

*Atlantic  
Ocean*

*North Sea*

*Bay  
of  
Biscay*

**NATIONAL INTEGRITY  
SYSTEM ASSESSMENT  
GREECE**

*Black Sea*

*Mediterranean Sea*

Transparency International (TI) is the global civil society organisation leading the fight against corruption. Through more than 90 branches worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

Transparency International-Greece (TI-G), the Greek chapter of the organisation, aims to make citizens aware of the risks of corruption within Greece. Through the promotion of legal and institutional reforms at national level, the development of practical measures and tools and the use of its specialised knowledge, TI-G motivates organisations, businesses and people to contribute to the eradication of corruption.

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## ABBREVIATIONS

**ACA** Anti-Corruption Agencies

**ACCI** Athens Chamber of Commerce & Industry

**ADEDY** Supreme Administration of Civil Servants' Trade Unions

**AED** Supreme Special Court

**AP** Supreme Court

**APOPLOUS** "Principles of Attachment to the Quality of Operation and Organisation Serving Our Aims"

**ASE** Athens Stock Exchange

**BA** Bachelor's Degree

**POESY** Pan-Hellenic Federation of Journalists' Unions

**CBR** Code of Books and Records

**CL** Compulsory Law

**DEI** Public Power Corporation of Greece

**DEY** Directorate of Internal Affairs of Hellenic Police

**DHSY** Democratic Alliance Party

**DSA** Athens Bar Association

**ECB** European Central Bank

**ECJ** European Court of Justice

**ELAS** Hellenic Police

**ELTA** Hellenic Post Office

**EMU** Economic and Monetary Union

## ABBREVIATIONS

**ES** Court of Audit

**ESDDA** National School for Public Administration & Local Administration

**ESIEA** Union of Journalists of Daily Newspapers of Athens

**ESIEMTH** Union of Journalists of Daily Newspapers of Macedonia-Thrace

**EU** European Union

**GDP** Gross Domestic Product

**GEDD** General Inspector of Public Administration

**GP** General Partnership

**IMF** International Monetary Fund

**KPD** Code of Criminal Procedure

**LAOS** Popular Orthodox Rally

**LCS** Legal Council of State

**LP** Limited Partnership

**Ltd** Limited Company

**MD** Ministerial Decision

**NCRTV** National Council for Radio and Television

**ND** New Democracy

**NGO** Non-Governmental Organisation

**NIS** National Integrity System

**OECD** Organisation for Economic Co-operation and Development

## ABBREVIATIONS

**OSCE** Organisation for Security and Co-operation in Europe

**PASOK** Panhellenic Socialist Movement

**PD** Presidential Decree

**S.A.** Societti Anonyme

**SC** Special Court

**SDOE** Financial and Economic Crime Unit

**SEEDD** Corps of Inspectors-Auditors of Public Administration

**SEV** Hellenic Federation of Enterprises

**SOEE** Inspections – Controls Coordinative Body

**StE** Council of State

**SYRIZA** Coalition of the Radical Left Party

**TI** Transparency International

**TI-Greece** Transparency International-Greece

**UN** United Nations

**VAT** Value Added Tax

**YDAS** Directorate General of the International Developmental Cooperation

**YPOADIE** Financial Police and Electronic Crime Prosecution Agency

**ERT** Greek Radio Television S.A.

**ENAE** Union of Prefectural Administrations of Greece

## ABBREVIATIONS

**IKA** Social Security Institute

**KKE** Communist Party of Greece

**OEK** Workers' Housing Organisation

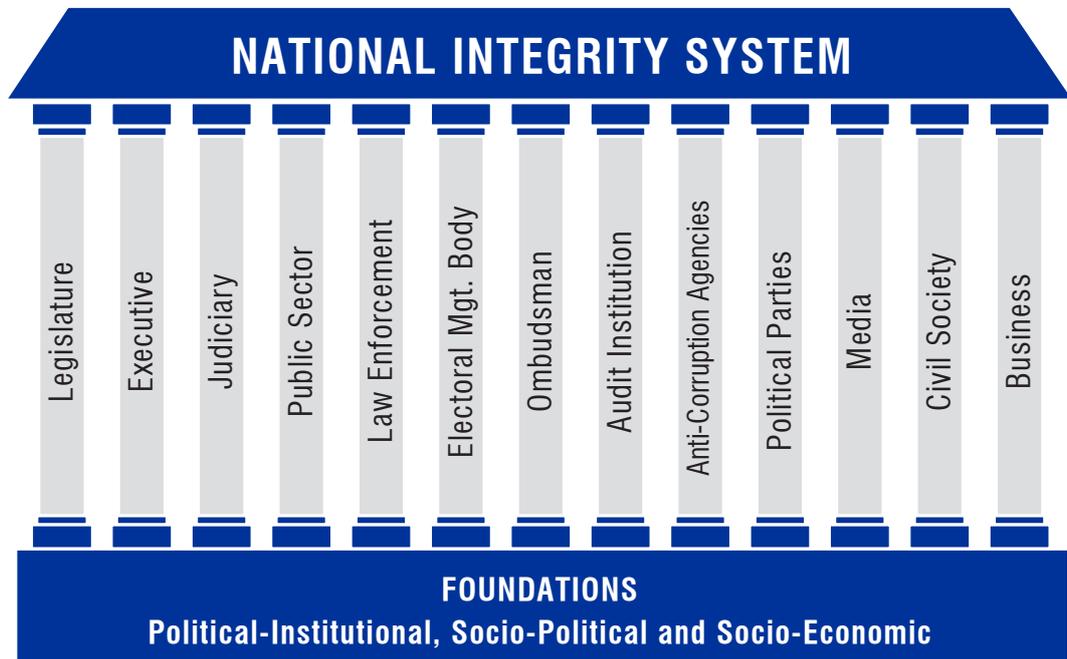
**OTE** Hellenic Telecommunications Organisation

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## ABOUT THE NIS ASSESSMENT – RESEARCH METHODOLOGY



A series of high profile corruption cases in the private and public sector has highlighted the urgent need to confront corruption in Europe. Corruption undermines good governance, the rule of law and fundamental human rights. It deceives citizens, becomes harmful to the private sector and distorts financial markets. Seventy eight per cent (78%) of Europeans surveyed for the EU Commission’s 2009 Eurobarometer believed that corruption is a major setback for their country. This report is part of a pan-European anti-corruption initiative supported by the DG Home Affairs of the European Commission. This initiative aims to systematically assess the National Integrity Systems (NIS) of 25 European States, and to advocate for sustainable and effective reform, as appropriate, in different countries.

The National Integrity System assessment approach used in this report provides a framework to analyse the effectiveness of a country’s institutions in preventing and fighting corruption. A well-functioning NIS safeguards against corruption and contributes to the larger struggle against the abuse of power, malfeasance and misappropriation in all its forms. When the NIS institutions are portrayed by the appropriate regulations and accountable behaviour corruption is less likely to thrive. This causes positive knock-on effects for the goals of good governance, the rule of law and the protection of fundamental human rights. Strengthening the NIS promotes better governance across all parts of society, and ultimately contributes to a more just society overall.

Given that corruption is the source of numerous malfunctions in Greece, the holistic assessment of the National Integrity System (NIS), which is carried out for the first time, is of special interest both for TI-Greece and for the country itself. Greece suffers from abundant corruption mainly in the public sector, which not only devastates the well-being of citizens, but does also have a negative impact on the country’s image in the international scene. As a consequence, it is not only the relevant legal framework that needs to be amended, but above all the mentality that preserves corruption.

The TI-Greece NIS report addresses 13 “pillars” or institutions believed to make up the integrity system of the country. Namely:

Government	Public sector	Non-governmental
Legislature	Public Administration	Media
Executive	Law Enforcement Agencies	Civil Society
Judiciary	Electoral Management Body	Political Parties
	Ombudsman	Business
	Electoral Management Body	
	Anti-corruption Agencies	

Notably, in the case of Greece the “pillars” of Law Enforcement and Anti-Corruption Agencies are examined together under the “pillar” Anti-Corruption Agencies, due to their close interlinkages. As a result, a total of 12 pillars will be examined in this report. Furthermore, it should be mentioned that in the case of Greece each “pillar” does not necessarily concern a single institution; quite a few pillars examine multiple institutions, given that it is possible that more than one institution retains accountability in the relevant field.

Each institution is assessed along three dimensions that are essential to its ability to prevent corruption: First, its overall **capacity** in terms of resources and legal status, which underlies any effective institutional performance. Second, its internal **governance** regulations and practices, focusing on whether the institution is transparent and accountable, and acts with integrity; all the aforementioned are crucial elements to preventing the institution from engaging in corruption. Thirdly, the extent to which the institution fulfils its assigned **role** in the anti-corruption system, such as providing effective oversight of the government (for the legislature) or prosecuting corruption cases (for the law enforcement agencies). These three dimensions cover the institution’s ability to act (capacity), its internal performance (governance) and its external performance (role) with regard to the commission of fighting corruption.

Each dimension is measured by a common set of indicators. The assessment examines both the legal framework of each pillar as well as its actual institutional practice, thereby highlighting discrepancies between the formal provisions and reality on the ground.

Dimension	Indicators (law, practice)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within governance system	Between 1 and 3 indicators, specific to each pillar

The assessment does not seek to offer an in-depth evaluation of each pillar, but a broad span that covers a wide number of indicators across all relevant pillars in order to gain a view of the overall system. The assessment also looks at the interactions between institutions to understand why some are more robust than others and how they influence each other. The NIS presupposes that weaknesses in a single institution could lead to serious flaws in the entire system. Understanding the interactions between pillars also helps to prioritize areas for reform. In order to take account of important contextual factors, the evaluation of the governance institutions is embedded in a concise analysis of the overall political, social, economic and cultural conditions, the foundations of these pillars.

## Methodology

The NIS assessment is a qualitative research tool based on a combination of desk research, in-depth interviews and, optionally, field tests. The relevancy and accuracy of the final assessment is ensured through validation-revision of the conclusions by every involved and interested party. A final process of external validation and engagement with key stakeholders ensures that the findings are as relevant and accurate as possible before the assessment is published.

The assessment is guided by a set of “indicator score sheets” developed by the TI-Secretariat. The sheets consist of a “scoring question” for each indicator, supported by further guiding questions and scoring guidelines for the minimum, mid-point and maximum scores. For example:

<b>Sample indicator score sheet: Legislature Capacity – Independence (law)</b>	
Scoring question	To what extent is the legislature independent and free from subordination to external actors by law?
Guiding questions	Can the Parliament be dismissed? If yes, under which circumstances? Does the Parliament control its own agenda? Does it control the appointment/election of the Speaker and the appointments to committees? Can the legislature determine its own timetable? Can the Parliament appoint its own technical staff? Does the police require special permission to enter the Parliament?
<b>Scoring guidelines</b>	
Minimum score (0)	There are no laws which seek to ensure the independence of the legislature.
25	
Mid-point score (50)	While a number of laws/provisions exist, they do not cover all aspects of legislative independence and/or some provisions contain loopholes.
75	
Maximum score (100)	There are comprehensive laws seeking to ensure the independence of the legislature.

