

GREECE



October 2012

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NATIONAL POLICY

Greece has included the fight against terrorism in its primary priorities. To this end, it has further strengthened and amended its legislation, in the fields of prevention and repression, demonstrating – at the same time – respect for human rights. Furthermore, it encourages dialogue between citizens of different nationalities, religions and cultures, to foster understanding of the differences between them and encourage integration.

LEGAL FRAMEWORK

Criminal law

The Greek Criminal Code under article 187A defines as “terrorist actions”, specific offences which are already provided for and punished, in any case, by the Criminal Code or by special criminal laws, that 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 organization, along with the purpose of seriously intimidating a population or illegally forcing a public authority or an international organization to perform or to abstain from performing an action or with the purpose of seriously harming or destroying the fundamental constitutional, political and economic structures of a country or of an international organization.

Such offences are: a) intentional homicide , b) causing severe physical injury , c) causing fatal injury , d) abduction and kidnapping of minors , e) causing significant damage to a third party’s property, f) arson, g) arson in forests, h) causing a flood, i) causing an explosion, j) violations with regard to explosives, k) commonly dangerous damage (intentional damage to any public or private property that could affect others), l) revocation of security installations, m) causing a shipwreck, n) contamination of water supplies and food, o) adulteration of food, p) disruption of transport safety, q) disruption of the safety of railways, ships and airplanes, r) the actions provided for by paragraph 1 of Article 8 of Legislative Decree 181/1974 “on the protection from ionizing radiation”, 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 , 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” 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” .

Furthermore, serious threats to commit terrorist acts causing this way terror are punishable , as well as the formation, integration as a member and the directing of a structured and continuously active organization, consisting of three or more persons acting together with the aim to committing terrorist acts.

In addition, the Criminal Code penalizes the provision of any kind of assets, tangible or intangible, movable or immovable or any kind of financial means, regardless of their mode of acquisition, to a terrorist organization or an individual terrorist or for setting up a terrorist organization or for someone to become a terrorist or the reception, collection or management of any such assets or means with reference to the above, irrespective of the commission of any of the terrorist offences. Furthermore, the Criminal Code penalizes the provision of substantial information, with knowledge of such information being used in the future, to facilitate or support the commission by a terrorist organisation or an individual terrorist of any of the terrorist actions constituting a felony, as well as theft, robbery, blackmail, forgery of public documents, carried out with the view to perpetrating a terrorist action.

The threat or use of violence against members of the judiciary, members of a jury, 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.

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 indictable offences (felonies) for which life imprisonment is provided, the statute of limitations

expires after thirty years, in the case of indictable offences (felonies) for which at least five years' imprisonment is provided, the statute of limitations expires after fifteen years, while for sentences of up to five years' imprisonment (in case of arrestable offences), the statute of limitations expires five years after their perpetration.

Furthermore, it should be noted that, by virtue of Article Second, paragraph 3 of Law 3875/2010, the former paragraph 8 of Article 187A of the Criminal Code has been repealed.

At the same time, the liability of legal entities may be instituted, if a terrorist action is committed by means or for the benefit of a legal entity or on a legal entity's behalf by a person who, inter alia, has the power to represent it. The law focuses on taking administrative measures against the entity, such as the final or provisional removal of its operational licence, the imposition of a fine and its exclusion from public activities. The abovementioned liability is independent from the civil, disciplinary or criminal liability of individuals involved in the perpetration of the prohibited actions.

Furthermore, in the field of prevention, it should be noted that the Greek Criminal Code penalizes the public incitement to commit an offence (article 184) as well as the public glorification, in any way, of an offence that has been committed, thus endangering public order (article 185).

Measures of lenience for the perpetrators of a crime

In order to obtain the information required for the disbandment of terrorist organizations, "lenience" measures are provided for those participating in a terrorist organization, if they make it possible to prevent the perpetration of any planned crimes or to disband the organization. In this case, whoever provides the information is exempted from any sentence for these crimes, 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 .

Jurisdiction

The Greek criminal provisions against terrorism are applied to any terrorist action committed within the Greek territory, even by foreign citizens , 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.

Special Investigative Techniques

The particular gravity of terrorist offences imposes the use of special methods (along with the usual investigative methods) which apply when evidence is gathered.

Specifically, the investigative techniques may also include:

- the covert investigation by an officer or individual of a terrorist organization, 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 organization in advance,
- controlled deliveries,
- lifting of secrecy,
- recording of activity or other events outside a residence, with audio or video appliances or with other specific technical means; and
- cross matching or comparing personal data.

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

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

It is foreseen however that such special investigative techniques are ordered for a limited time which is absolutely necessary to achieve the purpose pursued and after a judicial decision has been issued by the competent judicial council, following a proposal by the public prosecutor. In exceptionally urgent cases, the investigation may be ordered by the public prosecutor or the examining/investigating judge and the authorization for their action from the competent judicial council has to be obtained immediately after, within a time limit of three days. Evidence gathered in this way may only be used for the purposes initially defined by the judicial council or, exceptionally, in order to confirm the perpetration of a crime or the arrest of the perpetrators or the disbandment of another criminal organization.

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 audio 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 of 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 or detaching for an indefinite period of time the individuals concerned from office. The relocation of witnesses to other countries in order to protect them is another such measure which was introduced by virtue of article Eighth, paragraph 1 of Law 3875/2010 (Official Journal 158 A). 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 so requests in writing or does not cooperate to ensure their success.

