

Greece in Times of Multiple Crises: Solidarity under Stress?

Maria M. Mexi

Introduction

The question of whether solidarity has guided policy and legal responses during the economic crisis and the accompanying fiscal adjustment process in Greece has rarely been addressed in public, social and/or political debates. Admittedly, since the onset of the economic crisis in 2009, the weaker social groups in Greece have traditionally borne an asymmetrically heavier burden compared with better-off groups. Over the pre-crisis period, social solidarity was deformed, manifested in the unequal allocation of social assistance funds on the basis of deep-rooted clientelistic and patronage relationships, between ruling political parties and organised group interests that had strong political influence and leverage (Pappas and Asimakopoulou 2011; Sotiropoulos 2001). The situation did not improve after the onset of the crisis, as Greece had to rely on bailout rescue loans and implement strict fiscal consolidation measures which may have led to some streamlining of social spending but, above all, have resulted in the weakening of solidarity policies for the social protection of the middle and the lower classes, the unemployed, the poor and the socially excluded. The recent refugee crisis has also exposed the weakness of policy elites to protect the most vulnerable and induce solidarity-driven considerations in policy and legal interventions.

In view of the above, the aim of this chapter is to shed light on how solidarity is tackled from a public policy perspective, by examining recent legal and policy responses that have been introduced in the policy domains of disability, migration and asylum, and unemployment since the onset of the Greek crisis in 2009. As shown in the following sections, little attention has been paid to how to put in place a coherent policy framework for solidarity -- a principle which is explicitly entrenched in the Greek Constitution, denoting collective solidarity, humaneness and mutual responsibilities to recognize the respect, dignity and value of all members of society. Rather, policy inefficiency combined with increased conditionality and welfare retrenchment have put solidarity to the test for the most vul-

nerable groups in society. Data for this research was collected within the framework of the Horizon2020 project "TransSOL – European paths to transnational solidarity at times of crisis: Conditions, forms, role models and policy responses" through a combination of desk research of various sources (e.g. policy and legal acts and documents, case law, etc.), information requests from relevant institutions, and semi-structured interviews with representatives of civil society organisations and groups¹ held in Greece between September-November 2016.²

The Context of the Greek Crises

Since 2009, Greece has become the epicenter of a series of crises with considerable socio-economic and humanitarian repercussions: the economic crisis, the Eurozone crisis, and more recently the refugee crisis. Based on Eurostat data, Greece experienced a sharp decline in its GDP from 241,990.4€ million in 2008 to million 176,022.7€ million in 2015.³ The Greek unemployment rate increased from 7.8 percent in 2008 to 24.9 in 2015,⁴ while youth unemployment reached almost 50 percent. Interestingly, the unemployment figures obscure the strikingly high unemployment levels among people with disabilities which was more than double the national jobless rate of 23 percent (ANED 2015/2016). "The sudden growth in unemployment", Visvizi (2016) argues, "followed by sudden loss in disposable income level, and accompanied by a disintegrating state administration means that no social provision exists for those in need; and the numbers are growing. The private sector, swamped by excessive taxation, operating in an inflexible labor market framework, under conditions of a liquidity squeeze, cannot absorb the unemployed. Therefore, as the crisis continues, amidst political instability at home and abroad, the resources at

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- 1 The full findings of the interviews are encapsulated in the 2016 TransSOL report: *Integrated Report on Reflective Forms of Transnational Solidarity* available at <http://transsol.eu/outputs/reports/>.
 - 2 Special thanks to Professor Maria Kousis and Stella Zambarloukou for their insightful comments on earlier outputs of the research.
 - 3 Eurostat. http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=nama_10_gdp&lang=en.
 - 4 Eurostat. http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=une_rt_a&lang=en.

the disposal of families dwindle. In this view, the degree of social deprivation is bound to increase."

The economic crisis has had a profound effect on labour market integration not only for the native population but also for the migrants and incoming refugees. Between 2008 and 2015, the unemployment rate of the latter increased by 26 percent reaching 33 percent against a 17 percentage point increase for the native population (OECD 2016). As emphasized by the OECD (ibid), "727 000 immigrants are currently living in Greece with a residence permit, accounting for 7% of the population. Integrating these immigrants and offering them the possibility to make a living is fundamental. It increases their contribution to the Greek economy and society and also raises acceptance of immigration." Besides the painful consequences of the economic crisis for the migrants already residing in Greece, during 2015-2016, over 800,000 migrants and refugees arrived on Greek shores (The Guardian 2015). As of December 2017,⁵ 21,524 out of 63,302 migrants and refugees have been relocated from Greece to other EU Member States. As fiscal consolidation measures have been the primary policy priority the past years, very little attention has been paid to calls for better provision for the incoming migrants and refugees, but also how to put forward stronger and more effective measures to cater to those most affected by the country's multiple crises. As examined in the following sections, legal and policy interventions in the fields of disability, migration and asylum, and unemployment, as well as questions of policy inefficiency, have contributed to weakening elements of solidarity and unemployment and strengthening elements of conditionality and welfare retrenchment at the expense of the most vulnerable.

