

Germany's NAP1325 and the impact of austerity measures on women's economic and social rights - why we look at Germany's human rights obligations in multilateral international legal bodies

Germany, as any other State, has extraterritorial obligations to respect, protect and fulfill human rights in external interventions whether when acting bilaterally or as a member of a multilateral institution.¹ Such obligations demand, at a minimum, Germany avoid conduct that would create a foreseeable risk of impairing the enjoyment of human rights by persons living beyond its borders, refrain from imposing measures that would lead to retrogression on economic, social rights in other countries, and has a policy, whether on trade, aid or development, predicated by human rights, gender and environmental impact assessments of the extraterritorial impacts of its policies and practices. Such assessments should be done with community participation and consultation.²

Extraterritorial obligations have been reaffirmed by, among others, the European Court of Human Rights and UN human rights bodies. Germany's international human rights obligations as a member state of international bodies are elaborated in Annex 1 to this submission.

In addition, under its National Action Plan 1325 for the period of 2017-2020, Germany has committed to ensure "the social and political participation of women and girls", and has committed itself to "the equal involvement of women in crisis and violence prevention, promotion of peace, conflict resolution and

¹ See, for instance, 53- 68, WILPF (2017) "A Feminist Perspective on post-conflict - Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>

The Independent Expert on foreign debt has also highlighted that: "States retain their international human rights law obligations when they participate in multilateral institutions or exercise effective control over lending institutions" see paragraph 19, UN Index A/HRC/31/60/Add.2 and in later report on the European Union, he reiterated that: "States cannot circumvent their human rights obligations by acting through an institution they create, even if the institution is autonomous and a separate legal entity". UN Index A/HRC/34/57/Add.1, paragraph 27. The Committee on Economic, Social and Cultural Rights has also underlined that States parties must respect rights under the Covenant when acting as a member of international organisations. General comments No. 14 (2000) on the right to the highest attainable standard of health, paragraph 39 and No. 23 (2016) on the right to just and favourable conditions to work, paragraph 71.

² The guiding principles on foreign debt and human rights (UN Index A/HRC/20/23, paragraph 40) and the guiding principles on extreme poverty and human rights (A/HRC/21/39, paragraphs 61 and 92) require carrying out human rights impact assessments before implementing policies based upon international agreements. Principle 13 of the guiding principles on foreign debt and human rights specify that impact analyses should pay special attention to, *inter alia*, women.

Furthermore, in its Concluding Observations, the CEDAW Committee has recommended to Greece, European Union Institutions and the IMF to "cooperate in setting up an observatory to fully evaluate the impact on women of the many measures taken during the economic and financial crisis". UN Index CEDAW/C/GRC/CO/7, paragraph 40. See also: Concluding Observations on Greece. UN Index CRC/C/GRC/CO/2-3, paragraph 29; UN Index A/HRC/25/50/Add.1, paragraph 91 and UN Index A/HRC/31/60/Add.2, paragraphs 75, 81 a) and b).

As highlighted by the Independent Expert on foreign debt, the European Union regulation 472/2013 also contains an article requiring member States undergoing adjustment to "seek the views of social partners as well as relevant civil society organisations when preparing its draft macroeconomic adjustment programmes, with a view to contributing consensus over its content" and recommends that "member States should involve social partners and civil society organisations in the preparation, implementation, monitoring and evaluation of financial assistance programmes, in accordance with national rules and practice". (see UN Index A/HRC/31/60/Add.2, paragraph 30).

negotiation processes”.³ One of the biggest inhibitors to women’s participation is the lack of enjoyment of economic and social rights. The absence of such rights confines women to traditional gendered roles and limits the opportunities to be active participants in political life and peace and mediation efforts. It renders language on women’s meaningful participation meaningless.

It is within this framework that WILPF draws attention to the direct role and responsibilities of Germany as a member of multilateral international legal bodies, specifically the International Monetary Fund (IMF), the World Bank (WB) and the European Union (EU), and the policies of such bodies in respect of human rights and non discrimination, providing as examples Greece, Ukraine and Bosnia and Herzegovina (BiH). These are examples where such policies have had a devastating impact on the enjoyment of human rights, especially economic and social rights of the population there, compounded by gendered impacts. These examples are illustrated in Annex 2 to this submission.

Germany is one of the most influential member states both in the EU and in the IMF. It is the strongest economic power in the EU and is the EU’s largest creditor.⁴ It has therefore been in a position to exert considerable influence under which countries in the Eurozone can apply for credit and support. Germany is also one of the strongest members in the IMF, as each member’s quote determines its relative voting power: it is the IMF’s fourth-largest shareholder.⁵

The IMF and the EU are among the international organisations that have promoted economic development strategies based on neo-liberal assumptions underpinning their interventions, such as privatization and introduction of austerity measures. Along with various human rights bodies’ serious concerns,⁶

³ Page 21, Germany’s NAP1325 from 2017-2020. Available at: http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf

⁴ As a founding member of the European Union and the Eurozone, Germany has established itself within the EU as the strongest economic power. Its gross domestic product (GDP) in 2017 was more than any other EU country’s GDP. As of July 2017, its GDP lied at 3,134bn EUR, far ahead of the UK (2,367 n EUR) or France (2,229bn EUR). In 2016, Germany’s trade surplus had reached a new record of 252.9bn EUR, the largest gap between exports and imports since registration, having now the largest trade surplus worldwide. See: https://www.destatis.de/Europa/EN/Country/Comparison/GER_EU_Compared.html and <http://www.spiegel.de/wirtschaft/soziales/deutsches-exportplus-ist-laut-ifo-institut-weltweit-das-groesste-a-943507.html>

⁵ https://www.bundesbank.de/Navigation/EN/Tasks/Financial_and_monetary_system/Cooperation/IMF/imf.html

To illustrate: Germany has cast in total 267,809 votes in the Special Drawing Rights Department, which is 5.32 % of total voting power. Voting power varies on certain matters pertaining to the General Department with use of the Fund’s resources in that Department. In comparison, the UK and France both have 4.03 % of total voting power, respectively. Germany’s influence in the IMF was further illustrated, for instance, when the German government successfully pressured the IMF in 2016 not to grant a debt cut to Greece (see <http://www.imf.org/external/np/sec/memdir/members.aspx#1> and <https://www.thenationalherald.com/125023/germany-makes-imf-blink-over-greek-debt-relief-tsipras-loses-big/>)

⁶ The detrimental impact of adjustment programmes on the enjoyment of human rights, particularly in the field of economic, social and cultural rights, has been addressed by the previous Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, see UN Index A/HRC/50/Add.1 and E/C.12/GRC/CO/2. The current mandate holder has also expressed his serious concerns: see UN Index A/HRC/31/60/Add.2 and A/HRC/34/57/Add.1.

WILPF research has shown that conditionalities, imposed by international organisations, contingent on structural reforms and austerity measures, often have devastating impacts on the economic and social rights of host countries' populations. Specifically, WILPF has highlighted how austerity measures have a disproportionate impact on the economic and social rights of women, which further poses obstacles to women's meaningful participation in decision-making processes in countries such as Bosnia or Ukraine.⁷

Particular conditionalities linked to the funding by international bodies such as the EU and the IMF have been shown to contribute to the feminisation of poverty, and the deepening of gender inequalities within the family and society as a whole. This is because firstly, women are among the primary beneficiaries of pro-social spending. For example, cutbacks in public health and social service expenditures rely on shifting the burden of care to women. Gendered social norms mean women are expected to compensate for reduced state support by spending more time to care for sick and elderly family members. This, in turn, also reduces the amount of time available for remunerated work. Secondly, due to the feminization of care in both paid and unpaid work, women tend to be employed in the sectors where most job cuts have taken place.⁸

It is incumbent upon Germany and indeed International Financial Institutions (IFIs) and other international organisations to ensure that policies do not undermine human rights.⁹ Hence, there is a need for *ex ante* and *ex post facto* human rights and gender impact assessments that identify the distributive effects of austerity policies so as to prevent them from having a disproportionate impact on sectors of society.

Recommendations:

Germany should:

- In line with its international human rights obligations, push for the conduct of human rights and gender impact assessments before supporting and approving additional adjustment programmes in other countries. In particular, in the context of the new conditional bailout of up

See also Concluding Observations by other treaty bodies: CCPR/C/GRC/CO/2, paragraphs 7-10; CRC/C/GRC/CO/2-3, paragraphs 6, 18, 21, 28 and 29; CEDAW/C/GRC/CO/7, paragraphs 6, 28 and 40.

⁷ See, for instance, WILPF et al. (2017), "Obstacles to Women's Meaningful Participation in Peace Efforts in Ukraine. Impact of Austerity Measures and Stigmatisation of Organisations Working for Dialogue". Joint submission to the Universal Periodic Review of Ukraine, 28th Session. Available at: http://wilpf.org/wp-content/uploads/2017/04/UKRAINE.UPR_JointSubmission-30-Mar-2017.pdf. See also: WILPF et al. (2017), "The Effects of Intervention by International Financial Institutions on Women's Human Rights in Ukraine". Joint Shadow Report to the CEDAW Review of Ukraine, 66th Session. Available at: http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine_20170124.pdf.

See also: WILPF (2017) "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>

⁸ WILPF et al. (2017), "The Effects of Intervention by International Financial Institutions on Women's Human Rights in Ukraine". Joint Shadow Report to the CEDAW Review of Ukraine, 66th Session. Available at: http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine_20170124.pdf

⁹ Various human rights bodies have confirmed that international institutions are to respect international human rights bodies. See for example UN Index A/HRC/31/60/Add.2, Report by the Independent Expert on foreign debt on the impact of austerity measures on the Greek population, paragraphs 19, 21, 25.

to \$1.8bn agreed by the IMF for Greece in July 2017 following demands of euro-area creditors¹⁰ and for which conditionalities are yet to be determined.

