Greece

Why should the Greek debt be audited?

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The President of the Greek Parliament, Zoe Konstantopoulou, has set up a commission to audit the Greek debt and has asked me to play an active part in it. I have accepted to assume the scientific coordination. This commission was launched on 17th March 2015 in Athens. [1]

Recently the Athens correspondent for Le Monde wrote, "The Speaker of the parliament promised she would set up a commission to audit the Greek debt in the coming weeks, aimed at finding out whether part of the Greek public debt is odious, illegal or illegitimate. She declared 'People have a right to demand that the portion of the debt that the commission finds to be illegal be cancelled'". [2]

Such is the intricate context in which I write.

Without claiming to be exhaustive, we can propose the following definitions:

âEuros¢ Illegitimate public debt: debt that was contracted by a government without considering the public interest or undermining the general interest.

âEuros¢ Illegal debt: debt contracted in violation of the current legal or constitutional system.

âEuros¢ Odious public debt: loans to authoritarian regimes or granted on conditions that violate the social, economic, cultural, civic, and political rights of the people concerned.

âEuros¢ Unsustainable public debt: debt that can only be paid back with dire consequences for the people such as a dramatic degradation of its living conditions, of health care and education, an increase in unemployment. In short, debt that undermines basic human rights. In other words, debt whose repayment makes it impossible for governments to provide basic human rights.

Paragraph 9 of Article 7 of Regulation No 472/2013 of the European Parliament and of the Council of 21 May 2013 (which strongly undermines the sovereignty of the member States that have to implement adjustment policies) maintains that States subject to structural adjustmentshould carry out a complete audit of public debt in order to explain why indebtedness increased so sharply and to identify any irregularities. Here is the text in full: "A Member State subject to a macroeconomic adjustment programme shall carry out a comprehensive audit of its public finances in order, inter alia, to assess the reasons that led to the building up of excessive levels of debt as well as to track any possible irregularity". [3]

The Greek government, under Antonis Samaras refrained from applying this regulation so as to hide from the Greek population, the real reasons for the increase in debt, and the irregularities linked to it.

In all, about thirty Greek and International experts will take part in the commission and a preliminary report is expected in June. Citizen participation is fundamental to a rigorous and independent audit process.

Here are some key points that could be revealed by carrying out an audit.

Greek debt, which was at 113% of GDP in 2009 before the onset of the Greek crisis and the intervention by the Troika, which now holds 4/5 of total debt, reached 175% of GDP in 2014. We therefore see that the Troika intervention was followed by a very considerable increase in Greek debt.

Between 2010 and 2012, the loans that the Troika granted to Greece were very largely used to repay its most important creditors at that time, mainly the private banks of the principal European economies, starting with the French and German banks. [4]. In 2009, some 80% of Greek public debt was held by the private banks of seven EU countries. Fifty percent was held by French and German banks alone. In a recent ARTE documentary [5]

Paulo Nogueira Batista, one of the IMF's executive directors, claims that all IMF board members knew that the loan was actually intended to save the French and German banks not Greece. [6] Philippe Legrain, advisor to the President of the European Commission José Manuel Barroso in 2010 when the Troika granted its loan, specifies that âEurosÜIMF decision makers were overruled by the IMF Managing Director of the time, Dominique Strauss-Kahn, who was then running for the French presidency and consequently wanted to prevent French banks from facing losses.

Similarly German banks had persuaded Angela Merkel that it would be terrible if ever they should lose money. So the Eurozone governments decided to pretend that Greece was only facing temporary problems.' They had to bypass âEurosÜan essential principle in the Maastricht Treaty, namely the no-bail out clause. The loans to Athens were not intended to save Greece but the French and German banks that had been foolish enough to grant loans to an insolvent State.'

Auditing the Greek debt will show that European private banks greatly increased their loans to Greece between the end of 2005 and 2009 (they went from â ¬80 billion to â ¬140 billion, a â ¬60 billion increase) not taking any account of the State's actual insolvency. Moreover their loans were at very low interest rates (0.35% for three-month loans and 4.5% for 10 years in October 2009 [7] whereas the average rate for German bonds at the same time was about 3.3%). [8]. Banks were foolhardy, convinced as they rightly were that European bodies would bail them out in any case.

