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Gender equality and social rights: essential conditions for democracy

Sophia Koukoulis-Spiliotopoulos¹

Preliminary remarks

1. The equal and substantive participation of women in all areas and at all levels of social, economic, cultural and political life is an essential condition for democracy. It is imposed by treaties of global scope as a fundamental right of every woman, but has been achieved in few countries – and not in all European and international organisations. Thus, as our moderator, Ms Karin Nordmeyer, pointed out, in this Forum women’s participation will be very low.
2. Tomorrow, at the plenary session, there will be only one woman among the seventeen speakers; a woman of great value: Ms Tawakkol Karman, Nobel peace prize winner 2011. A staunch defender, in perilous conditions, of human rights, including women’s rights, who will highly honour the Forum – nevertheless, a single woman. Also, in the subsequent sessions, women speakers will be a very weak minority. Moreover, neither the conclusions of our debates, nor those of last week’s Youth Assembly will be heard in this Forum for Democracy.
3. Gender equality is a universal fundamental right and proactive principle; its implementation requires adequate positive measures. Positive measures do not constitute discrimination, but a means to accelerate substantive gender equality, as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) stipulates (Article 4(1)).² Thus, the term “positive discrimination” sometimes used is inexact and misleading.
4. There is a dialectic relationship between gender equality and democracy: while there is no democracy without gender equality, it is only in a democratic framework that this equality can be substantive, not merely formal, as Professor Larbi Chouikha said. Moreover, while the equal and substantive participation of women is our firm pursuit, it is also a means, as our President, Mr. Jean-Marie Heidt recalled – a means to promote universal values and principles; indeed the fundamental rights of every human being, including social rights, without any distinction.
5. It is in this spirit that the Conference of the (400) INGOs of the Council of Europe (CoE) adopted a Recommendation recalling the nature of gender equality and condemning cultural relativism. It is in that same vein that the Marangopoulos Foundation for Human Rights (MFHR) and the Association of Women of Southern Europe (AFEM) launched a Declaration calling for the reinforcement of social rights in order to exit the economic crisis and consolidate democratic structures, which was supported by the Conference of INGOs of the CoE. The CoE Parliamentary Assembly confirmed and shared the concerns expressed in this Declaration by a recent Resolution, while similar concerns are constantly voiced by other European and international bodies and institutions, including the CoE Committee of Ministers and the ILO Committee of Experts on the Application of Conventions and Recommendations.
6. Women are the main victims of inhuman or degrading practices which are justified by cultural relativism; they are also heavily affected by the economic crisis and the austerity measures which ignore fundamental rights, particularly social rights, and threaten democracy.
7. Therefore, we still have a long way to go, on a road fraught with pitfalls, constantly keeping on the lookout for risks of regression; and we must constantly recall that European and international rules do not merely prohibit gender discrimination. They impose the promotion of

¹ Attorney and counsellor at law, member of the Board of AFEM (Association of Women of Southern Europe).

² On the nature and effects of gender equality see *A. Yotopoulos-Marangopoulos*, Affirmative Action, Sakkoulas/Bruylant, 1998; *H. Masse-Dessen*, “The place of gender equality in European equality law”, *European Gender Equality Law Review (EGELR)*, 1/2011, p. 6-12; *S. Prechal*, “EU gender equality law: a source of inspiration for other EU law areas?”, *EGELR*, 1/2008, p. 8-14; *S. Prechal/S. Burri*, EU Gender Equality Law. Update 2010; *S. Koukoulis-Spiliotopoulos*, “The Lisbon Treaty and the Charter of fundamental rights: maintaining and developing the *acquis* in gender equality”, *EGELR* 1/2008, p. 15-24: <http://ec.europa.eu/justice/gender-equality/document>

substantive gender equality in all areas. This is because women are neither a group nor a minority, but one of the two forms of the human being and more than half of mankind.

I. The INGOs recall the universality of gender equality and condemn cultural relativism

8. The Recommendation of our INGO Conference, of June 2012, «*Gender equality: a universal value, principle and human right to be respected and promoted in all fields*»³ recalls that substantive gender equality is a universal fundamental value, principle and right imposed in all areas by binding European⁴ and international⁵ instruments – a proactive principle whose implementation requires adequate positive measures, as aforementioned. It, moreover, stresses the essential role and work of the CoE in promoting the development of gender equality.

