

NOT TAKING NEIN FOR AN ANSWER: AN ANALYSIS OF
GREECE'S CALL FOR PAYMENTS OF REPARATIONS
AND WAR DEBTS FROM GERMANY

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I. INTRODUCTION

Greece—as a result of poor financial planning, widespread tax evasion, and excessive government spending—has been deadlocked in a state of financial ruin for the better part of the 21st century.¹ A total financial collapse in Greece could potentially have far-reaching effects on Europe's entire financial market, which has lead Greece's sister nations in the Eurozone to figuratively take up arms to right the wrongs of the struggling nation. In 2010, the Eurozone nations issued billions in bailout funding to avoid a total financial collapse.² As a result of these hefty bailouts, Greece currently owes over €317 billion³ to the Eurozone, €252 billion⁴ of which represents bailout money granted in 2010 alone.⁵ Of that €317 billion, Germany has contributed roughly €80 billion,⁶ the most of any of the Eurozone nations.⁷ However, Germany's generosity is not unconditional; while they have offered the most in bailout funding to Greece, they have also been one of its harshest critics, demanding that Greece not only repay their debts to the Eurozone, but additionally enact austerity measures to curb government spending so as to avoid another financial crisis in the future.⁸ And yet, while Greece is in the midst of a financial crisis

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¹ *Eurozone Crisis Explained*, BBC NEWS (Nov. 27, 2012), <http://www.bbc.com/news/business-13798000>.

² Lauren Macias, Comment, *The Greek Debt Crisis: The Weakness of an Economic and Monetary Union*, 14 DUQ. BUS. L.J. 251, 267 (2012).

³ Over \$350 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/iK3y7f>.

⁴ Over \$280 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/8mqXKr>.

⁵ Paul Hockenos, *Germany Owes Greece for Nazi-era Debts*, AL JAZEERA AM. (Feb. 13, 2015, 2:00 AM), <http://america.aljazeera.com/opinions/2015/2/germany-owes-greece-for-nazi-era-debts.html>.

⁶ Over \$89 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/NxbdTB>.

⁷ Hockenos, *supra* note 5.

⁸ Tom Kutsch, *German, Greek Tensions Extend to World War II Dispute*, AL JAZEERA AM. (Mar. 11, 2015, 5:30 PM), <http://america.aljazeera.com/>

with seemingly no end in sight, it is not only their financial woes that dominated the international news as of late. Greek leaders have turned the tables on their debt collectors by presenting news outlets with a flashier and—according to Greek leaders—more pressing issue: Nazi reparations.

The question of reparations to Greece as compensation for Nazi-era crimes has long gone unresolved. From Germany's point of view, their debts after World War II (WWII) were settled through the negotiations and signings of several treaties, some of which Greece was a signing party to.⁹ Germany specifically claims it has paid its fair share of reparations to Greece, including \$54 million¹⁰ in payments in the 1950s and 1960s.¹¹ However, Greece values the reparations owed to them at €162 billion,¹² which includes an interest-free war loan coerced from the Greek finance ministry that is valued today at €11 billion.¹³ Greece argues that receiving these reparations would bring dignity to a people that were torn apart by Nazis and have since received little to no aid or recognition for their hardships.¹⁴ Further, Greece estimates that even a fraction of the alleged €162 billion owed could help to stabilize their economic turmoil.¹⁵

While Germany's response to the demand of reparations has been unsurprisingly negative, the fate of the Eurozone seemingly triumphed over the personal squabbles between these

articles/2015/3/11/german-greek-tensions-extend-to-lingering-world-war-ii-dispute.html.

⁹ According the German Vice Chancellor Sigmar Gabriel, “[t]he likelihood (of further reparations) is zero because the legal situation is quite clear.” Matthew Karnitsching, *Greece Seeks to Make War Reparations Part of Debt Debate*, WALL ST. J., <http://www.wsj.com/articles/greece-seeks-to-make-war-reparations-part-of-debt-debate-1423696106> (last updated Feb. 11, 2015, 10:04 PM). Greece has, in fact, been a signatory party in treaties where war debt from Germany was conclusively decided. *See Agreement on Reparations From Germany, on the Establishment of an Inter-Allied Reparations Agency and on the Restitution of Monetary Gold*, Jan. 14, 1946, T.I.A.S. 1655, *available at* <http://www.mzv.cz/file/198469/Paris.pdf>.

¹⁰ The equivalent of \$450 million in today's U.S. dollar when adjusted for inflation. Karnitsching, *supra* note 9.

¹¹ *Id.*

¹² Over \$181 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/fo47Qf>.

¹³ Over \$12 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/Je7TzY>.

¹⁴ Hockenos, *supra* note 5.

¹⁵ *Id.*

two nations, at least for a brief moment in time.¹⁶ In a somewhat shocking turn of events, on February 27, 2015, Germany's Parliament voted to extend financial aid to Greece for another four months. The aid was conditioned on Greece's newly elected Prime Minister, Alexis Tsipras (Tsipras), and his finance ministry making a good faith effort to follow through on their mandated reform policies to get the struggling nation back on the right track.¹⁷ And while the agreement still needs to be ratified by other Eurozone members, it seems safe to say that for now, the Eurozone has been saved.¹⁸ However, the question of Nazi reparations remains unanswered through these negotiations, and the legitimacy of either nation's position is still very much unresolved. Is this a case of Greece biting the hand that feeds them and quite possibly biting off more than they can chew? Is this just a case of Greece's leaders applying pressure to a global nerve purely to distract from the real issue? Or, conversely, is there a legitimate claim for reparations that has long been ignored by Germany and the other Eurozone nations?

