



GREECE

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NATIONAL POLICY

Greece has included the fight against terrorism in its primary priorities. To this end, it has strengthened and modernised its laws, in the fields of both prevention and repression, demonstrating -at the same time- respect for human rights. Furthermore, taking into consideration the demographic changes of recent years and the confrontations they may lead to, it encourages dialogue between citizens of different nationalities, religions and cultures, to foster understanding of the differences between them and encourage integration.

LEGAL FRAMEWORK

Penal law

Greek criminal law considers as "terrorist actions" offences which are already provided for and punished independently by the Criminal Code or by special criminal laws, but which are committed in such a way, to such an extent or under such conditions that is possible to seriously harm a country or an international organisation and with the purpose of seriously intimidating a population or illegally forcing a public authority or an international organisation to perform or to abstain from performing an action or of seriously harming or destroying the fundamental constitutional, political and economic structures of a country or an international organisation.

Such actions are: a) intentional homicide,¹ b) causing severe physical injury,² c) causing fatal injury,³ d) abduction and kidnapping of minors,⁴ e) causing significant damage to a third party's property,⁵ f) arson,⁶ g) arson in forests,⁷ h) causing a flood,⁸ i) causing an explosion,⁹ j) violations with regard to explosives,¹⁰ k) commonly dangerous

damage (intentional damage to any public or private property that could affect others),¹¹ l) revocation of security installations,¹² m) causing a shipwreck,¹³ n) contamination of water supplies and food,¹⁴ o) adulteration of food,¹⁵ p) disruption of transport safety,¹⁶ q) disruption of the safety of railways, ships and airplanes,¹⁷ r) the actions provided for by paragraph 1 of Article 8 of Legislative Decree 181/1974 "on the protection from ionising radiation",¹⁸ s) the actions provided for by Articles 161, 162, 163, 164, 165, 168, 169, 170, 173, 174, 178, 179, 180, 181, 182, 183, 184 and 186 of the Code of Air Law, which was ratified by Law 1815/1988,¹⁹ t) the actions provided for by paragraphs 1 and 2 of Article 15 and paragraphs 1 and 3 of Article 17 of Law 2168/1993 on the "Regulation of issues concerning firearms, ammunition, explosives, explosive mechanisms and other provisions"²⁰ and u) the actions provided for by paragraphs 2 and 3 of Article 4 of Law 2991/2002 on the "Application of the Convention prohibiting the use etc. of chemical weapons".²¹

Furthermore, threats to commit terrorist acts are punishable and are punished, when they are serious and cause terror²² as is the formation, integration as a member and the administration of a structured and continuously active organisation, consisting of three or more persons acting together with a view to committing terrorist acts.²³

In addition, the Criminal Code penalises the facilitation of the commission of acts of terrorism, by providing information, material or financial means or by the collection and disposal of funds, as provided for by paragraph 1 of Article 1 of the International Convention on the Suppression of the Financing of

¹ Article 299 of the Criminal Code.
² Article 310 of the Criminal Code.
³ Article 311 of the Criminal Code.
⁴ Articles 322 and 324 of the Criminal Code.
⁵ Article 332, paragraph 2 of the Criminal Code.
⁶ Article 264 of the Criminal Code.
⁷ Article 265 of the Criminal Code.
⁸ Article 268 of the Criminal Code.
⁹ Article 270 of the Criminal Code.
¹⁰ Article 272 of the Criminal Code.

¹¹ Article 273 of the Criminal Code.
¹² Article 275 of the Criminal Code.
¹³ Article 277 of the Criminal Code.
¹⁴ Article 279 of the Criminal Code.
¹⁵ Article 281, paragraph 1 of the Criminal Code.
¹⁶ Article 290 of the Criminal Code.
¹⁷ Article 291 of the Criminal Code.
¹⁸ Official Journal of the Hellenic Republic, 347 A.
¹⁹ Official Journal of the Hellenic Republic, 250 A.
²⁰ Official Journal of the Hellenic Republic, 147 A.
²¹ Official Journal of the Hellenic Republic, 35 A.
²² Article 187A, paragraph 3 of the Criminal Code. However, attempts to commit this crime are not punishable.
²³ Article 187A, paragraphs 4, 5 of the Criminal Code.

Terrorism,²⁴ as well as theft, robbery, blackmail and forgery of public documents, carried out in order to prepare the perpetration of a terrorist action.²⁵

The threat or use of violence against members of the judiciary, investigative or judicial employees, witnesses, experts or interpreters and the bribery of the above persons, with the aim of preventing the disclosure or the prosecution and punishment of terrorist actions is also punished.²⁶

The sentences provided for the perpetration of the abovementioned actions range from at least one year's imprisonment to life imprisonment. In the case of actions for which life imprisonment is provided, the statute of limitations expires after thirty years, in the case of actions for which at least ten years' imprisonment is provided, the statute of limitations expires after fifteen years, while for sentences of up to five years' imprisonment, the statute of limitations expires five years after their perpetration.²⁷

However, the perpetration of one of the above-mentioned crimes does not constitute a terrorist action, if it is an attempt to establish, safeguard or reinstate a democratic regime, or is an action taken in defence of a freedom, as provided for by Article 5, paragraph 2 of the Constitution, or if it aims at exercising a fundamental individual, political or trade-union freedom or other right provided for by the Constitution or the European Convention on the Protection of Human Rights and Fundamental Freedoms (Legislative Decree 53/74).