In total the assessment includes over 150 indicators, approximately 12 indicators per pillar. The guiding questions for each indicator were developed by examining international best practices, existing assessment tools for the respective pillar as well as using TI’s own experience, and by seeking input from international experts on the respective institution. The indicator score sheets provide guidance to the researcher, but when appropriate TI-Greece has provided additional information or left some questions unanswered, as not all guidance is relevant to the context of Greece. Due to the wide scope of the NIS assessment, the analysis of each pillar is necessarily brief and in some cases the research reveals a need for further in-

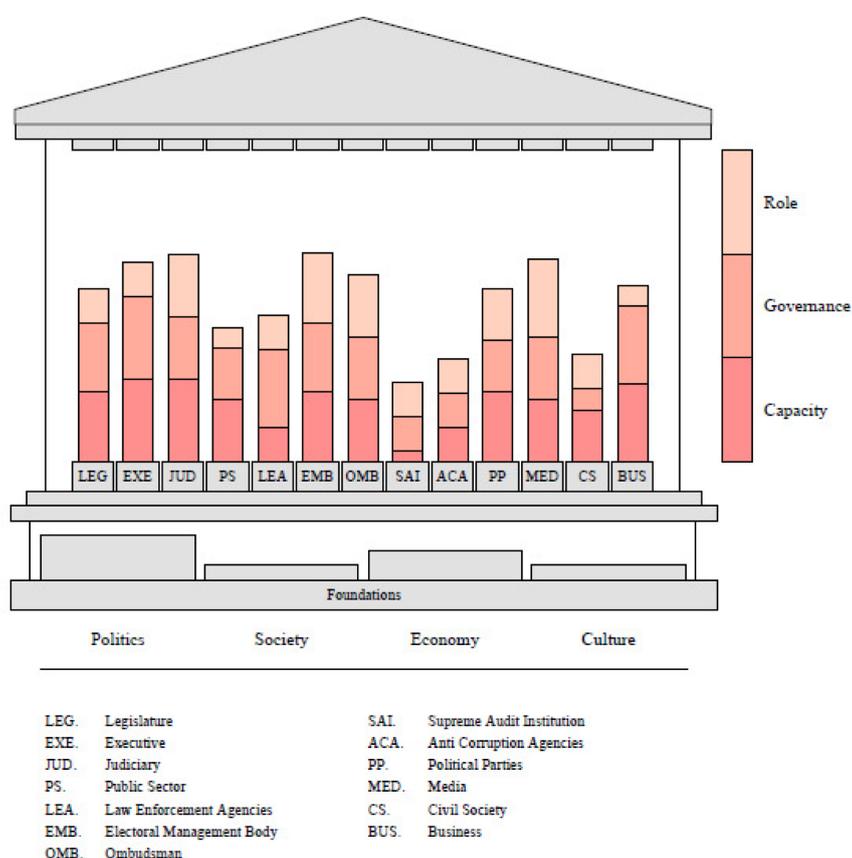
depth research on specific issues which are beyond the scope of the NIS assessment. The full toolkit and score sheets are available on TI website, at [www.transparency.org](http://www.transparency.org).

To answer the guiding questions, the lead researcher relied on three main sources of information: national legislation, secondary reports and research, and interviews with key experts. Secondary sources included trusted reports by national civil society organisations, international organisations, governmental bodies, think tanks, academia and the press.

A minimum of two key informants were interviewed for each pillar – at least one representing the institution under assessment and one external expert. A full list of interviews is contained in Appendix 1. Full citations are included in footnotes, to be as transparent as possible regarding the sources of information used to justify the conclusions and scores.

## The scoring system

### National Integrity System - Exempla



While the NIS is a qualitative assessment, numerical scores are assigned in order to summarise the information and help to highlight key weaknesses and strengths of the integrity system. The sheer length of the report can obscure a holistic perspective. Thus, the scores are a way to view all 12 institutions, each assessed according to 12 or more indicators from an elevated point of view. They prevent the reader from getting lost in the details and promote reflection on the system as a whole, rather than focusing only on its individual parts.

The scores are assigned by an in-country researcher on a 5-point scale in 25-point increments (0, 25, 50, 75, 100), validated by an in-country multi-stakeholder advisory group and finally vetted by TI-Greece. An aggregate score for each dimension is calculated (simple average of its constituent indicator scores) and the three dimension scores are then averaged to arrive at the overall score for each pillar. The difference in practice versus law can also be calculated both at a dimension level and an institution as a whole.

While the scoring methodology uses best practice standards in terms of experts selection, comparative anchors, transparency and validity checks, it gives the country teams the ultimate say about the scores. This fits also with the overall purpose of the assessment, to build momentum for anti-corruption policy change in each country. Since there is no international board which reviews and calibrates all scores to ensure that the same information, methodology, and judgement process have been used across countries, we do not produce any country rankings and do not recommend using the raw scores for cross-country comparisons.

### Consultative approach and validation of findings

The NIS assessment process in Greece had a strong consultative component, seeking to involve the key anti-corruption actors in government, civil society and other relevant sectors. This approach had two aims: to generate valid evidence and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives. The consultative approach had two main parts: a high-level Advisory Group and a National Stakeholder Workshop. The Advisory Group consisted of the following:

<b>NAME</b>	<b>AFFILIATION</b>
Gavouneli Maria	Professor of Law at the University of Athens
Zervobeakos Leonidas	Honorary Judge of the Supreme Court
Kyriacou Marios	President & Managing Director of KPMG Hellas
President & Managing Director of KPMG Hellas	President of "Elliniki Etairia" (Society for the Environment and Cultural Heritage)
Panariti Elena	Member of the Greek Parliament belonging to the political party of "PASOK"
Papalexopoulos Theodoros	President of "Citizens' Movement"; Founding Member of TI-Greece
Serdaris Vassilios	Former Director of Internal Affairs Directorate of the Police
Syngros Aristomenis	President of "Invest in Greece"
Fintanidis Serafim	Journalist; Ex-Director of newspapers
Hatzidakis Kostis	Member of the Greek Parliament belonging to the political party of "ND"
Hadjiemmanuil Christos	Professor of Law at the University of Piraeus

The members of the advisory group met twice on 29.03.2011 and on 03.10.2011. The second meeting was entirely dedicated to the discussion of the key findings of the draft report and indicator scores. The meeting resulted to a number of further adjustments to scores and evidence. Final discretion over scores remained with TI-Greece.

On 09.12.2011, TI-Greece presented the methodology and emerging findings of the assessment at a National Stakeholder Workshop. The key issues and suggested solutions were available in advance to participants and the workshop drew significant attendance from representatives of public and key governance institutions. The rest of the workshop was dedicated to working groups and general assembly, where participants interacted with each other to provide feedback on each chapter. These working groups were also well attended. The workshop helped to further refine the report, particularly by adding and prioritising recommendations.

Finally, the full report was reviewed and endorsed by the TI Secretariat, as well as by an external academic reviewer, Professor Stathis Kalyvas of the University of Yale U.S.A., provided an extensive set of comments and feedback.

## Background and history of the NIS approach

The concept of a “National Integrity System” originated within the TI movement in the 1990s as TI’s primary conceptual tool of how corruption could be best fought and ultimately prevented. It first appeared in the TI Sourcebook<sup>1</sup>, which sought to draw together the actors and institutions which are crucial in fighting corruption in a common analytical framework called the “National Integrity System”. The initial approach suggested the use of ‘National Integrity Workshops’ to put this framework into practice. The focus on “integrity” signified the positive message that corruption can indeed be defeated if integrity reigns in all relevant aspects of public life. In the early 2000s, TI developed a basic research methodology to study the main characteristics of actual National Integrity Systems in countries around the world using a desk study, no longer using the National Integrity Workshop approach. In 2008, TI engaged in a major overhaul of the research methodology that added two crucial elements, the scoring system as well as consultative elements of an advisory group, and reinstating the National Integrity Workshop, which had been part of the original approach.

While the conceptual foundations of the NIS approach originate in the TI Sourcebook, they are also closely intertwined with the wider and growing body of academic and policy literature on institutional anti-corruption theory and practice . The NIS research approach is an integral component of TI’s overall portfolio of research tools which measure corruption and assess anti-corruption efforts. By offering an in-depth country-driven diagnosis of the main governance institutions, the main aim of the NIS is to provide a solid evidence base for country-level advocacy actions on improving the anti-corruption mechanisms and their performance. It is complemented by other TI tools, which are more geared towards raising public awareness of corruption and its consequences via global rankings (e.g. Corruption Perception Index, Bribe Payers Index) or via reporting the views and experiences of the public (e.g. Global Corruption Barometer). In addition, the NIS approach fills an important gap in the larger field of international governance assessments, which are dominated by cross-country rankings and ratings (e.g. Global Integrity Index, Bertelsmann Transformation Index), donor-driven assessments (which are rarely made public) or country-specific case studies, by offering an in-depth yet systematic assessment of the anti-corruption system, which is based on a highly consultative multi-stakeholder approach. This unique combination of being driven by an independent local civil society organisation involving consultations with all relevant in-country stakeholders, and being integrated into a global project architecture (which ensures effective technical assistance and quality control) makes the NIS approach a relevant tool to assess and ultimately further anti-corruption efforts in countries around the world using a desk study, no longer using the National Integrity Workshop approach. In 2008, TI engaged in a major overhaul of the research methodology that added two crucial elements, the scoring system as well as consultative elements of an advisory group, and reinstating the National Integrity Workshop, which had been part of the original approach.

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<sup>1</sup> [www.transparency.org/publications/sourcebook](http://www.transparency.org/publications/sourcebook)

<sup>2</sup> See: Rose Ackerman, *Susan Corruption and Government: Causes, Consequences, and Reform*, Cambridge: Cambridge University Press, 1999; OECD *Public Sector Integrity: A Framework for Assessment*, Paris: OECD publishing, 2005; Head, Brown and Connors (eds) *Promoting Integrity*, Surrey: Ashgate, 2008; Huberts, L. W. J. C., Anechiarico, F., & Six, F. *Local integrity systems: world cities fighting corruption and safeguarding integrity*. Den Haag: BJu Legal Publishers, 2008.

made public) or country-specific case studies, by offering an in-depth yet systematic assessment of the anti-corruption system, which is based on a highly consultative multi-stakeholder approach. This unique combination of being driven by an independent local civil society organisation involving consultations with all relevant in-country stakeholders, and being integrated into a global project architecture (which ensures effective technical assistance and quality control) makes the NIS approach a relevant tool to assess and ultimately further anti-corruption efforts in countries around the world.

To date, numerous assessments using the new methodology have been published across the globe and even more are expected to be completed within the next year. These assessments are available at [http://www.transparency.org/enis/national\\_results](http://www.transparency.org/enis/national_results).

## SUMMARY

### Overview

This research on the National Integrity System includes the assessment of the current legal framework and its implementation regarding key-institutions (“pillars”) against corruption. These pillars are assessed in the context of the political, economic, social and cultural conditions (“foundations”) of the country. This research does not aim at the profound analysis of the pillars, but at underlining the interconnections and interactions between them. The methodology of the research was designed by the TI-Secretariat. The research covers approximately the past three years, since it is carried out in Greece for the first time, as opposed to other countries where it is carried out on a regular basis. Transparency International-Greece is looking forward to repeating the research in the near future in order to determine any progress that was achieved in the meantime.

The tools and factors for the assessment of the National Integrity System are the primary sources of law, relevant literature, evidence provided by national experts, as well as the ratification of the findings by the Transparency International Secretariat, the Greek Advisory Committee and the external expert. The research’s findings and proposals were discussed in the National Workshop that took place in Athens on December 9th 2011 in order to underline the priorities for upcoming actions against corruption on behalf of the state, the civil society, the private sector and other groups of special interests.