9. The Recommendation recalls that the above instruments, which are based on the equal dignity of all human beings proclaimed by the Universal Declaration of Human Rights, proclaim the universal and non negotiable character of human rights, including gender equality. These instruments call for the respect of all cultures, but *exclude absolutely*:

- that ethnic, cultural, religious or linguistic traditions or customs may be invoked in order to prevent the exercise of human rights, including gender equality;
- that violations of human rights, including discrimination and violence of any form on grounds of gender, such as early and forced marriages, “honour crimes”, female genital mutilation or violation of sexual and reproductive rights, be justified by social, cultural, religious or other traditions and customs.

10. “These instruments, which are invoked by peoples and individuals of all cultures, require that the States take all appropriate measures in order to eliminate prejudice and customary and other practices based on the idea of the inferiority or superiority of either sex or stereotypical roles of men and women leading to violations of human rights, in particular women’s rights”. These practices are imported in Europe where they are targeted on migrant women and girls.

11. The Recommendation expresses the INGOs’ deep concern at the growing tendencies of *cultural relativism* and the often violent attempts to destruct the democratic principles and the rule of law, which threaten the equal enjoyment of human rights by women and men, girls and boys. It urgently requests that the CoE and Member States strongly oppose these tendencies; that they support the incorporation of gender equality in all national Constitutions and legislation, the withdrawal of reservations to women’s rights treaties, in particular the CEDAW, and the ratification of its additional Protocol by all states. It invites the INGOs to strive for these causes.

12. This is a vigorous reaction against *cultural relativism*. Indeed, the relativists deny persons of certain countries or communities the rights that they enjoy themselves. Yet, these persons are fighting, they are thrown in prison, tortured, executed for these rights all over the world; the relativists ignore and despise them. For the relativists, these persons are subhuman. Relativism is racism – a bomb in the foundations of democracy. Its main victims are women and girls; it is mainly they who suffer inhuman treatments that relativists consider justified and thus approve.

13. The Recommendation deeply deplores the failure of the 56th Session of the UN Commission on the Status of Women (CSW, 27/02-15/03/2012) to reach “*agreed conclusions*”, due to some governments opposing previously agreed women’s rights on the

³ CONF/PLE(2012)REC5: http://www.coe.int/t/ngo/Articles/CONF_PLE_2012_REC5_equality_en.asp.

⁴ In particular, the European Convention on Human Rights and Fundamental Freedoms, as interpreted by the European Court for Human Rights, the European Social Charter, as interpreted by the Committee of Social Rights, and the Convention on Preventing and Combating Violence against Women and Domestic Violence; the EU Treaties and the EU Charter of Fundamental Rights, as interpreted by the EU Court of Justice.

⁵ In particular, the CEDAW and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression. The Declaration and Plan of Action of the World Conference on Human Rights (Vienna 1993), the Declaration and the Platform for Action of the Fourth World Conference on Women (Beijing 1995) and the CoE White Paper on Intercultural Dialogue, which recall relevant international rules, are also referred to.

basis of religious, cultural or traditional arguments. This failure is a sign of cultural relativism. It leads to the perpetuation of the subordinate position of many women around the world

14. The CSW failure is strongly deplored in the MFHR Declaration “*Human Rights, and particularly women’s rights, are at serious risk in the UN*”.⁶ The Declaration stresses that this failure is due to the practice of decision-making by “consensus” recently applied in several UN bodies, which allows that some states block or water-down important decisions; it thus undermines the democratic principle, as it leads to the prevalence of the views of a minority. Following the CSW failure, a “UN 5th World Conference on Women” or “Beijing+20” is being planned. The Declaration recalls that there are sufficient international law rules on substantive gender equality, but what is still lacking is their implementation, and it deplores the tendency to abolish the fundamental principle of the primacy of human rights rules over conflicting customs. Consequently, instead of organizing costly world conferences, which will either have no results or will encourage regression, the UN should strengthen the CSW and UN Women, the mission of which is to promote the implementation of gender equality rules in practice.

II. The INGOs sound the alarm: we must reinforce social rights in order to exit the crisis

15. The strengthening, at European and national level, of monetarist policies which ignore fundamental rights, in particular social rights, and instead of combating the crisis, aggravate it, led to the launching by the MFHR and AFEM of the Declaration “*Reinforcing social rights in order to exit the economic crisis*”⁷ and to its support by our INGO Conference.

