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NEWS REPORT

Country:	Greece
Title:	Ratification by Greece of the Istanbul Convention
Date:	15 June 2018
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<u>Context</u>	
Issue at stake:	Sanctioning ¹ by Greece of the Istanbul Convention on preventing and combating violence against women and domestic violence
Ground of discrimination:	Sex
Source:	Council of Europe Istanbul Convention Act 4531/2018
Field:	Violence against women and domestic violence
Applicable law:	Act 4531/2018

Content

Law development: The Istanbul Convention on preventing and combating violence against women and domestic violence of the Council of Europe (IC), signed by Greece on May 2011, was recently sanctioned by the Greek Parliament by virtue of Article 1 Act 4531/2018 (OJ A 62/05.04.2018).

Article 2 Act 4531/2018 made the amendments to the Penal Code (PC) which were necessary for its alignment with the IC. More in particular:

- it is explicitly provided that customs and traditions including religion followed by the perpetrator, cannot reduce the sentence (amendment to Article 79(3a) PC with a view to aligning it with Article 42 IC);
- a new Article 315B was added to the PC (in accordance with Article 38 IC) providing that anyone who causes or incites a woman to undergo genital mutilation and anyone who publicly provokes or stimulates to that act is punished with imprisonment.
- forcing a person to enter into a marriage is added to the criminalised aims of human trafficking; Article 323A PC is thus aligned with Article 37 IC.
- stalking is criminalised for the first time by Article 333(1) PC, which implements Article 34 IC. Stalking is defined as the causing of fear or uneasiness to another

¹ By the term 'sanctioning' is meant the introduction into Greek law, by virtue of a legislative Act, of an international convention. This is a prerequisite of its ratification by Greece in accordance with the international law rules applicable to the international convention concerned.

person, whom the perpetrator repeatedly follows or watches, i.e. in particular by aiming at constant contact through a telephone or an electronic device or by repeated visits to her/his family, social or working environment, contrary to her/his explicitly expressed will. This provision does not presuppose the threat of violence or other illegal acts or omissions.

- the anachronistic provision of Article 339(3) PC, which provided that penal persecution stops or does not start if the perpetrator of the crime of the seduction of a minor under 15 years marries the victim, is repealed. This provision had been widely criticised by national and international bodies for the protection of human rights and by NGOs.

Article 3 Act 4531/2018 amended Act 3500/2006 'on domestic violence' (OJ A 232/24.10.2006). More in particular:

- the concept of 'family' was broadened so as to comprise the parties to a life partnership provided by Act 4356/2015 (OJ A 181/24.12.2015); moreover, the scope of Act 3500/2006 was extended to comprise not merely former spouses, but also parties to a dissolved life partnership.
- in alignment with Article 3 IC, cohabitation (sharing the same residence as the victim) is no more a prerequisite for the application of Act 3500/2006 in case of former spouses and their children (common children or children belonging to either spouse)
- the procedure of penal mediation provided by Article 11(2b) Act 3500/2006 is amended. In case the person attending a special consultative therapeutical programme run by a public entity does not complete it on purpose, the Public Prosecutor interrupts the penal mediation with retrospective effect and the penal prosecution continues. This provision was adopted to ensure effective compliance of the perpetrator with the procedure of penal mediation.
- when the victim is a minor, the statute of limitation of the offence of domestic violence is suspended until the victim reaches the age of majority and for one year thereafter in case of misdemeanour and for three years thereafter, in case of felony. Article 56 Act 3500/2006 is thus harmonized with Article 58 IC.
- Restraining or protection measures for the protection of the physical and psychological health of the victim can be imposed even by the Public Prosecutor. Moreover, the enumeration of restraining measures (removal from the family house, move etc.) is indicative and the competent judicial authorities can impose the most appropriate ones. Eventual violation of a restraining measure is punished by imprisonment. The restraining measure is valid until its repeal, replacement or amendment by the judicial authority that imposed it.
- The imposed restraining measure can be repealed, replaced or amended following a petition of the victim or of the person to which it was imposed or ex officio, if needed; a hearing of both parties has to take place before.

Article 4 Act 4531/2018 amended various pieces of legislation with the aim to harmonise them with IC. More specifically:

- Act 3811/2009 (OJ A 231/17.12.2009) provides the indemnity to the victims of crimes of violence following their request lodged with the Hellenic Authority for Indemnity which is under the Ministry of Justice. This Act was amended with a view to being harmonised with Article 30 IC. According to Act 4531/2018 the above indemnity covers the psychological support of the victim in case there is no relevant public structure in her/his place of residence. Moreover, there is coverage of the expenses for change of environment and domicile and, in particular, of the expenses for moving and purchase of the necessary consumer goods, so that the victim can be relocated in a safe environment away from the perpetrator. A ministerial decision will define the sum of the indemnity and the kinds of the expenses covered. Moreover, a time limit was provided within which the Hellenic

Authority for Indemnity has to examine the petitions and rule thereon, so that the victim of violence can collect the indemnity within a total period of 6 months since the lodging of the petition. The time limit for the recourse against decisions of the Hellenic Authority for Indemnity is extended for both the claimant and the Greek State; this facilitates the victim's access to court.

- Act 2168/1993 (OJ A 147/03.09.1993) was amended so as to be aligned with Article 51 IC; permits for firearms must not be granted to persons prosecuted for domestic violence, as provided by Act 3500/2006, and to persons irrevocably convicted for a misdemeanour as provided by Act 3500/2016, irrespective of the sanction imposed.
- Victims of domestic violence, who are third country nationals, are protected against deportation or return even before they lodge a petition for the granting of a residence permit.
- In compliance with Article 59(4) IC, Article 21(6) Act 4251/2014 (OJ A 80/01.04.2014) was amended so as to provide that the residence permits of third country nationals, who were transferred abroad in order to enter into a forced marriage and who, consequently, lost their residence rights continue to be valid.
- the General Secretariat for Gender Equality was designated as the coordinating body for monitoring the application of the Istanbul Convention, in accordance with Article 10 IC. Moreover, the Observatory operating within the General Secretariat for Gender Equality is competent for data collection and research in accordance to Article 11 IC.

In accordance with Article 78(2) IC, Greece has expressed its reservation as to the application of Articles 44(1e), 44(3) and 44(4) IC. According to the Introductory Report to Act 4531/2018, this reservation was justified by the reluctance of the Greek Government to accept the drastic extension of the State's international penal jurisdiction, as provided by Article 44 IC. The legislator found that this issue is premature and should be approached in a more global and systematic way.

Act 4531/2018 came into force on 05.04.2018 whereas the IC will come into force for Greece according to the provisions of Article 75(4) IC, i.e. on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification.

Key points of analysis: *(five lines maximum)*

Greece sanctioned the IC by Act 4531/2018 which also amends the PC, Act 3500/2006 on domestic violence and other provisions with a view to aligning them with the IC.