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# Country report

## Non-discrimination

Greece

2018

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# **Country report**

# **Non-discrimination**

# **Greece**

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## EXECUTIVE SUMMARY

### 1. Introduction

Greece is a parliamentary republic. Popular sovereignty is the foundation of government, and all powers derive from the people and exist for the people and the nation. The national legislative authority rests jointly with Parliament and the Government. Greece follows a civil law system (continental) with fields of law separated into specific bodies (civil law, public/administrative law, criminal law, commercial law, labour law etc.). Greece does not have a Constitutional Court, yet all courts of all degrees have an inherent obligation to interpret rules and laws in conformity with the Greek Constitution. Greece has three supreme courts: the Council of State (*Συμβούλιο της Επικρατείας*) (public law), the Supreme Court (*Άρειος Πάγος*) (private law) and the Chamber of Accounts (*Ειδικό Ελεγκτικό Συνέδριο*) (limited jurisdiction administrative court).

The Greek Constitution contains fundamental rules on the elimination of all forms of discrimination and the promotion of equality, most of which are contained in Part II, 'Civil and Social Rights'. These rights are, namely, the principle of human dignity, the free development of one's personality and participation in the financial, social and political life of the country, the principle of equality, the right to health and gender identity, religious freedom, freedom of speech and the press, the right to legal protection, the protection of personal data, free education, protection of family, marriage and children, protection of people with disabilities, the right to work and equal remuneration. In addition, the State is obliged to eliminate any existing discrimination. These fundamental rules are applicable to all national fields of law and should always be adhered to. However, special laws have been adopted for each field.

### 2. Main legislation

In Greek law, there is explicit anti-discrimination legislation: Equal Treatment Law 4443/2016:<sup>1</sup> 'On the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work', which has replaced the previous main Greek anti-discrimination legislation (Law 3304/2005). Protected grounds under the law are: racial or ethnic origin, religious or other beliefs, disability, age and sexual orientation, and the new law has added chronic illness, descent, family or social status, and gender identity or characteristics.

In addition, at the normative level (legal rules of the Greek legal system), there are many constitutional provisions (mainly setting out general principles) enshrining human rights, which directly or indirectly address discrimination. Nevertheless, it should be added that it is extremely difficult to derive specific enforceable rights from these general principles. Article 25 of the Greek Constitution is immensely important, because it clearly states that private employers must also respect the constitutional rights of their employees (e.g. the rights of equality and non-discrimination). In the Civil Code (civil law), there are also certain *open-ended* clauses which could be invoked by people who have experienced discrimination and are seeking equal treatment and non-discrimination in their working life. However, in practice, such claims are rarely made, except in the employment sector,

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<sup>1</sup> Greece, Law 4443/2016 On the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work and Directive 54/2014/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers and other provisions (*Νόμος 4443/2016 «Ενσωμάτωση της Οδηγίας 2000/43/ΕΚ περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/ΕΚ για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις*). Abbreviation: Equal Treatment Law (OJ 232 A/ 09.12.2016).

where the equal treatment principle is often invoked, but only with regard to equal pay and not based on the five discrimination grounds.

As regards criminal law, there are no provisions outlawing general discriminatory practice, but there are criminal laws prohibiting discrimination on grounds of racial or ethnic origin, although these are never applied in practice.

The sole expressly anti-racism statute in Greece remains Law 927/1979,<sup>2</sup> as amended by Law 1419/1984<sup>3</sup> and Law 4285/2014.<sup>4</sup>

In addition to Law 4443/2016, Greek Labour law consists of numerous statutes that seek to combat discrimination in employment, mainly on the grounds of sex and racial or ethnic origin. For example, Law 1414/1984 on the implementation of the principle of sexual equality in employment relations restricts discrimination, though it applies only to people who work in the private sector. There are also statutes which outline a protective framework within which employers are obliged to abide by the protective provisions and eliminate discriminatory practices, such as dismissals of pregnant women or related to the race or ethnic origin of the employee.

Greece has ratified all the major human rights treaties (the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of Child, the European Convention on Human Rights and the International Labour Organization Convention No. 111 on Discrimination), but not Protocol no. 12 of the European Convention on Human Rights, the Revised Social Charter or the Framework Convention for the Protection of National Minorities.

On 11 April 2012 Greece ratified the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol with Law 4074/2012 (OG A' 88/11.4.2012). According to Article 2 of this Law – and due to a reservation expressed by Greece to the UNCPRD – the provisions of Article 27 para. 1 of the Convention do not apply to the armed forces and law enforcement agencies, with regard to differential treatment due to disability, as provided for in Article 8 para. 4 of Law 3304/2005 on the implementation of equal treatment pursuant to Articles 3 para. 4 and 4 of Directive 2000/78/EC.

On 13 September 2017, Law 4488/2017<sup>5</sup> became part of Greek statute. It includes, *inter alia*, a series of very important provisions regarding the rights of persons with disabilities in Greece. The new legislation on the protection of the rights of persons with disabilities (addressed to all stakeholders including government bodies and private employers) introduces a series of reforms designed to promote their equal treatment and full enjoyment of fundamental rights, as well as facilitating their lives and daily routine. At the same time, the new regulations promote their treatment not as persons with needs but as persons with potential, which the state must recognise in order to allow them to gain access to every aspect of social and economic life. In particular, any natural person or public organisation in the wider public or private sector is required to facilitate the equal

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<sup>2</sup> Greece, Law 927/1979 on punishing acts or activities aimed at racial discrimination. Abbreviation: Anti-racist penal Law 927/1979 (OJ 22 A/26.06.1979).

<sup>3</sup> Greece, Law 1414/1984 on the application of the principle of gender equality in labour relations and other provisions (OJ 10 A/02.02.1984).

<sup>4</sup> Greece, Law 4285/2014 on the amendment of 927/1979 and its adjustment to the decision-framework 2008/913/JHA of 28 November 2009, for combating certain forms and manifestations of racism and xenophobia through criminal law and other provisions. Abbreviation: Anti-Racism Law (OJ 191 A/10.09.2014).

<sup>5</sup> Greece, Law 4488/2017 on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions (*Νόμος 4488/2017 «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις»*) (OG A 137/13.9.2017).



exercising by persons with disabilities of their rights in their respective fields of competence or activity by taking all appropriate measures and refraining from any action which may affect the exercising of those rights.

Law 4451/2017<sup>6</sup> amended the provisions of the internal statute of the Ministry of Foreign Affairs and lifted the upper age limit for accessing the ministry's diplomatic corps. At the same time, it granted employees over the age of 65 (but not beyond the mandatory retirement age of 67) the possibility of staying in the diplomatic service, by analogy with the provisions for officials of other branches of the ministry.

### 3. Main principles and definitions

Equal Treatment Law 4443/2016 introduces new protected grounds such as chronic illness, descent, family or social status and gender identity or characteristics. In particular, the introduction of the ground of family status in the field of discrimination in workplaces is regarded as an expansion of the rights of same-sex couples who have signed a civil partnership. Moreover, certain definitions, which were not provided in the previous Law 3304/2005, have been added.

Article 2 of the Equal Treatment Law 4443/2017 contains definitions for 'direct discrimination', 'indirect discrimination', 'harassment', 'discrimination', 'discrimination by association', 'discrimination based on perception', 'multiple discrimination', 'denial of reasonable accommodation' and 'reasonable accommodation'. Equal Treatment Law 4443/2016 does not contain any other definitions on the specific grounds of discrimination. Some terms have been clarified, however, by the Explanatory Report<sup>7</sup> (Αιτιολογική Έκθεση), which was submitted with the Draft of Equal Treatment Law 4443/2016.

### 4. Material scope

In Greece, the personal scope of anti-discrimination law covers natural and legal persons for the purpose of protection against discrimination. The personal scope of national law covers the private and public sectors, including public bodies, for the purpose of protection against discrimination. Article 3 paragraph 1 of Equal Treatment Law 4443/2016 clearly states that the principle of equal treatment applies to all 'persons' in the public sector as well as the private sector.

As to its material scope, Equal Treatment Law 4443/2016 enshrines Article 3 of the Racial Equality Directive and of the Employment Equality Directive in its own Article 3, which reiterates that the principle of equal treatment shall apply to all persons in both the public and private sectors, in relation to (a) conditions for access to employment and occupation in general, (b) access to all types and to all levels of vocational guidance, vocational training and retraining, vocational guidance including practical work experience, (c) employment and working conditions and (d) membership of, and involvement in, an

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<sup>6</sup> Greece, Law 4451/2017 on the Modification of the Code of Statute of the Ministry of Foreign Affairs and other provisions (Νόμος 4451/2017 «Τροποποίηση του Κώδικα του Οργανισμού του Υπουργείου Εξωτερικών και λοιπές διατάξεις») (OJ A 16/13.02.2017).

<sup>7</sup> Explanatory Report for the Draft Law on the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work and Directive 54/2014/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers and other provisions (Αιτιολογική Έκθεση στο Σχέδιο Νόμου «Ενσωμάτωση της Οδηγίας 2000/43/ΕΚ περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/ΕΚ για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις»), Abbreviation: Explanatory Report on Equal Treatment Law, available in Greek on the Greek Parliament website at: <http://www.parliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/e-odew-eis.pdf>, last accessed on 22.04.2018.

organisation of workers or employers, or any organisation whose members carry on a particular profession.

Law 4356/2015, under Article 29, introduced the punishment of perpetrators who treat others with contempt (this corresponds to the term *καταφρόνηση* used in the original Greek legal text) by refusing to provide them with goods and services, on grounds of race, colour, national or ethnic origin, descent, religious or other beliefs, sexual orientation, gender identity, or disability, thus expanding the grounds covered in the field of goods and services. This conduct falls within the scope of criminal law when it takes place in the context of voluntary or humanitarian assistance, usually following a relevant public announcement, and directed only at a specific group of people in a clearly discriminatory manner. The same Law recognised same-sex civil partnerships and eliminated discrimination on the ground of sexual orientation in various fields including employment and social protection.

On 14 January 2016, the majority of MPs, during a plenary session of the Greek Parliament, approved Law 4358/2016<sup>8</sup> on the ratification of the Revised European Social Charter, signed by Greece on 3 May 1996. The rights established by the ESC correspond to four thematic sectors: a) Employment, Vocational Training and Equal Opportunities, b) Healthcare, Social Insurance and Social Protection, c) Labour Rights and d) Protection of Children, Family and Migrants. The vulnerable groups protected by the Charter include, *inter alia*, persons with disabilities, elderly and young persons as well as legal migrant workers.

## **5. Enforcing the law**

Article 8 of Equal Treatment Law 4443/2016 enshrines Article 7 of Directive 2000/43 and Article 9 of Directive 2000/78. The following procedures exist for enforcing the principle of equal treatment: judicial, administrative, or alternative dispute resolution such as mediation.

In Greece, associations, organisations and trade unions are entitled to act on behalf of victims of discrimination.

Article 8 paragraph 3 of Law 4443/2016 states that: 'legal persons, unions or organisations including social partners and trade unions, whose purpose also includes the safe-guarding of the principle of equal treatment regardless of race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics, may represent the injured party before the courts and represent them before any administrative authority or organ, as long as he/she provides in advance his/her consent through a notarial document or private document, which will bear their certified signature'. Moreover, paragraph 4 of the same article further states that the aforementioned legal persons may also intervene (*πρόσθετη παρέμβαση*) in proceedings examining discrimination cases before the civil or administrative courts free of charge (i.e. they do not have to submit a separate court fee *πράβολο*).

In Greece, national law requires a full shift of the burden of proof from the complainant to the respondent. This means that the respondent has to prove that the complainant has not been discriminated against (exceptions apply to criminal procedures where the burden is partially shifted). The burden of proof in cases where anti-discrimination law has been violated is covered in Article 9 of Equal Treatment Law 4443/2016.

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<sup>8</sup> Greece, Law 4358/2016 'on ratification of the Revised European Social Charter' (OJ 5 A/20.01.2016).

In cases of non-compliance with the principle of equal treatment within the framework of an administrative action, the victim has the protection — in addition to judicial protection — granted by Articles 24–27 of the Code of Administrative Procedure.

Protection against victimisation includes such measures as are necessary to protect employees against dismissal or other adverse treatment by the employer as a reaction to a complaint within the workplace, or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment (Article 10 of Equal Treatment Law 4443/2016).

It is important to highlight the provisions of Law 4285/2014 (O.J. 09/10.09.2014), which amended the previous Anti-racism Law 927/79 by specifically including all the grounds of discrimination, except age. More specifically, according to Article 10 of the new law, Article 81A is introduced to the Criminal Code which increases the minimum penalties for offences committed due to bias motivation.

Article 15 of Law 4356/2015 established a *National Council against Racism and Intolerance (the Council)* as an advisory body to improve the consultation process and cooperation amongst stakeholders as well as to improve services on issues related to preventing and combating racism and intolerance. Article 17 states that the Council is responsible for the harmonisation of national law and policies with international and European regulations and practice, and the development of initiatives throughout the whole public sector in order to achieve the most effective protection of people and groups which are targeted because of their race, colour, national or ethnic origin, descent, social origin, religious or other beliefs, sexual orientation, gender identity or disability. Furthermore, another National Action Plan (the time-span of which is yet to be announced) will be implemented with clear qualitative and quantitative indicators, which will progress through the following stages: a) prioritisation of goals and cost, b) observation and update and c) evaluation, in order to ensure the coordinated combating of racism and intolerance by the State.

## **6. Equality body**

The most important feature of the new provisions of Equal Treatment Law 4443/2016 is the unification of separate jurisdictions – private and public – under one equality body, the Ombudsman. Under Article 12, the Ombudsman is tasked with the monitoring and promotion of equal treatment not only for the public sector but for the private sector as well. At the same time, 10 more staff positions were created so as to accommodate permanent Legal Officers or Legal Officers with open-ended private law contracts. In reference to the services for the supervision and promotion of equal treatment, the General Secretariat for Transparency and Human Rights of the Ministry of Justice, within the framework of its jurisdiction for the protection of human rights and the combating of all forms of discrimination, will provide for the promotion of equal treatment. The Social Protection Directorate of the Ministry of Labour will, *inter alia*, monitor the application of anti-discrimination policies in the field of labour and employment, inform employees and employers on issues related to discrimination in the field of employment and raise awareness, as well as providing scientific support to the Labour Inspectorate Body.

In fact, Article 16 of Equal Treatment Law 4443/2016 requires cooperation amongst all of the aforementioned bodies, as well as with the Economic and Social Committee, the senior union organisations in the private and public sectors, the National Social Solidarity Centre, the National Centre for Social Research, the Centre for Equality Research, the Centre for Disease Control and Prevention and the Central Union of Greek Municipalities, as well as with civil society organisations with expertise on anti-discrimination. In reference to raising awareness and disseminating information, Article 17 stipulates that employers, as well as those in charge of vocational training, shall ensure the application of anti-discrimination provisions and provide the equality bodies with all the necessary information for the promotion of equal treatment, as per their mandate. The union organisations shall inform

their members of the content of anti-discrimination provisions, as well as the measures that are carried out for the application and promotion of equal treatment.

## 7. Key issues

The key issues for Greece in the anti-discrimination field can be summarised as follows:

### *Identified issues within the text of Law 4443/2016*

- The new law does not improve the protection framework – with the exception of very limited cases – and under no conditions does it promote the homogeneity of the various fields of protection. To a certain extent, this undermines the overall attempt to reform the law; any improvement is only on a legal or technical level, making it nearly impossible to discern the point of such a radical change. The new law does not improve the level of protection from discrimination because it does not establish any new criminal sanctions, even though the Directives call for the adoption of effective, proportionate and dissuasive sanctions (something that does not apply even in the case of administrative sanctions imposed by the Labour Inspectorate Body). The new law fails to resolve discrepancies in the Civil Code, i.e. the lack of provisions linking non-discrimination law to actions for damages.
- There is concern about the application of the principle of equal treatment in Greece, especially during the economic crisis, since many of the austerity measures adopted in Greece (mostly in relation to labour and social security) are age-related (such as the extension of the number of years in employment to reach a specific age limit). These measures involve unfavourable treatment based solely on age, since they reduce access by younger generations to employment, and may constitute direct, non-justifiable discrimination in violation of Directive 2000/78/EC.<sup>9</sup> In some cases indirect gender discrimination and multiple indirect discrimination on the grounds of gender and age are possible as, for example, most pension beneficiaries under 55 are women who have retired with fewer years of service due to the fact that they had children, an issue also identified by the ILO as being a situation of indirect discrimination.<sup>10</sup> Attention should be given to combating stereotypes and prejudice against older people which lead to discrimination against them (ageism). This phenomenon is associated with viewing older people as 'non-people' or not the same people as they were before, or as people in a separate and lower category merely because they have already passed through particular life stages. The negative impact of these stereotypes on older people's enjoyment of their fundamental rights should not be underestimated.

### *Recommended steps for effective implementation of anti-discrimination measures*

- 1) Provision of independent and specialist assistance by the Ombudsman to victims of discrimination. Furthermore, the Codes of Procedure should be amended in order to provide for the *locus standi* of the Ombudsman as a third party before civil or administrative courts or as a civil party before criminal courts.
- 2) Extension of the *ratione temporis* 'jurisdiction' of the Ombudsman over cases which have been filed in the courts until the first hearing of the case or the issuing of interim measures. Given that a complaint submitted to the Ombudsman does not suspend the deadlines for judicial remedies, if the mediation of the Ombudsman is not fruitful, the discrimination victim could be deprived of their right to judicial protection. This extension might encourage discrimination victims to have recourse to the

<sup>9</sup> Σ. Κουκούλη-Σπηλιωτοπούλου, *Μέτρα λιτότητας στην Ελλάδα και ανθρώπινα δικαιώματα*, ΕΔΚΑ 2014, σελ. 194 και επ., (Spiliotopoulou, S. (2014) 'Austerity measures in Greece and human rights: judgments of international bodies, EU Law and examples of Greek jurisprudence', in *Review of social security law 2014*), at pp. 173, 181, 182 and 189.

<sup>10</sup> ILO (2011), *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, paragraphs 1-8.

- Ombudsman and limit the number of potential cases before the courts, a procedure which is more time-consuming and costly.
- 3) Systematic monitoring by the Ombudsman, in cooperation with the Labour Inspectorate, the Department for Equal Opportunities of the Ministry of Labour and the Organisation for Mediation and Arbitration (*Οργανισμός Μεσολάβησης και Διαιτησίας, ΟΜΕΔ*) of developments in employment and occupation, collective agreements, codes of ethics and practices regarding combating discrimination.
  - 4) Creation, within the Economic and Social Council, of a permanent consultative body, composed of representatives of NGOs and organisations in general, with the participation of the Ombudsman, tasked with carrying out, together with the plenary body of the Economic and Social Council, a social dialogue on equal treatment.

In addition, legislative amendments should be introduced in order to resolve the following issues:

- The requirements for the legal standing of NGOs before the courts should become less strict.
- Modifications must be made to the administrative Code of Procedure relating to the burden of proof.
- Provisions should be made for the imposition of penalties for all the areas of discrimination protected by the anti-discrimination law.

## RÉSUMÉ

### 1. Introduction

La Grèce est une république parlementaire. La souveraineté populaire constitue le fondement du régime politique, et tous les pouvoirs émanent du peuple et existent pour lui et la nation. Le pouvoir législatif est conjointement détenu par le parlement et le gouvernement. La Grèce applique un système de droit civil (continental) avec répartition des différents domaines du droit en législations spécifiques (droit civil, droit public/administratif, droit pénal, droit commercial, droit du travail, etc.). La Grèce ne s'est pas dotée d'une Cour constitutionnelle, mais les cours et tribunaux sont tenus, à tous les niveaux de juridiction, d'interpréter les règles et les lois conformément à la Constitution hellénique. La Grèce dispose de trois instances suprêmes: le Conseil d'État (*Συμβούλιο της Επικρατείας*) (droit public), la Cour de cassation (*Άρειος Πάγος*) (droit privé) et la Cour des comptes (*Ειδικό Ελεγκτικό Συνέδριο*) (cour administrative de juridiction limitée).

La Constitution hellénique contient les règles fondamentales en matière d'élimination de toutes les formes de discrimination et en matière de promotion de l'égalité, lesquelles règles figurent pour la plupart dans la Deuxième partie «Libertés publiques et droits sociaux». Ces droits civils et sociaux sont plus précisément le principe de la dignité humaine, le droit de développer librement sa personnalité et le droit de participer à la vie financière, politique et sociale du pays, le principe d'égalité, le droit à la protection de la santé et de l'identité génétique, la liberté religieuse, la liberté de parole et de presse, le droit à la protection légale par les tribunaux, la protection des données personnelles, l'instruction gratuite, la protection de la famille, du mariage et des enfants, la protection des personnes handicapées, le droit au travail et l'égalité de rémunération. L'État est tenu de surcroît d'éliminer toute discrimination existante. Ces règles fondamentales s'appliquent à tous les domaines nationaux du droit et devraient toujours être respectées. Des lois spéciales ont néanmoins été adoptées dans chacun des domaines.

### 2. Législation principale

On trouve en droit hellénique une législation luttant explicitement contre la discrimination: il s'agit de la loi 4443/2016<sup>11</sup> (égalité de traitement) sur la transposition de la directive 2000/43/CE relative à la mise en œuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique, et sur la transposition de la directive 2000/78/CE portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail, qui remplace la législation hellénique principale antérieure contre la discrimination (loi 3304/2005). Les motifs visés par la législation sont la race ou l'origine ethnique, la religion ou autres convictions, le handicap, l'âge et l'orientation sexuelle, et la nouvelle loi ajoute la maladie chronique, l'ascendance, la situation familiale ou sociale, et l'identité ou les caractéristiques de genre.

Il existe en outre, au niveau normatif (règles légales de l'ordre juridique hellénique), de nombreuses dispositions constitutionnelles (définissant pour la plupart des principes généraux) qui consacrent les droits de l'homme et traitent ainsi directement ou indirectement de la discrimination. Il convient toutefois de préciser qu'il est extrêmement

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<sup>11</sup> Grèce, loi 4443/2016 sur la transposition de la directive 43/2000/CE relative à la mise en œuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique, et sur la transposition de la directive 2000/78/CE portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail et de la directive 54/2014/EU relative à des mesures facilitant l'exercice des droits conférés aux travailleurs dans le contexte de la libre circulation des travailleurs et autres dispositions (*Νόμος 4443/2016 «Ενσωμάτωση της Οδηγίας 2000/43/EK περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/EK για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις»*). Désignation abrégée: loi sur l'égalité de traitement (JO 232 A du 9 décembre 2016).

difficile de faire découler des droits exécutoires spécifiques de ces principes généraux. L'article 25 de la Constitution hellénique revêt énormément d'importance car il établit clairement que les employeurs du secteur privé doivent eux aussi respecter les droits constitutionnels de leurs travailleurs (comme les droits à l'égalité et à la non-discrimination, par exemple). Le code civil (droit civil) contient également certaines clauses *non limitatives* qui pourraient être invoquées par des personnes victimes de discrimination réclamant une égalité de traitement et une non-discrimination dans leur vie professionnelle. De tels recours restent cependant rares en pratique, hormis dans le domaine de l'emploi, où le principe de l'égalité de traitement est souvent invoqué, mais uniquement en ce qui concerne l'égalité de rémunération sans se fonder sur les cinq motifs de discrimination.

Du côté du droit pénal, aucune disposition ne bannit la pratique discriminatoire générale; il existe cependant des lois pénales interdisant la discrimination fondée sur l'origine raciale ou ethnique, mais elles ne sont jamais appliquées dans la pratique.

La seule loi explicitement adoptée contre le racisme en Grèce est la loi 927/1979,<sup>12</sup> telle que modifiée par la loi 1419/1984<sup>13</sup> et la loi 4285/2014.<sup>14</sup>

En sus de la loi 4443/2016, le droit du travail comprend une série de lois visant à combattre la discrimination dans l'emploi, principalement fondée sur le sexe et l'origine raciale ou ethnique. La loi 1414/1984 relative à l'application du principe de l'égalité des sexes dans les relations du travail, par exemple, réduit la discrimination bien qu'elle s'applique uniquement aux personnes occupées dans le secteur privé. Certaines autres lois définissent un cadre de protection qui oblige les employeurs à respecter les dispositions protectrices et à éliminer les pratiques discriminatoires (licenciements de femmes enceintes ou d'un salarié en rapport avec son origine raciale ou ethnique, entre autres).

La Grèce a ratifié tous les grands traités des droits de l'homme (le Pacte international relatif aux droits civils et politiques, le Pacte international relatif aux droits économiques, sociaux et culturels, la Convention internationale sur l'élimination de toutes les formes de discrimination raciale, la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, la Convention relative aux droits de l'enfant, la Convention de sauvegarde des droits de l'homme et des libertés fondamentales et la Convention n° 111 sur la discrimination de l'OIT), mais elle n'a pas ratifié le Protocole n° 12 de la CEDH, la Charte sociale révisée et la Convention-cadre du Conseil de l'Europe pour la protection des minorités nationales.

La Grèce a ratifié le 11 avril 2012 la Convention des Nations unies relative aux droits des personnes handicapées et son protocole facultatif au moyen de la loi 4074/2012 (OG A' 88 du 11.4.2012). En vertu de l'article 2 de cette loi et d'une réserve formulée par la Grèce quant à ladite Convention, les dispositions de l'article 27, paragraphe 1, de cette dernière ne s'appliquent pas aux forces armées ni aux organismes responsables du maintien de l'ordre en ce qui concerne la différence de traitement liée au handicap comme le prévoit l'article 8, paragraphe 4, de la loi n° 3304/2005 relative à la mise en œuvre de l'égalité de traitement conformément aux articles 3, paragraphe 4, et 4 de la directive 2000/78/CE.

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<sup>12</sup> Grèce, loi 927/1979 sur la répression des actes ou activités visant à une discrimination raciale. Désignation abrégée: loi pénale antiraciste 927/1979 (JO 22 A du 26 juin 1979).

<sup>13</sup> Grèce, loi 1414/1984 relative à l'application du principe de l'égalité des sexes dans les relations du travail et autres dispositions (JO 10 A du 2 février 1984).

<sup>14</sup> Grèce, loi 4285/2014 relative à l'amendement de la loi 927/1979 et son adaptation à la décision-cadre 2008/913/JHA du 28 novembre 2009 sur la lutte contre certaines formes et manifestations de racisme et de xénophobie au moyen du droit pénal et d'autres dispositions. Désignation abrégée: loi antiracisme (JO 191 A du 10 septembre 2014).

La loi 4488/2017<sup>15</sup> fait partie du droit hellénique depuis le 13 septembre 2017. Elle comprend notamment une série de dispositions très importantes concernant les droits des personnes handicapées en Grèce. La nouvelle législation relative à la protection desdits droits (qui s'adressent à toutes les parties prenantes, y compris les organismes publics et les employeurs privés) introduit une série de réformes visant à promouvoir l'égalité des droits des personnes handicapées et la pleine jouissance de leurs droits fondamentaux ainsi qu'à faciliter leur vie au quotidien. Les nouvelles réglementations incitent parallèlement à ce que ces personnes soient traitées non plus en tant que personnes ayant des besoins mais en tant que personnes ayant un potentiel, qui doivent être reconnues par l'État pour pouvoir accéder à toutes les sphères de la vie sociale et économique. Ainsi notamment, toute personne physique ou organisation publique du secteur privé ou public au sens large est tenue de veiller à ce que les personnes handicapées puissent exercer leurs droits sur pied d'égalité dans leurs domaines respectifs de compétence ou d'activité en prenant toutes les mesures adéquates et en s'abstenant de toute action susceptible d'entraver l'exercice des droits en question.

La loi 4451/2017<sup>16</sup> a modifié les dispositions du code interne du ministère des affaires étrangères et repoussé la limite d'âge supérieure pour l'accès au corps diplomatique. Elle offre parallèlement aux employés du service diplomatique la possibilité de rester en fonction au-delà de 65 ans (mais pas au-delà de l'âge obligatoire de la retraite, à savoir 67 ans), par analogie aux dispositions applicables aux fonctionnaires d'autres services du ministère.

### 3. Principes généraux et définitions

La loi 4443/2016 sur l'égalité de traitement introduit de nouveaux motifs protégés tels que la maladie chronique, l'ascendance, la situation familiale ou sociale et l'identité ou les caractéristiques de genre. L'introduction du motif de la situation familiale dans le domaine de la discrimination sur le lieu de travail est plus particulièrement considérée comme un élargissement des droits des couples de même sexe ayant signé un partenariat civil. Un certain nombre de définitions ne figurant pas dans la loi précédente (3304/2005) ont en outre été ajoutées.

L'article 2 de la loi 4443/2017 sur l'égalité de traitement contient des définitions de la «discrimination directe», de la «discrimination indirecte», du «harcèlement», de la «discrimination», de la «discrimination par association», de la «discrimination fondée sur une perception», de la «discrimination multiple», du «refus d'aménagement raisonnable» et de «l'aménagement raisonnable». La loi 4443/2016 sur l'égalité de traitement ne contient aucune autre définition quant aux autres motifs spécifiques de discrimination. Certains termes ont néanmoins été précisés dans le rapport explicatif<sup>17</sup> (*Αιτιολογική Έκθεση*) présenté conjointement au projet de loi 443/2016 sur l'égalité de traitement.

<sup>15</sup> Grèce, loi 4488/2017 concernant les dispositions en matière de retraites dans le secteur privé et diverses autres dispositions en matière d'assurances, le renforcement de la protection des salariés, les droits des personnes handicapées et autres dispositions (*Νόμος 4488/2017 «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις»*) (JO A 137 du 13 septembre 2017).

<sup>16</sup> Grèce, loi 4451/2017 portant modification du code législatif du ministère des affaires étrangères et autres dispositions (*Νόμος 4451/2017 «Τροποποίηση του Κώδικα του Οργανισμού του Υπουργείου Εξωτερικών και λοιπές διατάξεις»*) (JO A 16 du 13 février 2017).

<sup>17</sup> Rapport explicatif du projet de loi sur la transposition de la directive 43/2000/CE relative à la mise en œuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique, et sur la transposition de la directive 2000/78/CE portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail et de la directive 54/2014/EU relative à des mesures facilitant l'exercice des droits conférés aux travailleurs dans le contexte de la libre circulation des travailleurs et autres dispositions (*Αιτιολογική Έκθεση στο Σχέδιο Νόμου «Ενσωμάτωση της Οδηγίας 2000/43/ΕΚ περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/ΕΚ για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις*). Désignation abrégée: Rapport explicatif concernant la loi sur l'égalité de traitement, disponible en grec sur le site du parlement hellénique:



#### 4. Champ d'application matériel

En Grèce, le champ d'application personnel de la législation antidiscrimination couvre les personnes physiques et morales pour ce qui concerne la protection contre la discrimination. Le champ d'application personnel du droit national couvre les secteurs privé et public, y compris les organismes publics, pour ce qui concerne la protection contre la discrimination. L'article 3, paragraphe premier, de la loi 4443/2016 sur l'égalité de traitement dispose clairement que le principe d'égalité de traitement s'applique à toutes les «personnes» du secteur public comme du secteur privé.

En ce qui concerne son champ d'application matériel, la loi 4443/2016 sur l'égalité de traitement consacre l'article 3 de la directive sur l'égalité raciale et de la directive sur l'égalité dans l'emploi dans son propre article 3, lequel réitère que le principe de l'égalité de traitement s'applique à toutes les personnes, tant dans le secteur public que dans le secteur privé, en ce qui concerne a) les conditions d'accès à l'emploi et au travail en général, b) l'accès à tous les types et à tous les niveaux d'orientation professionnelle, de formation professionnelle, de perfectionnement et de formation de reconversion, y compris l'acquisition d'une expérience pratique, c) les conditions d'emploi et de travail et d) l'affiliation et la participation à une organisation de travailleurs ou d'employeurs, ou toute organisation dont les membres exercent une profession donnée.

La loi 4356/2015 instaure en son article 29 l'application d'une peine à l'encontre des personnes qui traitent d'autres avec mépris (ce qui correspond au terme «καταφρόνηση» utilisé dans le texte juridique original grec) en refusant de leur fournir des biens et des services en raison de leur orientation sexuelle, de leur identité de genre ou de leur handicap: elle étend ainsi les motifs couverts dans le domaine des biens et services. Ce type de comportement relève du droit pénal lorsqu'il se produit dans le cadre d'une assistance bénévole ou humanitaire (faisant généralement suite à une annonce publique) et qu'il est exclusivement axé sur un groupe particulier de personnes de façon manifestement discriminatoire. La même loi reconnaît les partenariats civils entre personnes de même sexe et élimine la discrimination fondée sur l'orientation sexuelle dans divers domaines, parmi lesquels l'emploi et la protection sociale.

Lors de la session plénière du parlement hellénique en date du 14 janvier 2016, les députés ont majoritairement approuvé la loi 4358/2016<sup>18</sup> sur la ratification de la Charte sociale européenne révisée, signée par la Grèce le 3 mai 1996. Les droits instaurés par la CSER s'inscrivent dans quatre domaines thématiques: a) Emploi, formation professionnelles et égalité des chances, b) Soins de santé, sécurité sociale et protection sociale, c) Droits du travail et d) Protection des enfants, de la famille et des migrants. Les groupes vulnérables protégés par la Charte comprennent entre autres les personnes handicapées, les personnes âgées et les jeunes, et les travailleurs migrant en situation légale.

#### 5. Mise en application de la loi

L'article 8 de la loi 4443/2016 sur l'égalité de traitement consacre l'article 7 de la directive 2000/43 et l'article 9 de la directive 2000/78. Les procédures suivantes ont été mises en place pour faire appliquer le principe de l'égalité de traitement: procédures judiciaires, procédures administratives ou procédures alternatives de résolution des litiges telles que la médiation.

En Grèce, les associations, organisations et syndicats sont habilités à agir au nom des victimes de discrimination.

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<http://www.parliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/e-odew-eis.pdf>, consulté en dernier lieu le 22 avril 2018.

<sup>18</sup> Grèce, loi 4358/2016 sur la ratification de la Charte sociale européenne révisée (JO 5 A du 20 janvier 2016).

L'article 8, paragraphe 3, de la loi 4443/2016, énonce que les personnes morales, unions ou organisations, en ce compris les partenaires sociaux et les syndicats, dont la finalité inclut également la sauvegarde du principe de l'égalité de traitement sans distinction de race, de couleur, d'origine nationale ou ethnique, d'ascendance, de convictions religieuses ou autres, de handicap ou de maladie chronique, d'âge, de situation familiale ou sociale, d'orientation sexuelle, d'identité ou de caractéristiques de genre, peuvent représenter la partie lésée devant toute juridiction ou toute autorité administrative ou organe administratif pour autant que la partie lésée en question donne préalablement son consentement au moyen d'un acte notarié ou d'un acte sous seing privé portant sa signature certifiée. Le paragraphe 4 du même article dispose en outre que les personnes morales susmentionnées peuvent également intervenir («*πρόσθετη παρέμβαση*») gratuitement dans des procédures d'examen d'affaires de discrimination devant des juridictions civiles ou administratives (autrement dit, elles ne doivent pas déboursier de frais de procédure distincts [*«παράβολο»*]).

En Grèce, le droit national exige un renversement complet de la charge de la preuve de la partie requérante vers la partie défenderesse – ce qui signifie que la seconde doit démontrer que la première n'a pas fait l'objet d'une discrimination (les procédures pénales comportent des exceptions prévoyant un renversement partiel de la preuve). La charge de la preuve en cas de violation de la législation antidiscrimination est visée à l'article 9 de la loi 4443/2016 sur l'égalité de traitement.

En cas de non-respect du principe de l'égalité de traitement dans le cadre d'une action administrative, la victime bénéficie d'une protection — outre la protection judiciaire — au titre des articles 24 à 27 du Code de procédure administrative.

La protection contre les rétorsions prévoit les mesures nécessaires pour préserver les travailleurs d'un licenciement ou de tout autre traitement défavorable de la part de l'employeur en réaction à une plainte sur le lieu de travail, ou à toute autre procédure judiciaire visant à faire appliquer le principe de l'égalité de traitement (article 10 de la loi 4443/2016 sur l'égalité de traitement).

Il est important de souligner les dispositions de la loi 4285/2014 (JO 09 du 10 septembre 2014), qui modifie la loi antiracisme antérieure (927/79) en incluant spécifiquement tous les motifs de discrimination, hormis l'âge. Plus spécialement, en vertu de l'article 10 de la nouvelle loi, un article 81A est ajouté au code pénal pour augmenter les sanctions minimales en cas de délits commis avec une motivation discriminatoire.

L'article 15 de la loi 4356/2015 institue un *Conseil national contre le racisme et l'intolérance* (*le Conseil*) en qualité d'organe consultatif dans le but de renforcer le processus de consultation et la coopération entre les parties prenantes, et d'améliorer les services relevant de la prévention et de la lutte contre l'intolérance. Son article 17 précise que le Conseil est chargé d'harmoniser le droit interne et les politiques nationales avec les réglementations et pratiques internationales et européennes, et de développer des initiatives dans l'ensemble du secteur public afin d'assurer la protection la plus efficace aux personnes et aux groupes visés en raison de leur race, de leur couleur de peau, de leur origine nationale ou ethnique, de leur ascendance, de leur origine sociale, de leur religion ou autres convictions, de leur orientation sexuelle, de leur identité de genre ou de leur handicap. Un autre plan d'action national (dont la durée doit encore être annoncée) sera en outre mis en œuvre; il sera assorti d'indicateurs qualitatifs et quantitatifs clairement définis et s'articulera en trois étapes successives: a) établissement de l'ordre de priorité des objectifs et des coûts, b) observation et mise à jour et c) évaluation, afin de garantir la coordination de la lutte de l'État contre le racisme et l'intolérance.

## **6. Organisme de promotion de l'égalité de traitement**

L'aspect le plus important des nouvelles dispositions de la loi 4443/2016 sur l'égalité de traitement est le regroupement de compétences distinctes – privées et publiques – au sein d'un seul et même organisme pour l'égalité, en l'occurrence le Médiateur. En vertu de l'article 12 de ladite loi, celui-ci est chargé de suivre et de promouvoir l'égalité de traitement non seulement dans le secteur public, mais également dans le secteur privé. Dans le même temps, dix postes supplémentaires ont été créés pour accueillir des juristes permanents ou des juristes sous contrat de droit privé à durée indéterminée. Pour ce qui concerne les services de surveillance et de promotion de l'égalité de traitement, le Secrétariat général pour la transparence et les droits de l'homme, qui relève du ministère de la justice, assurera la promotion de l'égalité de traitement dans le cadre de sa mission de protection des droits fondamentaux et de lutte contre toutes les formes de discrimination. Pour sa part, la direction en charge de la protection sociale au sein du ministère du travail veillera entre autres à l'application de mesures antidiscrimination dans le domaine du travail et de l'emploi; à l'information des salariés et des employeurs concernant les questions de discrimination en matière d'emploi; à une plus grande sensibilisation; et à l'apport d'un soutien scientifique à l'Inspection du travail.

En fait, l'article 16 de la loi 4443/2016 sur l'égalité de traitement exige une coopération de l'ensemble des organismes susmentionnés, de même qu'avec le Conseil économique et social, les principales organisations syndicales du secteur privé et du secteur public, le Centre national de solidarité sociale, le Centre national de recherche sociale, le Centre de recherche pour l'égalité, le Centre hellène pour le contrôle et la prévention des maladies, et l'Union centrale des municipalités, ainsi qu'avec des organisations de la société civile expertes en matière de non-discrimination. En référence à la sensibilisation et à la diffusion d'informations, l'article 17 dispose que les employeurs, ainsi que les responsables de la formation professionnelle, doivent veiller au respect des dispositions antidiscrimination et communiquer aux organismes en charge de l'égalité toutes les informations nécessaires à la promotion de l'égalité de traitement, conformément à leur mandat. Les organisations syndicales sont tenues d'informer leurs membres du contenu des dispositions antidiscrimination ainsi que des mesures mises en œuvre en faveur de l'application et de la promotion de l'égalité de traitement.

## **7. Points essentiels**

Les points essentiels à signaler dans le domaine de la lutte contre la discrimination en Grèce peuvent être récapitulés comme suit:

### *Points relevés dans le texte de la loi 4443/2016*

- La nouvelle loi n'améliore pas le cadre de protection – à l'exception de cas très limités – et ne favorise d'aucune manière l'homogénéité des différents domaines de protection, ce qui compromet dans une certaine mesure la volonté globale de réformer la législation; les améliorations se situant uniquement au plan juridique ou technique, il s'avère pratiquement impossible de discerner la finalité d'un changement aussi radical. La nouvelle loi n'améliore pas le niveau de protection contre la discrimination parce qu'elle n'instaure aucune nouvelle sanction pénale bien que les directives réclament l'adoption de sanctions efficaces, proportionnées et dissuasives (une exigence que ne respectent même pas les sanctions administratives imposées par l'Inspection du travail). La nouvelle loi ne remédie pas aux incohérences du Code civil, à savoir l'absence de dispositions créant un lien entre droit antidiscrimination et actions en dommages et intérêts.
- L'application du principe de l'égalité suscite certaines préoccupations en Grèce, en période de crise économique plus particulièrement, étant donné que bon nombre de

mesures d'austérité adoptées dans le pays (portant pour la plupart sur le travail et la sécurité sociale) sont liées à l'âge (augmentation du nombre d'années d'emploi pour atteindre une limite d'âge déterminée, par exemple). Ces mesures génèrent un traitement défavorable exclusivement fondé sur l'âge puisqu'elles réduisent l'accès des jeunes générations à l'emploi, et peuvent être constitutives d'une discrimination directe non justifiable en violation de la directive 2000/78/CE.<sup>19</sup> Une discrimination indirecte fondée sur le genre et une discrimination indirecte multiple fondée sur le genre et sur l'âge sont possibles dans certains cas du fait, par exemple, que la plupart des bénéficiaires de pension de moins de 55 ans sont des femmes qui ont pris leur retraite en ayant moins d'années de service parce qu'elles ont eu des enfants – une situation également relevée par le BIT comme étant constitutive d'une discrimination indirecte.<sup>20</sup> Il conviendrait de veiller à combattre les stéréotypes et les préjugés envers les personnes âgées car ils conduisent à une discrimination à leur égard (âgisme). Ce phénomène est associé à une vision des personnes âgées comme étant des «non-personnes» ou comme des personnes différentes de ce qu'elles étaient auparavant, ou comme des personnes appartenant à une catégorie distincte et inférieure du simple fait qu'elles ont déjà franchi certaines étapes de vie. L'impact négatif de ces stéréotypes sur la jouissance par les personnes âgées de leurs droits fondamentaux ne doit pas être sous-estimé.

*Dispositions recommandées en vue d'une mise en œuvre efficace des mesures antidiscrimination*

- 1) L'apport par le Médiateur d'une aide indépendante et spécialisée aux victimes de discrimination. Il conviendrait en outre de modifier les codes de procédure afin d'habiliter le Médiateur à ester en justice en qualité de tiers devant une juridiction civile ou administrative ou en tant que partie civile devant une juridiction pénale.
- 2) L'extension de la compétence ratione temporis du Médiateur aux affaires introduites en justice jusqu'à la première audience ou à l'adoption de mesures temporaires. Étant donné que le dépôt d'une plainte auprès du Médiateur ne suspend pas le délai de recours judiciaire, la victime de discrimination pourrait se voir privée de son droit à une protection judiciaire au cas où le Médiateur échoue dans son intervention. L'extension proposée pourrait encourager les victimes de discrimination à faire appel au Médiateur et limiter le nombre d'affaires potentielles portées en justice, une procédure à la fois plus longue et plus onéreuse.
- 3) Un suivi systématique par le Médiateur, en collaboration avec l'Inspection du travail, le département de l'égalité des chances au sein du ministère du Travail et l'Organisation de médiation et d'arbitrage (*Οργανισμός Μεσολάβησης και Διαιτησίας, ΟΜΕΔ*) des développements qui, en matière d'emploi et de travail, de conventions collectives, de codes d'éthique et de pratiques, concernent la lutte contre la discrimination.
- 4) Création, au sein du Conseil économique et social, d'une instance consultative permanente qui, composée de représentants d'ONG et d'organisations en général, et avec la participation du Médiateur, serait chargée de procéder, en concertation avec l'instance plénière du Conseil, à un dialogue social sur l'égalité de traitement.