16. The Declaration recalls that fundamental rights, including gender equality, are the cornerstone of the EU, according to the its Treaties, and that their effective guarantee is an obligation of both the EU and its Member States. It underlines that social rights are fundamental rights all over Europe, by virtue of the EU Treaties and Fundamental Rights Charter, the European Social Charter, the case law of both European Courts and the European Committee of Social Rights. Yet, “the real situation all over Europe is flagrantly diverging from these fundamental norms. The social protection structures are disintegrating and the gap between the economically weak and the powerful is dangerously widening and deepening”.

17. The Declaration underlines that “*any policy aimed at achieving the exit from the crisis must be designed and implemented in light of the EU fundamental values, rights and objectives explicitly proclaimed in EU fundamental texts. Otherwise, the substantial decrease of salaries and pensions, unemployment, the intensification of poverty and social exclusion, and the ensuing social tensions will further hamper economic growth and accelerate recession and misery, thus reinforcing the current crisis and putting at risk democratic structures*”.

18. The Declaration recalls that “all EU policies are about human beings and that the EU proclaims that ‘*it places the individual at the heart of its activities*’ (Fundamental Rights Charter, Preamble). The protection of the weak must be the Union’s first task, in particular at times of economic crisis”. “*Otherwise, it will betray the fundamental values and principles proclaimed in its fundamental texts and will deprive our youth of its future*”.

19. Subsequent developments confirm the above concerns. Consequently, in an update of June 2012, it is underlined that “the tendency to adopt measures of ‘*economic governance*’ of purely monetarist character and to ignore the social dimension of the EU is increasing to the detriment of social cohesion and growth”.

20. Particular mention is made to the “*Treaty on Stability, Co-ordination and Governance in the Economic and Monetary Union*”, signed by 25 Member States on 2 March 2012, and the “*Treaty establishing the European Stability Mechanism*”, signed by the Euro Area Member States on 2 February 2012, and in the course of being ratified. These Treaties “impose a strict budgetary discipline, ignoring Social Europe”. None refers to EU fundamental values and

⁶ Declaration of 28 May 2012. See its text in Greek and English, on www.mfhr.gr and www.afem-europa.org.

⁷ Declaration of 17 May 2011, updated on 13 June 2012: www.afem-europa.org and www.mfhr.gr.

objectives or to the Fundamental Rights Charter, which are nonetheless binding on all Union institutions and Member States and express universal fundamental values and rights.

21. It is also underlined that the demands for a socially fair anti-crisis agenda are growing in the EU and are increasingly voiced by the European Parliament. Consequently, the alarm is sounded and the urgent requests formulated in the Declaration are repeated:

- that all measures of economic governance, including the planned modifications of the EU Treaty, be accompanied by binding social clauses based on the fundamental rights guaranteed by the EU Treaties and the Charter;
- that the European Parliament avail itself of its powers as reinforced by the Lisbon Treaty in order to demand such clauses;
- that the European Parliament and the Commission members dealing with social affairs and human rights be actively involved in the elaboration and implementation of the economic governance measures.

“Otherwise, all economic governance measures are doomed to failure. They will only lead to misery and will shake the democratic institutions”.

III. CoE Parliamentary Assembly: “Austerity measures - a danger for democracy and social rights”

22. A recent Resolution of the CoE Parliamentary Assembly (PACE) *“Austerity measures – a danger for democracy and social rights”*,⁸ confirms the above concerns: “both the economic effectiveness of austerity measures and the root causes of the crisis are increasingly questioned by international experts and organisations. *The short- and long-term negative effects of the measures on democratic processes and social rights standards*” have also been criticised.

23. “The restrictive approaches currently pursued, predominantly based on budgetary cuts in social expenditure, may not reach their objective of consolidating public budgets, but risk further deepening the crisis and undermining social rights as they mainly affect lower income classes and the most vulnerable categories of the population”. The PACE “calls for *a new evaluation* of the current crisis, which recognises the role of the large rescue packages provided to European banks amongst its root causes”. It, moreover, deplores the fact that “the implementation of austerity measures is often linked to bodies whose character raises questions of democratic control and legitimisation, such as the *“troika”* [International Monetary Fund, European Commission, European Central Bank]” (see below No. 34). The PACE also expects adverse effects of the fiscal treaties mentioned in the INGO Declaration (above No. 20).

