

The Case of Andreas Georgiou

A Travesty of Justice

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After facing prosecution for a decade Andreas Georgiou, former President of Greece's statistical agency (ELSTAT), is now liable to pay damages for defamation to those who produced the infamous 'Greek statistics'!

The former President of the Greek statistical authority (ELSTAT), Andreas Georgiou, who was recently elected by the European Parliament to membership of the European Statistical Governance Advisory Board (ESGAB), is under threat of asset seizure if he fails to pay court-ordered damages for defamation of those who produced the notorious 'Greek statistics'! This is the latest outrage in the Kafkaesque, decade-long persecution of Mr Georgiou, who was tasked with bringing the country's official statistics into line with EU rules. In January the Appeals Court upheld the decision of a First Instance Court that found him liable for 'simple' slander of a former director of national accounts of the statistics office, in his effort to defend the Eurostat-validated fiscal data he compiled. 'Simple' slander in the Greek legal code means that the defendant's statement may be true, but it hurts the plaintiff's reputation. But let's begin at the beginning.

Mr Georgiou was recruited from the International Monetary Fund (IMF) and appointed President of ELSTAT in August 2010, three months after the first EU-IMF adjustment programme was agreed. He has been hounded by the Greek judicial system since 2011 for three separate, but closely linked, cases. All three cases were initiated by ELSTAT staff and board members, and supported by politicians who were seeking a scapegoat for the debt crisis that erupted in late 2009, when the newly elected Papandreou government revealed that the fiscal deficit was twice as high as the estimate the Karamanlis government had submitted to Eurostat. Initially Mr. Georgiou was accused of 'inflating' the 2009

deficit, forcing Greece to take austerity measures imposed by official creditors. The Appeals Court acquitted him three times, but the SYRIZA-appointed Supreme Court prosecutor Xeni Dimitriou, involved in other controversial cases (see Nikos Kotzias' lawsuit against *The Athens Review of Books*)¹ quashed the first two acquittals and ordered retrials. As a result, for eight years Mr Georgiou has fought the criminal charge that he 'inflated' the deficit, forcing the country into deeper austerity, and faced the threat of a life sentence for the 'enormous cost' he imposed on the Greek state. It seemed as if the prosecutor was asking the judges to try him again and again until they reached the 'right' decision: to convict him. Finally, in 2019 Mr Georgiou was acquitted of the charge of inflating the deficit, but not of two other charges.

Specifically, he was also charged with violation of duty for not submitting the revised 2009 fiscal figures for approval to the ELSTAT board (which was subsequently abolished) before submitting them to Eurostat. He was unanimously acquitted at the First Instance Court, as per the prosecutor's proposal, but within a few days (and before the decision and its rationale were published) two former ELSTAT board members requested annulment of his acquittal and another prosecutor ordered a retrial. Indeed, the Appeals Court overturned his acquittal, found him guilty of the violation of duty charge and handed him a two-year suspended jail sentence, even though the European Statistics Code of Practice (which is embedded in Greek law) assigns sole responsibility for all decisions regarding the production and dissemination of statistics to the head of the national statistical authority (Principle 1.4).² The court ignored exculpatory evidence, including written testimony by EU officials and letters sent by the heads of the statistical agencies of other Euro area member countries, confirming that they had sole responsibility for compiling and publishing statistical data.

The third case concerns a press release Mr Georgiou issued in 2014, as President of ELSTAT, expressing his dismay at being prosecuted for statistics fully validated by Eurostat, when no investigation had been initiated against those producing the infamous 'Greek statistics' previously. He also questioned the court's decision to call as expert witnesses only two former staff members of

¹ See www.ft.com/content/b1c23838-779a-11e7-90c0-90a9d1bc9691, accessed 24 August 2021.

² Available at: <https://ec.europa.eu/eurostat/documents/4031688/8971242/KS-02-18-142-EN-N.pdf/c7f85f07-91db-4312-8118-f729c75878c7?t=1528447068000>, accessed 24 August 2021.

the National Statistical Service of Greece (NSSG) (then a department of the Ministry of Finance), who had compiled the fiscal data before Mr Georgiou's tenure, while excluding Eurostat staff who had fully validated the fiscal data after he took office. It is worth noting that the European Statistics Code of Practice expects the head of each national statistical authority to defend the official statistics against slanderous attacks (Principle 1.7). Yet the First Instance Court convicted Mr Georgiou for 'simple' slander of a former NSSG/ELSTAT staff member and awarded the plaintiff €10,000 in damages.