Des amendements législatifs devraient en outre être adoptés pour résoudre les problèmes suivants:

- Les exigences imposées à la capacité des ONG d'ester en justice devraient être assouplies.

<sup>19</sup> Σ. Κουκούλη-Σπηλιωτοπούλου, *Μέτρα λιτότητας στην Ελλάδα και ανθρώπινα δικαιώματα*, ΕΔΚΑ 2014, σελ. 194 και επ., (Spiliotopoulou, S. (2014) «Austerity measures in Greece and human rights: judgments of international bodies, EU Law and examples of Greek jurisprudence» dans *Review of social security law*, vol. 2/644, 2014, p. 173, 181, 182 et 189).

<sup>20</sup> BIT (2011), Rapport de la mission de haut niveau en Grèce (Athènes, 19-23 septembre 2011), points 1 à 8.

- Des modifications au code de procédure administrative s'imposent pour ce qui concerne la charge de la preuve.
- L'application de sanctions devrait être prévue dans tous les domaines de discrimination bénéficiant de la protection de la loi antidiscrimination.

## ZUSAMMENFASSUNG

### 1. Einleitung

Griechenland ist eine parlamentarische Demokratie. Die Souveränität des Volkes ist die Grundlage der Regierung, alle Macht geht vom Volke aus und wird für das Volk und die Nation ausgeübt. Die Gesetzgebung liegt bei Parlament und Regierung gemeinsam. Griechenland folgt dem kontinentaleuropäischen Rechtssystem, bei dem das Recht in einzelne Bereiche (Zivilrecht, öffentliches bzw. Verwaltungsrecht, Strafrecht, Wirtschaftsrecht, Arbeitsrecht usw.) unterteilt ist. Griechenland hat kein Verfassungsgericht, jedoch sind alle Gerichte in gewissem Maße verpflichtet, Vorschriften und Gesetze gemäß der griechischen Verfassung auszulegen. Griechenland hat drei höchste Instanzen: den Staatsrat (*Συμβούλιο της Επικρατείας*) (öffentliches Recht), den obersten Gerichtshof (*Άρειος Πάγος*) (Zivilrecht) und die Rechnungskammer (*Ειδικό Ελεγκτικό Συνέδριο*) (Verwaltungsgericht mit beschränkter Gerichtsbarkeit).

Die griechische Verfassung enthält grundlegende Regeln zur Beseitigung jeder Form von Diskriminierung und zur Förderung der Gleichstellung, von denen die meisten in Teil II der Verfassung mit dem Titel „Bürgerliche und soziale Rechte“ enthalten sind. Diese Rechte sind im Einzelnen der Grundsatz der Menschenwürde, die freie Entwicklung der Persönlichkeit und die Teilhabe am wirtschaftlichen, sozialen und politischen Leben des Landes, der Gleichheitsgrundsatz, das Recht auf Gesundheit und Geschlechtsidentität, Religionsfreiheit, Meinungs- und Pressefreiheit, Recht auf Rechtsschutz, Datenschutz, freie Bildung, Schutz von Familie, Ehe und Kindern, Schutz von Menschen mit Behinderungen sowie das Recht auf Arbeit und gleichen Lohn. Außerdem ist der Staat verpflichtet, jede Form der Diskriminierung zu beseitigen. Diese grundlegenden Regeln gelten für alle Rechtsgebiete und müssen immer angewandt werden. Für die einzelnen Gebiete wurden jedoch auch spezielle Gesetze verabschiedet.

### 2. Wichtigste Rechtsvorschriften

Das griechische Recht verfügt über eine ausdrückliche Antidiskriminierungsgesetzgebung: das Gleichbehandlungsgesetz 4443/2016<sup>21</sup> „zur Umsetzung der Richtlinie 43/2000/EG zur Anwendung des Gleichbehandlungsgrundsatzes ohne Unterschied der „Rasse“ oder der ethnischen Herkunft und zur Umsetzung der Richtlinie 78/2000/EG zur Festlegung eines allgemeinen Rahmens für die Verwirklichung der Gleichbehandlung in Beschäftigung und Beruf“, das an die Stelle des wichtigsten bisherigen Antidiskriminierungsgesetzes (Gesetz 3304/2005) getreten ist. Folgende Gründe sind gesetzlich geschützt: „Rasse“ und ethnische Herkunft, religiöse und andere Überzeugungen, Behinderung, Alter und sexuelle Orientierung; im Zuge des neuen Gesetzes sind die Gründe chronische Krankheit, Abstammung, familiärer oder sozialer Status sowie geschlechtliche Identität bzw. Merkmale hinzugekommen.

Außerdem gibt es auf normativer Ebene (Rechtsnormen des griechischen Rechtssystems) zahlreiche verfassungsrechtliche Bestimmungen (die vor allem allgemeine Grundsätze festlegen), die die Menschenrechte schützen und damit unmittelbar oder mittelbar das Thema Diskriminierung betreffen. Allerdings ist es extrem schwierig, aus diesen allgemeinen Grundsätzen konkrete durchsetzbare Rechte abzuleiten. Artikel 25 der

<sup>21</sup> Griechenland, Gesetz 4443/2016 zur Umsetzung der Richtlinie 43/2000/EG zur Anwendung des Gleichbehandlungsgrundsatzes ohne Unterschied der „Rasse“ oder der ethnischen Herkunft, der Richtlinie 78/2000/EG zur Festlegung eines allgemeinen Rahmens für die Verwirklichung der Gleichbehandlung in Beschäftigung und Beruf, der Richtlinie 54/2014/EU über Maßnahmen zur Erleichterung der Ausübung der Rechte, die Arbeitnehmern im Rahmen der Freizügigkeit zustehen, und anderer Vorschriften (*Νόμος 4443/2016 «Ενσωμάτωση της Οδηγίας 2000/43/ΕΚ περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/ΕΚ για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις»*), kurz: Gleichbehandlungsgesetz (Amtsblatt 232 A/ 09.12.2016).

griechischen Verfassung ist enorm wichtig, weil er private Arbeitgeber verpflichtet, die verfassungsmäßigen Rechte ihrer Arbeitnehmer zu wahren (z. B. das Recht auf Gleichstellung und Gleichbehandlung). Im Zivilgesetzbuch (Zivilrecht) gibt es eine *nicht abschließende* Aufzählung von Bestimmungen, auf die sich Opfer von Diskriminierung berufen können, die ihr Recht auf Gleichstellung und Gleichbehandlung im Arbeitsleben durchsetzen möchten. Außer im Bereich Beschäftigung gibt es jedoch in der Praxis kaum entsprechende Klagen und dort auch nur zur Durchsetzung des Grundsatzes der gleichen Entlohnung für gleiche Arbeit und nicht aufgrund der fünf geschützten Diskriminierungsgründe.

Im Strafrecht gibt es kein allgemeines Verbot von Diskriminierung, jedoch einzelne strafrechtliche Bestimmungen, die Diskriminierung aufgrund der „Rasse“ oder ethnischen Zugehörigkeit verbieten; diese werden allerdings in der Praxis nie angewandt.

Das einzige ausdrückliche Antidiskriminierungsgesetz in Griechenland bleibt somit das Gesetz 927/1979,<sup>22</sup> geändert durch das Gesetz 1419/1984<sup>23</sup> und das Gesetz 4285/2014.<sup>24</sup>

Neben dem Gesetz 4443/2016 gibt es auch im griechischen Arbeitsrecht zahlreiche Gesetze, deren Ziel es ist, Diskriminierung am Arbeitsplatz, vor allem aufgrund des Geschlechts und der rassischen oder ethnischen Zugehörigkeit, zu bekämpfen. So schränkt beispielsweise das Gesetz 1414/1984 über die Umsetzung des Grundsatzes der Geschlechtergleichstellung in Beschäftigungsverhältnissen Diskriminierung ein, gilt jedoch nur für Beschäftigungsverhältnisse in der Privatwirtschaft. Andere Gesetze bilden einen schützenden Rechtsrahmen, nach dem Arbeitgeber verpflichtet sind, Schutzvorschriften einzuhalten und diskriminierende Verfahren, wie Kündigungen aufgrund einer Schwangerschaft oder aufgrund der „Rasse“ oder ethnischen Zugehörigkeit des Arbeitnehmers, zu beseitigen.

Griechenland hat alle wichtigen Menschenrechtsabkommen ratifiziert (den Internationalen Pakt über bürgerliche und politische Rechte, den Internationalen Pakt über wirtschaftliche, soziale und kulturelle Rechte, das Internationale Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung, das Übereinkommen zur Beseitigung jeder Form von Diskriminierung der Frau, die UN-Kinderrechtskonvention, die Europäische Menschenrechtskonvention und das Übereinkommen Nr. 111 der Internationalen Arbeitsorganisation), jedoch nicht das 12. Protokoll der Europäischen Menschenrechtskonvention, die revidierte Sozialcharta und das Rahmenübereinkommen zum Schutz nationaler Minderheiten.

Am 11. April 2012 ratifizierte Griechenland im Zuge des Gesetzes 4074/2012 (Amtsblatt A' 88/11.4.2012) das Übereinkommen der Vereinten Nationen über die Rechte von Menschen mit Behinderungen (UNCRPD) und dessen Zusatzprotokoll. Nach Artikel 2 dieses Gesetzes – und aufgrund eines von Griechenland zum UNCRPD angebrachten Vorbehalts – gelten die Bestimmungen von Artikel 27 Abs. 1 des Übereinkommens nicht für die Streitkräfte und Strafverfolgungsbehörden, in dem Maße, in dem Artikel 8 Abs. 4 des Gesetzes 3304/2005 zur Umsetzung des Gleichbehandlungsgrundsatzes eine Ungleichbehandlung aufgrund von Behinderung gemäß Artikel 3 Absatz 4 und Artikel 4 der Richtlinie 2000/78/EG erlaubt.

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<sup>22</sup> Griechenland, Gesetz 927/1979 über die Bestrafung von Handlungen oder Verfahren zum Zweck der Rassendiskriminierung, kurz: Anti-Rassismus-Strafgesetz 927/1979 (Amtsblatt 22 A/26.06.1979).

<sup>23</sup> Griechenland, Gesetz 1414/1984 über die Anwendung des Grundsatzes der Geschlechtergleichstellung in Beschäftigungsverhältnissen und andere Bestimmungen (Amtsblatt 10 A/02.02.1984).

<sup>24</sup> Griechenland, Gesetz 4285/2014 zur Änderung von Gesetz 927/1979 und dessen Anpassung an das Rahmenurteil 2008/913/JI vom 28. November 2009 zur Bekämpfung bestimmter Formen und Ausdrucksformen von Rassismus und Fremdenfeindlichkeit durch das Strafrecht und andere Bestimmungen, kurz: Antirassismusgesetz (Amtsblatt 191 A/10.09.2014).

Am 13. September 2017 wurde das Gesetz 4488/2017<sup>25</sup> Teil der griechischen Rechtsvorschriften. Es enthält unter anderem eine Reihe sehr wichtiger Vorschriften bezüglich der Rechte von Menschen mit Behinderungen in Griechenland. Die neue Gesetzgebung zum Schutz der Rechte von Menschen mit Behinderungen (die sich an alle Beteiligten, einschließlich staatlicher Stellen und privater Arbeitgeber, richtet) führt eine Reihe von Reformen ein, deren Ziel es ist, die Gleichbehandlung dieser Menschen und die uneingeschränkte Ausübung ihrer Grundrechte zu fördern sowie ihr Leben und ihren Alltag zu erleichtern. Gleichzeitig zielen die neuen Regelungen darauf ab, Menschen mit Behinderungen nicht als Menschen mit Bedürfnissen, sondern als Menschen mit Potenzial zu behandeln, das der Staat anerkennen muss, um ihnen Zugang zu allen Bereichen des sozialen und wirtschaftlichen Lebens zu ermöglichen. Insbesondere sind natürliche Personen sowie Einrichtungen des öffentlichen und privaten Bereichs im weiteren Sinne verpflichtet, in ihrem jeweiligen Zuständigkeits- bzw. Tätigkeitsbereich dazu beizutragen, dass Personen mit Behinderungen ihre Rechte gleichberechtigt wahrnehmen können, indem sie alle geeigneten Maßnahmen ergreifen und auf alles verzichten, was die Ausübung dieser Rechte beeinträchtigen könnte.

Im Zuge des Gesetzes 4451/2017<sup>26</sup> wurden die Bestimmungen der internen Satzung des Außenministeriums geändert und die Altershöchstgrenze für den Zugang zum diplomatischen Korps des Ministeriums angehoben. Gleichzeitig wurde, analog zu den Bestimmungen für Staatsbedienstete anderer Abteilungen des Ministeriums, die Möglichkeit geschaffen, dass Beschäftigte nach Vollendung des 65. Lebensjahres (jedoch nicht über das vorgeschriebene Rentenalter von 67 Jahren hinaus) im diplomatischen Dienst verbleiben können.

### 3. Wichtigste Grundsätze und Begriffe

Das Gleichbehandlungsgesetz 4443/2016 führt neue Schutzgründe wie chronische Krankheit, Abstammung, familiärer oder sozialer Status und geschlechtliche Identität bzw. Merkmale ein. Vor allem die Einführung des Diskriminierungsgrunds familiärer Status im Zusammenhang mit Diskriminierung am Arbeitsplatz wird als eine Ausweitung der Rechte gleichgeschlechtlicher Paare, die eine eingetragene Lebenspartnerschaft geschlossen haben, gesehen. Außerdem wurden bestimmte Definitionen mit aufgenommen, die im vorherigen Gesetz 3304/2005 nicht enthalten waren.

Artikel 2 des Gleichbehandlungsgesetzes 4443/2017 enthält Definitionen der Begriffe „unmittelbare Diskriminierung“, „mittelbare Diskriminierung“, „Belästigung“, „Diskriminierung“, „Diskriminierung durch Assoziierung“, „Diskriminierung aufgrund von Wahrnehmung“, „Mehrfachdiskriminierung“, „Verweigerung angemessener Vorkehrungen“ und „angemessene Vorkehrungen“. Weitere Definitionen spezieller Diskriminierungsgründe enthält das Gleichbehandlungsgesetz 4443/2016 nicht. Einige Begriffe wurden jedoch in dem erläuternden Bericht (*Αιτιολογική Έκθεση*)<sup>27</sup> geklärt, der zusammen mit dem Entwurf des Gleichbehandlungsgesetzes 4443/2016 vorgelegt wurde.

<sup>25</sup> Griechenland, Gesetz 4488/2017 über Vorschriften bzgl. der Pensionen im öffentlichen Dienst und verschiedener Versicherungsbestimmungen, über die Stärkung des Schutzes der Beschäftigten, über die Rechte von Menschen mit Behinderungen und andere Bestimmungen (*Νόμος 4488/2017 „Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις“*) (Amtsblatt A 137/13.9.2017).

<sup>26</sup> Griechenland, Gesetz 4451/2017 zur Änderung der Satzung des Außenministeriums und anderer Bestimmungen (*Νόμος 4451/2017 „Τροποποίηση του Κώδικα του Οργανισμού του Υπουργείου Εξωτερικών και λοιπές διατάξεις“*) (Amtsblatt A 16/13.02.2017).

<sup>27</sup> Erläuternder Bericht zu dem Entwurf für ein Gesetz zur Umsetzung der Richtlinie 43/2000/EG zur Anwendung des Gleichbehandlungsgrundsatzes ohne Unterschied der „Rasse“ oder der ethnischen Herkunft, der Richtlinie 78/2000/EG zur Festlegung eines allgemeinen Rahmens für die Verwirklichung der Gleichbehandlung in Beschäftigung und Beruf, der Richtlinie 54/2014/EU über Maßnahmen zur Erleichterung der Ausübung der Rechte, die Arbeitnehmern im Rahmen der Freizügigkeit zustehen, und anderer Vorschriften (*Αιτιολογική Έκθεση στο Σχέδιο Νόμου «Ενσωμάτωση της Οδηγίας 2000/43/EK περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/EK για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία*



#### 4. Sachlicher Geltungsbereich

Der persönliche Geltungsbereich des griechischen Antidiskriminierungsrechts erstreckt sich, was den Schutz vor Diskriminierung betrifft, auf natürliche und juristische Personen. Der persönliche Geltungsbereich des innerstaatlichen Rechts erstreckt sich, was den Schutz vor Diskriminierung betrifft, sowohl auf den privaten als auch auf den öffentlichen Sektor, einschließlich staatlicher Stellen. In Artikel 3 Absatz 1 des Gleichbehandlungsgesetzes 4443/2016 heißt es unmissverständlich, dass der Grundsatz der Gleichbehandlung für alle „Personen“ sowohl im öffentlichen als auch im privaten Sektor gilt.

Was den sachlichen Geltungsbereich betrifft, so sind Artikel 3 der Antirassismusrichtlinie und der Rahmenrichtlinie Beschäftigung in Artikel 3 des Gleichbehandlungsgesetzes 4443/2016 verankert, in dem bekräftigt wird, dass der Grundsatz der Gleichbehandlung für alle Personen sowohl im öffentlichen als auch im privaten Sektor gilt, und zwar in Bezug auf a) die Bedingungen für den Zugang zu Beschäftigung und Erwerbstätigkeit im Allgemeinen, b) den Zugang zu allen Formen und allen Ebenen der Berufsberatung, der Berufsausbildung, der beruflichen Weiterbildung und der Umschulung einschließlich der praktischen Berufserfahrung, c) die Beschäftigungs- und Arbeitsbedingungen und d) die Mitgliedschaft und Mitwirkung in einer Arbeitnehmer- oder Arbeitgeberorganisation oder einer Organisation, deren Mitglieder einen bestimmten Beruf ausüben.

Im Zuge von Artikel 29 des Gesetzes 4356/2015 wurde eine Vorschrift eingeführt, die das Verhalten von Personen, die andere mit „Geringschätzung“ (*καταφρόνηση* im griechischen Gesetzestext) behandeln, indem sie sich aus Gründen der „Rasse“, Hautfarbe, Staatsangehörigkeit oder ethnischen Zugehörigkeit, der Abstammung, Religion oder Weltanschauung, sexuellen Ausrichtung, Geschlechtsidentität oder einer Behinderung weigern, diese mit Gütern und Dienstleistungen zu versorgen, unter Strafe stellt, womit die Liste der im Zusammenhang mit Gütern und Dienstleistungen abgedeckten Gründe erweitert wurde. Das genannte Verhalten fällt in den Bereich des Strafrechts, wenn es im Zusammenhang mit freiwilliger oder humanitärer Hilfe – in der Regel nach entsprechender öffentlicher Ankündigung – stattfindet und sich in eindeutig diskriminierender Weise nur auf eine bestimmte Gruppe von Menschen richtet. Im Zuge desselben Gesetzes wurden gleichgeschlechtliche Lebenspartnerschaften anerkannt und wurde Diskriminierung aufgrund der sexuellen Orientierung in verschiedenen Bereichen, darunter auch Beschäftigung und Sozialschutz, untersagt.

Am 14. Januar 2016 wurde in einer Plenarsitzung des griechischen Parlaments das Gesetz 4358/2016<sup>28</sup> zur Ratifizierung der am 3. Mai 1996 von Griechenland unterzeichneten, revidierten Europäischen Sozialcharta von der Mehrheit der Abgeordneten verabschiedet. Die in der ESC festgeschriebenen Rechte entsprechen vier thematischen Bereichen: a) Beschäftigung, Berufsbildung und Chancengleichheit, b) Gesundheitsversorgung, Sozialversicherung und Sozialschutz, c) Arbeitnehmerrechte und d) Schutz von Kindern, Familie und Migranten. Zu den besonders schwachen, durch die Charta geschützten Gruppen gehören unter anderem Personen mit Behinderungen, ältere und junge Menschen sowie legale Wanderarbeiter.

#### 5. Rechtsdurchsetzung

Artikel 7 der Richtlinie 2000/43 und Artikel 9 der Richtlinie 2000/78 sind in Artikel 8 des Gleichbehandlungsgesetzes 4443/2016 verankert. Zur Durchsetzung des

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*και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις»), kurz: Erläuternder Bericht zum Gleichbehandlungsgesetz, abrufbar (in griechischer Sprache) auf der Webseite des griechischen Parlaments unter: <http://www.parliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/e-odew-eis.pdf> (letzter Zugriff am 22.04.2018).*

<sup>28</sup> Griechenland, Gesetz 4358/2016 zur Ratifizierung der revidierten Europäischen Sozialcharta (Amtsblatt 5 A/20.01.2016).

Gleichbehandlungsgrundsatzes stehen gerichtliche, verwaltungsrechtliche und alternative Verfahren der Streitbeilegung wie z. B. Vermittlung zur Verfügung.

In Griechenland sind Verbände, Organisationen und Gewerkschaften berechtigt, im Namen von Diskriminierungsopfern zu handeln.

In Artikel 8 Absatz 3 des Gesetzes 4443/2016 heißt es: „juristische Personen, Vereinigungen und Organisationen, einschließlich sozialpartnerschaftlicher Organisationen und Gewerkschaften, deren Zweck unter anderem die Wahrung des Grundsatzes der Gleichbehandlung unabhängig von „Rasse“, Hautfarbe, nationaler oder ethnischer Herkunft, Abstammung, religiösen oder sonstigen Überzeugungen, Behinderung oder chronischer Erkrankung, Alter, familiärem oder sozialem Status, sexueller Orientierung, geschlechtlicher Identität oder Merkmalen beinhaltet, können die geschädigte Partei vor Gericht sowie vor Verwaltungsbehörden und -organen aller Art vertreten, sofern der/die Geschädigte dies im Voraus mit notarieller oder privater Urkunde, die seine/ihre beglaubigte Unterschrift trägt, genehmigt“. Nach Absatz 4 desselben Artikels können die oben genannten juristischen Personen darüber hinaus auch unentgeltlich, also ohne Bezahlung spezieller Gerichtsgebühren (*παράβολο*), Verfahren beitreten (*πρόσθετη παρέμβαση*), in denen Diskriminierungsfälle vor den Zivil- oder Verwaltungsgerichten untersucht werden.

Das griechische Recht schreibt eine vollständige Verlagerung der Beweislast von der beschwerdeführenden auf die beschwerdegegnerische Partei vor. Anders ausgedrückt: Die beschwerdegegnerische Partei muss nachweisen, dass die beschwerdeführende Partei nicht diskriminiert wurde (Ausnahmen gelten in Strafverfahren, in denen die Beweislast teilweise verlagert wird). Die Beweislast in Fällen, in denen gegen das Antidiskriminierungsrecht verstoßen wurde, ist in Artikel 9 des Gleichbehandlungsgesetzes 4443/2016 geregelt.

Im Falle der Nichteinhaltung des Gleichbehandlungsgrundsatzes im Rahmen eines Verwaltungsakts hat das Opfer – neben dem gerichtlichen Rechtsschutz – den in Artikel 24-27 der Verwaltungsprozessordnung gewährten Schutz.

Der Schutz vor Viktimisierung umfasst Maßnahmen, die erforderlich sind, um Arbeitnehmer/innen vor Entlassung oder einer anderen nachteiligen Behandlung seitens des Arbeitgebers oder der Arbeitgeberin als Reaktion auf eine Beschwerde am Arbeitsplatz oder eine gerichtliche Klage zur Durchsetzung des Gleichbehandlungsgrundsatzes zu schützen (Art. 10 Gleichbehandlungsgesetz 4443/2016).

Es sei an dieser Stelle auf die Bestimmungen des Gesetzes 4285/2014 (Amtsblatt 09/10.09.2014) hingewiesen, mit denen das bisherige Antirassismugesetz 927/79 um alle einschlägigen Diskriminierungsgründe außer Alter erweitert wurde. Insbesondere wird im Zuge von Artikel 10 des neuen Gesetzes im Strafgesetzbuch der Artikel 81A eingeführt, der die Mindeststrafe für Straftaten, die aufgrund von Vorurteilen begangen werden, heraufsetzt.

Im Zuge von Artikel 15 des Gesetzes 4356/2015 wurde ein *Nationaler Rat gegen Rassismus und Intoleranz (der Rat)* als beratendes Gremium eingerichtet, um den Konsultationsprozess und die Zusammenarbeit zwischen den Akteuren zu fördern und Dienste im Zusammenhang mit der Verhütung und Bekämpfung von Rassismus und Intoleranz zu verbessern. Nach Artikel 17 ist der Rat dafür verantwortlich, die innerstaatlichen Rechtsvorschriften und Politiken mit den internationalen und europäischen Bestimmungen und Verfahren in Einklang zu bringen sowie im gesamten öffentlichen Sektor Initiativen zu entwickeln, um Personen und Gruppen, die aufgrund ihrer „Rasse“, Hautfarbe, nationalen oder ethnischen Herkunft, Abstammung, sozialen Herkunft, Religion oder Weltanschauung, sexuellen Ausrichtung, Geschlechtsidentität oder einer Behinderung zur Zielscheibe werden, möglichst wirksam zu schützen. Um die koordinierte Bekämpfung

von Rassismus und Intoleranz seitens des Staates zu gewährleisten, soll darüber hinaus ein weiterer Nationaler Aktionsplan (dessen Zeitspanne noch nicht bekanntgegeben wurde) mit klaren qualitativen und quantitativen Indikatoren umgesetzt werden, der folgende Stufen umfasst: a) Priorisierung von Zielen und Kosten, b) Beobachtung und Aktualisierung und c) Auswertung.

## **6. Gleichbehandlungsstelle**

Wichtigstes Element der neuen Bestimmungen des Gleichbehandlungsgesetzes 4443/2016 ist die Zusammenfassung getrennter Zuständigkeiten – privat und öffentlich – in einer Gleichbehandlungsstelle, dem Bürgerbeauftragten. Nach Artikel 12 ist der Bürgerbeauftragte für die Überwachung und Förderung der Gleichbehandlung nicht nur im öffentlichen Sektor, sondern auch im privaten Sektor zuständig. Gleichzeitig wurden zehn neue Stabsstellen geschaffen, so dass ständige Rechtsvertreter bzw. Rechtsvertreter mit unbefristeten privatrechtlichen Verträgen eingestellt werden können. Was die Leistungen für die Überwachung und Förderung der Gleichbehandlung betrifft, so wird das Generalsekretariat für Transparenz und Menschenrechte des Justizministeriums im Rahmen seiner Zuständigkeiten für den Schutz der Menschenrechte und die Bekämpfung aller Formen von Diskriminierung für die Förderung der Gleichbehandlung sorgen. Die Direktion für Sozialschutz im Ministerium für Arbeit wird unter anderem die Umsetzung von Antidiskriminierungsmaßnahmen im Bereich Arbeit und Beschäftigung überwachen, Arbeitnehmer/innen und Arbeitgeber/innen über Themen bezüglich Diskriminierung im Beschäftigungsbereich informieren und Bewusstsein schaffen sowie der Arbeitsaufsichtsbehörde wissenschaftliche Unterstützung leisten.

Tatsächlich verlangt Artikel 16 des Gleichbehandlungsgesetzes 4443/2016 die Zusammenarbeit zwischen allen vorgenannten Stellen sowie zwischen diesen und dem Wirtschafts- und Sozialausschuss, den führenden Gewerkschaften im privaten und öffentlichen Sektor, dem Nationalen Zentrum für Soziale Solidarität, dem Nationalen Zentrum für Sozialforschung, dem Forschungszentrum für Geschlechtergleichstellung, dem Zentrum für Krankheitsbekämpfung und Prävention, dem Zentralverband griechischer Städte und Gemeinden sowie Organisationen der Zivilgesellschaft, die über Fachwissen im Bereich Antidiskriminierung verfügen. Bezüglich Sensibilisierung und der Verbreitung von Informationen schreibt Artikel 17 vor, dass die Arbeitgeber/innen und die Verantwortlichen für die Berufsausbildung für die Anwendung der Antidiskriminierungsvorschriften sorgen und den Gleichbehandlungsstellen alle notwendigen Informationen zur Förderung der Gleichbehandlung im Sinne ihres Mandats zur Verfügung stellen. Die Gewerkschaften informieren ihre Mitglieder über den Inhalt der Antidiskriminierungsvorschriften und über die zur Umsetzung und Förderung der Gleichbehandlung getroffenen Maßnahmen.

## **7. Zentrale Punkte**

Die zentralen Punkte Griechenlands im Diskriminierungsbereich lassen sich wie folgt zusammenfassen:

### *Probleme im Text des Gesetzes 4443/2016*

- Das neue Gesetz verbessert den Schutzrahmen – mit Ausnahme sehr begrenzter Fälle – nicht und fördert auf keinen Fall die Homogenität der verschiedenen Schutzbereiche. In gewissem Maße werden dadurch die Bemühungen, das Gesetz zu reformieren, insgesamt untergraben; sämtliche Verbesserungen betreffen allein die rechtliche bzw. technische Ebene, und es ist nahezu unmöglich, das Wesentliche einer solch einschneidenden Änderung zu erkennen. Der Schutz vor Diskriminierung wird durch das neue Gesetz nicht verbessert, da dieses keine neuen strafrechtlichen Sanktionen enthält, obgleich die Richtlinien die Anwendung wirksamer, verhältnismäßiger und abschreckender Sanktionen verlangen (etwas, was sogar auf

die von der Arbeitsaufsichtsbehörde verhängten Verwaltungsstrafen nicht zutrifft). Dem neuen Gesetz gelingt es nicht, Diskrepanzen im Bürgerlichen Gesetzbuch, nämlich das Fehlen von Bestimmungen, die das Antidiskriminierungsrecht mit der Geltendmachung von Schadenersatzansprüchen verbinden, zu beseitigen.

- Es gibt Sorgen bezüglich der Anwendung des Gleichbehandlungsgrundsatzes in Griechenland, vor allem während der Wirtschaftskrise, da viele der in Griechenland verabschiedeten Sparmaßnahmen (insbesondere im Bereich Arbeit und soziale Sicherheit) altersbezogen sind (z. B. die Erhöhung der Zahl der Beschäftigungsjahre für das Erreichen einer bestimmten Altersgrenze). Diese Maßnahmen führen zu einer Benachteiligung ausschließlich aufgrund des Alters, da sie den Zugang jüngerer Generationen zu Beschäftigung erschweren, und können eine unmittelbare, nicht zu rechtfertigende Diskriminierung unter Verstoß gegen die Richtlinie 2000/78/EG darstellen.<sup>29</sup> In manchen Fällen kann es zu mittelbarer Diskriminierung aufgrund des Geschlechts und zu mittelbarer Mehrfachdiskriminierung aufgrund des Geschlechts und des Alters kommen, da beispielsweise die meisten rentenberechtigten Personen unter 55 Jahren Frauen sind, die mit weniger Beschäftigungsjahren in den Ruhestand gegangen sind, weil sie Kinder großgezogen haben – ein Punkt, der auch von der IAO als eine Situation mittelbarer Diskriminierung bezeichnet wurde.<sup>30</sup> Der Bekämpfung von Stereotypen und Vorurteilen gegenüber älteren Menschen, die zu deren Diskriminierung führen (Ageismus), sollte mehr Aufmerksamkeit gewidmet werden. Dieses Phänomen geht damit einher, dass ältere Menschen allein aufgrund der Tatsache, dass sie bestimmte Lebensabschnitte bereits durchlaufen haben, als „Nicht-Menschen“ oder nicht dieselben Menschen, die sie früher waren, oder als Menschen einer gesonderten, niedrigeren Kategorie angesehen werden. Die negativen Auswirkungen dieser Stereotype auf die Wahrnehmung von Grundrechten durch ältere Menschen dürfen nicht unterschätzt werden.

#### *Empfohlene Schritte zur wirksamen Umsetzung von Antidiskriminierungsmaßnahmen*

- 1) Unabhängige und spezialisierte Unterstützung für Opfer von Diskriminierung durch den Ombudsmann. Außerdem sollte die Prozessordnung so geändert werden, dass der Ombudsmann als dritte Partei vor Zivil- und Verwaltungsgerichten oder als zivile Partei vor Strafgerichten parteifähig wird.
- 2) Ausweitung der zeitlichen Gültigkeit bei der Zuständigkeit des Ombudsmanns auf Fälle, bei denen bereits Klage eingereicht wurde bis zum ersten Verhandlungstermin oder bis zur Anordnung einer einstweiligen Verfügung. Da eine Beschwerde vor dem Ombudsmann die Verjährungsfrist nicht verlängert, könnten Opfer ihr Recht auf Gerichtsschutz verlieren, wenn die Schlichtung vor dem Ombudsmann nicht gelingt. Diese Ausweitung könnte Diskriminierungsopfer ermutigen, die Hilfe des Ombudsmanns zu suchen und dadurch die Anzahl potentieller Gerichtsverfahren senken, die länger dauern und teurer sind.
- 3) Systematische Überwachung von Entwicklungen in Arbeits- und Beschäftigungsverhältnissen, Tarifverträgen, Verhaltenskodizes und -richtlinien zum Kampf gegen Diskriminierung durch den Ombudsmann in Zusammenarbeit mit der Arbeitsaufsichtsbehörde, der Abteilung für Chancengleichheit des Ministeriums für Arbeit und der Organisation für Mediation und Schlichtung (*Οργανισμός Μεσολάβησης και Διαιτησίας, ΟΜΕΔ*).
- 4) Schaffung eines dauerhaften Beratungsorgans innerhalb des Wirtschafts- und Sozialrats, in dem Vertreter von NROs und anderen Organisationen vertreten sind, dessen Exekutivausschuss gemeinsam mit dem Ombudsmann für die Förderung des sozialen Dialogs zur Gleichbehandlung verantwortlich ist.

<sup>29</sup> Σ. Κουκούλη-Σπηλιωτοπούλου, *Μέτρα λιτότητας στην Ελλάδα και ανθρώπινα δικαιώματα*, ΕΔΚΑ 2014, σελ. 194 και επ. (Spiliotopoulou, S., 2014, „Austerity measures in Greece and human rights: judgments of international bodies, EU Law and examples of Greek jurisprudence“, in: *Review of social security law 2014*), S. 173, 181, 182 und 189.

<sup>30</sup> IAO (2011), *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, Pkt. 1-8.

Ferner sollten folgende Probleme durch entsprechende Gesetzesänderungen gelöst werden:

- Die Bedingungen für eine Beteiligung von NROs an Gerichtsverfahren sollten gelockert werden.
- In der Verwaltungsverfahrensordnung sollte eine Umkehr der Beweislast eingeführt werden.
- Für alle durch das Antidiskriminierungsgesetz geschützten Diskriminierungsbereiche sollte die Möglichkeit der Verhängung von Sanktionen eingeführt werden.

## INTRODUCTION

### The national legal system

Greece is a parliamentary republic.<sup>31</sup> Popular sovereignty is the foundation of government, and all powers derive from the people and exist for the people and the nation.<sup>32</sup> The national legislative authority rests jointly with Parliament and the Government. Greece follows a civil law system (continental) with fields of law separated into specific bodies (civil law, public/administrative law, criminal law, commercial law, labour law etc.). Greece does not have a Constitutional Court, but all courts of all degrees have an inherent obligation to interpret rules and laws in conformity with the Greek Constitution. Greece has three supreme courts: the Council of State (*Συμβούλιο της Επικρατείας*) (public law), the Supreme Court (*Άρειος Πάγος*) (private law) and the Chamber of Accounts (*Ειδικό Ελεγκτικό Συνέδριο*) (limited jurisdiction administrative court).

The Greek Constitution contains fundamental rules on the elimination of all forms of discrimination and the promotion of equality, most of which are contained in Part II, 'Civil and Social Rights'.

It is important, however, to highlight that the Greek Constitution declares in Article 28 that the 'generally recognised' rules of international law as well as international conventions constitute an integral part of Greek law which come into force as of the time they are ratified by statute in Greece, and that they prevail over any contrary statutory provisions. Moreover, 'the rules of international law and international conventions shall be applied to aliens only under the condition of reciprocity'. As a result of Greek accession to the European Communities, EU law has become part of the legal system. Beside the rules of primary sources of EU law, which prevail over domestic law, secondary EU legislation, especially regulations, is directly applicable in Greece.

### List of main legislation transposing and implementing the directives

- Equal Treatment Law 4443/2016<sup>33</sup> On the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work and Directive 54/2014/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers and other provisions, which replaced the main Greek anti-discrimination legislation (Law 3304/2005).  
Adopted: 2 December 2016 by the Greek Parliament.  
Entered into force: 9 December 2016.  
Protected grounds: racial or ethnic origin, religious or other beliefs, disability, age, sexual orientation, chronic illness, descent, family or social status, and gender identity or characteristics.  
Material scope: all persons in both the public and private sectors; access to employment and occupation (but not self-employment), vocational training and

<sup>31</sup> Constitution, Article 1(1) Greece is not a federal state. The text of the Greek Constitution is available in English at: [www.hellenicparliament.gr/en/Vouli-ton-Ellinon/To-Politevma/Syntagma](http://www.hellenicparliament.gr/en/Vouli-ton-Ellinon/To-Politevma/Syntagma), last accessed on 22 April 2018.

<sup>32</sup> Constitution, Articles 1(2), 1(3).

<sup>33</sup> Greece, Law 4443/2016 on the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work and Directive 54/2014/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers and other provisions (*Νόμος 4443/2016 «Ενσωμάτωση της Οδηγίας 2000/43/ΕΚ περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/ΕΚ για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις*). Abbreviation: Equal Treatment Law (OJ 232 A/ 09.12.2016).

education, social protection, including social security and healthcare, education, and access to goods and services, including housing.

*Additional anti-discrimination legislation:*

- Anti-racism Law 4285/2014<sup>34</sup> on the amendment of Law 927/1979 (A' 139) and adjustment to the Framework Decision 2008/913/JHA of 28 November 2008, to combat certain forms and acts of racism and xenophobia through Criminal Law (L 383) and others.  
Adopted: 9 September 2014.  
Entered into force: 10 September 2014 .  
Protected grounds: race, colour, religion, descent, national or ethnic origin, disability, sexual orientation, gender identity.  
Material scope: all persons in both the public and private sectors; violations of the Criminal Code (criminal offences).
- Presidential Decree 131/2003<sup>35</sup> on the adjustment to Directive 2000/31/EC of the EP and EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market, Article 2, paragraphs 2 and 4.  
Adopted: 16 May 2003.  
Entered into force: 17 January 2002.  
Protected grounds: race, sex, religion and nationality.  
Material scope: radio and television news and political broadcasts. Prohibits broadcasting of racist and xenophobic and intolerant views, in particular concerning ethnic or religious minorities and other vulnerable population groups.
- Presidential Decree 109/2010<sup>36</sup> on the harmonisation of Greek radio and television legislation with the provisions of Directive 2010/13/EC of the EP and EC, Article 7.  
Adopted: 5 November 2010.  
Entered into force: 19 December 2009.  
Protected grounds: race, gender, religion, beliefs, nationality, disability, age and sexual orientation.  
Material scope: all audio-visual service providers. Obligation to ensure that audio-visual programmes do not cause hate due to race, sex, religion, beliefs, nationality, disability, age and sexual orientation, and they must also not take advantage of people's superstitions and prejudices.
- Law 4488/2017<sup>37</sup> on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions.

<sup>34</sup> Greece, Law 4285/2014 on the Amendment of Law 927/1979 (A' 139) and adjustment to the Framework Decision 2008/913/JHA of 28 November 2008, for combating certain forms and acts of racism and xenophobia through Criminal Law (L 383) and other provisions (*Νόμος 4285/2014 «Τροποποίηση του ν. 927/1979 (Α' 139) και προσαρμογή του στην απόφαση - πλαίσιο 2008/913/ΔΕΥ της 28ης Νοεμβρίου 2008, για την καταπολέμηση ορισμένων μορφών και εκδηλώσεων ρατσισμού και ξενοφοβίας μέσω του ποινικού δικαίου (L 328) και άλλες διατάξεις»*). Abbreviation: Antiracist Law (OJ 191 A/10.09.2014).

<sup>35</sup> Greece, Presidential Decree 131/2003 on the adjustment to Directive 2000/31/EC of the EP and EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market (ΠΔ 131/2003 «Προσαρμογή στην Οδηγία 2000/31 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου σχετικά με ορισμένες νομικές πτυχές των υπηρεσιών της κοινωνίας της πληροφορίας, ιδίως του ηλεκτρονικού εμπορίου, στην εσωτερική αγορά – Οδηγία για το ηλεκτρονικό εμπόριο»). Abbreviation: Presidential Decree adopting the Electronic Commerce Directive (OJ 116 A/16.05.2003).

<sup>36</sup> Greece, Presidential Decree 109/2010, on the Harmonisation of the Greek radio-television legislation to the provisions of Directive 2010/13 of the EP and EC *et al* (ΠΔ 109/2010 «Εναρμόνιση της ελληνικής ραδιοτηλεοπτικής νομοθεσίας στις διατάξεις της Οδηγίας 2010/13/ΕΕ (ΕΕ L 95 της 15.4.2010) του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, με την οποία κωδικοποιήθηκαν οι διατάξεις της Οδηγίας 89/552/ΕΟΚ (ΕΕ L 298 της 17.10.1989) του Συμβουλίου, όπως ίσχυε μετά την τελευταία τροποποίησή της από την Οδηγία 2007/65/ΕΚ (ΕΕ L 332 της 18.12.2007) του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου για το συντονισμό ορισμένων νομοθετικών, κανονιστικών και διοικητικών διατάξεων των κρατών μελών σχετικά με την παροχή υπηρεσιών οπτικοακουστικών μέσων»). Abbreviation: Presidential Decree adopting the Media Services Directive (OJ 190 A/05.03.2010).

<sup>37</sup> Greece, Law 4488/2017 on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions (*Νόμος*

Adopted: 13 September 2017.

Entered into force: 13 September 2017.

Grounds protected: Disability.

Material Scope: Articles 60 to 72 contain provisions transposing the UNCPRD. The provisions apply to all persons in the private and public sector.

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4488/2017 «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις» (ΟΓ Α 137/13.9.2017).



## 1 GENERAL LEGAL FRAMEWORK

### Constitutional provisions on protection against discrimination and the promotion of equality

The Greek Constitution includes the following articles dealing with non-discrimination: Article 4(1), Article 4(2), Article 5(1-2), Article 2(1), Article 9A, Article 16(4), Article 21(1), Article 22(1-2)(b), Article 25(1) and Article 116(2).

The Constitution has always contained a general provision requiring equality for all Greeks before the law (Article 4(1)). In 1975, when the Constitution came into force, one of its important features was the strengthening of human rights.

In the area of constitutional provisions, in its first part the Greek Constitution assigns to the State the primary obligation to respect and protect the value of the human being. The Greek Constitution also contains a specific and general non-discrimination provision that explicitly protects all people, Greek citizens and foreign nationals, men and women, old and young. In particular, Article 5(1) stipulates: 'All persons shall have the right to develop freely their personality and to participate in the social, economic and political life of the country, insofar as they do not infringe the rights of others or violate the Constitution and the good usages [i.e. the principles of morality]. 2. All persons living within the Greek territory shall enjoy full protection of their life, honour and liberty irrespective of nationality, race or language and of religious or political beliefs. Exceptions shall be permitted only in cases provided by international law.'<sup>38</sup> Therefore, Article 5 of the Constitution is considered as the constitutional basis of all Greek non-discrimination law.