As previously mentioned, an audit will show that the so-called bail-out of Greece set up by the European institutions with assistance from the IMF, has in fact enabled the banks of some European countries with a decisive influence on European institutions to continue collecting debt repayments while at the same time transferring the risk to the Member States through the Troika. It is not Greece that has been saved, but a handful of big private banks mainly based in the strongest countries of the EU.

Private European banks were thus replaced by the Troika as Greece's main creditor as from late 2010.

The audit will analyse the legality and legitimacy of the bail-out process. Is it in conformity with European treaties (especially Article 125, which prohibits EU countries from taking on the financial engagements of another EU country)? Did it comply with normal EU decision making procedure? Did the public lenders in 2010 (the 14 EU countries that granted Greece â ¬53 billion of loans, the IMF, the ECB, the European Commission etc.) respect the principal of the free will of the borrower, Greece, or did they profit from Greece's distress in the face of aggressive speculation to impose agreements that were against its own interests? Did these creditors impose one-sided conditions such as excessive interest rates on the loans? [9] Did the 14 member States that each granted Greece a bilateral loan respect their own laws and constitutions, as well as those of Greece?

Another purpose is to audit the actions of the IMF. We know that several members of the IMF Executive Board (the Brazilian, the Swiss, the Argentine, the Indian, the Iranian, the Chinese, and the Egyptian member) had expressed considerable reservations regarding the loan granted by the IMF, pointing out, among other things, that Greece would not be able to repay it due to the policies that were being imposed on the country [10]. Did the Greek government, in collusion with the Managing Director of the IMF at the time, request that its statistics department falsify the exact data in order to issue such a negative report on the country's financial health that the IMF would be justified in launching a bail-out plan? Several highly-place Greek civil servants say so.

Did the ECB seriously overstep its prerogatives in requiring the Greek Parliament to pass legislation concerning the right to strike, health care, the right of association, education, and the regulation of wage levels?

In March 2012, the Troika organized a restructuring of the Greek debt that was presented at the time as a success. We should recall that George Papandreou, the Prime Minister, had announced in early November 2011, just before a meeting of the G20, that in February 2012 he would call a referendum on the restructuring of Greece's debt prepared by the Troika. Under pressure from the Troika, that referendum never took place and the Greek people were denied their right to express their opinion of the new debts. The mainstream media relayed the narrative which said that the restructuring would reduce Greece's debt by 50%. In reality, Greece's debt is greater in 2015 than in 2011, the year before the so-called 50% cancellation. The audit will show that this restructuring operation, which was in fact a huge confidence trick, was linked to an extension of policies that run counter to the interests of Greece and its population.

The audit must also evaluate whether the strict conditions imposed on Greece by the Troika in exchange for the loans it received are a fundamental violation of a series of treaties and conventions with which the public authorities on the side of both the creditors and the borrower, Greece, are required to comply. The professor of law Andreas Fischer-Lescano, commissioned by the Vienna Chamber of Labour, [11] has irrefutably demonstrated that the Troika's programs are illegal under European and international law. The measures defined in the adjustment programs that have been imposed on Greece and the concrete policies that are their direct consequence violate a series of fundamental rights - such as the right to health care, to education, housing, social security, to a fair wage, and also freedom of association and collective bargaining. All these rights are protected by many laws at international and European level, such as the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights, the European Social Charter, the two UN Human Rights Covenants, the Charter of the UN, the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, and also the conventions of the International Labour Organisation (ILO), which have the status of basic legal principles. The list of articles violated by the Memoranda imposed on Greece, meticulously drawn up by professor Fischer-Lescano, is impressive and the entities who make up the Troika or were put in place by it (the European Stability Mechanism, for example) are legally liable for those violations.