During open court proceedings, anonymous witnesses are 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 takes a justified decision on the disclosure or non 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 examining/investigating judge and the judges involved in the specific criminal case.

Competence

The Three Member Court of Appeal for indictable offences is the competent court, *ratione materiae*, for cases involving serious crimes under Article 187A of the Criminal Code . *Ratione loci*, the competent court is the court 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 . For indictable offences (felonies) under Article 187A of the Criminal Code that were committed abroad, but are prosecuted in Greece, the competent court is the Three Member Court of Appeal for indictable offences of Athens.

European Arrest Warrant

It is possible to execute a European arrest warrant for terrorist acts, as they are defined by the law of the issuing Member State of the European Union and which are punishable in the issuing Member State by a custodial sentence or a detention order for a maximum period of at least three years, and for the preparation of these crimes, without verification of the double criminality of the act.

Compensation of victims

Compensation for the victims of terrorism and their families is provided by granting them a monthly pension. Furthermore, favourable regulations are provided with regard to the education and employment of the families of victims of terrorism . Apart from the above, victims of terrorism may also make use of the provisions of Law 3811/2009, entitled "Compensation of victims of intentional crimes of violence" which harmonizes Greek legislation with Directive 2004/80/EC of the Council of the European Union of 29 April 2004.

Code of Conduct for news and other journalistic and political broadcasting

Presidential Decree No 77, issued in 2003, includes a Code of Conduct for news and other journalistic and political broadcasting. With regard to terrorism and organized crime, article 13 of the Decree stipulates that "the presentation of methods to commit crimes in a way or in cases that encourage imitation should be avoided". It also prohibits the media from glorifying or promoting "crimes, including terrorism and organized crime, violence and other cruel and inhuman acts".

Institutional framework

The Council for the Coordination of Analysis and Research has been established at the Ministry of Citizen Protection and Public Order, in order to deal with organized 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 Citizen Protection and Public Order. The Council's tasks are: to study and analyze the forms of organized crime and, in particular, violent crime; to systematically study and analyze the elements existing in such crimes; to elaborate projects and provide directions for the suitable organization 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, cooperates continuously with the Director of the Division for Combating Violent Crimes in order to deal with particularly violent crimes.

Furthermore, the aforementioned public prosecutor supervises and assists the work of the competent police authorities concerning the fight against organized crime, including terrorism.

The same public prosecutor has also been appointed as National Correspondent for Terrorist Matters at Eurojust.

In what concerns the financing of terrorism, a new authority has been established by virtue of Law 3932/2011, entitled "Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds' Investigation Authority". The authority comprises of three (3) independent units, with separate responsibilities, staff and infrastructure, reporting to the Chairman. The first unit, which is the FIU, deals with money laundering issues, the second one with terrorist financing, while the third one with source of funds investigation.

The second unit of the authority is entrusted, inter alia, with the freezing of assets of individuals and entities designated by the competent bodies of the United Nations and the European Union due to their relation to terrorism/the financing of terrorism as well as with the designation of the domestic individuals and entities relating to terrorism, the compilation and updating of a relevant list and the freezing of their assets. In the framework of the abovementioned law, great importance has been attributed to the inclusion of sufficient and effective guarantees of due process as well as to the provision of humanitarian exemptions.

INTERNATIONAL CO-OPÉRATION

Mutual assistance and extradition

Greece is a Party to numerous 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 apply as of 9 July 2004.

Furthermore, the operation of joint investigative teams (with the participation of members from other Member States of the European Union) in the Greek territory for the investigation, inter alia, of terrorist actions, is possible by virtue of Law 3663/2008 entitled «European Judicial Cooperation Unit (EUROJUST), Joint Investigative Teams and other provisions».

United Nations

Greece has so far ratified 13 of the 16 international conventions in relation to the fight against terrorism, as well as the United Nations Convention against Transnational Organized Crime. In what concerns the three remaining conventions, namely: a) the International Convention for the Suppression of Acts of Nuclear Terrorism, b) the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and c) the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Greece has signed all of them and their ratification process is under way.

European Union

Greece has incorporated into its laws the framework decision of the Council of the European Union on the European Arrest Warrant as well as framework decision 2002/475/JHA on combating terrorism. The process of incorporation of framework decision 2008/919/JHA is under way.

Council of Europe

Greece is a Party to the European Convention on the Suppression of Terrorism and has signed the relevant Amending Protocol. Its process of ratification is under way. Greece has also signed the Council of Europe Convention on the Prevention of Terrorism and a draft bill prepared by a Law Drafting Committee set up at the Ministry of Justice in order to prepare its ratification as well as necessary adjustments to national legislation has been submitted to the Ministry for its final processing. The same applies in what concerns the Convention on Cybercrime and its Protocol. It should also be noted that Greece has recently signed the Third Additional Protocol to the European Convention on Extradition, while the first two protocols are also at the stage of final processing.

Relevant Council of Europe conventions – Greece

| 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 | |
| Third Additional Protocol (ETS 209) | 20.09.2012 | |
| Fourth Additional Protocol (ETS 212) | | |
| 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 criminalization 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) | 12.10.2006 | |