



**“The link between homelessness and the right to
adequate housing in Greece”**

**Response to the Questionnaire of the U.N. Special Rapporteur
on the Right to Adequate Housing**

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INTRODUCTION

The development of sound social solidarity trajectories for people at high risk of poverty and exclusion constitutes a key challenge for the rudimentary Greek Welfare State in the context of the sharp financial crisis that affects Greece and its implications during the implementation of the *First* (May 2010) and the *Second Financial Stabilisation Mechanism of the Greek Economy* (February 2012). It represents a major policy issue in the debate on the reform of traditional social security schemes, given that it may affect a broad range of interested target groups (pensioners, elderly long term unemployed, welfare claimants), already hit by severe austerity measures.

The social impact of the crisis has been extremely severe so far in Greece. The employment rate declined from 66.5% in 2008 to 51.3% in 2014, unemployment rate reached 25% (September 2015) and one out of five (22%) falls below the EU relative poverty line. To this end, the Ministry of Labour, Social Insurance and Social Solidarity designed - for the very first time - a common framework of principles, priorities and targets aiming at the coordination, monitoring and evaluation of all policies on national, regional and local level to combat poverty and social exclusion. This framework was adopted in December 2014 as the **National Social Inclusion Strategy (NSSI)** following a consultation process with key stakeholders and interested groups.

The NSSI introduces *activation, empowerment and sustainability* principles in the political economy of welfare in Greece, while it identifies as key priority groups:

- Poor **elderly** people excluded from social insurance pensions;
- Poor uninsured **children** without parents;
- Poor uninsured **adults with no working capacity** (disabled / mentally ill);
- Poor **long term unemployed** excluded from social insurance unemployment benefits;
- Groups **at high risk of social exclusion** (single-parent families, homeless, third country nationals).

The NSSI includes **four Policy Objectives**:

- ⇒ Combatting extreme poverty;
- ⇒ Preventing and combatting child poverty;
- ⇒ Promoting inclusion of vulnerable groups;
- ⇒ Good governance of inclusion policies.

The development of policies on social housing and tackle homelessness is a key priority within the first pillar “**Access to basic goods**” of the No. 1 Objective to combat extreme poverty, which includes the following measures:

- **Measure 1.1.1** – Access to basic subsistence means
- **Measure 1.1.2** – Access to basic health care
- **Measure 1.1.3** – Protection in case of crisis
- **Measure 1.1.4** – Access to adequate housing
- **Measure 1.1.5** – Access to electric power
- **Measure 1.1.6** – Access to financial services
- **Measure 1.1.7** – Access to Justice
- **Measure 1.1.8** – Access to cultural and recreational activities.

A. The legal definition of homelessness

The institutional framework for the establishment of **welfare rights**¹ is laid down in the Constitution of 1975, which includes specific provisions on housing. In this respect, art. 21 provides that:

“(1) The family, as the basis for the preservation and progress of the nation, as well as marriage, mother and childhood are under the protection of the State.

(2) Large families, war invalids and invalids of peacetime, victims of war, war widows and orphans, as well as the incurable physically and mentally sick, are entitled to special State care.

(3) The State will care for the health of citizens and will adopt special measures for the protection of young people, the elderly, invalids, as well as for assistance to the needy.

(4) For those without any or with insufficient accommodation, housing is subject to special State care.

(5) The design and the implementation of demographic policies fall among the responsibilities of the State.

(6) Persons with special needs are entitled to take advantage of measures, which guarantee their personal autonomy, employment inclusion and participation in the social, economic and political framework of the country”.

In line with these constitutional rules, the legal definition of homeless is regulated in the art. 29 of the **Law No. 4052/2012**, which reads as follows:

“1. The homeless are recognized as a vulnerable social group to which social protection is provided. Homeless persons are defined as all persons legally residing in the country, who lack access to safe and adequate accommodation, owned, rented or freely released, and which would meet the technical requirements and basic amenities for water and electricity.

2. The homeless include particularly those living in the streets or shelters and those who are hosted, out of need, in institutions or other forms of institutional care”.