24. “A *profound re-orientation of austerity programmes*, ending their quasi-exclusive focus on expenditure cuts in social areas such as pensions, health services or family benefits” is necessary. Instead of austerity measures, “measures aimed at increasing public revenues by taxing higher income categories and property wealth more strongly, by shoring up the tax base and by enhancing tax collection, the efficiency of the tax administration and the fight against tax fraud and evasion” and “energetic measures in favour of economic recovery should be taken, based on the creation of new quality employment opportunities, equal access to employment and support to young people in transition from education to professional careers”.

25. “Although many of the decisions related to the so-called ‘sovereign debt crisis’ are taken in the realm of [EU] institutions and the Eurozone, many countries of Greater Europe feel the need to further consolidate public budgets”, as well as “the impact of the persisting economic crisis.” This obviously also applies beyond the CoE realm.

26. The Explanatory Memorandum to the Resolution notes that very often “decisions are taken on the basis of very short-term considerations, alleged urgent necessities and by following urgent procedures, whilst the aspects of transparency and democratic processes are

⁸ Resolution 1884 (2012) adopted on 26 June 2012 (22nd Sitting):

<http://www.assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=18916&Language=EN>

neglected. In some cases, austerity programmes are imposed by international creditors [...] as a pre-condition for granting further loans. This has been the case in a dramatic manner in Greece, where the so-called ‘*troika*’ [above No. 23] imposed drastic austerity measures”.

27. Referring particularly to Greece, the Explanatory Memorandum notes that “it has become evident that the measures will not live up to the original expectations and that *more positive approaches* to economic recovery will be needed instead”. It invokes international economic bodies, such as the UN Conference on Trade and Development (UNCTAD), which stated in its 2011 Trade and Development Report that the austerity measures imposed on certain countries by the IMF “have in many cases had a negative impact on GDP growth and fiscal balances by deeply altering public revenue schemes, thus cancelling any intended positive effects”.

28. The Friedrich-Ebert Foundation found that many current austerity programmes “focused too strongly on expenditure cuts and had negative redistributive effects. They therefore catalysed the crisis and failed to provide long-term solutions to the most pressing European problems such as unemployment, poverty, regional imbalances or public infrastructure”.

29. The Explanatory Memorandum also invokes the OECD (a 2011 study), the UN independent expert on foreign debt and human rights and NGOs, who deplore the detrimental effects of austerity measures, especially on vulnerable groups, such as the poor, the elderly, the unemployed and the disabled, with particular reference to Greece.⁹

IV. Women and families are heavily affected by the crisis and the austerity measures

30. The above PACE Explanatory Memorandum notes: “Recent research has shown that *women are disproportionately affected by the financial and economic crisis*.¹⁰ First, they are not included in decision-making processes on an equal basis and can therefore not assert themselves to put forward their own political priorities. Second, when it comes to tax and benefit reforms, women are often more affected than men [...]. In particular single women lose more as a percentage of their income than single men, largely because more than 90% of lone parents are women and because lone parents are a group that loses a particularly large amount from tax and benefit changes. Finally, women also suffer from other types of cuts in social services, such as those concerning child benefits and childcare centres, which disproportionately affect single mothers and women on low incomes.”

31. Indeed, women and families are strongly affected by the crisis and the austerity measures, in particular by unemployment; labour market deregulation; modifications in wage setting and social security systems; reductions in wages and pensions; cuts in social spending (above Nos. 23-24); rise in direct and indirect taxes further reducing incomes and increasing the cost of life.

32. The already weak position of women in the labour market, which also reflects on their social security, is constantly deteriorating. It is hard for them to have access to employment and to obtain and retain a job in decent and stable conditions. Their work is devalued, while their already weak negotiating power diminishes. They are forced into flexible forms of employment and obliged to make humiliating compromises in order to ensure their survival and the survival of their family. Their situation is aggravated as the crisis is perpetuating gender stereotypes.

V. Greece: a typical example of the adverse effects of the crisis and austerity measures

33. The above situation obtains especially in Greece.¹¹ Since May 2010, due to a deep financial crisis, this country has been under an EU/International Monetary Fund (IMF) assistance programme, which includes pooled bilateral loans by the Euro area Member States

⁹ Emphasis added in paragraphs 23, 24 and 27.

¹⁰ Emphasis added.