The Constitution includes the principles of human dignity<sup>39</sup> and free development of personality;<sup>40</sup> the principle of general equality;<sup>41</sup> the right to protection of health;<sup>42</sup> freedom of religion; freedom of opinion and of the press; freedom of art, science, research and teaching; the right to judicial protection; the right to be protected against misuse of personal data;<sup>43</sup> the right to receive free education on all levels at state educational institutions;<sup>44</sup> the right to a family;<sup>45</sup> the protection of marriage, motherhood, childhood and families with many children;<sup>46</sup> the right to work and to receive equal pay for work of equal value;<sup>47</sup> the right to respect of human and social rights;<sup>48</sup> and the right to enjoy affirmative measures to counterbalance real inequality.<sup>49</sup>

These rights and principles conceptually cover all the anti-discrimination grounds and material fields mentioned in Directives 2000/43/EC and 2000/78/EC. Theoretically, therefore, nothing would stand in the way of victims of discrimination, regardless of their racial or national origin, religious or other beliefs (disability, age or sexual orientation are also included, though not specifically mentioned), invoking these provisions and attempting to initiate a discussion towards promoting social integration and inclusion and combating discrimination through general human rights protection.<sup>50</sup> As general principles, such

<sup>38</sup> The above excerpt has been taken from the official English version of the Greek Constitution, as it is displayed on the Greek Parliament's official website. The term 'good usages' refers to the Greek term «χρηστά ήθη». A more precise translation of this term would be 'principles of morality'.

<sup>39</sup> Constitution, Article 2(1).

<sup>40</sup> Constitution, Article 5(1).

<sup>41</sup> Constitution, Article 4(1).

<sup>42</sup> Constitution, Article 5(5).

<sup>43</sup> Constitution, Article 9A.

<sup>44</sup> Constitution, Article 16(4).

<sup>45</sup> Constitution, Article 21(1).

<sup>46</sup> Constitution, Article 21(1-2).

<sup>47</sup> Constitution, Article 22(1)(b).

<sup>48</sup> Constitution, Article 25(1).

<sup>49</sup> Constitution, Article 116(2).

<sup>50</sup> Especially after the constitutional amendment of Article 25, by virtue of which '[human rights] also apply to the relations between [private] individuals to which they are appropriate' (excerpt taken from the English version of the Greek Constitution).

constitutional provisions clearly cover every aspect of human life and personal development, and as such they offer a resource for people who are not protected under other provisions of national law. Even though constitutional anti-discrimination provisions are directly applicable, it would be extremely difficult to derive specific enforceable rights from these general clauses, given that such general clauses are no substitute for more specific legislation which adds clarity and enforceability to individual rights.

These provisions apply to all areas covered by the directives. Their material scope is broader than those of the directives.

The constitutional equality clauses can be enforced against private actors (as opposed to the State). Article 25 of the Greek Constitution is immensely important because it clearly indicates that private employers must also respect the constitutional rights of their employees (e.g. the rights of equality and non-discrimination). It was added during the last constitutional amendment of 2001<sup>51</sup> and it should be used against the previously predominant doctrine that constitutional provisions protect citizens against unequal treatment or discrimination by state entities only and not by employers in the private sector.

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<sup>51</sup> Parliamentary Resolution of 6 April 2001 of the VIIth Revisionary Parliament (*Ψήφισμα της Ζ' Αναθεωρητικής Βουλής της 6ης Απριλίου 2001*) (OJ 84 A/17.4.2001).

## 2 THE DEFINITION OF DISCRIMINATION

### 2.1 Grounds of unlawful discrimination explicitly covered

The new provisions of Equal Treatment Law 4443/2016 introduce new protected grounds. The following grounds of discrimination are now explicitly protected against in national law: racial or ethnic origin, descent, colour, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, and gender identity or characteristics. 'Gender' is not covered by Law 4443/2016, however gender equality is ensured through other legislation.<sup>52</sup>

#### 2.1.1 Definition of the grounds of unlawful discrimination within the directives

Certain definitions which were not provided in the previous Anti-discrimination Law 3304/2005 have now been added through Equal Treatment Law 4443/2016. Equal Treatment Law 4443/2016 itself does not contain any other definitions on the specific grounds of discrimination within the text of the law. Some terms are, however, clarified by the Explanatory Report<sup>53</sup> (*Αιτιολογική Έκθεση*), which was submitted with the Draft of Equal Treatment Law 4443/2016. Below are terms which are provided with a definition under the Greek legal system.

##### **Race**

There is a legal definition of 'racial discrimination' in the Greek legal system. According to Legislative Decree 474/1970<sup>54</sup> (Article 1(1)), which ratified the International Convention on the Elimination of All Forms of Discrimination (ICERD), 'racial discrimination means any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.'

Apart from this, there is no other separate legal definition of 'race' or 'racial discrimination' at national level.

##### **Ethnic origin**

There is no separate legal definition of 'ethnic origin' in the Greek legal system. There is no distinction between discrimination based on 'race' and discrimination based on 'ethnic origin' (see above definition included in Decree 474/1970).

##### **Disability**

There is a legal definition of 'disability' in the Greek legal system. After the adoption of Law 4074 /2012<sup>55</sup> by the Greek Parliament (on 11 April 2012), the definition (or guidance on

<sup>52</sup> Mainly through Laws 4097/2012, 3896/2010 and 3769/2009.

<sup>53</sup> Explanatory Report for the Draft Law on the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work and Directive 54/2014/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers and other provisions (*Αιτιολογική Έκθεση στο Σχέδιο Νόμου «Ενσωμάτωση της Οδηγίας 2000/43/ΕΚ περί εφαρμογής της αρχής της ίσης μεταχείρισης προσώπων ασχέτως φυλετικής ή εθνοτικής τους καταγωγής, της Οδηγίας 2000/78/ΕΚ για τη διαμόρφωση γενικού πλαισίου για την ίση μεταχείριση στην απασχόληση και την εργασία και της Οδηγίας 2014/54/ΕΕ περί μέτρων που διευκολύνουν την άσκηση των εργαζομένων στο πλαίσιο της ελεύθερης κυκλοφορίας των εργαζομένων και λοιπές διατάξεις»*), Abbreviation: Explanatory Report on Equal Treatment Law, available in Greek on the Greek Parliament website at: <http://www.parliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/e-odew-eis.pdf>, last accessed on 22 April 2018.

<sup>54</sup> Greece, Legislative Decree 474/1970 on ratification of International Convention on the Elimination of All Forms of Discrimination (*Νομοθετικό Διάταγμα 474/1990 περί κυρώσεως της εν Νεας Υόρκης υπογραφείσας την 7<sup>ην</sup> Μαρτίου 1966 διεθνούς συμβάσεως περί καταργήσεως πάσης μορφής φυλετικών διακρίσεων*) (ΟJ 77 Α/21.03.1970).

<sup>55</sup> Greece, Law 4074/2012 on the Ratification of the Convention on the Rights of Persons with Disabilities and the Optional Protocol (*Νόμος 4074/2012 «Κύρωση της Σύμβασης για τα δικαιώματα των ατόμων με*

the concept)<sup>56</sup> of disability that is included in the UN Convention on the Rights of Persons with Disabilities (UNCRPD) can be regarded as having been officially transposed into Greek law. This UNCRPD definition also applies in the context of Law 4443/2016. Thus, in this indirect way, the definition can be regarded as compatible with the concept adopted by the Court of Justice of the European Union in Joined Cases C-335/11 and C-337/11 *Skouboe Werge and Ring*, paragraph 38. There is no national case law in which this definition has been applied. Finally, Law 4488/2017,<sup>57</sup> which specifies the implementation of the UN Convention on the Rights of Persons with Disabilities, also provides the relevant definitions (of 'disabled people', 'adjustments', etc.) and guidelines for the equal exercise of the rights of people with disabilities and the mainstreaming of disability in all public policies. According to Article 60(1) of Law 4488/2017, 'persons with disabilities' are persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers, in particular institutional, environmental or social behavioural barriers, may hinder their full and effective participation in society on an equal basis with others.<sup>58</sup>

### **Chronic illness**

According to the Explanatory Report on Equal Treatment Law 4443/2016, the aforementioned term of 'disability' is further supplemented by the term of 'chronic illness'. This addition aims to expand the protection model for equal access and social inclusion for people with disabilities established through Law 4074/2012 (see above). Thus, chronic illness is also covered by the new Equal Treatment Law 4443/2016. The term 'chronic illness' includes illnesses that have developed either through a medical condition or due to an accident which presents at least one of the following elements: indefinite duration and no known treatment, rebound effect or possibility of recurrence, permanency, long-term supervision, medical visits and diagnostic examinations, or a need for rehabilitation or special education in order to recover. Within this framework, persons with HIV/AIDS are also protected under the ground of disability or chronic illness, in full conformity with ILO Recommendation 200 (2010) which prohibits discrimination or stigmatisation thereof in the employment and occupation field.

### **Family status**

Equal Treatment Law 4443/2016 also includes the term 'family status' as a protected ground. According to the Explanatory Report, the term was added in order to reinforce the protection of the strong biotic bond which is developed within family life irrespective of the type of union between a couple. In other words, 'family status' was added in order to ensure the equal treatment of people who have entered into a civil union agreement, including same-sex couples, within the employment field. This is in accordance with Law 4356/2015, which introduced same-sex civil union agreements.

### **Social status**

'Social Status' is added as a ground through Equal Treatment Law 4443/2016. It refers to the 'social stigmatisation' of a person due to his/her link to a certain social sub-group such as former drug addicts or former detainees/prisoners. The Explanatory Report on Equal Treatment Law 4443/2016 states that other types of group are also included, given that

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αναπηρίες και του Προαιρετικού Πρωτοκόλλου στη Σύμβαση για τα δικαιώματα των ατόμων με αναπηρίες») (ΟJ 88 Α/11.04.2012).

<sup>56</sup> 'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.' (UN Convention on the Rights of Persons with Disabilities, Article 1(2)).

<sup>57</sup> Greece, Law 4488/2017 on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions (*Νόμος 4488/2017* «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις») (ΟΓ Α 137/13.9.2017).

<sup>58</sup> The original text in Greek is: «Ως «Άτομα με Αναπηρίες (ΑμεΑ)» νοούνται τα άτομα με μακροχρόνιες σωματικές, ψυχικές, διανοητικές ή αισθητηριακές δυσχέρειες, οι οποίες σε αλληλεπίδραση με διάφορα εμπόδια, ιδίως θεσμικά, περιβαλλοντικά ή εμπόδια κοινωνικής συμπεριφοράς, δύναται να παρεμποδίσουν την πλήρη και αποτελεσματική συμμετοχή των ατόμων αυτών στην κοινωνία σε ίση βάση με τους άλλους.».

they constitute specific social sub-groups consisting of a group of people who are linked by a common characteristic, which is often inherent, unaltered or fundamental to the identity, conscience or the exercise of rights of the group's members.

### ***Sexual orientation and gender identity or characteristics***

Equal Treatment Law 4443/2016, in accordance with Council of Europe Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, contains a coherent prohibition of discrimination based on gender identity or gender characteristics in the field of employment and occupation. The Explanatory Report on the Equal Treatment Law states that the term 'gender identity' refers to transgender persons (*διεμφυλικά άτομα*), whose gender identity is different from their gender of birth. 'Gender characteristics', on the other hand, refers to 'intersex' persons (*διαφυλικά άτομα*), who from birth do not display the characteristics of a specific gender in order for them to be anatomically classified as male or female. There is no definition of sexual orientation, not even from court rulings.

### ***Religious or other beliefs***

There is no legal definition of religious or other beliefs in the Greek legal system.

### ***Age***

There is no legal definition of the protected ground of age in the Greek legal system.

## **2.1.2 Multiple discrimination**

In Greece, Equal Treatment Law 4443/2016 also includes 'multiple discrimination'. The law clearly defines 'multiple discrimination' in Article 2(2)(g) as: 'any discrimination, exclusion or restriction of a person based on multiple grounds of discrimination'. No other concepts related to multiple discrimination have been introduced. Despite this definition, however, the law does not appear to provide for more severe sanctions (or other revised consequences) in cases of multiple discrimination as opposed to discrimination on one single ground.

Previously, Law 3996/2011<sup>59</sup> concerning a general reform of the Labour Inspectorate and other provisions on social insurance thoroughly described the competence and the mission of this body as an auditor in the field of the protection of workers' and employees' rights. This was the first time a legislative instrument explicitly referred to multiple discrimination, as well as to discrimination concerning people living with HIV/AIDS (as a special category of disabled people). Specifically, Law 3996/2011 on the reform of the Labour Inspectorate states clearly in Article 2(1)(h) that: '[the Labour Inspectorate] supervises the implementation of the principle of equal treatment irrespective of racial or ethnic origin, religion or other beliefs, disability, age or sexual orientation, taking into consideration instances of multiple discrimination in accordance with Article 19 of Law 3304/2005'.

In Greece, there is no case law dealing with multiple discrimination.

Moreover, there is no information available from the equality body (Greek Ombudsman) regarding jurisprudence in 2016 (information for 2017 has not yet been published) to help assess how intersectional discrimination<sup>60</sup> or discrimination on multiple grounds are being tackled.

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<sup>59</sup> Greece, Law 3996/2011 on the reform of the Labour Inspectorate Body, social security issues and other provisions (*Νόμος 3996/2011 «Αναμόρφωση του Σώματος Επιθεωρητών Εργασίας, ρυθμίσεις θεμάτων Κοινωνικής Ασφάλισης και άλλες διατάξεις»*) (OJ 170 A/13.08.2011).

<sup>60</sup> Intersectional discrimination refers to discrimination on more than one grounds, where the influence of those grounds cannot be disentangled. For more information: Schiek, D. and Lawson, A. (2013), Introduction, in Schiek, D. and Lawson, A. (eds.), *European Union Discrimination Law and Intersectionality*, Ashgate Publications, pp. 1-10, at p. 3.

The National Commission of Human Rights (NCHR) had repeatedly highlighted<sup>61</sup> that Law 3304/2005 (the previous Anti-discrimination Law) did not include the prohibition of multiple discrimination, noting the need to amend it. With regard specifically to the right of older people, the NCHR noted that the prohibition of multiple discrimination is particularly important. According to the NCHR, older people are often victims of discrimination not only because of their age but also because of their gender, ethnic origin, sexual orientation, nationality, religion or disability. For instance, in some cases indirect gender discrimination and multiple indirect discrimination on the grounds of gender and age are very much possible. One such example, according to the ILO,<sup>62</sup> is that of pension cuts, which will be greater for those pensioners who are below 55 years of age (with a 40 % reduction in pensions above EUR 1 000 per month). This might have a strong gender dimension, as this category of pensioners largely consists of women who had the right in the past to take early retirement at 50 if they had completed a certain number of years of service (usually 25) and still had minor children.

### 2.1.3 Assumed and associated discrimination

#### a) Discrimination by assumption

In Greece, national law prohibits discrimination based on perception or assumption of a person's characteristics. Article 2(2)(f) of Equal Treatment Law 4443/2016 includes 'discrimination based on perception', which is 'the less favourable treatment of a person who is perceived to have specific characteristics of race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics'.

There is no case law on discrimination based on perceptions or assumption of a person's characteristics.

#### b) Discrimination by association

In Greece, national law prohibits discrimination based on association with people with particular characteristics. Article 2(2)(e) of Equal Treatment Law 4443/2016 defines 'discrimination by association' as 'the less favourable treatment of a person due to his/her close association to a person or persons with specific characteristics of race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics'.

According to the Explanatory Report on Equal Treatment Law 4443/2016, 'close association' is defined as the relationship of a person especially with people that fall under the category of 'familiar' (*οικειών*), meaning family members, adopted family members, same sex partners, betrothed partners, siblings, spouses, or siblings' spouses/betrothed, custodial parent or a person under someone's custody. Therefore, this definition is more limited, and it does not seem to be in line with the ruling in the *Chez* case,<sup>63</sup> which had established that associative discrimination also applies to indirect discrimination – in other words, in a situation where a neutral practice disadvantages people of a specific ethnic group and a person not of the same ethnicity suffers the same disadvantage by association with that group.

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<sup>61</sup> GNCHR, Decision on the rights of Older Persons, 20.11.2014, (*Απόφαση ΕΔΔΑ, «Προστασία των δικαιωμάτων των ηλικιωμένων ατόμων»*), available in Greek at: [www.nchr.gr/images/pdf/apofaseis/Hlikiomena\\_atoma/EEDA\\_Ilikiomena\\_atoma.pdf](http://www.nchr.gr/images/pdf/apofaseis/Hlikiomena_atoma/EEDA_Ilikiomena_atoma.pdf), last accessed on 22 April 2018.

<sup>62</sup> ILO, Report on the High Level Mission to Greece (Athens, 19-23 September 2011), paragraph 321, available at: [http://www.ilo.org/global/standards/WCMS\\_170433/lang-en/index.htm](http://www.ilo.org/global/standards/WCMS_170433/lang-en/index.htm), last accessed on 22 April 2018.

<sup>63</sup> ECJ, *CHEZ Razpredelenie Bulgaria AD v. Komisia za zashtita ot diskriminatsia*, C-83/14, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=165912&pageIndex=0&doclang=en&mode=req&dir=&occ=first&cid=350201>, last accessed on 22 April 2018.

According to the Explanatory Report on Equal Treatment Law 4443/2016, a definition on discrimination by association was included in the new legislation in order to ensure that Greek law is in line with the judgment in Case C-303/06, *Coleman v. Attridge Law and Steve Law*.<sup>64</sup>

## **2.2 Direct discrimination (Article 2(2)(a))**

### **a) Prohibition and definition of direct discrimination**

In Greece, direct discrimination is prohibited in national law and is defined.

- Equal Treatment Law 4443/2016 enshrines the definitions of direct discrimination from both the Racial Equality Directive and the Employment Equality Directive. Article 2(2)(a) states that direct discrimination is the less favourable treatment of a person 'due to race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, family or social status, sexual orientation, gender identity or characteristics' than that afforded to a person without these characteristics in a comparable situation. Use of the term 'person' does not necessarily imply that the scope is limited to individuals.

### **b) Justification of direct discrimination**

Equal Treatment Law 4443/2016 permits the justification of direct discrimination in relation to all grounds. More specifically, this law stipulates that:

- The provisions of equal treatment shall not apply to cases which are provided with a 'specifically justified different treatment' (ειδικώς αιτιολογημένη διαφορετική μεταχείριση) due to nationality and as long as they do not violate the provisions and preconditions of the legal status of third-country nationals outside the EU or stateless persons living within Greek territory (Article 3(3)).
- The provisions of equal treatment shall not apply to benefits (παροχές) provided by public or equivalent systems, including public systems of social security or healthcare and those that do not infringe upon measures which are necessary for the maintenance of public safety, ensuring public order, preventing criminal offences and the protection of the rights and freedoms of all (Article 3(4)).
- The provisions of equal treatment shall not apply to the armed forces as long as the discriminatory measure refers to a difference of treatment due to age, disability or chronic illness which is crucial for carrying out the specific service (διαφορετική μεταχείριση λόγω ηλικίας, αναπηρίας ή χρόνιας πάθησης σχετικής με την Υπηρεσία). (Article 3(5)).

The test that must be satisfied to justify direct discrimination basically requires a 'specifically justified difference in treatment' and adherence to provisions on the legal status of third-country national and stateless persons, when referring to nationality. Concerning all grounds, direct discrimination is justified when it is necessary for the maintenance of public safety, ensuring public order, preventing criminal offences and the protection of the rights and freedoms of all. In accordance with the Greek Constitution (Article 25), any measure restricting the rights and freedoms of persons should be applied in light of the principle of proportionality. Therefore, direct discrimination should also satisfy the proportionality test (i.e. a legal measure which satisfies a legitimate aim, through appropriate and proportionate means).

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<sup>64</sup> ECJ, *Coleman v. Attridge Law and Steve Law*, C-303/06, available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-303/06>, last accessed on 22 April 2018.

### 2.2.1 Situation testing

#### a) Legal framework

In Greece, national law does not explicitly disallow the use of situation testing but at the same time makes no provision for it.

According to the Greek Code of Civil Procedure<sup>65</sup> (Article 342), there are only seven 'types of evidence' and situation testing is not included among them. However, Article 347 stipulates that in cases where the probability of facts is considered 'by law' (in general) to be an 'adequate factor' to establish evidence, the court has discretionary power to take into consideration any suitable means in order to substantiate 'probability', and it is for the courts to interpret the facts. As a result, it is a matter of jurisprudence to interpret whether or not 'situation testing' refers to the issue of 'probability of discrimination', as defined in Article 14 of the Anti-discrimination Law 3304/2005 ('Burden of proof'), and therefore whether or not it falls within the scope of the legal provision of Article 347 of the Code which allows other types of evidence.

#### b) Practice

In Greece, situation testing is not used in practice.

No relevant jurisprudence exists, because situation testing has not yet been used in practice by NGOs in any category of case (not only in discrimination cases). In any case, the Constitution prohibits the use of evidence which has been acquired in violation of the rights of privacy of correspondence (Article 19), of domicile (Article 9) and of protection of personal data (Article 9A).

### 2.3 Indirect discrimination (Article 2(2)(b))

#### a) Prohibition and definition of indirect discrimination

In Greece, indirect discrimination is prohibited in national law and is defined.

Under Article 2(2)(b) of Equal Treatment Law 4443/2016, indirect discrimination is 'when a seemingly neutral provision, criterion or practice places a person with certain characteristics of race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation and gender identity or characteristics, in a less favourable position in comparison to other people [without these characteristics].'

#### b) Justification test for indirect discrimination

Article 2(2)(b) of Equal Treatment Law 4443/2016 also includes a justification test for indirect discrimination. In its second paragraph it adds: 'There is no indirect discrimination if the provision, criterion or practice is objectively justified by a legitimate aim and the means for accomplishing this aim are appropriate and necessary, if the measures taken are necessary for maintaining public safety, ensuring public order, preventing the commission of crimes, protecting health, the rights and freedoms of others or when [the measures] are taken in favour of people with disability and chronic illness, in accordance with Article 6(5) of the Constitution and Article 5 of the present law'. There is no other relevant jurisprudence or practice on this justification test, however it is in line with Article 25 of the Greek Constitution (proportionality test).

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<sup>65</sup> P.D. 456/1984 'Civil Code and its Introductory Law' («Π.Δ. 456/1984, Αστικός Κώδικας και ο Εισαγωγικός του Νόμος»), as amended (OJ I64 A/24.10.1984).



c) Comparison in relation to age discrimination

The Law does not specify how a comparison is to be made. Article 6(1) of Equal Treatment Law 4443/2016 provides that differences of treatment on grounds of age shall not constitute discrimination if, within the context of national law, they are justified by employment policy, labour market and vocational training objectives, and the means of achieving that aim are appropriate and necessary.

### 2.3.1 Statistical evidence

a) Legal framework

In Greece, there are national rules permitting data collection. In 2015, a presidential decree was issued which codifies all legislation on access to data. Presidential Decree 28/2015<sup>66</sup> enshrines the relevant articles of Law 2472/1997,<sup>67</sup> which regulate the collection of data.

According to Article 25 of PD 28/2015 (former Article 7 of Law 2472/1997) regulating data collection:

- 1) The collection and processing of sensitive data is prohibited.
- 2) Exceptionally, the collection and processing of sensitive data, as well as the establishment and operation of the relevant file, will be permitted by the Personal Data Protection Authority, when one or more of the following conditions occur:
  - Processing relates to data made public by the data subject or is necessary for the recognition, exercise or defence of rights in a court of justice or before a disciplinary body.
  - Processing is carried out exclusively for research and scientific purposes provided that anonymity is maintained and all necessary measures for the protection of the persons involved are taken.

According to Article 21 of PD 28/2015 (formally Article 2 of Law 2472/1997):

‘Sensitive data’ shall mean data referring to racial or ethnic origin, political opinions, religious or philosophical beliefs, membership of a society, association or trade union, health, social welfare and sexual life as well as criminal charges or convictions.

Statistical data are not used to design positive action measures.

With regard to data processing, Article 24 of PD 28/2015 (former Article 5(1) of Law 2471/1997) provides that ‘processing of personal data will be permitted only when the data subject has given his/her consent’.

In Greece, statistical evidence is permitted by national law in order to establish indirect discrimination.

In particular, national law does not explicitly prohibit the use of statistical evidence, but at the same time does not expressly allow it. No relevant jurisprudence exists.

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<sup>66</sup> Greece, Presidential Decree 28/2015 ‘Codification of Provisions for Access to Public Documents and Data’ (‘Κωδικοποίηση των διατάξεων για την πρόσβαση σε δημόσια έγγραφα και στοιχεία’), (O.J. 34 A/23.03.2015).

<sup>67</sup> Greece, Law 2472/1997 on the Protection of Individuals in relation to Personal Data Processing (Νόμος 2472/1997 «Προστασία του ατόμου από την επεξεργασία δεδομένων προσωπικού χαρακτήρα») (OJ 133 A/10.04.1997).

b) Practice

In Greece, statistical evidence in order to establish indirect discrimination is not used in practice. The use of statistical evidence is not widespread. The only reluctance to use statistical data as evidence arises from legislation relating to the collection of data. There is no influence from other countries.

There is no relevant case law in this area.

## **2.4 Harassment (Article 2(3))**

a) Prohibition and definition of harassment

In Greece, harassment is prohibited in national law and is defined.

According to Article 2(2)(c) of Equal Treatment Law 4443/2016, harassment is considered 'discrimination within the scope of paragraph 1 [prohibited discrimination] as long as it concerns unacceptable behaviour linked to the grounds of Article 1, which aims to or results in offending a person's dignity and creating an intimidating, hostile, derogatory, degrading or aggressive environment'. Again, the term 'person' does not necessarily imply that only individuals are protected.

Therefore, Article 2(2)(c), in combination with Article 1, prohibits harassment based on all grounds covered by Law 4443/2016 and in all fields.

In Greece, harassment explicitly constitutes a form of discrimination as stipulated in Article 2(2)(c) of Equal Treatment Law 4443/2016 ('harassment falls within the scope of paragraph 1 [discrimination]').

b) Scope of liability for harassment

Where harassment is perpetrated by an employee in Greece, liability is as follows.

The scope of liability is narrow. There are no provisions concerning the extension of liability with regard to the actions of employees, third parties, co-workers or clients, members of trade unions or other trade/ professional associations. However, under the general civil law (Article 922 of the Civil Code), employers are liable for the actions of their employees. Employees are also liable.

There is no relevant case law.

## **2.5 Instructions to discriminate (Article 2(4))**

a) Prohibition of instructions to discriminate

In Greece, instructions to discriminate are prohibited in national law and are defined.

Equal Treatment Law 4443/2016 prohibits instructions to discriminate.

Article 2(2)(d) states that 'any order to the effect of carrying out the discriminatory treatment of a person based on any of the grounds mentioned in Article 1' constitutes discrimination. The term 'order' implies a hierarchical relationship between the instructor and the person who executes the instruction to discriminate (discriminator). This applies to all grounds covered by Law 4443/2016 and to all fields.

National law does not go beyond the requirements of the directives. In Greece, instructions do explicitly constitute a form of discrimination, according to Article 2(2)(d) of Equal Treatment Law 4443/2016.

b) Scope of liability for instructions to discriminate

In Greece, the instructor is liable. The discriminator is not liable.

The scope of liability is narrow. There are no provisions concerning the extension of liability with regard to actions of employees, third parties, co-workers or clients and members of trade unions or other trade/ professional associations. As for employees, there is vicarious liability and therefore the individual who commits a discriminatory act because they receive an instruction to do so cannot be held liable. This means that employers are liable for discrimination flowing from instructions.

There is no relevant case law.

## **2.6 Reasonable accommodation duties (Article 2(2)(b)(ii) and Article 5 Directive 2000/78)**

a) Implementation of the duty to provide reasonable accommodation for people with disabilities in the area of employment

In Greece, the duty to provide reasonable accommodation is included in the law and is defined.

Article 5 of Equal Treatment Law 4443/2016 defines reasonable accommodation as the necessary and appropriate modifications, provisions and measures that should be adopted so as to ensure the equal treatment of people with disabilities or chronic illness, under the condition that none of these measures creates an excessive or unjustified burden for the employer.

The scope of protection was extended after the adoption of the aforementioned Law 4074/2012 by the Greek Parliament (on 11 April 2012), which ratified the UN Convention on the Rights of Persons with Disabilities. The right of persons with disabilities to enjoy, 'a work environment that is open, inclusive and accessible' to them, as defined in Article 27(1) of the Convention is guaranteed, and therefore a claim for reasonable accommodation on their behalf is protected by the Greek legal order.

Moreover, concerning the definition of disability for the purposes of claiming reasonable accommodation, there is a judicial precedent; the court relies on medical evidence of a disability in order to determine its existence. The courts have a long-term practice of not resorting to a definition in order to see whether a person is disabled. Instead they rely on the medical evidence submitted by the applicant (disabled person) with their case file, which classifies the grade of disability. This is taken as proof of the existence of a disability and therefore the court does not need to resort to a definition in order to determine the individual's disability.

For example, an applicant before the Athens Court of First Instance, a bank employee with disabilities, contested her transfer to another bank branch which was a long way from her home. The court investigated whether there were other employees with the same qualifications available to work at that bank branch. When the court verified such availability, it ruled against the bank (Judgment 2048/2008)<sup>68</sup> and found that it improperly ('καταχρηστικά') requested the applicant's transfer. The court did not take the opportunity provided by this case in order to provide a clear definition of disability and instead relied

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<sup>68</sup> Greece, Single-Member First Instance Court of Athens, Case 2048/2008, *ΕΕρΔ 2008*, 1514 (hereinafter Judgment 2048/2008).

on medical evidence which established a 55 % disability in order to apply Article 10 of Law 3304/2005 (which was the applicable provision at the time). Since the adoption of the CRPD there have been no decisions related to discrimination, disability and reasonable accommodation. Therefore, it is impossible to determine whether this practice (using medical evidence to determine the existence of a disability) is still being employed by the courts.

Furthermore, Judgment 2048/2008 confused the duty to provide reasonable accommodation with the general rule of non-discrimination, in the sense that, even if there were no other employees with the same qualifications available to work at the particular bank branch, the duty to provide reasonable accommodation is very strict and favours people with disabilities.

The ratified UNCRPD can, by virtue of Article 28 of the Greek Constitution, be regarded as a legal basis for more possibilities in the field of reasonable accommodation (e.g. education, health etc.) but its relevance to the issue remains unclear until there is case law.

#### b) Practice

Article 5 of Equal Treatment Law 4443/2016 provides that providing reasonable accommodation shall not entail a disproportionate (i.e. 'excessive and unjustified') burden when it is sufficiently remedied by measures existing within the framework of disability policy.

Law 4488/2017 adds, in Article 61, that any natural person or public organisation in the wider public or private sector is required to provide, where necessary in a specific case, reasonable accommodations in the form of tailor-made and appropriate modifications, arrangements and appropriate measures, without imposing any disproportionate or unjustified burden.

There is no specific definition of 'reasonable' or of 'unjustified burden'.

As for the availability of financial assistance from the State as a factor to be taken into account in assessing whether there is a disproportionate burden, Article 5 of Equal Treatment Law 4443/2016 provides that in such cases (where financial assistance is provided by the State) accommodation cannot be regarded as a disproportionate burden.

#### c) Definition of disability and non-discrimination protection

In Greek non-discrimination law, disability is a protected characteristic (Article 1, Equal Treatment Law 4443/2016), yet there is no definition of disability other than that it includes 'chronic illness'. However, there is a definition provided by the UNCRPD, which has been incorporated into Greek Law. Through this incorporation and, more specifically, under Article 27(1) of Law 4074/2012 (which corresponds to Article 27(1) of the CRPD), a person who is protected against discrimination on the ground of disability also necessarily has the right to reasonable accommodation if he/she needs it. The original text in Greek refers to 'disability or chronic illness' as a single ground of discrimination. Yet, according to the Explanatory Report on Equal Treatment Law 4443/2016, the aforementioned term of 'disability' is in fact further supplemented by the term of 'chronic illness'. This supplement aims to expand the protection model for equal access and social inclusion for people with disabilities established through Law 4074/2012 (see above). It therefore appears that 'chronic illness' is a category of disability. Further judicial interpretation will be necessary in order to clarify the relationship between these two terms. The aforementioned report does state, however, that the term 'chronic illness' includes illnesses that have developed either through a medical condition or due to an accident, and that present at least one of the following elements: indefinite duration and no known treatment, rebound effect or

possibility of recurrence, permanency, long-term supervision, medical visits and diagnostic examinations, or a need for rehabilitation or special education in order to recover. Within this framework, persons with HIV/AIDS are also protected under the ground of disability or chronic illness, in full conformity with ILO Recommendation 200 (2010), which prohibits discrimination or stigmatisation thereof in the employment and occupation field. Finally, Law 4488/2017,<sup>69</sup> which specifies the implementation of the UN Convention on the Rights of Persons with Disabilities, also provides the relevant definitions (of 'disabled people', 'adjustments', etc.) and guidelines for the equal exercise of the rights of people with disabilities and the mainstreaming of disability in all public policies. According to Article 60(1) of Law 4488/2017, 'persons with disabilities' are persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers, in particular institutional, environmental or social behavioural barriers, may hinder their full and effective participation in society on an equal basis with others.<sup>70</sup>

- d) Duties to provide reasonable accommodation in areas other than employment for people with disabilities

In Greece, there is no duty to provide reasonable accommodation for people with disabilities outside the employment field. However, such a duty could derive from the UNCRPD, which has been incorporated into Greek law.

Fields other than employment are not included in the relevant article, Article 5 of Equal Treatment Law 4443/2016.

There is no case law.

- e) Failure to meet the duty of reasonable accommodation for people with disabilities

In Greece, failure to meet the duty of reasonable accommodation constitutes direct discrimination. This can also be derived from the Explanatory Report to Law 4488/2017, which introduced provisions for persons with disabilities.<sup>71</sup>

In particular, according to Judgment 2048/2008 of the Athens Court of First Instance, failure to meet the duty of reasonable accommodation counts as direct discrimination. In fact, the court did not consider 'reasonable accommodation' as a separate notion or provision. Instead it examined the case as a form of direct discrimination. Therefore, even though the court found that there had been direct discrimination, the claim of the applicant to be entitled to reasonable accommodation was not accepted as such.

For this type of discrimination there is no defence or justification other than on grounds of disproportionate burden.

There is no specific separate sanction for failure to meet the duty of reasonable accommodation. The general sanction for a direct form of discrimination, according to Article 11 of Equal Treatment Law 4443/2016, is provided by Law 3996/2011 (Article 24 on the violation of employment law) and concerns administrative sanctions for employers

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<sup>69</sup> Greece, Law 4488/2017 on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions (*Νόμος 4488/2017 «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις»*) (OG A 137/13.9.2017).

<sup>70</sup> The original text in Greek is: «Ως «Άτομα με Αναπηρίες (ΑμεΑ)» νοούνται τα άτομα με μακροχρόνιες σωματικές, ψυχικές, διανοητικές ή αισθητηριακές δυσχέρειες, οι οποίες σε αλληλεπίδραση με διάφορα εμπόδια, ιδίως θεσμικά, περιβαλλοντικά ή εμπόδια κοινωνικής συμπεριφοράς, δύναται να παρεμποδίσουν την πλήρη και αποτελεσματική συμμετοχή των ατόμων αυτών στην κοινωνία σε ίση βάση με τους άλλους.».

<sup>71</sup> Greece, Explanatory Report to Law 4488/2017, pp. 25-26, available in Greek at: <http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/s-syndas-eis-%CE%BF%CE%BB%CE%BF.pdf>, last accessed on 22 April 2018.

that include a fine ranging from EUR 300 to EUR 50 000 and a temporary suspension of the employer's business for three days.

Equal Treatment Law 4443/2016 also includes a provision for a reversal of the burden of proof in Article 9:

'When the injured party claims that the principle of equal treatment has not been upheld and he/she proves before the court or administrative authority the facts which can support a direct or indirect discrimination, then it is the burden of the contesting party or administrative authority to prove that there were no conditions supporting a violation of this principle.'

According to the 2015 Ombudsman Report,<sup>72</sup> as far as the issue of accommodation is concerned, the Equality Body examined whether permanent employees or employees on an unlimited-term contracts at Citizen Services Centres, who have been appointed due to points awarded for locality, may ask to be transferred elsewhere, if they are disabled, prior to completing ten years of service, even if they have committed to remain in their position for ten years. The Ombudsman stated that the Government, as an employer, had failed to take the necessary measures for reasonable accommodation as stipulated in Article 10 of Law 3304/2005 by refusing to relocate employees with disabilities. The refusal to even discuss relevant requests from employees with disabilities, in combination with forcing them to remain in an area from which they wish to be removed due to their disability, obstructs their full and effective participation in working life on an equal basis with other employees, e.g. because they are deprived of close and specialised medical observation and care and/or the necessary support of a familiar person for their everyday needs.

From a numerical point of view, there was no significant change in the number of reports referred to the Ombudsman in 2016<sup>73</sup> concerning discrimination on grounds of disability. From a content point of view, however, most referrals reported to the Ombudsman concerned violations relating to the taking of necessary measures for the reasonable accommodation of persons with disability, as stipulated in Article 10 of Law 3304/2005. This type of violation through a failure to take the necessary measures has been a recurring theme of past referrals too.

f) Duties to provide reasonable accommodation in respect of other grounds

In Greece, there is no duty to provide reasonable accommodation in respect of any other grounds (race or ethnic origin, religion or belief, age or sexual orientation) in either the public sector or the private sector. There is no information concerning 'chronic illness', which was added through the Equal Treatment Law 4443/2016.. However, given that Law 4443/2016 refers to 'disability or chronic illness' as a single ground, chronic illness should be covered by the duty to provide reasonable accommodation.

g) Accessibility of services, buildings and infrastructure

In Greece, national law requires services available to the public, buildings and infrastructure to be designed and built in a disability-accessible way. This obligation is included in Equal Treatment Law 4443/2016. Law 4488/2017 (Articles 61-63) adds that any natural person or public organisation in the wider public or private sector should remove any existing barriers and observe the principles of universal design in all areas of their competence or activity in order to ensure that persons with disabilities have access to the infrastructure, services or goods they offer.

<sup>72</sup> Greek Ombudsman, 2015 Annual Report, (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2015), available in Greek at: [www.synigoros.gr/resources/docs/ee2015-00-stp.pdf](http://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf), last accessed on 22 April 2018.

<sup>73</sup> Greek Ombudsman, 2016 Annual Report, (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-00-stp.pdf>, last accessed on 22 April 2018. No specific data on discrimination issues have been released by the Greek Ombudsman for the year 2017.

Specifically for buildings and infrastructure, Law 2831/2000, in Article 28,<sup>74</sup> requires disability-accessible buildings and infrastructure. The provision is very extensive: it establishes detailed technical accessibility standards, and permission for any new building is conditional on its compliance with these standards. In practice, this law is generally complied with, since the provision of building permits is highly dependent on adherence to the rules of Law 2831/2000.<sup>75</sup> According to Law 4067/2012 (the New Building Code), older buildings which do not meet the accessibility requirements should not be rented out for use as public service offices.

There is no relevant case law.

In Greece, national law does not contain a general duty to provide accessibility by anticipation for people with disabilities.

h) Accessibility of public documents

National law does not require public services to translate some or all of their documents into Braille. No sign language interpreting is provided.

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<sup>74</sup> Greece, Law 2831/2000 on the amendment of the provisions of Law 1577/85 on general building regulations and other provisions (*Νόμος 2831/2000 «Τροποποίηση των διατάξεων του ν. 1577/1985 Γενικός Οικοδομικός Κανονισμός και άλλες πολεοδομικές διατάξεις»*) (OJ 140 A/13.01.2000).

<sup>75</sup> Τατιάνη, Μ. και Μπούτη-Λεμπέση, Ε. (2006) *Νομικό Πλαίσιο Έκδοσης Οικοδομικών Αδειών* [Tatiani, M. and Bouti-Lempesi, E., *Legal framework for issuing building permits*], available at: [http://www.teelar.gr/images/Seminaria/Diadikasia\\_Ekdosis\\_Adeion.pdf](http://www.teelar.gr/images/Seminaria/Diadikasia_Ekdosis_Adeion.pdf), last accessed on 22 April 2018.

### 3 PERSONAL AND MATERIAL SCOPE

#### 3.1 Personal scope

##### 3.1.1 EU and non-EU nationals (Recital 13 and Article 3(2) Directive 2000/43 and Recital 12 and Article 3(2) Directive 2000/78)

In Greece, the following residence, citizenship and nationality requirements are applied for protection under the relevant national laws transposing the directives.

There is only one uniform law (Equal Treatment Law 4443/2016) transposing the directives; its provisions apply to everyone in both the public and private sectors. This law does not provide for any restriction related to residence. However, in Article 3(3) it provides a restriction related to citizenship/nationality requirements, since it stipulates that it does not cover differences of treatment based on nationality, for example in the exercise of the general interest of public authorities or the State (Law 2431/1996 on appointment or employment of EU nationals in the public administration),<sup>76</sup> and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals or stateless persons on Greek territory and to any treatment which arises from the legal status of third-country nationals and stateless persons. Furthermore, Law 2431/1996 provides that the precondition of Greek nationality is not included within the other prerequisites for the employment of EU nationals. According to Article 1, the only exemption allowed requires that nationals of other Member States are employed in positions where the duties and competences do not result in direct or indirect participation in the exercise of the general interest of public authorities, the State or other public sector interests.

It has already been noted that, as regards the status of foreign nationals, they are entitled to the same rights as Greek nationals under the applicable law, pursuant to rules which allow foreign nationals to choose whether Greek law applies or not. Many bilateral treaties signed by the Greek State also call for national or most-favoured-nation treatment of foreign nationals. According to Law 1975/1991 on the entry, departure, stay, employment and deportation of aliens, an 'alien is any person who does not have Greek nationality or a person who is not indigenous'.<sup>77</sup>

Presidential Decrees 358/1997 and 359/1997<sup>78</sup> confer equal employment rights on Greek citizens and all foreign nationals legally working in Greece, with no discrimination, racial or otherwise. Section 19 of the Nationality Code, under which Greek nationals who leave the country with no intention of returning could be deprived of their nationality, was repealed by Law 2623/1998.<sup>79</sup>

<sup>76</sup> Greece, Law 2431/1996 on the appointment and hiring of EU citizens in the public sector (*Νόμος 2431/1996 «Διορισμός ή πρόσληψη πολιτών της Ευρωπαϊκής Ένωσης στη Δημόσια Διοίκηση»*) (OJ 175 A/ 30.07.1996).

<sup>77</sup> Greece, Law 1975/1991 on the entrance, exit, stay, employment and deportation of aliens, the procedure for the recognition of refugees and other provisions (*Νόμος 1975/1991 «Είσοδος – έξοδος, παραμονή, εργασία, απέλαση αλλοδαπών, διαδικασία αναγνώρισης αλλοδαπών προσφύγων και άλλες διατάξεις»*) (OJ 184 A/04.12.1991). However, since 1997 the Greek Manpower Employment Organization (OAED) has put into effect a long-term 'Operational Programme to Combat Exclusion from the Labour Market' that covers 'immigrants from third countries, refugees, persons repatriated from Western European countries, persons repatriated from countries other than Western European countries, Pomaks and Roma'. Beneficiaries of this project are 'unemployed persons or persons with no steady employment'. The project aims to provide vocational training and to facilitate access by the above groups to the labour market.

<sup>78</sup> Greece, Presidential Decrees 358/1997 and 359/1997 on the registration and legalisation of aliens (*Π.Δ. 358/1997 «Προϋποθέσεις και διαδικασία για τη νόμιμη παραμονή και εργασία αλλοδαπών στην Ελλάδα, που δεν είναι υπήκοοι των Κρατών-Μελών της Ευρωπαϊκής Ένωσης», Π.Δ. 359/1997, «χορήγηση της Κάρτας Παραμονής Περιορισμένης Χρονικής Διάρκειας σε αλλοδαπούς»*) (OJ 240 A/01.03.1997).

