



PERMANENT MISSION OF GREECE
GENEVA

Ref. No. 6170.1/30/1904

NOTE VERBALE

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note Verbale dated 24 August 2015 has the honour to attach herewith the responses of the Ministry of Justice, Transparency and Human Rights to the questionnaire on the negative impact of corruption on the enjoyment of human rights.

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 1 December 2015

To: The Office of the High Commissioner for Human Rights

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Att.: 9 pages

Questionnaire

For questions 1-4 and 6:

In March 2013, Greece adopted its National Strategy against Corruption called: "Transparency" – A National Anti-corruption Action Plan", prepared by the Ministry of Justice. The current revised updated National Anti-corruption Plan is composed of forty seven (47) objectives connected to eleven (11) sectors of interventions: tasks of the Secretary General Against Corruption, implementation of the "Transparency": National Strategy as a Policy Document, detection of Risk Areas of Corruption, prevention in the Education Sector; monitor Controlling of Corruption, maintaining and management of Corruption, improvement of Legislation, integrity and Codes of Conduct, accountability and compliance reporting, public - private Partnership, increased Public Engagement.

Anti-corruption strategy was indirectly and implicitly based on key human rights principles. An independent judiciary, freedom of the press, freedom of expression, access to information, transparency in the political system and accountability were considered essential for successful anti - corruption strategy.

Moreover the Strategy includes in a great extent, preventive measures, that are the most effective means of countering corruption and of avoiding its negative impact on the enjoyment of human rights. Prevention requires awareness raising, information – sharing, education and the training of all stakeholders involved. In other words, this strategy includes actions that protect, in a broader way, human rights.

In particular:

- A) The Action Plan has received from the very beginning political endorsement from Government and Parliament and it continues to enjoy their full support. The Prime Minister, the President of the Hellenic Parliament and political parties of the Opposition have repeatedly expressed their strong commitment to the implementation of the Action Plan.
- B) The anti-corruption communication strategy is aimed at enhancing the understanding of the nature of corruption in Greece and its negative impact, as well as promoting public awareness of the Government's commitment to strive against corruption, which is the central component to advancing the anti-corruption cause and regaining public trust. A plethora of additional awareness rising actions is enshrined in the Action Plan to be gradually implemented, such as Action 13 "Enhancing of integrity in all processes in the Public Service, Municipal District Areas and Local Governments", Action 17.2 «Provide regular public information briefings on case management and the delivery of justice (administrative and criminal)», Action 17.3 «Integrity forming programmes aimed at young people will be devised and promoted» etc.
- C) A vast amount of measures in the Action Plan is primarily of preventive character. For example, Action 3 «Develop measures to ensure transparency of public expenditure, public contracts and budgetary process», Action 19 «Strengthening of internal control mechanisms relating to anti-corruption», Action 16 «Provision of an

enhanced system for detection and monitoring of declaration of assets, conflicts of interests and incompatibilities by public and elected officials, as well as for members of government», etc.

- D) The fight against all corruption-related offences, constitutes the core of the Action Plan. For instance, Action 28 «Improvement of the criminal legislation and criminal procedure concerning corruption related offences and white collar crime», including aspects related to immunity of members of parliament and government, bribery, whistleblower protection, Action 4 «Strengthening law enforcement institutional capacities and resources to investigate and prosecute corruption and economic crime-related offences» etc.
- E) An independent and impartial judiciary is considered as one of the key institutions in the promotion of human rights and the fight against corruption. (Action 23 of the Plan «Improving the timelines that justice is obtained, both in terms of duration of proceedings and statute of limitations. Improving the legal framework of prosecutorial proceedings. More effective use of administrative actions as a mechanism to reduce pressure on judicial system»).
- F) One of the eleven Major Pillars of the National Anti-corruption Strategy relates explicitly to education. Beyond this, other 'components in the group of eleven' (Integrity and Codes of Conduct, Increased Public Engagement) are linked to education and prevention of corruption in the education sector. Many actions aim at awareness raising and education.
- G) In addition, the General Secretary against Corruption, with the assistance of the Structural Reform Support Service, supervised by EU, has already elaborated a new coordination mechanism under the title "Coordination Committee for the Prosecution of Corruption and Financial Crime" with the goal of optimizing the performance and information exchange among the investigative and prosecution authorities. The Coordination Committee will become operational in the next few months under the supervision of the Deputy Public Prosecutor at the Supreme Court.