- Ensure that gender and human rights impact assessments are transparent include community participation and consultation, and include, at a minimum, an evaluation of past failures to protect economic, social and cultural rights and *ex ante* forecasts of the social and human rights impacts of particular adjustment measures;
- Push, as a member of the relevant international organisations, to review economic reform policies and adjustment measures to ensure they do not undermine the progressive realization of economic, social and cultural rights, giving priority to safeguarding the enjoyment of minimum essential levels of economic and social rights by all individuals disproportionately impacted;
- Push, as a member of the relevant international organisations, the development of guidelines for comprehensive human rights and social impact assessment of adjustment programmes;
- Secure, at a minimum, mitigation strategies to prevent violations of economic, social and cultural rights linked to conditionalities.

Kommentiert [K1]: Could not find anything on further development on this, so I think it is still relevant, yes.

Kommentiert [W2]: Is this still relevant? If not, take it out.

Annex 1: Germany's international human rights obligations as a member state of international bodies¹¹

Germany does not cease to be bound by its human rights obligations when it acts as a member of an international institution. Whilst Greece, Ukraine or BiH as the host states bear the primary responsibility for the guarantee of all human rights, Germany, as a member state of the IMF and the EU, has an international responsibility for violations of economic and social rights and non-discrimination in other countries under the doctrine of extraterritorial obligations.

The European Court of Human Rights (ECtHR) has confirmed that acting within, or in accordance with, a decision of an international organisation cannot justify violations of Germany's obligations under human rights law.¹² It furthermore held in the case *Richard Waite and Terry Kennedy v. Germany* that it would be incompatible with the purpose and object of the Convention if Germany, as part of the Contracting States who have established an international organization, were absolved from its responsibility under the Convention in relation to the

¹⁰ <http://www.independent.co.uk/news/business/news/greece-imf-loan-1-billion-international-monetary-fund-greek-economy-a7852226.html>

¹¹ WILPF has also argued that there is sufficient legal precedent to maintain that IFIs and international organisations have an international responsibility for the violation of economic and social rights and sex- and gender-based discrimination of individuals within a state that has implemented the organisations' required economic reforms. See more how WILPF grounds the argument of international organisations' legal responsibilities in WILPF (2017), "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wpcontent/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>.

¹² *Al-Dulimi and Montana Management Inc. v. Switzerland* (Application no. 5809/08, ECtHR, GC, 21 June 2106) – violation ECHR, article 6 on the right of access to a court)

field of the organisation's activity.¹³

This judgment was cited by the International Law Association in support of its view that: "States cannot evade their obligations under customary law and general principles of law by creating an [international organisation] that would not be bound by the legal limits imposed upon its Member States".¹⁴

Kommentiert [K3]: Patrizia, I had checked and in the original quote, it was actually the abbreviation. Made it now in brackets.

Therefore, Germany can not avoid responsibility by vesting competence for a specific policy area in an international organisation, and then having the organisation commit a breach of the State's international obligations.

The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights similarly confirm that Germany should "ensure that [its] own national [obligations] on economic, social and cultural rights [...] are not ignored when the very same state, headed by the very same government, is representing a multilateral organization"¹⁵ and that IFIs should "correct their policies and practices so that they do not result in deprivation of economic, social and cultural rights."¹⁶

Kommentiert [W4]: Footnote references

Germany is party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). There is no provision for derogation in either the ICESCR or CEDAW, emphasising their continued applicability.

Kommentiert [K5]: I took this from the BiH report, and the source was not quoted there either. Could not find it through a quick google search, so footnoted the BiH report-

For member states of the IFIs and other international bodies such as the EU, the application of their continuing human rights obligations is extra-territorial. Various bodies have emphasised the extra-territorial applicability of the human rights treaties including the International Court of Justice,¹⁷ the Human Rights Committee,¹⁸ the CEDAW Committee,¹⁹ the CESCR²⁰, and the Independent Expert

Kommentiert [K6]: I also took this from the BiH report (page 26), which was not referenced. I found two references for the ICJ, but Madeleine to revise and complement please. Added two for Human Rights Committee

¹³ Richard Waite and Terry Kennedy v. Germany, ECHR, 18 February 1999, paragraph 67.

¹⁴ International Law Association, Committee on the Accountability of International Organisations, Final Report, Berlin, 2004.

¹⁵ See page 35 of WILPF (2017), "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wpcontent/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>.

¹⁶ Ibid.

¹⁷ See for instance: ICJ 21 June 1971, Legal Consequences for States of the Continued Presence of South Africa in Namibia (Advisory Opinion), ICJ Reports 1971, paragraph 118.

See also: In *Georgia v. Russian Federation*, a pending case initiated by Georgia in August 2008, the International Court of Justice has applied the "effective control" standard for determining jurisdiction under human rights treaties. In its decision on provisional measures in the case, the ICJ held that the Convention on the Elimination of All Forms of Racism (CERD) applies beyond the territorial jurisdictions of states parties. See Sarah H. Cleveland (2010), "Embedded International Law and the Constitution Abroad", 110 COLUM. L. REV. 225

¹⁸ See, for instance, UN Index CCPR/C/DEU/CO/6, Concluding Observations on Germany, paragraph 16 and UN Index A/50/40, Report of the Human Rights Committee, 1994, paragraph 284.

¹⁹ UN Index CEDAW/C/2010/47/GC.2 Recommendation 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 19 October 2010, paragraph 36; UN Index CEDAW/C/GC/30 General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 18 October 2013, paragraphs 8-12.