¹¹ See more in particular *S. Koukoulis-Spiliotopoulos*, “Greece”, *European Gender Equality Law Review* No. 2/2012 (forthcoming): <http://ec.europa.eu/justice/gender-equality/document>.

in conjunction with IMF funding. The disbursements were made dependent on compliance with austerity measures required by two consecutive Memoranda of Understanding signed by the European Commission, acting on behalf of the Euro area Member States, and the Hellenic Republic. Among the austerity measures were sweeping employment and social security law reforms, coupled with drastic social spending cuts and tax increases. Several clauses of the second Memorandum (of February 2012) are of immediate and direct effect.

34. Compliance with the Memoranda is controlled by the “*troika*”. Besides the PACE (above Nos. 23, 26), other European and international institutions and bodies have negatively assessed the austerity measures; yet, they mostly dealt with those taken before 2012. More recently, the situation deteriorated even more; harder measures were taken, such as further drastic cuts in wages and pensions and interventions in collective bargaining and agreements, including a decisive blow: the replacement of minimum wage rates set by national general collective agreements (NGCAs) with statutory minimum rates (see below, Addendum) – all this in parallel with rises in taxes and the introduction of new taxes.

a) The incompatibility of austerity measures with ILO Conventions

35. Responding to communications by the Greek General Confederation of Labour (GSEE), the ILO Committee of Experts on the Application of Conventions and Recommendations assessed the conformity of austerity measures with ILO Conventions¹² It also relied on findings of an ILO High Level Mission (HLM), which visited Greece in September 2011 in order to investigate GSEE allegations.

36. The Committee deplors the dismantling of the collective bargaining system and the growing flexibilisation of the labour market, without adequate guarantees for workers’ living standards; in particular the abolition of the essential principle of “*favourability*” (primacy of provisions more favourable to workers); the reversal of the hierarchy of collective agreements, especially by the downgrading of sectoral agreements (covering a specific sector) in favour of firm-level agreements, to be concluded by “associations of persons” not enjoying the guarantees of independence applying to trade unions; the reduction of recruitments; the facilitation of dismissals; the drastic cuts in minimum wages set by NGCAs.

37. The Committee is “*deeply concerned*” at the “significant – and potentially devastating – impact on the industrial relations system in the country” of these reforms. It “*deeply regrets*” that “*such far-reaching changes were made without full and thorough discussions with social partners*”. It trusts that “*the social partners will be fully involved in the determination of any future alterations within the framework of the agreements with the [troika] that touch upon such subjects which go to the heart of labour relations, social dialogue and social peace*”¹³

38. The Committee deplors the “*disproportionate impact on women*” of the crisis and the austerity measures (cf. above No. 30). Women, especially those pregnant and mothers, were mainly affected by the exponential growth of part-time and rotation work imposed by the employer, while unfair dismissals due to pregnancy or maternity leave and sexual harassment also increased. In view of the inadequacy of childcare and family care services, the Committee recalls the importance of measures which facilitate the reconciliation of work and family obligations by both parents and allow them to remain in the labour market, including such (adequate and accessible) services, while also promoting effective gender equality. It also stresses “the importance of addressing gender stereotypes, so that mothers are not automatically considered for part-time and rotation work”.

39. The Committee also notes that measures aimed at reducing employment in the public sector would greatly affect women who are the vast majority in this sector. Moreover, “small

¹² Observations on the application of ILO conventions 98, 100, 102, 111 and 156 by Greece. Report to the 101st Session of the International Labour Conference 2012: <http://www.ilo.org/dyn/normlex/en/f?p=1000:11003:0::NO>.

¹³ Emphasis in the Committee’s text in all cases.

and medium sized enterprises (SMEs), which constituted an important source of female and youth employment, have been closing down on a massive scale”.

40. Furthermore, the Committee deplores the successive drastic pension cuts. The HLM (above No. 35) found that such reductions “undermine the people’s trust in the social security system and raise concerns for social justice in handling the crisis”. “In the event that unemployment increased to 1 million people from the current 800.000 (2011 figure), social security funds would be losing EUR 5 billion annually and the sustainability of the benefits provided by them would be called into question”.

41. Less than year later (August 2012) the registered unemployed totalled 1.267.595 (in a total population of 9.903.268 (2011 census)) and registered unemployment rate was 25.4 %. The female rate was 29 %, the male rate 22.7 %, the youth rate (below 25-years-old) 58 % and the rate of the 25-34-years old 32.9%.¹⁴ By GSEE estimates (May 2012), the real general rate was at least 29 %.¹⁵ In the first trimester of 2012, about 60 % of unemployment was long-term (at least twelve months), the highest in the EU; the female long-term unemployment rate was 15.9 % and the male rate 10.4 %.¹⁶ According to GSEE, in the second trimester of 2012, long term unemployment was 71%.¹⁷ The ILO Committee noted that “a large part of women had joined the ranks of the ‘discouraged’ workers who are not accounted for in the statistics”.