B. The operational measurement of homelessness

There is no regular system for collecting data on homeless. Public authorities have not adopted yet relevant criteria and indicators, although specific recommendations based on the FEANTSA European Typology on Homelessness and Housing Exclusion (ETHOS) have been put forward in the **Greek National Strategy to prevent and combat the lack of housing** (compiled by the Technological Educational Institute of Athens, www.teiath.gr/) on behalf of the Ministry of Labour, Social Insurance and Social Solidarity, May 2015).

¹ It is difficult to determine the legal effect of these social fundamental rights in a general manner, be it that there is a strong tendency to deny them enforceability and to require the interposition of the legislator. Both in legal doctrine and in case law the legislator is given a wide discretion with regard to the concrete implementation of fundamental social rights.

C. Groups at risk of homelessness

According to the National Social Inclusion Strategy, groups at risk of homelessness and housing deprivation include:

- ❑ rooflessness persons (without a shelter of any kind, sleeping rough);
- ❑ houselessness persons (with a place to sleep but temporary in institutions or shelter);
- ❑ persons living in insecure housing (threatened with severe exclusion due to insecure tenancies, eviction, domestic violence),
- ❑ persons living in inadequate housing (in caravans on illegal campsites, in unfit housing, in extreme overcrowding).

There are no official estimations about homeless persons in Greece. However, international organizations emphasize a significant increase (25-30 percent) in homelessness in those countries most affected by the economic crisis (Greece², Portugal and Spain).

On the other hand, data from the 2011 National Population Survey (National Statistical Service of Greece) provide a preliminary profile of groups at high risk of homelessness:

42.942 persons living in a houseless context

3.381 persons living in a roofless context

D. The judicial treatment of homelessness

Although the jurisprudence does not constitute a source of social security law in Greece, case law plays an important role in practice. For instance, if the highest judiciary overrules a precedent in a concrete case, the relevant social insurance institution will have to re-examine every case that has a strong connection with the change of the jurisprudence.

There is no specific case law on the treatment of homelessness, given that no specific protective legislation exists. There are no legal or administrative procedures available to challenge actions or inaction by the government on the grounds that they lead to or fail to address homelessness.

On the other hand, national courts rarely apply binding instruments of international social security law (i.e. the UN *International Covenant on Economic, Social and Cultural Rights* and the Council of Europe *European Social Charter*)³ in housing and homeless cases.

² A FEANTSA Report (*On the Way Home?*, 2012, p. 21) states that “Despite a lack of reliable statistical data, there are clear indications of a large and rapid increase in homelessness. Service providers estimate that Greece’s homeless population also rose by 25% between 2009 and 2011 and reached 20,000”.

³ Greece has not adopted so far the *Revised European Social Charter*.

Homeless persons are entitled to enter categorical welfare schemes if they satisfy relevant eligibility conditions; however, they do not receive any regular cash benefit due to the lack of a **National General Minimum Income Scheme**⁴.

Disputes between a claimant and public authorities on homelessness are dealt with through extra-judicial and judicial procedures. A person who wants to challenge a decision taken by social welfare authorities needs to bring forward proof of illegality of such a decision; if not, the possible deficiencies in the decision are covered by the presumption of legality of legal actions under public law. As a rule, an administrative decision can only be challenged before a court, if all possibilities of internal administrative appeal have been exhausted.

All social welfare authorities have adopted internal guidelines, which should enable the insured people to invite the administrative body to reconsider their case. Such reconsideration of the litigious decision may take place by:

- a body, which is higher in hierarchy than the body, which has taken the decision;
- the same body that took the litigious decision;
- or can be dealt with by a body within the same institution, which is specifically set up for this purpose.

Internal administrative appeal mostly deals with an investigation into the facts upon which the decision was based, but sometimes also points of law are considered. It is possible that also opportunity arguments are dealt with. The procedures and principles of internal administrative appeal are laid down in internal regulations of the social welfare authorities. After the internal appeal procedure is finished, the old decision is substituted by a fresh one in which the litigious decision may be reaffirmed, nullified or modified.

