisis, if a legitimate real effect and benefit is aimed in favour of the society as a whole and the national public interest in terms of economic sustainability, social efficiency and sustainable development, which should guarantee recovery and development with equity and social justice;

3) its strong belief that the country's binding international obligations as regards the protection of fundamental freedoms and social rights, especially during the current economic and social situation, must be fully respected, according to the constitutional principle of the supremacy of ratified international Conventions over any contrary provision of Law (art. 28 paragraph 1 of the Greek Constitution). The due observance of these obligations is not only imposed to the State, but also to the international organisations with whom the country co-operates in order to exit the external debt crisis (Report of the UN Independent Expert on the effects of external debt and other related international financial obligations of States on the full enjoyment of all human rights, 12 August 2009, paragraph. 30);

4) according to the NCHR, the State's respect of fundamental human rights while exercising its powers to exit from the external debt crisis is imperatively imposed by:

i) the International Covenant on Economic, Social and Cultural Rights as interpreted by the UN Committee monitoring its implementation according to which, in times of severe resource constraints caused by economic recession, the obligations remain for a State Party to strive to ensure the widest possible enjoyment of fundamental rights and protect the vulnerable members of society by the adoption of relatively low cost targeted programmes (General Comment No. 3, paragraphs 11-12);

ii) the International Labour Organisation Convention No. 87 (L.D. 4204/1961) and No. 98 (L.4205/1961), as well as the settled case-law of the Committee on Freedom of Association, according to which in case that a Government, as part of its stabilization policy, considers that wage rates cannot be settled freely through collective bargaining, such a restriction should be imposed as an exceptional measure and only to the extent that is necessary, without exceeding a reasonable period, and it should be accompanied by adequate safeguards to protect workers' living standards (CAS, Digest of Decisions, 2006, paragraph 1024);

iii) the European Convention on Human Rights of 1950 (L.D. 53/1974) and the case-law of the European Court of Human Rights, according to which, inter alia, a drastic reduction of a social security benefit as a result of the statutory changes in the rules, based on which it has been established and calculated, can arise issues under the provisions of the Convention (*Kjartan Asmundsson v. Iceland* – judgment of 12.10.2004, *Goudswaard-van der Lans v. Netherlands* – judgment of 22.09.2005, *Buchheit & Meiberg* – judgment of 02.02.2006);

iv) the European Social Charter of 1961 (L. 1426/1984) and the case law of the European Committee of Social Rights, according to which, inter alia, when a State has to strike a balance between contradictory interests and make choices in terms of priorities and resources, given the current social situation, the adopted measures

should be compatible to three criteria: to be implemented within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources (ECSR decisions on complaint No. 13/2002 of 4.11.2003, paragraph 53 and No. 31/2005 of 18.10.2006, paragraph 35).

Athens, 7 June 2010