A recent study by Margot E. Salomon, Director of the Centre for the Study of Human Rights at the London School of Economics and Political Science, develops the same views as professor Fischer-Lescano. In those pages entitled Of Austerity, Human Rights and International Institutions [12] she recalls that the institutions that make up the Troika are bound to abide by European and international conventions such as the European Social Charter or the International Covenant on Economic, Social and Cultural Rights. In this context they are not allowed to force on States measures that would result in their violating human rights, as repeatedly mentioned by the UN Committee on Economic, Social and Cultural Rights (CESCR). [13]

Next, the study exposes the Troika's legal responsibility in violating the rights of the Greek population since it has been involved in designing and implementing the agreement at all levels. In spite of the IMF's statements about countries having primary responsibility for designing and implementing policies, Greece is submitted to the Troika's oversight with no leeway or room for manoeuvre. [14]

Such illegal aspects, which will have to be substantiated by the audit committee, should result in the former Greek government's commitments to the Troika (now called âEurosÜinstitutions') being null and void, and this covers the loans Greece received in compensation for implementing such illegal agreements.

The audit will need to verify whether, as provided for in Regulation (EU) No. 472/2013 of the European Parliament and the Council of 21 May, 2013, mentioned above, "The draft macroeconomic adjustment programme... fully observe[s] Article 152 TFEU and Article 28 of the Charter of Fundamental Rights of the European Union." The audit must also verify whether the following passage of the Regulation is adhered to: "The budgetary consolidation efforts set out in the macroeconomic adjustment programme shall take into account the need to ensure sufficient means for fundamental policies, such as education and health care." It must also be determined whether the following fundamental principle of the Regulation has been applied: "Article 9 of the Treaty on the Functioning of the European Union (TFEU) provides that, in defining and implementing its policies and activities, the Union is to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health." The above provisions need to be taken into consideration in the light of the assessment report published in April 2014 by the EU on the implementation of the second structural adjustment program, in which the authors express satisfaction at the elimination of 20% of all jobs in Greece's public sector [15]|. In an inset entitled "Success stories of the Economic Adjustment Programme," we learn that labour-market reforms have served as the pretext for a reduction in the legal minimum wage and that 150,000 jobs have been eliminated in the public administration ("Decrease in general government employment by 150,000", p. 10).

The state of debt prior to the Troika's intervention in May 2010

[16]

Firstly, there is the debt contracted by the military dictatorship and which quadrupled between 1967 and 1974. This obviously qualifies as odious debt [17]
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Following on, we have the Olympic Games scandal of 2004. According to Dave Zirin, when the government proudly announced to Greek citizens in 1997 that Greece would have the honour of hosting the Olympic Games seven years hence, the authorities of Athens and the International Olympic Committee planned on spending 1.3 billion dollars. A few years later, the cost had increased fourfold to 5.3 billion dollars. Just after the Games, the official cost had reached 14.2 billion dollars. [18] Today, according to different sources, the real cost is over 20 billion dollars.

Many contracts signed between the Greek authorities and major private foreign companies have been the subject of scandal for several years in Greece. These contracts have led to an increase in debt. Here are some examples which have made the main news in Greece:

the scandal of German submarines (produced by HDW, later taken over by Thyssen) for a total value of 5 billion euros, submarines which from the beginning had the defect of listing to the left (!) and which were equipped with faulty electronics. A judicial enquiry on possible charges (of corruption) against the former defence ministers is currently under way.

several contracts were signed with the German transnational Siemens, accused - both by the German as well as the Greek courts - of having paid commissions and other bribes to various political, military and administrative Greek officials amounting to almost one billion euros. The top executive of the firm Siemens-Hellas, [19] who admitted to having "financed" the two main Greek political parties, fled in 2010 to Germany and the German courts rejected Greece's demand for extradition. These scandals include the sales, made by Siemens and their international associates, of Patriot antimissile systems (1999, 10 million euros in bribes), the digitalization of the OTE - the

Hellenic Telecommunications Organization - telephone centres (bribes of 100 million euros), the "C41" security system bought on the occasion of the 2004 Olympics and which never worked, sales of equipment to the Greek railway (OSE), of the Hermes telecommunications system to the Greek army, of very expensive equipment sold to Greek hospitals.