This article will explore these questions and analyze the arguments on both sides of the issue. Part II of this note will briefly discuss the current state of Greece's financial turmoil. Part III will be dedicated to discussing the Nazi occupation of Greece from 1941–1944. Part IV will discuss how, as a result of Nazi reparations not being fully negotiated through past treaties, Germany may have left the door open for reparations claims. Finally, Part V will focus on the London Debt Agreement and why as a policy matter Germany's war loan to Greece should be forgiven.

II. GREECE'S CURRENT STATE OF FINANCIAL TURMOIL AND THE DEMAND FOR REPARATIONS

Greece was in dire straits financially even before joining the Eurozone.¹⁹ From 1999–2007, public sector wages rose by 50%, quicker than any of the other countries in the Eurozone.²⁰ Greece's

¹⁶ *Greek Debt Crisis: German MPs Back Bailout Extension*, BBC NEWS (Feb. 27, 2015, 7:28 AM), <http://www.bbc.com/news/world-europe-31654898>.

¹⁷ *Id.*

¹⁸ German Finance Minister Wolfgang Schäuble told parliament, "[w]e Germans should do everything possible to keep Europe together as much as we can." *Id.*

¹⁹ *Eurozone Crisis Explained*, *supra* note 1.

²⁰ *Id.*

lack of natural resources and high degree of government control through state-owned banks and industries all contributed to the nation's rising debt.²¹ The crushing blow was the widespread tax evasion amongst its citizens, causing the nation's budget deficit to spin out of control.²² Greece was able to hide these discrepancies through clever accounting until 2004, when their missteps came to light after Eurostat²³ performed a financial audit of the nation.²⁴ The audit revealed that Greece continually failed to meet certain accession criteria required for continuing membership in the Eurozone, and that from 1997 to 1999, Greece exceeded its 3% maximum deficit requirement for membership qualification.²⁵ While Greece's Finance Ministry chalked up the numbers to a change in its accounting methodology,²⁶ the nation's debt continued to grow, and more people were catching on to the deceptive financial policies Greek leaders employed.²⁷

Greece's former Prime Minister, George Papandreou, formerly sought aid from the Eurozone in 2010 and referred to Greece's economy as a "sinking ship."²⁸ In response, the Eurozone and the International Monetary Fund (IMF)²⁹ gave Greece a €110 billion³⁰ bailout in an effort to help Greece pay its creditors.³¹ A

²¹ Macias, *supra* note 2, at 264.

²² *Eurozone Crisis Explained*, *supra* note 1.

²³ Eurostat is the statistical office of the European Union, and is situated in Luxembourg. *Overview*, EUROSTAT, <http://ec.europa.eu/eurostat/about/overview> (last visited Mar. 11, 2015).

²⁴ Macias, *supra* note 2, at 266.

²⁵ *Id.* The 3% figure is a Gross Domestic Product cap on borrowing that is required by members of the Eurozone. *Eurozone Crisis Explained*, *supra* note 1.

²⁶ Macias, *supra* note 2, at 266.

²⁷ *See id.* at 267 ("Not surprisingly, investors that took part in the covered bond program[—]particularly those invested in Greek bonds[—]did not welcome the news that 'the new government of Prime Minister George A. Papandreou had discovered that its conservative predecessor had falsified budget figures, concealing a swollen debt that was growing rapidly in the wake of the global economic meltdown. Greece was quickly frozen out of the bond markets").

²⁸ *Id.*

²⁹ The International Monetary Fund (IMF) is an international economic organization whose primary purpose is to ensure the stability of our international monetary system, as well as ensure the stability of all "macroeconomic and financial sector issues that bear on global stability." *About the IMF: The IMF at a Glance*, THE INTERNATIONAL MONETARY FUND, <https://www.imf.org/external/about.htm> (last visited May 21, 2015).

³⁰ Over \$123 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/W9H3Q5>.

³¹ *Eurozone Crisis Explained*, *supra* note 1. *See also* Diana Magnay et al., *Greece Accepts Bailout Package*, CNN (May 2, 2010, 3:20 PM), http://money.cnn.com/2010/05/02/news/international/greece_bailout/.

second, €130 billion³² loan was granted after it became apparent that the original loan was not sufficient to cover Greece's debts.³³ As a condition of the issued bailout funds, Greece was required to implement stricter limits on government spending through austerity measures, raise taxes, and reform its labor market and government pension plans.³⁴

While Greece's finance ministry took the financial aid from the Eurozone with an open palm, the nation has yet to comply fully with the conditions attached to these loans.³⁵ By September 2011, it became evident that Greece was not living up to its end of the bargain when it came to implementing the required austerity measures, which resulted in deteriorated relationships between the struggling nation and other European officials.³⁶ Building pressure from other members of the Eurozone forced Greece to pass unpopular austerity measures, including an increase in property taxes that resulted in widespread protests throughout the nation, including a march of tens of thousands through the streets of Athens.³⁷ As Greece sank deeper into recession with no hope in sight, the protests amongst its citizens grew more violent.³⁸ Police in Athens were forced to respond with violent measures, using tear gas, stun grenades, and riot gear as thousands of threw bottles and other forms of debris at police during a 48-hour strike against the new austerity measures.³⁹

On February 11, 2015, Finance Ministers from nineteen Eurozone countries met to discuss Greece's fate in the Eurozone.⁴⁰ Greece's leaders hoped the emergency meeting would generate bridging loans Greece, extensions on their current bailout debt, until August, when a new deal could be struck.⁴¹ Germany was in strong opposition to these bridging loans, saying that Greece needed to begin fulfilling its commitments according to the previous bailout agreements⁴² before it could be granted more

³² Over \$145 billion as of May 2, 2015. Translated with Google Currency Converter. <http://goo.gl/ukBxsu>.