Responses in the Field of Disability

Policy and legal responses in the field of disability are captured in the phrase "two steps forwards, one step back". More particularly, in the Greek legal system, ratified international conventions constitute an integral part of the Greek legal order and prevail over any contrary provision of the law (Article 28(1) of the Greek Constitution). In the area of disabili-

5 Refer to DG Migration and Home Affairs data available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf.

ty, Greece has ratified most of the major international conventions such as the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol (OP) in terms of access to education, social protection, healthcare, justice, work and employment for people with special needs and disabilities. Also, the Greek Constitution (Article 4) establishes the principle of equality among all Greek citizens. Article 21 refers explicitly to the fundamental rights of disabled people to autonomy, employment, and participation in social and political life, as well as the duty of the state to implement measures that safeguard those rights. In the Civil Code (civil law), there are certain open-ended clauses that could be invoked by disabled persons seeking equal treatment and non-discrimination in their employment life.⁶ Thus, sections 34 and 35 refer to the legal capacity and legal personality of all human beings; sections 57 and 59 refer to the protection of natural persons against any offence, sections 281 and 288 refer to good faith and to business usages, which have helped the courts to construct a wide protection network against discrimination practices by the employer or unfair dismissal (Gavalas 2004). Section 662 establishes a general duty of the employer to ensure the health and safety of workers on work premises. Finally, sections 931 and 932 protect from physical injury and health hazards.

On 11 April, 2012, the Greek Parliament enacted Law 4074/2012 ratifying the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol. The Convention "adopts a broad categorisation of persons with disabilities and reaffirms that all persons with all types of disability must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities, and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights and areas where their rights have been violated, and where protection of rights must be reinforced."⁷ In particular, as far as non – discrimination is concerned, Greece now prohibits all discrimination on the basis of disability, and guarantees persons with disabilities equal and effective legal protection against discrimination on all grounds. Moreover, according to Article 5 of the Convention, in or-

6 These clauses can certainly be invoked directly against employers, not only via interpretation of other provisions.

7 Refer to "Convention on the Rights of Persons with Disabilities (CRPD)", available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.

der to promote equality and eliminate discrimination, Greece – along with other States Parties – must take all appropriate steps to ensure that reasonable accommodation is provided. Finally, specific measures which are necessary to accelerate or achieve *de facto* equality of persons with disabilities will not be considered discrimination under the terms of the Convention.

In addition, the Greek Parliament has passed anti-discrimination legislation, Law 3304/2005, which transposes the European Commission Directives 2000/78/EC and 2000/43/EC into Greek national law. Following Theodoridis (2009, 8):

This law fills a conspicuous lacuna in the Greek legal system, where previously there was no specific antidiscrimination legislation in force. This new statute, entitled "On the application of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age, or sexual orientation", protects all persons in both the private and public sectors, and covers the fields of access to employment and occupation (but not to self-employment), vocational training and education, social protection, including social security and healthcare, education, and access to goods and services including housing.

There are certain aspects though where the Greek law is in breach of the directives, as noted by Theodoridis (2009, 8-9). In particular, article 28 of Law 3304/2005 specifically states:

On entry into force, this law repeals any legislation or rule and abrogates any clause including personal or collective contracts, general dealing terms, internal enterprise regulations, charters of profit or non-profit organisations, independent professional associations and employee or employer trade unions opposed to the equal treatment principle defined in this Law.

Moreover, the "purpose" of Law 3304/2005 echoes Article 1 of both Directives:

The purpose of this law is to lay down a general regulatory framework for combating discrimination on the grounds of racial or ethnic origin, as well as combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, in accordance with the Council Directives 2000/43/EC and 2000/78/EC, with a view to putting into effect the principle of equal treatment.

Drawing on the above Theodoridis (2009, 9) observes: "It is evident that the Greek legislature did not intend to provide specific regulations with regard to the implementation of the principle of equal treatment, but rather a general framework. This is not within the spirit of the Directive, which es-

establishes the general framework for the member states to make specific regulations and take concrete implementation measures".

Following Gavalas (2004, 4), in the early 00s, at legislative level, Greece's approach to disability issues "cannot be defined as a civil (human) rights' approach but rather as a social welfare approach (ensuring special treatment and quotas)" and that this is "obviously related to the fact that disabled people in Greece (and their organisations) traditionally seek to ensure (and lobby for) social security and social welfare benefits and substantial rights rather than procedural antidiscrimination and human rights". This tendency seems to have prevailed over the decades that followed and it may explain why most sensitive issues pertaining to the implementation of the United Nations Convention on the Rights of the Child (CRC) and the United Nations Convention on the Rights of Persons with Disabilities (CRPD) have not been adequately addressed.

As remarked by Kaltsouni (2013, 6):

The practical implementation of the CRPD and CRC rights and principles cannot be considered as adequate. In many instances, the best interests of the child are not considered or are not explicitly assessed by the officials of the administration. Additionally, it is extremely doubtful whether the opinion of children with disabilities is considered by the courts or in social care units of a closed nature (i.e. residential institutions). Even though children's right to be free from violence is legally protected, there are significant deficiencies in the way that services receive and address complaints of abuse and violence against children. Several problems with respect to the implementation of the principle of access to assistance have been identified, including the lack of specialised staff in healthcare structures and in residential institutions which sometimes operate based on an outdated asylum model with respect to the way they care for children. Finally, the right of children with disabilities to inclusive education, even though protected by legislation, is in practice not fully implemented.