A key prosecution witness in the 'inflated deficit' case was Nikolaos Stroblos, the director of the national accounts division of NSSG between 2006 and 2010, responsible for the fiscal data, who is also the plaintiff in the defamation case. In January 2021 the Civil Court of Appeals upheld Mr Georgiou's conviction for defamation, and now the plaintiff has threatened to confiscate Mr Georgiou's assets and foreclose on the home where his elderly mother lives, following his (20 July) demand for immediate 'obligatory execution' of the civil court's decision. Besides immediate payment of the court-ordered damages (which have grown from €10,000 to €18,443 after including interest and court expenses), Mr Georgiou is asked to publish, as a 'public apology', specific excerpts of the court decision that found him liable for simple slander, with a fine of €200 for each day he fails to do so. All this is taking place two weeks after Mr Georgiou appealed to the Supreme Court to annul his conviction for defamation. The irony is that the person who restored the credibility of Greek statistics is being forced to publicly apologise and pay damages on account of alleged slander to one of the people who led the production of 'Greek statistics' previously!

The evidence that Greece deliberately manipulated the fiscal data in order to conceal its fiscal derailment is compelling. In a report and annex prepared at the request of the Eurogroup in January 2010,³ Eurostat documents several misreporting cases where the Greek authorities submitted false data to the European institutions. For example, hospital liabilities were deliberately underreported for the years 2006–8, thus understating the fiscal deficit for these years. Eurostat's report noted NSSG's lack of professional independence and

³ Report: http://ec.europa.eu/eurostat/documents/4187653/6404656/COM_2010_report_greek/c8523cfa-d3c1-4954-8ca1-64bb11e59b3a. Annex: www.statistics.gr/documents/20181/1245979/Report_EDP_2010_Annex_1_EN.pdf/d48b328a-cada-421f-9c13-f08b2c4c6ff4, both accessed 24 August 2021.

accountability. Based on this finding, the independent ELSTAT was set up in 2010 and the Excessive Deficit Procedure was modified to provide Eurostat with access to primary data sources of EU member states. In an enquiry into the role of the troika (IMF, EU, European Central Bank) in EU programme countries during the 2010–12 debt crisis, the European Parliament resolved that ‘the problematic situation of Greece was also due to statistical fraud in the years preceding the setting-up of the program’,⁴ a point confirmed in a statement by Commission President Juncker in 2019.⁵

The ultimate objective of Mr Georgiou’s prosecution is to shift the blame for the debt crisis to a technocrat. His conviction would help whitewash the fiscal profligacy record of the centre-right Karamanlis government, during whose tenure in 2004–9 the deficit and debt increased significantly. It would be convenient to prove that the Greek debt crisis was just a bubble that could have been avoided if some technocrat with sinister intentions had not colluded with creditors to inflate the 2009 deficit! And if this could not be proved, someone should prosecute Mr Georgiou again and again until a conviction on a related matter undermined his credibility and moral authority. His conviction is equated with the vindication of the politicians responsible for the fiscal derailment that led to the crisis, while also vindicating Mr Tsipras and his radical-left SYRIZA government for attempting to end austerity and obtain debt relief in 2015.

The Wall Street Journal bureau chief Marcus Walker said in an interview with *Kathimerini* newspaper (1 May 2017⁶) before returning to Berlin:

The Georgiou case is nothing but an effort to whitewash the governments that preceded the memoranda and return to the good old habits at the first opportunity. I don’t think you’ve understood how severely this case has damaged Greece’s credibility ... If anything, this case indicates the silent alliance between Tsipras and Karamanlis.

Recently the European Parliament elected Mr Georgiou near-unanimously to one of the seats on the seven-member European Statistical Governance Advisory Board (ESGAB). His appointment confirms his professional reputation and is a slap in the face to his detractors, who are hounding him for the way he discharged his duties as President of ELSTAT. It is noteworthy that the

⁴ See www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0149+0+DOC+XML+V0//EN, accessed 24 August 2021.

⁵ See www.ekathimerini.com/economy/241701/eus-juncker-looks-back-on-lessons-from-greece/, accessed 24 August 2021.