At the same time, the liability of legal entities may be instituted, if a terrorist action is committed on a legal entity's behalf by a person who has the power to represent it and focuses on taking administrative measures against the entity, such as the final or provisional removal of their operational licence, the imposition of a fine and its exclusion from public activities.²⁸

Measures of lenience for the perpetrators of a crime

In order to obtain the information required for the disbandment of terrorist organisations, "lenience" measures are provided for those participating in a terrorist organisation, if they make it possible to prevent the perpetration of any planned crimes or to disband the organisation. In this case, whoever

provides the information is exempted from any sentence, while if he/she provides information on a crime which has already been committed with his/her participation, he/she is punished with a reduced sentence. A special regulation is also provided for illegal immigrants and prostituted women who provide information on offences they have committed, when it is possible not to initiate criminal proceedings against them.²⁹

Jurisdiction

The Greek criminal provisions against terrorism are applied to actions committed in the territory of the State, even by foreign citizens,³⁰ as well as to actions committed abroad, by either Greek or foreign citizens, irrespective of the laws applicable in the place where the terrorist action was committed.³¹

Procedural Rules

Interrogative methods

The particular gravity of terrorist offences imposes the use of special methods, which apply when evidence is gathered.

Specifically, the investigative actions may also include:

- a) the infiltration by a police officer or individual of a terrorist organisation, on the condition that the competent public prosecutor of the magistrate's court has been notified and provided that it is limited to actions that are absolutely necessary for the investigation of crimes, the perpetration of which had been decided by the members of the organisation in advance,
- b) controlled transports,
- c) revocation of secrecy,
- d) recording of activity or other events outside a residence, with audio or video appliances or with other specific technical means; and
- e) cross matching or comparing personal data.³²

It is also possible to order a DNA analysis, in order to ascertain the identity of the perpetrator of the terrorist action.³³ These interrogative actions are of course effected under the guarantees expressly provided by the relevant laws and only if:

- a) there are serious indications that a terrorist action has been committed, and
- b) the disbandment of the criminal organisation or the investigation of the terrorist actions of Article 187 A would otherwise be impossible or particularly difficult.

²⁴ Article 187A, paragraph 6 of the Criminal Code.

²⁵ Article 187A, paragraph 7 of the Criminal Code.

²⁶ Articles 187A, paragraph 9, and 187, paragraph 2, of the Criminal Code.

²⁷ Article 187, item i, III, paragraphs 2b, 3 of the Criminal Code.

²⁸ Article 41, Law 3251/04.

²⁹ Article 187B of the Criminal Code.

³⁰ Article 5 of the Criminal Code.

³¹ Article 8, item a of the Criminal Code.

³² Article 253L, paragraph 1, Code of Criminal Procedure.

³³ Article 200A, Code of Criminal Procedure.

It is of course understood that they are ordered for a limited time which is absolutely necessary to achieve the purpose pursued and after a judicial decree has been issued by the competent judicial board, following a proposal by the public prosecutor. In exceptionally urgent cases, the investigation may be ordered by the public prosecutor or the investigator and the authorisation for their action from the competent judicial board may be obtained immediately after. Evidence gathered in this way may only be used for the purposes initially defined or in order to confirm a crime or arrest the perpetrators of another criminal organisation.³⁴

Protection of Witnesses

Witness statements provide evidence which is essential to establish the perpetration of some terrorist actions and to secure the prosecution of the perpetrators. In order to avert danger to their life and physical integrity, measures are taken to protect them. These include guarding them with suitably trained police officers, taking their statements by using electronic audiovisual means or visual transmission only, not recording their name, places of birth, residence and work, profession and age on the examination report and, on the basis of a justified order from the competent public prosecutor, the magistrate's court, changing their personal data, as well as their profession, which in the case of public sector employees can be done by transferring, moving, detaching for an indefinite period of time or even removing the individuals concerned from office. The protection measures are taken with the consent of the witness, do not limit his/her personal freedom more than is necessary for his/her safety, and cease if the witness requests this in writing or does not cooperate to ensure their success. During open court proceedings, it is usual for anonymous witnesses to be called by the name mentioned in their examination report, unless the public prosecutor or a party requests the disclosure of their real name, whereupon the court orders the disclosure. As a safeguard against the abuse of the statements of anonymous witnesses, it is expressly provided that their statements alone are not enough to condemn a defendant. Likewise, such protection can be provided to the public prosecutor, the interrogator and the judges in the case.³⁵

Competence

The Council of the Court of Appeal is the competent court for cases involving serious crimes under Article

187A of the Criminal Code.³⁶ The competent court for hearing cases involving serious terrorist crimes (namely crimes which are punishable by sentences ranging from five years to life imprisonment) and minor crimes (namely crimes which are punishable by sentences of up to five years' imprisonment) is the court of appeal of the place in which the crime was committed or the place of residence or stay of the defendant at the time the criminal prosecution commenced.