<sup>79</sup> Greece, Law 2623/1998 on the reorganisation of voting registers, organisation and exercise of voting rights of non-county voters, modernisation of the voting process and other provisions (*Νόμος 2623/1998 «Ανασύνταξη των εκλογικών καταλόγων, οργάνωση και άσκηση εκλογικού δικαιώματος των ετεροδημοτών, εκσυγχρονισμός της εκλογικής διαδικασίας και άλλες διατάξεις»*) (OJ 139 A/18.11.1998).



Furthermore, Article 4 of the Civil Code stipulates that foreign nationals enjoy the same civil law rights as Greek nationals.

From this general legal principle it has been concluded in Greek law that foreign nationals legally employed or working in Greece are subject to Greek labour law under the same conditions as Greek nationals (Article 3(1)(a) and (c) of the Directive). Law 1876/1990<sup>80</sup> on free collective bargaining covers everyone employed in the private sector.<sup>81</sup> However, Greek labour law contains provisions which are discriminatory to migrant workers, such as those regarding compensation in cases of accidents at work. According to the Decree of 24 July/25 August 1920 (as amended), compensation due to foreign workers is dependent on various conditions such as their residence in Greece.<sup>82</sup> According to the same law, foreign workers are entitled to the same treatment as nationals on condition that there is reciprocity between Greece and their respective countries of origin by virtue of relevant inter-state agreements. These provisions raise serious questions of compatibility between the above Greek legislation and international social rights standards established, *inter alia*, by the International Covenant on Economic, Social and Cultural Rights.

Finally, Article 19 of Law 4358/2016<sup>83</sup> protects the rights of migrant workers and their families by ensuring their protection and assistance, particularly in obtaining accurate information, through the adoption of measures which will secure treatment for such workers that is no less favourable than that given to Greek nationals.

### **3.1.2 Natural and legal persons (Recital 16 Directive 2000/43)**

#### **a) Protection against discrimination**

In Greece, the personal scope of anti-discrimination law covers natural and legal persons for the purpose of protection against discrimination (Article 8 of Law 4443/2016).

There is no relevant case law.

#### **b) Liability for discrimination**

In Greece, the personal scope of anti-discrimination law covers natural and legal persons for the purpose of liability for discrimination.

Law 4443/2016 does not distinguish between natural and legal persons as far as liability is concerned. Article 3(1) of the aforementioned law merely uses the term 'persons' with no other specific reference therein. It is obvious that both natural and legal persons are liable when discrimination derives from them.

There is no relevant case law.

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<sup>80</sup> Greece, Law 1876/1990 on free collective negotiations and other provisions (*Νόμος 1876/1990 «Ελεύθερες συλλογικές διαπραγματεύσεις και άλλες διατάξεις»*) (OJ 27 A /08.03.1990).

<sup>81</sup> Ληξουριώτης, Ι. (1998) *Το νομικό καθεστώς του μετανάστη μισθωτού στην Ελλάδα*, Αντ. Ν. Σακκουλας 1998 (Lixouriotis, G. *The legal status of the immigrant worker in Greece*).

<sup>82</sup> Ληξουριώτης, Ι. (1998) *Το νομικό καθεστώς του μετανάστη μισθωτού στην Ελλάδα*, Αντ. Ν. Σακκουλας 1998 (Lixouriotis, G. *The legal status of the immigrant worker in Greece*). See also Council of State judgments 2599/1982, 2637/1982, 1318/1990, affirming the above, reported in UNHCR *Yearbook of refugee and aliens law* 1999, pp. 160–166 (GYRAL) (Ύπατη Αρμοστία Ηνωμένων Εθνών για τους Πρόσφυγες, *Επετηρίδα Δικαίου Προσφύγων και Αλλοδαπών* 1999). See also Auditors' Court judgment 1617/1998, affirming the right of the alien widow of a Greek citizen, a former public servant, to receive the pension of her deceased husband, reported in GYRAL, p. 182.

<sup>83</sup> Greece, Law 4358/2016 on ratification of the Revised European Social Charter (OJ 5 A/20.01.2016).

### **3.1.3 Private and public sector including public bodies (Article 3(1))**

#### **a) Protection against discrimination**

In Greece, the personal scope of national law covers the private and public sectors, including public bodies, for the purpose of protection against discrimination. Article 3(1) of Equal Treatment Law 4443/2016 clearly states that the principle of equal treatment applies to all 'persons' (natural and legal) in the public sector as well as the private sector. The national provisions comply with the Directive.

There is no special reference in the law.

There is no relevant case law.

#### **b) Liability for discrimination**

In Greece, the personal scope of anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of liability for discrimination.

Law 4443/2016 does not distinguish between the private and public sectors where liability is concerned. Article 3(1) of the aforementioned law specifically refers to the private sector as well as the public sector.

There is no relevant case law.

## **3.2 Material scope**

### **3.2.1 Employment, self-employment and occupation**

In Greece, national legislation applies to all sectors of private and public employment, self-employment and occupation, including contract work, military service and holding statutory office, for the five grounds.

As to its scope, Equal Treatment Law 4443/2016 enshrines Article 3 of the Racial Equality Directive and of the Employment Equality Directive in its own Article 3:

1. Without prejudice to paragraphs 3 and 4 of this article, and to Article 4,<sup>84</sup> the principle of equal treatment, as established in this law, shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:
  - (a) conditions for access to employment and occupation in general,<sup>85</sup> including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, as well as the terms of professional growth including promotion;
  - (b) access to all types and to all levels of vocational guidance, vocational training, and retraining, vocational reorientation including practical work experience;
  - (c) employment and working conditions, including dismissals and pay; membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.
2. Without prejudice to paragraphs 3, 4, 6 of the present article and article 4, the principle of equal treatment shall apply to all persons as regards both the public and private sectors and concerning:
  - (a) social protection, including social insurance and healthcare;
  - (b) social and tax benefits;

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<sup>84</sup> On professional requirements.

<sup>85</sup> Self-employment is not strictly included in the law. However, the specific provision could be interpreted in a way that would allow 'self-employment' to be included.

- (c) education and;
- (d) access to goods and services available to the general public, including housing.
- 3. This Law does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.
- 4. This Law does not apply to payments of any kind made by state schemes or similar, including state social security or social protection schemes (as long as it does not impede on measures necessary for public safety, public order, prevention of crimes, protection of health, the rights and freedoms of others).
- 5. This Law, in so far as it relates to discrimination on the grounds of age, disability or chronic illness, shall not apply to the armed forces as long as these requirements are relevant to the specific Service.

There is relevant case law, especially on the introduction of age limits, which found that such restrictions in the armed forces, the fire service, judges' placements etc. constituted discrimination based on age.<sup>86</sup>

### **3.2.2 Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a))**

In Greece, national legislation prohibits discrimination in the following areas: access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy for the five grounds in both the private and public sectors, as described in the directives.

The relevant provisions are Articles 3(1)(a) and 4(1) of Equal Treatment Law 4443/2016.

With regard to case law, please refer to the section above (3.2.1).<sup>87</sup>

### **3.2.3 Employment and working conditions, including pay and dismissals (Article 3(1)(c))**

In Greece, national legislation includes working conditions, including pay and dismissals, for all five grounds and for both private and public employment.

The relevant article is Article 3(1)(c) of Equal Treatment Law 4443/2016.

Presidential Decrees 358/1997 and 359/1997, which introduced a specific category of residence permits for foreign workers, have since been repealed according to Article 65(2) of Law 2910/2001. However, they are considered to be important, as they first inaugurated equal rights and the substance of these provisions has been successfully transferred to Law 2910/2001 (Article 39). Finally, Law 1556/1985,<sup>88</sup> on the ratification of the

<sup>86</sup> Greece, Decisions before the Council of State: Nos. 1421/2005, 413/1993 (Plenary), 1844/1994, 3354/1996, 2325/2002 255/2003, 594/2003, 3133/2004, 3444/2004, 3786/2007, 1319/2008, 1146/2010 and 2365/2010, available at: [http://www.adjustice.gr/webcenter/portal/ste/ypiresies/nomologies?\\_adf.ctrl-state=sfspw8mbt\\_4&\\_afLoop=4159591819940474#](http://www.adjustice.gr/webcenter/portal/ste/ypiresies/nomologies?_adf.ctrl-state=sfspw8mbt_4&_afLoop=4159591819940474#), last accessed on 22 April 2018.

<sup>87</sup> Greece, Decisions before the Council of State: Nos. 1421/2005, 413/1993 (Plenary), 1844/1994, 3354/1996, 2325/2002 255/2003, 594/2003, 3133/2004, 3444/2004, 3786/2007, 1319/2008, 1146/2010 and 2365/2010, available at: [http://www.adjustice.gr/webcenter/portal/ste/ypiresies/nomologies?\\_adf.ctrl-state=sfspw8mbt\\_4&\\_afLoop=4159591819940474#](http://www.adjustice.gr/webcenter/portal/ste/ypiresies/nomologies?_adf.ctrl-state=sfspw8mbt_4&_afLoop=4159591819940474#), last accessed on 22 April 2018.

<sup>88</sup> Greece, Law 1556/1985 on the ratification of ILO convention 159/83 on vocational rehabilitation and employment (disabled persons) (*Νόμος 1556/1985 «Κύρωση της 159/83 Διεθνούς Σύμβασης Εργασίας για την επαγγελματική επαναπροσαρμογή και απασχόληση των μειονεκτούντων προσώπων»*) (OJ 167 A/30.09.1985).

International Labour Organization Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) of 1983, declares the principle of equal opportunities for disabled employees and employees in general and for male and female employees. In addition, under the provisions of Law 2639/1998, employers in breach of the non-discrimination legislation are liable to administrative fines and may be taken to court.

There is no relevant case law.

#### 3.2.3.1 Occupational pensions constituting part of pay

Article 3(1)(a) of Equal Treatment Law 4443/2016 states that:

‘Without prejudice to paragraphs 3 and 4 of this Article, and to Article 4,<sup>89</sup> the principle of equal treatment, [...], shall apply to all persons, as regards both the public and private sectors, in relation to: [...] a) conditions for access to employment and occupation in general, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, as well as the terms of professional growth including promotion; employment and working conditions, including dismissals and pay’.

In the author’s view, by adopting this definition the national law ensures the prohibition of discrimination even in respect of occupational pensions because they are directly, or even indirectly, related to ‘employment and working conditions, including ... pay’. As yet, there is no jurisprudence related to this provision of Law 4443/2016, nor to the relevant provision under the previous legislation which was still in force for most of 2016.

Even after Case C-267/06, *Maruko*,<sup>90</sup> which confirmed that occupational pensions constitute part of an employee’s pay under Directive 2000/78 EC, there is no related jurisprudence.

#### **3.2.4 Access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b))**

In Greece, national legislation applies to vocational training outside the employment relationship, such as that provided by technical schools or universities, or such as adult lifelong learning courses. All grounds are covered.

According to Article 3(1)(b) of Equal Treatment Law 4443/2016:

‘1. Without prejudice to paragraphs 3 and 4 of this article, and to Article 4, the principle of equal treatment, [...], shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:  
(...)  
(b) Access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience.’

There is no indication of the extent of the application of Law 4446/2016 with regard to technical schools, universities, adult lifelong learning courses etc.

Nevertheless, national anti-discrimination law must be interpreted in the light of EU law and the Greek Constitution. In addition, under Article 16(7) of the Greek Constitution, technical schools, universities and adult lifelong learning courses are under the protection of the State.

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<sup>89</sup> On professional requirements.

<sup>90</sup> ECJ, *Maruko v. Versorgungsanstalt der deutschen Bühnen*, C-267/06, available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-267/06>, last accessed on 22 April 2018.

Law 2956/2001<sup>91</sup> on Restructuring the Manpower Employment Organisation (OAED – *Οργανισμός Απασχόλησης Εργατικού Δυναμικού*) provides for the vocational training of disabled people.

Articles 9 and 10 of Law 2224/1994<sup>92</sup> ensures access by nationals of other contracting parties to all vocational guidance and training programmes run by the OAED.

Concerning the elimination of discrimination related to vocational training, Article 10 of Law 4358/2016<sup>93</sup> seeks to ensure the right of all persons to technical and vocational training. To this end, measures are aimed at offering grants that will facilitate access to higher technical and university education, based solely on individual aptitude. Article 10 also provides for a system of apprenticeship and other systematic arrangements for training young boys and girls that will provide adequate and readily available training facilities for adult workers. As for persons with disabilities, Article 15 of the same Law seeks to ensure that persons with disabilities, irrespective of their age and the nature and origin of their disabilities, may effectively exercise their right to independence, social integration and participation in the life of the community. For this reason, Greece is committed to introducing measures to provide persons with disabilities with guidance and vocational training, public or private, to facilitate their access to employment and to promote their full social integration and participation in the life of the community.

There is no relevant case law.

### **3.2.5 Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d))**

In Greece, national legislation prohibits discrimination in the following areas: membership of, and involvement in workers' or employers' organisations as formulated in the directives for all five grounds and for both private and public employment.<sup>94</sup>

Article 3(1)(d) of Equal Treatment Law 4443/2016 repeats the text of Article 3 of the Employment Equality Directive:

'1. Without prejudice to paragraphs 3 and 4 of this article, and to Article 4, the principle of equal treatment, [...], shall apply to all persons, as regards both the public and private sectors in relation to: (d) membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations, especially the right to vote and be elected.'

Article 7(1) of Law 1264/1982<sup>95</sup> provides for the right of foreign nationals legally employed in Greece to be members of professional associations of any kind. Until recently, problems had been experienced with the right of foreign workers to establish themselves and join

<sup>91</sup> Greece, Law 2956/2001 on the restructuring of the OAED and other provisions (*Νόμος 2956/2001 «Αναδιάρθρωση Ο.Α.Ε.Δ. και άλλες διατάξεις»*) (OJ 258 A/06.11.2001).

<sup>92</sup> Greece, Law 2224/1994 on the regulation of employment, union rights, worker's health and safety and the organisation of the Labour Ministry and the legal bodies it supervises and other provisions (*Ν. 2224/1994 «Ρύθμιση θεμάτων εργασίας, συνδικαλιστικών δικαιωμάτων, υγιεινής και ασφάλειας των εργαζομένων και οργάνωσης υπ. Εργασίας και των εποπτευομένων από αυτό νομικών προσώπων και άλλες διατάξεις»*) (OJ 112 A/06.07.1994).

<sup>93</sup> Greece, Law 4358/2016 on ratification of the Revised European Social Charter (OJ 5 A/20.01.2016).

<sup>94</sup> In addition to Law 4443/2016, Law 1426/1984 on the ratification of the European Social Charter recognises and prohibits any discrimination on the grounds of membership of and activity in trade unions or employers' or employees' organisations.

<sup>95</sup> Greece, Law 1264/1982 on the democratisation of the union movement and the establishment of workers' union rights (*Νόμος 1264/1982 «Για τον εκδημοκρατισμό του Συνδικαλιστικού Κινήματος και την κατοχύρωση των συνδικαλιστικών ελευθεριών των εργαζομένων»*) (OJ 71/01.07.1982).

professional associations. According to Article 107 of the Introductory Law of the Civil Code, executive board members of non-profit associations ('*somateia*') must be Greek nationals. Judicial interpretation proves that this antiquated provision is no longer applied.<sup>96</sup>

### **3.2.6 Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43)**

In Greece, national legislation covers social protection, including social security and healthcare, as formulated in the Racial Equality Directive. Therefore, only the grounds of race, colour, national or ethnic origin and descent were initially covered. However, with the adoption of Law 4356/2015, sexual orientation is now also covered.

Article 3(2) of Equal Treatment Law 4443/2016 follows the wording of the Racial Equality Directive, and only in relation to racial or ethnic origin discrimination: 'social protection including social security and healthcare, social advantages, education, access to and supply of goods and services which are available to the public, including housing'.

It should be noted that regular insurance risks are considered to be sickness, maternity, disability, industrial injury or disease, old age, death of a family provider, lack of housing and the destruction of agricultural production. With regard to healthcare, the Greek Constitution, through an amendment of April 2001,<sup>97</sup> provides that 'all persons' have the right to health protection (Article 5(5)).

Social care is the subject of Law 2646/1998<sup>98</sup> on the development of the national system of social care. According to this law, social care means:

'protection provided to persons or groups through programmes of prevention and rehabilitation and aims to create the conditions for equal participation by these persons in economic and social life and safeguards a decent standard of living for them.'

According to Article 1(2) of Law 2646/1998, 'social care' involves state responsibility and anyone legally residing in Greece who is in an emergency situation is entitled to social care from the institutions of the national system.

Article 3(3) of the same law expressly provides that social care services are provided without any distinction, according to the particular personal, family, economic and social needs of the beneficiaries.

It is noteworthy that in early 2013 civil society organisations regarded as discriminatory a measure introduced by the Greek Government concerning the imposition of double charges at Greek public hospitals for all non-Greeks. In particular, through a common Ministerial Act which entered into force on 23 November 2012,<sup>99</sup> all foreign, non-permanent residents, both from the EU and from third countries, had to pay 2.09 times more than Greek patients. This has caused many problems, particularly for migrant women giving birth. This is because doctors were required to report any undocumented migrants to the relevant

<sup>96</sup> Single-Member First Instance Court of Thessaloniki, Decision 4300/1996 and Single-Member First Instance Court of Thessaloniki, Decision 5251/2004.

<sup>97</sup> The Greek Constitution is amended through parliamentary resolutions issued by a revisionary parliament (a special form of parliament which convenes for the sole purpose of amending the Constitution). The amendment of 2001 was carried out through the Parliamentary Resolution of 6 April 2001 of the VIIth Revisionary Parliament. The last amendment to the Constitution was in 2008, with the Parliamentary Resolution of 27 May 2008 of the VIIIth Revisionary Parliament.

<sup>98</sup> Greece, Law 2646/1998 on the development of a national care system and other provisions (*Νόμος 2646/1998 «Ανάπτυξη του Εθνικού Συστήματος Κοινωνικής Φροντίδας και άλλες διατάξεις»*) (OJ 236 A/20.10.1998).

<sup>99</sup> Greece, Amendment of Circular Y4a/οικ.18051/27.3.2012, (*Τροποποίηση της υπ'αρ. Y4a/οικ.18051/27.3.2012 Εγκυκλίου*) (OJ 3096 B/23.11.2013).

authorities. There had also been reports of raids at hospitals by Golden Dawn members, targeted against patients and staff from migrant backgrounds.

On 24 December 2015 the Greek Parliament passed Law 4356/2015, which recognises same-sex civil partnerships and grants people who enter such partnerships the same legal status as married couples in the area of, *inter alia*, social protection, including social security and healthcare.

In its 2016 Report, the Ombudsman argued that the benefits system for the long-term unemployed constitutes a complex provision of social insurance which falls within the scope of social welfare, and that it therefore also falls within the scope of application of the principle of equal treatment of long-term third-country residents and second-generation holders of residence permits.<sup>100</sup>

#### 3.2.6.1 Article 3.3 exception (Directive 2000/78)

Article 3(4) of Law 4443/2016 relies on the exception in Article 3.3 of the Employment Equality Directive in relation to religion or belief, age, disability and sexual orientation. However, there has been no case law in this regard so far.

### 3.2.7 Social advantages (Article 3(1)(f) Directive 2000/43)

In Greece, national legislation prohibits discrimination relating to social advantages as formulated in the Racial Equality Directive, which only covers race and ethnic origin, descent and colour.

The relevant article is Article 3(2)(b) of Equal Treatment Law 4443/2016.

The category of 'social advantages' is not often explicitly addressed in Greek law and, when it is, it is generally and broadly defined. Law 139/1975<sup>101</sup> on the status of stateless persons, for example, explicitly addresses 'social advantages'. In this context this term covers housing, the supply of goods through coupons (basically beneficiaries are supplied with coupons they can use when shopping for products in supermarkets etc. instead of cash), as well as public education and care, and even the entirety of labour law protection and social security.

In Greece, the lack of a definition of 'social advantages' does not create problems. For instance, reduced-rate train travel or reduced bus fares for large families were granted to all large families, regardless of their racial or ethnic origin, on the legal basis of Law 3304/2005 (previous legislation) and in accordance with the general constitutional principles of equal treatment and non-discrimination. This does not appear to have changed under the new legal framework of Law 4443/2016.

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<sup>100</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>.

<sup>101</sup> Greece, Law 139/1975 on the ratification of the UN Convention relating to the Status of Stateless Persons (Νόμος 139/1975 «Κύρωση Διεθνούς Συμβάσεως περί του καθεστώτος των ανιθαγενών») (OJ 176 A/25.08.1975).

### 3.2.8 Education (Article 3(1)(g) Directive 2000/43)

In Greece, national legislation prohibits discrimination relating to education as formulated in the Racial Equality Directive which only covers the grounds of race, colour, national or ethnic origin and descent.

Article 3(2)(c) of Equal Treatment Law 4443/2016 includes the field of education in respect of race and ethnic origin, as required by the Racial Equality Directive. There is no explicit provision prohibiting discrimination in the field of access to education on the grounds of religion or other belief, age, disability or sexual orientation.

- Age

In relation to discrimination based on grounds of age, the Ombudsman, in its 2015 Annual Report, recognised in principle that support for younger students who fulfil all the necessary financial and social prerequisites is a legitimate aim in order to ensure their support through scholarships. It highlighted, however, that this legitimate aim does not cancel out another legitimate aim, such as the lifting of rigid exclusions against older students in relation to relevant benefits. If older students face the same educational needs and fulfil the specific financial and social prerequisites, then they should not be automatically excluded from enjoying the same benefits, especially those that are linked to their performance or studies.

- Religion

With regard to discrimination on the ground of religion in the field of education, the Ombudsman, in its 2015 Annual Report, supported the principle that, in order to respect religious freedom, a student who has been excused from a course of religion should not be sanctioned in any way, nor should he/she be forced to undergo an onerous precondition, such as being forced to reveal his/her religious beliefs. The validity of a statement made for the purpose of being exempted cannot be constitutionally based on any form of positive or negative declaration of religion. Thus, the right to be exempted should lead to the recognition of the right of any students to declare (themselves if they are adults or through a parent if they are minors) that they wish to be exempted for reasons of conscience, since the constitutional obligation of the state to provide religious education does not exclude the possibility of any student being exempted, based on reasons of conscience, from a course which maintains a self-proclaimed religious character as under Article 1(1a) and Article 6(2a) of Law 1566/1985.

- Migrant and refugee children

#### Legal status

In Greece, article 40 of Law 2910/2001<sup>102</sup> stipulates that all children who were born to third-country nationals and who are living in Greece have the right to undergo the nine-year period of compulsory education (from 6 to 15 years). Moreover, according to Article 9 PD 220/2007, the minor children of applicants and children seeking international protection have access to the education system under similar conditions as Greek nationals, as long as there is no pending enforceable removal measure against them or their parents. Finally, Article 3(2)(c) of Equal Treatment Law 4443/2016 prohibits discrimination in the field of education as regards race and ethnic origin, as required by the Racial Equality Directive.

According to the legislation, second-generation immigrant children can acquire Greek citizenship on condition that they have studied in a Greek school for nine years or they have attended secondary school classes for six years. In particular, Law 4332/2015

<sup>102</sup> Greece, Law 2910/2001 on the Entry and residence of foreigners on Greek Territory (*Νόμος 2910/2001 «Είσοδος και παραμονή αλλοδαπών στην Ελληνική Επικράτεια»*) (OJ 91 A/02.05.2001).



introduced three cases where someone can acquire Greek citizenship. The first case concerns children of foreign nationals who are born in Greece, who were enrolled for the first class of Greek primary school and who continue to attend school at the time when the application to acquire Greek citizenship is submitted. In parallel, at least one parent of the child must have resided permanently in the country for five years before the child's birth and, if the child was born before the completion of five years, the right to acquire Greek citizenship is based on the parent's completion of 10 years of continuous legal residence. An additional prerequisite consists of both parents being legally in Greece, regardless of whether only one of them resides in Greece. The second scenario concerns children of foreigners who reside legally and permanently in the country, who must have successfully attended either nine classes of primary and secondary education or six classes of secondary education (without kindergarten education being included). The third case concerns adult foreigners who reside legally and permanently in Greece and are graduates of a department of a higher education institution or technological education institute, provided that they have obtained a certificate of secondary education from a Greek school in the country.

Therefore, in principle, legal immigrants enjoy equal rights to higher education and professional training. However, there are no procedures for the recognition of qualifications acquired by third-country graduates outside the EU (such as the existence of one-stop-shops for those who apply for recognition of their qualifications, or national guidelines for fair procedures, timelines, and fees for the assessment of qualifications by businesses or by governmental or non-governmental organisations).

As regards the existence of significant case law on the subject, it should be noted that Council of State decision No. 460/2013<sup>103</sup> adversely affected equal treatment, as it raised obstacles to the awarding of citizenship to second-generation immigrants, which was prescribed by Law 3838/2010, and made their inclusion in the educational system and in society more difficult. According to the court, 'the legislator uses a criterion which cannot prove that the minor child of foreign parents has been substantially integrated into Greek society, as required, since the attendance of school itself, and even only for a six-year period, does not guarantee the desired integration, since the law does not additionally require a meaningful relationship of the parents with the country given that they are competent themselves to decide on the acquisition of Greek citizenship by their minor child'.

Also, the court noted that 'the duration of the education falls short of the nine-year compulsory education required by the Constitution (art. 16 para. 3) for Greek children, who indeed are at an advantage because of their gradual knowledge of the language and familiarity with the given social environment since birth and long before they begin their education'.

### **Public policies for the education of migrants and refugees**

Given the recent migrant crisis and the influx of immigrant and refugee children, Greece has taken some important steps in ensuring the education not only of migrant children but also of refugee children residing at accommodation facilities in various areas of Greece.

Through Decision No. 131024/Δ1/2016,<sup>104</sup> the Ministry of Education created zones of educational priority, preparatory classes and tutor classes, as well as reception facilities for the education of refugees in accommodation facilities. This ministerial decision, issued in August 2016, provided for the establishment of preparatory classes (Τάξη Υποδοχής) for all school-age children aged 4 to 15. The programme is being implemented in public schools

<sup>103</sup> <http://www.lawnet.gr/news/h-apofasi-4602013-ste-doc-antisuntagmatikes-basikes-diataxeis-tou-n-38382010-28810.html>.

<sup>104</sup> Greece, Ministerial Decision No. 131024/Δ1/2016 on Priority Education Zones *et al.* (Υπουργική Απόφαση Αριθμ. 131024/Δ1/2016 «Ρυθμίσεις Ζωνών Εκπαιδευτικής Προτεραιότητας (ΖΕΠ) - Ίδρυση Τάξεων Υποδοχής ΖΕΠ, Ενισχυτικών Φροντιστηριακών Τμημάτων ΖΕΠ και Δομών Υποδοχής για την Εκπαίδευση των Προσφύγων ΖΕΠ (Δ.Υ.Ε.Π. ΖΕΠ) σε σχολικές μονάδες Π.Ε.») (ΟΙ 2687 Β/29.8.2016).

neighbouring camps or places of residence. According to the information provided by the Ministry of Education, children aged between 6 and 15 years living in open temporary facilities will be enrolled in afternoon preparatory classes from 14:00 to 18:00 in neighbouring public schools identified by the Ministry.<sup>105</sup> They will be taught Greek as a second language, English, mathematics, sports, art and computer science. Their transport is organised by the International Organisation for Migration (IOM).

Children aged between 6 and 15 living in dispersed urban settings (such as relocation accommodation, squats, apartments, hotels and reception centres for asylum seekers and unaccompanied children) can go to schools near their place of residence to enrol for morning classes alongside Greek children, these schools having been identified by the Ministry.

On 10 October 2016, 15 Greek schools welcomed refugee and migrant children from nearby camps for the first time.<sup>106</sup> IOM Greece provided transport and equipped the children with school kits, including notebooks, pens, pencils and other materials. In conjunction with the Greek Ministry of Education, Research and Religious Affairs, the programme was implemented incrementally, starting with camps in Attica, Thessaloniki and Epirus. During the first day, 12 buses departed from Lavrio, Elaiwnas, Derveni and Lagkadikia camps to take the children to the nearest schools. The children attend classes from 2pm to 6pm.

Although the refugee education programme implemented by the Ministry of Education was highly welcomed, its implementation rate was slow, while a significant gap remains in the provision of pre-school education, senior secondary (over the age of 15), higher education and vocational training. The education sector faces problems with regard to refugee children's integration in Greek schools, and a gap persists in meeting the needs of children who have missed years of schooling due to conflict or displacement and require catch-up programmes.<sup>107</sup>

There are no cases showing a special benefit to migrants from the enforcement of anti-discrimination law, but there are major policies which indirectly aim to address discrimination against immigrants by combating their exclusion. The Greek Government's 'Zones of Educational Priorities' (ZEP) programme allows public schools with nine or more registered pupils who are not Greek native speakers to set up an 'integration' class. Children in these classes receive special lessons in Greek, English, science and mathematics to prepare them for full integration into Greek schools. They join their Greek peers in other classes, such as sports, information technology, and music. For the 2017-18 school year, the Education Ministry secured funding for 700 ZEP classes across the country.

Young female immigrants residing legally in Greece have access to the so-called 'second chance schools', which are addressed to 18 to 30-year old people who have not completed the nine-year compulsory education. In addition, immigrants have access to educational courses addressed to adults, which are organised by the General Secretariat for Adult Education of the Ministry of National Education. There are also opportunities to obtain a certification of proficiency in the Greek language.<sup>108</sup> One of the best-known programmes is the education of immigrants in the Greek language, Greek history and culture or ODYSSEUS project. There are also several educational programmes, such as professional training programmes for craftspeople, housekeepers, home electricians, builders, etc. These programmes are funded by the Ministry of Employment and Social Protection and, to a great extent, they are designed and applied in individual cases.

<sup>105</sup> AIDA, *ACCESS TO EDUCATION: Greece*, available at:

[http://www.asylumineurope.org/reports/country/greece/reception-conditions/employment-and-education/access-education#footnote7\\_mugram9](http://www.asylumineurope.org/reports/country/greece/reception-conditions/employment-and-education/access-education#footnote7_mugram9), last accessed on 22 April 2018.

<sup>106</sup> IOM Greece, *Press Release: Greek Schools Admit Refugee, Migrant Children*, 10.11.2016, available at: <https://www.iom.int/news/greek-schools-admit-refugee-migrant-children>, last accessed on 22 April 2018.

<sup>107</sup> UNHCR, *Regional Refugee and Migrant Response Plan for Europe*, December 2016, p. 52.

<sup>108</sup> [http://www.eliamep.gr/wp-content/uploads/2015/03/ASSESSNatl.Report.Phase2\\_FINAL\\_Greek.pdf](http://www.eliamep.gr/wp-content/uploads/2015/03/ASSESSNatl.Report.Phase2_FINAL_Greek.pdf).

The national strategy for the integration of third-country graduates includes the basic principles of integration, in line with the European approach and the principles of integration. For children who are citizens of third countries, the national strategy requires respect for the fundamental rights of these children, particularly those who are in a vulnerable position. It also enlists a number of other principles relating to education and access to social services, such as respect for fundamental rights irrespective of nationality, as defined in the UN Convention on the Rights of the Child, and the promotion of the rights of the child, with special emphasis on vulnerable children.

### **Good practices and NGO involvement**

During 2017, major efforts by the Greek Ministry of Education, Research and Religious Affairs supported by UNICEF<sup>109</sup> to get as many children as possible into school were seen as a crucial step to integrate refugee and migrant children into Greek society, and almost 700 new teachers will be recruited for reception classes. Migrant children will be segregated in the first year of their studies (or until they are sufficiently well acquainted with the Greek language so as to attend regular classes). UNICEF's non-formal education programme benefited around 5 000 children throughout 2017, with the aim of preparing them for formal school.

Language barriers, low capacity within the system, stress and trauma leading to poor concentration and high drop-out rates, as well as resistance to learning Greek, as many families hoped to continue their journey to other parts of Europe, were among the reasons that kept children out of school. In 2017, with the support of the EU, UNICEF contributed to Government efforts to enrol children through communication, sensitisation and interpretation, teacher training, homework support, early childhood education and non-formal, out-of-school education for children who are still on the move to relocate to other countries.

Finally, in addition to state-organised educational activities in public schools, more than 80 % of the accommodation sites are hosting informal education activities, which are organised and funded by NGOs.

### **Socio-political context**

There have been major hurdles in school enrolment. Some children have missed up to two and a half years of schooling during their journeys, and at the end of 2017 less than a third of the 12 000 children of school age had access to formal education. The problem was bigger in the islands of the Aegean Sea. In specific terms, during the 2016-17 school year, according to Human Rights Watch,<sup>110</sup> only 40 asylum-seeking children on the island of Lesbos could enrol in school, while about 530 asylum-seeking children of school age – aged 6 to 17 – were on the island as of 29 August 2017, according to United Nations High Commissioner for Refugees (UNHCR) officials on the island. According to the UNHCR on Chios, the island had 261 asylum-seeking children of school age in late August/early September 2017, but not a single asylum-seeking child had been able to enrol in school in the 2016-17 school year. On Samos, seven asylum-seeking children had enrolled, but 374 children of school age were registered on the island with the UNHCR as of August.

In some places, there were reports of tension provoked by far-right groups and security issues for children accessing schools. For example, problems were reported at the Schisto camp in Athens due to the strong presence of the neo-Nazi party Golden Dawn in Perama, as a result of which the IOM has established security procedures with bus drivers on what to do if there is a security risk for children they are transporting. In Oreokastro, near Thessaloniki, far-right groups demonstrated outside a primary school

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<sup>109</sup> <https://www.unicef.gr/%CF%84%CE%B1-%CF%80%CE%B1%CE%B9%CE%B4%CE%B9%CE%AC-%CF%83%CF%84%CE%B7%CE%BD-%CE%B5%CE%BB%CE%BB%CE%AC%CE%B4%CE%B1-%CF%B5%CF%80%CE%B9%CF%83%CF%84%CF%81%CE%AD%CF%86%CE%BF%CF%85%CE%BD-%CF%83%CF%84%CE%BF-%CF%83%CF%87%CE%BF%CE%BB%CE%B5%CE%AF%CE%BF/a2-1017-8>.

<sup>110</sup> <https://www.hrw.org/news/2017/09/17/greece-no-school-many-asylum-seeking-kids>.

building on 17 February 2017, on the day when 15 refugee children were about to start their schooling. In a large number of schools, however, activities have been organised in order to welcome refugee children. In the 2016-17 school year, Greece opened so-called afternoon preparatory (DYEP) classes to integrate asylum-seeking children into public schools on the Greek mainland. Enrolled children could attend lessons in Greek, English, mathematics, sports, arts and computer science between 14:00 and 18:00. The programme did not cover the islands.

As for the specific issue of discrimination against migrants in the field of education, it should be highlighted that migrants in Greece are not treated differently under anti-discrimination legislation.

In general, according to the current institutional framework and the constitutionally guaranteed rights such as the right to education (Article 16), all children residing within Greek territory enjoy equal rights of access to education with Greek citizens, regardless of whether their parents reside legally in Greece. This goes up to the age of 18 years, in which case the issuing of legal residence documents is a prerequisite. Nevertheless, in practice there have been cases of schools in the country whose principals neither accepted students nor allowed them to progress from one class to the next, with the excuse that they did not have all the necessary documents from their country of origin such as a registration certificate or birth certificate.

More specifically, all immigrant children, just like Greek children, have access to compulsory public education for nine years.<sup>111</sup> Immigrant children have direct access to the Greek educational system. They comprise approximately 13-14 % of the total population in primary education. Immigrant children enjoy the same rights as Greek children, while children whose families reside irregularly in Greece also have access to schools and hospitals for medical care. Some schools offer additional language courses for immigrant children under the framework of programmes carried out by the Centre for Intercultural Education of the University of Athens. In addition, the Ministry of Education has established 26 intercultural schools to meet the needs of children with different cultural, linguistic and ethnic backgrounds.

#### a) Pupils with disabilities

In Greece, the general approach to education for pupils with disabilities raises issues.

Law 2817/2000, relating to education for children with disabilities, mandates the free education of children with special needs in kindergartens and primary and secondary level schools and educational institutions with different curriculum models. The structure of education for individuals with disabilities in Greece, as well as the legal definition of adapted physical education, is included in this law.

This law mandates the education of children with disabilities in state schools, special schools and vocational schools at primary and secondary level. Education in State schools can be offered in at least four settings: in inclusive classes within state schools – in this environment, children with disabilities must be assessed before admission by a group of specialists (comprising a primary school teacher, secondary school teacher, psychologist and medical doctor); in special classes within state schools; in special classes within hospitals/institutions; or in their own homes.

In Greece, there are separate state schools for certain categories of people with disabilities. These are primary and secondary schools for deaf children, primary and secondary schools for blind children and primary and secondary schools for blind children with cerebral palsy.

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<sup>111</sup> [http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/facilitating/mi\\_compendium\\_ver\\_feb2010.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/facilitating/mi_compendium_ver_feb2010.pdf).

According to the aforementioned Law 2817/2000 on education for children with disabilities, the rule (the preference) for these groups of pupils is mainstream education and the exception (in very special cases) is segregated education. The latter is not regarded as discriminatory.

The above legal framework was complemented by the Law 3699/2008 on 'Special education for people with disabilities or special educational needs'.

The aim of the Law is to guarantee to all children with disabilities their right to education and social and professional integration, along with equal opportunities for full participation in and contribution to society. Special education is defined as an integrated part of universal free, state education at every level (pre-school, primary school and secondary school). The diagnosis process is an essential element of the system of special education. The special educational needs of disabled children are 'identified', investigated and verified by public bodies called 'Special assessment and diagnosis centres', under the auspices of the Ministry of Education. They comprise a variety of specialists who play a key role in the accommodation of the needs of disabled children (Article 4). The centres are authorised to propose individually tailored programmes of educational and psychological support for the children and to recommend the specific school units to which they should be admitted. The remit of the Centres also includes providing advisory support to school staff where necessary; supervising the children's school work and identifying their skills; defining specific educational and technical equipment required to meet the children's educational needs; organising potentially constant medical support for children who need it during school hours; proposing suitable methods for teaching and assessing the pupils, taking into consideration their different disabilities; and producing reports for each individual child.

With regard to enrolment at universities, there are no uniform rules governing admissions procedures for people with disabilities. Law 3794 / 2009 (Article 35) does state that 5 % of the top achievers with disabilities may apply for a course of their choice without sitting examinations. However, the final decision about whether to accept them or not still rests with the individual university department and the application of this quota in practice is problematic (given the lack of necessary infrastructure in most educational buildings).

In September 2014, Article 7 of Law 4283/2014<sup>112</sup> introduced a quota of 5 % of places at universities and public technological institutes for students with a disability which is classed as equal to or greater than 67 %.

According to the Ombudsman's Report 2015,<sup>113</sup> non-discrimination in the field of disability is ensured through the establishment and application of special measures which eliminate or minimise those conditions which obstruct the equal enjoyment or rights and lead to a *de facto* discrimination. The incomplete or non-existent establishment of such measures and especially their incomplete implementation, even when they are required by law, has constantly been addressed by the Ombudsman, as can be seen by the cases that were examined in 2015. Within this framework, regulations for, *inter alia*, the personal support with parallel assistance for children with autism, specialised personnel for children with disabilities, school nurses for children with chronic conditions such as insulin-dependent diabetes, educators specialising in hearing or visual impairment for parallel support for children with sensory disabilities, as well as relevant technical support tools, are rarely applied in practice. This fact, in combination with the annual insufficient staffing of schools with substitute teachers, the continuous delay in hiring specialised educators and support staff at School Units for Special Education and Training, attended by students with severe and complex disabilities, the inability to ensure the transport of students to special schools,

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<sup>112</sup> Greece, Law 4283/2014 on the establishment and organisation of a national policy council for education and other provisions (Νόμος 4283/2014 «Ιδρυση και οργάνωση Συμβουλίου Εθνικής Πολιτικής για την Παιδεία και άλλες διατάξεις») (OJ 189 A/10.09.2014).

<sup>113</sup> Greek Ombudsman, 2015 Annual Report, (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2015), available in Greek at: <http://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf>, last accessed on 22 April 2018.



as well as the insufficient staffing of diagnostic services at KEDDY-Centre for Differential Diagnosis and Support (*Κέντρο Διάγνωσης Διαφοροδιάγνωσης και Υποστήριξης*), constitute a de facto discrimination and define those difficulties which remain to be surpassed in order to ensure the equal access of disabled children and/or with special educational needs to education.

From a quantitative perspective, there was no significant change in the number of complaints submitted to the Ombudsman concerning discrimination based on disability<sup>114</sup> in 2016, whilst from a qualitative perspective the most frequently recurring issue for this year was that of taking measures for reasonable accommodation (in both the education and employment fields) pursuant to Article 10 of Law 3304/2005. Even though the Equal Treatment Law refers to a duty of reasonable accommodation in the employment field, the Ombudsman also examines cases related to the field of education.

The Ombudsman has constantly pointed out the deficiencies of the Greek educational system, especially concerning issues of non-discrimination, participation, social integration and the inclusive education of children with disabilities or/and special needs. The position of the authority responsible for special education and training (the EAE) is that it is an integral part of general, public and compulsory primary and secondary education. For this reason, it must be integrated into the regular state budget, regardless of the additional utilisation of ESPA programmes to ensure the necessary additional resources. The severe impact of the economic crisis on education as a whole does not negate the duty of care to ensure resources for the education of students with disabilities and/or special educational needs in order to guarantee this category of students equal opportunities to enjoy the right to education through the appropriate corresponding means (parallel support, integration classes, specialised and customised training programmes and teaching methods etc.).

The Ombudsman has received a smaller number of complaints relating to special education and training for 2016, however this does not necessarily mean that the main problems identified in its findings concerning the lack of manpower and resources to ensure both the functioning of the Special Education Units and education (SMEAE) and the provision of support for students with disabilities and/or special educational needs through specific training in mainstream schools have been effectively resolved.

Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017.

#### b) Trends and patterns regarding Roma pupils

In Greece, there are specific patterns in education regarding Roma pupils, such as segregation.

In its fifth report<sup>115</sup> published in February 2015, the ECRI notes with concern that Roma remain at a great disadvantage with regard to education. There are still cases of schools refusing to enrol Roma children, in some instances due to pressure from some non-Roma parents. There are also cases of Roma children being separated from other children within the same school or in the vicinity thereof. The absence of disaggregated data on the situation of Roma pupils makes any in-depth assessment of their situation and the possibility of devising specific programmes targeting this group difficult. The ECRI urged the Greek authorities to strengthen measures taken to address problems faced by Roma children in education including exclusion, discrimination and under-performance, in full compliance with the judgments from the European Court of Human Rights (see below) as

<sup>114</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>115</sup> ECRI (2015), *Report on Greece (Fifth Monitoring Cycle)*, CRI(2015)1, available at: [www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-V-2015-001-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-V-2015-001-ENG.pdf), last accessed on 22 April 2018.

well as the ECRI's General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education. The ECRI further recommended that the authorities take a comprehensive approach to addressing these problems, including through the Inter-Ministerial Committee dealing with Roma issues.

In general, the persistent housing, employment and social protection problems of the Roma appear to constitute the most crucial factors for improving the situation in education.

In the 2012 case of *Ioanna Sampani and Others v. Greece*,<sup>116</sup> filed by 140 Roma (98 children and 42 parents), the European Court of Human Rights ruled that there was evidence of a practice of discrimination under Article 14 of the European Convention on Human Rights in conjunction with Article 2 of Protocol No. 1. Specifically, the Court found that the continuing racist educational segregation of Roma children in a Roma-only ghetto school, namely the 12th Elementary School of Aspropyrgos, constituted a violation of the above articles. What is more, the segregation occurred in spite of the 5 June 2008 judgment in the Case of *Sampanis and Others v. Greece*,<sup>117</sup> adjudicated prior to the *Ioanna Sampani* case mentioned earlier, when the ECtHR found a violation by Greece through the initial exclusion from school of Roma children living in the Psari settlement of Aspropyrgos and their subsequent segregation in a ghetto school (an annex of the 10th Elementary School of Aspropyrgos). Following the ECtHR judgment, the Ministry of Education renamed the 10th Elementary School of Aspropyrgos annex the 12th Elementary School of Aspropyrgos. This, however, did not resolve the issue of segregation.