⁶ See <https://www.kathimerini.gr/life/people/907237/markoys-goyoker-i-ellada-chanci-polytimo-chrono/>

methodology and data compiled by Mr Georgiou at ELSTAT are still used today and form the basis of the annual budgets voted by parliament, making a mockery of his prosecution for allegedly falsifying the 2009 deficit and debt figures.

International associations of statisticians have strongly backed Mr Georgiou, warning that politically motivated prosecutions of statisticians undermine the credibility of official data. Nobel laureates, professors, former ministers and other prominent personalities have repeatedly published open letters in his support.⁷ The American Statistical Association has published press releases (here is the latest)⁸ and sent a letter (on 1 September 2017) to then-Prime Minister Tsipras.⁹ It has also issued statements (in 2019 and in 2020)¹⁰ calling on the government of Prime Minister Mitsotakis to take appropriate actions to ‘to remedy the unjust official treatment of Georgiou’. The ongoing persecution of Mr Georgiou has elevated him to an international symbol of the threat against the integrity of official statistics.

Some observers in Greece have claimed that the independence of ELSTAT is not under threat since the prosecutions of Mr Georgiou concern only procedural matters.¹¹ But the credibility of official statistics does not depend solely on the way they are compiled but also on the way they are disseminated and on the possibility of defending them against critics. Credibility is not secured when data are subject to vote, nor when bad faith criticism goes unanswered. As discussed above, the European Statistics Code of Practice assigns sole responsibility for compiling and disseminating official data to the head of each statistical agency, and expects that person to defend the fully validated official statistics. Once this Code is observed, the functioning of institutions should ensure that no government official finds himself in the position of Mr Georgiou, whose prosecution has done enormous damage to Greece’s image abroad. It has raised doubts about the independence of the judiciary and the country’s ability to comprehend that the debt crisis was the

⁷ See www.ft.com/content/f1f00690-3bcb-11e7-ac89-b01cc67cfec9, www.ft.com/content/50979956-698e-11e8-b6cb-4acfb08c11 and also here www.ekathimerini.com/opinion/231305/integrity-of-official-statistics-under-threat/, all accessed 24 August 2021.

⁸ www.ekathimerini.com/news/1157690/asa-decrees-slander-ruling-for-greek-former-statistician/, accessed 24 August 2021.

⁹ www.amstat.org/asa/files/pdfs/POL-20170901GeorgiouSeptember.pdf, accessed 24 August 2021.

¹⁰ 2019: www.amstat.org/asa/News/ASA-Issues-New-Statement-of-Support-for-Greek-Statistician-Andreas-Georgiou.aspx; 2020: www.amstat.org/ASA/News/ASA-Reissues-Georgiou-Statement-on-Mitsotakis-One-Year-Anniversary.aspx, both accessed 24 August 2021.

¹¹ See www.ft.com/content/374f6420-9a0d-11e7-a652-cde3f882dd7b, accessed 24 August 2021.

result of chronic fiscal mismanagement rather than a conspiracy to impose austerity. Foreign media have pointed out that the Greek justice system prosecutes civil servants for doing their job, instead of those who submit fraudulent data.¹²

The claims against Mr Georgiou are not credible and his continued prosecution hurts Greece's reputation as an EU country that upholds the rule of law. It is high time to fully exonerate him and apologise for the hardship he was subjected to. The current reformist government led by Prime Minister Mitsotakis should make this a priority, if indeed it hopes to restore investor confidence in the Greek judicial system and facilitate the repatriation of Greek professionals who live abroad. Mr Mitsotakis has promised a break with the populist practices that led to the debt crisis. The exoneration of Mr Georgiou tops the list.

¹² *Washington Post*: www.washingtonpost.com/opinions/global-opinions/a-number-cruncher-told-the-truth-he-became-his-countrys-public-enemy-no-1/2020/01/02/06a484c4-2d8e-11ea-bcd4-24597950008f_story.html; *The Wall Street Journal*: www.wsj.com/articles/greek-high-court-keeps-alive-case-tied-to-debt-crisis-1526325544?mod=article_inline; *Financial Times*: www.ft.com/content/6e07bdca-62d5-11e6-a08a-c7ac04ef00aa, all accessed 24 August 2021.