

How Brussels is obstructing the prosecution of corruption cases in Greece

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From the Commission’s spokesperson to the president of Eurogroup himself, a crowd of EU officials have been trying to block Greek judges from doing their jobs. As for the new privatization fund, board members and experts, from top to bottom, can commit crimes as they please: By law, no judge can investigate them, no court can try them.

For a good eight years now, politicians, pundits and ordinary citizens have been quarreling over the merits (or lack thereof) of economic policies imposed on Greece by its lenders, notably the EU Commission. Was austerity beneficial or catastrophic? Did “reforms” help or hamper employment and growth? But while such issues are inherently contentious, the third and latest bailout agreement also provides for far less controversial policies.

“Upgrade the fight against corruption!” “Strengthen the independence of institutions!” “De-politicise” the state! Insulate “financial crime and corruption investigations from political intervention!” All these are straight quotes from [the third bailout agreement](#). Who would object to any of that?

Well, the EU, via its main institutions, does. Even the author of the bailout agreement, the EU Commission, seems to be quite allergic to all of the above, at least when it involves its own people. From the Commission’s spokespersons to the president of Eurogroup himself, a crowd of EU officials have been, at least twice in the recent months, actively and proactively doing their best to stop Greek judges from delivering on their job description: prosecuting corruption cases and financial crime.

Greek justice should be free from political intervention – except from the EU’s

In August 2016, EU Commission spokesman Margaritis Schinas reiterated the need for Greece “to depoliticise” its administration. Schinas was referring to the controversial prosecution of the former head of the Greek statistics authority Andreas Georgiou.

In a yet new twist in the “Greek Statistics” saga, Greece’s Supreme Court had [reopened](#) a criminal case against Georgiou for allegedly inflating the government’s budget data between 2010 and 2015 and thus overstretching

the need for additional austerity measures.

Mr. Georgiou had been appointed head of ELSTAT, the statistical authority, in 2010 in an attempt by the government and the country's lenders to restore credibility to Greek statistics. The revelation in late 2009 that the fiscal deficit had been grossly underestimated had largely triggered the start of the euro crisis. Since Georgiou took over, the quality of Greece's reported data was hailed by the country's lenders and Eurostat as "reliable" and "accurately reported", but contested by other ELSTAT board members, including academics and statisticians. This led to a nasty and lengthy spat between the two sides and to the eventual prosecution of Mr. Georgiou despite huge political pressure (by Greek and international political actors) to dismiss the case.

The case's reopening provoked the immediate and angry reaction of Brussels. In an interview with *Bloomberg TV*, Jeroen Dijsselbloem said that the prosecution of Mr. Georgiou was "[a big mistake](#)". Head of Eurostat, Marianne Thyssen, [told](#) reporters that Georgiou effectively had no case to answer. Brussels retaliated by threatening Greece to postpone the reimbursement of the next installment ([Greece May Face Aid-Payout Delay as EU Warns on Backsliding](#)).

But how does "politicisation" fit into the statistics saga? Even Mr. Dijsselbloem [admitted in a TV interview](#) that "this legal case is not been triggered by the current government, so we have to be careful to whom we address our criticism". With the Greek government being exonerated of any criticism, it became obvious that the president of Eurogroup was speaking to the Supreme Court judge who reopened the case. So who was "politicising"? Doesn't this near the mere definition of obstruction of justice?

It wouldn't be a first. Since 2010 when ELSTAT was founded as the new independent statistics authority, the EU Commission, in tandem with the Greek government, intervened legislatively several times to amputate ELSTAT's independence. For example, ELSTAT's board, initially created to safeguard the authority's independence from political interference, was in 2012 turned, by virtue of the 2nd bailout agreement ([p. 162](#)), into a rubber-stamp "advisory" body after several of its members had put into question Mr. Georgiou's actions.

Reactions from EU officials prompted an outraged statement by the Greek Association of Judges and Prosecutors. GAJP labelled EU Commission's meddling in the ELSTAT probe "unacceptable" and accused "local and foreign centers of power of inflicting multiple injuries upon the authority of Justice" ([link in Greek](#)).

Critics might argue that the statistics' case is not the appropriate example to document EU Commission's meddling into Greece's judiciary. Throughout their coverage, the international media have overwhelmingly sided with Mr. Georgiou, calling him an "[embattled](#)" "[messenger](#)", a "[scapegoat](#)" who is "[persecuted](#)" for "[telling the truth](#)".