With respect to older people with disabilities, previous national policies such as obligatory quota placement in the public sector (Law 2643/1998) are no longer compatible with reforms under the economic adjustment programme, whilst no other national policy has been designed to enhance employment prospects for this particular group. Meanwhile, the Equality Law 3304/2005 has been found to have had limited success increasing employment opportunities,⁸ while additional obstacles in finding employment relate to low implementation of accessibility laws and standards (e.g.

8 See Conclusions of the Greek Ombudsman (2012).

buildings, transport).⁹ Furthermore, evaluation studies of active labour policies implemented through the European Social Fund targeting disabled people (the latest ones encompass programmes up to the end of 2012) show that they have so far fallen short of targets in number, as well as in creating sustainable job placements (ANED 2013). And more recently, as part of a series of austerity measures, there has been some discussion in the media over the introduction of means-tested criteria for benefits and pensions, which has been highly contested by the disability movement in Greece, drawing attention to high unemployment for disabled people and almost exclusive reliance on individual resources for supporting needs and the extra living costs due to disability.¹⁰

Against this background, a number of civil society organisations and human rights organisations at both national and local level have filled in gaps and acted as a substitute for public sector services in the area of disability. As emphatically pointed out by most of the representatives of Greek civil society organisations which were interviewed within the context of the TransSOL project, the austerity policies encapsulated in the "Memoranda of Understanding" signed by the Greek government and the Troika (European Commission, European Central Bank, International Monetary Fund) have had a negative impact on disabled people and on the functioning of the disability sector as a whole. Welfare benefits for the disabled and state funding to solidarity organisations have been reduced, while at the same time the beneficiaries' needs have increased as a growing number of disabled people and their families cannot afford to pay for certain health-care related services. On the sidelines – as highlighted in the interviews – a range of volunteers and social solidarity groups have emerged in a spontaneous, informal way, creating self-help groups and loose networks providing social assistance and care to vulnerable groups with disability. Interestingly, many young unemployed people have decided to devote time to volunteering in those organisations and groups. This has had a positive impact on the young people's self-esteem, while for many others the need to help their fellow human beings in need takes precedent. The self-awareness of vulnerable citizens has thus been raised

9 Statistical evidence is not available but for a discussion of problems in implementation, see ANED (2012) Country Report on Accessibility.

10 See Press Release National Confederation of Disabled People 17-9-2014 <http://www.esamea.gr/pressoffice/press-releases/1109-ta-atoma-me-anapiria-den-tromokratoyntai-na-paroyn-thesi-edo-kai-tora-yp-ergasias-pronoia-ika>.

with regard both to their rights and to their ability to help one another in hard times.

Responses in the Field of Migration and Asylum

Due to its geographical position, Greece has faced extensive migration flows since the 1990s. Throughout the 1990s, Greek migration policy was exclusively concerned with controlling the entry of migrants. Consequently, the first legislative framework regulating the conditions for the entry and stay of "aliens" in Greece was adopted in 1991. Law 1975/1991 defined an "alien" as a person not in possession of Greek citizenship or having no citizenship. It was directed at preventing illegal entry and facilitating the deportation of undocumented entrants. The law instituted a series of new mechanisms of expulsion and deportation (Baldwin-Edwards and Fakiolas 1998) and made it extremely difficult – indeed close to impossible – for Third Country Nationals (TCNs) to secure a legal status upon arrival or after they had entered the country. As a result of non-functioning and poorly implemented legislation, migration continued apace. Confronted with incidences of smuggling (Antonopoulos and Winterdyk 2006) and the increasing presence of undocumented migrants, i.e. visa over-stayers and illegal entrants, the government adopted in 1997, the first mass regularisation programme.

In the years that followed, Greek migration policy and the management of migration flows has mainly relied on mass regularisation programmes, a practice that has been followed in other southern European countries, such as Spain and Italy. Crucially, as Baldwin-Edwards (2009, 42) rightly observes, "the regularisation was not the result of popular movement or of planned policy, but represented an emergency measure or admission of policy failure". Such regularisation programmes, four in total, provided opportunities for groups of undocumented migrants residing in the country to obtain residence permits.¹¹ Between 1996 and 2007, when the last regularisation programme took place, approximately 424,800 regularised their status (Baldwin-Edwards and Kraler 2009 as cited in Brick 2011, 4). The recurrence of these programmes was also aimed at extending legal status

11 Subsequent regularisation programmes took place in 2001, 2005 and 2007 in Greece on the basis of Laws 2910/2001 (2.5.2001), 3386/2005 (23.8.2005), and 3536/2007 (23.2.2007) respectively.

to TCNs who had lived in Greece for a number of years but who had not been able to legalise their status due to various reasons (Triantafyllidou 2009). Family members (spouses and unmarried children) of TCN permit holders who resided in the country were also eligible for a residence permits.¹² As noted by Baldwin-Edwards (2009), "Being principally driven by an instrumental view of migration, regularization programs were geared towards providing immigrants with a temporary legal status, renewable as long as the conditions for its granting continued to exist, thus eventually perpetuating residence insecurity" (as cited in Anagnostou 2016, 24). They established rigid requirements that had to be fulfilled in order to renew a temporary residence permit. Migrants wishing to acquire or renew their legal status needed, in most cases, to provide evidence of employment or certificates of payment of social security contributions, conditions that are often hard to meet, due in part to the largely informal and seasonal character of migrant employment in Greece.¹³ This is particularly the case with female migrant domestic workers whose work is mostly undeclared.

