



October 28, 2019

Raúl M. Grijalva
Chairman
Natural Resources Committee
United States Congress
Washington, DC

Dear Congressman Grijalva:

Puerto Rico faces a situation of generalized crisis. To the current situation of economic depression and public debt crisis follows massive migration, fiscal austerity imposed by elected and non-elected institutions and the deterioration in the governance of public institutions. This picture responds in large part to decisions made in the past, as well as to policies imposed from abroad by political and economic interests outside the interests of the reality of Puerto Rican society. While having said the above, it should also be noted that the lack of responsibility of the local political leadership cannot be avoided. Over the years, this asymmetric relationship between these powers, has hindered both the accountability to citizens and the allocation of responsibilities that do not give space to impunity. Puerto Rico adheres to an obsolete socio-economic model that puts the well-being of Puerto Rican society at risk, particularly the most vulnerable populations. To ensure a path with different results, the renewal of that model can and should be led by Puerto Rican civil society.

Without entering to debate the democratic overreach of the imposition of the PROMESA Law and having a non-elected Fiscal Oversight Board that the people of Puerto Rico pay from their pockets, it can be concluded after more than three years, that the strategies and policies imposed by the Board itself, product of the law that created it, do not address the real causes of the island's problems. The situation of democratic deficit and fiscal crisis that had to be settle is not solved either with greater institutional repression or with fiscal austerity prescriptions that the international economic community has ruled out in consensus. Instead, it has contributed to the deterioration of the living conditions for the majority of the



population. The implementation of a mechanism that was supposed to provide a legal framework that allowed, among other things, an orderly restructuring of the payment of an unsustainable public debt, has not granted citizens better means and tools in the face of the crisis.

In addition to these strategies and policies, the Board has become known for a persistent lack of transparency. For example, the lack of disclosure of the full financial interests of some members of the Board and employees, as provided by the same law that created it¹, generated suspicion just months after they were appointed. Another dimension of the lack of transparency is the limited access to all the documentation that the Board produces, manages, supervises, delegates and that either constitutes or should constitute public information.

Thus, the intervention of the Board has added more vulnerability to public policy design and decision-making processes related to them. Puerto Rico still lacks a transparency law that allows its citizens, on the one hand, to know in-depth the details and pretexts for these public policies and, on the other hand, that allows them to defend themselves against possible excess and institutional abuses. However, Puerto Rico does have jurisprudence of its Supreme Court² that guarantees access to any public document produced by the elected government but not by the Board. This vulnerability is once again seen with the newly created transparency³ and open data⁴ laws—opposed by Espacios Abiertos and the major journalistic associations⁵— which place more obstacles to access public documentation.

This situation of lack of transparency has led these and other Puerto Rican civil society organizations, such as Espacios Abiertos to challenge the government on several occasions before the courts. As a result of these legal processes, which are more than burdensome for

¹ PROMESA, § 109(b), 48 U.S.C. § 2129(b) (2016). <https://www.congress.gov/bill/114th-congress/house-bill/5278/text#toc-H29902A23E7D04D27A2C7EA0C915EAF13>

² Supreme Court of Puerto Rico. (March 31, 1982). *Soto v. Giménez Muñoz* (112 DPR 477). <https://vlex.com.pr/vid/112-d-p-r-684630593>

³ Legislative Assembly of Puerto Rico. Legislative Services Office. Act141, 2019. <http://www.oslpr.org/2017-2020/leyes/pdf/ley-141-01-Ago-2019.pdf>

⁴ Id. Act 122, 2019. <http://www.oslpr.org/2017-2020/leyes/pdf/ley-122-01-Ago-2019.pdf>

⁵ Asociación de Periodistas de Puerto Rico (ASPRO); Overseas Press Club (OPC); and Unión de Periodistas, Artes Gráficas y Ramas Anexas.