Finally, the *Lavida and others v. Greece* judgment issued in May 2013 yet again confirmed the segregation in 2013 of all Roma pupils in Sofades in a ghetto school, with the non-Roma pupils attending two other schools. The applicants asked for the desegregation of the Sofades (Thessaly) school system but the authorities refused. Several questions have been tabled to Parliament by opposition MPs on the implementation of these judgments.

It is noteworthy that this was the third European Court of Human Rights ruling on segregation involving Greek schools, which means that, despite three separate relevant ECtHR rulings up to the end of 2013, Greece has failed to change its ongoing discrimination against Roma schoolchildren and the flagrant violation of their right to education.

In general, Roma pupils attend mainstream schools but with a high drop-out rate. Two Government reports on Western Greece and on Eastern Macedonia and Thrace<sup>118</sup> have provided data on this. In 2011, the Deputy Prosecutor of the Greek Supreme Court actually issued an 'Urgent Written Order' (Protocol Number 720/22-02-2011) addressed to all local prosecutors in Greece,<sup>119</sup> instructing them to 'work to eradicate the phenomenon of exclusion of Roma from the state education system in Greece, in a way that any xenophobic attitude towards Roma children should be eliminated and that their unhindered equal integration - without exclusion and discrimination - into all structures of the State should be ensured'. This demonstrates that the judicial authorities have fully realised the tremendous importance of enforcing the existing legal framework against discrimination.

According to the Ombudsman's Annual Report for 2015,<sup>120</sup> discrimination issues concerning the education of Roma children are related to the following:

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<sup>116</sup> ECtHR *Ioanna Sampani and Others v. Greece*, ECtHR, App. No. 59608/09, 11 December 2012, available at: <http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx?%22itemid%22:%22001-115169%22>, last accessed on 22 April 2018.

<sup>117</sup> Press release by Greek Helsinki Monitor (21.03.2011), available at: <https://greekhelsinki.wordpress.com/>, last accessed on 22 April 2018.

<sup>118</sup> The reports are available on the Western Greece Regional Office website at: [www.pde.gov.gr/gr/diafaneia/apofaseis-ps/item/download/4439.html](http://www.pde.gov.gr/gr/diafaneia/apofaseis-ps/item/download/4439.html), last accessed on 22 April 2018.

<sup>119</sup> Press release by Greek Helsinki Monitor (21.03.2011), available at: <https://greekhelsinki.wordpress.com/>, last accessed on 22 April 2018.

<sup>120</sup> Greek Ombudsman, 2015 Annual Report, (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2015), available in Greek at: <http://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf>, last accessed on 22 April 2018.

- school integration and ensuring the attendance of certain categories of children, which needs the cooperation of both their parents as well as any educational factors;
- difficulties and shortcomings which are related to the vaccination of children, their health insurance and living conditions, as well as the resulting refusal of school authorities to enrol Roma children, together with the objections of other children's parents;
- the manner in which school integration and connecting Roma children with the student body is carried out (deficiencies in welcoming classes, isolation of specific students in separate classes, 'ghetto schools');
- problems related to the transportation of children to and from school facilities;
- the inconsistent application or overall lack of support programmes (e.g. related to the output of programmes carried out for the education of Roma children, the offering of support measures such as writing materials, meals etc.);
- their naturalisation status (naming, inclusion on the population registry) and the handling of matters related to child custody;
- the school attendance of older Roma children (15-18 years old) who have not completed their primary school education;
- The submission of school attendance subsidies for students who come from very low income families, many of whom are Roma.

In 2016 the Ombudsman continued to investigate relevant cases, which mainly concern the best integration of Roma children into the school environment by aiming to provide essential education and ensuring that they remain in school.<sup>121</sup> Within the framework of investigating a series of complaints, the Ombudsman again visited a large number of settlements and houses throughout the whole country this year, as well as going to the schools where Roma students were enrolled and cooperating with the relevant authorities and services.

Moreover, during 2016 the Ombudsman made a referral to the Ministry of Education, highlighting that:

- The educational community should take into consideration the specificities of this particular group and the factors which prevent their regular school attendance – which are often rooted in family traditions and obligations – in combination with the appropriate support from social services so as to provide the best possible understanding and support for their equal educational participation;
- Any Roma girl who succeeds in graduating from school can become a positive role-model for the entire community and the situation of Roma girls should therefore be reinforced, especially in areas where it is common practice for them to drop out of school before completing their high school attendance;
- Within the framework of the Council of Europe recommendations for encouraging the school attendance of Roma children, the adoption of educational policies based on flexibility, taking into consideration the specificities of the Roma communities as Travellers, should be encouraged, and emphasis should be placed on preventing school drop-outs, ensuring the secondary education of Roma students and reinforcing the attendance of girls.

Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017.

### **3.2.9 Access to and supply of goods and services which are available to the public (Article 3(1)(h) Directive 2000/43)**

In Greece, national legislation prohibits discrimination relating to access to and supply of goods and services as formulated in the Racial Equality Directive.

<sup>121</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.



Article 3(2)(d) of Law 4443/2016 prohibits discrimination in the 'access to and supply of goods and services which are available to the public, including housing' on the grounds of race, colour, national or ethnic origin and descent.

Previously, Article 16(1) of Law 3304/2005 (the former anti-discrimination legislation), prohibited discriminatory treatment during transactions relating to the provisions of goods and services. However, no amendment had been made to the Criminal Code. Thus, Law 4356/2015,<sup>122</sup> under Article 29, amended the Code by introducing the punishment of offenders who treat others with contempt (this corresponds to the term 'καταφρόνηση' used in the original Greek legal text) by refusing to provide them with goods and services based on grounds of race, colour, national or ethnic origin, descent, religious or other beliefs, sexual orientation, gender identity, or disability. This article thereby expanded the grounds covered in the field of goods and services under Law 3304/2005 (note that Article 16(1) of Law 3304/2005 needed an amendment to the Criminal Code in order to take effect).

Refusal to provide goods or services also falls within the scope of criminal law when it takes place in the context of voluntary or humanitarian assistance (not only in cases of the commercial provision of goods and services) and usually following a relevant public announcement directed only at a specific group of people in a clearly discriminatory manner. For example, when a group of people announces that it will distribute food supplies only to Greek Orthodox citizens who prove this by showing an identification document. This used to constitute a common practice on the part of members of the far-right party, Golden Dawn. According to the introductory report of the above Law 4356/2015, this behaviour and public display of contempt towards vulnerable groups does not only impair their social status, but also demonstrates that the members of such groups are not even acknowledged as human beings (and therefore, not deserving of charity). Such behaviour is humiliating and simultaneously fuels propaganda which perpetuates a belief that certain lives are stripped of humanity and therefore not worthy of food or medical treatment.

### 3.2.9.1 Distinction between goods and services available publicly or privately

Greek law distinguishes between goods and services that are available to the public (to anyone) and those that are available privately (for instance goods/services provided only to members of an association).

In Greece, Article 3(2)(d) of Equal Treatment Law 4443/2016 states that: 'Apart from the reservations of paragraphs 3, 4, 6 below and article 4 of the present, the provisions of the present chapter apply to all individuals in the public and private sector in relation to [...] d. access to the availability and supply of goods and services which are (commercially - *συναλλακτικά*) available to the public, including housing.'

It is noteworthy that on 10 April 2013 a bus driver from the private Urban Transport Organisation of the city of Thessaloniki (OASTH), acting in a provocative manner, compelled two passengers of African descent to leave the vehicle because of their race.<sup>123</sup> The Prosecution Office of Thessaloniki pressed charges (*ex officio*) after complaints from a passenger and activists from the anti-racism NGO, NAFTHA (Nazi-Free Thessaloniki Assembly). On 16 October 2015, the three-member Misdemeanour Court of Thessaloniki - examining the appeal lodged by the defendant against the first instance court decision, sentenced the OASTH driver to eight months' imprisonment, a suspension for three years and a fine of EUR 1 000. The court found the driver guilty – just as during the first instance – of denial of service based on racist grounds, but compared with the previous trial, the court reduced the sentence by two months.

<sup>122</sup> Greece, Law 4356/2015 on civil partnership, exercise of rights, penal and other provisions.

<sup>123</sup> See news report at: [www.unhcr.gr/1againstracism/golden-dawner-bus-driver-kicks-immigrants-out-of-the-bus/](http://www.unhcr.gr/1againstracism/golden-dawner-bus-driver-kicks-immigrants-out-of-the-bus/), last accessed on 22 April 2018.

Similarly, a suspended prison term of 16 months and a fine of EUR 2 500 were imposed on 7 March 2014 by the Single-Member Misdemeanour Court of Thessaloniki (ref. 9039/2014) on a 57-year-old doctor who had been arrested on 22 February for placing a sign saying 'Jews are not welcome' at a surgery allocated to him in Nea Mixaniona by the municipality of Thermaikos. The same Court held that he was also in violation of Article 1 of Anti-discrimination Law 3304/2005 and took this into consideration when examining the aforementioned sanctions which were imposed.

### **3.2.10 Housing (Article 3(1)(h) Directive 2000/43)**

In Greece, national legislation prohibits discrimination relating to housing as formulated in the Racial Equality Directive.

Article 3(2)(d) of Equal Treatment Law 4443/2016 covers 'access to and supply of goods and services which are available to the public, including housing',<sup>124</sup> but only in respect of race and ethnic origin, as required by the Racial Equality Directive. Therefore, age, disability, religion or belief and sexual orientation are not covered.

According to Article 21(4) of the Greek Constitution, 'the acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special State care'. Also, Article 9 of the Greek Constitution provides, without making any differentiation on reasons of racial or ethnic origin or other grounds, that:

1. Every person's home is a sanctuary. The private and family life of the individual is inviolable. No home search shall be made, except when and as specified by law and always in the presence of representatives of the judicial power.
  2. Violators of the preceding provision shall be punished for violating the home's asylum and for abuse of power, and shall be liable for full damages to the sufferer, as specified by law.
- Housing of migrants

Article 3(2)(d) of Equal Treatment Law 4443/2016 covers 'access to and supply of goods and services which are available to the public, including housing' and prohibits discrimination based on the grounds of race or ethnic origin. Therefore, migrants and refugees enjoy the same rights as Greek nationals when it comes to housing (including social benefits).

For 2017 there were no governmental policies in place for ensuring the prohibition of discrimination in the field of housing for migrants.

There have been no major court decisions related to this issue.

Migrants are not treated differently under anti-discrimination law, but there is no evidence on whether they benefit equally with nationals from anti-discrimination law enforcement and implementation in the field of housing.

There is no major anti-discrimination case law in the field of housing where migrants have been involved.

There are no major policies aiming to address discrimination against migrants in the field of housing.

According to all annual reports of the Greek Ombudsman as equality body, all cases involving discrimination in the field of housing exclusively concern Roma and not migrants.

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<sup>124</sup> Article 3(2) of Equal Treatment Law 4443/2016 states that both the private sector and the public sector are covered.

In Greece, housing issues are largely considered to belong to the private rather than the social sphere, and state policies on social housing are limited.

Finally, the UNHCR project that is being implemented in Greece with the cooperation of the Municipalities of Athens and Thessaloniki, which seeks the temporary provision of housing, only concerns vulnerable categories of asylum seekers who have applied for relocation outside the country, and not economic migrants.

#### 3.2.10.1 Trends and patterns regarding housing segregation for Roma

In Greece, there are patterns of housing segregation and discrimination against Roma.

It is noteworthy that a legislative provision amending the Municipal and Communal Code provides for the duty of the municipal authorities to plan and realise integration schemes for Roma people.<sup>125</sup>

With regard to the results of the enforcement of this provision, its positive impacts mostly concern the area of awareness-raising among Roma people. Furthermore, as far as housing segregation and discrimination against Roma is concerned, according to research conducted by EU-MIDI, Greece was the EU country where Roma people's awareness of the legal provisions forbidding discrimination during the leasing or purchase of an apartment was lowest (13 %). In addition, 34 % of Roma indicated that they have experienced discrimination in the past five years.<sup>126</sup>

The ECRI's 2015 report<sup>127</sup> also states that the living conditions in many Roma settlements in Greece continue to be a cause of concern. Some settlements are completely isolated from the rest of the population, without running water or electricity, with no heating in winter and leaking roofs in some cases, and without a sewerage system or access to public transport. Furthermore, many forced evictions of Roma took place between 2009 and 2014 without suitable places being specified for the establishment of safe and legal settlements and without adequate access to legal remedies.

#### a) Work of the Greek Ombudsman

Most cases and patterns come from the Greek Ombudsman. More specifically, when the issue of the potential compulsory relocation of Roma from the settlement in the area of Votanikos (Athens) was publicised in the media and among organisations engaged with these matters, the Greek Ombudsman visited the settlement and proceeded with a series of actions in order to mobilise the competent services.<sup>128</sup> On 17 August 2012 the settlement

<sup>125</sup> Greece, Law 3463/2006 on the Municipality and Community Codex, Article 75(1)(e)(5) (*Νόμος 3463/2006 «Κύρωση του Κώδικα Δήμων και Κοινοτήτων»*) (OJ A 114/08.06.2006); entered into force 01.01.2007.

<sup>126</sup> RAXEN NFP Greece, KEMO-HLHR (2009) *Thematic study on the housing conditions of Roma and Travellers*, p. 10, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/582-RAXEN-Roma%20Housing-Greece\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/582-RAXEN-Roma%20Housing-Greece_en.pdf), last accessed on 22 April 2018.; FRA (2009), *EU-MIDIS, Data in Focus Report: The Roma*, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/413-EU-MIDIS\\_ROMA\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/413-EU-MIDIS_ROMA_EN.pdf), last accessed on 22 April 2018.

<sup>127</sup> ECRI (2015), *Report on Greece (Fifth Monitoring Cycle)*, CRI(2015)1, available at: [www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-V-2015-001-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-V-2015-001-ENG.pdf), last accessed on 18.05.201722 April 2018, p. 33.

'The aim of these actions was to ensure adequate living conditions for this vulnerable population, and to prevent the possibility of compulsory eviction from this plot of land without the guarantees stemming from the Constitution and the legislation in force. Special care was taken so that no sanctions would be imposed for violation of the sanitary regulations as was suggested by the Prefecture of Athens and Piraeus, Directorate for the Protection of the Environment. The reason for such a move was twofold: these sanctions would have been unsuitable and ineffective, and by neglecting to take into consideration the particularities of this population and the special conditions under which they live, they would have constituted negligence to handle dissimilar cases individually, contradicting the principle of equal treatment.' The response of the Municipality of Athens was still pending when the Ombudsman's annual report was published. See the Greek Ombudsman (2006) *Second annual report as national equality body*, available at: <http://www.synigoros.gr/resources/eediakrisewn2006eng.pdf>, last accessed on 22 April 2018.

was dismantled by the municipality of Athens, after being partly destroyed by a fire. Additional pressure forced the remaining Roma living there to totally abandon the area, following the detainment of 85 residents in order to check the legality of their residence status.<sup>129</sup>

As far as specific cases are concerned,<sup>130</sup> the Ombudsman has received numerous complaints from inhabitants of Alexandroupoli regarding the delay in the inclusion of the settlement camp on Avantos Street in the city's urban plan (case 6174/2007); the Drossero Women's Association in Xanthi (case 4639/2007); the Community of Aspropyrgos for improving their living conditions such as refuse collection, water and electricity supply in combination with transitional inclusion programmes such as vocational training and relocation incentives (cases 15891/2007, 16048/2006, 14062/2006, 1919/2006, 13301/2001, 14902/2001, 13399/2001 and 11128/2000); and many more.

According to the Ombudsman's Report 2015,<sup>131</sup> this was a year of stagnation in governmental actions or initiatives for the improvement of living conditions and addressing the acute problems the Roma face in relation to housing. Within this framework, many issues remain unresolved, especially concerning solutions to the housing problems of Roma throughout the country. Inversely proportional to the stagnation of governmental initiatives is the ever-growing social tension, as well as the number of complaints received by neighbouring communities to Roma settlements, the residents of which often protest about the consequences they themselves suffer because of the terrible living conditions of the Roma. The way urban planning fines are calculated in relation to makeshift constructions which are necessary for covering the housing needs of the Roma has always been a concern of the Ombudsman. The application of a measure in an integrated way and in essentially very diverse cases may have disproportionate and onerous repercussions which constitute a case of discrimination.

Moreover, in relation to the important issue of Roma housing, within the framework of examining the case of a Roma settlement in Sofades, Karditsa, the Ombudsman highlighted that the integrated means of calculating the fines for urban planning violations, whether they consisted of makeshift huts constructed with cheap materials or permanent conventional houses, raises questions of legality. Following persistent interventions, in May 2015 the Ombudsman contacted the competent Minister, highlighting that its proposal on the legislative provision in question seeks to re-establish its legality and introduce the objective regulation of essentially different urban planning violations, in pursuit of lifting, in an objective and impartial manner, the extremely onerous consequences of such fines, imposed on families housed in makeshift constructions, whether or not they belong to a certain race (Roma). On the other hand, social tension has increasingly intensified, demonstrated by the number of complaints made by neighbouring residents about the consequences they have to endure due to the living conditions of the Roma (indicative cases 200608, 203391/2015). During 2016 and 2017, the Ombudsman publicised its interventions based on the relevant annual findings included in its reports.

In its 2016 Report,<sup>132</sup> the Ombudsman repeatedly highlighted the disproportionate burden which comes as a result of equating shacks built with shoddy and cheap materials to

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In 2008 the General Directorate of the District of Attica sent a letter to the Municipality of Athens asking the latter to study the whole issue of Roma in the Votanikos area and to submit proposals concerning possible 'suitable places' for their relocation. Nevertheless, the problem has not yet been solved and the Ombudsman concluded that the competent authorities were unwilling to provide a proper solution. [www.synigoros.gr/diakriseis/pdfs\\_01/8660\\_1\\_ISH\\_METAXEIRISH\\_2008\\_Greek.pdf](http://www.synigoros.gr/diakriseis/pdfs_01/8660_1_ISH_METAXEIRISH_2008_Greek.pdf), last accessed on 22 April 2018.

<sup>129</sup> *Kathimerini* daily, 17 August 2012.

<sup>130</sup> The Greek Ombudsman (2007) *Third annual report as national equality body*, available at: [www.synigoros.gr/diakriseis/pdfs/isi-metax-engl-2007-teliko.pdf](http://www.synigoros.gr/diakriseis/pdfs/isi-metax-engl-2007-teliko.pdf), last accessed on 22 April 2018.

<sup>131</sup> Greek Ombudsman, 2015 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2015*), available in Greek at: <http://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf>, last accessed on 22 April 2018.

<sup>132</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

permanent and conventional buildings. In relation to urban planning and penalties, the Ombudsman has yet to receive an effective response from the Ministry of Environment and Energy in relation to its proposal (during 2014 and 2015) in the form of a legislative amendment which would treat these two types of construction differently. It should be recalled that the relevant legislative proposal was made by the Ombudsman as a general provision for addressing the various forms of construction which are essentially different from each other, so as to ensure that any penalties imposed are complied with in an appropriate and objective manner. This proposal relates to any citizen who is objectively unable to reside within a conventional building. Therefore, it does not exclusively refer to persons bearing specific racial characteristics (such as the Roma). Following recent legislative provisions and thanks to the Ombudsman's intervention with the Ministries of Finance and the Interior, the funding status and housing loan guarantees for the Roma was maintained (Article 27 of Law 4416/2016). However, this measure does not resolve the overall problem arising from loan debts which are overdue, a number of which have been passed on from credit institutions to the tax institution of the debtors, thus creating an additional taxation burden. This means that the debt is no longer owed to the credit institution but to the State, while in some cases seizure orders have been issued. Roma families who have either bought or built houses and have chosen to reside there permanently using these housing loans are afraid of being issued seizure orders. Moreover, due to tax debts, there have even been foreclosures on accounts held by credit institutions.

Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017. However, in practice there has been no significant change in the housing situation of the Roma. The Government has not carried out any assessment of its policies so far. However, it did set up a Special Secretariat for the Social Inclusion of the Roma (which operates under the auspices of the Ministry of Employment and Social Security). The Secretariat has been operational for a year (since the end of 2016) and has put forward an integrated programme which will include housing. The programme shall also include an assessment of the policies that have been adopted so far.

## 4 EXCEPTIONS

### 4.1 Genuine and determining occupational requirements (Article 4)

In Greece, national legislation provides for an exception for genuine and determining occupational requirements.

Article 4(1) introduces justified different treatment based on the protected grounds, which is also enshrined in common Article 4 of both EU Directives. It reiterates that the different treatment should be based on genuine and determining occupational requirements and should satisfy a legitimate aim in a proportionate manner.

There is no known case law related to this issue.

### 4.2 Employers with an ethos based on religion or belief (Article 4(2) Directive 2000/78)

In Greece, national law provides for an exception for employers with an ethos based on religion or belief.

As far as occupational requirements are concerned, in Article 4(2) of Equal Treatment Law 4443/2016, there are special provisions for professions related to churches, religious institutions and public or private organisations. According to these provisions, the law does not affect the right of public or private organisations, the ethos of which is based on religious or other beliefs, to demand that people working for them act in compliance with this ethos. In these cases, religion or belief compatible with such an ethos constitutes a genuine, legitimate and justified occupational requirement.

Article 4(2) also specifies that it does not affect provisions or policies already in existence which relate to the occupational activities of churches or other organisations or associations, the ethics of which are based on religious or other beliefs. This difference in treatment is based on general principles of EU law and cannot justify discrimination based on other protected grounds.

- Religious institutions affecting employment in state funded entities

In Greece, religious institutions are not permitted to select people (on the basis of their religion) to hire them or to dismiss them from a job when that job is in a state entity, or in an entity financed (in whole or partially) by the State.

According to Article 4(2) of Equal Treatment Law 4443/2016, unequal treatment is not regarded as discrimination only when, due to the nature of the required activities of an entity, the convictions of a person constitute a legitimate professional requirement of the employer/employing entity (such as the church, religious organisations and unions, the ethics of which are premised on their religious or other beliefs).

Moreover, according to well-established jurisprudence from the Greek Council of State,<sup>133</sup> as a state entity of public law (Article 1(4) of Law 590/1977),<sup>134</sup> the Orthodox Church of Greece is obliged to respect the fundamental constitutional provisions which provide, among others, for non-discrimination (on religious grounds) of Greek citizens in their

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<sup>133</sup> The Council of State judged that local origin and religious beliefs do not constitute criteria for public sector recruitment, countering the draft Presidential Decree that concerns recruitment of staff for the Panhellenic Sacred Foundation of Evaggelistria of Tinos. See *Eleftherotipia (Ελευθεροτυπία)* (17.08.2007), available in Greek at: [www.enet.gr/online/online\\_text/c=112,dt=17.08.2007,id=26095400](http://www.enet.gr/online/online_text/c=112,dt=17.08.2007,id=26095400), last accessed on 22 April 2018.

<sup>134</sup> Law 590/1977 on the Statute of the Greek Church (*N. 590/77 «Περί του Καταστατικού Χάρτου της Εκκλησίας της Ελλάδος»*) (OJ 146 A/31.05.1977).

access to employment in a church entity. In other words, religious beliefs do not constitute criteria for public sector recruitment, even if this recruitment concerns Orthodox institutions.

Furthermore, according to the Greek Council of State, the State or the Orthodox Church have no right to enquire into the religion of teachers of courses on religion in schools, because such courses concern people with any form of belief, including atheists.

The negative reaction of the previous Greek Orthodox Archbishop Christodoulos to the appointment of atheist teachers of courses on religion in schools did not change the situation. There was no judicial act, on behalf of the Church, to react against those appointments.

However, apart from Muslim minority teachers,<sup>135</sup> who systematically teach in Turkish in the minority schools in Thrace, no other cases of migrant or minority teachers teaching foreign languages and/or culture, or even working as assistants in Greek state schools were found.<sup>136</sup>

Finally, even in light of the public discussion on same-sex civil unions, no public debate was held in 2017 on the potential clash of sexual orientation equality and freedom of religion.

There is no known case law on this issue.

#### **4.3 Armed forces and other specific occupations (Article 3(4) and Recital 18 Directive 2000/78)**

In Greece, national legislation provides for an exception for the armed forces in relation to age or disability discrimination (Article 3(4), Directive 2000/78/EC).

Article 3(5) of Equal Treatment Law 4443/2016 provides that:

‘The provisions of this chapter [Equal treatment in employment and occupation], in so far as they relate to different treatment on the grounds of age, disability or chronic illness, relevant to service, shall not apply to the armed forces’.

On 11 April 2012 Greece ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol with Law 4074/2012.<sup>137</sup> According to Article 2 of this Law, the provisions of Article 27(1) of the Convention do not apply to the armed forces and law enforcement agencies (due to a reservation made by Greece upon signing the UNCPRD) with regard to differential treatment due to disability as provided for in Article 3(5) of Equal Treatment Law 4443/2016 (which implements equal treatment pursuant to Article 3(4) and Article 4 of Directive 2000/78/EC).

#### **4.4 Nationality discrimination (Article 3(2))**

##### **a) Discrimination on the ground of nationality**

In Greece, national law includes exceptions relating to difference of treatment based on nationality.

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<sup>135</sup> Mavrommatis, G. and Tsitselikis, K. (2003) *Turkish. The Turkish language in education in Greece*, Leeuwarden: Mercator-Education, available at: [http://www1.faknaw.nl/mercator/regionale\\_dossiers/PDFs/turkish\\_in\\_greece.pdf](http://www1.faknaw.nl/mercator/regionale_dossiers/PDFs/turkish_in_greece.pdf), last accessed on 22 April 2018.

<sup>136</sup> A comparative analysis carried out through desk research provided no results on migrant or minority teachers in Greek state schools.

<sup>137</sup> Law ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol, OJ 88 A/11.4.2012.



Adopting the wording of Article 3(2) of the two directives, Article 3(3) of the Equal Treatment Law incorporates all the exceptions allowed by the directives, including nationality and stateless status.

In Greece, nationality (as in citizenship) is not explicitly mentioned as a protected ground in national anti-discrimination law.

Moreover, Article 3(3) of Equal Treatment Law 4443/2016 stipulates that the anti-discrimination legal provisions do not cover difference of treatment based on nationality and are without prejudice to provisions and conditions relating to the legal status of the third-country nationals and stateless persons residing on Greek territory.

There is no relevant case law.

b) Relationship between nationality and 'race or ethnic origin'

According to the Greek legal system, there is little difference between 'nationality' and 'race or ethnic origin'. Nationality is perceived as citizenship. In recent decades, only people of Greek origin could obtain Greek nationality. Recently, the legislature has provided that Greek nationality can be obtained by people of non-Greek parentage.

#### **4.5 Work-related family benefits (Recital 22 Directive 2000/78)**

a) Benefits for married employees

In Greece, it is unclear whether it would constitute unlawful discrimination in national law if an employer only provided benefits to those employees who are married.

Article 3(4) of Equal Treatment Law 4443/2016 reads as follows:

'The principle of equal treatment, [...], is not applied to any benefits which are offered by the public systems or their equivalents, including the public systems for social security and assistance, and do not impede on the measures which are necessary for maintaining public safety, ensuring public order, preventing criminal offences, protecting health and the rights and fundamental freedoms of others.'

Therefore, the above provision of Law 4443/2016 seems to offer an employer the option (whether in the public sector or the private sector) to provide (social) benefits, including health benefits, that are limited to those who are married.

There is no relevant case law.

b) Benefits for employees with opposite-sex partners

In Greece, it is unclear whether it would constitute unlawful discrimination in national law if an employer chose to provide benefits only to those employees who are in an opposite-sex civil union. According to the Explanatory Report to Law 4443/2016, the introduction of the ground of family status through Equal Treatment Law 4443/2016 in the field of discrimination in workplaces is regarded as expansion of the rights of same-sex couples who have signed a civil partnership. This is because, by virtue of Law 4356/2015 (see above, Section 3.2.3), civil partnerships are treated just like any other recognised type of marriage included in the Civil Greek Code (i.e. religious or political marriage). Therefore, civil partnerships affect the civil status of a person.

There is no available information on benefits that employers are free to provide, if they wish, to their employees.



However, it is important to note that on 7 November 2013 the European Court of Human Rights, in the *Vallianatos* case,<sup>138</sup> ruled that exclusion of same-sex couples from 'civil unions' in the Greek legal order breaches the European Convention of Human Rights.<sup>139</sup> On 24 December 2015 the Greek Parliament passed Law 4356/2015 which recognises same-sex civil partnerships and eliminates discrimination on the ground of sexual orientation in various fields including social and work-related family benefits. There were no further political discussions on this matter during 2017.

#### **4.6 Health and safety (Article 7(2) Directive 2000/78)**

##### **a) Exceptions in relation to disability and health/safety**

In Greece, there are exceptions in relation to disability and health and safety (Article 7(2), Directive 2000/78/EC).

Article 7(2) of Equal Treatment Law 4443/2016 provides that:

'With regard to disability or chronic illness, the introduction or maintenance of measures which aim to safeguard health and safety in the working environment or measures aimed at creating or maintaining the preconditions or facilitations for ensuring or encouraging the integration of disabled persons into the working environment, shall not constitute a discrimination.'

There are no other exceptions relating to health and safety law in relation to rules on ethnic origin or religion, where there may be issues of dress or personal appearance.

There is no relevant case law.

#### **4.7 Exceptions related to discrimination on the ground of age (Article 6 Directive 2000/78)**

##### **4.7.1 Direct discrimination**

In Greece, national law provides an exception for direct discrimination on the ground of age.

Article 6(1) of Equal Treatment Law 4443/2016 allows the following exemption (defences) as far as the criterion of age is concerned, repeating the text of Article 6 of the Employment Equality Directive:

'... Such differences of treatment may include, among others:

1. the setting of special conditions on access to employment and vocational training, employment and occupation, including dismissal and remuneration conditions, for young people, older workers and persons with caring responsibilities in order to promote their vocational integration or ensure their protection;
2. the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment;
3. The fixing of a maximum age for recruitment which is based on the training requirements of the post in question or the need for a reasonable period of employment before retirement.'

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<sup>138</sup> ECtHR, *Case of Vallianatos and others v. Greece*, Applications Nos. 29381/09 and 32684/09, 7 November 2013, available at: <http://hudoc.echr.coe.int/eng?i=001-128294>, last accessed on 22 April 2018.

<sup>139</sup> Press release from the Ministry of Justice, 10.06.2015, available in Greek at: [www.ministryofjustice.gr/site/el/%CE%91%CE%A1%CE%A7%CE%99%CE%9A%CE%97/tabid/64/itemid/2390/amid/797/.aspx](http://www.ministryofjustice.gr/site/el/%CE%91%CE%A1%CE%A7%CE%99%CE%9A%CE%97/tabid/64/itemid/2390/amid/797/.aspx), last accessed on 22 April 2018.

Article 6(2) adds:

‘Notwithstanding Article 2, the fixing for occupational social security schemes of ages for admission or entitlement to retirement or invalidity benefits, including the fixing under those schemes of different ages for employees or groups or categories of employees, and the use, in the context of such schemes, of age criteria in actuarial calculations, does not constitute discrimination on the grounds of age, provided this does not result in discrimination on the grounds of gender’.

There is no relevant case law.

a) Justification of direct discrimination on the ground of age

In Greece, it is possible, generally, or in specific circumstances, to justify direct discrimination on the ground of age.

The relevant article is Article 6(1) of Equal Treatment Law 4443/2016.

There is currently no debate developing in Greece about the implementation of the requirements of the directive with regard to direct discrimination and, therefore, there is no way to verify if the test is compliant with the test in Article 6, Directive 2000/78/EC, account being taken of the Court of Justice of the European Union in the Case C-144/04, *Mangold*<sup>140</sup> and Case C-555/07 *Kücükdeveci*.<sup>141</sup>

b) Permitted differences of treatment based on age

In Greece, national law does not permit differences of treatment based on age for any activities within the material scope of Directive 2000/78/EC, except as detailed in the remainder of this section (see above).

c) Fixing of ages for admission or entitlements to benefits of occupational pension schemes

In Greece, national law allows occupational pension schemes to fix ages for admission to the scheme or entitlement to benefits, taking up the possibility provided for by Article 6(2).

Article 6(2) of Law Equal Treatment Law 4443/2016 allows occupational pension schemes to fix ages for admission to the scheme and entitlement to benefits.

There is no relevant case law.

#### **4.7.2 Special conditions for young people, older workers and persons with caring responsibilities**

In Greece, there are special conditions set by law for older or younger workers in order to promote their vocational integration or for people with caring responsibilities to ensure their protection.

Article 6 of Equal Treatment Law 4443/2016 transposes Article 6 of Directive 2000/78/EC verbatim.

In May 2012, according to an advisory opinion from the Legal State Council (268/11.5.2012), a body which is competent to provide the Government with legal advice,

<sup>140</sup> ECJ, *Werner Mangold v. Rüdiger Helm*, C-144/04, available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-144/04>, last accessed on 22 April 2018.

<sup>141</sup> ECJ, *Seda Küçükdeveci v. Swedex GmbH & Co. KG*, C-555/07, available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-555/07>, last accessed on 22 April 2018.

public servants or employees in the public sector on a private law contract of indefinite duration, whose spouse is 100 % disabled and whom they support, may have their working hours reduced by one hour on a daily basis without any wage reduction, even where their working hours are already reduced due to the nature of their employment,<sup>142</sup> such as because their work belongs to a special category (harder conditions etc).

The 6<sup>th</sup> Act of the Council of Ministers of 2012, which was issued in application of Article 4 of Law 4046/2012,<sup>143</sup> imposes an automatic reduction by 32 % of the minimum wage only for young employees below the age of 25, irrespective of the fact that they may fall under a special industry-wide agreement. This means that, according to Law 4046/2012, the new minimum wage for young employees is imposed even when it contradicts existing collective agreements.

On 6 April 2015 the Justice of the Peace of Thessaloniki<sup>144</sup> which, like any other court in Greece, according to its legal system, is competent to examine the constitutionality of any law (including Acts of the Council of Ministers) that regulates cases that fall within its jurisdiction, with its decision 34/2015 in a case where a young employee brought an action against his employer who had lowered his salary based on the relevant Act and Law, found the reduction by 32 % of the minimum wage for employees below the age of 25 to be unconstitutional. Specifically, the court ruled that discrimination against young employees violates the principle of non-discrimination as stipulated in Article 8(1)(c) of Anti-discrimination Law 3304/2005 (now replaced by Article 3(1)(c) of Equal Treatment Law 4443/2016), since it was based on random and unfounded preconceptions regarding the appropriate treatment of employees, on the basis of stereotyped and conjectural (this corresponds to the term 'συγκυριακό' used in the original Greek language of the decision's text) views of the relevance of age, discriminating against not only young employees but also against those with work experience, since young employees with work experience are treated in the same way as young employees without work experience.

In Greek law the list of grounds of discrimination is not open-ended but the court can interpret broadly all legal terms such as 'conditions of access to employment' etc. The court added that there was no public interest justification for imposing measures of salary and social insurance inequality, since there was no evidence of causation or logical relevance of the protection of the national economy with the dramatic reduction of minimum wages. Moreover, the court pointed out that the provision of the above 6<sup>th</sup> Act violated the constitutionally protected rights of equality before the law (Article 4, para 1), equal pay and collective autonomy (Article 22(1)) and youth protection (Article 32(3)).

It is also noteworthy that in the Recommendations<sup>145</sup> adopted by the plenary session of 20 November 2014 on the protection of older people from discrimination, the National Commission for Human Rights (NCHR) noted that the existence of a coherent legal framework for protection against discrimination on the ground of age is of fundamental importance, especially now that age has become the most common reason for discrimination in Europe.<sup>146</sup> The NCHR pointed out that prohibition of discrimination on the

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<sup>142</sup> Greece, Legal Council of State (*Νομικό Συμβούλιο του Κράτους*), Legal Opinion 268/2012, available at: [ΑΝΑΖΗΤΗΣΗ ΓΝΩΜΟΔΟΤΗΣΕΩΝ - Νομικό Συμβούλιο του Κράτους](#), last accessed on 22 April 2018.

<sup>143</sup> Greece, Law 4046/2012 on the approval of financial support draft agreements and the Memorandum of Understanding (*Νόμος 4046/2012 «Έγκριση των Σχεδίων Συμβάσεων Χρηματοδοτικής Διευκόλυνσης μεταξύ του Ευρωπαϊκού Ταμείου Χρηματοπιστωτικής Σταθερότητας (Ε.Τ.Χ.Σ.), της Ελληνικής Δημοκρατίας και της Τράπεζας της Ελλάδος, του Σχεδίου του Μνημονίου Συνεννόησης μεταξύ της Ελληνικής Δημοκρατίας, της Ευρωπαϊκής Επιτροπής και της Τράπεζας της Ελλάδος και άλλες επείγουσες διατάξεις για τη μείωση του δημοσίου χρέους και τη διάσωση της εθνικής οικονομίας»*) (OJ 28 A/14.02.2012).

<sup>144</sup> The Justice of Peace constitutes the lowest grade of civil courts in Greece. Its competence concerns civil cases that arise from conflicts between private parties if their estimated financial value does not exceed EUR 20 000.

<sup>145</sup> GNCHR, Decision on the rights of Older Persons, 20.11.2014.

<sup>146</sup> P. Stangkos 'Discrimination on the ground of age and the challenge of solidarity between generations in Greek and European Law', *Review of Labour Law*, Vol. No. 73, 2014, p. 178.

ground of age is not provided *expressis verbis* in most of the international Conventions for the protection of human rights.

It was also highlighted that both Article 19 of the Treaty on the Functioning of the European Union and Article 21 of the Charter of Fundamental Rights do, however, explicitly prohibit discrimination on the ground of age. According to the NCHR opinion, in Greece, under Law 3304/2005, a general framework for combating discrimination in employment and workplaces is established, according to Directives 2000/43/EC of 29 June 2000 and 2000/78/EC of 27 November 2000, to ensure the application of the principle of equal treatment. Age discrimination was explicitly mentioned in Law 3304/2005. However, the NCHR noted that the above legislative framework was not considered as adequate for combating age discrimination, given that it was vague and was limited to a mere prohibition of discrimination on the ground of age.

The NCHR also noted that Law 3304/2005 exclusively concerned the sector of employment. Moreover, the fact that the legislative framework was not adequate had already been highlighted by the Council of Europe's Committee of Social Rights. The NCHR stressed that it has already identified the need to amend several articles of the law concerning the scope of equal treatment, positive action, occupational requirements and differences of treatment on the ground of age, in order to make these provisions consistent with the letter of Directive 2000/78/EC.<sup>147</sup>

Finally, the NCHR noted that attention should be given to combating stereotypes and prejudice against older people which lead to discrimination against them (ageism). This phenomenon is associated with viewing older people as 'non-persons' or not the same people as they were before, or as people of a separate and lower category, only because they have passed through specific life stages. The negative impact of these stereotypes on the enjoyment of older people's fundamental rights should not be underestimated.

Equal Treatment Law 4443/2016 has not introduced any changes to this effect.

#### **4.7.3 Minimum and maximum age requirements**

In Greece, there are exceptions permitting minimum and maximum age requirements in relation to access to employment (notably in the public sector) and training.

However, under the provision of Laws 3051/2002, 3144/2003 and 3174/2003, maximum age limits have been abolished for both 'ordinary' personnel and compulsorily placed individuals (disabled people, subject to provisions of Law 2643/1998) in relation to access or appointment to the public sector, public entities, local administration organisations (at levels a and b), and legal entities established under private law operating in the public sector.

Despite the fact that the insurance and social security issues of bank employees are currently being raised and have caused considerable social impact (strikes), there has not been any formal discussion of whether the minimum and maximum age requirements which are applied in this context are compliant with Directive 2000/78/EC and Equal Treatment Law 4443/2016.

Age is set as a condition for participating in the competitive recruitment arrangements for court clerks, fire fighters, armed and security corps and for the appointment of mediators

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<sup>147</sup> In its previous relevant Recommendations (2003 and 2010), the NCHR had stressed that the anti-discrimination Law 3304/2005, in order to incorporate Directive 2000/78/EC in a technically correct manner, should repeat provisions included in the Law 3051/2002, according to which a maximum limit of age for hiring people for positions is abolished in both the public and private sectors (with exceptions).

and referees.<sup>148</sup> Younger and older people usually face restrictions and disincentives upon accepting a position or maintaining it.<sup>149</sup>

Concerning the protection of young persons from discrimination in the field of employment, Article 7 of Law 4358/2016<sup>150</sup> introduces a minimum age of 15 years for the employment of young persons, subject to specific exceptions, and a minimum age of 18 years for admission to employment for occupations regarded as 'dangerous' or 'unhealthy' – but without any further definition of the above terms. The same article bans the employment of children who are still attending compulsory education, as it would deprive them of the full benefit of their education; and it limits the working hours of persons under 18 years of age. Finally, it forbids the employment of persons under 18 years in night work and ensures their special protection against physical and moral dangers to which children and young people may be exposed, particularly those resulting directly or indirectly from their work.

Law 4451/2017<sup>151</sup> amended the provisions of the internal statute of the Ministry of Foreign Affairs and lifted the upper age limit for accessing the ministry's diplomatic corps. At the same time, it granted employees over the age of 65 (but not beyond the mandatory retirement age of 67) the possibility of staying in the diplomatic service, by analogy with the provisions for officials of other branches of the ministry.

According to the Explanatory Report on Law 4451/2017, Article 9 establishes the above new provision in order to deal with an important question relating to the application of Directive 2000/78/EC on equal treatment in employment and work. As the Explanatory Report points out, the new provision is in line with the requirements of the directive for European Union Member States to eliminate provisions that differentiate access to employment without legitimate objectives being met in this specific area. The Explanatory Report emphasises that, at the level of national law, too, discrimination on the bases of racial or ethnic origin, religion or other belief, disability, age or sexual orientation is prohibited under the Constitution (Articles 2(1), 5(2), 13 and 21), which includes, in Article 4, the principle of equality before the law. Moreover, such prohibitions concern legal relations in both the public and private sectors (Article 25(1) of the National Constitution).

In order to comply with the above legislative framework, the Greek Foreign Ministry took an initiative to amend the relevant articles of its internal statute, removing the upper age limit for recruitment for employees of all branches of the Ministry of Foreign Affairs.

On 23 May 2017, the Greek Ombudsman published an example of its successful intervention as an equality body on its website.<sup>152</sup> The case concerned age discrimination in the publication of a call for applications to a post at a municipal benefit enterprise. In 2016 a referral (No. 219866/36437/2016) had been submitted concerning the prerequisite of an age limit of 60 for anyone wishing to apply for a position as a member of educational/artistic staff (i.e. a music instructor) at the Benefit Enterprise of the Municipality of Oropos (KEDO) under an hourly-paid fixed-termed contract. The Ombudsman, being a body responsible for promoting the principle of equality, intervened at the appropriate point in the case in relation only to violations of this principle by the public authorities (under Law 3304/2005, already replaced by Law 4443/2016). The Ombudsman contacted KEDO and highlighted that the introduction of an upper age limit as a prerequisite for employment or work is generally prohibited, and can exceptionally be

<sup>148</sup> Information in this section was taken from the Greek Ombudsman (2012) *Annual report*, available in Greek at: [www.synigoros.gr/resources/docs/stp\\_ethsia\\_2012.pdf](http://www.synigoros.gr/resources/docs/stp_ethsia_2012.pdf), last accessed on 22 April 2018. In 2012, the Ombudsman received seven complaints on discrimination on the ground of age.