Although legislation has gradually granted more rights to legally residing TCNs, the lack of measures to prevent migrants from remaining or lapsing into illegality has been identified as one of the main obstacles to migrant integration in Greece (Triantafyllidou 2013, 3-4). The entire body of migration-related legislation adopted since the 1990s has recently been amended and codified in the "Migration and Social Integration Code" (hereinafter the Code). It came into force in March 2014 and now regulates the entry and stay of migrants (especially of TCNs). TCNs are defined as non-Greek citizens or citizens of any other EU Member State (within the meaning of Article 17(1) of the Treaty on the European Union).¹⁴ The Code brings together and replaces existing legislative provisions defining the categories of residence permits for TCNs, the conditions for their issuance and renewal, as well as the rights and obligations of

12 The right to family reunification was introduced by means of Law 1975/1991 (4.12.1991).

13 In an attempt to address part of this problem, Art. 76 of Law 3996/2011 (5.8.2011) established an alternative and flexible type of social insurance for occasional employees and seasonal workers (with a labour ticket, *ergosimo*), among whom high levels of atypical and undeclared employment are common. Yet, only residence permit holders are eligible to apply for this social insurance scheme.

14 Art. 1(b) of Law 4251/2014 (1.4.2014).

legally residing TCNs. The Code provides for the following types of residence permits depending on the status: a) for employment/professional purposes;¹⁵ b) temporary residence permits for seasonal and short-term professional activity; c) for exceptional reasons; d) for studying purposes, volunteer work, research and training; e) short-term residence permits for victims of human trafficking and alien smuggling; f) for reasons of family reunification and; g) long-term residence permits.

Earlier legislation, Law 3838/2010, as Anagnostou (2011, 22) stresses "marked a clear break from pre-existing provisions" by facilitating the naturalisation of first generation migrants, and providing for citizenship acquisition to second generation migrants.

As described by Anagnostou (*ibid*):

Law 3838/2010 makes it possible for children who are born in Greece and who have at least one non-Greek parent residing legally in the country for five consecutive years, to acquire citizenship at birth (Art. 1). Children of immigrants, who have attended at least six grades of Greek school, can also acquire citizenship through a simple declaration of their parents within three years following the completion of the required six year schooling period (Art. 1A, parag. 2). In addition, immigrants who legally reside in Greece for at least seven consecutive years can apply for naturalisation (Article 5A, parag. 1d).... the new law also elaborated a variety of criteria considered important as proof for someone's willingness to become a Greek citizen. These comprise basic knowledge of Greek history and civilisation, including familiarity with the country's political institutions (which will be assessed by taking a test), participation in collective organisations and political formations with members who are Greeks, as well as involvement in economic activity, among others (Law 3838/2010, Art. 5A).

Besides facilitating nationality acquisition, Law 3838/2010 also extended to TCNs the right to vote and stand as candidates in local elections.

However, this major reform was subsequently suspended. In 2013, the Council of State (CoS), Greece's high court in administrative and civil law, declared the above two provisions facilitating nationality acquisition and extending political rights to TCNs unconstitutional (Decision 460/2013). It did so on the grounds that they undermined the national character of the state and diluted the composition of the legitimate elec-

15 This category also includes work permits for highly skilled TCNs, thereby incorporating Directive 2009/50/EC (25.5.2009) into the domestic legislation.

torate.¹⁶ The Court ruled that the formal criteria to qualify for Greek citizenship provided by Art. 1 of Law 3838/2010¹⁷ could not be taken as sufficient documentation that the applicant had a genuine bond with Greece (Anagnostou 2014). The final judgment of the CoS does not elaborate on legislation for naturalization, or the requirements for obtaining Greek citizenship. While the judgment is clearly in the direction of restricting eligibility criteria for nationality acquisition, it is not apparent whether this implies a return to the previous legal frame defined by the 2004 Greek Nationality Code (GNC), which was based on individualised and discretionary assessment of all naturalisation applications. Conversely, if policy remains within the legal frame of Law 3838/2010, but increases the required years of residence and adds more criteria to demonstrate a "substantive bond" with Greece, this would not necessarily be more restrictive from what the 2010 law had envisioned. At least one opinion, expressed by the Greek Ombudsman to the Ministry of Interior, is that CoS decision 460/2013 does not in principle exclude nationality acquisition on *jus soli* grounds.¹⁷

As for asylum seekers, pursuant to the adoption of Law 3907/2011, applications for international protection are submitted, registered and examined at first instance by the Asylum Service which is under the responsibility of the Ministry of Public Order and Citizen Protection (MPOCP).¹⁸ Applications lodged before the establishment of the new Asylum Service in July 2013 are received and examined firstly by the police authorities in line with the procedures of Presidential Decree 113/2013.¹⁹ Applicants have the right to appeal first instance decisions to the Appeals Board, which is also under the auspices of the MPOCP. Asylum applicants and members of their family who have registered with the Service receive an International Protection Applicant Card, valid for three months and renewable until the final decision on the asylum application has been issued.