small nonprofits like ours, encouraging victories have been won: after Espacios Abiertos challenged the government in court and before a court ruling could establish jurisprudence against the Executive branch, the government decided to make public the economic assumptions of the fiscal plans—which according to the PROMESA law had to be certified by the Board—which Espacios Abiertos claimed that should be made public. Even today, part of the remaining assumptions of the economic models—developed by experts paid by both the government and the Board—are kept hidden from citizens, such as those that have been used in the latest fiscal plan to produce the projections of the real gross national product growth of Puerto Rico⁶. The fact that the information became public, allowed Espacios Abiertos to question the basis on which the fiscal plan and its projections were based. The same happened with the request from Espacios Abiertos on the need of having a public tax expenditure report. After pressure from our organization—which took the case to the Supreme Court of Puerto Rico—the government finally made the report public⁷ just a few weeks ago. The document revealed that annually citizens pay about \$ 20.6 billion in tax incentives to individuals and corporations that, in many cases, lack proper government scrutiny on their economic or social impact. In times of economic crisis and budgetary cuts in essential services, understanding how each and every one of the existing incentives is awarded is critical, especially when it is suspected that many of these corporate incentives lack economic or social return.

If the current economic austerity prescriptions imposed by the Board have already shown to be an unsuccessful experiment in any economy in which they have been imposed in recent economic history⁸, what are the reasons to continue with the same recipes for Puerto Rico? That reality, without a doubt, deserves deep reflection from the Congress.

⁶ Fiscal Plan for Puerto Rico (May 2019). (p.19). <https://drive.google.com/open?id=13wuVn04--JKMEPKu-udjZJHqTK-55aV>

⁷ Government of Puerto Rico. Department of the Treasury. Puerto Rico Tax Expenditure Report for Tax Year 2017. http://www.hacienda.gobierno.pr/sites/default/files/comunicaciones/puerto_rico_tax_expenditure_report_2017_version_final_septiembre_2019.pdf

⁸ International Monetary Fund (IMF). Jonathan D. Ostry, Prakash Loungani, and Davide Furceri. FINANCE & DEVELOPMENT, June 2016, Vol. 53, No. 2. "Neoliberalism: Oversold?". <https://www.imf.org/external/pubs/ft/fandd/2016/06/pdf/ostry.pdf>



The most recent episode that shows not only the lack of transparency but also its consequences, is the recent leak to the press of an internal document of the Board⁹ in which they recognize failed projections. In this document, the Board reveals the failure of its own economic recipes —specifically, what they predicted as positive effects on economic growth resulting from their proposed structural reforms— by stating that growth projections will not materialize. As if that were not enough, the document also indicates and acknowledges their overestimation of federal post-disaster relief funding after hurricanes Irma and Maria that was projected at \$69 billion. According to the document it could be now cut to \$39 billion. In the past, studies of expert economists in debt restructuring¹⁰ already indicated with suspicion the excessive optimism of the projections made, but the lack of access to precise documents from the Board prevented to clarify such overestimations.

The previous assumptions produced failed growth projections and now, just when they intend to reach an agreement regarding the restructuring of the General Obligation bonds with obsolete projections that will force payments of possibly unsustainable debt for more than 40 years, they indicate that such growth projections will decline. We need to know in detail why this sudden change in projections and if, as a consequence, a review of the restructuring already approved would be required —as in the case of COFINA— whose experts in the field¹¹ already anticipated as too generous with bondholders. If such downward growth projections materialize, tax collections would also decrease, and if revenues are reduced, the sustainability of debt payments would again be compromised. In a few years, we would be facing a second bankruptcy process and possibly another expensive restructuring process at the expense of the investment of public policies that Puerto Rico so much needs today. In economics, consensus among experts is not always possible. In the case of Puerto Rico, there is and among economists of different ideological spectrums: Puerto Rico

⁹ Noticel. Commonwealth Fiscal Plan Risks. (September 17, 2019). https://media.noticel.com/o2com-noti-media-us-east-1/document_dev/2019/10/20/Informe%20de%20Riesgos%20del%20Plan%20Fiscal%20septiembre%202019_1571626158096_39533768_ver1.0.pdf

¹⁰ Espacios Abiertos (May 2019). Martin Guzman. “Puerto Rico’s Debt Dilemma”.