In early March 2015 a trial on the OTE affair, one of several corruption cases involving Siemens, opened in Athens. [20] 13 out of the 64 defendants are German managerial staff of the parent company. Siemens is said to have paid up to â ¬70 million to get a contract to digitalize the Greek public telecommunications network, OTE (the contract was signed in 1997). One of the defendants is the former leader of Siemens Hellas, Michalis Christoforakos, who fled to Germany and whom the German authorities still will not extradite to Greece. Charges include âEurosÜmoney laundering' and âEurosÜactive and passive embezzlement'. Theodoros Tsoukatos, an advisor to former PASOK Prime Minister Kostas Simitis, [21] is also among the defendants. Other defendants are senior officers of Siemens's Greek subsidiary as well as German citizens who were involved in embezzlement. So far only one Greek politician has been sentenced in this context, namely former Transport minister Tasos Mantelis, who in 2011 received a suspended three-year prison sentence when he was found guilty of accepting DEM450,000 (â ¬230,000) from Siemens from 1998 to 2000.

For the period before 2010 the debt audit committee will have to show Goldman Sachs's active involvement in tampering with Greece's accounts and how it impacted on the debt. [22] It should also show the consequences of the Greek government's presents to Greek banks and how one of the main Greek financial empires, namely that of tycoon Latsis, illegitimately, even illegally, profited by it. The impact on Greek debt of Greece entering the Eurozone will also be examined.

Conclusion

The audit commission should determine which part of the debt contracted by the Greek government both before and after the Troika intervened is illegitimate, illegal, odious, and unsustainable. It will also expose the responsibilities of those who profited by it, both in Greece and abroad, in financial circles, among the CEOs of transnational corporations, and within European institutions.

When she was sworn in as President of the Greek Parliament, Zoe Konstantopoulou promised that steps would be taken to ensure that the Parliament made an essential contribution to supporting the claim that most of the debt had to be cancelled and that dispositions containing the current humanitarian crisis had to be integrated. She said parliamentary diplomacy was neither a mere ritual nor the equivalent of public relations. She added that there should be a parliamentary demand for a fair solution that would benefit the Greek people, with cancellation of part of the debt and a moratorium on repayment, and calling upon other parliaments and other European peoples that are already marching to show their solidarity with the Greek people. [23]

As Zoe Konstantopoulou told Le Monde on 7 March 2015 âEurosÜPeople have a right to demand that any part of the debt that the commission should prove illegal be cancelled.'

Translation : Christine Pagnoulle et Vicki Briault

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[1] http://cadtm.org/The-Speaker-of-the...

[2] See published 7 March 2015 or http://fischer02003.over-blog.com/2...

[3] | http://eur-lex.europa.eu/legal-co...

[4] C. Lapavitsas, A. Kaltenbrunner, G. Lambrinidis, D. Lindo, J. Meadway, J. Michell, J.P. Painceira, E. Pires, J. Powell, A. Stenfors, N. Teles : "The eurozone between austerity and default", September 2010. http://www.researchonmoneyandfinanc....
See also Eric Toussaint, "Greece-Germany: who owes who? (Part 2) Creditors are protected, the people of Greece sacrificed", published 6 November 2012, http://cadtm.org/Greece-Germany-who...

[5] ARTE documentary by Harald Schumann Â« Puissante et incontrÃ´lée : la troÃ¯ka Â». See the almost exhaustive CADTM transcript http://cadtm.org/Comment-la-Troika-..., 11 March 2015 (in French).

[6] | http://www.marianne.net/on-renflo...

[7] See http://www.investing.com/rates-...

[8] See http://www.investing.com/rates-...

[9] The interest rates imposed in 2010-...

[10] http://blogs.wsj.com/economics/2013/10/07/imf-document-excerpts-disagreements-revealed/" class='spip_url'>See the revelations made by The Wal... See also: http://greece.greekreporter.com/201...

[11] See his report "Human Rights in Times of Austerity Policy", published 17 February, 2014, available at http://www.etui.org/content/downloa...

[12] http://papers.ssrn.com/sol3/papers....

[13] CESCR, General Comment No. 18, The Right to Work (art 6), (35th session, 2005) UN Doc. E/C12/GC/18 (2005), para. 30; CESCR, General Comment No. 19, The Right to Social Security (Art. 9), (39th session, 2008) UN Doc. E/C.12/GC/19, para. 58 âEurosÜStates parties should ensure that their actions as members of international organizations take due account of the right to social security. Accordingly, States parties that are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should take steps to ensure that the right to social security is taken into account in their lending policies, credit agreements and other international measures. States parties should ensure that the policies and practices of international and regional financial institutions, in particular those concerning their role in structural adjustment and in the design and implementation of social security systems, promote and do not interfere with the right to social security Â».