16 See Greece / Council of State, Decision No. 460/2013. The decision confirmed the earlier decision of the 4th Chamber of the Council of State, Decision No. 350/2011.

17 See the letter of the Greek Ombudsman to the Ministry of Interior on the subject "Pending issues in nationality acquisition on the basis of Article 1A of the Greek Nationality Code". Greek Ombudsman (2013), document no. 162184/30261/2013, July 25, 2013.

18 The Asylum Service is composed of the Central Asylum Service, based in Athens, and the Asylum Service Regional Offices. See Law 3907/2011 (26.1.2011).

19 Greece/ Presidential Decree 113/2013 (14.6.2013).

This card entitles the holder to free healthcare access, employment, and access to free public education for school-age dependents.²⁰ Greek law provides for the granting of two types of status to people seeking international protection: refugee status and subsidiary protection, in line with the definitions provided by the relevant Council Directive.²¹ The recognition of refugee status provides permission to stay in the Greek territory, access to social services, such as education and healthcare, free movement within the country and access to the labour market.

Integration of newcomers, migrants and refugees, represents a significant challenge for the country, but also an opportunity. As emphasized by OECD (2016), "the quicker integration takes, the lower the risks that migrants, or their children, will become alienated from Greece's culture and values". The issue has triggered a number of new legislative measures with an initial emphasis on policing and subsequently on developing reception and integration systems. The introduction of the Dublin procedure (the Dublin II Regulation determines which state is responsible for considering an application for asylum or subsidiary protection on the basis of two criteria: the first Schengen country of entry and family reunification; as a result, a large share of the migratory pressure affects member states with external borders like Greece, Italy, Malta and Cyprus) has resulted in additional asylum applications to Greece, adding to migration pressure on its external borders. In February 2016, the European Commission on the basis of the Schengen Evaluation Report on Greece put forward several recommendations to address deficiencies in the asylum system with regard to the registration procedure, border-check procedures, human resources and training, surveillance of sea borders, and infrastructure and equipment.²² The UN Human Rights Council (UNHCR) described the situation for migrants and asylum seekers in Greece as a "humanitarian crisis" (see also EMN 2011).

20 Those who have applied for international protection before the enactment of the new law are required to hold 'the pink card' issued by the Greek Police.

21 Pursuant to the provisions of Presidential Decree 113/2013 (14.6.2013) read in conjunction with Art. 44 of Law 3386/2005 (23.8.2005) the leave to remain on humanitarian grounds is no longer part of the legal and administrative framework of international protection.

22 Press Release IP/16/211, European Commission, Commission Adopts Schengen Evaluation Report on Greece and Proposes Recommendations to Address Deficiencies in External Border Management (Feb. 16, 2016), http://europa.eu/rapid/press-release_IP-16-211_en.htm.

As noted by the US Department of State (2010):

The UNHCR reported that in October the government had a backlog of 5,929 unprocessed initial claims for asylum and approximately 46,500 appeals. In practice the government provided only limited protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Many NGOs and international organizations reported that authorities summarily deported illegal immigrants, including asylum seekers, across Greek-Turkish land and maritime borders.

The collapse of the Greek asylum system due to massive flows of refugees and migrants arriving by sea from Europe (219,000 in 2014 and 137,000 as of June 2015) and the consequences of this collapse are evident from the judgements of the European Court of Human Rights (ECHR) in *N.S.* and *M.S.S. v. Belgium and Greece* (the Court judged on 21 January 2011). The ruling of the ECHR states that both Greece and Belgium violated the European Convention when applying the Dublin Regulation, which is also indicative of the limits of the collective employment agreements (CEAS). In particular:

This case examined the compatibility of the Dublin II Regulation with the European Convention on Human Rights regarding transfers to Greece under the Dublin II Regulation. The Court found that there was a violation of Article 3 ECHR by the Greek Government because of the applicant's conditions of detention, violation of Article 3 ECHR by Greece concerning the applicant's living conditions in Greece, violation of Article 13 taken in conjunction with Article 3 ECHR against Greece because of the deficiencies in the asylum procedure followed in the applicant's case and the risk of his expulsion to Afghanistan without any serious examination of the merits of his asylum application and without any access to an effective remedy.

Further, "in relation to Belgium, the court found that there was a violation of Article 3 by sending the applicant back to Greece and exposing him to risks linked to the deficiencies in the asylum procedures in that State, and a violation of Article 3 for sending him to Greece and exposing him to detention and living conditions there that were in breach of that ECHR article. The Court also found a violation of article 13 ECHR taken in conjunction with Article 3 ECHR against Belgium".²³

23 This part draws on information available at the European Database of Asylum Law concerning *ECtHR – M.S.S. v Belgium and Greece [GC], Application No. 30696/09*. Refer to: <http://www.asylumlawdatabase.eu/en/content/ecthr-mss-v-belgium-and-greece-gc-application-no-3069609>.