The Greek Anti-Corruption Strategic Plan is currently posted on the website of General Secretariat Against Corruption (www.gsac.gov.gr).

In general, one can easily say that based on Greek Anti-Corruption Strategy, there is a strong connection between the main anti-corruption principles (such as participation, transparency and access to information, and accountability) and the scope of human rights (such as freedom of expression and freedom of the media, access to information, and the principle of non-discrimination). By promoting the necessary elements of good governance (such as civil and political rights, transparency and accountability), human rights and anti - corruption efforts are mutual reinforced.

For question 5:

Greece has ratified (10.12.2003) and signed (17.09.2008) the United Nations Convention against Corruption, by Law 3666/2008. Moreover Greece has ratified and implemented the United Nations Convention against Transnational Organized Crime, and the three Protocols, by Law 3875/2010.

For question 7:

In brief, the following major legal frameworks have been developed during the last years:

- A) In 2015 L. 4320/2015 passed by Parliament providing the tasks and authorities of the General Secretariat against Corruption. Its main responsibilities are the setting of priorities, taking initiatives on the political and legislative level, monitoring the effective and timely implementation of every measure in the field of the fight against corruption. This new institution coordinates the work of all other scattered agencies active in the same sector." (Action 1.4 of the Greek Anti-Corruption Strategic Plan).
- B) The Anti-Corruption Law (L. 4254/2014) passed by Parliament in 2014 and improved the provisions of the Criminal Code and other corruption related criminal law provisions providing a wide coverage of all forms of corruption and trading in influence offences, passive and active bribery, as well as for all elected and appointed officials, and any other public officials. (Action 11.2 of the Greek Anti-Corruption Strategic Plan).
- C) The Code of Conduct for Members of Government has been endorsed in 2014. At the moment the Code of Conduct for Members of Parliament is being drafted and according to relevant action of the Greek National Anti-Corruption Strategic Plan must be endorsed at the following months (Action 34 of the Greek Anti-Corruption Strategic Plan).
- D) With the adoption of the Laws 3870/2010 and 4304/2014, Greece has to a large extent replaced an old inefficient legislative framework in respect of political financing and the control thereof. These legislative measures enhanced the transparency of political financing, both in respect of ordinary funding and election campaigns, at European, national and local level. A new independent monitoring mechanism with broad competences have also been established. However, due to the fact that the abovementioned legislation includes certain clauses that need further clarifications and improvement, its modification is planned and must be concluded within this year (Action 36 of the Greek Anti-Corruption Strategic Plan).
- E) As far as the declaration of assets is concerned, under the provisions of law 4281/2014, which amended law 3213/2003, the group of persons required to file a declaration of assets on a yearly basis was significantly expanded. The sanctions provided for those who do not comply with the content of the respective law depend on the offence. Furthermore the investigation of assets according the new law 4281/2014 was assigned to an investigation committee which acts as a special authority. This Committee for the Investigation of Declaration of Assets (CIDA) is independent, with administrative and financial autonomy and consists of seven (7) members with an equal number of replacements (art. 3A of Law 3213/2003 as

amended). Article 3B of Law 3213/2003 (as amended) establishes this Committee's basic operational framework. Articles 3A and 3B of Law 3213/2003 provide for a reasonable approach combining systematic annual checks of declarations from the five (5) main categories of elected officials including parliamentarians, and sample checks for other categories of the obliged persons. The CiDA can request, with the purpose of controlling and monitoring any cooperation and transfer of data from natural persons, judicial and interrogating authorities, public services, legal persons of public or private law and any type of organization, and they must transfer immediately all relevant data and inform the relevant authorities in case of incomplete cooperation or non-compliance with their obligations according to this law. The rules of secrecy regarding banks, stock market, tax and professional issues are not applicable for the Committee during the execution of its investigations. According to Action 16 of the Greek Anti-Corruption Strategic Plan, the abovementioned Law for the Declaration of Assets will be modified within this year, in order to be further improved.