²⁰ See, for instance, UN Index CESCR/C.12/2011/1, Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights, 20 May 2011, paragraph 5; UN Index CESCR/C.12/GC/24, General Comment on Business and Human Rights; 10 August 2017; CESCR General Comment No.12 on the right to adequate food, paragraphs 36-39 (1999); CESCR General Comment No. 15, paragraphs 30-36 and CESCR General Comment No. 19 on the right to water, paragraphs 52-58 (2003). Concluding Observations relating to: Austria (UN Index E/C.12/AUT/CO/4), paragraphs 11-12; Belgium

Kommentiert [W7]: Add references

on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.²¹

The ICESCR makes explicit reference to the need for international cooperation and assistance in complying with state parties' obligations under the Covenant. Thus, under article 2 of the ICESCR states parties are to take steps "individually and through international assistance and co-operation" towards realisation of the Covenant rights and article 11(1) recognises "the essential importance of international co-operation based on free consent." Article 11 (2) also asserts that states parties shall take measures individually and "through international cooperation." The CESCR has also applied the doctrine of extraterritoriality and expressed concern about the use of development assistance: "in some cases [it] has reportedly been used for activities in contravention of economic, social and cultural rights in the receiving countries".

Agreeing on, or in Germany's case sometimes even pushing for, conditions or requirements imposed by the EU or the IMF as an element of financial restructuring that fail to take into account states' obligations under the ICESCR and CEDAW, negatively impacts human rights in a third state, and constitutes a violation of Germany's own human rights obligations.²²

Various human rights bodies, including CESCR and the CEDAW Committee have emphasised specifically the threat of austerity measures to economic and social rights and women's rights.

In line with obligations under ICESCR, the State's obligation is to move forward and there is no exception whereby any backward steps could be justified by a conflict or the need for economic stringency.²³ The CESCR has underscored that a policy, demanded by austerity measures or economic adjustment policies, must identify the minimum core content of the rights enshrined in the Covenant, and must ensure the protection of the core content at all times. It further highlighted that policies must not be discriminatory.²⁴ It therefore clearly established that states parties, like Germany, have an obligation not to take retrogressive steps to

(UN Index E/C.12/BEL/CO/4), paragraph 22; China (UN Index E/C.12/CHN/CO/2), paragraphs 12-13; Germany (UN Index E/C.12/DEU/CO/5), paragraphs 9-11; Switzerland (UN Index E/C.12/CHE/CO/2-3).²⁰²²

²¹ UN Index A/HRC/20/23

²² In its Concluding Observations to Canada the CEDAW Committee recommended the state to "ensure that trade and investment agreements negotiated by the State party recognize the primacy of its international human rights obligations over investors' interests, so that the introduction of investor-State dispute settlement procedures shall not create obstacles to full compliance with the Convention". (CEDAW, Concluding Observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CAN/CO/8-9, 18 November 2016, paragraph 19). The CESCR has asserted that "failure of a State to take into account its international legal obligations regarding the right to food when entering into agreements with other States or with international organizations" (CESCR, General Comment No. 12, The Right to Adequate Food (Art. 11), 12 May 1999, paragraph 19) violates the right to food under the ICESCR.

²³ For more information, see page 32 in WILPF (2017) "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina".

²⁴ Next to this requirement, the Committee has underscored three additional requirements that any proposed policy change should meet: The policy must be temporary and limited to the period of crisis; it must be necessary and proportionate; and the policy must encompass all possible measures, including fiscal measures, to mitigate inequalities that may arise in times of crisis. See: Letter dated 16 May 2012 from the Chair of the Committee on Economic, Social and Cultural Rights addressed to States parties to the International Covenant on Economic, Social and Cultural Rights.

individuals' economic and social rights, when providing assistance in form of conditionalities to other countries. Specifically, CESCR has highlighted that States parties have an obligation to adopt policies aimed at reducing the unemployment rate, in particular among women and disadvantaged and marginalized groups.²⁵

The CEDAW Committee has echoed the emphasis that austerity measures must not be discriminatory. It considers the disproportionate impact of austerity measures on women amounts to indirect discrimination under article 1 of the Convention (discriminatory effect). For instance, in its Concluding Observations to Slovenia it noted "with concern that austerity measures, adopted in an effort to stabilize public finances, have had a detrimental and disproportionate impact on women in many spheres of life".²⁶ In its General Recommendation 35 on gender-based violence, the CEDAW Committee has stated that "significant reductions in public spending, often as part of 'austerity measures' following economic and financial crises, further weaken the state responses"²⁷ to gender-based discrimination or violence.

These statements that human rights obligations must not be subordinated to economic reform or austerity programmes are consistent Human Rights Council's repeated affirmation that: 'that the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt.'²⁸

Annex 2

1. The impact of austerity measures on women's economic and social rights in Greece²⁹

An Issue Paper by the European Commissioner for Human Rights states: "In recent decisions related to collective complaints about pension rights from Greece, the [European Committee of Social Rights] ECSR has highlighted the failure of the government to conduct the minimum level of research and analysis on the effects of austerity measures and assess in a meaningful manner their full impact on vulnerable groups in society in consultation with the organisations concerned. The duty to consult stakeholders applies to EU institutions as well

²⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 18 (2005) on the right to work.