While migration has acquired an important place in Greek society and economy, the integration measures that have been put forward are generally fragmented and ad hoc. Referring to the efficiency of the Greek state in setting forward a more sustainable response to the current refugee crisis, all the representatives of civil society organisations and groups who were interviewed in Greece agreed that its actions are not sufficient in number or scope, or efficient and adequate to cope well with the increasing demands. More broadly, the lack of a coherent approach to migrant integration quite naturally means that the integration of migrants is not monitored at the central and local levels. According to Karantinos (2016, 15), policy incoherence is partly "linked to the limited influence, or even absence, of a technocratic approach and culture in Greek public administration and among political parties and elites. It is also linked to an endemic and generalized lack of inter-ministerial coordination in sectors and issue areas where multiple institutional actors have to be involved, as required in the field of immigration and social integration. While vulnerable groups are usually referred to in integration policy documents, their integration experiences are not evaluated".

Moreover, Anastasopoulou and Iliadis (2015, 5) emphatically notes that: "Integration actions are not monitored at central level and integration experiences are not evaluated. No specific requirement or indicators for monitoring social integration have been developed nationally, while existing data is not formally used to measure and report on inclusion. To the extent that any monitoring takes place, it is project-based and implemented by independent entities, mostly with EU funding". What is striking is that policy and institutional incoherence has worked at the expense of social solidarity. When asked to evaluate the ways in which the policy-makers set policies, the interviewees criticised the way that policy-makers respond to the refugee crisis, pointing out that the policies created do not promote solidarity, but, on the contrary, burden it. Last but not least, Greece's failed integration policies – as stressed by the interviewees – have led to an increase in the popularity of extreme right-wing and fascist political parties, creating burdens on the notion of social solidarity and cohesion, while at the same time making the actions to protect democracy and human rights all the more essential.

Responses in the Field of Unemployment

From 2010 to 2011, as part of its first new loan agreement with the Troika (known as Memorandum 1), Greece instituted several sweeping reforms in the field of employment, promoting flexibilisation and deregulation of the labour market at the expense – as trade unions claim – of workers' rights and social protection. In particular, according to Karantinos (2013, 21):

Law 3863/2010 introduced several fundamental changes in labour relations, including: a/ the notice period for terminating white collar workers' open-ended employment agreements is significantly shortened. This amounts to an indirect reduction of white collar workers' severance pay by 50%, b/ the thresholds for collective dismissals are lowered considerably. Dismissals are now considered to be collective where more than six employees lose their jobs with companies which have between 20 and 150 employees, compared with the previous threshold of four employees for companies with 20–200 employees. The threshold is set at 5% of staff or more than 30 employees for companies with more than 150 employees, compared with the previous level of 2%–3% of staff and 30 employees for companies with more than 200 employees.

Changes also affected the way labour relations were structured. With Law 3863/2010, as Karantinos (*ibid*) observes, "the notice period for terminating white collar workers' open-ended employment agreements is significantly shortened. This amounts to an indirect reduction of white collar workers' severance pay by 50%".

In addition to this:

The thresholds for collective dismissals are lowered considerably. Dismissals are now considered to be collective where more than six employees lose their jobs with companies which have between 20 and 150 employees, compared with the previous threshold of four employees for companies with 20–200 employees. The threshold is set at 5% of staff or more than 30 employees for companies with more than 150 employees, compared with the previous level of 2%–3% of staff and 30 employees for companies with more than 200 employees.

Moreover, Law 3899/2010 significantly changed the collective labour law, by introducing the "special company-related CEA", which may provide for remuneration and other working terms on a less favourable basis than the remuneration and working terms stipulated by the respective sectoral CEA. In addition, new legislative changes (L. 3833/2010 and L. 3845/2010) introduced *inter alia* reductions in the salaries of all persons employed in the wider public sector, a 30 percent reduction in the maximum limit of overtime afternoon hours for employees and salaried persons

in the public sector, public entities and local authorities, and the introduction of a ratio of one hire to five departures for permanent employees and for those with indefinite-term private law employment contracts (ibid).

According to Matsaganis (2013, 20-21), concerning "contributory unemployment insurance (ordinary unemployment benefit), eligibility conditions were tightened up as a result of the ceiling, introduced in 2011, on the total number of days a worker can claim unemployment benefit over a period of four years: that number was set to be 450 days from 1 January 2013 and 400 days from 1 January 2014. Furthermore, as a result of sweeping changes concerning the minimum wage, the benefit level paid under unemployment insurance was cut in February 2012, from €454 to €360 per month." Concerning now "non-contributory unemployment assistance (long-term unemployment benefit), the benefit rate remained at 200 € per month (unchanged in nominal terms since 2003), while the maximum duration remained 12 months. On the other hand, eligibility conditions were extended. In January 2012 the annual income threshold below which the benefit may be granted was raised from 5,000 € to 12,000 €. " It should be mentioned that, apart from the long-term benefit mentioned above, no other type of income-based support for the long-term unemployed exists (with the exception of "ad hoc" financial assistance provided on a means tested basis at municipal level), while a general Guaranteed Minimum Income Scheme is still lacking. Concurrently, as Ziomas et al (2015, 9-10) stress, "the long-term unemployment benefit is not accompanied by the provision of any other support services, except counselling services for job-seeking... As for social services offered to the long-term unemployed, no such specific services exist – other than the provision of free access to the public health care system for the registered long-term unemployed who fulfil certain previous work record criteria. Free access for the long-term unemployed aged 29–55 lasts for only two years, while for those aged over 55 free access lasts until retirement age... In short, accompanying actions to facilitate access to social services for the long-term unemployed are not really available in Greece. In general, it is hard to find instances where the provision of financial benefits is combined with relevant enabling services; this is a long-standing weakness of the Greek social protection system."