- F) As far as the asset recovery legislation is concerned, (Action 31 of the Greek Anti-Corruption Strategic Plan), some relevant aspects are the following:
- According to paragraph 1 of article 76 of the Penal Code "Confiscation", objects that represent the proceeds of felonies or misdemeanors, committed with intent, and also their values or any items that were obtained with them, and also objects that were used or destined to be used for the commission of the illegal act can be confiscated if they belong to the perpetrator or any of the accomplices. For other punishable acts, this measure can be taken as dictated by law. According to paragraph 2 and 3 of the same article, if danger for the public order results from the abovementioned objects, their confiscation is mandatory for the bearer, even without prior conviction of a certain person for the committed act. [...]. In all cases of confiscation, the court decides whether the confiscated objects must be destroyed.
 - According to paragraph 1 of article 46 of Law 3691/2008 (the anti-money laundering Law, implementing also the 3rd EU AML Directive), all assets that represent (directly or indirectly) the proceeds of predicate offences are confiscated by the relevant Court decision. Further, the concept and practice of value confiscation is foreseen in paragraph 2 of article 46 of Law 3691/2008. It is important to be stated that according to Law 3691/2008, article 45 paragraph 2, in order to prosecute and convict for money laundering it is not necessary to have a conviction, not even prosecution, for the predicate offence.
 - Asset Recovery Office of Greece-ARO Greece: art. 88 of Law 3842/2010. ARO Greece is established within the Financial and Economic Crime Unit-SDOE of the Hellenic Ministry of Finance, thus implementing Council Decision 2007/854/JHA, of 6 December 2007, concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime. ARO-Greece is also a contact point for the Camden Asset Recovery Interagency Network -CARIN Network. CARIN is an informal network of contacts and a cooperative group concerned with all aspects of confiscating the proceeds of crime. It is a network of practitioners from 53 jurisdictions and 9

international organisations. It is linked to similar asset recovery networks in southern Africa, Latin America and Asia Pacific.

- The Regulation No 1889/2005 of the European Parliament and of the Council OF of 26 October 2005 on controls of cash entering or leaving the Community (EUR 10.000 limit/threshold), has been ratified and implemented in Greece by art. 24 paragraphs 1 and 2 of Law 3610/2007, supplementing respectively paragraph 2 of article 3 & adding paragraph 8 in article 147 of the National Customs Code (Law 2960/2001).
- Article 160 of the National Customs Code (Law 2960/2001), deals with confiscation matters.

For question 8:

Greece has adopted Law 4254/2014, which is basically a criminal law measure. Apart from measures for the protection of witnesses (concealment of their personal data in the course of the criminal proceedings, change of identity, etc.), it conveys some new benefits, in particular for 'witnesses of public interest' as well as those who are not "witnesses of public interest", but who have nevertheless "contributed substantially to the revelation and prosecution of corruption".

The Greek Anti-Corruption Action Plan foresees further measures targeting at addressing whistleblowing protection and regime (Action 28.4). This action aims at the improvement of the relevant legislation.

For question 9:

In September 2015 the Prime Minister with its relevant decision, appointed the Alternate Minister of Justice, Transparency and Human Rights, who reports directly to him and the Parliament for the matters of his competence. The Alternate Minister enjoys full independence in the exercise of his duties. An additional guarantee of independence would be the capacity of the present Alternate Minister of Justice as a former Public Prosecutor.