Let's accept, for the moment, that this canonization of Mr. Georgiou is justified. (I personally find this narrative both reductive and full of factual mistakes but this should be the subject of a separate post.) Even if the charges against Mr. Georgiou had been unfounded, would that legitimise a political actor like Mr. Dijsselbloem to intervene in the Greek justice system and demand the withdrawal of charges? What kind of independent judiciary would there be if we allowed judges do their job only when we agree with them?

Wait, it gets worse.

If we had to single out one institution in Greece with its reputation untarnished, this could be the office of the anti-corruption prosecutors in Athens. In a country with endemic and rampant corruption, this squad of young (and mostly female) prosecutors have succeeded over the years in investigating, indicting and in a few cases even jailing [politicians](#), [media tycoons](#) [football oligarchs](#) [thought to be untouchables](#).

It was this elite team of anti-corruption judges, praised by [Der Spiegel](#) and the [New York Times](#), that in spring 2016 provoked the ire of the EU Commission.

Since 2015, the anti-corruption prosecutor has [filed charges](#) over the sale of 28 state-owned properties by the Greek privatization fund on 20-year leaseback deals. As a result, the Greek state suffered damages of 575

million euros according, to the prosecutor's report*.

The prosecutors' report, however, bore a legal oddity. The board members of HRADF, the privatization fund, escaped prosecution due to a 2013 law, imposed by the troika of lenders that [had shielded them with immunity](#).

Eurogroup president to Greek Finance minister: "This we will not allow!"

Faced with this procedural impasse, Athens prosecutors took another path: they pressed charges against the team of experts that had advised the board to proceed with the real estate deals in question. Among the accused stood three non-Greek nationals, an Italian, a Spaniard and a Slovak, all of them experts appointed by the Eurogroup Working Group.

Similarly to what happened with the ELSTAT case, the news of the prosecution of the foreign experts provoked the rapid and abrupt reaction of Brussels. During a May 24th Eurogroup meeting, according to Greek daily *Kathimerini* ([link in Greek](#)), usually mild-tempered Jeroen Dijsselbloem yelled at Finance minister Tsakalotos, in front of the 19 Eurozone ministers: "This we will not allow!"

By the very end of the Eurogroup meeting, drafts of the final statement included a paragraph committing the Greek government to provide a legal shield to the privatization fund experts. Eventually, the paragraph was omitted from the official statement, but correspondence ([leaked to Kathimerini](#)) from the Euro Working Group, revealed that the Greek side (notably, PM Tsipras himself!) had given assurances to Brussels that the matter would be resolved before the experts were scheduled to testify as defendants.

In a different tone, the Commission's spokesman Margaritis Schinas, in his [June 3rd press briefing](#), reiterated the typical Brussels-like oracle: "European experts who assist Greece need to be assured of the margin of operations".

On the same day, a judge in Athens [ruled](#) in favor of letting the privatization fund's experts walk without bail – a sign that their case would later be shelved and that the Commission's pressure had paid off.

But the issue of future prosecutions remained unresolved. An unnamed EU official was [quoted](#) as saying that "the Eurogroup has asked Greece to proceed with the necessary changes in the legislation to avoid similar situations in the future." In the end, Athens simply capitulated: in late July, a last-minute amendment was added in a bill about... cybercrime, in order to secure full immunity for the EU experts. Article 192 of law 4389/2016 reads:

"The experts, the members of the boards of experts or the members of other advisory bodies of the Company and its direct subsidiaries bear no liability or criminal responsibility for the advice they procure [...]"

In other words, the new privatisation super-fund, that was [approved by the parliament](#) on September 27, gets a free pass to run the "[largest divestment programme in the world](#)", free of any checks and balances! Everyone involved in its decisions, from top to bottom, can decide as they please in a state of anomia. No judge can investigate them, no court can try them.

The anti-corruption prosecutors have endured the pressure by Greek politicians and business tycoons for years. Now they find themselves incapacitated because of the actions of those who pretend to lead the crusade against corruption in Greece. Demoralized, a judicial source that followed closely the EU experts' dossier for months, told *Investigate Europe*: "What's the point of having an anti-corruption prosecutor after all if by law they are forbidden to prosecute corruption?"

* **The Greek privatization programme has been the object of two investigations by**

***Investigate Europe* members. For more, read Elisa Simantke's "[Europoly](#)"; watch Harald Schumann's "[Troika: Power without Control](#)".**