³³ *Eurozone Crisis Explained*, *supra* note 1.

³⁴ *Id.*

³⁵ Macias, *supra* note 2, at 268.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Greece Protest Against Austerity Package Turns Violent*, BBC NEWS (June 28, 2011), <http://www.bbc.com/news/world-europe-13935400>.

⁴⁰ Hockenos, *supra* note 5.

⁴¹ *Id.*

⁴² *See supra* notes 30–34 and accompanying text.

money by the Eurozone nations.⁴³ Greece heard Germany's opposition to the bridging loans and turned the talks to a topic that has long been lingering beneath the surface, but had always been approached with caution: Nazi reparations.⁴⁴

For many, this recent claim of reparations did not come as a surprise, as Greece's new government leaders have been outspoken about the issue, which in their eyes has been overlooked time and time again.⁴⁵ Tsipras's hard stance against Germany and the Nazis began months before the demand for reparations.⁴⁶ During his campaign for Prime Minister, Tsipras fervently promised he would "press the 'unfulfilled right' to reparations for a 'people who bled and paid heavily for the brutality of Nazism.'"⁴⁷ Minutes after being sworn in as Prime Minister in January 2015, Tsipras publicly laid red roses down at a memorial site outside of Athens, in the town of Kaisariani, where Nazi troops executed several Greek communists in 1944.⁴⁸ Tsipras, a known communist and member of the radically left Syriza political party, acted swiftly in carrying out his promise to "press the unfulfilled right" of his people,⁴⁹ with some members of the public calling it "another 'up yours' to Germany."⁵⁰ Tsipras is determined to assure these recent claims for reparations are not just a blip on Germany's radar, going so far as to threaten German property in Greece⁵¹ and

⁴³ Hockenos, *supra* note 5.

⁴⁴ *Nazi War Debt Strains Greece-Germany Ties*, THE LOCAL DE (Feb. 7, 2015, 8:24 AM), <http://www.thelocal.de/20150207/nazi-war-debt-strains-greece-ties>.

⁴⁵ Tsipras has claimed that Germany has employed "legal tricks" to avoid paying wartime reparations, stating that earlier payments to Greece have not fully compensated the nation. Hayley Richardson, *Greece Threatens to Confiscate German Assets Over WWII Reparations*, NEWSWEEK (Mar. 11, 2015, 5:07 PM), <http://www.newsweek.com/greece-threatens-confiscate-german-assets-over-wwii-reparations-313035>.

⁴⁶ *Id.*

⁴⁷ *Nazi War Debts Strains Greece-Germany Ties*, *supra* note 44.

⁴⁸ The National Resistance Memorial was home to the attack of over two hundred Greek civilians, mostly communist political activists, as a retaliatory measure by the Nazis after Greek guerillas attacked German General Franz Krech. As the Greek civilians were lead to their eventual death, they sang the Greek national anthem and refused to undress, saying that they preferred to die "dressed with dignity." Helena Smith, *Alexis Tsipras Pays Homage to Greek Communists at Site of Nazi Atrocity*, THE GUARDIAN (Jan. 26, 2015, 4:22 PM), <http://www.theguardian.com/world/2015/jan/26/alexis-tsipras-greece-syriza-kaisariani-nazi-german>.

⁴⁹ *Nazi War Debts Strains Greece-Germany Ties*, *supra* note 44; *see supra* text accompanying note 47

⁵⁰ Smith, *supra* note 48.

⁵¹ In 2000, the Greek Supreme Court held that German property in Greece may be taken to compensate the families of 218 victims who were massacred by

create a parliamentary committee whose sole purpose is to estimate and secure reparations for Nazi crimes.⁵² The remainder of this article will further explain the legal rationales behind Greece's outcry and Germany's refusal regarding reparations. Firstly, however, the events that have sparked this international debate, the German occupation of Greece, must be explored.

III. THE GERMAN OCCUPATION OF GREECE

In 1941, after Greek forces held off Benito Mussolini's Italian army for several months,⁵³ Hitler and Mussolini combined their armies and invaded Greece together, bringing about a bloody occupation that left 300,000 Greeks dead from starvation and disease, as well as hundreds of thousands more as casualties of war.⁵⁴ The eventual food shortage that plagued the country led to the Great Famine of 1941 and 1942, which left urban parts of the country in shambles and 40,000 Greeks in Athens alone dead.⁵⁵

In April 1941, German forces swiftly occupied Greece.⁵⁶ Hitler's army entered the nation on April 6, and on April 26, the capital city of Athens had been occupied.⁵⁷ Shortly after the occupation of Athens, the country was divided into three zones: Bulgarian forces occupied the northern part of the country (eastern Macedonia and western Thrace); German forces occupied three of the Aegean islands, most of Crete, and the rest of Macedonia which bordered Turkey and Greater Athens; while Italian forces occupied the rest of the country, including the Cyclades, a series of islands off the southeastern coast of Greece.⁵⁸

Nazis in the small village of Distomo in 1944. The properties in question include exhibits that belong to a German archaeological school and a German non-profit cultural association, the Goethe Institute. Richardson, *supra* note 45.

⁵² Karolina Tagaris, *Greek Panel Begins Campaign for World War Two Reparations from Germany*, REUTERS (Apr. 1, 2015, 10:50 AM), <http://www.reuters.com/article/2015/04/01/us-eurozone-greece-germany-idUSKBN0MS40620150401>.