Internal remedies can also be assessed by the services of the **Greek Ombudsman** (www.synigoros.gr), introduced in 1996. According to the internal organization of this institution, disputes between the administration and the citizens in cases relating to social insurance, welfare and health care issues are examined by its social administration Department. This Department has developed a rich body of guidelines related to the treatment of homeless persons.

If the claimant still has objections against any administrative decision, he may appeal to the **first instance administrative courts**. The administrative courts hear appeals, in first and in last instance, in disputes concerning contribution liability and benefits. Also the failure to act by an administrative body is subject to appeal. The administrative courts may confirm, nullify or modify the litigious decision. The judgment of the administrative court is final, although appeal (cassation) may be made to the Council of State; the Council of State then only decides on points of law, judging exclusively upon the legality of the litigious decision.

⁴ A pilot implementation phase of a National General Minimum Income Scheme launched for six months on 15 November 2014 in thirteen municipal areas of Greece; the Government is expected to establish a national regime during 2016.

E. Key challenges

(a) The Ministry of Labour, Social Insurance and Social Solidarity is the responsible body for developing policies to prevent and combat homelessness. After the adoption of the **Law No. 4052/2012**, it has elaborated two relevant Action Plans:

- a *Homelessness Action Plan*;
- an *Action Plan for a Network of Immediate Social Interventions to address the psychosocial needs of the poor and the homeless*.

Both Action Plans were not implemented in practice due to financial and administrative constraints.

(b) The **National Social Inclusion Strategy** was adopted in December 2014 on the initiative of the Ministry of Labour, Social Insurance and Social Solidarity; it was submitted to the European Commission and received with positive comments in January 2015. It recognizes homelessness as a major social risk and includes specific measures to prevent and combat housing deprivation.

This Strategy is now implemented through the so called Regional **Social Inclusion Strategies** drafted by the welfare services of the 13 Regions; they include a set of active inclusion programmes for persons at risk of homelessness

(c) A concerted **National Strategy to prevent and combat the lack of housing** was drafted by the Technological Educational Institute of Athens in the context of a relevant programme agreement between the latter and the Ministry of Labour, Social Insurance and Social Solidarity. The final draft of the Strategy (with an Operational Plan) was submitted in May 2015 to the Ministry in order for the implementation to start. However, until the present day, the Ministry has not initiated any implementation activities and **there is no indication of future progress**.

(d) **Greece is one of the very few EU Member States without an inclusive social safety net** (in the form of a national General Minimum Income Scheme)⁵. In addition, **Greece is one of the few EU Member States without any integrated social housing policies**⁶.

However, the national economic and social context remains highly challenging, with implications for both social stability and growth. In this respect, the actual implementation of the **National Strategy to prevent and combat the lack of housing** and the development of active inclusion policies for persons and families at high risk of poverty and social exclusion form key conditions for the overall modernisation of the fragmented Greek social protection regime.

⁵ The introduction of a national MIS is among the social clauses of the Troika Stabilization Programmes, clearly emphasised in the Second (2012) and the Third (2015) Stability Programme.

⁶ A Social Housing Plan was drafted by the National Centre for Social Research (www.ekke.gr) and submitted in May 2015 to the Ministry of Labour, Social Insurance and Social Solidarity.

Table 1. The context of the National Strategy to prevent and combat the lack of housing

PILLAR 1	Prevention of Homelessness
Measure 1.1	Prevention of evictions
Measure 1.2	Affordable Housing
Measure 1.3	Housing Benefits
PILLAR 2	Active Inclusion of homeless
Measure 2.1	Subsistence Needs
Measure 2.2	Housing First
Measure 2.3	Labour market
PILLAR 3	Good Governance of policies
Measure 3.1	Coordination of policies
Measure 3.2	Technical support
Measure 3.3	Networks and Synergies
Measure 3.4	Research
Measure 3.5	Dissemination and Publicity

Documentation

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