

## NATIONAL LEGAL MEASURES TO COMBAT RACISM AND INTOLERANCE IN THE MEMBER STATES OF THE COUNCIL OF EUROPE

### GREECE, Situation as of 31 December 2002

#### General Overview

*Preliminary Note: this table is accompanied by an explanatory note*

COUNTRY:	Constitutional provisions	Specific legislation	Criminal law	Civil and administrative law
<b>GREECE</b>				
<b>Norms concerning discrimination in general</b>	Yes Article 2.1 Article 4.1 Article 5A Article 6 Article 9A Article 14. 5 Article 22.1 Article 25.1	No	Yes Article 186 of the Criminal Code	Yes. Art. 57 of the Civil Code
<b>Norms concerning racism</b>	Yes. Art. 5 § 2.	No	Yes. Act 927/1979 supplemented by Section 24 of Act 1419/1984 amended by section 72 of Act 2910/2001	Yes. Protection of individuals with regard to processing of personal data, Collective labour agreements, Laws on the organisation of the police, Crime Prevention Councils in each municipality and codes of practice in the audiovisual field.

Relevant jurisprudence	Yes	No	Yes, but very little	No
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## EXPLANATORY NOTE

### GREECE / GENERAL OVERVIEW

Greece has ratified the New York Convention of 1966 on the Elimination of All Forms of Racial Discrimination, which came into force in 1970. As a result the criminal law was adapted with the promulgation of Act 927/1979 (amended by Art. 24 of Act 1419/1984 and by Act 2910/2001), against acts or activities leading to racial discrimination.

Apart from the Greek Commission for Human Rights, founded by Act 2667/1998, and the Ombudsman (*synigoros tou politis*, in Greek), whose office was established under Act 2477/1997, Greece has no body specialising in the fight against racism. The Ombudsman's annual report for 2001 shows that a constantly growing number of cases referred to the office concern infringements of freedoms and general rights violations committed against members of minority population groups, in particular foreigners and economic immigrants. In 2000-2001 such complaints accounted for 33.5% of the total.

### Constitutional law: Greece

*Preliminary note: this table is accompanied by an explanatory note*

Constitutional provision	Scope	Relevant jurisprudence	Remarks
Article 2, para. 1	Respect and protection of human dignity		This provision affords a basis for a state obligation to take every step to protect all persons on the national territory in cases not covered by the current regulations and laws
Article 4.1	Equality of all Greeks before the law	The Council of State (Supreme Administrative Court) addressed the principle of equality in its judgment 3587/1997 (First Division) and ruled that, under Article 4.1 of the	A fundamental constitutional principle

		<p>Constitution, the law must provide for uniform treatment of all Greek citizens of identical or similar legal or de facto status. In practice, this means that the Greek state is prohibited from drawing any arbitrary distinctions between nationals. The constitutional principle of equality is directly applicable and accordingly binding on parliament, the government and the courts.</p>
Article 5, para. 1	Right to develop freely one's personality	<p>The provision makes no distinction between nationals and foreigners. However, it should be noted that the possibility of a foreigner's using this provision as the basis of an enforceable right is a subject of doctrinal controversy.</p>
Article 5 para. 2	Protection of life irrespective of nationality, race or language. Every person has the right to cultivate his/her personality freely and to take part in the social, economic and political life of the country as long as he/she does not prejudice the rights of others or undermine	<p>It should be mentioned that nationality (a term denoting national feeling rather than citizenship) is one of the forbidden grounds of discrimination. It is generally acknowledged that this provision sets out an interpretative rule conducive to equality between foreigners</p>

	the Constitution or moral values.		and Greek citizens.
Article 25.1	Guarantees social and economic rights. Human rights, enjoyed in an individual capacity or as a member of society, and the constitutional principle of the welfare state are guaranteed by the state. All state officials undertake to ensure that these rights and the principle of the welfare state, which are also applicable in inter-personal relations, can be effectively exercised and applied, free of all impediments.		As a consequence of restrictive interpretation of the wording of Article 5.2 of the Constitution, protection of foreigners' rights was confined to personal liberty and security. The new Article 25.1, introduced by a constitutional amendment in 2001, confirms and guarantees the full protection of foreigners' social and economic rights without limitation.

## EXPLANATORY NOTE

### GREECE/CONSTITUTIONAL LAW

Under Article 2.1 of the Greek Constitution of 1975, as amended in 1986 and 2001, respect and protection of the "values of the human being" constitute fundamental principles and a "primary obligation" of the Greek state. Although it can be regarded as an ancillary legal provision, Article 2.1 has remained a vitally important human rights protection standard within the Greek legal system. In parallel, Article 4.1 of the Constitution made "equality before the law" of all Greeks a fundamental constitutional principle.