⁵³ Mehreen Khan, *Greece Demands Nazi War Reparations and German Assets Seizures as Creditor Squeeze Continues*, THE TELEGRAPH (Mar. 11, 2015, 2:30 PM), <http://www.telegraph.co.uk/finance/economics/11463568/Greece-demands-Nazi-war-reparations-as-rhetoric-turns-nasty-in-creditor-talks.html>.

⁵⁴ Hockenos, *supra* note 5.

⁵⁵ *Id.*

⁵⁶ VIOLETTA HIONIDOU, *FAMINE AND DEATH IN OCCUPIED GREECE, 1941–1944*, at 11 (2006).

⁵⁷ *Id.*

⁵⁸ *Id.* at 13. For a map of Greece during 1941–44 consider *id.* at 22 (Figure 1.1: Map of Greece).

The occupation of Greece was not one of violent takeovers, or explosions of bombs and gunfire. Rather, the occupation of Greece was a slow and systematic pillaging of a nation's resources that left 300,000 of its citizens dead as a result of widespread famine and disease.⁵⁹ Within the first month of the German occupation, German forces treated Greece's financial market like their own personal investment cupboard, seizing or buying at extremely low prices any and all stock in olives, olive oil, raisins, figs, tobacco, cotton, and leather, as well as a large number of pack animals.⁶⁰ As a result of the continued economic pillaging, a black market arose in many of the major cities, with branches leaking into smaller towns outside of the cities.⁶¹

Shortly thereafter, the country was divided into thirteen areas, where German forces strictly prohibited food or population circulation between the different areas.⁶² Because of this blockade, any goods harvested in 1941 could not be distributed to the parts of the country that desperately needed them, resulting in the already pervasive famine to become even more widespread.⁶³ Additionally, a naval blockade was set up by the Allied powers, further preventing goods from being circulated to the parts of the nation that needed them because Greece was now technically enemy territory.⁶⁴ Greek citizens reached out to the American and British governments for aid and while many at the time recognized that "some definite gesture should be made," there was not enough international pressure for countries to commit.⁶⁵

While politicians deliberated aiding the occupied nation,⁶⁶ German forces pillaged on, and the shortage of food in the already damaged nation continued to grow beyond repair.⁶⁷ Urban areas were struck the hardest by famine, and in many areas the famine

⁵⁹ *Id.* at 209 (Table 10.3: Cause-specific percentage distribution of excess deaths during the famine in comparison with 1937–40 (annualised)).

⁶⁰ HIONIDOU, *supra* note 56, at 13.

⁶¹ *Id.* at 87. "[I]n Athens, they appeared in Asurmatos and Polugono. In Hermoupolis the place was near the cemetery at the edge of town. On Hios it was in Vounaki; on Volos it was in a street in the suburb of Nea Ionia." *Id.* at 97.

⁶² *Id.* at 13.

⁶³ *Id.*

⁶⁴ *Id.* at 13–14.

⁶⁵ HIONIDOU, *supra* note 56, at 14–15.

⁶⁶ *Id.* After a cabinet position to uphold the blockade on Greece was affirmed, a Minister of the State telegraphed Winston Churchill: "[H]owever much the enemy is to blame [for the famine], history will I believe pronounce a strong judgment on our policy." *Id.* at 18–19.

⁶⁷ *Id.* at 14 n.31. *The Times* reported in 1941 that the "scarcity of food . . . now threatens catastrophic proportions."

lasted the entirety of the German occupation and beyond.⁶⁸ The figures on mortality are staggering, but the highest numbers of deaths occurred in the winter of 1941 into 1942 due to widespread famine and a malaria outbreak that swept many of the major urban areas.⁶⁹ In Athens alone, from September 1941–February 1942, 5,500–7,000 people died per month as a result of famine and malaria.⁷⁰

Within a few years of their occupation, Nazi troops would begin rounding up Jewish citizens in Greece and transporting them to labor camps in other parts of Europe.⁷¹ British forces liberated the nation in 1944 and were faced with populations that were severely malnourished, and in some places, completely starving.⁷² Although liberated from Nazi control, Greece was not finished facing its share of hardships.⁷³ After the German forces left Greece, the widespread resource depletion and crippled economy left in their wake caused a two-stage civil war to break out between communist rebels and the new Greek government, leaving close to half of a million Greeks displaced from their homes and 50,000 combatants dead.⁷⁴

The 1940s were a treacherously difficult period for Greece, and the vast majority of problems they faced were directly at the hands of or at least—in the case of the civil war—a residual effect of the German occupation and subsequent drain of Greece’s resources. The widespread famine and death that consumed Greece, coupled with the crippling economic effects of the German occupation, are the foundation for Tsipras’s requests.⁷⁵ However, while it provides a compelling story, is there a legitimate claim to

⁶⁸ While famine in Greece is often discussed in reference to the Great Famine of 1941–42, it is significant to say the famine and its enduring effects—especially in many of the more rural areas of Greece—carried on long after German forces vacated the country. *Id.* at 32–33.

⁶⁹ *Id.* at 162 (Figure 9.1b), 163.

⁷⁰ HIONIDOU, *supra* note 56, at 162 (Figure 9.1b).

⁷¹ See United States Holocaust Memorial Museum, *The Holocaust in Greece* 4, <http://www.ushmm.org/m/pdfs/20130305-holocaust-in-greece.pdf> (last visited May 27, 2015).

⁷² HIONIDOU, *supra* note 56, at 48.

⁷³ Editors of the Encyclopedia Britannica, *Greek History: Greek Civil War*, ENCYCLOPEDIA BRITANNICA, <http://www.britannica.com/EBchecked/topic/244553/Greek-Civil-War> (last visited Mar. 15, 2015).