<sup>149</sup> National Centre for Social Research (2012), *Combating discrimination in Greece: State of the art, challenges and policy interventions*, p. 56, available at [http://ekke.gr/oecd/wp-content/uploads/2014/01/EKKE\\_discrimination\\_book\\_en.pdf](http://ekke.gr/oecd/wp-content/uploads/2014/01/EKKE_discrimination_book_en.pdf), last accessed on 22 April 2018.

<sup>150</sup> Greece, Law 4358/2016 on ratification of the Revised European Social Charter (OJ 5 A/20.01.2016).

<sup>151</sup> Greece, Law 4451/2017 on the Modification of the Code of Statute of Ministry of Foreign Affairs and other provisions (Νόμος 4451/2017 «Τροποποίηση του Κώδικα του Οργανισμού του Υπουργείου Εξωτερικών και λοιπές διατάξεις») (OJ A 16/13.02.2017).

<sup>152</sup> <https://www.synigoros.gr/?i=equality.el.imageworkpublic.429075>.

permitted only under specific and strict circumstances and following a clear and exact justification. The Ombudsman requested that KEDO consider 'lifting' this age limit, given that there is no specific reason requiring it to be maintained. KEDO responded immediately to the Ombudsman's intervention in October 2016, revised the call for applications so as to eliminate the age limit and established a new one at 67 years, which is the general retirement age limit.

According to its 2016 Annual Report,<sup>153</sup> the Greek Ombudsman received a significant number of petitions in 2016 concerning the setting of an upper age limit (of 40) for filling positions based on a priority listing among the permanent staff of the Distributors Branch at the Hellenic Post Office. This age limit was established through a ministerial decision,<sup>154</sup> even though it did not contain the required specific reasons that would justify derogation from the general principle prohibiting age discrimination. In recruitment notices issued by the same body for hiring persons of the same specialty on a fixed-term contract, the maximum age is 65. Although the institutional intervention of the Ombudsman in this matter was limited, given that this selection process is carried out exclusively by ASEP, which controls all the stages and, as an independent authority, is not subject to the Ombudsman's supervisory jurisdiction, the Ombudsman appealed to the Post Office and the Interior Ministry, stating that the reasons for setting a maximum age limit should be based on the absence of any alternative, less severe means than setting a specific age limit in order to attain the organisation's targets, while it should be clear that the age limit constitutes a genuine and determining requirement for the exercise of that profession. The Ombudsman also pointed out that the exclusion from participation in related personnel selection procedures of persons belonging to older age groups appears to be based on the general assumption that these individuals may not possess the necessary characteristics to meet the potential increased requirements of their profession. Thus, it becomes arbitrarily accepted that the aforementioned features, which are allegedly those required to respond to the needs of the posts to be filled, can only be found in people up to the age of 40.

Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017.

#### **4.7.4 Retirement**

##### **a) State pension age**

In Greece, there is a state pension age (at which individuals must begin to collect their state pensions); however, this applies only to civil servants (see below). Therefore, according to Article 1 of Law 4093/2012, in the private sector individuals may work for longer if they wish.

An individual cannot collect their state pension and still work. If an individual wishes to work for longer, then no legal provision allows the collection of benefits prior to their retirement. Thus, only when people retire may they collect state pension benefits.

Law 3845/2010<sup>155</sup> was introduced in July 2010, equalising the retirement ages for men and women and the calculation of pensions thereby to be received.

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<sup>153</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>154</sup> Decision ΔΙΠΠ/Φ.ΗΛ/23909/9-12-2003 (ΟΙ Β' 1846/10.12.2003) of the Minister of the Interior concerning the establishment of specific age limits for employment at the Hellenic Post Office (ΔΙΠΠ/Φ.ΗΛ/23909/9-12-2003 (Φ.Ε.Κ. 1846/10-12-2003/τ.Β') απόφαση του Υπουργού Εσωτερικών, περί καθορισμού ειδικών ορίων ηλικίας πρόσληψης στα ΕΛ.ΤΑ. Α.Ε.).

<sup>155</sup> Greece, Law 3845/2010 on measures for the implementation of mechanism of support for the Greek economy from the Member-States of the Eurozone and the International Monetary Fund (ΝΟΜΟΣ 3845/10. Μέτρα για την εφαρμογή του μηχανισμού στήριξης της ελληνικής οικονομίας από τα κράτη-μέλη της Ζώνης του ευρώ και το Διεθνές Νομισματικό) (ΟΙ 65 Α/06.05.2010).



Since 2010, significant changes have been made for mothers of minor children. The retirement age for them increases by 15 years and the required years of work means their retirement increases from 17.5 to 25 years of service. Under the new legislation now in force, pensions will not be awarded before the age of 60 years (retirement age). Even reduced pensions are adjusted to this age limit and the difference in retirement age for the parents of more than three children is no longer valid.

In practice, people in older age groups often choose to retire early in order to avoid being subject to negative treatment or feelings of educational inferiority and limited occupational adaptability. This is due to the fact that older people face stereotyping regarding their age (e.g. lack of strength, poorer health, lack of physical agility and endurance, outdated education etc.).

The advanced age of certain workers has in the past constituted a reason for being dismissed. There are cases where workers have reached full pension age and have been dismissed on this basis.<sup>156</sup> This puts workers in a worse position than those who have reached the full pension age, but are nonetheless dismissed on other grounds (allowing them to claim compensation in addition to their pension). Older people are also forced to overcome other difficulties concerning their access to or reintegration into the job market, because they have been unemployed for a long time, they were dismissed a few years before reaching retirement age or because of the lack of adequate infrastructure for the care of vulnerable groups.<sup>157</sup>

There is no relevant case law.

#### b) Occupational pension schemes

In Greece, there is a normal age when people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements. This 'normal age' is not fixed, but is determined by the sector-related pension scheme that each person belongs to.

According to Article 1 of Law 4093/2012, individuals may work longer if they wish only in the private sector. If an individual wishes to work longer, payments from such occupational pension schemes can be deferred.

There is no legal provision allowing a person to collect a pension and still work. Therefore an individual cannot collect a pension and still work.

There is no relevant case law.

#### c) State imposed mandatory retirement ages

In Greece, there is a mandatory retirement age of 67 years which is constitutionally established for certain public servants, both men and women equally.

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<sup>156</sup> Greece, Decision 33/2006 of the Authority for Personal Data Protection. In this case, an employer requested information from his workers in order to identify those who were of pensionable age. The Authority stated that this was clearly discriminatory on the ground of age. Available in Greek at: [www.dpa.gr/portal/page?\\_pageid=33%2C15453&\\_dad=portal&\\_schema=PORTAL&\\_piref33\\_15473\\_33\\_15453\\_15453.etos=2006&\\_piref33\\_15473\\_33\\_15453\\_15453.arithmosApofasis=33&\\_piref33\\_15473\\_33\\_15453\\_15453.thematikiEnotita=-1&\\_piref33\\_15473\\_33\\_15453\\_15453.ananeosi=%25](http://www.dpa.gr/portal/page?_pageid=33%2C15453&_dad=portal&_schema=PORTAL&_piref33_15473_33_15453_15453.etos=2006&_piref33_15473_33_15453_15453.arithmosApofasis=33&_piref33_15473_33_15453_15453.thematikiEnotita=-1&_piref33_15473_33_15453_15453.ananeosi=%25), last accessed on 22 April 2018.

<sup>157</sup> Information in this section was taken from: *50+, Position paper on active and healthy aging* (2013) ( *50και Ελλάς: Θέσεις και προτάσεις για την ενεργό και υγιή γήρανση στην Ελλάδα*), available at: [www.50plus.gr/images/files/50kaiHellas\\_Position\\_Paper\\_on\\_Active\\_and\\_Healthy\\_Ageing.pdf](http://www.50plus.gr/images/files/50kaiHellas_Position_Paper_on_Active_and_Healthy_Ageing.pdf), last accessed on 22 April 2018.

Namely, Article 16(6) of the Greek Constitution provides that university professors may not exceed the age of 67, whilst Article 118(1) of the Greek Constitution provides that judges may not exceed the age of 67.

There have been no recent changes in this respect and none are planned in the near future.

As mentioned previously, there is also a mandatory retirement age for civil servants (67 years of age after the completion of 40 years of service for a full pension or 62 years of age after the completion of 15 years of service for a reduced pension).<sup>158</sup>

d) Retirement ages imposed by employers

In Greece, national law does not permit employers to set retirement ages (or ages at which the termination of an employment contract is possible) by contract and/or collective bargaining and/or unilaterally.

There are still company operating manuals and corporate charters (mainly of banks and state enterprises) which provide for different retirement ages based on gender (women having to retire at a lower age). However, these provisions, by virtue of Article 26 of Law 3304/2005, can no longer be applied. On the other hand, under the terms of collective labour agreements, other binding regulatory provisions still exist (mainly the aforementioned bank corporate charters), which permit employers to require employees to retire because they have reached a certain age. Nevertheless, in terms of Law 3304/2005 (Article 26), these provisions have been nullified (and are therefore no longer in force), as they are not in conformity with the Law's requirements. In this respect, the law on protection against dismissal could apply to all workers, irrespective of age, although – as has been stressed before – these issues have not yet been properly and seriously examined.

e) Employment rights applicable to all workers irrespective of age

The national law on protection against dismissal (Law 2112/1920<sup>159</sup> and Law 3198/1955)<sup>160</sup> applies to all workers, irrespective of age. Therefore, these rights are not lost on attaining pensionable age or another age.

f) Compliance of national law with CJEU case law

In Greece, national legislation is in line with the CJEU case law on age regarding compulsory retirement.

In particular, Article (6) of Law 4443/2016 is in line with Cases C-229/08 *Wolf*,<sup>161</sup> C-499/08 *Andersen*,<sup>162</sup> C-144/04 *Mangold*,<sup>163</sup> and C-555/07 *Kücükdeveci*,<sup>164</sup> C-87/06 *Pascual García*,<sup>165</sup> and cases C-411/05 *Palacios de la Villa*<sup>166</sup> [2007], C-488/05 *The Incorporated Trustees of the National Council on Ageing (Age Concern England) v. Secretary of State for Business, Enterprise and Regulatory Reform*<sup>167</sup> [2009], C-45/09 *Rosenbladt*<sup>168</sup> [2010],

<sup>158</sup> Article 1(IA.4) of Law 4093/2012 (OJ 222 A/12.11.2012).

<sup>159</sup> Greece, Law 2112/1920 on the mandatory breach of contract (*Νόμος 2112/1920 Περί υποχρεωτικής καταγγελίας της συμβάσεως εργασίας ιδιωτικών υπαλλήλων*) (OJ 67 A/18.03.1920).

<sup>160</sup> Greece, Law 3198/1955 on the amendment of the mandatory breach of contract (*Νόμος 3198/1955 «Περί τροποποιήσεως και συμπληρώσεως των περί καταγγελίας της σχέσεως εργασίας διατάξεων»*) (OJ 98 A/23.04.1955).

<sup>161</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-229/08>.

<sup>162</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-499/08>.

<sup>163</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-144/04>.

<sup>164</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-555/07>.

<sup>165</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-87/06>.

<sup>166</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-411/05>.

<sup>167</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-388/07>.

<sup>168</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-45/09>.



C-250/09 *Georgiev*,<sup>169</sup> C-159/10 *Fuchs*<sup>170</sup> and C-447/09 *Prigge*<sup>171</sup> [2011]) regarding compulsory retirement.

#### **4.7.5 Redundancy**

a) Age and seniority taken into account for redundancy selection

In Greece, national law permits age or seniority to be taken into account in selecting workers for redundancy.

The relevant article is Article 6(1)(a) of Equal Treatment Law 4443/2016.

b) Age taken into account for redundancy compensation

As far as compensation for redundancy is concerned, this is affected by the number of years the employee has worked for one employer. (It could be said that, in this way, compensation is indirectly affected by the age of the worker.)

In Greece, national law provides compensation for redundancy since there is no specific exception for this kind of compensation in the relevant Laws 2112/1920 and 3198/1955 that concern the private sector. Therefore, it is affected by the age of the worker.

There is no relevant case law.

#### **4.8 Public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5), Directive 2000/78)**

In Greece, national law includes exceptions that seek to rely on Article 2(5) of the Employment Equality Directive.

Migrant workers may be expelled if their presence in Greece poses a threat to public order or if they are in breach of Law 2910/2001 on the entry and residence of foreign nationals on Greek territory. The exceptions concern public security, public order, criminal offences and protection of health. Expulsion for the above reasons is also included in Article 24 of Law 4251/2014 (Code of Migration and Social Integration).<sup>172</sup>

#### **4.9 Any other exceptions**

In Greece, there are no other exceptions to the prohibition of discrimination (on any ground) provided in national law.

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<sup>169</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-250/09>.

<sup>170</sup> <http://curia.europa.eu/juris/liste.jsf?num=C-159/10&language=en>.

<sup>171</sup> <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-447/09>.

<sup>172</sup> Greece, Law 4251/2014, Code of Migration and Social Integration (*Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης»*) (OJ 80 Α/01.04.2014).

## **5 POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)**

### **a) Scope for positive action measures**

In Greece, positive action in respect of racial or ethnic origin, religion or belief, disability, age or sexual orientation is permitted in national law.

Article 7 of Equal Treatment Law 4443/2016 enshrines Article 5 of Directive 2000/43 and Article 7 of Directive 2000/78. It reiterates that any measures adopted for promoting and ensuring equal treatment are not considered to be discrimination.

Moreover, the adoption of positive measures for promoting equality is an obligation imposed upon the State by virtue of Article 116(2) of the revised Greek Constitution.

This provision, in conjunction with Articles 21(3) and 21(6) of the Constitution, is perceived as guaranteeing the principle of 'proportional equality' and assisting in the 'elimination of existing inequalities'.

Even though the main preoccupation of the Greek Constitution of 2001 is obviously the promotion and protection of women's rights, the wording of the new Article 116(2) is all-inclusive, laying down a state obligation to act through positive measures for the elimination of all kinds of 'inequalities', a term that undoubtedly pertains to discrimination on all grounds covered by Directive 2000/78/EC, as it has been transposed into the Greek legal system.

Greek case law, especially that of the Greek Council of State, even before the above novel provision of the Constitution, accepted and established the legitimacy of legislative or administrative measures of positive action aimed at the advancement of gender equality in Greece. The majority opinion of the Greek Council of State in its judgment 1917/1998<sup>173</sup> explicitly recognised that there may be cases which show that in practice a certain category of individuals has been discriminated against 'due to social prejudice', leading to only nominal equality. Concomitantly, this court stated that the spirit of Articles 4(1) and 4(2) of the Greek Constitution (the latter provision stating that 'Greek men and women have equal rights and obligations') in principle allows the State to take appropriate and necessary 'positive action' for a certain period of time, until the existing situation of inequality has ceased. The Greek Council of State concluded that, in principle, it would certainly be legitimate for the Greek State to adopt 'positive measures' for women, in so far as these measures aim at 'accelerating the restoration of *de facto* equality between men and women'.

This jurisprudence was affirmed by the same court's Judgment 1933/1998,<sup>174</sup> where 'positive action' in favour of women by the State was regarded as justified and founded not only on the Greek Constitution, but also on Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions (Article 2(4)), as well as on Article 4(1) of the UN Convention on the Elimination of All Forms of Discrimination Against Women 1979 (ratified by Greece). The wording of the Greek Supreme Administrative Court judgments is almost identical to that of the UN Convention provision. This significant case law, along with the new constitutional provision of Article 116(2), should certainly be regarded as a basis for the establishment of positive action by

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<sup>173</sup> Greek Council of State judgment 1917/1998 (Plenary). *Επιθεωρήσεις δημοσίου δικαίου και διοικητικού δικαίου* 1998 vol. 42 (Review of public and administrative law), p. 577 (in Greek). Article 6 of Law 2839/2000 also established in principle a quota of 1/3 in favour of women with regard to posts on boards of public and private law organisations.

<sup>174</sup> Greece, *Επιθεωρήσεις δημοσίου δικαίου και διοικητικού δικαίου* (1998), vol. 42 (Review of public and administrative law) p. 585 (in Greek). On the right to equality see also Greek Council of State judgments 1156/2000, 2096/2000, *To Syntagma* Vol. 26 (2000) p. 927 and p. 1288 respectively (in Greek).

Greece in favour of racial and ethnic groups, as well as other grounds upon which discrimination occurs *de facto* and/or *de jure*.

b) Main positive action measures in place on national level

**First positive action**

One of the revolutionary developments within the realm of minority education is the introduction of the quota system. The Ministerial Decision F.152, 11/B3/790/28.2.1996<sup>175</sup> provides for a special quota of 0.5 % for the admission of students from the Muslim minority of Thrace to Greek higher education institutions. The new system was put into place for the first time in the academic year 1996-97 and it facilitated the admission of minority students to Greek universities. All Greek universities started to set aside places for minority students. By the introduction of the quota system, admission to Greek universities became much easier for minority students than before as they started to compete only among themselves, rather than with all the other Greek university applicants. Even though this quota has been applied ever since its introduction, unfortunately, no statistical assessment of its implementation has been carried out.

**Second positive action**

Law 4440/2016<sup>176</sup> established a 15 % quota for open-ended contract positions in the public sector which are announced (through a call for applications) by the Supreme Council for Civil Personnel Selection (ASEP). With regard to the system of compulsory placement for people with disability (which amount to quotas), employers are given little leeway in avoiding the obligations imposed. They cannot refuse to employ compulsorily placed disabled people, unless they invoke and can prove exceptionally bad economic conditions prevailing in their enterprise over the previous two years.<sup>177</sup> It is important to mention that, on 4 May 2012, a Uniform Table on Disability Percentages was issued,<sup>178</sup> which, according to the National Confederation of Disabled People, introduced some important positive changes in the percentages of disability in some categories of permanent disability.<sup>179</sup>

**Third positive action**

The National Action Plan on Human Rights introduced a list of pending policies for combating racial discrimination<sup>180</sup> such as simplifying the legislative framework for immigration; drafting a new National Plan for the Integration of Immigrants; action for the proper functioning of the Departments and bureaus against Racial Violence; systematic recording and processing of racial violence; updating and issuing circulars to deal with

<sup>175</sup> OSCE-ODIHR, *Minority education in Greece*, HDIM.NGO/134/08, available at: [www.osce.org/odihr/33832?download=true](http://www.osce.org/odihr/33832?download=true), last accessed on 22 April 2018.

<sup>176</sup> Greece, Law 4440/2016, on a 'Uniform Mobility System for the Public and Local Administration, obligations, incompatibility and prevention of conflicts of interests and other provisions' (*Νόμος 4440/2016 'Ενιαίο Σύστημα Κινητικότητας στη Δημόσια Διοίκηση και την Τοπική Αυτοδιοίκηση, υποχρεώσεις των προσώπων που διορίζονται στις θέσεις των άρθρων 6 και 8 του Ν. 4369/2016, ασυμβίβαστα και πρόληψη των περιπτώσεων σύγκρουσης συμφερόντων και λοιπές διατάξεις*) (OJ 224 A/02.12.2016).

<sup>177</sup> A Special State Committee decides these placements. Unwilling employers can lodge an appeal, but in the vast majority of cases these are decided in favour of the beneficiary/disabled person.

<sup>178</sup> Greece, Decision of Ministers of Finance and Employment and Social Security F.11321/oik. 10219/688 (OG B 506/4.5.2012). This table of disability percentages relates to the identification of disabilities for the purposes of social benefits.

<sup>179</sup> Greece, National Confederation of People with Disabilities (*Εθνική Συνομοσπονδία Ατόμων με Αναπηρία*), *Σημαντικές θετικές αλλαγές στο νέο πλάνο προσδιορισμού αναπηρίας*, press release, 10 May 2012, available at: [www.esaea.gr/index.php?module=announce&ANN\\_id=3909&ANN\\_user\\_op=view&ns\\_news=1&MMN\\_position=20:20](http://www.esaea.gr/index.php?module=announce&ANN_id=3909&ANN_user_op=view&ns_news=1&MMN_position=20:20), last accessed on 22 April 2018. This reclassification may not constitute a positive action measure as such, yet through it more people with disabilities become eligible for positive action measures, such as access to the quota scheme. Due to these changes, the system of disability assessment has been improved since a new list of specific diseases that had not been characterised as disabilities in the past was included, and also because other forms of disability were 'upgraded' in order officially to reflect a greater 'degree of severity'.

<sup>180</sup> The National Action Plan on Human Rights, pp. 167-178.

racist incidents; creating channels of cooperation between the Greek police and other agencies and special education programmes for staff in management practices in relation to racial phenomena; and organising educational seminars for judges and prosecutors on issues of racial discrimination. The National Action Plan includes a road-map of policies to be implemented by the year 2020. Most of the policies above have already been implemented (police bureaus for racist violence crimes, educational seminars for judges and prosecutors and revision of the Immigration Code through Law 4251/2015).

#### **Fourth positive action**

Concerning protection from discrimination for elderly persons, Article 23 of Law 4358/2016<sup>181</sup> introduced an obligation to adopt appropriate measures that will enable elderly persons to remain full members of society for as long as possible, by means of adequate resources and the provision of information about the services and facilities that are available for them, as well as measures that will enable them to choose their lifestyle freely by providing housing suited to their needs, healthcare and the services that they may need regarding their situation/health.

#### **Fifth positive action**

Through Decision No. 131024/Δ1/2016,<sup>182</sup> the Ministry of Education created zones of educational priority, preparatory classes and tutor classes, as well as reception facilities for the education of refugees in accommodation facilities. This ministerial decision, issued in August 2016, provided for the establishment of preparatory classes (Τάξη Υποδοχής) for all school-age children aged 4 to 15. The programme is being implemented in public schools neighbouring camps or places of residence. According to the information provided by the Ministry of Education, children aged between 6 and 15 years living in open temporary facilities will be enrolled in afternoon preparatory classes from 14:00 to 18:00 in neighbouring public schools identified by the Ministry.<sup>183</sup> They will be taught Greek as a second language, English, mathematics, sports, art and computer science. Their transport is organised by the International Organisation for Migration (IOM).

On 23 April 2013 the Greek State published the national strategy for the integration of third-country nationals, which was intended to make Greek practice comply with the Council of the European Union's 11 Common Basic Principles for Immigrant Integration Policy.<sup>184</sup>

Specifically, according to the third common basic principle, 'employment is a key element of the integration process, essential for the participation and the contribution of third-country nationals in the host society and the visibility of this contribution'.<sup>185</sup>

In this context, the Greek State has taken the following measures:

1. Updating of working framework (System of contributions towards insurance organisations etc.).
2. Creating node of supply and demand for jobs.
3. Promoting awareness of third-country citizens on how to tackle discrimination so as to empower them and encourage complaints.
4. Strengthening of corporate social responsibility.
5. Helping to bring together the citizens of third countries and potential employers.

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<sup>181</sup> Greece, Law 4358/2016 on ratification of the Revised European Social Charter (OJ 5 A/20.01.2016).

<sup>182</sup> Greece, Ministerial Decision No. 131024/Δ1/2016 on Priority Education Zones *et al.* (Υπουργική Απόφαση Αριθμ. 131024/Δ1/2016 «Ρυθμίσεις Ζωνών Εκπαιδευτικής Προτεραιότητας (ΖΕΠ) - Ίδρυση Τάξεων Υποδοχής ΖΕΠ, Ενισχυτικών Φροντιστηριακών Τμημάτων ΖΕΠ και Δομών Υποδοχής για την Εκπαίδευση των Προσφύγων ΖΕΠ (Δ.Υ.Ε.Π. ΖΕΠ) σε σχολικές μονάδες Π.Ε») (OJ 2687 B/29.8.2016).

<sup>183</sup> AIDA, ACCESS TO EDUCATION: Greece, available at: [http://www.asylumineurope.org/reports/country/greece/reception-conditions/employment-and-education/access-education#footnote7\\_mugram9](http://www.asylumineurope.org/reports/country/greece/reception-conditions/employment-and-education/access-education#footnote7_mugram9), last accessed on 22 April 2018.

<sup>184</sup> [http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/ethniki\\_stratigiki.pdf](http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/ethniki_stratigiki.pdf).

<sup>185</sup> Council of the European Union (2005), Common Framework for Integration: Common Basic Principles for Immigrant Integration Policy in the European Union, COM (2005) 389.

6. Guidance for citizens of third countries on high-growth sectors that are creating jobs.
7. Creating personalised programmes for monitoring or implementing mentoring activities in areas ranging from business to civil society structures.
8. Encouraging citizens of third countries to take full advantage of their skills and abilities (for example, unemployed immigrants legally residing in Greece may be involved in professional training, provided by the Manpower Employment Organization (OAED) in cooperation with vocational training centres (VTCs) financed by the EU).
9. Improvement of skills recognition and the mapping of skills to labour market needs.
10. Increasing the attractiveness of the European Union, in particular Greece, for highly skilled workers.
11. Providing mentoring and supporting services (SYV).
12. Raising awareness on opportunities to access the labour market.
13. Information for citizens of third countries on training options and opportunities matching their qualifications.
14. Developing innovative approaches to the prevention of discrimination in the labour market.
15. Participation of social partners in the elaboration and implementation of measures for the promotion of third-country nationals in employment.
16. Information from employers and educational institutions about certificates of attendance for introductory courses.
17. Introduction of new ways to recognise the professional qualifications, training and/or professional experience of new arrivals to Greece, based on legislation.
18. Monitoring the impact of national reform programmes for the integration of third-country nationals into the labour market.
19. Starting a discussion with businesses about the integration and linking of Government programmes with social programmes.

The Ministry of Labour, Social Security and Welfare and the Ministry of Education, Culture and Sport, in cooperation with all the other relevant bodies, were defined as the main implementers for the above set of measures.

## 6 REMEDIES AND ENFORCEMENT

### 6.1 Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78)

- a) Available procedures for enforcing the principle of equal treatment

In Greece, the following procedures exist for enforcing the principle of equal treatment:

Firstly, Article 8 of Equal Treatment Law 4443/2016 enshrines Article 7 of Directive 2000/43 and Article 9 of Directive 2000/78.

Article 8(3) of Law 4443/2016 states that: 'legal persons, unions or organisations including social partners and trade unions, whose purpose also includes the safe-guarding of the principle of equal treatment regardless of race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics, may represent the injured party before the courts and represent them before any administrative authority or organ, as long as he/she provides in advance his/her consent through a notarial document or private document, which will bear their certified signature'. Moreover, paragraph 4 of the same article further states that the aforementioned legal persons may also intervene (*ἡ πρόσθετη παρέμβαση*) in proceedings examining discrimination cases before the civil or administrative courts free of charge (i.e. they do not have to submit a separate court fee *παράβολο*).

The following procedures exist for enforcing the principle of equal treatment (judicial, administrative, or alternative dispute resolution such as mediation).

A victim of discrimination in the private sector, including the field of employment, can raise a complaint before the Greek civil courts and criminal courts.

A victim in the public sector, including the field of employment, can raise a complaint not only before the Greek civil and criminal courts but also before the administrative courts.

People with disabilities are entitled to request information to be supplied and/or trials be held using alternative formats, e.g. sign language, information in Braille. All the courts are physically accessible for people with disabilities (e.g. wheelchair users). There are administrative procedures which allow for the inspection of workplaces, schools and public buildings.<sup>186</sup>

According to Article 44 of Law 3386/2005<sup>187</sup> as amended by Article 42 of Law 3907/2011,<sup>188</sup> victims of criminal acts provided for by Articles 1 and 7 of the basic anti-racism Law 927/1979<sup>189</sup> if a criminal prosecution has been initiated, may be granted a residence permit on humanitarian grounds until the judgment is issued. If the victims are undergoing medical treatment the duration of the permit is extended until the treatment is completed, regardless of its relation to the crime.

The above procedures are binding for both the private and the public sector.

<sup>186</sup> Ministry of Interior (2007), *Οδηγός του Πολίτη με Αναπηρία* [Guide for disabled citizens], Chapter 2.8, available in Greek at: [http://www.nath.gr/photos/amea\\_2007.pdf](http://www.nath.gr/photos/amea_2007.pdf), last accessed on 22 April 2018.

<sup>187</sup> Greece, Law 3386/2005 on the entry, stay and social integration of third-country national in Greek territory (*Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»*) (OJ 90 A /18.04.2013).

<sup>188</sup> Greece, Law 3907/2011 on the establishment and organisation of the Asylum Service *et al.* (*Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη - μέλη για την επιστροφή των παρانونώς διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις»*) (OJ 7 A/ 26.01.2011).

<sup>189</sup> Greece, Law 927/1979 on penal sanctions for acts of discrimination based on race (*Νόμος 927/1979 «Περί κολασμού πράξεων ή ενεργειών αποσκοπούσων εις φυλετικές διακρίσεις»*) (OJ 139 A/28.6.1979).

b) Barriers and other deterrents faced by litigants seeking redress

The principal barrier that litigants face is the necessity to instruct a lawyer, because the fees are very high for the victim.

Moreover, the fact that since 30 January 2011, with Ministerial Decision KYA 123827//23-12-2010, the fee that has to be paid to the police in order to register a complaint before the criminal courts has been increased by 900 % (EUR 100 instead of EUR 10) seems to constitute a deterrent to seeking redress.

Time limits are very strict (there is a three-month period in which to file a complaint), regardless of sector.<sup>190</sup>

On the other hand, an individual can bring a case after the employment relationship has ended (dismissal or resignation), in both the private and public sectors within a time period foreseen in the labour agreement.

c) Number of discrimination cases brought to justice

In Greece, there are no available statistics on the number of cases related to discrimination which have been brought to justice.

d) Registration of discrimination cases by national courts

In Greece, discrimination cases are not registered as such by national courts.

**6.2 Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78)**

a) Engaging on behalf of victims of discrimination (representing them)

In Greece, associations, organisations and trade unions are entitled to act on behalf of victims of discrimination.

Article 8(3) of Law 4443/2016 states that: 'legal persons, unions or organisations including social partners and trade unions, whose purpose also includes the safe-guarding of the principle of equal treatment regardless of race, colour, national or ethnic origin, descent, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics, may represent the injured party before the courts and represent them before any administrative authority or organ, as long as he/she provides in advance his/her consent through a notarial document or private document, which will bear their certified signature'. Moreover, under paragraph 4 of the same article further states that the aforementioned legal persons may also intervene (*ἡ πρόσθετη παρέμβαση*) in the court proceedings for the examination of a discrimination case before the civil or administrative courts free of charge (i.e. they do not have to submit a separate court fee *παράβολο*).

However, there were no instances in 2017 or in previous years of NGOs or trade unions providing legal support (acting on behalf of the victim) and representation to victims of discrimination.

The categories of legal entities authorised to defend victims of discrimination is very restricted, since it includes only those which have as a statutory aim the guarantee and protection of the principle of equal treatment (Article 8(3)). There has been no broad interpretation of this article so far in a way that any organisation involved in human rights

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<sup>190</sup> Article 117(1) of the Greek Criminal Code (P.D. 283/1985 as amended) (OJ 106 A/31.05.1985).

issues could be legitimised. With regard to the types of legal entities, current legislation does not specify, and therefore all forms described in the Civil Code fall, in theory, within the scope of national law (associations, non-profit organisations, syndicates and union groups).

The criteria demanded within the framework of Equal Treatment Law 4443/2016, in combination with the general requirements laid down by Greek procedural statutes (Article 62 of the Code of Civil Procedure), are: (a) that NGOs and /or trade unions have 'a legitimate interest in ensuring the application of the principle of equal treatment'. This means that any intervening organisations should have as their objective the effective implementation of the principles laid down by the law and (b) that the victim has given their consent to the organisation, stating that they want and agree to be represented by that organisation. It goes without saying that, in conformity with the Greek Code of Civil Procedure, the NGO or trade union must act before the court through an accredited lawyer. In other words, NGOs who wish to act on behalf of a victim must hire an accredited lawyer, which can be quite costly. Moreover, the only permitted forms of authorisation are either an official notarised document or a private document with an officially authorised signature (Article 8(3) of Equal Treatment Law 4443/2016). There are no special provisions on victim consent in cases where obtaining formal authorisation is problematic.

Moreover, in order for the aims of the relevant provision to be fulfilled, it does not suffice for the aforementioned legal entities to be able to represent discrimination victims; they must also be able to act in their own name. In this way discrimination victims will be encouraged to report infringements of their rights without fear of retaliation by their employers. In this area, the NCHR<sup>191</sup> has emphasised the needs for an explicit provision to the effect that a negative *res judicata* in a case that was filed by a legal entity in its own name will not be binding for the discrimination victim.

Action by all associations is discretionary.

Associations may engage in all types of proceedings (civil, administrative or criminal), according to Article 8(3) of Equal Treatment Law 4443/2016.

There are no special rules on shifting the burden of proof where associations are engaged in proceedings.

#### b) Engaging in support of victims of discrimination

In Greece, associations, organisations and trade unions are entitled to act in support of victims of discrimination.

They are entitled to act in support of victims by joining already existing proceedings, according to Article 82 of the Code of Civil Procedure which provides for the possibility of 'additional intervention' in a court process (but only under the strict general requirements laid down by Article 62 of the Code concerning 'legitimate interest', consent of victim to be represented, lawyer's authorisation etc.).

With regard to the categories of legal entities, criteria and their legal standing to act on behalf of discrimination victims, please refer to 6.2.a.

Action by all associations is discretionary.

Associations may engage in all types of proceedings (civil, administrative or criminal), according to Article 8(3) of Equal Treatment Law 4443/2016.

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<sup>191</sup> NCHR (2010), *Παρατηρήσεις σχετικά με το Ν. 3304/2005* (Observations on Law 3304/2005), available in Greek at: [www.nchr.gr/images/pdf/apofaseis/protaseis\\_epi\\_nomoth\\_keimenwn/n\\_3304.pdf](http://www.nchr.gr/images/pdf/apofaseis/protaseis_epi_nomoth_keimenwn/n_3304.pdf), last accessed on 22 April 2018.



There are no special rules on shifting the burden of proof where associations are engaged in proceedings.

c) *Actio popularis*

In Greece, national law does not allow associations, organisations or trade unions to act in the public interest on their own behalf without a specific victim to support or represent (*actio popularis*). There was no discussion concerning *actio popularis* when Law 4443/2016 was being introduced.

There is no legal provision for *actio popularis*.

d) Class action

In Greece, national law does not allow associations, organisations or trade unions to act in the interest of more than one individual victim (*class action*) for claims arising from the same event. There was no discussion concerning class action when Law 4443/2016 was being introduced.

There is no legal provision for class action.

### **6.3 Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)**

In Greece, national law requires a full shift of the burden of proof from the complainant to the respondent. This means that the respondent has to prove that the complainant has not been discriminated against (exceptions apply to criminal procedures where the burden is partially shifted).

The burden of proof in cases where anti-discrimination law has been violated is covered in Article 9 of Equal Treatment Law 4443/2016, which stipulates:

1. 'When persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment;
2. Paragraph 1 shall not apply to criminal procedures;
3. Paragraph 1 shall also apply in the case of Article 8, para. 1.'

In cases of non-compliance with the principle of equal treatment within the framework of an administrative action, the victim has the protection — in addition to judicial protection — granted by Articles 24–27 of the Code of Administrative Procedure.

There was no provision for a shift of the burden of proof before Law 3304/2005 was enacted. This provision is now repeated by Equal Treatment Law 4443/2016.

There is no known relevant case law specifically on the burden of proof, even previously under Law 3304/2005.

### **6.4 Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)**

In Greece, there are legal measures of protection against victimisation.

Protection against victimisation includes such measures as are necessary to protect employees against dismissal or other adverse treatment by the employer as a reaction to a complaint within the workplace, or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment (Article 10 of Equal Treatment Law

4443/2016). In cases of adverse treatment or an adverse consequence in reaction to a complaint or proceedings aimed at enforcing compliance with the principle of equal treatment in the field of racial or ethnic discrimination, the scope is wider than employment and occupation and covers everyone, as regards both the public and private sectors, in relation to the eight areas covered by Article 3(1)(a-h) of the Racial Equality Directive 2000/43/EC.

Witnesses, since they play the most crucial role in supplying evidence under Article 9 of Equal Treatment Law 4443/2016, could easily be considered as 'protected persons', as they fall within the definition of 'person' in Article 10, which provides that protection includes protection from dismissal or adverse treatment of a person (or persons) as a reaction to a complaint or proceedings aimed at enforcing compliance with the principle of equal treatment.

According to the wording of Equal Treatment Law 4443/2016, the reversal of the burden of proof also applies to victimisation.

## **6.5 Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78)**

### **a) Applicable sanctions in cases of discrimination – in law and in practice**

Article 11 of Equal Treatment Law 4443/2016 lists criminal sanctions (six months' to three years' imprisonment and a pecuniary fine of EUR 1 000 to EUR 5 000) and administrative sanctions (pecuniary fine of EUR 146 to EUR 805) respectively. The maximum fine imposed on the discriminator in criminal cases is EUR 5 000 (fine to be paid to the State). The maximum fine imposed on those responsible for discrimination in administrative cases is EUR 30 000 (fine to be paid to the State).

The victim can lodge an action for compensation before the civil courts for infringement of their personality rights in cases of 'unlawful harm' (Article 57 of the Civil Code). Compensation for moral damage can be awarded under Articles 920 and 932 (Restitution). Actions based on Civil Code violations and relevant restitution is available in administrative cases outside the field of employment through Articles 105-106 of the Introductory Law of the Civil Code (annexed to the Civil Code).

### **b) Ceiling and amount of compensation**

The sanctions included in Equal Treatment Law 4443/2016 include fines which must be paid to the State (for more information see the section above under a).

However, in civil cases – where the victim has lodged an application for compensation – the victim can be awarded compensation by the civil courts under the procedures described above. In this case, there is no maximum amount of compensation, since it is determined at the discretion of the civil court.

There is no known case law concerning compensation to victims.

There is no information available on the average amount.

### **c) Assessment of the sanctions**

There is no information available on the effectiveness of the sanctions. However, according to a written warning from the European Commission (No. 2005/2356) regarding the sanctions (as specified in Law 3304/2005), questions had been raised about their lack of proportionality. No measures have been taken in response to this warning. In fact, Law 4443/2016 on Equal Treatment maintained the exact same sanctions under Article 11.

Greek law expressly provides for a criminal law means of defence and penalties in cases of discrimination on racial, ethnic or religious grounds solely within the framework of Law 927/1979 (see Sections 2(2) and 2(3) on direct and indirect discrimination).

Article 57 of the Greek Civil Code is a generic provision that provides for the protection of everyone's personality in cases of 'unlawful harm'. This provision entitles the victim to damages and to demand termination of the harm to their personality and its non-repetition in the future.

It also includes a court-imposed obligation to refrain from a certain act and/or to perform a certain act, such as to implement desegregation in the fields of housing and education.

In 2001, the Greek National Commission for Human Rights also proposed that Greek anti-racism legislation should expressly provide for vicarious liability in civil, administrative and criminal law.<sup>192</sup> Vicarious liability is currently provided for only by Article 922 of the Greek Civil Code, by virtue of which an employer is held liable for any damage incurred by a third party due to action by the employer's staff. However, this issue did not come up during the discussions on the introduction of Law 4446/2016.

With regard to civil and administrative procedures, the NCHR also proposed that Greek law should provide, in addition to compensation, full restitution and reparation for moral harm. With reference to criminal procedures, the NCHR proposed the introduction of an alternative penalty consisting of the obligation to perform community service.

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<sup>192</sup> Greek National Commission for Human Rights (NCHR) (2001), 'Main aspects of racial discrimination in Greece - Proposals for the modernisation of Greek law and practice' in NCHR, *Report 2001*, 20.12.2001, available in Greek at: [www.nchr.gr/images/pdf/aithsies\\_ektheseis/2001/ekthesi2001\\_gr.pdf](http://www.nchr.gr/images/pdf/aithsies_ektheseis/2001/ekthesi2001_gr.pdf), last accessed on 22 April 2018.

## **7 BODIES FOR THE PROMOTION OF EQUAL TREATMENT (Article 13 Directive 2000/43)**

- a) Body/bodies designated for the promotion of equal treatment irrespective of racial/ethnic origin according to Article 13 of the Racial Equality Directive

### **National Commission for Human Rights**

Prior to an examination of the equality body included in Law 4443/2016, it is important to provide some information on the Greek National Commission for Human Rights (NCHR), which also plays an important role in the promotion of equal treatment. According to Law 2667/1998,<sup>193</sup> under which it was established, the NCHR, although it is not an 'equality body' as described in Equal Treatment Law 4443/2016, has competence to examine the ways in which Greek legislation may be harmonised with the international law standards on human rights protection, and the subsequent submission of relevant non-binding opinions to competent State bodies. The NCHR is the national NHRI.

In addition, the contribution of the NCHR is important for general policy on the promotion of equal treatment, because through its unique structure – allowing representation in the decision-making processes of various stakeholders – it is able to advise the State on legislation and policy plans.

### **Equality body**

The most important feature of the new provisions of Equal Treatment Law 4443/2016<sup>194</sup> is the unification of separate jurisdictions – private and public – under one equality body, the Ombudsman, which has competence in the fields of employment, education and access to goods and services. Therefore, the Committee for Equal Treatment no longer has jurisdiction over discrimination in the private sector and has thus been abolished. Note that the previous Anti-discrimination Law 3304/2005 had established the Equal Treatment Committee as an equality body, although it never functioned.

Under Article 12, the Ombudsman is tasked with the monitoring and promotion of equal treatment not only for the public sector but for the private sector as well. At the same time, 10 more staff positions were created in 2017 so as to accommodate permanent Legal Officers or Legal Officers with open-ended private law contracts (on secondment). Law 4443/2016 also provides that the General Secretariat for Transparency and Human Rights of the Ministry of Justice, within the framework of its jurisdiction for the protection of human rights and the combating of all forms of discrimination, shall also participate in the promotion of equal treatment – without, however, being an equality body per se. In other words, the ministry shall, on a policy level, ensure adherence to equal treatment (when preparing legislative and policy actions). In the same spirit, the Social Protection Directorate of the Ministry of Labour will, *inter alia*, monitor the application of anti-discrimination policies in the field of labour and employment, inform employees and employers on issues related to discrimination in the field of employment and raise awareness, as well as providing scientific support to the Labour Inspectorate Body.

In fact, Article 16 requires cooperation amongst all of the aforementioned bodies, as well as with the Economic and Social Committee, the senior union organisations in the private and public sectors, the National Social Solidarity Centre, the National Centre for Social Research, the Centre for Equality Research, the Centre for Disease Control and Prevention and the Central Union of Greek Municipalities, as well as with civil society organisations with expertise on anti-discrimination. In reference to raising awareness and disseminating information, Article 17 stipulates that employers, as well as those in charge of vocational

<sup>193</sup> Greece, Law 2667/1998 on the establishment of a National Commission for Human Rights (*Νόμος 2667/1998 «Σύσταση Εθνικής Επιτροπής για τα Δικαιώματα του Ανθρώπου»*) (OJ 281 A/16.12.1998).

<sup>194</sup> This law entered into force on 9 December 2016.

training, shall ensure the application of anti-discrimination provisions and provide the equality body with all the necessary information for the promotion of equal treatment, as per their mandate. The union organisations shall inform their members of the content of anti-discrimination provisions, as well as the measures that are carried out for the application and promotion of equal treatment.

b) Political, economic and social context for the designated body

There is no evidence of recent political support for the designated body – but neither is there any indication of hostility or interference.

The Ombudsman's budget was significantly cut in recent years due to the financial crisis in Greece. In 2009, the budget was set at EUR 10 085 418. In 2015 the amount was no more than EUR 6 045 000.<sup>195</sup> For 2017, the budget was set at EUR 6 452 992, a minimal increase in comparison with the cuts of recent years. It should be noted that similar cutbacks were made to all public bodies in order to deal with the financial deficit in the state budget.