In 2001 the Greek Constitution of 1975/1986 was amended to make it more universally applicable and humanitarian, with the aim of protecting the civil and social rights of everyone on Greek soil without distinction as to origin or membership (or non-membership) of an ethnic or racial group, for instance. The new anti-discriminatory nature of the amended Constitution was reinforced by a new provision - Article 5.5 - providing that everyone shall enjoy the right to protection of health. Among the other universally applicable provisions of the amended Constitution (2001) the most important are:

- Article 5A on the right of everyone to information and to participate in the information society;
- Article 9A on the right of everyone to protection regarding the collection, processing and use, particularly by electronic means, of personal data;

- Article 14.5 on the right of reply of anyone whose reputation is harmed by the publication or broadcasting over the radio of inaccurate, defamatory or insulting information and the corresponding obligation to publish or broadcast the reply.

### **Criminal law: Greece**

*Preliminary note: this table is self-sufficient and is not accompanied by an explanatory note*

<b>Offence</b>	<b>Source</b>	<b>Scope</b>	<b>Sanction</b>	<b>Relevant jurisprudence</b>	<b>Remarks</b>
Incitement to racial discrimination, hatred or violence.	Section 1(1) of Act 927/25.6.1979, supplemented by Section 24 of Act 1419/8.3.1984 and amended by section 72 of Act 2910/2001	Covers any person who publicly, whether orally, in writing or by any other means, promotes acts liable to provoke discrimination, hatred or violence towards individuals or groups because of their racial, ethnic or religious origin.	Imprisonment for a maximum of two years and/or a fine.		
Propaganda and activities aimed at racial discrimination.	Section 1(2) of Act 927/25.6.1979, supplemented by Section 24 of Act 1419/8.3.1984.	Constitution or membership of an organisation whose aim is to organise propaganda or activities of any nature involving racial discrimination.	Imprisonment for a maximum of two years and/or a fine		
Public expression of	Section 2 of Act 927/25.6.1979	Covers the expression in	Imprisonment for a		

offensive ideas		speech, via the press, in writings, by pictures or by any other means of any ideas offensive to an individual or a group of individuals by virtue of their racial or ethnic origin or their religious affiliations.	maximum of one year and/or a fine.
Refusal to provide a service	Section 3 of Act 927/25.6.1979	Covers those who, in the exercise of their occupation, refuse to sell a commodity or supply a service on racial grounds.	Imprisonment for a maximum of one year and/or a fine.
Automatic prosecution	Section 39.4 of Act 2910/2001	The offences defined in Act 927/1979 are made subject to automatic prosecution.	<p>The "Stochos" case, that of a newspaper which in 1986 published an article insulting the Jewish community. A complaint from the Jewish Central Council was accepted on the basis of Art. 186 of the Criminal Code, but a complaint by a group of persons concerned was rejected on the</p> <p>Since the repeal of section 4 of Act 927/1979 by section 72 of Act 2910/2001, legal proceedings may be initiated by any interested association or individual.</p>

				basis of section 4 of Law 927.
Provocation or incitement to commit a crime	Art. 186 of the Criminal Code	Covers any person who provokes or incites someone to commit an offence	Imprisonment for at least 3 months	New "Stochos" case. In 1993 the paper published an article accusing Jews of being AIDS-carriers. The Jewish Central Council lodged a complaint under Act 927/1979. The Director of Public Prosecutions also lodged a complaint under Art. 186 of the Criminal Code. The latter complaint was the only one heard, and the paper's director was found guilty. He appealed, and the Court of Appeal dealt with the case in 1994 but did not go into the substance because of the time-limit provided for in the recent Press Act 2172/1993

## Civil and administrative law: Greece

*Preliminary note: this table is accompanied by an explanatory note*

Provision	Scope	Consequences of breach	Relevant jurisprudence	Remarks
Art. 57 of the Greek Civil Code	Prejudice to someone's personality		Case-law accepts that any conduct entailing discrimination on the grounds of race, nationality or religion constitutes unlawful prejudice to the victim's personality.	

### EXPLANATORY NOTE

#### GREECE / CIVIL AND ADMINISTRATIVE LAW

It is of particular interest here to describe the various measures taken in the fields of protection of personal data, broadcasting, employment matters in general and the police.

##### 1. Protection of individuals regarding processing of personal data

Act 2472/1997 lays down the conditions governing processing of personal data, with the aim of safeguarding personal freedoms and fundamental human rights, in particular the right to privacy. Sections 2b and 7 of the Act expressly prohibit the collection and processing of data concerning, *inter alia*, racial or national origin and religious or philosophical beliefs. Such data are regarded as "sensitive". Their collection and processing may be exceptionally permitted by an independent administrative authority set up to that end.