⁷⁴ *Id.*

⁷⁵ Tsipras believes his government has an “ethical duty” to collect the wartime debt as well as a “duty to history, to the people who fought and to the victims who gave their lives to defeat Nazism.” Richardson, *supra* note 45.

reparations hidden within these facts? Or is Tsipras using his nation's history to cover the problems of today?

IV. THE CASE FOR THE PAYMENT OF FURTHER REPARATIONS TO GREECE

Treaties and debt agreements between the Allied nations and post-war Germany after WWII have negotiated most reparations issues. Germany's government is taking a firm stance on the issue of war reparations, claiming that the matters have been completely resolved through these treaties.⁷⁶ Over the past seven decades, Germany has paid its fair share of reparations to European nations, including Greece.⁷⁷ While Greece has claimed that these reparations are insufficient, and they are owed much more because of Germany's destruction in Greece, Germany's government is unwilling to budge.⁷⁸

Greece's stance on the issue is not without merit. As a result of international pressure from the North Atlantic Treaty Organization (NATO) and the United States to resolve the matter of reparations swiftly, Greece was left somewhat undercompensated, receiving just over the equivalent of \$25 million (\$220 million in today's U.S. dollars) when they requested upwards of the equivalent of \$10 billion.⁷⁹ While Greece may have received the short end of the stick when it came to negotiating reparations payments, as a result of a treaty signed in Paris in 1946, The Final Act of the Paris Conference on Reparations,⁸⁰ their claims for further payments may have been laid to rest.

At the Paris Conference on Reparations in January 1946, several nations signed a treaty stating their final claims for reparations from Nazi Germany, and Greece was amongst this group.⁸¹ Specifically, Article 2(A) of the treaty reads as follows:

The Signatory Governments agree among themselves that their respective shares of reparation, as determined by the present

⁷⁶ Karnitsching, *supra* note 9.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Agreement on Reparations From Germany, on the Establishment of an Inter-Allied Reparations Agency and on the Restitution of Monetary Gold, *supra* note 9.

⁸¹ *Id.*

Agreement, shall be regarded by each of them as covering all its claims and those of its nationals against the former German Government and its Agencies of a governmental or private nature, arising out of the war (which are not otherwise provided for), including costs of German occupation, credits acquired during occupation on clearing accounts and claims against the Reichskreditkassen [emphasis added].⁸²

Based on this language, what Greece received seems to be the totality of what they will ever get from Germany in reparation payments. This contractual agreement suggests that this was a one-time claim for reparations and Greece, while they may have been peer pressured into doing so, ultimately agreed to the terms. The remainder of Germany's post-WWII reparations payments ultimately concluded with the passage of the Treaty on the Final Settlement with Respect to Germany in 1990. The treaty is a crucial part of the debate on whether reparations are owed to Greece.⁸³ This treaty, known informally as the "Two Plus Four Treaty," was designed to eliminate all of Germany's post-WWII debt in the interest of the unification of German Democratic Republic (East Germany) and the Federal Republic of Germany (West Germany).⁸⁴ Germany's position, and the position of many legal scholars, is that this all-inclusive treaty concludes the issue of reparations.⁸⁵

Existing international case law supports Germany's position as well.⁸⁶ In 2012, the United Nations International Court of Justice (I.C.J.) overturned a Florence Court of Appeals decision, which held that the German government owed an Italian citizen reparations payments because the citizen was interned at a German labor camp in 1944.⁸⁷ Greece entered the case as an

⁸² *Id.*

⁸³ Karnitsching, *supra* note 9.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), 2012 I.C.J. 99 (Feb. 3), available at <http://www.icj-cij.org/docket/files/143/16883.pdf>. All page numbers are in accordance with the English translation of the opinion.

⁸⁷ U.N. Court Rules Against Italy in Case Over Nazi Compensation Claims, UN NEWS CENTRE (Feb. 3, 2012), <http://www.un.org/apps/news/story.asp?NewsID=41140#.VfzMip1Vikp>.

intervening party.⁸⁸ In 2007, descendants of the Greek citizens who were killed by Nazi soldiers in Distomo,⁸⁹ pursuant to a Florence Court of Appeals decision, attempted to claim a piece of German property located in Italy.⁹⁰ That attempt to seize German property was held off until the I.C.J.'s decision in the *Germany v. Italy* case.⁹¹

The I.C.J. held that Italy had failed to recognize Germany's immunity from civil suits arising out of Nazi war crimes.⁹² Within this opinion, however, the I.C.J. addressed the question of whether formally settled debts can be re-opened for discussion.⁹³ The court discussed at length several treaties between Italy and Germany regarding debts resulting from Nazi activities.⁹⁴ One agreement signed in 1961 explicitly states that by signing the treaty, "[t]he Italian Government declares all outstanding claims on the part of the Italian Republic or Italian natural or legal persons against the Federal Republic of Germany or German natural or legal persons to be settled"⁹⁵

The *Germany v. Italy* case was grounded in claims of international immunity from suits instituted by individual citizens in tort, so the circumstances differ from the demand for reparations by Greece's government.⁹⁶ However, the relevant aspect of the decision for the purposes of this note is the I.C.J.'s interpretation of the language in the "all claims settled" portions of the aforementioned 1961 agreement. The language is similar to the language set forth in the Final Act of the Paris Conference on Reparations,⁹⁷ and would lead one to conclude that if Tsipras were to pursue an action for collection on reparations in the I.C.J., Germany would retain immunity from the suit. Stated differently, even if a challenge to the "all claims settled" portion Final Act of the Paris Conference on Reparations were brought in front of an

⁸⁸ Jurisdictional Immunities of the State, 2012 I.C.J. at 99.