### The foundations of the Greek society

This debt crisis that is tormenting Greece is the result of many decades of spending, maladministration and structural distortions, despite the fact that in 2001 Greece was considered to be fulfilling the fiscal criteria for joining the Eurozone (common European currency).

The measures taken recently by the Greek government, in order for the nation to meet the requirements of its creditors had dramatic effects to the quality of life of its citizens. The middle class in Greece tends to disappear. Furthermore, entrepreneurship faces bleak prospects, tormented by the fixed distortions of the Greek business environment.

A key conclusion of the research is that corruption in Greece originates mainly from a crisis of values, which has imbued the country’s mentality and the institutions. The long-standing mentality of tolerance and fatalism with regard to corruption supports petty-corruption and perpetuates the bottlenecks in institutions which stand strongly against any reform.

Greeks appear to be showing a deficit in terms of social capital and trust in their interpersonal relations. The patron-client relationships act jointly with apathy for the public interest, a formalistic interpretation of the law and very often with bypassing the law. The traditional Greek values that formed post-war Greece are completely in dispute.

Greek people experience a state of “corrupt legality”<sup>3</sup>, in the sense that the law often oversees or even nurtures corrupt practices. Corruption is not a privilege of any party or social class, and it is not even a privilege of the public sector. For this reason, the holistic approach that this research attempts is particularly useful, as it brings out the interactions between the key institutions of the Greek society. The institutions in Greece operate, on one hand, within a democratic system that has been stable more or less for the last forty years and, on the other hand, through the leading role of Greece as a global player and an unshakeable partner of the European Union and international organisations. Nevertheless, the country continues to fight for a more complete protection of human rights, which, in the midst of the financial crisis, are furthermore threatened.

*This debt crisis that is tormenting Greece is the result of many decades of spending, maladministration and structural distortions*

*The traditional Greek values that formed post-war Greece are completely in dispute.*

<sup>3</sup> Diamantopoulos Ath., “Interventions”, in Transparency International-Greece, *State and corruption: how are we going to cut the umbilical cord?*, 2008, p. 145.

## Executive, Media and Business: the least guarded pillars

*This research points out the executive, media and business, namely the threefold of “interplay” in Greece, as the weakest pillars in regard with their resistance to corruption.*

*Operation of audiovisual media outlets in a status of intentional legal insecurity, which renders them susceptible to political pressure*

This research points out the **executive, media and business**, namely the threefold of “interplay” in Greece, as the weakest pillars in regard with their resistance to corruption.

Even though the Constitution identifies the **executive** as equal to the other two powers (legislature and judiciary), the responsibilities it allocates to it are anything but corresponding to this characterisation since the government is the dominating power in parliament, while also influencing to a great extent the judiciary. On the other hand, the executive, despite the strong majority by which it is elected based on the current electoral legislation, often succumb to the patron-client relationships, as well as to pressure by organised coalitions, in order to hold on to power.

The executive power in Greece is neither controlled by the Parliament, nor by the so-called “fourth power”, namely the **media**. This is because media outlets in Greece are involved in extensive interplay with the political system, mainly because of the vague legal framework under which they operate and the broader business activity of their owners in further sectors. Specifically, an extensive legal framework regarding the media has been established in Greece, which however has only been fragmentary implemented. The consequence of this is the operation of audiovisual media outlets in a status of intentional legal insecurity, which renders them susceptible to political pressure. On the other hand, media owners are also putting pressure on the political world in order to serve their various business interests.

As regards the third of these pillars, there is significant diversification between **businesses** listed on the Athens Stock Exchange and the rest. In particular, while enterprises listed on ASE operate based on international standards of corporate governance, this is not true for enterprises that are not listed, which operate under a status of almost complete non-transparency. Moreover, all businesses in Greece are tormented over time by legislative complexity, bureaucracy, the current fiscal framework, as well as by the inconsistency of policies regarding entrepreneurship, factors which create the ideal conditions for corruption. These characteristics of entrepreneurship in Greece are obstructing competitiveness and, therefore, the country’s development.

### Other pillars of particular interest

Despite the fundamental pillars, which are of great interest, due to their extreme nature regarding their guards against corruption, there are also more moderate interesting pillars distinguished by the so called “Greek originality”.

The public sector is a menace for the Greek society over time, having the leading role in the creation of corruption cases in Greece. Public officers are acting in conditions of complete non-transparency for decades and have shown signs of lack of integrity, tendency towards bribery and conflict of interest.

Practices such as the following are indicative of the way the state engages to its role<sup>4</sup>:

- maintenance and legalisation of illegal constructions, at a later stage,
- settlement of outstanding debts towards the public sector,
- approval of accounting books without controls,
- easiness to call off a traffic violation ticket,
- delays of the public sector in granting payments, whereas for similar cases the citizens would have been prosecuted immediately,
- maintenance of accounts lacking transparency and control, by the Ministries,

<sup>4</sup> Bakouris K., “The research by Transparency International opens the discussion”, in *Transparency International-Greece, State and corruption: how are we going to cut the umbilical cord?*, 2008, pp. 17-20.

Regarding the principle of division of powers, which is a foundation of the democratic regime, there is an explicit constitutional provision relating to the independence of the legislature vis-à-vis the executive authority – the latter having a decisive influence in the Parliament’s legislative and audit role, as mentioned before. However, the current political system requires the Government to have parliamentary majority support, namely to actually belong to the same political party with the one dominating the Parliament. This downgrades the Parliament’s role, since every possible reform proposal by the opposition is in advance of no importance, a fact which gives the Government plenty of room for action, even when this is against the public interest. The Parliament, however, including the opposition, is partially responsible for compromising with non-transparency in political life. In particular, the abusive refusal to waive the parliamentary immunity in cases where the Constitution explicitly provides for the contrary, due to unreasonable solidarity among fellow politicians, is a great drawback, which has already cost Greece two convictions by the European Court of Human Rights.

*The Parliament, however, including the opposition, is partially responsible for compromising with non-transparency in political life*

The number of **anti-corruption agencies** established to eradicate the corruption in the Public and Private sector is disproportionately high compared to the volume of the audited material, which results to overlapping responsibilities. This fragmentation does not facilitate collaboration between the agencies and implementation of uniform practices, while their dependence from political agents is also significant. These conditions apparently do not ensure the effectiveness of anti-corruption agencies, and as a result corruption in Greece is not detected on time and in its full extent.

The **civil society**, whose population has rapidly increased in the recent years, has a lot to contribute to the process of bringing out these pathogenies. Nevertheless, its institutional, legal and operational framework is still in a very premature stage, thus creating serious questions regarding its independence, transparency and integrity. The few, until today, attempts for self-regulation do not suffice.

### Elections and Ombudsman: the best guarded pillars

This research points out the **Elections** and the **Ombudsman** as the strongest pillars, in regard to their resistance to corruption.

Concerning the **elections**, they are protected against corruption, due to the fact that carrying out flawless electoral procedures is a conquest of the country’s new democratic system, which has learned from mistakes and extremities of the past and, therefore, has made sure to encompass this institution with all the necessary guarantees. However, there is significant room for improvement even for this –admittedly successful– institution, mainly towards saving resources and controlling more effectively the election spending of parties and candidates.

The enactment and operation of the **Ombudsman** is a recent conquest for the Greek society. The impeccable enactment of the body regarding its independence, transparency and integrity, and mostly its qualified and experienced staff has rendered its operation adequately effective. However, the plethora of pathogenies tormenting the Greek public administration require further strengthening of the institution, so that there are never doubts on its independence, responsibilities and accountability.

*This research points out the Elections and the Ombudsman as the strongest pillars, in regard to their resistance to corruption.*

## Priorities for action

For the reasons underlined in this section, as well as for others which are more extensively mentioned under the relevant pillars, TI-Greece has decided that its future actions against corruption should focus on the following tangible objectives for each pillar, based on the significance of the pillars for the eradication of corruption, the feasibility of these objectives and the ability of TI-Greece to contribute to their fulfilment:

### ANTI-CORRUPTION AGENCIES

- Merging all existing anti-corruption agencies with similar mandates under a single authority.

### JUDICIARY

- Acceleration and rationalisation of the judiciary system by:
  - enhancing the infrastructure of the Judiciary (buildings, technological equipment, etc.)
  - simplification and codification of the legislation
  - simplification of the procedural system
  - promotion of alternative dispute-settlement institutions (i.e. by arbitration, intermediation, etc.)
  - transfer of court material to the notaries
  - transformation of judicial procedures to administrative ones
  - setting goals
  - establishing motives.
- Upgrading the curriculum of the National School for Judges by:
  - teaching specialised modules, so that judges are able to deal with modern matters of the society and the market
  - internships in courts abroad
  - on-site visits to agencies of special significance.

### PUBLIC SECTOR

- Simplification and codification of the legislation. Simplification of procedures.
- Detachment of the citizens from the civil servants, through the development of electronic systems for processing transactions with the public administration: computerisation, digitisation and unification of services.
- Detachment of the public administration from the Government, through the creation of an independent authority which will be monitoring the public sector.

### BUSINESS

- Discontinue transactions in person between businesses and the public sector (i.e. through the use of bank accounts, e-banking and internet).
- Enhancing the transparency framework, with reference to taxation of small and not listed on the ASE businesses.

The financial crisis that Greece is experiencing at the moment has already disintegrated a significant number of institutions. This, however, can be seen as a unique opportunity for a total restructuring. The economic development of the country is not possible without the purge of the principal institutions that hold it together, and this is the direction for the future actions of TI-Greece.

## THE PROFILE OF GREECE

### POLITICS

*To what extent are the political institutions in the country supportive to an effective national integrity system?*

**Score: 50**

Greece has a population of around 11 million, whereas its area is around 132.000 square kilometres.

In 1967, the Greek army rose to power after a coup d'etat<sup>5</sup>. After that, the dictators ousted the king from the country and changed the regime from a constitutional monarchy to a military junta. In 1974, Greece became a democracy again and, more specifically, a presidential one. The new Constitution, which was approved by the Fifth Constitutional Review Parliament, came into effect on 11.06.1975 and is applicable until today, after reviews that occurred from time to time. In 1981, Greece became a member of the European Union (EU) and, in 2001, it joined the Economic and Monetary Union (EMU). Meanwhile, it has been a member of NATO since 1952.

The current Constitution distinguishes three powers: the legislative, the executive and the judicial. The President of the Hellenic Republic along with the Parliament participate in the exercise of the legislative power, the President of the Hellenic Republic and the Government participate in the executive, while judicial power is exercised by the courts in the name of the Greek people.

The President is, in terms of hierarchy, at the highest rank of the executive power, since he/she is designated by the Constitution as the regulator of the regime. He/she is indirectly elected by the Parliament by consecutive vote procedures. His/her mandate is five years and he/she has the right to be re-elected once more.

The legislative power is exercised by the Parliament, whose members are elected by a national secret ballot with a 4-year mandate. Elections can be announced earlier due to emergency reasons, as these are defined by the Constitution. After 1975, the announcement of early elections is the trend, with the outgoing governments often pleading a national matter of particular importance. The Hellenic Republic uses a complex election system of proportional representation (reinforced proportional representation) for the election of the members of the Parliament, which discourages the creation of multi-party cooperative governments and allows for the formation of a strong government of majority, even if the first party does not manage to obtain the majority of the votes.