On 14 February 2012 the Greek Government adopted the so-called Memorandum 2 (L. 4046/12), which involved a new loan agreement signed with the Troika. The new Memorandum 2 introduced a new set of

sweeping changes especially with regard to minimum wages. According to Karantinos (2013, 23-24):

With respect to minimum wages, a reduction in salary is now permitted for all employees receiving the minimum wages agreed in the National General Collective Agreement (EGSSE), signed by the social partners on 15 July 2010 and intended to be valid for three years. The salary cut for employees generally is 22 percent, 32 percent for those below the age of 25. This cut can be imposed by employers without employee consent. The base monthly salary agreed by the National General Collective Agreement for an employee who is single and has no children or work experience was 751.39 € (gross). Following the 22 percent cut, the new minimum monthly salary for this category of worker will be 586.08 €. After deduction of social insurance contributions and taxes, the net monthly salary will be 476.35 €, and for those under 25, 426.64 €." Further, on the basis of the new law, "the minimum wage may be increased only through the seniority allowance granted for every 3 years of work up to three 3-year periods (i.e. 9 years of previous experience in total).

Finally, based on a new law (L. 4093/12) passed in November 2012 the minimum wage will be fixed at legislative level by the government and it will not be set through collective bargaining between the national social partners. Kilpatrick and De Witte (2014, 21) write that:

These measures were aimed at aligning Greek minimum wage levels with its peers (Portugal, Central and South-East Europe). They were also expected to help address high youth unemployment, the employment of individuals on the margins of the labour market and to encourage a shift from the informal to the formal labour sector. These provisions were of immediate effect and abolished wage provisions of the National General Collective Agreement in force since 15 July 2011, in the name of public interest and state of emergency. In addition, Law 4093/2012 permanently substituted statutory law for collective bargaining in minimum-wage setting.

In July 2015, the Greek government signed Memorandum 3 with its international and European creditors. The third Memorandum became national law through Law 4336/2015 ("Ratification of the Financial Assistance Draft Contract by the ESM and provisions for the implementation of the Financing Agreement"), which outlines certain obligations on the part of Greece in order to achieve fiscal discipline. As part of these obligations the minimum state pension was reduced from 486 € to 392.7 € per month (Law 4334/2015) and the social protection system was re-organised so as to ensure annual savings of 0.5 percent of GDP.

During the crisis years, the policy changes implemented included many inefficiencies. The inadequacy of unemployment protection in Greece is indicative of the fact that more than the welfare state or the civil society,

the family still remains the prime provider of social support and inclusion in Greece – a characteristic which is typical of a "familistic" welfare regime (González 2002; Flaquer 2001). As Pichler and Wallace contend, family help can be a compensation for the absence of welfare provisions, as is the case in some parts of Southern and Eastern Europe (Pichler and Wallace 2007).

Crucially, the sweeping changes in the labour market have had a tremendous effect on strengthening solidarity among the affected groups. As stressed in the interviews conducted with representatives of civil society groups and organisations working with unemployed and/or supporting unemployed beneficiaries, the crisis has had a positive effect on workers' attitudes towards self-organising. The severity of the crisis and the hostility of the state has made the workers and the unemployed realise that they should self-organise in order to achieve better labour and living conditions. As one interviewee aptly stated: *"With the crisis it becomes clearer to the people that only through their self-organisation can they achieve things since legislation has become all the more flexible and against workers"* (Interview, September 2016). Almost all of the interviewees stressed the effect the crisis has had on raising workers' awareness and consciousness. Even among the trade unions that lost members, this cognitive effect has contributed to enhancing solidarity among the employed and unemployed since the economic strain, as worsening working and living conditions are common to both groups. And it has also led to the expression of their discontent and anger against the ruling elites (Greek and EU) through demonstrative and confrontational actions such as strikes, occupations of public buildings and squares (e.g. the Greek Indignados Movement), public protests and rallies. As recent evidence suggests, such collective action events show higher frequencies in Greece and in the two other crisis-hit countries of the South (Italy and Spain) when compared to countries of the European North (LIVEWHAT Integrated Report 2016, 78-80).

Conclusion

Greece's multiple crises and the extent to which the principle of solidarity has been taken into consideration in policy-making when addressing the needs of vulnerable groups has received little systematic attention in recent years. After seven years of recession, Greece has adopted painful policy choices with regards to wage and pension cuts, labour relations, and

social policies. Failure to protect the weaker, vulnerable population groups most severely hit by the country's multiple crises suggests that Greek political elites and policy-makers have exhibited neither solidarity nor effectiveness in crucial crisis management issues. At the same time, the weakening of solidarity policies for the social protection of people with disabilities, the unemployed, the migrants, the newly arrived refugees and asylum seekers has contributed to the emergence of new divides (extreme right-wing attitudes and politics) and the deepening of adverse social situations (poverty risks and social exclusion). The situation has been aggravated by weak welfare protection and inadequate social safety nets for low-income citizens and vulnerable social groups pre-existing the crisis. The weakening of institutional solidarity has gone hand in hand with increased retrenchment, severity of sanctions and welfare conditionality.