²⁶ UN Index CEDAW/C/SVN/CO/5-6, Concluding Observations on the combined fifth and sixth periodic reports of Slovenia, paragraphs 33-34, 24 November 2015; UN Index CEDAW/C/GC/35, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, paragraph 7, 14 July 2017

²⁷ Paragraph 7, UN Index Doc CEDAW/C/GC/35

²⁸ HRC Resolutions on "The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights", UN index: A/HRC/RES/20/10 of 18 July 2012, and A/HRC/RES/23/11, of 13 June 2013.

²⁹ WILPF seeks to illustrate how austerity measures, demanded by Greece's creditors, with Germany as a major weight, have exacerbated the detrimental impact on social and economic rights. However, it should be noted that the preceding debt crisis had already considerably affected the Greek population's ability to enjoy their economic and social rights.

Kommentiert [K8]: The footnote for CO on Ukraine was wrong. I also copied this from BiH report. See page 55 of report

Kommentiert [W9]: The CEDAW Committee didn't say that. Which text in the COs made you draw that conclusion?

through Article 11(2) and (3) of the Treaty on European Union, which states that “[EU] institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union’s actions are coherent and transparent.”³⁰ The Independent Expert on foreign debt, in his report on the impact of austerity measures on human rights in Greece, also highlighted that the “the reductions [in the pension reform] on top of earlier cuts are incompatible with the obligation to ensure that all persons in Greece can enjoy at least core minimum essential levels of social and economic rights and are incompatible with the obligations contained in article 2 (1) of the [ICESCR]”.³¹ He furthermore expressed concern that “social protection expenditures were not sheltered at a time when they were most needed for covering an increasing number of persons in situations of vulnerability.”³² He further regretted that “the concerns and recommendations of the Greek Ombudsmen and the Greek national Commission for Human Rights have not been taken into account by European and national stakeholders in the design and implementation of the economic adjustment programmes”.³³

Against this backdrop, the EU, the IMF and individual governments, such as Germany, have not placed sufficient consideration on the integration of human rights into policies and programmes and have not conducted participatory and transparent human rights or gender impact assessments before imposing structural reforms in Greece. Whilst the IMF conducts annual economic evaluations of many European countries to assess and enforce their compliance with fiscal rules, no such evaluations have been systematically applied to monitor the human rights consequences of economic policies, and have always taken precedence over securing financial and fiscal stability.³⁴

As a response to the debt crisis in 2008, Germany led euro-area creditors’ key demand to have the IMF co-finance rescue programmes, including that for Greece, seeing IMF’s participation as a way to ensure credibility of the reforms that countries were asked to implement.³⁵ The IMF responded to this request; EU-IMF bailouts totalled 240bn EUR from 2010-2014.³⁶ In 2015, the Quartet of EU-IMF-European Central Bank and European Stability Mechanism gave Greece a third rescue pack worth 86bn EUR. In this rescue pack, conditionalities entailed

Kommentiert [W10]: Do we know that these were not done? If so, how do we know that?

Kommentiert [K11]: I am drawing this conclusion from the paragraph above. I was unable to find any prove that these impact assessments were conducted, but cannot exclude it completely (Even though I highly doubt this has happened). Maybe we can delete the sentence „...and have not conducted participatory and transparent human rights ...until Greece.“ Because it is undeniable that not sufficient consideration was placed on the integration of human rights into policies.

³⁰ Page 17, Council of Europe Commissioner for Human Rights (2013), “Safeguarding human rights in times of economic crisis”, Issue paper. Cited cases are: ECSR, *Panhellenic Federation of pensioners of the Public Electricity Corporation (POS-DEI) v. Greece*, complaint No. 79/2012, decision on the merits of 7 December 2012, paragraphs 75-77.

³¹ UN Index A/HRC/31/60/Add.2, paragraph 38

³² *Ibid.*, paragraph 33

³³ *Ibid.*, paragraph 54

³⁴ Council of Europe Commissioner for Human Rights (2013), “Safeguarding human rights in times of economic crisis”, Issue paper. See also: ILO, Report on the High Level Mission to Greece (Athens, 19-23 September 2011), 2011.

³⁵ <http://www.independent.co.uk/news/business/news/greece-imf-loan-1-billion-international-monetary-fund-greek-economy-a7852226.html> and <http://www.spiegel.de/international/germany/german-power-in-the-age-of-the-euro-crisis-a-1024714.html>

³⁶ <http://www.bbc.co.uk/news/world-europe-33407742>

powers over vast areas of economic and social policymaking by the creditors that have been identified as unprecedented.³⁷