⁸⁹ See *supra* notes 45, 51.

⁹⁰ Jurisdictional Immunities of the State, 2012 I.C.J. at 115–16.

⁹¹ *Id.* at 116.

⁹² *U.N. Court Rules Against Italy in Case Over Nazi Compensation Claims*, *supra* note 87.

⁹³ Madeline Chambers, *Pressure Mounts on Merkel Over Greek War Reparations Calls*, REUTERS (Mar. 19, 2015), <http://www.reuters.com/article/2015/03/19/germany-greece-war-idUSL6N0WL2D320150319>.

⁹⁴ Jurisdictional Immunities of the State, 2012 I.C.J. at 111–12.

⁹⁵ *Id.* at 111.

⁹⁶ The court ultimately concluded that Germany could not be stripped of any immunity from suit from individual citizens just because some were not compensated or were undercompensated. *Id.* at 144.

⁹⁷ See *supra* text accompanying note 82.

international court such as the I.C.J., the claim would likely not be enough to strip Germany of its immunity, further insulating the nation from claims of reparations payments.

The strongest argument Greece could make in support of their claim for reparations is that there was never a formal, universally agreed upon peace treaty to conclude all debts.⁹⁸ The Two Plus Four Treaty, in fact, was strategically not labeled as a peace treaty so the issue of reparations would not cause unnecessary delays in the unification of Germany, and thus, Greece was told that reparations did not need to be dealt with at that time.⁹⁹ Greece was informed that talks of reparations were premature upon the signing of the Two Plus Four Treaty in 1990; now in 2015, they are being told it is too late.¹⁰⁰ Further, Greece was never a signing party to the Two Plus Four Treaty, and many legal experts argue that in considering this in combination with the “mislabeling” of the Two Plus Four Agreement, the question of reparations is still open to interpretation.¹⁰¹ As a result of this ambiguity, Greece may have a chance for claiming the reparations owed to them. Greece’s position has received some support in Germany, with many senior German politicians advocating that Germany pay Greece the requested reparations.¹⁰² Not surprisingly however, German President, Angela Merkel, and her Finance Minister, Wolfgang Schäuble, have largely met these proposals with negative responses.¹⁰³

Regardless of the political implications and financial hardship that Germany may face, the issue of reparations has not been fully discussed and managed. Greece may have a legitimate claim for reparations because of the contradictory results of different treaties governing the issue. The concessions made in the

⁹⁸ Chambers, *supra* note 93.

⁹⁹ *Germany, Greece and History: Pointing Fingers*, ECONOMIST (Mar. 21, 2015), <http://www.economist.com/news/europe/21646760-euro-zone-brink-again-neither-childish-squabbles-nor-historical-arguments-are>.

¹⁰⁰ *Id.*

¹⁰¹ Chambers, *supra* note 93. *See also* Aggeos Skordas, *Legal Experts: Greece has Grounds for WWII Reparations*, GREEK REPORTER (Mar. 19, 2015), <http://greece.greekreporter.com/2015/03/19/legal-experts-greece-has-grounds-for-wwii-reparations/#sthash.5RN8IVKN.dpuf>. (“The German government’s argument is thin and contestable. It is not permissible to agree to a treaty at the expense of a third party, in this case Greece’ . . .”).

¹⁰² Tony Paterson, *Greek Bailout Crisis: We Should Pay Reparations for Nazi War Crimes, Say Top German Politicians*, THE INDEP. (Mar. 17, 2015), <http://www.independent.co.uk/news/world/europe/greek-bailout-crisis-we-should-pay-reparations-for-nazi-war-crimes-say-top-german-politicians-10114738.html>.

¹⁰³ *Id.*

Final Act of the Paris Conference on Reparations seemingly closed the door on Greece's chances of gaining further reparations payments. However, the Two Plus Four Treaty and its ambiguities on the issue of reparations may have left the door slightly cracked open, just far enough for Greece to make out a legitimate claim for a final determination on German reparations.

However, in this author's opinion, Greece's requests are unlikely to prevail. Aside from the contractual issues here, there are more broad policy concerns for Germany. From a German point of view, responding to one call for Nazi reparations could open the floodgates to more nations claiming disparity at the hands of the Nazis seventy years ago.¹⁰⁴ Instead of making just one nation whole through reparations, there is a legitimate concern that Germany would open itself up to financial ruin, and would also be put in the somewhat awkward position of deciding which Nazi crimes are worth granting reparations. Additionally, the German government has taken a firm stance on this issue in the past, and it does not look like they are willing to change course any time soon. For now, it seems as though Greece's claims for reparations payments will go unanswered. However, their claims for repayment of the €11 billion war loan may be more legitimate.

V. THE CASE FOR THE €11 BILLION WAR LOAN

As previously discussed, the issue of reparations to struggling nations after the fall of Nazi Germany was handled through a series of treaties and agreements between Germany and other European nations. The issues of loans and other forms of debt accrued by the Nazis was handled through the passage of one innovative treaty, the London Debt Agreement of 1953.¹⁰⁵ The London Debt Agreement served as a recovery from the mistake

¹⁰⁴ It is quite possible the German government could find itself in this position regardless of whether the reparations are granted to Greece or not. In recent months, the Russian Parliament approved plans to create a task force to investigate how much they are owed in reparations from Germany as a result of damages sustained in WWII. Damien Sharkov, *Russian Parliament Set to Request €4 Trillion in WWII Reparations from Germany*, NEWSWEEK (Feb. 3, 2015, 12:58 PM), <http://www.newsweek.com/russian-parliament-set-request-eu4-trillion-wwii-reparations-germany-304163>.