42. It should be noted that unemployment benefits are 57 % of the NGCA minimum wage and are paid for a maximum of twelve months. They thus do not cover the long-term unemployed and, due to strict conditions, only about 160.000 persons receive them (May 2012 GSEE estimates).¹⁸ Thus, unemployed women are more likely to miss out on this support.

43. *“Taking into account the gravity of the situation, the [ILO] Committee calls on the ILO to continue to provide comprehensive technical assistance to Greece in reforming its social security system, and to draw the attention of all the parties implementing the support mechanism for Greece to the need, in order to prevent the drastic impoverishment of the population and mounting social unrest, to maintain social security benefits at least at the minimum levels prescribed by Convention 102, as well as to establish the statistical monitoring system of the spread of poverty among different categories of the population and use its indicators to closely coordinate social security, tax and employment policies”.*¹⁹

b) The incompatibility of austerity measures with the European Code of Social Security

44. The CoE Committee of Ministers (CM), assessing the application by Greece of the European Code of Social Security,²⁰ concurs with the ILO Committee and HLM. It stresses that “the principles of social solidarity and justice, on which the Code is based”, require that the cuts in benefits, like their costs, shall be borne collectively, shared equitably among the members of society so as to avoid hardship to persons of small means (Article 70.1 of the Code); the cuts in benefits shall not result from the unilateral withdrawal of the State or of employers from the financing of benefits (Article 70.2); the cuts in benefits and related austerity measures shall be decided and managed through tripartite social dialogue (among representatives of those protected, employers and public authorities) (Article 71.2)).

¹⁴ Hellenic Statistical Authority (ELSTAT) *Labour Force Survey August 2012*: <http://www.statistics.gr>.

¹⁵ INE (Labour Institute of GSEE/ADEDY), *Greek Economy and Employment. Annual Report 2012*, p. 334: <http://www.inegsee.gr/kalwshlthate.html>.

¹⁶ ELSTAT *Living Conditions in Greece 2012*, p. 27: <http://www.statistics.gr>.

¹⁷ INE/GSEE monthly bulletin “Enimerossi”, No. 198, October 2012, p. 12: <http://www.inegsee.gr>.

¹⁸ GSEE/ADEDY/INE *Greek Economy and Employment, op. cit.* p. 334: <http://www.inegsee.gr>; see also European Commission *Employment and Social Situation Quarterly Review* March 2012, p. 83: <http://ec.europa.eu/social>

¹⁹ Emphasis in the ILO Committee’s text.

²⁰ *Resolution CM/ResCSS(2012)8 on the application of the European Code of Social Security and its Protocol by Greece*, 12 September 2012 (Period from 1 July 2010 to 30 June 2011): <https://wcd.coe.int/ViewDoc.jsp?id=1970639&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

45. It agrees with the ILO Committee (2008) that “*social security and the overall economy are inseparable, particularly in periods of crisis, and need to be governed and managed together, at both national and global levels*”; “*bringing the economy out of the crisis requires enhanced measures of social protection, indeed, making social security part of the solution*”.

46. The CM “*draws the attention of all the parties implementing the support mechanism for Greece to the need to maintain social security benefits at the minimum levels prescribed by the Code, prevent the impoverishment of the population and preserve social peace.*”

47. In concluding, the CM “*finds that the social austerity measures taken in law and practice culminating from the adverse fiscal and economic situation of Greece are affecting the sustainability of the national social security system, while the reduction of many social security benefits risks to undermine the application of all accepted parts of the Code*”.²¹

c) The European Commission confirms the gravity of the situation and the bleak outlook

48. According to the European Commission, Greece is the lowest ranking EU country as regards the “social climate” (people’s perceptions of the economic situation of households, the country and the welfare state); 68 % of the population is living below the “at risk of poverty” rate. “The continuing austerity and the limited prospects for economic recovery” are “likely to make homelessness a salient social problem of the coming years”. “A new class of homeless is on the rise: people with high education, no psychological or addiction problems, formerly with middle-class lifestyles, now unable to make ends meet following job loss or bankruptcy.” The demand for food handouts is rising, while a new class of recipients has formed.²²

d) The Greek National Commission for Human Rights has sounded the alarm: “the very survival of the EU is at stake”