Law 4443/2016 did contain an article (Article 14b) which provided for 10 members to be added to the Greek Ombudsman's staff, however no reference was made to the budget and how it would be affected. The call for applications showed that these positions are seconded.

There is no evidence of any type of debate which is supportive of equality and diversity and of the designated body. There is no evidence of hostile debate on equality and diversity and the equality body either.

c) Institutional architecture

The Greek Ombudsman is an independent authority, established by the Hellenic Constitution (Article 103(9)). Prior to its mandate as an equality body, the Ombudsman used only to be responsible for mediating between citizens and the administrative authorities in cases of maladministration. The Greek Ombudsman still mediates between the public administration and citizens in order to help citizens exercise their rights effectively. Additional missions of the Greek Ombudsman are: to safeguard and promote children's rights; to promote equal treatment and fight discrimination in both the public and private sectors based on race, ethnicity, religious or other conviction, disability, age or sexual orientation; and to monitor and promote the application of equal opportunities and equal treatment of men and women: a) in employment, in both the public and private sectors, and b) in matters of men and women accessing goods and services in the public sector.

As a mediator, the Greek Ombudsman makes recommendations and proposals to the public administration. The Ombudsman does not impose sanctions or annul illegal actions by the public administration.

Given the introduction of Law 4443/2016, which added new tasks to its jurisdiction (such as the promotion of equal treatment and combating discrimination in the private sector in addition to the public sector), the Ombudsman set up a special section in preparation for its extended role. Known as the 'Equal Treatment Cycle' ('Κύκλος Ίσης Μεταχείρισης'), it focuses on promoting equal treatment and combating discrimination based on gender, national or ethnic origin, religion or religious freedom, disability, age, sexual orientation or gender identity.

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<sup>195</sup> Information on the budget for 2009 to 2015 is available on the Greek Ombudsman's website at: <https://www.synigoros.gr/?i=stp.el.stoixeia-proipologismou>.

Citizens have filed complaints to the Ombudsman hundreds of times since 1997, and in many cases state agencies have been urged to respect citizens' rights. For the first decade of the Ombudsman's activity, the average annual number of complaints was 10 500. During the last seven years (2010 to 2016), the average annual number of complaints was around 13 000.<sup>196</sup> (The Report for 2017 has yet to be published).

The Ombudsman has further mandates as an 'other body', from gender equality legislation (2009), legislation on the equal treatment of men and women in employment and occupation (2010), and the mandate of its founding law, which in addition to equal treatment covers relations between citizens' rights and the administration, the rights of the child, arbitrary police actions, torture and inhuman and degrading treatment (Law 2477/1997 as amended).

The Greek Ombudsman is a body with multiple mandates. To this end, the Ombudsman is assisted by a total of six sector-specific deputy ombudsmen. For the mandate of equal treatment, the Ombudsman is assisted by the Deputy Ombudsman on Equal Treatment. Each deputy ombudsman has a staff of scientific officers at their disposal, although there is no information on the number of scientific officers assigned to each deputy ombudsman. The Ombudsman employs a total of 172 individuals. Following the adoption of Law 4443/2016, 10 more people were hired (through seconded contracts). There is no available data on the budget dedicated to the equality mandate.

The attention accorded to the equality/anti-discrimination mandate in the work of the Greek Ombudsman is satisfactory. Every year the Ombudsman carries out a number of activities and projects for the promotion of equal treatment, such as training courses for police officers, visits to various employment areas and the preparation of materials to be disseminated. The Ombudsman includes a list of actions and activities in its annual report (for example, the Ombudsman's 2016 Annual Report,<sup>197</sup> which was published in March 2017, describes the actions the Ombudsman took during 2016 as a body delegated under Law 3304/2005 (since Law 4443/2016 only entered into force in mid-December) regarding the promotion of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation). The fact that the Greek Ombudsman has assigned a deputy ombudsman for the purpose of carrying out its duties as an equality body is further proof of the priority given to the relevant mandate.

The visibility level achieved for the Greek Ombudsman's equality mandate is also satisfactory. Every year the Greek Ombudsman includes a special report on its mandate as an equality body in its annual report. There is also a specific section on its website devoted to the issue of equal treatment, which is continuously updated with press releases and information on legislative or policy initiatives.

d) Status of the designated body – general independence

i) Status of the body

The Ombudsman is an independent authority, recognised by the 2001 Constitutional Revision (Article 103 of the Greek Constitution).

The annual budget of the Ombudsman changes each year.<sup>198</sup> For 2017, the budget was set at EUR 6 452 992. The budget for 2018 is not yet available. The Ombudsman's funding comes from the Government.

<sup>196</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>197</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>198</sup> Budget information for the Greek Ombudsman is available at: [www.synigoros.gr/?i=stp.el.stoixeia-proipologismou](http://www.synigoros.gr/?i=stp.el.stoixeia-proipologismou), last accessed on 22 April 2018.

The Office of the Ombudsman has the following staff: one director (the Ombudsman, elected by a special parliamentary committee), six deputy Ombudsmen, appointed by the Ministry of Interior pursuant to a proposal of the Ombudsman, 72 paid legally qualified staff members, 70 paid staff members with other qualifications and 30 other paid staff members. The Ombudsman and deputy ombudsmen are appointed for a non-renewable five-year term. The Ombudsman can be removed from office before the end of his/her term only due to reasons of health (physical or mental), following the issuing of a presidential decree proposed by the Ministerial Council, with the prior consent of a special parliamentary committee.

Under Article 12 of Equal Treatment Law 4443/2016, the Ombudsman has been tasked with the monitoring and promotion of equal treatment for the private sector in addition to the public sector. Therefore, 10 more staff positions have been created so as to accommodate permanent legal officers or legal officers with open-ended private contracts. The Ombudsman has the authority to recruit its own staff.

The Ombudsman is not accountable before any governmental or administrative authority. The Ombudsman and deputy ombudsmen are not held accountable for, prosecuted for or examined on their opinions or on the actions that they carry out within the scope of their duties. (Article 1 of Law 2477/1997, as amended).

According to the Anti-discrimination Law, the Ombudsman is competent with regard to the promotion of children's rights, as well as the implementation of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, age, disability or sexual orientation in the public sector. The Ombudsman is also responsible for drafting reports and for investigating complaints about violations of this principle (in any field – not only in occupation and employment).

ii) Independence of the body

According to Law 2477/1997 (as amended), the Ombudsman is not subject to any governmental or administrative authority, which allows it to carry out its work freely without the fear of political or other consequences. The Ombudsman and deputy ombudsmen enjoy full personal and functional independence, which allows them to carry out their duties in an independent manner. This independence appears to exist in practice, since the Ombudsman Office constitutes a 'watchdog' for Government legislation and policies, often criticising and highlighting any issues which may give rise to the violation of citizen's rights or even *in proprio motu* issuing recommendations prompting the authorities to take action and address issues which have not been examined before or which are lacking any regulation.

e) Grounds covered by the designated body/bodies

All grounds (i.e. racial or ethnic origin, descent, colour, language, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics) in both the private and public sectors fall within the Ombudsman's jurisdiction. The Ombudsman's competence also covers the areas of children's rights, gender and Roma, and extends to all fields (it is not limited to occupation and employment). It also deals with migrant issues and treats them as a priority.

In order to better address the above mandates, the Greek Ombudsman has designated a deputy ombudsman for each area which corresponds to a mandate. The Greek Ombudsman

currently has six deputy ombudsmen (as per its founding Law 2477/1997, as amended, Article 2): the Deputy Ombudsman for Human Rights, the Deputy Ombudsman for Social Protection, the Deputy Ombudsman for Quality of Life, the Deputy Ombudsman for State-civilian affairs, the Deputy Ombudsman for the Rights of the Child and the Deputy Ombudsman for Equal Treatment. Each deputy ombudsman is in turn supported by technical staff with expertise in the area of their jurisdiction. There is no data on whether these technical staff under each deputy ombudsman cover all grounds or work on a ground-specific basis. In the Ombudsman's annual report, the aforementioned areas are allocated a specific section detailing their work. Moreover, special reports on equal treatment, on gender and employment, on the returns of foreigners, on the prevention of torture and inhuman and degrading treatment and on the rights of the child are prepared and annexed to the annual report. Moreover, the Ombudsman's official website has specific sections devoted to each of the aforementioned areas/mandates. Each section of the website is regularly updated with information on the Ombudsman's work as well as any legislative or policy initiative being taken.

All grounds appear to receive equal attention in practice. Press releases show that the Ombudsman constantly works on all grounds and monitors the legislative work of Parliament by highlighting the grounds affected by any legislative initiatives. The issues of sexual orientation and gender identity have been a recurring theme over the past few years, probably because legislative initiatives on these grounds were being publicly discussed and introduced.

Migrants are treated as a priority issue by the Greek Ombudsman and the Deputy Ombudsman for Human Rights. The annual report always contains a section on the Ombudsman's work concerning migrants and refugees. The Ombudsman frequently intervenes in cases of violation of migrant and refugee rights and has even proceeded to publish a separate report on the devastating conditions that refugees and migrants experience in accommodation camps,<sup>199</sup> as well as a further one on the return procedures<sup>200</sup> (pushbacks).

f) Competences of the designated body/bodies – and their independent and effective exercise

The Ombudsman provides independent legal aid, assistance and general advice to people who believe they have been victims of infringements of the law and discriminatory practices. It can also conduct independent surveys concerning discrimination and publish independent reports and make recommendations.

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<sup>199</sup> Greek Ombudsman, *The challenges of migrant flows and the protection of refugees* (*Η πρόκληση των μεταναστευτικών ροών και της προστασίας των προσφύγων*), April 2017, available in Greek at: <http://online.fliphtml5.com/hmpf/pczs/>, last accessed on 22 April 2018.

<sup>200</sup> Greek Ombudsman, *Returns of foreigners* (*Επιστροφές Αλλοδαπών*), Special Report 2016, available in Greek at: <http://online.fliphtml5.com/hmpf/ftuk/#p=8>, last accessed on 22 April 2018.



More specifically:

<p><b><i>discrimination by</i></b></p> <p><b><u>public sector bodies</u></b></p> <p>↓</p> <p><b>OMBUDSMAN</b> [Article 14 Equal Treatment Law 4443/2016]</p> <p>According to Article 3(1) of Law 3094/2003<sup>201</sup> as amended by Equal Treatment Law 4443/2016 ('The Ombudsman and other provisions'):</p> <p>'The Ombudsman has jurisdiction over issues involving services of: a) the public sector, b) local and regional authorities, c) other public bodies, state private law entities, public corporations, local government enterprises and undertakings whose management is directly or indirectly determined by the state by means of an administrative decision or as a shareholder. <u>Banks and the Athens Stock Exchange are exempted.[...]</u>'</p>	<p><b><i>discrimination by</i></b></p> <p><b><u>non-public sector bodies</u></b></p> <p>↓ ↓</p> <p><b>OMBUDSMAN</b> [Article 14 Equal Treatment Law 4443/2016]</p> <p>According to Article 3(1) of Law 3094/2003<sup>202</sup> as amended by Equal Treatment Law 4443/2016 ('The Ombudsman and other provisions'):</p> <p>'[...] Natural or private law legal persons, including banks, also fall under the jurisdiction of the Ombudsman for the purposes of meeting its objectives as set in Article 1 para. 1 of the present: a) as a body responsible for monitoring the application of equal treatment [...]'</p>
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Regarding the independent work of the equality body:

The work of Ombudsman is undertaken independently. The Ombudsman is elected by a special parliamentary committee, in accordance with Article 101A(3) of the Constitution.

i) Independent assistance to victims

In Greece, the designated body has the competence to provide independent assistance to victims. It should be noted that this does not refer to traditional victim support. This 'assistance' means that the Ombudsman shall mediate between the victim and the violator by contacting the latter and urging it to rectify any wrong-doing (Article 3(6a) of Law 3094/2003 as amended)

- **Independence**  
The work of Ombudsman is undertaken independently. The Ombudsman is elected by a special parliamentary committee, in accordance with Article 101A(3) of the Constitution. Through a complaint system, the Ombudsman can only mediate between the public administration and citizens in order to help citizens in exercising their rights effectively. In essence, when a citizen finds that his/her rights have been violated and the Ombudsman can intervene on their behalf, then they file a complaint

<sup>201</sup> Greece, Law 3094/2003 on the Greek Ombudsman and other provisions (Νόμος 3094/2003 «Συνήγορος του Πολίτη και άλλες διατάξεις») (OJ 10 A/22.01.2003).

<sup>202</sup> Greece, Law 3094/2003 on the Greek Ombudsman and other provisions (Νόμος 3094/2003 «Συνήγορος του Πολίτη και άλλες διατάξεις») (OJ 10 A/22.01.2003).

to the Ombudsman. The Ombudsman will then examine whether it has jurisdiction and whether there has been an unjustified violation of rights. If it finds that there has been a violation and it can intervene, it will then contact the organisation or authority which perpetrated the offence. It will recommend certain action or refraining from certain actions. Thus, it does not act on behalf of the victim *stricto sensu*, but seeks to 'urge' the administration to rectify the situation. This independence is present in practice.

- Effectiveness

In 2016, there was an overall rise in the number of complaints directed to the Ombudsman, and the Ombudsman claims an 83 % success rate in its overall interventions.<sup>203</sup> The Ombudsman considers the outcome of an intervention successful when the respondent authority or private actor has revoked the measure causing the violation of rights and/or issued a remedial measure. It should be noted that this applies not just to discrimination cases, but to all cases of violations of rights in general. This system is relatively effective. For example, in relation to equal treatment, out of 80 complaints investigated in 2016 (data for 2017 is not yet available), 37 had a positive outcome (meaning that the administration responded by rectifying a violation of rights). In 19 cases, the public administration refused to comply, whilst in 24 cases the Ombudsman found that the alleged violation was justified by legitimate reasons (i.e. where there was in fact no violation since the action was justified by legitimate reasons). This demonstrates that, in practice, the Ombudsman's complaint system appears to be effective. Given that information on the budget for the specific mandate is not available, it is difficult to tell whether it is being used to its full potential.

- Resources

There is no data available regarding the staff and budget allocated for specific tasks (or grounds). Thus, it is difficult to assess the level and quality of resources. The Ombudsman has been able to maintain this level of intervention at a respectable level, especially when taking into account the budget cuts of the last seven years. Given the introduction of Law 4443/2016, which added new tasks to its jurisdiction (such as the promotion of equal treatment and combating discrimination in the private sector in addition to the public sector), the Ombudsman set up a special section in preparation for its extended role. Known as the 'Equal Treatment Cycle' ('Κύκλος Ίσης Μεταχείρισης'), it focuses on promoting equal treatment and combating discrimination based on gender, national or ethnic origin, religion or religious freedom, disability, age, sexual orientation or gender identity.

Law 4443/2016 did contain an article (Article 14b) which provided for 10 members to be added to the Greek Ombudsman's staff. However, no reference was made to the budget and how it would be affected.

ii) Independent surveys and reports

In Greece, the designated body has the competence to conduct independent surveys and publish independent reports.

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<sup>203</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

- **Independence**  
The Ombudsman carries out its work of publishing reports and conducting surveys in an independent manner. Apart from intervening as a mediator for citizens who have filed a complaint, it also publishes reports and surveys. The publishing of annual reports is mandatory under the Ombudsman's founding law (Law 2477/1997 as amended, Article 3).<sup>204</sup> The Ombudsman may issue special reports or surveys on its own initiative on issues it deems important and necessary, which it often does in practice.
- **Effectiveness**  
The Ombudsman has issued its annual reports without fail, submitting them to the Prime Minister and the President of Parliament in March every year; however, no specific data on discrimination issues have been released by the Greek Ombudsman for the year 2017. It has also published special reports, including on racist violence, immigration, returns of foreigners, gender and employment and environmental protection. All special reports are accessible and available on the official website.<sup>205</sup> Apart from its reports, the Ombudsman has also published other important materials such as handbooks and guides aimed at promoting and providing information on human rights, discrimination and immigration. The quality of the reports and surveys it issues is very good. The Ombudsman constantly addresses new issues as they arise from the everyday lives of citizens.
- **Resources**  
The Ombudsman has been able to maintain this level of publications at a respectable level, especially when taking into account the budget cuts of the last seven years.

### iii) Independent recommendations

In Greece, the designated body has the competence to issue independent recommendations on discrimination issues.

- **Independence**  
The Ombudsman issues recommendations in an independent manner. As well as intervening as a mediator for citizens who have filed a complaint, it publishes reports and surveys. The Ombudsman's reports and surveys include recommendations for the Government and the Administration. Moreover, the Ombudsman makes independent recommendations to the Administration regarding certain issues related to discrimination, either within the framework of the complaint system or separately.
- **Effectiveness**  
The recommendations of the Ombudsman appear to play an important role in the legislative and policy process. For example, in cases of legislation affecting the promotion of equal treatment, the Ombudsman will often be invited by the relevant drafting committee to provide its recommendations, either in person or in writing. This was the case for the introduction of same-sex partnership agreements (adopted through Law 4356/2015) or the legal recognition of gender identity (adopted through Law 4491/2017). Moreover, the Ombudsman is often invited by municipal

<sup>204</sup> Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017.

<sup>205</sup> Special Reports published by the Greek Ombudsman are available at:

<https://www.synigoros.gr/?i=stp.el.eidikeseektheseis>, last accessed on 22 April 2018.

authorities to provide its opinion on certain measures they are considering adopting.

- Resources

There is no data available regarding the staff and budget allocated for specific tasks (or grounds). Thus, it is difficult to assess the level and quality of the available resources. The Ombudsman has been able to maintain interventions at a respectable level, especially when taking into account the budget cuts of the last seven years. Given the introduction of Law 4443/2016, which added new tasks to its jurisdiction (such as the promotion of equal treatment and combating discrimination in the private sector in addition to the public sector), the Ombudsman set up a special section in preparation for its extended role. Known as the 'Equal Treatment Cycle' ('Κύκλος Ίσης Μεταχείρισης'), it focuses on promoting equal treatment and combating discrimination based on gender, national or ethnic origin, religion or religious freedom, disability, age, sexual orientation or gender identity.

iv) Other competences

The Greek Ombudsman also has competence when it comes to raising awareness, promoting and supporting good practice and offering policy advice. To this end it has held campaigns in collaboration with other agencies, has issued pamphlets and booklets related to discrimination issues and has mediated in discussions between local authorities and citizens (such as in the case of the Roma community). Following the adoption of Law 4488/2017,<sup>206</sup> the Ombudsman is the designated monitoring 'Framework for the Promotion of the Implementation of the UN Convention on the Rights of Persons with Disabilities' (Article 33(2) UNCRPD).<sup>207</sup> Finally, the Ombudsman is often invited by Parliament to present its views and comment on draft legislation. It often comments on current legislative initiatives through press releases, and provides advice on the practical application of certain legislative measures.

v) Positive duties

Legislation includes specific positive duties in relation to promoting equality and preventing discrimination.

Articles 15 and 16 of Law 4443/2016 refer to the basic public services and authorities which have a duty to promote and adhere to the principle of equal treatment. Article 16 refers to employer organisations and other business organisations, which means that they are included as national social partners in the collective of authorities responsible for the promotion of equal treatment. There is no list of specific duties which this entails. However, Article 17 of Law 4443/2016 states clearly that workers' unions have an obligation to inform their members of the content of anti-discrimination legislation as well as to take any necessary measures for the application and promotion of equal treatment. The

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<sup>206</sup> Greece, Law 4488/2017 on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions (*Νόμος 4488/2017 «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις»*) (OJ A 137/13.9.2017).

<sup>207</sup> The term 'monitoring framework' corresponds to that used by the UNCRPD itself in Article 33(2): 'States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention'. The same term is also used by the FRA in its 2018 Fundamental Rights Report, available at: <http://fra.europa.eu/en/publication/2018/fundamental-rights-report-2018>, which at pp. 232-233 refers to the Greek Ombudsman as the monitoring 'Framework' for the UNCRPD.

same article also clarifies that employers have an obligation to ensure the application of equal treatment and to provide the equality body with any information or data requested within the framework of its competence.

g) Legal standing of the designated body/bodies

In Greece, the designated body (Greek Ombudsman) does not have legal standing to:

- Bring discrimination complaints to court on behalf of identified victims;
- Bring discrimination complaints to court on behalf of non-identified victims;
- Bring discrimination complaints to court *ex officio*;
- Intervene in legal cases concerning discrimination, such as in the capacity of *amicus curiae*.

The Ombudsman does not have the right of legal standing before the courts. The Ombudsman cannot even examine complaints related to cases which are pending an examination before the courts (whether civil, administrative or criminal).

The Ombudsman, according to Law 2477/1997<sup>208</sup> (Article 1), may, during the investigation of cases, request the assistance of the Public Administration Investigators-Inspectors Authority or other auditing bodies of the administration. The Ombudsman may request public services to provide any information, document or other evidence relating to the case, and may examine individuals, conduct on-site investigations and order expert reports. The Ombudsman cannot intervene in cases pending before the courts. During the examination of documents and other evidence which are at the disposal of public authorities, the fact that they have been classified as secret may not be invoked, unless they concern issues of national defence, state security and the country's international relations.

All public services have an obligation to facilitate the investigation in every possible way.<sup>209</sup>

Finally, it should be mentioned that, according to Article 20 of Law 4443/2016 (which amends the Ombudsman's founding law), the Ombudsman has an obligation to refer any case which may include indications of the perpetration of a crime to the competent prosecutor. If the case involves the rights of a child, which calls for the intervention of judicial or other authorities, then the relevant file must be forwarded to them.

h) Quasi-judicial competences

In Greece, the Ombudsman (Article 14 of Equal Treatment Law 4443/2016) is not a quasi-judicial institution. It does not meet the criteria set by Greek case law which state that quasi-judicial institutions should have procedures similar to judicial bodies, such as adversarial hearings and procedures for publishing decisions.<sup>210</sup> Similar criteria are also contained in CJEU case law.<sup>211</sup>

The opinions of the equality body are not legally binding, i.e. the respondent party is not compelled to comply with its findings. Even though the Greek Ombudsman is open to receive complaints from citizens, when it chooses to mediate it can only issue recommendations and proposals to the public administration (and, since the adoption of Law 4443/2016, to private sector actors). The Ombudsman does not impose sanctions or annul illegal actions by the public administration and private sector actors. In practice,

<sup>208</sup> Greece, Law 2477/1997 on the Greek Ombudsman and the Labour Inspectorate (*N 2477/1997 «Συνήγορος του Πολίτη, Σώμα Επιθεωρητών-Ελεγκτών Δημ.Διοίκησης»*) (OJ 180 A/09.09.1999).

<sup>209</sup> Article 4(5) of Law 3094/2003 on the Ombudsman.

<sup>210</sup> Such as Greek Council of State Decisions 137/2015, 99/2015 and 4399/2016.

<sup>211</sup> See for instance Case C-331/05 P, *Internationaler Hilfsfonds eV v. Commission of the European Communities*, Advocate General Trstenjak, 28.03.2007, paragraph 57, and Case C-509/11, *ÖBB-Personenverkehr AG*, Advocate General Jääskinen, 14.03.2011, paragraph 50.

however, the administration usually responds to the Ombudsman's interventions. Given that the law was changed to include private actors only recently, however, there is no data on whether and how they have responded.

The independence of the Greek Ombudsman is declared in Article 103(9) of the revised Greek Constitution, according to which the Ombudsman functions as an 'independent authority', and is described by Law 2477/1997, which stipulates (in Article 1, para 2) that the Ombudsman 'is not subjected to any other governmental body or administrative authority'.

The Ombudsman has no authority to penalise or to prosecute discriminatory practices, only to activate governmental bodies to help eliminate the causes and practice of discrimination. For example, the Ombudsman carried out a study into a well-known Greek airline company and criticised it for not taking specific and reasonable measures for disabled people, pointing out that this particular case reflects a political position which does not respect the constitutional right of people with special needs to autonomous and equitable participation in the social and economic life of the country and, more particularly, the right to access and travel by public transport. The Ministry of Transport 'accepted the position of the Ombudsman and requested in writing from Olympic Airlines SA and Olympic Airways, that they assure the transport of persons with special needs without demanding from them a medical opinion and escort'.<sup>212</sup>

i) Registration by the body/bodies of complaints and decisions

In Greece, the body only registers the number of complaints of discrimination made, and the decisions.

These data are available to the public.

In Greece, the Ombudsman registers the number of complaints and decisions by ground, field, type of discrimination, etc. This information is included in its annual reports and is available to the public.<sup>213</sup> The Ombudsman does not publish data on inquiries received.

The relevant legal provision is Article 3 of Law 2477/1997.

On 7 March 2017,<sup>214</sup> the Ombudsman published its Annual Report for 2016. The report describes the Ombudsman's actions for the year 2016 as a body responsible for promoting the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation, in compliance with its jurisdiction as established through Law 4443/2016.

Specifically, during 2016 the Ombudsman investigated 219 cases which appeared to involve unequal treatment against a person or a group of persons. Of these, 78 cases were in fact unresolved cases from previous years. The number of cases archived was 48, as they were considered beyond jurisdiction, insubstantial or because the applicants failed to provide the necessary information for further investigation. The outcome for 37 cases was positive (meaning that the Ombudsman's intervention succeeded in securing the administration's compliance), whilst in 19 cases the administrative authorities refused to comply. In 24 cases the Ombudsman found that the administrative authorities were acting in conformity with equal treatment obligations. The remaining 91 cases are still being investigated. This backlog is due to the structural and systemic character that appears in

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<sup>212</sup> Greek Ombudsman, 2004 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2004*), available in Greek at: [https://www.synigoros.gr/resources/docs/613\\_04-apologismos-kp.pdf](https://www.synigoros.gr/resources/docs/613_04-apologismos-kp.pdf), last accessed on 22 April 2018.

<sup>213</sup> The Ombudsman's reports are also available in English: [www.synigoros.gr/?i=stp.en.reports](http://www.synigoros.gr/?i=stp.en.reports), last accessed on 22 April 2018.

<sup>214</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

this type of discrimination and to the decision of the Ombudsman to intervene actively in these cases during every development and until a final resolution of the issue. If a case is pending it means that there has been no decision by the administration concerning the opinion of the Ombudsman, regardless of whether or not the equality body found discrimination had taken place.

In the following paragraphs the focus is on specific grounds.

Regarding discrimination based on race or origin (excluding cases brought by Roma), 13 complaints were investigated in 2016, 11 of which were filed in 2016, while two were from previous years. Four of the 13 concerned incidents of discrimination in employment, three were in education and six involved the supply of goods, services and housing.

With regard to discrimination based on disability, 73 complaints were investigated in 2016, of which 56 were filed in 2016, while 17 were from previous years. As far as the cases where discrimination was found, there were 23 incidents of discrimination in employment, 36 in education and 14 in the supply of goods, services and housing.

Regarding discrimination based on age, the Ombudsman investigated 32 complaints in 2016, of which 21 were filed in 2016, while 11 were from previous years. As far as the cases where discrimination was found, 31 were incidents of discrimination in employment and one was in education.

In relation to discrimination based on sexual orientation, eight complaints were investigated by the Ombudsman in 2016; six were filed in 2016 and two in previous years. Where discrimination was found to have taken place, there were two incidents of discrimination in education and six in the supply of goods, services and housing.

Finally, with regard to discrimination based on religious or other beliefs, 33 complaints were investigated in 2016, of which 18 were filed in the same year and 15 in previous years. Of the cases where discrimination was found to have taken place, one of these incidents concerned discrimination in employment and 32 in the supply of goods, services and housing. The Ombudsman's reports do not contain statistical data on gender. However, there were a total of three complaints concerning issues of gender identity in 2016 (when it was first introduced as a ground), one of which concerned work and two of which related to the supply of goods and services.

In total, the Ombudsman investigated 219 complaints in 2016, of which 141 were made in 2016, while 78 were from previous years. Overall, 60 concerned employment, 55 education and 104 the supply of goods, services and housing.

The Ombudsman's annual reports always include statistical data on the complaints it receives. Below are charts with statistics on complaints from 2015 and 2014 (data on gender is not available):

	TOTAL OF COMPLAINTS EXAMINED IN 2015	Complaints filed in 2015	Complaints from previous years examined in 2015	Discrimination in employment and occupation	Discrimination in education and vocational training	Discrimination in the provision of goods, services and housing
Roma	53	21	32	4	14	35
Ethnic origin/racial origin (except for Roma cases)	25	19	6	6	8	11
Disability	87	48	39	25	56	6
Age	33	15	18	26	7	
Sexual orientation	4	3	1		1	3
Religious or other beliefs	22	9	13	4		18
TOTAL	224	115	109	65	86	73

	TOTAL COMPLAINTS EXAMINED IN 2014	Complaints filed in 2014	Complaints from previous years examined in 2014	Discrimination in employment and occupation	Discrimination in education and vocational training	Discrimination in the provision of goods, services and housing
Roma	75	35	40	8	7	60
Ethnic origin/racial origin (except for Roma cases)	25	18	7	2	8	15
Disability	50	39	11	14	29	7
Age	33	16	17	31	2	
Sexual orientation	4	3	1	1		3
Religious or other beliefs	29	28	1	6		23
TOTAL	216	115	77	62	46	108

j) Planning

The Greek Ombudsman does not have a strategic plan or annual work plan. However, it publishes an annual report in March each year, which is submitted to the Prime Minister



and the President of Parliament for their consideration. Even though the Ombudsman does not have a strategic plan, it includes an evaluation of its annual work in its annual report. In 2016, the Ombudsman found that it had succeeded, even in the difficult conditions of the extended financial crisis, in maintaining the highest levels of trust, acceptance and recognition by both citizens and the public administration.<sup>215</sup>

In 2016, the number of complaints from citizens increased. Furthermore, they contained new parameters with more dimensions, and greater complexity and difficulty. Nevertheless, the percentage of cases resolved following the Ombudsman's mediation remained very high (above 83 %). Moreover, a large number of recommendations, proposals and remarks made by the Ombudsman in view of regulatory intervention and institutional initiatives were implemented.

Given that the Ombudsman does not have a strategic plan or annual work plan, it is hard to assess the quality of its planning cycle. Reviewing its annual reports, one can detect a certain degree of vigilance in how it carries out its various activities for the promotion of equal treatment. However, there is a lack of further details to help assess this.

#### k) Stakeholder engagement

Under Law 4443/2016, the Greek Ombudsman has an obligation to engage with certain stakeholders when implementing its mandate on equal treatment. Article 19, which amends Article 3 of Law 3094/2003, states that the Ombudsman should cooperate with the General Secretariat for Human Rights of the Ministry of Justice, with the General Secretariat for Gender Equality of the Ministry of Interior, with the Ministry of Employment, Social Security and Social Solidarity and with social partners, businesses and NGOs, with the purpose of informing them and promoting good practices on equal treatment. In practice, the Ombudsman appears to engage with the majority of these stakeholders by holding round-table events and meetings.

In an event held on 9 February 2016, the Ombudsman presented the 'Guide on rights and benefits for vulnerable groups', which was first issued at the end of 2015, as well as the dedicated website [www.synigoros-solidarity.gr](http://www.synigoros-solidarity.gr). Both the guide and the website were created in the context of the European Economic Area-funded programme for Solidarity and Social Inclusion in Greece (2009-2014). On 7 March 2016, the Ombudsman and the General Confederation of Greek Workers (GSEE) co-signed a cooperation agreement for the promotion and dissemination of the guide, with the assistance of regional and local trade unions. During the visit of the Ombudsman to the Island of Lesbos on 27 January 2016, the Ombudsman organised a meeting for an exchange of views and the coordination of actions between the various agencies and groups working to protect unaccompanied and accompanied refugee and immigrant minors. The meeting was attended by 55 representatives from 26 governmental and non-governmental organisations and agencies.

#### l) Accessibility

The Ombudsman's offices are located at 17 Chalkokondyli street, near the centre of Athens. They are open to the public from Monday to Friday, from 08:30 to 14:00 and on Wednesdays until 16:30. The Ombudsman does not have regional or local offices.

The building in Athens is easily accessible for people with disability, and individuals can send their complaints either in person or through a representative, by post, by fax or via an electronic submission template which is provided on the official website in both Greek and English, with step-by-step information on how to fill it in. Moreover, the complainant can use the website to monitor the processing of his/her complaint, through codes assigned

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<sup>215</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

to it. The Ombudsman has published brochures on how to file a complaint to its offices in three foreign languages: Albanian, Arabic and English, and these are all available online on its official website.<sup>216</sup>

m) Roma and Travellers

Since 2008,<sup>217</sup> the Greek Ombudsman has witnessed the national dimensions of the Roma issue as well as the compelling need to immediately implement multiple targeted programmes of rehabilitation and social support at a local and regional level. Such actions will prove successful only as long as they are mutually combined, coordinated and monitored by a national coordination centre. Moreover, in March 2009<sup>218</sup> the Ombudsman pointed out once again the failure of the central Government to deal seriously with the problems experienced by Roma in the fields of education, housing and residence. It is also noteworthy that when the Ombudsman's 2012 Annual Report was released<sup>219</sup> a significantly high number of cases (32), mostly concerning housing issues experienced by Roma populations, were still pending. Up until 2016 the majority of these cases were still pending. This situation was due to the structural and systemic character of continuing discrimination against Roma in the area of housing and to the Ombudsman's choice to maintain active intervention throughout the course of these cases until they are dealt with conclusively. The Ombudsman supervises a constantly open pilot communication network with NGOs and other civil society institutions for the protection of Roma people. One of the main goals was to disseminate and collect information on the urgent problems faced by these population groups, as well as to coordinate the activities undertaken by the participating agencies which are active in the field of protecting rights and offering social support to Roma living in Greece.

In its 2014 *Special report on discrimination*,<sup>220</sup> the Greek Ombudsman referred to the conditions of social exclusion experienced by the Roma and the need to deal with this issue. The current situation regarding residence, education, access to the job market and public services, as well as the general living conditions of the Roma in Greece does not allow progress to be made in this area. It is telling that the need for special, focused relief by the state for these citizens does not appear to be easily understood as an issue of restoring equality and combating discrimination. Special measures taken or planned in this context are seen by some citizens or even by the State authorities as preferential treatment towards this specific racial group at the expense of other citizens. This perception, apart from being wrong, undermines every effort to deal effectively with the issue.

According to the same report, the National Strategy for the Roma sets out four main axes for dealing with social exclusion: housing, education, employment and health. However, despite producing this Strategy and declaring the aforementioned goals, in practice, there is a significant deficit in putting the Strategy into practice to realise the goals.

The various manifestations of the social exclusion of the Roma and their connection to structural characteristics which accentuate the discrimination against this specific ethnic group were once again highlighted in the Ombudsman's 2015 Annual Report.<sup>221</sup> The

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<sup>216</sup> The English version of the Greek Ombudsman's website is available at: <https://www.synigoros.gr/?i=stp.en>, last accessed on 22 April 2018.

<sup>217</sup> The Greek Ombudsman (2007), *Promoting equal treatment - the Greek Ombudsman as national equality body*, available at: [www.synigoros.gr/resources/docs/8294\\_1\\_ish\\_metax\\_engl\\_teliko\\_swsto2007.pdf](http://www.synigoros.gr/resources/docs/8294_1_ish_metax_engl_teliko_swsto2007.pdf), last accessed on 22 April 2018.

<sup>218</sup> The Greek Ombudsman (2008), *Promoting equal treatment - the Greek Ombudsman as national equality body*, available at: [www.synigoros.gr/resources/docs/9071\\_1\\_eng-ish\\_metaxeirish\\_final.pdf](http://www.synigoros.gr/resources/docs/9071_1_eng-ish_metaxeirish_final.pdf), last accessed on 22 April 2018.

<sup>219</sup> The Greek Ombudsman, *Special Annual Report 2012*, (Ειδική Έκθεση του Συνηγόρου για την Καταπολέμηση των Διακρίσεων), 2012, available in Greek at: [www.synigoros.gr/resources/docs/10eidikes-diakriseis--2.pdf](http://www.synigoros.gr/resources/docs/10eidikes-diakriseis--2.pdf), last accessed on 22 April 2018.

<sup>220</sup> Greek Ombudsman 2014 Report on Discrimination, p. 7.

<sup>221</sup> Greek Ombudsman, 2015 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2015), available in Greek at: [www.synigoros.gr/resources/docs/ee2015-00-stp.pdf](http://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf), last accessed on 22 April 2018.

Ombudsman observes significant inactivity in administrative initiatives for the improvement of living conditions and the resolution of extremely difficult issues faced by this specific group. Within this framework, a number of cases related to the housing relocation of Roma populations in many areas of the country still remain unresolved.

## 8 IMPLEMENTATION ISSUES

### 8.1 Dissemination of information, dialogue with NGOs and between social partners

- a) Dissemination of information about legal protection against discrimination (Article 10 Directive 2000/43 and Article 12 Directive 2000/78)

Article 13 of Equal Treatment Law 4443/2016 enshrines Articles 11 and 12 of Directive 43/2000 and Articles 13 and 14 of Directive 78/2000 relating to social dialogue. Article 17 enshrines Article 10 of Directive 43/2000 and Article 12 of Directive 78/2000 concerning the dissemination of information.

The most important body which provides information about legal protection against discrimination is the Ombudsman. It is an independent body which provides legal aid, assistance and general advice to people who consider that they have been victims of infringements of the law and discriminatory practices. The Labour Inspectorate also plays a distinctive role in the dissemination of information.

#### *Distribution of materials and promotion of awareness raising by the Ombudsman*

- The Ombudsman, as a body charged with the promotion of equal treatment, participated in the 2015 anti-racism campaign of 21 March at Syntagma Square, by having a stall and distributing information material to passers-by. It also prepared a special radio broadcast to combat intolerance. In addition, Ombudsman staff members participated in targeted awareness-raising and the provision of information to the public, together with local authorities, in the area of the old Municipal Market of Kipseli. Their actions were focused on protection from racism and intolerance (17-19 March 2015).
- In 2016 the Ombudsman sought to implement as many measures as possible to promote the principle of equal treatment.<sup>222</sup> Beyond the general recommendations issued on each occasion to investigate individual cases highlighting systemic problems regarding the application of the principle of equal treatment, the Ombudsman sought to develop information and awareness campaigns in the periphery of the country, and particularly in areas with what might be termed 'strong social intensity' due to the presence of a significant number of immigrants or Roma refugees. Within this framework it carried out visits, workshops, meetings, conferences, seminars and events to raise the awareness of stakeholders or the general public on anti-discrimination issues. At the same time, through intensive cooperation and exchange of expertise, the Ombudsman continued to work with other actors within and outside Greece on implementation issues and on promoting the principle of equal treatment. Given the dissemination of racist and hate speech and the obvious effects of discrimination, the Ombudsman organised a workshop on 12 April 2016 on the role of European and international equality authorities in coping with hate speech and discrimination. The year 2016 also included a completed action by the Ombudsman aimed towards vulnerable social groups that are particularly affected by the consequences of the economic crisis, in order to inform them about their rights. As regards training activities on anti-discrimination issues, the Ombudsman has maintained and strengthened its constant cooperation with the Police Academy and the School of Post-Education of ELAS (the Hellenic Police) and the National Public Administration School, which provides education on rights and equal treatment.

Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017.

<sup>222</sup> Greek Ombudsman, 2016 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016*), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

### *Data recording on racism*

A Racist Violence Recording Network was set up in October 2011 on the initiative of the NCHR and the Office of the UN High Commission for Refugees in Greece (UNHCR).<sup>223</sup> The initiative is supported by non-governmental organisations and bodies, such as Amnesty International, Aitima, the Babel Day Centre, Doctors of the World, the Ecumenical Refugee Programme, the Greek Council for Refugees, the Greek Forum of Refugees, the Greek Helsinki Monitor, Group of Lawyers for the Rights of Refugees and Migrants, the Hellenic League for Human Rights, METAdrasi and PRAKSIS. In 102 victim interviews conducted throughout 2017, the Racist Violence Recording Network documented 102 incidents of racist violence involving more than 120 victims.<sup>224</sup> Of these incidents, 34 involved migrants and refugees, 7 involved defenders of human rights and humanitarian staff, 47 involved LGBTQI persons and one involved Roma. Symbolic or religious sites were involved in 11 of the incidents, while Greek citizens were targeted due to their religion in two of them. Most of the information regarding attacks against refugees and migrants was provided by the Greek Forum of Migrants which is a federation of 35 associations of migrants in Greece, whereas most of the information about attacks against LGBT people came from the NGO Colour Youth – Community of LGBTQ Youth of Athens.

### *Initiatives to combat racist violence*

- The establishment of the National Council against Racism and Intolerance by the new Anti-discrimination Law 4356/2016 (Articles 15-19), in accordance with ECRI's relevant interim follow-up Recommendations,<sup>225</sup> is a positive step. A task force has been created by the Greek Government in order to develop a comprehensive national strategy to combat racism and intolerance, with the participation of the National Human Rights Commission, the Greek Ombudsman and NGOs, thus recognising the need for technical expertise on this matter. These institutions can indeed advise the State in the context of their statutory mission, provide documentation on all aspects of racism and recommend necessary measures for its elimination. In addition, the participation of NGOs ensures that the Council maintains direct contact with practices in the field and is aware of the challenges faced by victims. Moreover, the Racist Violence Recording Network (RVRN) is represented by two members of the Council. It is noteworthy that the RVRN is represented separately from the two RVRN coordinators, the National Commission for Human Rights and the UNHCR, which serve broader mandates and also participate in the work of the Council. In addition, the RVRN was appointed as coordinator of the working group devoted to combating hate crime. In this context, the RVRN has the opportunity to collaborate closely with all important stakeholders, as the working group comprises representatives of the Police, the National Commission for Human Rights and the Ministry of Justice. It is also positive that the responsibilities of the General Secretary of Transparency and Human Rights relating to the organisation and operation of the Council and the implementation of its decisions are provided by law.

### *Discrimination in the media*

- With regard to discrimination in the media, the Code of Conduct of the Athens Journalists' Association contains provisions (Articles 1 and 2) which require journalists to impart information without any prejudice related to their own political, social, religious, racial or cultural views or beliefs and to make no distinction on

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<sup>223</sup> The Racist Violence Recording website is available at: [www.rvrn.org](http://www.rvrn.org).

<sup>224</sup> According to data given to the author and legal expert Athanasios Theodoridis on 20.02.2018 after a special request he made as Director of ANTIGONE – the Information and Documentation Centre on Racism, which is a member of the Racist Violence Recording Network.

<sup>225</sup> <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-V-2015-001-ENG.pdf> (p. 40).

- grounds of national origin, sex, race, religion, political beliefs, economic or social status.<sup>226</sup>
- Article 4 of Presidential Decree 77/2003<sup>227</sup> regulating radio and television news and political broadcasts prohibits the presentation of individuals in a way that, in specific conditions, could encourage their ridicule, social isolation or discrimination on grounds of racial or ethnic origin, nationality, religion and language, among others. It also prohibits the broadcasting of racist, xenophobic and intolerant views, in particular concerning ethnic or religious minorities and other vulnerable population groups.
  - Presidential Decree 109/2010<sup>228</sup> transposing the Audiovisual Media Services Directive provides in Article 7 that audiovisual service providers must ensure that programmes do not give rise to hatred on the grounds of race, sex, religion, beliefs, nationality, disability, age and sexual orientation, and they must also not take advantage of people's superstitions and prejudices.
- b) Measures to encourage dialogue with NGOs with a view to promoting the principle of equal treatment (Article 12 Directive 2000/43 and Article 14 Directive 2000/78)
- Article 15(2) of Equal Treatment Law 4443/2016 entrusts the Economic and Social Council<sup>229</sup> with, *inter alia*, encouraging dialogue with NGOs and representative unions which have a legitimate interest in combating discrimination on the grounds of ethnic or racial origin, religion or beliefs, sexual orientation and disability. However, there is no example of any such initiative on the part of the Economic and Social Council.
  - In December 2013, the Greek Ombudsman established an open communication anti-discrimination network, consisting of civil society organisations. It is actually an attempt to establish an unofficial partnership between the various stakeholders in order to share information and knowledge and to work collectively for the promotion of equality and overall support for these groups of the population. Following the success of the pilot communication between and coordination of specific smaller networks which were set up in the past with regional civil society organisations active in the field of Roma and migrant protection and support, the Greek Ombudsman used its very positive experience by establishing similar networks in 2013 for each ground of discrimination and by unifying them under the umbrella of a single, multi-thematic network. This network aims to raise greater awareness of the role the Ombudsman can play in safeguarding equal treatment and also to familiarise participating bodies and organisations with the existing institutional tools and legislation for combating discrimination.
- c) Measures to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice, workforce monitoring (Article 11 Directive 2000/43 and Article 13 Directive 2000/78)
- In an event held on 9 February 2016, the Ombudsman presented the 'Guide on rights and benefits for vulnerable groups', which was first issued at the end of 2015, as well as the dedicated website [www.synigoros-solidarity.gr](http://www.synigoros-solidarity.gr). Both the guide and the website were created in the context of the European Economic Area-funded programme for

<sup>226</sup> The Journalists' Union of Athens Daily Newspapers have their own Code of Conduct known as the '[Media Code of Ethics](#)'.