The bailouts were tied to strict conditionalities encompassing harsh austerity measures, including pension cuts, tax increases, privatisation of state assets, cutting of minimum wage, of social benefits, and of health and public sector employment. Concrete examples of austerity measures included: the cutting of 150,000 state jobs by 2015 and freezing of public sector recruitment; freezing of public sector salaries at 2009 levels and then cutting it further; cutting workers' minimum wage above 25 by 22% and below 25 of age by 32%, thereby legalising the payment of wages below the poverty level for young people in Greece; repealing labour allowances and benefits; cutting public spending on health at 6% of GDP; and cutting the number of doctors by at least 20% by 2013.³⁸ Cuts in the public spending on health has had particularly devastating effects, as the crisis has increased the need for health care; and more people have turned to public health facilities after not being able to afford private healthcare anymore. Despite increasing poverty and falling income, fees for users of outpatient visits increased, and fees for consultations with doctors of the Greek National Organisation for Healthcare Provision (EOPYY) were introduced.³⁹

In striking contrast, other sectors, where such budget cuts would likely have had a less negative impact on human rights, seemed less affected. Although the defence sector was not immune to cuts, when compared to other public sectors such as welfare, transport and education, this sector saw a relatively lower share of expenditure cuts.⁴⁰ According to Sipri, more than a quarter of Greece's weapons imports between 2000 and 2011 were from the country that has become its main creditor: Germany.⁴¹ Just under 15% of Germany's total arms exports are made to Greece, its biggest market in Europe.⁴²

Kommentiert [K12]: Why did you want to delete the more extensive info on the defense sector? We could maybe put it in the footnote?

In 2012, the European Committee of Social Rights (ECSR) observed in its decision on a collective complaint that pension reform measures in Greece would "risk bringing about a large-scale pauperisation of a significant segment of the population".⁴³ Indeed, austerity measures have had a substantial impact on the enjoyment of economic and social rights among the Greek population⁴⁴: unemployment rates were at 23,5% in 2016⁴⁵, and youth unemployment rates at skyrocketing 47,4%.⁴⁶ The General Confederation of Greek Workers (GSEE)

³⁷ <https://www.theguardian.com/world/2015/aug/12/memorandum-understanding-what-exactly-has-greece-signed-up-for> and <https://www.theguardian.com/world/2015/aug/12/greece-bailout-terms-eurozone-policy-making-powers>

³⁸ "Downgrading rights: the cost of austerity in Greece" (FIDH & Hellenic League for Human Rights, n.d)

³⁹ See pages 10-11 of the report "Downgrading rights: the cost of austerity in Greece" (FIDH & Hellenic League for Human Rights, n.d)

⁴⁰ <http://securityobserver.org/financial-crisis-and-defense-cuts-the-view-from-greece/>

⁴¹ <https://www.theguardian.com/world/2015/jun/23/why-has-greece-only-now-included-defence-cuts-in-its-brussels-proposals>

⁴² <https://www.theguardian.com/world/2012/apr/19/greece-military-spending-debt-crisis>

⁴³ ECSR, *Federation of employed pensioners of Greece (IKA-ETAM) v. Greece*, complaint no. 76/2012, decision on the merits of 7 December 2012, § 81.

⁴⁴ For more information, see also: UN Index A/HRC/31/60/Add.2, paragraphs 55-74

⁴⁵ <https://data.oecd.org/greece.htm>

⁴⁶ <https://data.oecd.org/unemp/youth-unemployment-rate.htm>

reported that out of the 1.4 million unemployed persons as of 2014, only 110,000 had received unemployment benefit, whilst the rest had not received any form of relief.⁴⁷ The heavy burden placed on families and individuals due to tax increases and rising costs for health services, along with feelings of desperation and lack of hope has resulted in an alarming increase in suicide rates and depression. In 30 years, the months with the highest suicide rates occurred in 2012. According to a study, “the passage of new austerity measures in June 2011 marked the beginning of significant, abrupt and sustained increases in total suicides of 35,7%”.⁴⁸

As in other countries undergoing far-reaching austerity measures, women’s economic and social rights have been distinctly impacted. Access to the labour market has been extremely difficult for women. According to the Greek Ombudsmen, pre-existing gender inequalities and discrimination in the workplace have been exacerbated by the crisis. For example, pregnant or young women who may want to have children may find it even more difficult to find, or keep, their employment, and are faced with discriminatory practices”.⁴⁹ In 2013, the unemployment gap between men and women reached almost 7 points.⁵⁰

Women’s access to healthcare has also significantly worsened as a result of spending cuts and increased costs of health services.⁵¹ According to Eurostat, women’s self-reported unmet needs for medical examination have increased considerably after re-structuring programmes. The difference between the self-reported increase of unmet needs for treatment in the period from 2006-2012 lied at 44% for women, compared to 36% of the total population.⁵²

2. Impact of austerity measures on women’s economic and social rights in Bosnia and Herzegovina (BiH)⁵³

Reacting to social protests in 2014, Germany and the United Kingdom launched a joint initiative aiming at revitalization of the BiH’s EU integration process, which was followed by the EU adopting the initiative as the Union’s own new BiH initiative.