¹⁰⁵ Nick Dearden, *Greece and Spain Helped Post-War Germany Recover: Spot the Difference*, THE GUARDIAN (Feb. 27, 2013, 7:24 PM), <http://www.theguardian.com/commentisfree/2013/feb/27/greece-spain-helped-germany-recover>.

that was the Treaty of Versailles,¹⁰⁶ and cut Germany's debt in half to make it more manageable for the nation to pay off.¹⁰⁷

Using the London Debt Agreement as a basis for their claim for the repayment of the war loan, Greece can make a strong claim for reimbursement, although the solution of that claim is somewhat unclear as a result of the passage of the Two Plus Four Treaty of 1990. Article 4(1)(b) of the London Debt Agreement, entitled *Debts to be Settled*, more or less makes Greece's case for them. It reads: "(1) The debts to be settled under the present Agreement and Annexes thereto are: . . . (b) Pecuniary obligations arising out of loan or credit contracts entered into before 8th May, 1945" ¹⁰⁸ Reading this language in a vacuum, Greece is rightfully owed repayment on their €11 billion war loan, and should have received payment when the London Debt Agreement was signed in 1953.

Once again, however, the Two-Plus-Four Treaty makes the solution for repayment much more unclear and problematic. Article 5(2) of the London Debt Agreement reads:

Consideration of claims arising out of the second World War by countries which were at war with or were occupied by Germany during that war, and by nationals of such countries, against the Reich and agencies of the Reich, including costs of German occupation, credits acquired during occupation on clearing accounts and claims against the

¹⁰⁶ The Treaty of Versailles ultimately brought an end to World War I. The treaty, signed by the Allied powers with little to no participation by Germany, primarily reassigned boundaries in Europe and assigned liability for reparations payments. David Kaiser, *Treaty of Versailles*, HISTORY.COM, <http://www.history.com/topics/world-war-i/treaty-of-versailles> (last visited May 21, 2015).

¹⁰⁷ This is in stark contrast to the strategy behind the Treaty of Versailles, which can be boiled down to one simple statement: the war was Germany's fault, they can pay for all of it. Specifically, as a consequence of Article 231 of the Treaty of Versailles, the "War Guilt Clause", which required Germany to pay reparations and the totality of their war loans almost immediately, the country sank further into financial depression. See Timothy W. Guinnane, *Financial Verganheitsbewältigung: The 1953 London Debt Agreement*, Yale University: Economic Growth Center 6 (Jan. 2004), available at http://www.econ.yale.edu/growth_pdf/cdp880.pdf. These crippling economic circumstances ultimately led to Adolf Hitler's rise to power in 1933. See Dearden, *supra* note 106.

¹⁰⁸ Agreement on German External Debts art. 4(1)(b), Feb. 27, 1953, 4 U.S.T. 443.

*Reichskreditkassen*¹⁰⁹ shall be deferred until the final settlement of the problem of reparation.”¹¹⁰

The final discussions on payment of war reparations were seemingly settled with the Two Plus Four Treaty, and yet no war debt or other form of reparations payment was offered at that time.¹¹¹ As a result of the passage of the Two-Plus-Four Treaty, Greece may be out of luck in their attempts to recover reparations payments, even with the relevant portions of the London Debt Agreement reading in their favor.

While this conclusion may be jarring, it is likely the correct interpretation of the situation. On the one hand, Greece has suffered greatly as a result of this war loan remaining unpaid. The coerced loan did far more than merely deprive Greece’s Finance Ministry of funding. Rather, it weakened the currency of the entire nation and increased inflation in Greece because the national bank was forced to issue inflationary notes to cover further expenses.¹¹² The financial disaster that ensued after the Nazi occupation, the coerced war loan, and the widespread famine and resource depletion ultimately led to the struggle between the Greek government and Communist rebels that erupted into a two-stage civil war at the end of the 1940s.¹¹³ Furthermore, Greece was ensured their war loan would be repaid upon unification of Germany, and once again, they were left in the dark.¹¹⁴ Based on the language of Article 4(1)(b) of the London Debt Agreement, Greece can make a strong claim that they are rightfully owed repayment of the war loan coerced from its Finance Ministry.

However, the policy reasons behind the London Debt Agreement, and the language of Article 5(2), may prevent Greece’s claim for repayment from being entertained. The London Debt

¹⁰⁹ The Reichskreditkassen were essentially credit offices of the larger German bank, the Reichsbank, and were set up in German-occupied countries during WWII. Chris Powell, *German Currencies in Occupied Countries*, GOLD ANTI-TRUST ACTION COMMITTEE (Sept. 19, 2011, 2:03 AM), <http://www.gata.org/node/10457/print>.

¹¹⁰ Agreement on German External Debts art. 5(2), Feb. 27, 1953, 4 U.S.T. 443.

¹¹¹ See *Germany, Greece and History: Pointing Fingers*, *supra* note 99.

¹¹² Phillip Inman, *Greece is Right to Expose German Loans Hypocrisy*, THE GUARDIAN (Apr. 26, 2013, 8:36 AM), <http://www.theguardian.com/world/blog/2013/apr/26/greece-expose-german-loans-hypocrisy>.

¹¹³ Editors of the Encyclopedia Britannica, *supra* note 73.

¹¹⁴ “In the 1960s Ludwig Erhard, the then Chancellor, said that Germany would repay the loan once it reunified. He may have assumed this would never happen.” *Germany, Greece and History: Pointing Fingers*, *supra* note 99.