[14] Page 8 : Â« According to the IMF, âEurosÜthe member country has primary responsibility for selecting, designing, and implementing the policies that will make the IMF-supported program successful' The recent move by the IMF to national âEurosÜownership' is not however easily reconciled with the âEurosÜspecific' terms and requirements provided for in the Memoranda with Greece which are categorical on the extent of Troika oversight and explicit in its substantive prescriptions: âEurosÜThe [Greek] authorities commit to consult with the European Commission, the ECB and the IMF on adoption of policies that are not consistent with this memorandum'; âEurosÜActions for review' include the adoption of reform by Parliament (of the pension system to ensure its medium- and long-term sustainability); âEurosÜ... reform will be designed in close consultation with European Commission, IMF and ECB staff, and its estimated impact on long-term sustainability will be validated by the EU Economic Policy Committee'.The 2012 Memorandum of Understanding provides that âEurosÜGreece commits to consult with the European Commission, the ECB and the IMF staff on the adoption of policies falling within the scope of this Memorandum allowing sufficient time for review' and further: âEurosÜDisbursement are subject to quarterly reviews of conditionality for the duration of the arrangement Â»

[15] European Commission, Directorate-General for Economic and Financial Affairs, The Second Economic Adjustment Programme for Greece, Fourth Review - April 2014, p. 3, See http://ec.europa.eu/economy_finance...

[16] Part of the arguments mentioned here are to be found in a 2011 paper http://cadtm.org/Greece-the-very-sy.... It was also published in Elena Papadopoulou and Gabriel Sakellaridis (eds), The Political Economy of Public Debt and Austerity in the EU (Transform, Athens, 2012). Other contributors were Yanis Varoufakis, Alexis Tsipras, Nicos Chountis, Yiannis Dragasakis, Euclid Tsakalotos. http://transform-network.net/upload...

[17] According to Alexander Sack, who theorized the doctrine of odious debt, "If a despotic power incurs a debt not for the needs or in the interest of the State, but to strengthen its despotic regime, to repress the population that fights against it, etc, this debt is odious to the population of all the State. This debt is not an obligation for the nation; it is a regime's debt, a personal debt of the power that has incurred it, consequently it falls with the fall of this power" (Sack, 1927). For a concise overview, see (in French) " La dette odieuse ou la nullité de la dette", a contribution to the second seminar on International law and Debt organized by CADTM in Amsterdam in December 2002,http://www.cadtm.org/La-dette-odieu... . See also "Topicality of the odious debt doctrine", http://www.cadtm.org/Topicality-of-... andhttp://www.cadtm.org/Topicality-of-...

[18] Dave Zirin, "The Great Olympics Scam, Cities Should Just Say No",www.counterpunch.org/zirin07052005.html : "But for those with shorter memories, one need only look to the 2004 Summer Games in Athens, which gutted the Greek economy. In 1997 when Athens 'won' the games, city leaders and the International Olympic Committee estimated a cost of 1.3 billion. When the actual detailed planning was done, the price jumped to $5.3 billion. By the time the Games were over, Greece had spent some $14.2 billion, pushing the country's budget deficit to record levels."

[19] See a detailed summary of the Siemens-Hellas scandal at http://www.scribd.com/doc/14433472/... . The charges made by the German courts against Siemens were so undeniable that in order to avoid a sentence in due form, the company agreed to pay a fine of 201 million euros to the German authorities in October 2007. The scandal has tarnished Siemens's image to such an extent that, in an attempt to redress the situation, the transnational company conspicuously announces on its web page that it has contributed 100 million euros to an anti-corruption fund. See: http://www.siemens.com/sustainabili...

[20] See http://www.greece.com/news/7358/Cou...and http://www.okeanews.fr/20150309-sca...

[21] Kostas Simitis was president of PASOK and PM from 1996 to 2004.

[22] See the ARTE documentary Goldman Sachs - La banque qui dirige le monde, from minute 39,https://vimeo.com/49904381

[23] See http://cadtm.org/Discours-prononce-... published 14 February 2015 (in French, I haven't found any reliable source for that part of her speech in English)