The executive power is exercised by the Government, whose Head is the Prime Minister, the most powerful figure of the Greek political system. The Prime Minister is the Head of the Government and, according to the Constitution he/she is usually, not necessarily though, the leader of the governing party that has the absolute majority of the Parliament. The Government determines and directs the country's general policy, implements the policy that the Parliament approves via legislative acts, while, at the same, time it participates in the lawmaking process by drafting and promoting bills for adoption. The Government, based on the principle of the declared confidence ("dedilomeni principle"), has to benefit from the confidence of the Parliament, namely it has to receive a vote of confidence by the majority of its members.

Moreover, in the framework of the modern party-based republic, the Government dominates the legislative procedure as well, since it is formed by the party that controls the majority of the Parliament, thus rendering the approval of legislative acts a purely formal procedure in most cases. Moreover, because of the often -to the point of excessive- appeal to party discipline the possibility of a disagreement between a member of the Parliament and the Government he/she supports is considered to be rare.

*The Prime Minister is the Head of the Government and, according to the Constitution he/she is usually, not necessarily though, the leader of the governing party that has the absolute majority of the Parliament*

<sup>5</sup> <http://el.wikipedia.org>

After the restoration of Democracy in 1974, the political system has been dominated by the social democratic Panhellenic Socialist Movement (PASOK) and the conservative New Democracy (ND) parties. Other parties represented in the Parliament are the Communist Party of Greece (KKE), which is the oldest party, the Popular Orthodox Rally (LAOS), the Coalition of the Radical Left (SYRIZA), the liberal party of the Democratic Alliance (DISY) (unofficially - meaning that are Members of the Parliament belonging to the party, but the latter was formed subsequent to the elections in the framework of which the Member of the Parliament in name was elected.), the Democratic Left (unofficially), the Panhellenic Citizen Chariot (unofficially) and the Movement of Free Citizens<sup>6</sup>.

The Constitution, in its current form, contains extensive guarantees for the citizen's freedoms and rights. In the vast majority of cases these are effectively implemented<sup>7</sup>. Greece is also a party to the European Convention on Human Rights. However, international and non-governmental organisations (NGOs) continue to record violations of human rights in Greece. These are detected mainly in cases of illegal immigrants and asylum applicants, who are often deprived of their right of recourse to Justice, while they are also subjected to abuse by the police authorities<sup>8</sup>. In order to achieve a more effective prevention of entry of illegal immigrants, the Greek border guard service was reinforced with Frontex agents as well. There are also records of discrimination against minorities<sup>9</sup>, such as the Roma and the Muslims, while another crucial problem is human trafficking, mainly of women and minors<sup>10</sup>.

The recent financial crisis and the austerity measures enforced by the Government, resulted to –inter alia– extensive strikes, uncontrollable demonstrations, as well as armed violence by organised groups. In this framework, there were also bloody incidents that the police was either unable to prevent or responsible for causing them<sup>11</sup>.

Finally, it is worth mentioning that, according to a recent research conducted by the World Bank at international level, regarding six governance indicators and taking under consideration calculations by international organisations and NGOs, Greece had the following average score (out of 1)<sup>12</sup>:

- Freedom of expression and oversight: 0.71.
- Political stability: 0.67.
- Governmental efficiency: 0.61.
- Quality of regulatory framework: 0.68.
- Legal order: 0.65.
- Corruption control: 0.58.

<sup>6</sup> Last update 17.02.2012.

<sup>7</sup> [www.freedomhouse.org/template.cfm?page=22&country=8045&year=2011](http://www.freedomhouse.org/template.cfm?page=22&country=8045&year=2011)Greece(2011).

<sup>8</sup> UN, *Report submitted by the Special Rapporteur on torture and other cruel or degrading treatment or punishment – Mission to Greece, 2011. Human Rights Watch, World Report 2011, p. 427. Amnesty International, Report 2011, www.amnesty.org/en/region/greece/report-2011. www.freedomhouse.org/template.cfm?page=22&country=8045&year=2011Greece(2011).*

<sup>9</sup> UN, *Report of the independent expert on minority issues – Mission to Greece, 2008. Human Rights Watch, World Report 2011, p. 428. www.freedomhouse.org/template.cfm?page=22&country=8045&year=2011Greece(2011).*

<sup>10</sup> UN, *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography – Mission to Greece, 2005. Amnesty International, Report 2011, www.amnesty.org/en/region/greece/report-2011, www.freedomhouse.org/template.cfm?page=22&country=8045&year=2011Greece(2011). *The Fund for Peace, Country Profiles, p. 3.**

<sup>11</sup> *Human Rights Watch, World Report 2011, pp. 427-428. Amnesty International, Report 2011, www.amnesty.org/en/region/greece/report-2011. www.freedomhouse.org/template.cfm?page=22&country=8045&year=2011Greece(2011). *The Fund for Peace, Country Profiles, p. 4.**

<sup>12</sup> [http://info.worldbank.org/governance/wgi/sc\\_chart.asp](http://info.worldbank.org/governance/wgi/sc_chart.asp)

## SOCIETY

*To what extent are the relationships among social groups and between social groups and the political system in the country supportive to an effective national integrity system?*

**Score: 50**

In the last decades, Greece has been on the receiving end of a large wave of immigration, both legal and illegal. The total number of immigrants (legal and illegal) is estimated to be around 10% of the total population. Almost half of them are legal residents, even though numbers vary significantly per period due to the ineffective immigration policy and instability of the neighbouring countries. The largest population groups of immigrants are originating from Albania, Romania, Bulgaria, Pakistan, Ukraine, Poland and Egypt. Apart from foreign immigrants, after the fall of the Wall there has been relocation of a number of people of Greek descent from areas of the former U.S.S.R. and the Balkans. The largest groups of repatriates are from Russia and Georgia<sup>13</sup>.

The only clearly recognised minority in Greece, namely the one vis-à-vis which the Greek state has undertaken international obligations, is the Muslim minority in Thrace. For this reason, in Greece today there is no established legal protection of any other language, apart from Turkish in the area of Thrace. The Muslim community represents almost 0.95% of the total population of Greece<sup>14</sup>. However, in the recent years, Greece is making efforts to align itself with the international legal and political environment that perceives the promotion of minority languages as a crucial factor of acceptance of a common European culture through the respect of diversity. Legally binding provisions for the protection of language diversity were recently enacted<sup>15</sup>.

Almost 97% of the citizens are self-defined as Greek Orthodox. The rest 3% of the legal population are Orthodox, Greek Old Calendarists, Muslims, Jehovah's Witnesses, Roman Catholics, Protestants, etc. The majority of residents that do not have Greek citizenship and the immigrants are not Orthodox. The largest groups include non-religious people, Muslims and Roman Catholics<sup>16</sup>.

Greece is a country not characterised by deep social and class disparities. Nevertheless, the measures taken this period for dealing with the debt crisis in Greece tend to change the country's social landscape. In particular, these measures contribute to the weakening of the largest in numbers social class, namely the middle class of smallholders, retailers and wage earners.

In Greece, there are generally stable political parties with distinct policies, which are the primary agents of representation of social interests<sup>17</sup>. However, it is not usual for specific social or interest groups to be represented exclusively by specific parties. The latter are trying lately to take advantage of the existing conjunctures for their own benefit. Certain unionist organisations maintain, however, preferential relationships with certain parties or wings of parties<sup>18</sup>. Since the mid-1980s, there has been a significant decrease of people's participation in politics.

In the last decades of the 20th century and especially in the 1980s, patron-client relationships have undergone scale modifications, namely, they were transformed into a systematic relationship of an organisation with a person or with many people, while, at first, they were nothing but personal relationships of a person involved in politics with his voters and their families. In other words, they turned from interpersonal patron-client relationships into "bureaucratic" patron-client relationships. The role of organised unionist agents was not, nor is nowadays, any smaller. In a time of globalisation of

*Since the mid-1980s, there has been a significant decrease of people's participation in politics.*

13 [www.wikipedia.org](http://www.wikipedia.org)

14 Hellenic Statistical Authority (EL.STAT.), *General census 2001*.

15 [www.wordpress.com](http://www.wordpress.com), 08.10.2007.

16 Department of Foreign Affairs of the U.S.A., *Report on International Religious Freedom, 2007 (in Greek and in English)*.

17 Spourdalakis M., *proposal at the event of the Citizens' Movement "Political parties and their role in the function of the democratic political system" (in Greek)*, 29.05.1990.

18 See also pillar "Political Parties".

the economy and Europeanisation of the institutions, particularly, a time of procedures that require swift changes and adjustments that are foreign to the literally traditional, predictable and slowly developing nature of patron-client relationships, these last ones still exist<sup>19</sup>.

According to the European Social Survey of 2003, voluntary participation of Greeks in various unions and associations is limited, compared to other European countries. However, their participation in labour unions and professional organisations is not inferior to that of other European societies. Nevertheless, mature conditions are being mentioned for the emergence of the civil society, as well as for emerging new trends, which, despite the existing weaknesses, signal the reinforcement of civil society. Even though the starting level for the gradual shaping of a strong civil society in Greece is low, there are interesting indications of its development.

## ECONOMY

*To what extent is the socio-economic situation of the country supportive to an effective national integrity system?*

**Score: 0**

Greece is considered to be among the developed countries, with high income per capita and quality of life<sup>20</sup>. Its GNP amounts to \$ 330.8 billion, while GNP per capita is \$ 29,635. Its contribution to the GNP of global economy rises up to 0.49%. It ranks 83rd out of 139 countries in the world regarding its competitiveness<sup>21</sup>. Indicatively, it is mentioned that around 40% of its GNP is allocated to social insurance, and mainly to healthcare, while 8.3% is allocated to education<sup>22</sup>.

Production of goods and services uses around 23% of the funds of the Greek economy, a percentage that is close to the average of OECD countries. In 2001, Greece adopted the Euro, since it fulfilled all the required economic criteria. During the following years, Greece got into an economic development path. However, since 2009, also due to the global financial crisis, it became obvious that Greece is facing serious financial problems. More specifically, in 2010, its debt was rising up to 147.3% of the GNP and its deficit was 10.4%<sup>23</sup>.

The aforementioned debt crisis is the result of many decades of spending, maladministration and structural problems. In order to deal with it, the Government had to take recourse to institutional reforms and severe austerity measures<sup>24</sup>. Obviously, the repercussions of this crisis are particularly noticeable in the private sector of the country, as well.

As a result of all that, Greece had to take recourse to excessive external borrowing<sup>25</sup> from the countries of the European Union (EU), the European Central Bank (ECB) and the International Monetary Fund (IMF). This has limited to an important extent the Government's initiative and discretion regarding the financial policy to be followed<sup>26</sup>.

19 Sotiropoulos D., "Patron-client Relationships and New Forms of Political Participation: a Difficult Coexistence" (in Greek), announcement at the international scientific symposium "Revisions of the political" of the Department of Social Anthropology and History of the University of the Aegean, Mytilene, 2007.

20 Economist, *The Economist intelligence unit's quality-of-life index, 2005*, [www.economist.com/media/pdf/quality-of-life.pdf](http://www.economist.com/media/pdf/quality-of-life.pdf). Indicatively, it is noted that the level of exploitation of children is considered an important indicator for the assessment of development and progress in a society. In a relevant research conducted in developed countries, Greece ranked average [UNICEF, *Child poverty in perspective: an overview of child well-being in rich countries, 2007*, p. 2].