Agreement was about much more than simply structuring a method by which Germany would pay its debts; the agreement was a way for the western nations to ward off communism from returning to Germany.¹¹⁵ Germany's creditors, including Greece, recognized that structuring an agreement to forgive much of Germany's debt was the best way to help a country that needed to recover from such economic devastation, despite the atrocities its military had committed only years prior, and was the best way to ward off communism from returning to the country.¹¹⁶ The London Debt Agreement was signed by nations like Greece to serve a greater good, and the signing nations seemingly recognized that some debts were going to be left unpaid.¹¹⁷ Therefore, as a policy matter, Germany's position on the outstanding war loan may have a higher likelihood of success than Greece's.

VI. A BRIEF CONCLUSION

Greece's most recent claim for reparations and the payment of the outstanding war loan seems to be a distraction from the monster that is Greece's current state of financial ruin. Bailout money has been handed to Greece on several occasions, and yet Tsipras and his anti-austerity Syriza Party continually fail to comply with the conditions regarding economic reform.

Tsipras is stuck between a rock and a hard place. On the one hand, his party is notably anti-austerity, and making the necessary economic reforms could ensure that he would never win a bid for re-election. On the other hand, if Tsipras and his administration do not enact the necessary reforms, Greece will likely be cut from the Eurozone and tossed into the wild to fend for itself. The fate of a nation rests in the hands of Tsipras, and in order to save it, he must make strategic decisions that will benefit the nation as a whole, regardless of the personal and political implications that may befall him. Lingering issues of the effects of Nazism often retain the attention of the masses, and it is very much possible that Tsipras is dangling the issue of reparations and war debts in front of the rest of the world to distract from the real story, Greece's inevitably doomed economy and exit from the Eurozone.

However, these consequences may actually be beneficial to the rest of the Eurozone nations, making a Greek exit from the

¹¹⁵ Dearden, *supra* note 105.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

Eurozone something to be seriously considered. While in 2011 and 2012 many thought a Greek exit from the Eurozone would topple international markets,¹¹⁸ just three years later many economists are crossing their fingers in hopes that the struggling nation will exit.¹¹⁹ The short-term effects of a Greek exit from the Eurozone, including unchecked inflation, political discord and a negative ripple effect throughout Europe's financial sector, would be immediately problematic, but only temporarily.¹²⁰ However, in the long term, a well-managed and structured Greek exit from the Eurozone could be mutually beneficial for all parties involved and would not set off the global economic collapse once thought.¹²¹

Greece's financial situation has drastically declined in the ensuing months, and a "Grexit" from the Eurozone seemed more imminent than ever.¹²² Tsipras and his administration were actively avoiding striking a bailout deal with their creditors in the Eurozone, even going so far as to urge Greek voters not to vote in favor of proposed bailout agreements.¹²³ Tsipras and his new finance minister bring plenty of demands to the table, including short-term financing to assist them in making hefty summer payments to their creditors, but are unwilling to accept any proposed reform measures or austerity plans from the Eurozone leaders.¹²⁴ In the mean time, banks in Greece are shutting down and running out of money faster than Greek citizens can withdraw it.¹²⁵

However, on July 13, 2015, Tsipras, after days of seemingly endless negotiations, agreed to a bailout package worth €86 billion (\$96 billion) over three years.¹²⁶ However, the Eurozone's generosity came with a price. Tsipras was left with only a few days

¹¹⁸ Mike Bird, *Here's What Happens if Greece is Forced out of the Euro*, BUS. INSIDER (Feb. 16, 2015, 11:16 AM), <http://www.businessinsider.com/grexit-if-greece-leaves-the-euro-2015-2>.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Bitter Cup*, ECONOMIST (July 7, 2015), <http://www.economist.com/news/europe/21657275-euro-zone-leaders-demand-alexis-tsipras-propose-deal-harsher-one-greek-voters-just-rejected>.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Greek Banks Running out of Cash as EU Leaders Meet*, AL JAZEERA (July 7, 2015, 3:10 PM), <http://www.aljazeera.com/news/2015/07/greek-banks-running-cash-key-eu-meeting-150707071756470.html>.

¹²⁶ Suzanne Daley & Liz Alderman, *Premier of Greece, Alexis Tsipras, Accepts Creditors' Austerity Deal*, N.Y. TIMES (July 13, 2015), http://www.nytimes.com/2015/07/14/world/europe/greece-debt-plan.html?_r=0.

to convince Greece's Parliament that enacting pension cuts and tax increases in the short-term, and subjecting the nation to rigorous international oversight in the long-term is worth reaping the benefits of this generous bailout.¹²⁷ While Greece's Parliament accepted the bailout package, the decision came with severe political blowback for Tsipras.¹²⁸ One-third of the Syriza party members in Greece's Parliament voted against or abstained from voting on the bailout agreement.¹²⁹ As a result of the dissent in his party, Tsipras was forced to resign as Prime Minister.¹³⁰

The conclusions made above are, of course, speculative. The answer to the question of payment of the reparations and the outstanding war loan are all issues that, if not settled behind closed doors between the two nations, will be dealt with in international courts. Suits brought by private citizens have been litigated in Greek courts;¹³¹ however, the I.C.J. has held that governments are immune to lawsuits by individuals in foreign courts.¹³² While it would be interesting to see Nazism make a return to the international tribunal stage, the issue of Nazi reparations should take a back seat to the more pressing economic matters at hand.

¹²⁷ *Id.*

¹²⁸ *Greece Crisis: Eurogroup Agrees to Third Bailout*, CNN (Aug. 14, 2015), <http://www.bbc.com/news/world-europe-33934238>.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Richardson, *supra* note 45.

¹³² *Germany, Greece and History: Pointing Fingers*, *supra* note 99.