The new requirements⁵⁴ from EU on BiH were enforced with ‘financial conditionality’ in cooperation with finance institutions. The Bosnian Reform

⁴⁷ “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

⁴⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4316557/>

⁴⁹ Page 25, “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

⁵⁰ In 2013, unemployment rates lied at 31,4% of unemployed women against 24,5% of unemployed men. This may be partly due to the closing down of small and medium sized enterprises on a massive scale. Small enterprises were an important source of female employment. See page 26, “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

⁵¹ Koutsogeorgopoulou, V. et al., Fairly Sharing the Social Impact of the Crisis in Greece, OECD Economics Department Working Papers No. 1106,9 January 2014

⁵² Page 33, “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

⁵³ This part on BiH is a condensed and shortened version of the section “Deconstructing the Reform Agenda”, pp. 16- 27, from WILPF’s publication: WILPF (2017) “A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina”. Available at: <http://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>

For additional information, reference and sources, please see the publication.

Agenda (RA) rests on 6 main pillars to foster socio-economic and related reforms, at all governmental levels, with a focus on fiscal consolidation for macroeconomic stability. The implementation also relies on lending agreements with IMF, WB and the EU.

A gender impact analysis^[11] was absent in the decision-making process and very few (if any) analyses on the progress of the implementation of the RA are gender sensitive. One of the RA's main goals is fiscal consolidation, meaning reduction in the government's deficits and depth. This implies massive cuts in public spending.⁵⁵ The BiH lending agreements with IFIs have come with severe austerity conditionalities. Without conflict and gender analysis informing these measures, the burden of the austerity measures will be carried by the larger portions of the BiH society, and it can be expected that women will be affected more than any other group.

BiH has very high rates of unemployment with just one in every four Bosnians in formal employment, poverty stands at 15%; and around half of the population lives in a precarious situation. Youth unemployment stands at 63%.⁵⁶

The likely impact of the BiH governments' reform plan of massive reduction in the size of the public sector and cuts in civil service salaries and wages is that women, disproportionately employed in that sector, will lose their jobs.⁵⁷ There may also be differential negative gender impacts of the reduction in wages. The contraction in the public sector will involve efficiency cuts in public services and increases in prices, which will likely be compensated for by women's unpaid work in the household and informal economies.⁵⁸

Whereas the stated intention of the reform of the health care system was to create quality health services for the citizens of BiH, up until now the reform of the health sector has led to the abolition of different segments of the public healthcare sector, such as women and maternity care. In addition to limitations to access to health for all, women will be forced to absorb the deficiency in health services through labour in the household and care economy, further constraining women's formal labour market participation.⁵⁹

Reform of the labour legislation in the two entities in BiH was undertaken in 2015. Passing of the new labour laws drew much public attention, and provoked more social and political resistance than any other reform thus far. The major

⁵⁴ They were laid down in three steps: signing of a letter of intent, a written commitment to implementation of reforms framed within the language of socio-economic reforms, good governance and rule of law; the signing would then be followed by the membership application to EU; and the full implementation of the agenda would lead to Commission opinion

⁵⁵ While recognising that fiscal stability and sustainability is necessary in BiH, the reform plan runs counter to a paper published by three IMF economists which issues a strong warning that harsh austerity policies can do more harm than good. There is no evidence, they argue, that fiscal consolidation leads to growth.

⁵⁶ See page 14, WILPF (2017) "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>

⁵⁷ See pages 20 – 21, *ibid.*

⁵⁸ See page 21, *ibid.*

⁵⁹ See pages 21-22, *ibid.*

effects of the new labour law reforms have been deregulation in the realm of employment protection legislation; flexibilisation of working conditions without a proper understanding of which aspects of the employment protection framework prevent from hiring and firing of workers (and to what extent); and side-lining of the labour dispute resolution mechanisms. The reforms of the labour law will lead to increase in job insecurity, more temporary, part-time, non-unionised jobs with fewer benefits, lower-wages (that for many continue to be unpaid by the employer) and deterioration in the safety at work. The RA is focused on lowering labour costs and reducing labour protections to attract foreign investors and transnational business. Reducing the cost of labour, however, does not necessarily mean more jobs or better jobs involving skill development and good working conditions.⁶⁰

The women of BiH will be double-burdened by this. Cutting down on public sector, as proposed by the RA, will lead to women being disproportionately affected because they are more likely to depend on public resources in support of reproductive labour and are culturally expected to fill the gap with respect to caring labour. Effects include more women working triple shifts, the feminisation of poverty, and both short and long term deterioration in female health and human capital. Job creation plans, mainly in the private sector, will not provide sufficient opportunities or job security for women. Most of these plans are developed without a proper gender analysis or understanding of the work demographic of women.

The RA only understands security with respect to countering terrorism and organized crime, which can only play out through further militarization of the society. Interventions in public sector and investments, on the other hand are seen as something completely separate from security, and only in relation to creation of a favourable climate for businesses. Because of the RA's narrow view on security, the BiH economic reform program exacerbates the conditions for social and gender inequalities as well as gendered violence.⁶¹

3. The impact of austerity measures on women's economic and social rights in Ukraine⁶²

In early 2014, the Government of Ukraine requested support from the IMF to restore macroeconomic stability in Ukraine.⁶³ In early 2015, a revised economic