21 World Economic Forum, *The global competitiveness report 2010-2011*, p. 168.

22 OECD, *Government at a glance 2011 – Country note: Greece*, [www.oecd.org/gov/indicators/go-vataglance](http://www.oecd.org/gov/indicators/go-vataglance).

23 OECD, *Government at a glance 2011 – Country note: Greece*, [www.oecd.org/gov/indicators/go-vataglance](http://www.oecd.org/gov/indicators/go-vataglance).

24 [www.heritage.org/index/country/greece](http://www.heritage.org/index/country/greece).

25 \$ 145 billion until May 2011.

26 The Fund for Peace, *Country Profile: Greece, 2011*.

As for the business environment in Greece, according to a research by the World Bank and the International Finance Corporation, Greece ranks 109th out of 183 countries regarding the simplicity of entrepreneurship. More specifically, it ranks 149th on the ease of establishment of a business, 51st on the issuing of a building permit, 153rd on facilitating real estate registration, 89th on likelihood for loan approval, 154th on investor protection, 74th on taxation, 84th on cross-border trade, 88th on implementation of agreements and 49th on facilitating the a company closure<sup>27</sup>.

According to a research by the World Economic Forum, the biggest problems regarding entrepreneurship in Greece are bureaucracy, corruption, employment policy, variability of policies, taxation policy, access to loans, infrastructure, tax coefficients and lack of commitment and dedication of the workforce<sup>28</sup>.

A research by The Heritage Foundation underlines, furthermore, that reduced competitiveness is an impediment to development. Powerful associations, the non-liberal trade policy of the country, ineffective protection of intellectual property and the need for state licensing in many business sectors, are a few more problems that are obstructing entrepreneurship in Greece. The high levels of corruption in the country are directly related to all the aforementioned difficulties<sup>29</sup>.

Under the present circumstances the country needs the continuous reduction of its debt and, consequently, its return to normal development rates. This is expected to be achieved through, inter alia, privatisations, utilisation of state funds, reinforcement of structural reforms in the market and establishment of a system of justice on burdens and benefits<sup>30</sup>.

## CULTURE

*To what extent are the prevailing ethics, norms and values in society supportive to an effective national integrity system?*

### **Score: 25**

Most surveys<sup>31</sup> have shown that Greeks have moderate reserves of social capital and trust in their interpersonal relations. Moreover, Greeks do not believe in the feeling of justice and in helping their fellow men. Specifically, the Greeks are significantly falling behind the respective average that prevails in the rest of Europe, but also in the European Union.

This is to a large extent due to the long tradition of patron-client relationships that is endemic in Greece, the involvement of groups promoting certain interests in social life and the lack of credibility and integrity of modern political institutions.

With regard to interest and participation in public affairs, Greeks may be participating massively in the electoral procedures, but they are also characterised by a relative apathy towards the public interest. For example, tax evasion and waste of public resources are common occurrences. Environmental awareness of the Greek people is also low<sup>32</sup>.

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<sup>27</sup> World Bank & International Finance Corporation, *Doing business 2011: making a difference for entrepreneurs*, 2011, p. 165.

<sup>28</sup> Schwab K. (World Economic Forum), *The global competitiveness report 2010-2011*, 2010, p. 168

<sup>29</sup> [www.heritage.org/index/country/greece](http://www.heritage.org/index/country/greece).

<sup>30</sup> OECD, *Economic Surveys – Greece*, 2011, p. 3.

<sup>31</sup> European Values Study 1999/2000. Eurobarometer Study of 2004. European Social Survey 2002-2003. National Centre of Social Survey, *Greece-Europe: Results of the European Social Survey*, 2003.

<sup>32</sup> Sotiropoulos D & Karamagioli E., *Greek Civil Society: the Long Road to Maturity CIVICUS civil society index shortened assessment tool report for the case of Greece*, 2005.

*Less than half of the Greek people believe that citizens must comply with the law*

According to surveys, there is a tendency of Greeks to by-pass the law or interpret it formalistically<sup>33</sup>. Indicatively, less than half of the Greek people believe that citizens must comply with the law<sup>34</sup>. This is perhaps explained by the perception of Greeks that the law is merely a formality that the citizens have the right not to comply with, since sanctions, especially for certain offences (i.e. taxes, traffic code, etc.), are imposed sporadically and selectively.

The Greeks seem to be progressively losing their faith in the family and along with their honesty, patriotism, religious faith and political beliefs<sup>35</sup>. Politics and political parties are to Greeks the weakest institutions, whereas media and businessmen come forward as the strongest ones. Materialism and individualism are promoted. These two characteristics are, however, contrary to the culture that shaped post-war Greece.

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<sup>33</sup> Sotiropoulos D & Karamagioli E., *Greek Civil Society: the Long Road to Maturity CIVICUS civil society index shortened assessment tool report for the case of Greece, 2005.*

<sup>34</sup> National Centre of Social Survey, *Greece-Europe: Results of the European Social Survey, 2003.*

<sup>35</sup> Centre of Political Research and Communication, *Greece and the Greek people in 2020, 2003.*

## THE PROFILE OF CORRUPTION IN GREECE

References to cases of corruption by Plutarch and Aristotle are allowing us to conclude that corruption has been evident in the Greek territory for at least 2,500 years. In modern Greece corruption has been solidified both in the public and the private sector, as it is evident in the annual "National Survey on Corruption in Greece" by Public Issue, which has been conducted in the recent years for Transparency International-Greece. This research is an important tool for measuring corruption in the country, since it is an overall approach to the matter. An important tool is, furthermore, the recent project by Mentoring SA, under the title "Establishing an Integrated Strategy for Fighting Corruption through International and National Experience", which was conducted for Transparency International-Greece in the framework of the operational programme "Administrative Reform", funded by the 2007-2013 National Strategic Reference Framework, as well as the survey "Our national corruption" by the Department of Statistics of the Economic University of Athens.

According to Transparency International, which is editing the global corruption perception index (CPI - Corruption Perception Index) for 2010, based on independent studies, Greece is in the 78th place in the global ranking among 178 countries. This reflects the wound to the country's image and the complete failure of every government policy in the field of fight against corruption. The country today is ranking last among the 27 member states of the EU, with regard to the fight against corruption.

The "National Survey on Corruption in Greece" of Transparency International-Greece for the year 2010, shows for the first time a remarkable change in the overall extent of corruption. The percentages of cases reported in the public and private sector have declined from 13.4% in 2009 to 10.4% in 2010. The estimated volume of overall corruption has also decreased to €632,000,000 in 2010 compared to €787,000,000 in 2009. The percentage of households that reported cases of corruption was 10.4% for 2010, vis-à-vis 13.4% for the previous year (7.2% from 9.3% for the public sector, 4% from 5.3% for the private sector). It is estimated that this was largely due to the financial crisis that is tormenting the country. Nevertheless, we should not overlook the fact that this decrease is possibly only temporary, since the fall in the living standards of the citizens, due to the financial crisis, could push them towards many unlawful actions, in order to regain their way of living.

The annual turnover of corruption in Greece exceeds €3,000,000,000, and along with underground economy it exceeds €70,000,000,000. The findings of every international and Greek organisation with reference to corruption, black money, underground economy and tax evasion, are disappointing. Tax evasion at the expense of IKA (Social Insurance Foundation) is estimated to be over €3,500,000,000, while illegal activities deprive the official national proceeds from more than €3,000,000,000. The National Statistical Service estimated that drugs, prostitution, as well as alcohol and tobacco contraband trade, contributed to the increase of GNP by 0.7%, namely by almost €400,000,000. It is estimated that for the total GNP, the turnover of these activities exceeds €2,000,000,000.

The situation regarding corruption in Greece, as outlined above, has its roots in a number of factors that can be found at various levels, such as:

- dysfunctional democracy,
- interplay between the "four" powers,
- weak rule of law,
- lack of transparency in the work of the government,
- dependence of public administration on political parties,
- broad discretion in the exercise of public authority,
- legislative complexity,
- bureaucracy,
- lack of audit and sanctions,
- weak practices of sound management,
- irrational state business activity,
- lack of codes of conduct in the public and private sector,

- complex mechanism for identifying corruption and non-guarding of independent authorities and audit mechanisms,
- anemic civil society,
- the mentality of tolerance that is nurtured by society and influences people's behaviour,
- inadequate education of citizens in matters of corruption.

The consequences of corruption, as it has developed in Greece, include:

- waste of financial resources,
- distortion of competition,
- deterioration of human relationships,
- promotion of violence,
- collapse of the system of moral values,
- consolidation of a culture of tolerance and fatalism,
- risking social coherence,
- contamination of the political system,
- degradation of the quality of democracy,
- prevalence of a system of corrupt legality<sup>36</sup>.

In particular, the consolidation of corruption in Greece leads to, inter alia, the decrease of per capita income, distortion of competition and therefore high prices for goods, as well as increase of the social gap between low and high income. Indicatively, it is mentioned that the World Bank, in one of its reports, is led to the conclusion that restriction of corruption may even lead to the quadruplication of per capita income. According to a publication of the Brookings Institute, corruption costs our country €20,000,000,000 annually.

As the aforementioned study "Establishing an Integrated Strategy for Fighting Corruption through International and National Experience" underlines, corruption in the public sector, a special form of which is interplay between the four powers, apart from the financial damage, it also causes a general malfunction of the state, as well as bureaucratic ineffectiveness of the state mechanism. This intensifies the cases of maladministration and non-transparency of the state, which, however, are caused by other factors as well, such as selection of public services staff according to non-merit standards, inadequate training of this staff, selection of administrative executives according to political criteria, and mostly the indifference of most public servants in terms of the performance of their duties. The consequences of all these are particularly harmful both for the function of the state and for the private sector, adversely affecting the financial development of the country and its general social and cultural progress, since the two areas overlap.

In particular, according to the "National Survey on Corruption in Greece" for 2010, hospitals, tax authorities, urban planning departments, prefectures, Social Insurance Foundation(IKA), the Ministry of Transport, the Public Electricity Corporation (DEI), municipalities, banks, the Ministry of Finance, the insurance funds, the Hellenic Organisation of Telecommunications (OTE), the Land Registry, the Workers' Housing Organisation (OEK), the Ministry of Health and forest inspection authorities are the most corrupt public services. Indicatively, it is said that a surgery in a public hospital costs the patient between €150 and €15,000, whereas the doctor's bribe ("fakelaki") starts from €50 and can reach up to €7,500 for one surgery. At the tax office, the verification and the audit of books range from € 300 to € 15,000, while debt regulation costs from €100 to €3,500. Regarding urban planning departments, the building permit costs up to €9,000, whereas the acceleration of procedures costs from €250 up to €15,000. On the edge of corruption of the public sector lies also black political money. It is the money that pours from individuals to political parties and politicians, under circumstances of complete non-transparency and it is the generative cause of interplay. The "Siemens" case was typical of this pathogeny.

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<sup>36</sup> Diamantopoulos Ath., "Interventions", in *Transparency International-Greece, State and corruption: how are we going to cut the umbilical cord?*, 2008, p. 145.

In the private sector, health services take again the lead, along with accountants and lawyers, while a significant reduction of corruption cases is noted in the banking sector due to the financial circumstances. Other significant sources of corruption are telecommunication companies, insurance companies, the “night industry” (bars, night clubs, pawn shops, etc.), the stock exchange underground economy, gambling, real estate transactions (concerning the cost exceeding the amount mentioned in the contract and in case they entail money laundering), logistics and transportation companies, in the sense that they serve contraband trade.