##### 2. The Collective Labour Agreement between the ERT S.A. and the ESHEA

The Collective Labour Agreement between the Greek Radio and Television Company S.A. (in Greek: *Elliniki Radiofonia kai Tileorasi-ERT*) and the Athens Union of Daily Newspaper Editors (in Greek: *Enosi Syndakton Hmerision Efimeridon Athinon-ESHEA*) includes rules governing the exercise of the profession of journalist, which are binding on both parties. One of these rules reads as follows:

"The religious convictions, institutions, traditions and customs of nations, peoples and races as well as the personal and family lives of individuals are inviolable".

A decision by the first-instance disciplinary council of the ESHEA states:



"The following Code may be drawn up on the basis of the articles on moral and journalistic practice of the ESHEA's statute:

They shall respect the sacred nature of events and the freedom of citizens, without being influenced by racial, political or religious prejudice (preamble to the Statute and Article 2a)".

Being the internal rules of the Editors' Union (ESHEA), these rules can give rise only to disciplinary sanctions against editors who express views motivated by racial or other kinds of discrimination.

### **3. The Code of Journalistic Ethics**

In Regulation n° 1 of the National Radio and Television Council (CNR) on journalistic ethics for radio and television (Code of Journalistic Ethics for Radio and Television) of 20 June 1991 (Official Gazette 421/B/21.6.91), Article 5 states:

"It is not permissible to depict persons in a way liable, in practice, to encourage the degradation, social isolation or unfavourable discrimination against a section of the public for reasons relating, in particular, to sex, race, nationality, language, religion, ideology, age, sickness or infirmity, genetic orientation or occupation".

### **4. Code of ethics for radio and television advertising**

In Regulation n° 3 of the National Radio and Television Council (CNR) on the ethics of radio and television advertisements (Code of Ethics for Radio and Television Advertising) of 11 July 1991 (Official Gazette 538/B/18.7.91), Article 4 § 2 states:

"A broadcasting station may not broadcast advertisements which:

- a. violate human dignity
- b. introduce discrimination, in particular on grounds of sex, race, religion or nationality".

Violation of the codes mentioned above involves CNR sanctions under the law, in accordance with a procedure set out in CNR Regulation n° 4/1991.

### **5. Television regulations**

In Presidential Decree n° 236 of 10 July 1992 on the exercise of television activities in Greece - Harmonisation with EEC Council Directive n° 89/552/EEC of 3.10.89 (Official Gazette 124/A/16.7.92), Article 6 § 3 (Art. 10-12 and 19-21 of the Directive) reads as follows:

"Televised advertising must not:

- a. violate human dignity,
- b. introduce discrimination on grounds of race, sex, religion or nationality,
- c. offend religious or political convictions".

## **6. Legislation on social security**

Reference may be made here to Circular 88/6.12.1990 on insurance for foreigners (cf. *Deltion Ergatikis Nomothesias* 1991, volume 47, pp. 106s.), which states that subjection to social security depends on the territoriality principle, whereby special cover exists for all employed persons, regardless of their nationality, sex, age or religion or their workplace within Greece's frontiers, provided, of course, that the legal conditions are fulfilled.

## **7. Collective labour agreements**

Both the national, general collective labour agreement (ref. SSE-18/1998/99) and the rubber industry collective labour agreement (ref. SSE 10/1998) now contain a provision (Article 10) aimed at preventing racism and xenophobia:

"The contracting parties recognise the need to cultivate a spirit of humanitarianism, awareness and mutual assistance in matters relating to racial and national differences.

They also stress the need to devise and implement policies making it possible to avoid discrimination and the need for respect of cultural and/or religious differences."

## **8. Organisation of the Greek police**

Article 8 of Presidential Decree 14/2001 (Official Journal 12/A/ 31.01.2001) on the organisation of the Greek police determines the functions of the Divisions of the Immigration Department. The "Refugees and Political Asylum" Division is responsible, inter alia, for dealing with racism and xenophobia (Article 8, paragraph 4 f).

## **9. Crime Prevention Councils**

Act 2713/1999 established a Crime Prevention Council (*SPE - Symvoulío Prolipsis Eglimatikotitas*) in each municipality. Ministerial Decision 300/2002 (Official Journal 12/B/2002) determined the tasks of these councils, including the following (paragraph 2 b):

"b) planning and promoting specific crime prevention measures and combating racism, xenophobia, domestic violence, social exclusion and insecurity."