49. The above concerns confirm those of the Greek National Commission for Human Rights (GNCHR). In a Recommendation “*On the imperative need to put an end to the sharp decline in civil liberties and social rights*”,²³ the NCHR deplores the rapid deterioration of living standards in Greece, coupled with the dismantling of the Welfare State and the adoption of measures incompatible with social justice; these measures are undermining social cohesion and democracy. The GNCHR recalls that, according to the case law of the EU Court and the EU Treaty, the EU “*is not merely an economic union, but is at the same time intended, by common action, to ensure social progress and seek constant improvement of the living and working conditions of the peoples of Europe, as is emphasized in the Preamble to the Treaty*”.

50. The GNCHR stresses that “*there is no way out of the socio-economic and political crisis which plagues Europe as a whole, nor any future for the Union, if fundamental civil liberties and social rights are not guaranteed*”. It calls for “an immediate joint mobilisation of all European forces with a view to saving the values on which the European civilization is founded”. The Greek government and the Greek parliament should “undertake common action with the governments and parliaments of other Member States, so that every measure of ‘economic governance’ as well as the planned amendments to the EU Treaty be adopted and implemented with due respect for and in a manner that safeguards fundamental civil liberties and social rights”. The GNCHR concludes: “*The very survival of the Union is at stake*”.

Final remarks

Women are the main victims of inhuman or degrading practices justified by cultural relativism; they are, moreover, disproportionately affected by the economic crisis and austerity measures which ignore fundamental rights, in particular social rights, and threaten democracy.

²¹ Emphasis added in all three paragraphs.

²² European Commission *Employment and Social Situation Quarterly Review* September 2012, pp. 16, 45-48; June 2012, pp. 45-47: <http://ec.europa.eu/social>.

²³ Adopted in December 2011 and updated in May 2012: <http://www.nchr.gr>.

In a recent Recommendation, our INGO Conference recalls that gender equality is a universal fundamental right and proactive principle and strongly condemns cultural relativism. NGOs beyond Europe, such as NGOs from around the Mediterranean active in the framework of the Euromed Non-Governmental Platform, concur with us.²⁴ Courageous human rights activists, under even the most oppressive regimes, are submitting shadow reports and complaints to international treaty bodies. Horrible crimes committed by state officials or non-state actors with the acquiescence or even the blessing of state authorities against women who do not adhere to cultural/religious norms such as face and body covering or whose behaviour is otherwise “immoral” or expresses “infidelity” or “apostasy” are thus denounced.²⁵

Our INGO Conference is supporting a Declaration deploring the purely monetarist character of economic governance measures which ignore universal fundamental values and rights, in particular social rights, and thus reinforce the crisis and put democracy at risk. The Declaration demands that all economic governance measures, including EU Treaty amendments, be accompanied by social clauses and that all EU institutions strive for this.

The GNCHR is strongly deploring the dramatic situation in Greece and the adverse effects of austerity measures on social cohesion and democratic institutions; it calls for an immediate joint mobilisation of all European forces if it is to save the fundamental European values.

European and international institutions and bodies, including the PACE, the CoE Committee of Ministers and the ILO Committee of Experts, share the above concerns and call for a deep reorientation of austerity programmes. The European Commission confirms the gravity of the situation and the bleakness of the outlook, especially in Greece.

Our INGO Conference and the NGOs beyond Europe must remain vigilant on both the above issues, in order to safeguard and promote our values. The failure of the UN Commission on the Status of Women to reach “agreed conclusions” is no good omen. Moreover, as the EU is planning amendments to its Treaty, we must keep on the lookout for eventual risks of regression that would reflect across Europe and beyond. The CoE is providing precious support. So, let us strengthen our bonds and combine our efforts.

Addendum

The European Committee of Social Rights declares certain austerity measures taken in Greece incompatible with the European Social Charter

By two decisions of 23 May 2012, published on 19 October 2012,²⁶ the European Committee of Social Rights upheld in part two collective complaints by Greek trade unions against Greece on the compatibility of austerity measures with the 1961 European Social Charter (ESC).

The first decision concerns a provision stipulating that the first year of employment under a contract of indefinite duration is deemed a probationary period, during which the contract may be terminated without notice and redundancy pay. This provision violates Article 4(4) ESC (right to a reasonable period of notice).