<sup>227</sup> The Media Code of Ethics is included in Presidential Decree 77/2003, 'Codex of ethics for news and other media and political broadcasts' (Κώδικας Δεοντολογίας ειδησεογραφικών-δημοσιογραφικών-πολιτικών εκπομπών) (OJ 75 A/28.03.2003).

<sup>228</sup> Greece, Presidential Decree adopting the Media Services Directive (OJ 190 A/05.03.2010).

<sup>229</sup> Constitution, Article 82(3): 'Matters relating to the establishment, operation and competences of the Economic and Social Committee, the mission of which is the conduct of social dialogue for the overall policy of the Country and especially for the orientation of economic and social policy, as well as the formulation of opinions on Bills and law proposals referred to it, shall be specified by law.' The law in force is Law 2232/1994. (It was enacted prior to the 2001 Constitutional Revision, but the new Constitution recognised and upgraded the Committee's competences).



Solidarity and Social Inclusion in Greece (2009-2014). On 7 March 2016, the Ombudsman and the General Confederation of Greek Workers (GSEE) co-signed a cooperation agreement for the promotion and dissemination of the guide, with the assistance of regional and local trade unions.<sup>230</sup>

- During the visit of the Ombudsman to the Island of Lesbos on 27 January 2016, the Ombudsman organised a meeting for an exchange of views and the coordination of actions between the various agencies and groups working to protect unaccompanied and accompanied refugee and immigrant minors. The meeting was attended by 55 representatives from 26 governmental and non-governmental organisations and agencies.<sup>231</sup>

d) Addressing the situation of Roma and Travellers

Law 2667/1998 entrusts the National Commission for Human Rights with encouraging dialogue about human rights with NGOs, representatives of Government ministries, representative unions and, among others, with the Roma community, which also has a seat on the Commission.

Since 2006 the Greek Ombudsman has been participating in the National Working Group of the project 'For Diversity. Against Discrimination', an initiative of the General Directorate of Employment and Equal Opportunities of the European Commission. The aim of the project is to coordinate the actions of national equality bodies and to encourage organisations representing vulnerable groups to become active in collecting information concerning legal developments and good practice. It also aims to raise awareness in the private and public sectors so that civil society stakeholders can more easily combat incidents of unequal treatment.

In 2012 the Greek Ombudsman issued a guide for the municipal authorities regarding the social integration of the Roma. The guide was designed to summarise the views of the Ombudsman and to answer potential questions from local authority employees vis-à-vis marginalised Roma groups.<sup>232</sup> The title of the guide is 'There are Travellers and socially excluded Gypsies/Roma in our municipality: what can we do?' and it contains 12 recommendations concerning: a) the need to record the actual situation locally (whether they are Greek citizens or not and where they come from); b) provision of immediate assistance to Travellers to prevent public health issues; c) ensuring that all children attend school; d) drafting plans for the housing, professional and educational integration of Roma in local communities; e) setting up organised facilities for temporary residence; f) registering Greek Roma in the municipal records; g) combating stereotypes and contributing to the creation of role models, e.g. by giving awards to good students; and h) providing opportunities for vocational training.

In December 2016 it was announced that a Special Secretariat for the Integration of Roma was to be established under the Ministry of Employment, Social Security and Social Solidarity. In 2017 Aikaterini Giantsiou, was appointed Special Secretary for the Integration of the Roma.

There have been no other developments in the field of implementation during 2017.

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<sup>230</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>231</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>232</sup> Greece, Greek Ombudsman (Συνήγορος του Πολίτη) (2012), *Πρακτικός οδηγός για Δημοτικές Αρχές. Υπάρχουν σκηνίτες και κοινωνικά αποκλεισμένοι Τσιγγάνοι/Ρομά στο Δήμο μας Τι μπορούμε να κάνουμε* ('Practical guide for local authorities: There are Travellers and socially excluded Gypsies/Roma in our municipality: what can we do?'), available in Greek at: [www.synigoros.gr/resources/toolip/doc/2012/02/02/romaguide.pdf](http://www.synigoros.gr/resources/toolip/doc/2012/02/02/romaguide.pdf), last accessed on 22 April 2018.

## **8.2 Compliance (Article 14 Directive 2000/43, Article 16 Directive 2000/78)**

### **a) Mechanisms**

According to Article 26 of Law 3304/2005, the Anti-discrimination Law, the special rules of this law prevail over general or conflicting rules. According to Article 18 of Law 3304/2005 the Economic and Social Council is entrusted to (a) draft an annual report on developments with regard to the application of the principle of equal treatment and (b) make suggestions to the Government and to social partners on promoting equal treatment and non-discrimination.

### **b) Rules contrary to the principle of equality**

The Code of Lawyers (Legislative Decree 3026/1954) provided that only Greek nationals could exercise the profession of lawyer (direct discrimination on the basis of nationality). It also provided that only Greek-speaking lawyers up to a maximum of 35 years of age could become members of lawyers' associations. The question of whether the above provision was in conformity with anti-discrimination legislation had been raised by the Committee for Equal Treatment. In 2013, a new Code of Lawyers was adopted through Law 4194/2013<sup>233</sup> and these provisions have since been repealed. Now, EU citizens and foreign nationals may apply to become members of Bar Associations and there is no longer an age limit.

With Circular No 15 from the Ministry of National Defence (12 April 2010),<sup>234</sup> the condition of 'Greek ethnic origin' was removed from the criteria for the admission of students to Greek military academies.<sup>235</sup> This requirement was never included in a legal provision but it used to be repeated in the annual document defining the criteria for the selection of candidates.

There have been no developments in the field of compliance during 2017.

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<sup>233</sup> Greece, Law 4194/2013, Code of Lawyers ('Κώδικας Δικηγόρων'), (O.J. A' 208/27.09.2013).

<sup>234</sup> Circular Number: Φ337.1/144425.

<sup>235</sup> See the call for applications at: [www.geetha.mil.gr/media/anakoinoseis/2010anakoinoseis/15-04orthiepanalipsi\\_EDYETHA/teliko\\_EDYEUA\\_2010.pdf](http://www.geetha.mil.gr/media/anakoinoseis/2010anakoinoseis/15-04orthiepanalipsi_EDYETHA/teliko_EDYEUA_2010.pdf), accessed on 10 October 2015.



## 9 COORDINATION AT NATIONAL LEVEL

### *Authorities responsible for coordinating issues regarding anti-discrimination*

Articles 15 and 16 of Equal Treatment Law 4443/2016 regulate the coordination of anti-discrimination issues on a national level.

In reference to the services for the supervision and promotion of equal treatment, the General Secretariat for Transparency and Human Rights of the Ministry of Justice, within the framework of its jurisdiction for the protection of human rights and the combating of all forms of discrimination, will provide for the promotion of equal treatment. This system is not yet in force, and there is no available information on when it will enter into force. The Social Protection Directorate of the Ministry of Labour will, *inter alia*, monitor the application of anti-discrimination policies in the field of labour and employment, inform employees and employers on issues related to discrimination in the field of employment and raise awareness, as well as providing scientific support to the Labour Inspectorate Body.

In fact, Article 16 requires cooperation amongst all of the aforementioned bodies, as well as with the Economic and Social Committee, the senior union organisations in the private and public sectors, the National Social Solidarity Centre, the National Centre for Social Research, the Centre for Equality Research, the Centre for Disease Control and Prevention and the Central Union of Greek Municipalities, as well as with civil society organisations with expertise on anti-discrimination. In reference to raising awareness and disseminating information, Article 17 stipulates that employers, as well as those in charge of vocational training, shall ensure the application of anti-discrimination provisions and provide the equality bodies with all the necessary information for the promotion of equal treatment, as per their mandate. The union organisations shall inform their members of the content of anti-discrimination provisions, as well as the measures that are carried out for the application and promotion of equal treatment.

### *Information regarding a National Action Plan on anti-racism or anti-discrimination*

There is no anti-racism or anti-discrimination national action plan *per se*. However, the Economic and Social Council (OKE), which is an advisory body based on a tripartite organisational model, draws up an annual report on developments regarding the implementation of Equal Treatment Law 4443/2016 (Article 13(2)) within the framework of its mandate to conduct social dialogue on social policy issues, with special emphasis on the workplace. In addition, it submits proposals to the Government and social partners on the promotion of the principle of equal treatment and the adoption of anti-discriminatory measures, encourages dialogue with representative organisations, including relevant NGOs, and seeks to raise awareness and disseminate information on the applicable legislation and the measures taken in pursuance thereof.

Furthermore, in December 2013, the General Secretariat of Transparency and Human Rights of the Ministry of Justice presented a National Action Plan on Human Rights prepared with the assistance of experts from all the relevant ministries and agencies.<sup>236</sup> The Action Plan specifies the binding framework of priorities and actions of each Ministry and provides opportunities for comments, improvements and criticism from everyone, in order to ensure continual improvements. It also meets the requirements of international organisations. With the production of the National Action Plan on Human Rights, Greece finally presented a specific schedule of activities and initiatives for the protection of human rights. Relevant Government officials have undertaken more specific commitments and priorities for the implementation of the programme. Citizens can gain a full picture of the actions carried out or to be carried out; they can review the actions and omissions and express their

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<sup>236</sup> The National Action Plan on Human Rights.

opinions and suggestions for improvement.

The National Action Plan is mentioned here because it also includes a list of pending policies for combating racial discrimination:<sup>237</sup> the revision of the institutional framework for granting citizenship; simplifying the legislative framework for immigration; drafting a New National Plan for the Integration of Immigrants; action for the proper functioning of the Departments and Bureaus against Racial Violence; systematic recording and processing of racial violence; updating and issuing circulars to deal with racist incidents; creating channels of cooperation between the Greek police and other agencies and special education programmes for staff in management practices in relation to racial phenomena; and organising educational seminars for judges and prosecutors. However, the provisions of this general National Action Plan have been criticised as being abstract.

Article 15 of Law 4356/2015 established a *National Council against Racism and Intolerance (the Council)* as an advisory body to improve the consultation process and cooperation amongst stakeholders as well as to improve services on issues related to preventing and combating racism and intolerance. Article 17 states that the Council is responsible for the harmonisation of national law and policies with international and European regulations and practice, and the development of initiatives throughout the whole public sector in order to achieve the most effective protection of people and groups which are targeted because of their race, colour, national or ethnic origin, descent, social origin, religious or other beliefs, sexual orientation, gender identity or disability. Furthermore, another National Action Plan will be implemented with clear qualitative and quantitative indicators, which will progress through the following stages: a) prioritisation of goals and cost, b) observation and update and c) evaluation, in order to ensure the coordinated combating of racism and intolerance by the State. During 2016 only one meeting of the above National Council has taken place.

There have been no other developments in the field of coordination during 2017.

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<sup>237</sup> The National Action Plan on Human Rights, pp. 167-178.

## 10 CURRENT BEST PRACTICES

### *Best practices concerning Roma integration*

- Following the ECtHR judgments,<sup>238</sup> the Greek Government made some efforts to abolish segregated schools through a national programme for the education of Roma children and through so-called Education Priority Zones. This initiative was taken by the Ministry of Education and Religious Affairs and the programme is co-funded by the EU.<sup>239</sup> It aims to ensure the equitable educational integration of students and, if possible, to remove social and economic barriers to their progress. However, Greece is currently still continuing to fail in securing access to desegregated, inclusive education for all students.
- In December 2011, taking into account the shortcomings of the preceding programming period, the Greek National Strategy for the Social Integration of Roma 2012-2020 has set the following objectives:<sup>240</sup> a systematic and comprehensive inventory and description of the current situation; a review of the rationality of the planning priorities, based on the results of the aforesaid inventory; a redefinition of the priorities in the short, medium and long term, based on the existing needs of the target group and the resources (human and financial) available; the establishment of an administrative mechanism for the integrated management of the national strategy. The primary objective of this Strategy is to end the social exclusion of the Roma and to create the necessary conditions for the social integration of Roma people, whether they are Greek or foreign nationals residing lawfully in Greece. The aforesaid strategic objective is to be served through the guaranteed provision of housing, in such a way that the needs of the Roma target group for acceptable living conditions can be met. This objective was implemented on a short-term basis (2012-2016), and is now being further implemented on a medium-term (2016-2020) and long-term (2020 onwards) basis. During 2013, three local strategic plans for action, in the framework of the above National Strategy, started being implemented on a pilot basis in the regions of Eastern Macedonia and Thrace, Thessalia and Western Greece.<sup>241</sup> Their aim was to provide basic infrastructure for Roma settlements. During 2014, three more regions were included in the Strategy (Epirus, Peloponnesus and Southern Aegean).
- In February 2015, the South Aegean District announced its Business Action Plan<sup>242</sup> which is carried out within the framework of the National Strategy for the Integration of Roma. The South Aegean District strategy constitutes an integrated set of objectives and policies. The policies will derive from the general and special guideline principles which will be adopted by the municipality for its jurisdiction. The drafting of the strategy will be achieved through the identification of pillars and measures. By means of a sectoral analysis of the current situation, the general living conditions of Roma in the South Aegean District will be clarified. For the finalisation of the District Business Plan, a cross-referencing of housing information, through *in situ* visits by

<sup>238</sup> *Sampanis and Others v. Greece*, ECtHR, application No. 32526/05). See also: *Lavida and Others v. Greece* (application No. 7973/10).

<sup>239</sup> The programme is being implemented by the Universities of Thessaloniki and Athens, under the supervision of the Ministry of Education and Religious Affairs, in 84 municipalities with large concentrations of Roma, focusing on regions where primary school integration indicators are low.

<sup>240</sup> The Greek National Strategic Framework for Roma is available at: [www.ec.europa.eu/justice/discrimination/files/roma\\_greece\\_strategy\\_en.pdf](http://www.ec.europa.eu/justice/discrimination/files/roma_greece_strategy_en.pdf).

<sup>241</sup> See, for instance, the relevant information, in Greek, provided during a Parliamentary Audit at: [www.hellenicparliament.gr/Koinovoulftikos-Elenchos/Mesa-Koinovoulftikou-Elegxou?pcm\\_id=254fc12d-5e36-41af-a443-acdd066648bf](http://www.hellenicparliament.gr/Koinovoulftikos-Elenchos/Mesa-Koinovoulftikou-Elegxou?pcm_id=254fc12d-5e36-41af-a443-acdd066648bf), last accessed on 22 April 2018.

<sup>242</sup> Information on the plan is available in Greek at: <http://www.pane.gov.gr/ckfinder/userfiles/files/%CE%95%CE%A0%CE%99%CE%A7%CE%95%CE%99%CE%A1%CE%97%CE%A3%CE%99%CE%91%CE%9A%CE%9F%20%CE%A3%CE%A7%CE%95%CE%94%CE%99%CE%9F%20%CE%A1%CE%9F%CE%9C%CE%91%20%CE%A0%CE%95%CE%A1%CE%99%CE%A6%CE%95%CE%A1%CE%95%CE%99%CE%91%CE%A3%20%CE%9D%CE%9F%CE%A4%CE%99%CE%9F%CE%A5%20%CE%91%CE%99%CE%93%CE%91%CE%99%CE%9F%CE%A5%CE%A6%CE%B5%CE%B2%CF%81%CE%BF%CF%85%CE%AC%CF%81%CE%B9%CE%BF%CF%82%202015.pdf>, last accessed on 22 April 2018.

the drafting team, as well as in-person meetings with stakeholders will also be carried out. The Plan also records the situation in the areas of female occupation, unemployment and entrepreneurship; access to education, student drop-out rates, integration programmes and adult education; access to health services, prevention and health promotion, abusive substances, mental health and health insurance; and families which are eligible for rent subsidies.

*Improvement of procedures on combating racism and intolerance*

Significant progress has been observed during 2016 in the prosecution of racist crimes following the appointment of special prosecutors on racist crimes in Athens and in Piraeus, as the RVRN had been recommending to the authorities since 2012. It is therefore considered that the appointment of special prosecutors in Thessaloniki, Patras and Iraklion (Crete) is a positive step. In practice, the investigation of racist crimes is accelerated when the special prosecutors are in direct contact with the police, thus eliminating the risk of detention of undocumented victims of racist violence and the loss of important evidence.

## 11 SENSITIVE OR CONTROVERSIAL ISSUES

### 11.1 Potential breaches of the directives (if any)

Greece belongs to the majority of Member States which, prior to the adoption of the two directives, did not have a special legislative framework establishing equal treatment and prohibiting discrimination. There do not appear to have been any breaches.

### 11.2 Other issues of concern

Before proceeding to the issue of implementation, it is first important to highlight the lack of case law, which is a permanent problem in Greek legal order, since victims are not usually informed about their rights and civil society is weak compared with other EU Member States. With regard to barriers to justice, the fact that since 30 January 2011, with Ministerial Decision KYA 123827//23-12-2010, the fee which must be paid to the police in order to register a complaint has been increased by 900 % (EUR 100 instead of EUR 10) seems to constitute a deterrent to seeking redress. Moreover, there are no detailed statistics on the cases that reach the courts, since each court has to compile its own data, without standardised criteria. Dealing with this issue is crucial for evaluating the practical implementation of Law 4443/2016.

#### *Identified issues within the text of Law 4443/2016*

- The new law does not improve the protection framework – with the exception of very limited cases (i.e. reasonable accommodation, the role of the Ombudsman, multiple discrimination) – and under no conditions does it promote the homogeneity of the various fields of protection. To a certain extent, this undermines the overall attempt to reform the law; any improvement is only on a legal or technical level, making it nearly impossible to discern the point of such a radical change. The new law does not improve the level of protection from discrimination because it does not establish any new criminal sanctions, even though the Directives call for the adoption of effective, proportionate and dissuasive sanctions (something that does not apply even in the case of administrative sanctions imposed by the Labour Inspectorate Body). The new law fails to resolve discrepancies in the Civil Code, i.e. the lack of provisions linking non-discrimination law to actions for damages.
- There is concern about the application of the principle of equal treatment in Greece, especially during the economic crisis, since many of the austerity measures adopted in Greece (mostly in relation to labour and social security) are age-related (such as the extension of the number of years in employment to reach a specific age limit). These measures involve unfavourable treatment based solely on age, since they reduce access by younger generations to employment, introducing direct, non-justifiable discrimination and thus violating Directive 2000/78/EC.<sup>243</sup> In some cases indirect gender discrimination and multiple indirect discrimination on the grounds of gender and age are possible as, for example, most pension beneficiaries under 55 are women who have retired with fewer years of service due to the fact that they had children, which is also noted by the ILO as being a situation of indirect discrimination.<sup>244</sup>
- Attention should be given to combating stereotypes and prejudice against older people which lead to discrimination against them (ageism). This phenomenon is associated with viewing older people as ‘non-people’ or not the same people as they were before, or as people in a separate and lower category merely because they have already passed through particular life stages. The negative impact of these

<sup>243</sup> Σ. Κουκούλη-Σπηλιωτοπούλου, *Μέτρα λιτότητας στην Ελλάδα και ανθρώπινα δικαιώματα*, ΕΔΚΑ 2014, σελ. 194 και επ., (Spiliotopoulou, S. (2014) ‘Austerity measures in Greece and human rights: judgments of international bodies, EU Law and examples of Greek jurisprudence’, in *Review of social security law 2014*), at pp. 173, 181, 182 and 189.

<sup>244</sup> ILO (2011), *Report on the High Level Mission to Greece (Athens, 19-23 September 2011)*, paragraphs 1-8.

stereotypes on older people's enjoyment of their fundamental rights should not be underestimated.

#### *Identified issues related to the equality body*

- Equal Treatment Law 4443/2016 established the Ombudsman as the sole equality body. This change was introduced in order to address a procedure which was initiated by the European Commission in 2014 on the possible breach of Directive 2000/43/EC of the Council. The breach concerned the effectiveness and independence of the previous equality bodies under Law 3304/2016 during the exercise of their special jurisdiction as bodies tasked with promotion and supervision of the principle of equal treatment. In its 2015 Annual Report,<sup>245</sup> the Ombudsman considered it necessary to expand its jurisdiction so as to include all fields covered by Directive 2000/43/EC, i.e. issues of discrimination in both the private and public sectors, given that it is currently the only equality body with significant experience on such issues.

#### *Recommended steps for effective implementation of anti-discrimination measures*

Therefore, the key issues for Greece in the anti-discrimination field can be summarised as follows:

- 1) The Codes of Procedure should be amended in order to provide for the *locus standi* of the Ombudsman as a third party before civil or administrative courts or as a civil party before criminal courts.
- 2) Extension of the *ratione temporis* 'jurisdiction' of the Ombudsman over cases which have been filed in the courts until the first hearing of the case or the issuing of interim measures. Given that a complaint submitted to the Ombudsman does not suspend the deadlines for judicial remedies, if the mediation of the Ombudsman is not fruitful, the discrimination victim could be deprived of their right to judicial protection. This extension might encourage discrimination victims to have recourse to the Ombudsman and limit the number of potential cases before the courts, a procedure which is more time-consuming and costly.
- 3) Systematic monitoring by the Ombudsman, in cooperation with the Labour Inspectorate, the Department for Equal Opportunities of the Ministry of Labour and the Organisation for Mediation and Arbitration (*Οργανισμός Μεσολάβησης και Διαιτησίας, ΟΜΕΔ*) of developments in employment and occupation, collective agreements, codes of ethics and practices regarding combating discrimination.
- 4) Creation, within the Economic and Social Council, of a permanent consultative body, composed of representatives of NGOs and organisations in general, with the participation of the Ombudsman, tasked with carrying out, together with the plenary body of the Economic and Social Council, a social dialogue on equal treatment.

In addition, legislative amendments should be introduced in order to resolve the following issues:

- The requirements for the legal standing of NGOs before the courts should become less strict.
- Modifications must be made to the administrative Code of Procedure relating to the burden of proof.
- Provision should be made for penalties of imprisonment for all the areas of discrimination protected by the Anti-discrimination Law.

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<sup>245</sup> Greek Ombudsman, 2015 Annual Report (*Συνήγορος του Πολίτη, Ετήσια Έκθεση 2015*), available in Greek at: [www.synigoros.gr/resources/docs/ee2015-00-stp.pdf](http://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf), last accessed on 22 April 2018.

## 12 LATEST DEVELOPMENTS IN 2017

### 12.1 Legislative amendments

On 13 September 2017, Law 4488/2017<sup>246</sup> became part of Greek statute. It includes, *inter alia*, a series of very important provisions regarding the rights of persons with disabilities in Greece. The new legislation on the protection of the rights of persons with disabilities (addressed to all stakeholders including government bodies and private employers) introduces a series of reforms designed to promote their equal treatment and full enjoyment of fundamental rights, as well as facilitating their lives and daily routine. At the same time, the new regulations promote their treatment not as persons with needs but as persons with potential, which the state must recognise in order to allow them to gain access to every aspect of social and economic life.

In this context, the new arrangements seek to specify, clarify and assist the implementation of the provisions of the United Nations Convention on the Rights of Persons with Disabilities. Any natural person or public organisation in the wider public or private sector is required to facilitate the equal exercising by persons with disabilities of their rights in their respective fields of competence or activity by taking all appropriate measures and refraining from any action which may affect the exercising of those rights. In particular, they are required: (a) to remove any existing barriers, (b) to observe the principles of universal design in all areas of their competence or activity in order to ensure that persons with disabilities have access to the infrastructure, services or goods they offer, (c) to provide, where necessary in a specific case, reasonable adjustments in the form of tailor-made and appropriate modifications, arrangements and appropriate measures, without imposing disproportionate or unjustified burdens, d) to abstain from practices, habits and behaviours which discriminate against disabled people, and (e) to promote, through positive measures, the equal participation and exercise of the rights of persons with disabilities in the area of their competence or activity. Special sanctions are not provided, but general obligations (such as 'breach of duty' regarding public authorities) may be applied. The obligations to remove barriers and to adopt positive measures are equally important.

The new rules provide the relevant definitions ('disabled people', 'adjustments', etc.) and guidelines for the equal exercise of the rights of people with disabilities and the mainstreaming of disability in all public policies. The Minister for Territorial Coordination has been appointed to provide the coordinating mechanism for monitoring all issues related to the rights of persons with disabilities. Law 4488/2017 also establishes the General Secretariat for Transparency and Human Rights of the Ministry of Justice, Transparency and Human Rights as a focal point of reference for issues related to the implementation of the CRPD; a secretary general or administrator at each ministry as a point of reference for monitoring the implementation of the Convention in each sector of governmental competence; and the Ombudsman, the constitutionally established Independent Authority, as the Framework for the Promotion of the Implementation of the Convention (Promotion Framework).

### 12.2 Case law

**Name of the body:** Greek Ombudsman

**Date of opinion:** 23 May 2017 (date when publicised)

**Reference number:** 219866/36437/2016

**Web page:** <https://www.synigoros.gr/?i=equality.el.imageworkpublic.429075>

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<sup>246</sup> Greece, Law 4488/2017 on provisions for pensions in the public sector and various insurance provisions, on strengthening of protection of employees, on rights of persons with disabilities and other provisions (*Νόμος 4488/2017 «Συνταξιοδοτικές ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων, δικαιώματα ατόμων με αναπηρίες και άλλες διατάξεις»*) (OJ A 137/13.9.2017).

**Brief summary:** On 23 May 2017, the Greek Ombudsman published an example of its successful intervention as an equality body on its website. The case concerned age discrimination in the publication of a call for applications to a post at a municipal benefit enterprise. In 2016 a referral had been submitted concerning the prerequisite of an age limit of 60 for anyone wishing to apply for a position as a member of educational/artistic staff (i.e. a music instructor) at the Benefit Enterprise of the Municipality of Oropos (KEDO) under an hourly-paid fixed-termed contract. The Ombudsman, being a body responsible for promoting the principle of equality, intervened at the appropriate point in the case in relation only to violations of this principle by the public authorities (under Law 3304/2005, already replaced by new anti-discrimination Law 4443/2016). The Ombudsman contacted KEDO and highlighted that the introduction of an upper age limit as a prerequisite for employment or work is generally prohibited, and can exceptionally be permitted only under specific and strict circumstances and following a clear and exact justification. The Ombudsman requested that KEDO consider 'lifting' (i.e. raising) this age limit, given that there is no specific reason requiring it to be maintained. KEDO responded immediately to the Ombudsman's intervention in October 2016, revised the call for applications so as to eliminate the age limit and established a new one at 67 years, which is the general retirement age limit.

**Name of the body:** Greek Ombudsman

**Date of opinion:** 5 July 2017

**Reference number:** 224709/29398/2017

**Web page:** Not available

**Brief summary:** The Greek Ombudsman received a referral (File No. 224709), jointly submitted by the non-profit organisation 'Solidarity Now' and the civil non-profit organisation 'Generation 2.0 RED'. The subject concerned the limitation of the insurance rights of third-country nationals and their family members. Secondary beneficiaries regarded as 'protected family members' who are therefore offered health services by the relevant insurance bodies are limited to the children of third-country nationals up until the age of 18 years. This means that third-country nationals may extend their insurance so as to cover their children under the age of 18 but no other family members. However, for other categories of insured persons (i.e. Greek nationals and EU citizens), family members covered by a person's insurance include children over the age of 18, as well as parents, grandchildren and siblings, as long as they satisfy the criteria set by the legal framework in order to be characterised as 'protected family members'. The Greek Ombudsman found the specific insurance provisions to be discriminatory as they inadvertently lead to an evident and incoherent restriction of the scope of beneficiaries of insurance rights and the rights of the primary insurance beneficiary who is a third-country national in comparison with the insurance benefits enjoyed by a Greek national or an EU citizen, even though they all pay the same contributions without distinction.

According to the Greek Ombudsman, the provisions of the applicable insurance legislation arbitrarily exclude children over 18 years and family members of primary insurance beneficiaries who are third-country nationals from relevant benefits which are nevertheless awarded to the protected family members of Greek nationals and EU citizens, who are dependent on the primary beneficiary and who satisfy the criteria set by insurance law (e.g. unemployed family members or those incapable of work). However, this practice leads to the different treatment of insurance beneficiaries who are third-country workers, since it limits the scope of benefits which are available to their protected family members, based solely on both their ethnicity and ethnic origin, without any justification for such a deviation from the (in principle) equal reciprocal character of insurance contributions paid by all primary insurance beneficiaries, irrespective of any characteristics they may bear (e.g. racial, ethnic or national). The Ombudsman contacted the relevant ministry requesting that it amend the legislation. The law is to be amended by a bill to be introduced to Parliament.



## **Trends and patterns concerning Roma and Travellers**

According to the Ombudsman's 2016 Report,<sup>247</sup> the Roma are far from being fully integrated into Greek society. More measures need to be taken in order to ensure effective access to education, housing, health and employment.

Specific data on discrimination issues have not been released by the Greek Ombudsman for the year 2017.

A number of relocation schemes for Roma settlements are still in motion, most of which are in practice taking place in order to remove existing Roma settlements from urban areas. Moreover, the settlements are relocated to isolated areas, which render nearly impossible any enjoyment of dignified living conditions, on the one hand, and access to education, health services and employment, on the other.

### *Access to goods and services*

The modernisation of procedures for the enjoyment of access to goods and services seeks to enhance and improve the manner in which services are supplied. Yet these modernisation attempts fail to take into account the delicate position of vulnerable groups, such as the Roma, who are not familiar with modern internet services or who are generally illiterate. A supportive institution should be established which will cooperate with municipal services providers to provide services to vulnerable groups, including the Roma.

### *Access to employment*

Given that, according to indisputable research, among a large portion of the Roma community there are high drop-out rates from school as well as illiteracy, this could lead indirectly to their exclusion from employment which does not require specialist skills other than a high-school education. Access to employment, therefore, can only be achieved through better access to education.

### *Access to education*

Access to education still remains a prevailing issue for the Roma community. The education of Roma children does not seem to be given due consideration when planning solutions for the relocation of Roma settlements and ensuring easy access to the education process does not seem to constitute a strategic goal. Indicative of this is the case of the Agia Sofia settlement, near Thessaloniki. For children living in the settlement and enrolled at a primary school outside the settlement, it looked as though, despite the fact that their families had gone through the procedures to enrol them at school and their positive attitude, there were some problems. For example, for a long period of the school year 2013-2014 they did not attend school because the issue of their transportation to school had not been resolved. In the end, the pupils were enrolled at other schools for which transportation had been arranged and provided. Unfortunately, at the beginning of the year 2014-2015, the same transportation issue re-emerged, affecting not only the pupils living in the settlement but a large number of other pupils who were in need of transport. This issue was not resolved by the start of the new school year 2016-17.

The investigation of referrals submitted to the Greek Ombudsman in 2016<sup>248</sup> regarding the education of Roma children demonstrated that the issue of the educational exclusion of Roma children still remains unresolved and complicated, even though the State, through

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<sup>247</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

<sup>248</sup> Greek Ombudsman, 2016 Annual Report (Συνήγορος του Πολίτη, Ετήσια Έκθεση 2016), available in Greek at: <https://www.synigoros.gr/resources/ee2016-14-diakriseis.pdf>, last accessed on 22 April 2018.

numerous declarations and efforts, has carried out educational and support programmes in order to attract and maintain Roma children in school.

Furthermore, it should be mentioned that, according to Amnesty International's Annual Report<sup>249</sup> for 2015 on the situation of human rights in all States worldwide, including Greece, which was published on 23 February 2016, many Roma children were excluded from or segregated in education. Such cases have been recorded in many areas of Greece, including Aspropyrgos, Sofades and Karditsa. In spite of the ECHR decision in the *Lavida v. Others* case, Roma children remained in a segregated school in Sofades, a small town in Central Greece, even in 2017.

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<sup>249</sup> The findings of the report concerning only Greece is available in Greek at: [www.amnesty.gr/news/ektheseis/article/20216/etisia-ekthesi-2015-ellada](http://www.amnesty.gr/news/ektheseis/article/20216/etisia-ekthesi-2015-ellada), last accessed on 22 April 2018.

## ANNEX 1: TABLE OF KEY NATIONAL ANTI-DISCRIMINATION LEGISLATION

The **main transposition and anti-discrimination legislation** at both federal and federated/provincial level.

**Country:** Greece  
**Date:** 1 January 2018

<b>Title of legislation (including amending legislation)</b>	<p>Title of the law: Law 4443/2016 'On the transposition of Directive 43/2000/EC on the application of the principle of equal treatment irrespective of race and ethnic origin, and the transposition of Directive 78/2000/EC on the configuration of the general framework of equal treatment in employment and work'</p> <p>Abbreviation: Equal Treatment Law 4443/2016</p> <p>Date of Adoption: 02.12.2016</p> <p>Entry into force: 09.12.2016</p> <p>Latest amendments: none</p> <p>Web link:  <a href="http://www.parliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=246e2286-a8e1-4283-95c0-a6b901169a95">http://www.parliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=246e2286-a8e1-4283-95c0-a6b901169a95</a> (in Greek)</p> <p>Grounds covered: racial or ethnic origin, descent, colour, language, religious or other beliefs, disability or chronic illness, age, family or social status, sexual orientation, gender identity or characteristics</p> <p>Civil, administrative and criminal law</p> <p>Material scope: Public employment, private employment, access to goods or services (including housing), social protection, social advantages, education</p> <p>A) Public employment, private employment (as far as discrimination concerns grounds of racial or ethnic origin, religion or other beliefs, disability, age or sexual orientation) . B) Access to goods or services (including housing), social protection, social advantages, education (as far as discrimination concerns only grounds of ethnic or racial origin)</p> <p>Principal content: Prohibition of direct and indirect discrimination, harassment, instruction to discriminate or creation of a specialised body</p> <p>Explicit non-discrimination legislation concerning prohibition of direct and indirect discrimination, harassment, instruction to discriminate and creation of equality bodies for the enforcement of equal treatment</p>
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<b>Title of legislation (including amending legislation)</b>	<p>Title of the law: Law 927/1979 on punishing acts or activities aiming at racial discrimination.  Abbreviation: Anti-racist penal Law 927/1979  Date of adoption: 22.06.1979  Latest amendments: Law 1414/1984 and Law 4285/2014  Entry into force: 26.06.1979  Web link:  <a href="http://www.scribd.com/doc/99525792/%CE%9D-927-1979-%CE%A6%CE%95%CE%9A-139-1979-%CF%84%CE%B5%CF%8D%CF%87%CE%BF%CF%82-%CE%91-%CE%A0%CE%B5%CF%81%CE%B9-%CF%80%CF%81%CE%B1%CE%BE%CE%B5%CF%89%CE%BD-%CE%B7-%CE%B5%CE%BD%CE%B5%CF%81%CE%B3%CE%B5%CE%B9%CF%89%CE%BD-%CF%86%CF%85%CE%BB%CE%B5%CF%84%CE%B9%CE%BA%CF%89%CE%BD-%CE%B4%CE%B9%CE%B1%CE%BA%CF%81%CE%B9%CF%83%CE%B5%CF%89%CE%BD">http://www.scribd.com/doc/99525792/%CE%9D-927-1979-%CE%A6%CE%95%CE%9A-139-1979-%CF%84%CE%B5%CF%8D%CF%87%CE%BF%CF%82-%CE%91-%CE%A0%CE%B5%CF%81%CE%B9-%CF%80%CF%81%CE%B1%CE%BE%CE%B5%CF%89%CE%BD-%CE%B7-%CE%B5%CE%BD%CE%B5%CF%81%CE%B3%CE%B5%CE%B9%CF%89%CE%BD-%CF%86%CF%85%CE%BB%CE%B5%CF%84%CE%B9%CE%BA%CF%89%CE%BD-%CE%B4%CE%B9%CE%B1%CE%BA%CF%81%CE%B9%CF%83%CE%B5%CF%89%CE%BD</a>  (in Greek)  Grounds covered: Race or ethnic origin, religion</p> <p>Criminal law</p> <p>Material scope: General material scope</p> <p>Principal content: Within the scope of this law, anyone who publicly, orally or in writing or through pictures or any other means, intentionally incites people to perform acts or carry out activities which may result in discrimination, hatred or violence against other persons or groups of persons on the sole ground of the latter's racial or ethnic origin or religion may be punished.</p>
<b>Title of legislation (including amending legislation)</b>	<p>Title of the law: Law 1414/1984 on the implementation of the principle of sex equality in employment relations and other provisions  Abbreviation: None  Date of adoption: 30.01.1984  Latest amendments: Law 4285/2014  Entry into force: 02.02.1984  Web link:  <a href="http://www.gsee.gr">http://www.gsee.gr</a>  (in Greek)  Grounds covered: Sex</p> <p>Civil law</p> <p>Material scope: Private employment</p> <p>Principal content: Combating sex discrimination in occupation and employment, vocational training, access to occupation. The scope of this law is restricted only to persons who work in the private sector. As regards family allowance, Art. 4(5) provides that it may be entirely granted to both spouses.</p>
<b>Title of legislation (including amending legislation)</b>	<p>Title of the law: : Law 4139/2013, 'Narcotic Acts and other provisions'  Abbreviation: None  Date of adoption: 19.03.2013  Latest amendments: None  Entry into force: 20.03.2013  Web link:  <a href="http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=YTYbJcYuEkI%3D&amp;tabid=132">http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=YTYbJcYuEkI%3D&amp;tabid=132</a>  Grounds covered: Racial or ethnic origin, religion or other beliefs, disability, age sexual orientation, gender identity</p> <p>Criminal law</p>

	<p>Material scope: General material scope</p> <p>Principal content: The new Law 4139/2013 amends Article 79(3) of the Penal Code introduces more severe punishment of bias motivation for crimes against groups susceptible to discrimination.</p>
<b>Title of legislation (including amending legislation)</b>	<p>Title of the law: Law 4285/2014 on amendment of 927/1979 and its adjustment to the decision-framework 2008/913/JHA of 28<sup>th</sup> November 2009, for combating certain forms and manifestations of racism and xenophobia through criminal law and other provisions</p> <p>Abbreviation: Antiracist Law</p> <p>Date of adoption: 09.09.2014</p> <p>Latest amendments: None</p> <p>Entry into force: 10.09.2014</p> <p>Web link: <a href="http://www.hellenicparliament.gr/UserFiles/bcc26661-143b-4f2d-8916-0e0e66ba4c50/%20t-l328-pap.pdf">http://www.hellenicparliament.gr/UserFiles/bcc26661-143b-4f2d-8916-0e0e66ba4c50/%20t-l328-pap.pdf</a></p> <p>Grounds covered: Racial or ethnic origin, religion or other beliefs, disability, sexual orientation</p> <p>Criminal law</p> <p>Material scope: General material scope</p> <p>Principal content: The new anti-violence Law amends the previous anti-racist Law 927/79 by specifically including all grounds of discrimination, except age. Article 10 of the new law removes the last sentence of Paragraph 3 of Article 79 of the Penal Code, on aggravating circumstances for racist crimes and introduces Article 81A which increases the minimum penalties for misdemeanours and felonies committed due to hatred bias.</p>
<b>Title of legislation (including amending legislation)</b>	<p>Title of the law: Law 4356/2015 on civil partnership, exercise of rights, penal and other provisions.</p> <p>Abbreviation: None</p> <p>Date of adoption: 24.12.2015</p> <p>Latest amendments: None</p> <p>Entry into force: 24.12.2015</p> <p>Web link: <a href="http://www.ministryofjustice.gr/site/Portals/0/uploaded_files/uploaded_15/N_4356.pdf">http://www.ministryofjustice.gr/site/Portals/0/uploaded_files/uploaded_15/N_4356.pdf</a></p> <p>Grounds covered : Racial or ethnic origin, religion or belief, disability, age, sexual orientation, colour, descent and gender identity</p> <p>Criminal law</p> <p>Material scope : Access to good and services</p> <p>Principal content: Law 4356/2015 introduced Article 29 of Law 4356/2015 which punishes perpetrators who treat others with contempt by refusing to provide them with services and goods based on grounds of race, colour, national or ethnic origin, descent, religious or other beliefs, sexual orientation, gender identity, or disability, thus expanding the grounds covered in the field of services and goods.</p>

## ANNEX 2: TABLE OF INTERNATIONAL INSTRUMENTS

**Country:** Greece  
**Date:** 1 January 2018

<b>Instrument</b>	<b>Date of signature (if not signed please indicate) Dd.mm. yyyy</b>	<b>Date of ratification (if not ratified please indicate) Dd.mm. yyyy</b>	<b>Derogation s/ reservation s relevant to equality and non- discrimination</b>	<b>Right of individual petition accepted?</b>	<b>Can this instrument be directly relied upon in domestic courts by individuals?</b>
European Convention on Human Rights (ECHR)	19.09.1974	20.09.1974	No	Yes	Yes
Protocol 12, ECHR	04.11.2000	No	No	No, because Greece has not ratified the relevant Protocol	No, because Greece has not ratified the relevant Protocol
Revised European Social Charter	03.05.1996	20.01.2016	Yes <sup>250</sup>	Ratified collective complaints protocol? Yes, the Protocol has been ratified.	No
International Covenant on Civil and Political Rights	16.12.1966	26.02.1997	Yes	Yes	Yes
Framework Convention for the Protection of National Minorities	22.09.1997	No	No	No, because Greece has not ratified the relevant Protocol	No
International Covenant on Economic, Social and Cultural Rights	19.12.1966	19.03.1985	No	No, because Greece has not ratified the relevant Protocol	Yes
Convention on the Elimination of All Forms of	07.03.1966	21.03.1970	No	No	Yes

<sup>250</sup> The reservation concerns teaching of the mother language of migrant workers who live legally in Greece.

<b>Instrument</b>	<b>Date of signature (if not signed please indicate) Dd.mm. yyyy</b>	<b>Date of ratification (if not ratified please indicate) Dd.mm. yyyy</b>	<b>Derogations/ reservations relevant to equality and non-discrimination</b>	<b>Right of individual petition accepted?</b>	<b>Can this instrument be directly relied upon in domestic courts by individuals?</b>
Racial Discrimination					
Convention on the Elimination of Discrimination Against Women	02.03.1982	01.04.1983	No	Yes	No
ILO Convention No. 111 on Discrimination	25.06.1958	14.03.1984	No	No	Yes
Convention on the Rights of the Child	16.01.1990	02.12.1992	No	No, because Greece has not ratified the relevant Protocol	Yes
Convention on the Rights of Persons with Disabilities	30.03.1997	11.04.2012	Yes <sup>251</sup> (armed forces and law enforcement agencies)	No	Yes

<sup>251</sup> According to Article 2 of this Law, the provisions of Article 27(1) of the Convention do not apply to the armed forces and law enforcement agencies with regard to differential treatment due to disability as provided for in Article 8(4) of Law 3304/2005 on the implementation of equal treatment pursuant to Articles 3(4) and 4 of Directive 2000/78/EC.

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