⁶⁰ See pages 23-24, *ibid.*

⁶¹ For more information, see pages 24-26, *ibid.*

⁶² For more information on the impact of IMF's conditionalities on women's economic and social rights, see in WILPF et al. (2017), "Obstacles to Women's Meaningful Participation in Peace Efforts in Ukraine. Impact of Austerity Measures and Stigmatisation of Organisations Working for Dialogue". Joint submission to the Universal Periodic Review of Ukraine, 28th Session. Available at: http://wilpf.org/wp-content/uploads/2017/04/UKRAINE.UPR_JointSubmission-30-Mar-2017.pdf. See also: WILPF et al. (2017), "The Effects of Intervention by International Financial Institutions on Women's Human Rights in Ukraine". Joint Shadow Report to the CEDAW Review of Ukraine, 66th Session. Available at: http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine_20170124.pdf

⁶³ Since 1994, Germany, second biggest foreign investor and third largest trading partner to Ukraine, has been consulting Ukraine on macroeconomic, tax and energy policy through its "German Advisory Group". The group, funded by the Federal Ministry of Economic Affairs and Energy (BMWi), reportedly encouraged Ukraine to accept assistance from the IMF. See

reform programme totaling 17.5 billion USD was agreed between the IMF and the government, requiring the restructuring of the state debt on the terms and conditions proposed by the IMF.⁶³

Austerity measures implemented as part of IMF's requirements include public sector cuts, welfare cuts, tax increases for individuals and the *de facto* elimination of fuel subsidies. As WILPF has shown in joint submissions to the CEDAW Committee and Ukraine's Universal Periodic Review⁶⁴, these measures have impacted women disproportionately.

The *de facto* elimination of fuel subsidies has led to higher prices for gas, heating, electricity, transportation and other goods and services related to fuel use.⁶⁵ In 2017, bills for heating were five to six times higher than in previous years. This massive increase is not matched by a corresponding increase in real wages and has affected not only vulnerable groups but also the so-called "middle class", who after paying utility bills have very little budget left for clothes, food and similar expenditures. The impact of the cancellation of fuel shortages on residents in rural areas, where one third of the total population is located, and who rely more on gas boilers, coal and firewood than on central heating found in urban areas, is highly disproportionate. Earlier this year, the CEDAW Committee expressed concern about the disadvantaged status of women in rural areas in Ukraine. Rural women tend to age faster and suffer from worse health than urban women. They also tend to experience, more than both urban women and rural men, unemployment, domestic violence and harsh living conditions including because, as a general rule in Ukraine, women earn less than men.⁶⁶

In accordance with IMF requirements, during 2014-2015, 165,000 civil service jobs were cut, with overall plans of a 20% reduction in the civil service workforce. This reduction has been undertaken through, inter alia, the reorganization of ten and closing of eight government agencies. There are plans for further downsizing of the public sector with the goal of lowering the overall spending on salary for civil servants to around 9% of GDP in the medium term. Women comprise more than 75% of the civil service, predominately in non-managerial positions. Accordingly, women have been disproportionately impacted - and will continue to be - by these cuts in the public sector workforce.⁶⁷

<https://www.kyivpost.com/article/content/business/world-in-ukraine-german-advisory-group-favors-imf-cooperation-335927.html>

⁶⁴ See "Obstacles to Women's Meaningful Participation in Peace Efforts in Ukraine. Impact of Austerity Measures and Stigmatisation of Organisations Working for Dialogue". Joint submission to the Universal Periodic Review of Ukraine, 28th Session, available at: http://wilpf.org/wp-content/uploads/2017/04/UKRAINE.UPR_JointSubmission-30-Mar-2017.pdf

WILPF et al. (2017), "The Effects of Intervention by International Financial Institutions on Women's Human Rights in Ukraine". Joint Shadow Report to the CEDAW Review of Ukraine, 66th Session. Available at: http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine_20170124.pdf.

⁶⁵ See pages 7-9 as to why IFI requirements have led to *de facto* elimination of fuel subsidies in "Obstacles to Women's Meaningful Participation in Peace Efforts in Ukraine. Impact of Austerity Measures and Stigmatisation of Organisations Working for Dialogue". Joint submission to the Universal Periodic Review of Ukraine, 28th Session, available at: http://wilpf.org/wp-content/uploads/2017/04/UKRAINE.UPR_JointSubmission-30-Mar-2017.pdf

⁶⁶ See page 8, *ibid*.

⁶⁷ See page 9, *ibid*.

In 2014, 12,000 social workers lost their jobs; many of them were women. These cuts had extremely negative consequences for both the beneficiaries of social services and the women whose jobs were cut. A year later, the State cut down 25,000 healthcare professionals, again disproportionately impacting women, since the vast majority of workers in schools, hospitals and clinics are women.⁶⁸^[1]_[SEP]

Lastly, as we illustrate in our submission to the UPR of Ukraine, cuts in the education sector⁶⁹ and in child benefits⁷⁰ and pension reforms⁷¹ have further contributed to the feminization of poverty and has had disproportionate effects on women, thereby amounting to indirect discrimination.

⁶⁸ See pages 10-11, *ibid.*

⁶⁹ For more information, see page 11-12, *ibid.*

⁷⁰ For more information, see pages 13-14, *ibid.*

⁷¹ For more information, see page 13, *ibid.*