

## **In Defence of Social Rights in Greece**

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Last weekend the Greek Parliament discussed and finally passed a bill on the new national insurance system. The bill which had been proposed by the government introduces further reductions of the higher pensions, a gradual elimination of the pensioners' social solidarity allowance and the establishment of a national pension that amounts to 384€ per month.

The new law proves again that social rights in Greece have been seriously dismantled over the last six years of economic crisis. Especially affected were the right to social insurance and the right to work. Of course, the degree in which social rights can be enjoyed depends on the financial condition of a state, because the state has to be able to finance the social provisions. Yet, social rights need to be acknowledged as fundamental rights as the survival of people depends on them. What characterises a social right is that it ensures a social commodity so indispensable for people that society has to undertake the (financial) commitment to provide it to all its members.

Social rights are protected by a variety of national, international and European legislation. The Greek Constitution, the International Covenant on Economic, Social and Cultural Rights as well as the European Social Charter are only some of the many legal documents that recognise social rights and limit the restrictions which can be imposed on them. According to these documents, every restriction on social rights has to comply with the principle of reassuring a dignified living for all and with the principle of equality and proportionality. It has also to be highlighted that the Greek Constitution itself introduces in article 25§1 the principle of the welfare state according to which the state protects and promotes the social and economic well-being of its citizens.

The Hellenic Council of State, the Greek Commission on Human Rights and the European Committee on Social Rights have all confirmed that this new legislation, which is based on the memorandum of understanding the Greek state has signed with the European Commission, does not respect social rights. The International Labour Organization and the Council of Europe have warned that already one out of four Greek citizens live below the poverty threshold and that special care has to be taken to avoid the further pauperisation of the population. As unemployment rates and life expectancy are rising, more pressure is placed on the national insurance system whose expenditure exceeds its revenue. Nowadays in Greece a pension does not only support the pensioner but also his or her unemployed family members.

For all these reasons it is important to reassure that the EU Charter of Fundamental Rights is taken into account when negotiating and carrying out a memorandum of understanding (MoU) in the framework of the European Stability Mechanism (ESM) which provides loans and other forms of financial assistance under strict conditions to euro area member states. The European Court of Justice (C-370/12) has decided that *'the Member States are not implementing Union law when they establish a stability mechanism such as the ESM where the EU and FEU Treaties do not confer any specific competence on the Union to establish such a mechanism.'* However, *'the MoU which is to be negotiated with the Member State requesting stability support must be fully consistent with European Union law and, in particular, with the measures taken by the Union in the area of coordination of the economic policies of the Member States.'*

Since the ECJ clarified that the measures relevant to the coordination of the economic policies of the Member States apply also to the negotiation and actualisation procedures of a Memorandum of Understanding and taking into account that the policy of austerity has proved to be economically ineffective and socially exhausting, it is clear that the economic policy of the EU urgently needs reviewing. And as a MoU *must be fully consistent with European Union law*, it should also be clear that a MoU must comply with the Charter of Fundamental Rights.

The Charter of Fundamental Rights is a substantial part of European law which *has been formed out of general principles applied by the Member States before its enactment and has to be interpreted widely*



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(C-229/11). In order to guarantee that a stability programme is going to be successful and that a national debt is going to be sustainable, social rights should be boosted rather than weakened. The

restriction of social rights might be the easiest and most direct solution in the attempt to reduce the state's expenditure but it is not always legitimate, nor is it just or socially responsible. An integrated and purposeful employment policy, the introduction of structural reforms in the insurance and taxation systems as well as alternative measures with equivalent effect, introduced after conducting a serious impact study, would be fairer and more effective.