The question of whether solidarity has remained a guiding feature of decision-making among the Greek political elites has arisen many times in public discourse (as very often clientelism and patronage have mediated the allocation of resources and subsidies). Although solidarity and the social welfare state are clearly defined in the Constitution as a duty of the Greek state towards its citizens, there is mounting evidence that the recent policy options are progressively eroding their normative foundation and practical exercise. The austerity measures introduced as part of the state's fiscal adjustment effort have triggered heated debate in European and international organisations. Domestic human rights bodies and organisations have similarly expressed strong criticism of the austerity policies conducted. The Greek National Commission for Human Rights (NCHR), an advisory body to the government in matters of human rights protection, has persistently sought to place fundamental rights, including social and welfare rights, at the centre of the state's adjustment policies, pointing to the state's obligations in this regard, deriving from the Constitution and various international and European sources of fundamental rights protection.²⁴ In a recommendation issued on 8 December 2011, entitled "The imperative need to reverse the sharp decline in civil liberties and social rights", the NCHR condemned "ongoing drastic reductions in even the lower salaries and pensions" and the "drastic reduction or withdrawal of vital social benefits", stating that "the rapid deterioration of living standards, the

24 On this, see National Commission for Human Rights Decision on the need for continuous respect for fundamental rights in the implementation of the strategy for the exit of the economy and society from the crisis of external debt, 10 June 2010.

concurrent deconstruction of the welfare state and the adoption of measures that do not conform to social justice undermine social cohesion and democracy" in the country" (National Commission for Human Rights 2011).

Substantive pressure to adopt a human rights-based approach for the design and implementation of the fiscal consolidation and reform policies in Greece also came from the UN independent expert on foreign debt and human rights. In a statement following his fact-finding visit in Greece from 22 to 26 April 2013, the independent expert deplored the massive cuts of pensions and other welfare benefits, alongside significant wage cuts, the absence of comprehensive social assistance and housing schemes, the limited funding devoted to extending unemployment benefits and the increasing inaccessibility of the public health care system on account of increased fees and co-payments, the closure of hospitals and health centres and the loss of public health insurance due to prolonged unemployment. He advised on reducing unemployment, alleviating poverty and closing the gaps in the welfare system's safety net to be henceforth included as measurable targets in the Greek adjustment programme, and to be closely monitored.

It should be noted that, as Psychogiopoulou (2014, 17) writes:

Increasing pressure from domestic fundamental rights bodies and international organisations for a review of the state's austerity policies has not yet translated in policy change. So far there have been no comprehensive attempts to assess the effects of the measures adopted on social welfare and take remedial action with a view to restoring the enjoyment of welfare rights. However, what the various challenges – both successful and unsuccessful – have done is to raise awareness about the fact that the state's formulation and implementation of social policies is subject to scrutiny and that there are limits to the state's wide margin of appreciation in this regard.

Hence, in times of crises, the issue of solidarity from a public policy perspective raises many policy questions, such as, which specific considerations and interventions could and should ensure that the various socially painful measures entail forms of protection for the more vulnerable and weaker social groups. Also, a central question pertaining to Greece's fragile situation is whether weak solidarity measures in a context of austerity have actually facilitated growth, the latter being the primary object of the bailout agreements signed between Greece and its international lenders. Apparently, these questions are hard to answer because they are linked to a wide variety of social, economic and political factors, but also to ideo-

logical viewpoints and political rhetoric. Moreover, there is the complicated matter of which new equilibrium would express solidarity in a society where employment and social conditions continuously collapse.

In principle, solidarity from a public policy perspective in contexts driven by crises is associated with disproportional rather than proportional interventions in the sense that not all social groups affected by crises should be of high concern for policy-making but foremost, vulnerable groups, who are in a worse position than before relative to other groups. This may also imply a heavy burden on other weak groups that must bear a disproportionate cost (Hegtvædt 1992). Hence, at all times, the critical issues are about form and intensity -- about 'how much' (what type of considerations of a fair burden-sharing are in place) and 'how' (what kind of assistance and support should be provided) real solidarity could be achieved (Matsaganis 2014). Crucially, an understanding of solidarity in times of crisis cannot ignore what preceded it. It should take into account a time dimension and an acknowledgement of the pathologies and policy legacies of the past. If solidarity before the crisis was deformed due to clientelism and strong patronage arrangements between political parties and organised interests of social welfare recipients causing severe social or economic imbalances at the expense of the weaker groups of the population – as in the Greek case – the predicament of solidarity cannot be easily reversed.

As discussed in Part I, while solidarity as an issue of Greek policy-making, with many parameters and complex aspects that increasingly put its feasibility to the test, a solidarity of citizens associated with organisations and informal groups conscious of the need to protect human rights and social assistance has taken shape. While social solidarity groups cannot and should not replace the more institutionalised forms of social protection, the fact that vulnerable groups can resort to such civil society initiatives while the government curtails the welfare state, shows that solidarity in Greece is an untapped potential for further future development.

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