Regarding the attitude of citizens towards corruption, 92% considers the Greek society to be corrupt, while there is an increase in the number of those who believe that actions such as “string-pulling”, in order to get a family member appointed, are forms of corruption. Meanwhile, there has been an increase in the percentage of those who ask for disclosure of the asset declarations (“pothen esches”) of public servants, severe punishment of those who take commissions or bribes and of those who offer commissions or bribes.

*92% considers the Greek society to be corrupt*

The ideological acceptance of corruption, as recorded, includes the views of interviewees as regards the following eight common practices:

- To give money or other offering, in order to pass the driver’s license exams.
- To give money or other offering to a tax officer, in order to settle debts.
- To give money or other offering to a public servant at the urban planning department, in order to issue a building permit.
- To give money or other offering to a policeman, in order to avoid getting a ticket.
- To give money or other offering to a VTCC, in order to certify a car.
- To “pull strings”, in order to get a family member appointed.
- To give money or other offering to the doctor, in order to receive better care.
- To “pull strings”, in order to achieve a better transfer for a family member who is doing his military service.

Eight out of ten fully accept these common corrupt practices, while in some of them (driver’s license), acceptance reaches 96%. The study, over the years, shows a complete standstill in public opinion views of tolerance towards corruption.

The citizens’ tolerance towards corruption, as recorded, includes the views of interviewees as regards the following three common practices:

- If we are to do our job, then it does not matter to offer a bribe from time to time.
- We do not need to comply with the law when nobody is watching.
- If my personal interests were not harmed, I would not be bothered by commissions or bribes, even if the transactions were taking place before my eyes.

The survey’s findings present a different ideological attitude of citizens towards these views. In particular, eight or nine out of ten disagree with the content of the above statements, while citizens’ tolerance for the year 2010 is limited compared to the previous years.

According to the Global Corruption Barometer for 2010, during the period 2008-2010, the citizens’ confidence in the ability of Greece to become a country free from corruption is decreasing. The lack of confidence in the institutions (political parties, parliament, media, businesses) has increased. Even institutions that were considered relatively transparent and untouchable, such as NGOs and the Church, performed worse.

The citizens' attitude towards the way of fighting corruption, according to the "National Survey on Corruption in Greece" for 2010, includes the views of citizens as regards the following nine proposed measures for dealing with corruption:

- Swift law enforcement for everyone without exemptions.
- Severe punishment for those who get arrested taking illegal commissions or bribes.
- Actual enforcement of asset declaration disclosure ("pothen esches") for public servants.
- Severe punishment for those arrested offering illegal commissions or bribes.
- Ensuring the independence of judges.
- Establishment of a code of conduct for public servants, with regard to their behaviour towards citizens.
- School courses for the eradication of corruption.
- Campaigns about awareness against corruption.
- Less interference of the state in economy.

The dominant view of citizens, in a percentage that reaches 97%, is epitomised in punishment and law enforcement.

The survey "Our national corruption" by the Department of Statistics of the Economic University of Athens, verifies the vast majority of findings of the aforementioned surveys. Moreover, this survey also reaches the following conclusions:

- Greeks consider corruption to be the first and most important problem of the country.
- The vast majority of citizens feel that the problem of corruption affects their lives.
- Mainly responsible for corruption in Greece are both the Government and the citizens.

The aggravating situation of corruption in Greece, as described above, makes clear that the need for effective action is more urgent than ever. The financial crisis tormenting the country leaves no room for further financial and social losses.

## MEASURES AGAINST CORRUPTION

The current legal framework against corruption both at criminal repression level and at administrative control level, is characterised by a number of regulations of foreign and local origin. Greece has transposed international legislative acts regarding international cooperation against corruption in its legal order. In particular, among others, transposition regarded the “Civil law convention on corruption” (law 2957/2001) and the “Criminal law convention on corruption” (law 3560/2007), which were drafted in the framework of the Council of Europe, as well as the “Convention Against Corruption” (law 3666/2008), which was drafted in the framework of the UN. Equally important is the transposition of the “Convention on the protection of the European Communities’ financial interests” (law 2803/2000), which regards the protection of the community budget from fraud, corruption, etc.

Apart from the aforementioned compliance of Greece with its international obligations, in the recent years, a number of measures against corruption have also been established on the initiative of the Greek governments. Some of them are as follows:

- The adoption of a system for electronic prescription of drugs<sup>37</sup> by doctors of the public sector, in order to control the resources that are allocated for this purpose and minimise their waste.
- The electronic census of civil servants of the public and broader public sector, in order for the public sector to be aware of the number of employees that are included in its payroll, as well as of the salary rates<sup>38</sup>.
- The adoption of a double-entry system for recording the finances of Local Administration Organisations<sup>39</sup>.
- **Law 3812/2009** on “Reform of the system for recruitment in the public sector and other provisions”, based on which there will be no recruitment in the public sector without merit procedures.
- **Law 3839/2010** by which a selection system for Heads of units by objective and merit-based criteria is established.
- **Law 3841/2010** which establishes a hearing procedure before the Conference of the Presidents of the Parliament for candidates of the Presidia of the country’s supreme courts.
- **Law 3849/2010** by which the punishment of crimes against the Office have been made more severe.

These are the Criminal Code’s crimes, which include, inter alia, passive bribery, conflict of interest and violation of duty. By the new law a new article was also added to the Criminal Code (263B), which regulates matters of witness protection in corruption cases. The same law also provides for the following:

- the ability of the Minister of Justice to order the Vice-Prosecutor of the Supreme Court to examine (asset declarations when there has been a written complaint or when a relevant matter arises through the media,
- an extension of the sanctions regarding confiscation of assets and loss of office for all public officials who have not submitted an asset declaration statement or have declared inaccurate information or participate in off-shore companies,
- realisation of the above also for those who benefit from illegal assets that exceed € 73,000,
- audit of bank accounts and investment portfolios subsequent to a Minister’s order,
- favourable treatment of civil servants who disclose corruption acts of their superiors.

- **Law 3852/2010** on “New architecture of local government and decentralised administration – Kallikratis Programme” regards, inter alia, matters of audit, transparency, political money, as well as rationalisation of resources and procedures.

<sup>37</sup> [www.e-syntagografisi.gr](http://www.e-syntagografisi.gr)

<sup>38</sup> [www.apografi.gov.gr](http://www.apografi.gov.gr)

<sup>39</sup> [www.eetaa.gr/diplografiko](http://www.eetaa.gr/diplografiko)

- **Law 3861/2010** which sets to affect the “Diavgeia” (“Clarity”) programme<sup>40</sup>, introduces for the first time in Greece the obligation to post on the internet acts and decisions of government and administrative bodies of the narrow and broader public sector.

- **Law 3882/2010** which establishes free disposition of geospatial data, without restrictions and commitments, through [www.geodata.gov.gr](http://www.geodata.gov.gr). Through this website, every citizen (professional or private individual) gains access to data, such as general urban planning designs, borders of protected areas, high resolution aero-photographs, etc. It is underlined that, by today’s standards, Greece is one of the 10 countries in the world that offer free geospatial data.

- **Law 3900/2010** on “Rationalisation of procedures, acceleration of administrative trial and other provisions” (a relevant bill is being drafted regarding civil trials).

- **Law 3943/2011** which establishes for the first time in the Greek legal order the institution of the Prosecutor of Financial Crime. Moreover, this law provides for, inter alia, lenient measures for those who denounce acts of corruption with evidence, fall from office for state officials in violation of their oath, who will be more strictly punished, and confiscation of assets that have been illegally acquired or have been withheld from the asset declaration statements.

- **Law 3961/2011** which modified law 3126/2003 on “Criminal Responsibility of Ministers”. These modifications mainly focus on the following points:

- setting up a three-member consultative council which, prior to the set up of a preliminary inquiry committee, will proceed to a legal audit of the evidence and will give its opinion regarding the investigation of a potential criminal responsibility of a minister, while the final decision will still be taken by the Parliament
- equalisation of crimes of ministers with common crimes
- ability to enforce the restrictive clause that forbids leaving the country
- the Parliamentary Committee that conducts the preliminary hearing is able to order confiscation of the illegal financial benefit
- if the prosecution concerns a felony, it will be possible to block accounts, securities and financial assets in general, following the judge’s decision.

- **Law 3978/2011** on “Public procurement in defence and safety”, aiming inter alia at the enforcement of transparency in the field of armament.

- **Law 3979/2011** on “Electronic Governance and other provisions” which aims at the promotion of electronic governance in the whole range of the public sector, the local administration organisations, but also the legal entities of private law that are controlled by the state. Based on this law, citizens, businesses and public sector agencies have at their disposal technological means and institutional facilitations that reduce the obligation for personal presence, in order to deal with a case, and minimise the time required for completing the administrative procedures. At the same time, the possibilities for cases of illegal transactions and corruption are reduced, since not only the provision of the public service is depersonalised, but there are also records of the procedures and of their completion, so that it is possible to monitor their legality. Furthermore, the reduction of administrative costs for citizens and businesses is established, while electronic communication and transaction between public sector agencies is regulated, thus leading to the reduction of the operational cost and of the time required for completing a procedure.

- **Law 4013/2011** which provides for all public procurement contracts of the Greek public sector to be included in the responsibilities of the new Single Public Procurement Authority. The purpose of this is to deal effectively with the chronic problems and big political and non-political scandals that arise in the area of public procurement contracts, due to, inter-alia, the fragmentation of the rules and the procedure for their assignment and execution. The above-described situation has led, until today, to the inadequate interpretation and implementation of the existing legal framework, but also to excessive delays, which

<sup>40</sup> [www.diavgeia.gov.gr](http://www.diavgeia.gov.gr)

arise from judicial disputes between the agents participating and the assigning authorities, and which have often cost the country convictions from the Court of Justice of the European Union.

An important initiative has also been the organisation of an innovative workshop, aiming at the consultation for the “Enhancement of transparency – Eradication of corruption”, on June 7, 2011, by the National Centre for Public Administration and Local Government, in cooperation with the Prime Minister’s Office. The focal point of this consultation was the drafting of new ways of approach as regards the fight against corruption, also through the exploitation of methods and sound practices of other countries.

Important initiatives for the enhancement of transparency and the eradication of corruption have also been taken by the civil society. Specifically, in 2006, eleven big international NGOs drafted and signed the International Non Governmental Accountability Charter, by which they committed to respect the universal values and principles, to operate with modern systems of administration and management, to accept an external independent auditor with complete transparency and with the obligation to be accountable both to the organisations themselves and to third parties<sup>41</sup>. The example of these eleven international NGOs was followed, on 11.04.2008, by seventeen Greek NGOs that signed the Accountability Charter<sup>42</sup>. The number of these NGOs has reached 24 nowadays, while the procedure for signing the Charter with regard to other NGOs as well is still developing. Obviously, this number is insignificant compared to the total number of NGOs that are active in Greece.

Another effort for self-commitment is the Principles of Attachment to the Quality of Operation and Organisation Serving Our Aims (APOPLOUS)<sup>43</sup>, which is an initiative of the “Campaign of 800 NGOs for the Constitution and the Institutions”. Based on the schedule that was determined, the consultation procedure included two phases. The first phase, which has already been completed after the official publication of APOPLOUS and after informing all the campaign members of the draft, included the recording of observations and proposals. In the second phase, which is currently taking place, there is consultation anew in order to finalise the definitive plan. The definitive plan will be sent to the NGOs involved for approval and acceptance by their administrative bodies.