European Arrest Warrant

It is possible to issue a European arrest warrant for terrorist acts which are punished as serious crimes, minor crimes with a sentence of at least three years' imprisonment, and for the preparation of these crimes, without verification of the double criminality of the act.³⁷

Compensation of victims

Compensation for the victims of terrorism and their families is provided by granting them a monthly pension.³⁸ Furthermore, favourable regulations are provided with regard to the education and the employment of the families of victims of terrorism.³⁹

INSTITUTIONAL FRAMEWORK

The Council for the Coordination of Analysis and Research has been established⁴¹ at the Ministry of Public Order, in order to deal with organised crime. It is chaired by a public prosecutor and has as its members six senior or high-ranking officers of the Greek Police, operating under the direct supervision of the Minister of Public Order. The Council's tasks are: to study and analyse the forms of organised crime and, in particular, violent crime; to systematically study and analyse the elements existing in such crimes; to elaborate projects and provide directions for the suitable organisation of the prosecuting authorities; and to train and further educate their personnel to effectively combat these criminal phenomena, as well as to effectively protect the country from the danger of such criminal activity being imported from other countries. It may have access to all the evidence in the briefs concerning such crimes, at any stage of the proceedings and cooperates directly with the competent departments of the security services on general issues or in relation to specific cases of criminal activity and, in particular, co-operates continuously with the Director

³⁴ Article 253A, paragraphs 2, 3 Code of Criminal Procedure.

³⁵ Articles 9, 10, Law 2928/01 and 42, paragraph 6, Law 3251/04.

³⁶ Article 42, paragraph 5, Law 3251/04.

³⁷ Article 111, paragraph 5, Code of Criminal Procedure.

³⁸ Article 10, paragraph 2, Law 3251/04.

³⁹ Law 1897/90 and 1977/91.

of the Subdivision for Combating Violent Crime in order to deal with particularly violent crimes.

A public prosecutor has also been appointed by the Ministry of Justice as National Correspondent for Terrorist Matters. The position of National Correspondent was established by Resolution No. 2003/48/DEY of the Council of the European Union of 19 December 2002. The above decision was abrogated with a similar one bearing number 2005/671/DEY of 20 September 2005.

INTERNATIONAL CO-OPERATION

Mutual assistance and extradition

Greece is a party to bilateral and multilateral treaties in the field of mutual judicial co-operation in criminal matters and extradition. *Inter alia*, it has signed and ratified the European Convention on Mutual Assistance in Criminal Matters and its first additional protocol and the European Convention on Extradition.

The provisions of the European Arrest Warrant also apply as of 9 July 2004.

United Nations

Greece has ratified all 12 conventions of the United Nations in relation to the fight against terrorism.

European Union

Greece has incorporated into its laws the framework decisions of the Council of the European Union on the European Arrest Warrant and on combating terrorism.

Council of Europe

Special committees will be established to draft laws to incorporate the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters and the First and Second Additional Protocols to the European Convention on Extradition. The Ministry of Justice has drafted a law which will be tabled before the Greek Parliament with a view to the ratification of the Amending Protocol to the European Convention on the Suppression of Terrorism. A special committee has furthermore been set up to draft a law in order to incorporate the Convention on Cybercrime into Greek legislation.

| Relevant Council of Europe conventions – Greece | Signed | Ratified |
|---|-------------|------------|
| European Convention on the Suppression of Terrorism (ETS 90) | 27/01/1977 | 04/08/1988 |
| Amending Protocol (ETS 190) | 15/05/2003 | |
| European Convention on Extradition (ETS 24) | 13/12/1957 | 29/05/1961 |
| First Additional Protocol (ETS 86) | 18/06/1980 | |
| Second Additional Protocol (ETS 98) | 18/06/1980 | |
| European Convention on Mutual Assistance in Criminal Matters (ETS 30) | 20/04/1959 | 23/02/1962 |
| First Additional Protocol (ETS 99) | 18/06/1980 | 24/07/1981 |
| Second Additional Protocol (ETS 182) | 08/11/2001 | |
| European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73) | 27/08/1979 | |
| European Convention on the Compensation of Victims of Violent Crimes (ETS 116) | 24/11/1983 | |
| Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141) | 28/09/1992 | 22/06/1999 |
| Convention on Cybercrime (ETS 185) | 23/11/2001 | - |
| Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189) | 28/01/2003- | - |
| Council of Europe Convention on the Prevention of Terrorism (ETS 196) | 17/11/2005 | - |
| Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198) | - | - |