Some months ago, (March 2015), the Greek Parliament adopted legislation establishing the General Secretariat against Corruption. Based on L. 4320/2015, the Secretary General against Corruption is tasked with the formulation of national strategies/policies, coordination of stake holders, monitoring and evaluating national anti-corruption strategy implementation. Therefore he has mainly a coordinating and policy advising role, while he remains under the Alternate Minister's of Justice supervision.

In addition to this, there are several specialised inspection bodies or units within agencies and ministries, such as:

- A) The **General Inspector of Public Administration** is the Authority that according to its mission promotes the values of legality, integrity, transparency and accountability in Greek Public Administration. The Inspector General of Public Administration is a distinguished person of wider social acceptance. The Cabinet appoints him for five years after a proposal of the Minister of Interior Public Administration and

Decentralization. The mission of the General Inspector of Public Administration is among others to ensure the efficient and effective functioning of public administration, to monitor the action and evaluate the performance of all the Inspecting-Controlling Bodies/Units of Public Administration, to detect and track down corruption and maladministration phenomena.

B) The **Inspectors-Controllers Body for Public Administration (SEEDD)** is a central corruption agency in Greece, and it operates under the Ministry of Administrative Reform and e-Governance. SEEDD is responsible for conducting internal control and coordination of all inspection institutions within the Greek public administration for cases relating to asset recovery on the basis of inexistent or inaccurate declarations of assets by public servants.

C) the **Financial and Economic Crime Unit (SDOE)**,

Articles 107, 109 and 110 of the Presidential Degree No. 111/2014 related to the competences of the Special Secretariat of the Financial and Economic Crime Unit (SDOE), which is the Law Enforcement Authority, competent, among others, for planning, coordinating and supervising audits conducted by the SDOE Services and assigning targeted audits to them. According to its founded law (L. 3296/2004) the main task of this Special Control Service is the disclosure and fighting of centres of economic crime, large tax evasion and smuggling, the control of capital movement, the control of movement of goods and services as well as of possession and traffic of prohibited or under special status items and substances, the control of the proper application of the provisions relating to the national and community subsidies and grants, as well of the provisions referring to the protection of public property.

D) the **Public Prosecutor for Corruption Crimes**

A Public Prosecutor for Corruption Crimes is appointed at the Public Prosecutor's Office in Athens and Thessaloniki for the felonies committed from politicians and State officials adjudicated by Law 4022/2011, as it has been modified by article 76 of L. 4139/2013, as well as article 8 of L. 4205/2013. The Public Prosecutor for Crimes of Corruption has the specific and full time task to supervise and coordinate judicial investigations in corruption cases. The Judge as well as the Prosecutor on Corruption Crimes have access to all information needed for the exercise of their duties, they have access to all registers of personal data that are held within public administration and they are not subject to any restrictions deriving from the legislation for the bank, tax, stock, or any other secrecy. Similarly, they can order the lift of any tax, bank and stock exchange secrecy (art. 8 Law 4205/2013).

E) the **Financial and Economic Crime Prosecutor's Office**,

The institution of the Public Prosecutor for Financial Crimes has been established according to art. 17A of Law 2523/1997, as introduced by laws 3943/2011,

4205/2013 and 4316/2014. The duties of the Public Prosecutor for Financial Crimes, whose local jurisdiction extends throughout Greece, include the guidance and coordination of actions of special preliminary investigation agents, such as Financial and Economic Crime Unit (S.D.O.E.), Customs, the Customs Special Services (E.L.Y.T.), as well as the tax audit services of the Ministry of Finance during the conduct of investigations, preliminary examination or preliminary enquiry to ascertain the commitment of any kind of tax and financial crimes and any other similar ones, when these are committed against the Greek State, LGOs, Public Law Legal Persons, legal persons in the greater public sector and the European Union, or are a severe detriment to the national economy. These prosecuting officials have also access to all information or evidence related or useful to the execution of their duties, without being subject to the restrictions of the laws regarding tax, bank, stock exchange and any other kind of secrecy. They have also the ability with a reasoning order to freeze bank accounts, the contents of bank deposit box and of financial assets (movable or not) for the purpose of safeguarding the public interest (art. 94 Law 4316/2014).