<https://espaciosabiertos.org/wp-content/uploads/Puerto-Ricos-Debt-Dilemma-Final-Report-May-2019-1.pdf>

¹¹ Espacios Abiertos (January 2019). Martin Guzman. “COFINA, a recipe for failure”.

<https://espaciosabiertos.org/cofina-receta-al-fracaso/>



needs a substantial haircut of its public debt¹². Economist Martin Guzman Associate Research Scholar at Columbia University, in the study¹³ he directed entitled "An analysis of Puerto Rico's debt relief needs to restore debt sustainability", in co-authorship with economist Pablo Gluzmann and the Nobel Memorial Prize in Economic Sciences Joseph E. Stiglitz concluded that "in order for the payment of Puerto Rico's debt to be sustainable," the debt stock of \$72.2 billion should be reduced by at least 80%. And that is not what is happening.

If the Board is not eliminated, Espacios Abiertos proposes that the Congress apply the following suggestions to the body that they selected and imposed to Puerto Rico: a regulation that obliges them to make accessible (via internet, in open data format, in Spanish and English, in Puerto Rico and in the United States) all documentation related to its members and its management on the Board including all documentation produced by its contractors, subcontractors and other participants in the hiring chain. This regulation must also impose on the members of the Board a code of ethics that prevents any conflict of interest, influence peddling and revolving doors that may limit for a reasonable period of time their return in areas of the private sector that they had under their control. Finally, and no less relevant, Congress must demand that any debt restructuring meets the sustainability criteria of a debt sustainability analysis conducted by independent experts and should support a citizen-led debt audit. With this, the people of Puerto Rico could establish who the authors of the current debt crisis are and their respective quotas of responsibility. This set of measures, at least, on the one hand, would give the opportunity for citizens to have a greater degree of participation in the design of their future, and on the other hand, it would make the members of the Board act with caution and commitment of its supervisory function like any other elected official.

¹² A Fiscal Plan for Puerto Rico Recovery. <http://recovery4pr.org/>; The Washington Post. Larry H. Summers. "How to actually help Puerto Rico". https://www.washingtonpost.com/news/wonk/wp/2018/04/17/lawrence-summers-how-to-actually-help-puerto-rico/?utm_term=.d0173aaa63a1; Bloomberg. Antonio Weiss, Brad W. Steser, and Desmond Lachman. "Puerto Rico Needs a Better Debt Deal". <https://www.bloomberg.com/opinion/articles/2018-10-08/puerto-rico-needs-a-better-debt-deal>; Project Syndicate. Martin Guzman & Joseph E. Stiglitz. "Disaster Capitalism comes to Puerto Rico". <https://www.project-syndicate.org/commentary/puerto-rico-fiscal-plan-cofina-deal-by-martin-guzman-and-joseph-e-stiglitz-2018-11>

¹³ Espacios Abiertos (January 2018). Pablo Gluzmann, Martin Guzman & Joseph E. Stiglitz. "An analysis of Puerto Rico's debt relief needs to restore debt sustainability". <https://espaciosabiertos.org/wp-content/uploads/DSA-English.pdf>

Espacios Abiertos
PO Box 9024270
San Juan, PR 00902-4270
T (787) 622-1123
www.espaciosabiertos.org



From Espacios Abiertos we will continue fighting for a more open, fair and democratic society that favors transparency, accountability, access to information and citizen participation. We hope that your Committee, the Congress and all elected and non-elected officials who intend to influence the future of Puerto Rico share our noble intentions.

Respectfully submitted,

Daniel Santamaría Ots
Senior Public Policy Analyst
Espacios Abiertos