Finally, Transparency International – Greece is carrying out the campaign for an “**Open Social Alliance for Integrity and Transparency – Active Citizen’s Ten Rules against Corruption**”<sup>44</sup>, in order for the active citizens to creatively and freely express their opinions, reacting to every form of corruption. The goal is to promote institutional reforms and safeguard the unshakeable will and the substantial contribution of both the public and the private sector, with the help of the civil society, the intellectual world and all the politicians. The fight against corruption has been built along three main axes: the political sector, the public administration sector and the private sector. The first axis includes politicians, MPs, members of the government but also the politically appointed officials of ministries. The politicians are called upon to adopt a series of ethical conducts that will enhance their credibility. The second axis calls for reforms in the public sector in the broader sense. It includes all employees of government services, public enterprises and public utility organisations, but also the National School of Public Administration. The primary goal is the complete shielding of the public sector. Finally, the private sector is able to contribute to the achievement of this goal, namely operating in a transparent and merit-based manner, by adopting measures and commitments.

Despite the efforts of the state and the civil society, Greece still lags behind compared to the countries of the European Union, as regards the fight against corruption, while the latter keeps representing a factor of regression for the country. It is obvious that the enactment of numerous laws is not enough, but it is rather required, more than ever, to adopt an overall and bolder approach.

41 [www.ingoaccountabilitycharter.org](http://www.ingoaccountabilitycharter.org)

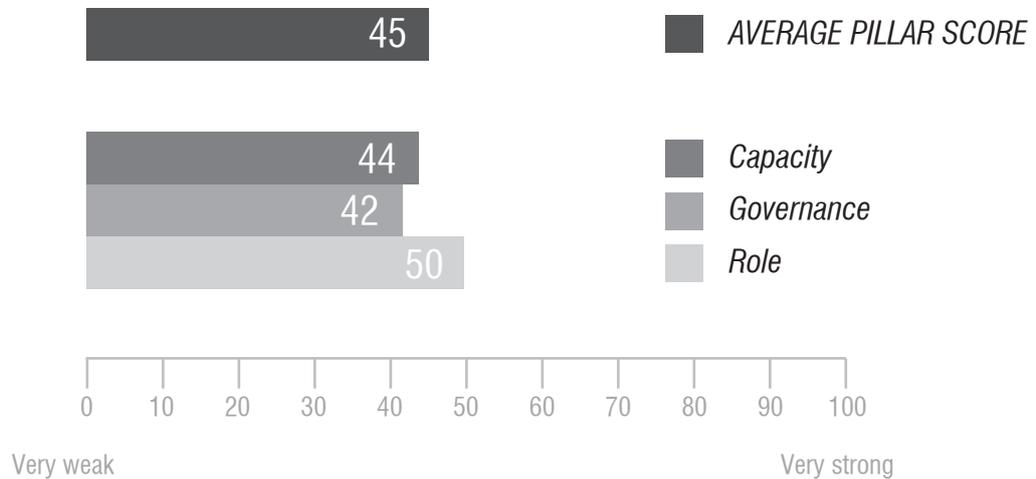
42 *Open Society – Bulletin of the Citizens’ Movement for an Open Society, International Non-Governmental Accountability Charter, issue 69(3), 2008.*

43 <http://www.eurocharity.gr/el/story/871>

44 <http://en.transparency.gr/Content.aspx?page=60>

## THE PILLARS OF THE NATIONAL INTEGRITY SYSTEM

### LEGISLATURE



### SUMMARY

Despite the explicit provision in the Constitution regarding the independence of the legislative power from the judicial and executive power, the latter decisively influences the legislative and audit role of the Parliament, since the current political system requires for the Government to be supported by the majority of the Parliament, namely requires that the Government and the majority of MPs belong to the same political party. At the same time, the constitutionally established freedom of opinion of the members of the Parliament has been actually rendered void of meaning as well, thus leading the work of the Parliament to reflect almost exclusively the will of the Government in office.

Given the above, it is clear that there is need for a brave constitutional reform, so that the Parliament will not be merely a mechanism for political pressure, but it will also perform efficiently the role assigned to it by the current regime of presidential parliamentary democracy.

Finally, another great wound to the credibility of the parliamentary institution has been, from time to time, the non-waiver of parliamentary immunity in cases where the Constitution explicitly establishes the opposite. For this abusive practice of the Parliament, Greece has already been convicted twice by the European Court of Human Rights.

### STRUCTURE & ORGANISATION

In Greece, legislative power is exercised by the Parliament and the President of the Hellenic Republic<sup>45</sup>.

The members of the Greek Parliament are elected directly by the people by secret ballot for a four-year mandate. Elections can be proclaimed earlier due to emergency reasons, as they are defined by the Constitution. After 1975, the proclamation of early elections is more common than the proclamation of elections following the prospective duration of governance, since the outgoing governments are often pleading a national matter of particular importance. For the election of the members of the Parliament, the Hellenic Republic uses a complex and not linearly proportional election system for the representation of votes, the “reinforced proportional representation” system, which allows for an easier, compared to the simple proportional system, formation of governments by a single party, giving it a strong majority

<sup>45</sup> Article 26 par. 1 of the Constitution of Greece.

as to the parliamentary seats, even if it does not manage to obtain the absolute majority of the votes by the electoral body. In order for a party to be able to occupy one of the 300 parliamentary seats, it has to have obtained at least 3% of all votes, while according to the electoral law, which was implemented for the first time in the Parliamentary elections of 2007, the first party is able to ensure absolute majority in the Parliament with a percentage of around 42%.

After the parliamentary elections of 2009 in Greece and the occasional cases of members of the Parliament becoming independent or being expelled from their parliamentary groups, the composition of the Parliament is as follows<sup>46</sup>:

PARTY	MPs
Panhellenic Socialist Movement (PASOK)	131
New Democracy	62
Communist Party of Greece (KKE)	21
Popular Orthodox Rally (LAOS)	16
Coalition of the Radical Left (SYRIZA)	9
Independent	61
Democratic Left (unofficially)	4
Democratic Coalition (unofficially)	4
Panhellenic Citizen Chariot (unofficially)	1
Movement of Free Citizens (unofficially)	1

## ASSESSMENT

### Resources (law)

*To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?*

**Score: 50**

According to the Constitution<sup>47</sup>, the Parliament determines its way of operating by the Standing Orders voted by the Plenum and published in the Government Gazette. The adoption and the implementation of the Parliament's budget is the exclusive responsibility of the Parliament and it is independent from the implementation of the state's general budget, as well as from the terms and conditions that are put forward by it, regarding allocation of credit<sup>48</sup>.

MPs, in order to exercise their duties, are entitled to remuneration and expenses by the State, the amount of which is determined by decision taken in the Parliament's Plenum. MPs enjoy exemption from paying for transport, postal and telephone services, the extent of which is determined by decision taken in the Parliament's Plenum<sup>49</sup>.

<sup>46</sup> Last update 17.02.2012.

<sup>47</sup> Article 65 par. 1 of the Constitution of Greece.

<sup>48</sup> Article 120 par. 7 of the Standing Orders of the Hellenic Parliament.

<sup>49</sup> Article 63 par. 1 and 2 of the Constitution of Greece.

## Resources (practice)

*To what extent does the legislature have adequate resources to carry out its duties in practice?*

**Score: 50**

Until 2010, the Parliament's resources (financial, human resources, infrastructure, etc.) were considered adequate, since it was able to efficiently exercise its duties without shortcomings<sup>50</sup>.

However, the Parliament's budget for 2012 is reduced by almost 27 million euro compared to the budget for 2011<sup>51</sup>. This means a reduction of 13.65% compared to the adopted budget for 2011, which was already reduced by 20 million euro, namely by 9.29% compared to the financial year 2010. The total amount of credit that is proposed by the draft budget for 2012 is €170,972,000, compared to credit of €197,988,000 for the financial year 2011.

YEAR	CREDIT	(+) (-)	DIFFERENCE IN %
2008	211.950.000		
2009	222.140.000	+10.190.000	+4,81%
2010	218.253.000	-3.887.000	-1,75%
2011	197.988.000	-20.265.000	-9,29%
2012	170.972.000	-27.016.000	-13,65%

70% of the cutbacks are due to reductions of expenditure for salaries of MPs and Parliament personnel, and 30% of the cutbacks are due to reductions of operational costs (i.e. transportation inside the country and abroad, public relations, commissions, leasing, etc.). The proposed budget of the Parliament for 2012 will be almost 3‰ of the state budget.

These cutbacks have not yet caused apparent problems to the Parliament's function<sup>52</sup>, which has been accused of wasting public money, mainly because of the allocation of extremely high salaries to MPs and the Parliament's personnel<sup>53</sup>.

## Independence (law)

*To what extent is the legislature independent and free from subordination to external actors by law?*

**Score: 50**

The Constitution ensures freedom of opinion and voting for the members of the Parliament<sup>54</sup>. An MP cannot be prosecuted nor questioned on grounds of an opinion or vote he/she casted while exercising his/her duties, but only on grounds of defamation, after the Parliament's permission. Moreover, an MP is not obliged to testify for information that he/she came around to during the exercise of his/her duties<sup>55</sup>. For the duration of the parliamentary mandate, an MP cannot be prosecuted, arrested nor imprisoned,

*The Constitution ensures freedom of opinion and voting for the members of the Parliament*

<sup>50</sup> Article 63 par. 1 and 2 of the Constitution of Greece.

<sup>51</sup> "Haircut for the Parliament's budget as well" (in Greek), [www.newsbomb.gr](http://www.newsbomb.gr)

<sup>52</sup> Anastasiadis S., Member of the Parliament, interview with the author on 05.10.2011. Tzikalagias Z., Member of the Parliament, interview with the author on 05.10.2011.

<sup>53</sup> See indicatively: Kyrtos G., "They continue the looting" (in Greek), [www.citypress.gr/freesunday/index.html?action=Article&Article=2492](http://www.citypress.gr/freesunday/index.html?action=Article&Article=2492), 17.12.2011.

<sup>54</sup> Article 60 par. 1 of the Constitution of Greece.

<sup>55</sup> Article 61 of the Constitution of Greece.

without the Parliament's permission<sup>56</sup>, while he/she can neither be prosecuted for political crimes of the Parliament that has just been disbanded, until the declaration of the MPs of the next Parliament. However, prosecuted for flagrant crimes does not require permission of the Parliament<sup>57</sup>. Resignation from the parliamentary seat is, according to the Constitution, an indefeasible right of the MP<sup>58</sup>, whereas nobody else is able to depose an MP who has been legally elected.

According to the Constitution, the Parliament convenes, ipso jure, on the first Monday of October each year, in a regular session on its annual account of workings<sup>59</sup>, unless the President of the Hellenic Republic exceptionally convenes it earlier, if he considers it justified<sup>60</sup>. Both the Parliament and the government have the right to propose bills of law<sup>61</sup>.

The Constitution provides that the President of the Parliament and the other members of the Presidium are elected by the MPs, at the beginning of each parliamentary mandate<sup>62</sup>. The President manages the working sessions and sittings of the Parliament, drafts the agenda of the Parliament's working sessions, ensures for the unobstructed implementation of its work and the maintenance of order, takes disciplinary measures and serves as the Head of the Parliament's services<sup>63</sup>. Moreover, the President of the Parliament supervises the internal and external security of the Parliament and its premises, in the name of which he exercises the police power. He determines the police force and approves the staff that is appointed to the guard of the Parliament, which is exclusively under the President's command as well<sup>64</sup>.