F) Hellenic Financial Intelligent Unit,

By Law 3932/2011, which amended Law 3691/2008, the Anti-Money Laundering, Counter-Terrorist Financing Commission was renamed the "Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation Authority". The Authority is a national unit aiming at combatting the legalization of proceeds from criminal activities and terrorist financing, assisting in security and sustainability of fiscal and financing stability.

Its mission, according to L. 3691/2008, as amended by L. 3932/2011, is the collection, the investigation and the analysis of suspicious transactions reports (STR's) that are forwarded to it by legal entities and natural persons, under special obligation, as well as every other information that is related to the crimes of money laundering and terrorist financing and the source of funds investigation.

G) the Internal Affairs Unit of the Hellenic Police,

The Directorate of Internal Affairs is a special independent Service of the Greek Police, based in Attica, reporting directly to the Head of the College. Its mission is the investigation, detection and prosecution of crimes that testify corruption in the area of Greek Police and the broader public sector.

The action of the Directorate of Internal Affairs is coordinated and monitored by the Alternate Minister of Justice against Corruption who is responsible for fighting corruption, while the project and its activities are supervised by the Parliament's Permanent Committee of Institutions and Transparency.

Additionally, the investigative work of the Directorate of Internal Affairs of the Greek Police and its overall activity of the Office, are subject to the direct supervision of the Athens' or Thessaloniki's Appeals Prosecutor, who is being informed on all cases handled.

H) the Ombudsman.

- A) Its Department related to Human Rights is concerned with the defense of individual, political and social rights protected by the Constitution by international agreements or by national law. Specifically, it deals with cases regarding: violations of personal freedom, freedom of religious belief and worship; discrimination on grounds of nationality or ethnic origin; violations of the rights of immigrants; equal access to public education; recognition of foreign academic titles; protection of professional rights; infringements of the right to appeal to the administrative authorities and access to judicial protection, as well as the right to political asylum and aliens' rights to entry and residence. This Department also has the coordination of the Ombudsman's special mandates as an equality body, a national preventive mechanism against torture and ill-treatment (OPCAT) and a monitoring body of third country nationals return procedures.
- B) Its Department related to Social Protection, Health and Welfare is concerned with the protection of citizens' social rights in the fields of social policy, social security and welfare. Focus is laid upon the protection of the rights of vulnerable groups, such as the elderly, people with disabilities, the physically and mentally ill etc. Especially with regard to health issues, Law 3293/2004 provides for the mission of the Health Ombudsman.
- C) Its Department related to Quality of Life is concerned with violations of environmental and urban planning legislation, affecting the natural and cultural environment and public health, in the following fields: Illegal interventions in environmentally protected areas; licensing and operation of industries; licensing and operation of food & leisure premises; protection of forest and coastal areas; construction and operation of infrastructure projects; illegal construction; installation and operation of mobile phone base stations; access to environmental information; delays in compensation of expropriated private property; protection of cultural heritage and archaeological sites.
- D) Its Department related to Children's Rights, is concerned with the protection and promotion of children's rights. Focus is particularly laid upon the violation of children's rights by public services, as well as private individuals or legal entities.
- E) Its Department related to Gender Equality is concerned with the implementation of the principle of equal opportunities and equal treatment of men and women in access to employment, vocational training and promotion, as well as working conditions both in the public and the private sector, including employment, self employment, work and pay. It also deals with discrimination based on gender outside the labor market, in the area of access to and supply of goods and services in the public sector. The promotion of the principle of equal treatment between men

and women is a further important mission carried out in cooperation with government agencies, NGOs and enterprises of the private sector.