The second decision concerns a provision on the employment of workers aged 15 to 18 under “special apprenticeship contracts”. These workers are excluded from the scope of application of labour law and are not entitled to at least three weeks’ paid annual holiday, in

²⁴ See e.g. Final Declaration of the 2008 Civil Forum, in Marseille, *Gazette de l’AFEM* No. 51, October 2008, and very circumstantiated reports by S. Dimitroulias, AFEM vice-president and Board member of the Euromed Non-Governmental Platform, on the latter’s activities, in several *Gazette* issues and Conclusions of the 2010 Euromed Civil Forum, in Alicante; synthesis report of the 2011 youth meeting in Rabat: www.afem-europa.org

²⁵ See S. Koukoulis-Spiliotopoulos, “The limits of cultural traditions”, *Annuaire international des droits de l’Homme*, vol. III, 2008, A. N. Sakkoulas/Bruylant, and <http://www.123people.co.uk/s/sophia+koukoulis>.

²⁶ *General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants’ Trade Unions (ADEDY) v Greece* (Complaints Nos. 65/2011 and 66/2011): http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC65Merits_en.pdf

breach of Article 7(7) ESC; an adequate system of apprenticeship is not provided for them, in breach of Article 10(2) ESC; their social security coverage is confined to sickness benefits in kind and occupational accident coverage at a rate of 1%, in breach of Article 12(3) ESC. The last-mentioned provision, which requires the progressive raising of the social security system to a higher level, does not allow the establishment of a distinct category of workers who are excluded from the general national security protection system, as this constitutes a deterioration of the social security system, which is incompatible with Article 12(3) ESC.

The second decision also concerns a provision cutting the minimum salary for all workers under 25 years of age by 32 % of the national minimum wage, i.e. below the poverty line. This breaches Article 4(1) ESC (right to a fair remuneration sufficient for a decent standard of living of the workers and their families) as well as Article 4(1) ESC in light of the non-discrimination clause of the Preamble to the ESC (discrimination on grounds of age). It should be noted that the direct source of this provision is the second Memorandum (above Nos. 33-34). Thus, the European Committee of Social Rights is the first treaty body to have assessed such a provision.

Both decisions recall that “*the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the [ESC]*”. The first decision adds: “doing away with these guarantees ‘would not only force employees to shoulder an excessively large share of the consequences of the crisis, but also accept pro-cyclical effects liable to make the crisis worse and to increase the burden on welfare systems’”. Both decisions quote passages of the GNCHR Recommendation (above Nos. 49-50).

These decisions, issued by a quasi-judicial body of great prestige, are expected to have a far-reaching impact at national and European level, as they remind all the parties involved in the support mechanism for Greece their duties in respect of fundamental rights and democratic principles. This is the more so as a new wave of (stricter and more controversial) austerity measures is oncoming, including the annihilation of NGCAs (see above No. 34).

“ILO calls on Greece to bring its labour relations system back to fundamental rights”²⁷

In this year’s November session the ILO Committee on Freedom of Association examined a complaint submitted by four Greek trade unions²⁸ and supported by the International Trade Union Confederation (ITUC), concerning austerity measures imposed within the framework of the international loan mechanism.

The Committee finds that the suspension or derogation by legislation, without the parties’ agreement, of collective agreements freely entered into by the parties violates the principle of free and voluntary collective bargaining established in Article 4 of ILO Convention No. 98.

More generally, the Committee finds a number of repeated and extensive interventions into free and voluntary collective bargaining and an important deficit of social dialogue; it thus underlines the need to promote and strengthen the institutional framework for these key fundamental rights.

It concludes that “*it is a matter of utmost importance that the Government and the social partners urgently come together to review all the abovementioned measures and their impact not only on labour relations in the country, but also on the hopes for economic development and social cohesion*”; it then repeats the recommendation of the Committee of Experts quoted above (No. 37, last sentence). Both ILO Committees thus converge between them and with other international and European institutions and bodies. This is a strong signal to all the parties involved in the planning and implementation of austerity measures in Greece.

²⁷ Title of an ILO press release of 15 November 2012 announcing the Report of the Committee on Freedom of Association. 365th Report, paragraphs 784-1003: <http://www.ilo.org/brussels/lang--en/index.htm>

²⁸ GSEE, the trade unions which had recourse to the Committee of Social Rights (ADEDY, GENOP-DEI) and the Greek Federation of Private Employees.