The Parliament, at the beginning of every regular session, sets up permanent parliamentary committees formed by its members to examine and process bills and law proposals that are submitted<sup>65</sup>.

Recently, it was decided by the Parliament that appointments of its permanent staff will be carried out only through the Supreme Council for Personnel Selection in order to put an end to the traditional practice of appointments to the Parliament through non-transparent procedures<sup>66</sup>.

## Independence (practice)

*To what extent is the legislature free from subordination to external actors in practice?*

### Score: 25

Since, according to the current electoral system, the Government essentially has to have the absolute majority in the Parliament, the latter ends up practically implementing only decisions of the Government. As for the MPs of the Government in office, they rarely dissociate themselves from the opinion of the party, fearing for expulsion from the party<sup>67</sup>.

<sup>56</sup> Article 83 of the Standing Orders of the Hellenic Parliament.

<sup>57</sup> Article 62 of the Constitution of Greece.

<sup>58</sup> Article 60 par. 2 of the Constitution of Greece and Article 10 of the Standing Orders of the Hellenic Parliament.

<sup>59</sup> Article 64 of the Constitution of Greece.

<sup>60</sup> Article 40 par. 1 of the Constitution of Greece.

<sup>61</sup> Article 73 par. 1 of the Constitution of Greece and Article 83 of the Standing Orders of the Hellenic Parliament.

<sup>62</sup> Articles 7 and 8 of the Standing Orders of the Hellenic Parliament.

<sup>63</sup> Article 65 of the Constitution of Greece and Article 11 of the Standing Orders of the Hellenic Parliament.

<sup>64</sup> Article 11 of the Standing Orders of the Hellenic Parliament.

<sup>65</sup> Article 68 of the Constitution of Greece.

<sup>66</sup> Stavropoulos L. & Tziouvas G., "Appointments in the Parliament only through the ASEP" (in Greek), [www.tovima.gr/politics/Article/?aid=297476](http://www.tovima.gr/politics/Article/?aid=297476), 05.11.2009.

<sup>67</sup> See indicatively: Manoledakis I., "Why I am not participating in the discussion" (in Greek), [www.tovima.gr/opinions/Article/?aid=267462](http://www.tovima.gr/opinions/Article/?aid=267462), 10.05.2009. Economou G., "Parliamentary system and oligarchy" (in Greek), *I Epochi* (newspaper), 19.10.2008.

*An MP cannot be prosecuted, arrested nor imprisoned, without the Parliament's permission*

*Recently, it was decided by the Parliament that appointments of its permanent staff will be carried out only through the Supreme Council for Personnel Selection*

*As for the MPs of the Government in office, they rarely dissociate themselves from the opinion of the party, fearing for expulsion from the party*

*It is estimated that less than 5% of legislative initiatives originate from the opposition parties*

It is estimated that less than 5% of legislative initiatives originate from the opposition parties, whereas it is underlined that they are voted against in their entirety, since it is not possible to get the required majority required<sup>68</sup>.

It is also noted that the granting of authorisations –often extremely extended- from the legislator to the executive power leads to confusion regarding jurisdiction and substitution of the Parliament by the Government<sup>69</sup>.

Moreover, the extravagant election campaigns and other financial needs of the members of the Parliament often lead to their manipulation by business interests (see also pillar “Executive”), while vote-hunting also subjects them to serving non-transparent private interests<sup>70</sup>, often at the expense of the public interest.

### Transparency (law)

*To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?*

#### **Score: 50**

The Standing Orders of the Parliament provide for publication of the agenda<sup>71</sup> and of the content of law drafts and proposals<sup>72</sup>, publicity of parliamentary sessions and access to them<sup>73</sup>, keeping and publishing of sessions’ minutes<sup>74</sup> and for the announcement of voting results<sup>75</sup>. Moreover, the publication of the Parliament’s budget is also obligatory, as well as the publication of all enacted legislation in the Government Gazette.

Regarding the bills that are submitted to the Parliament for adoption, apart from certain exceptions explicitly provided for by law, it is obligatory that they are accompanied by a report on the public consultation that precedes them<sup>76</sup> (see also pillar “Executive”).

The general freedom of press is established by the Constitution (see also pillar “Media”). The Hellenic Parliament Television Station is operating since 1999, broadcasting the majority of sessions of the Plenum and of the individual committees of the Parliament, while the other television stations are able to broadcast sessions of the Parliament, as well.

Citizens who wish to visit the Parliament and watch its live sessions have to obtain special entrance permits through parliamentary groups, which, depending on their power, are able to obtain a number of entrance permits accordingly. Therefore, only a limited number of people, selected mainly by the parties, are able to watch live the sessions of the Parliament.

According to the Constitution<sup>77</sup>, it is prohibited for someone to appear unsolicited at the Parliament to report anything orally or in writing. Reports are presented by an MP or they are submitted to the President of the Parliament. The Parliament, in its turn, is able to forward these reports to the responsible ministers and vice-ministers, in order to get explanations, if any. Nevertheless, by written request, citizens are able to obtain documents that have resulted from the Parliament’s workings.

<sup>68</sup> Anastasiadis S., Member of the Parliament, interview with the author on 05.10.2011. Tzikalagias Z., Member of the Parliament, interview with the author on 05.10.2011.

<sup>69</sup> Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

<sup>70</sup> Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

<sup>71</sup> Article 50 of the Standing Orders of the Hellenic Parliament.

<sup>72</sup> Article 93 of the Standing Orders of the Hellenic Parliament.

<sup>73</sup> Article 56 of the Standing Orders of the Hellenic Parliament.

<sup>74</sup> Article 61 of the Standing Orders of the Hellenic Parliament.

<sup>75</sup> Article 69 of the Standing Orders of the Hellenic Parliament.

<sup>76</sup> Article 85 par. 3 of the Standing Orders of the Hellenic Parliament.

<sup>77</sup> Article 69 of the Constitution of Greece.

## Transparency (practice)

*To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?*

**Score: 50**

All the above Standing Orders of the Parliament that concern matters of publicity are implemented in practice. However, in practice, all the aforementioned transcripts of the Parliament are not always easily accessible to the broader public<sup>78</sup>. The Parliament publishes and distributes to the public, inter alia, press releases, periodic newsletters, the Parliament's transcripts, explanatory reports attached on bills, reports by standing committees on bills, scientific service reports on bills, lists of decisions made by the Parliament, including adopted bills and law proposals, reports by special permanent (ad hoc) committees, reports by inter-party parliamentary committees, findings of investigation committees, constitutional revision proposals and reports by the Committee on the Revision of the Constitution<sup>79</sup>. The Library of the Hellenic Parliament, where all kinds of records and other publications of the Parliament are kept, is open to the public. Finally, a large part of the legislative and audit work of the Parliament is published on the Parliament's website, in the form of documents and videos.

## Accountability (law)

*To what extent are there provisions in place to ensure that the legislature has to report on and be held accountable for its actions?*

**Score: 50**

The Standing Orders of the Parliament oblige MPs to comply with them during parliamentary sessions, and also impose disciplinary measures for MPs who do not comply<sup>80</sup>. In particular, the President of the Parliament is able to impose disciplinary measures against any MP who is violating the Standing Orders of the Parliament or exhibits disorderly conduct during the sessions or discussions of the Parliament. As disorderly conduct is deemed: a) obstruction of the normal procedure of sessions or discussions and disturbance of order in them, either by noise or disorder or any other way, b) interruption of speakers without their consent and the President's permission or disapproval of them by words or actions, c) speaking without the President's permission, d) improper behaviour by words or actions, e) lack of due respect towards the Presidium, the importance of the work and the mission of the Parliament, e) non-compliance with the President's recommendations, f) the use of offending language against the honour and reputation of the President of the Hellenic Republic, the members of the Parliament, its Presidium and the members of the Government, and g) contempt of the Constitution and state institutions by words or actions.

The disciplinary measures that are imposed to MPs for unacceptable or disorderly conduct are: a) call to order, b) deprivation of the right to speak, c) reproach for conduct inappropriate for an MP, and d) temporary exclusion from sessions.

With regard to review of laws adopted by the Parliament, it is noted that bills are obligatorily accompanied by a report on the public consultation that has preceded their submission. A report on public consultation is not required in cases exclusively mentioned in the law or in case the bill has been characterised by the Government as extremely urgent<sup>81</sup>.

In Greece, review of (actual) constitutionality of laws is diffused, ex-post and interlocutory. The Constitution establishes that Courts are obliged to refrain from the implementation of a law the content of which is

*In Greece, review of (actual) constitutionality of laws is diffused, ex-post and interlocutory*

<sup>78</sup> Chrysogonos K., *Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.*

<sup>79</sup> <http://www.hellenicparliament.gr/enimerosi>.

<sup>80</sup> *Articles 77-82 of the Standing Orders of the Hellenic Parliament.*

<sup>81</sup> *Article 85 par. 3 of the Standing Orders of the Hellenic Parliament.*

contradictory to the Constitution<sup>82</sup>. Namely, a judge is able to refuse to implement a law that is contrary to the Constitution. This decision does not influence the formal validity of the law, but it only applies to the specific case. Review of laws is limited to review of their content. The courts do not have the authority to oversee the compliance with the provisions of the Constitution in the adoption of the law (quorum of MPs, etc.). These are considered by the Courts to be *interna corporis* (internal matters) of the Parliament, which are controlled by the Parliament itself and by the President of the Hellenic Republic in the adoption of laws (formal constitutionality).

The only case of primary and concentrated constitutional review of laws is when the Supreme Special Court (AED) is convened. The AED is convened when two of the three supreme courts of the country have issued contradictory rulings as to the constitutionality of a law. In this case, the AED decides definitively on the constitutionality of the law and not only in the framework of the cases pending before the courts that have issued the contradictory rulings. Therefore, if the AED decides that a law is unconstitutional, the result is eradication of this law from the legal order.

### Accountability (practice)

*To what extent do the legislature and its members report on and answer for their actions in practice?*

#### Score: 25

Parliamentary immunity has been abusively implemented by the Parliament many times, an issue that has resulted to Greece being convicted twice by the European Court of Human Rights (violation of article 6 par. 1 of the European Convention on Human Rights)<sup>83</sup>. More specifically, in these cases, the Parliament refused to waive the parliamentary immunity of MPs, despite the fact that the cases pending before the Court were of a private nature (see also pillars “Executive” and “Judiciary”).

Public consultation for legislative and regulatory acts is one of the basic actions of open governance, which are posted on the website [www.opengov.gr](http://www.opengov.gr). When the deadline for the consultation is over, the responsible Ministry publishes a thank-you document that also includes the first conclusions. At the same time, it processes the comments of the citizens, drafting the aforementioned report on the public consultation.

With regard to judicial control of the constitutionality of laws, it is noted that the responsible courts often decide that laws have been proposed by the Government and adopted by the Parliament are unconstitutional<sup>84</sup>.

### Integrity mechanisms (law)

*To what extent are there mechanisms in place to ensure the integrity of members of the legislature?*

#### Score: 50

In the case of legislature, matters of integrity of the MPs are not regulated by an internal disciplinary code of the Parliament, but by the Constitution itself. The latter provides that public officials and public servants are not entitled to becoming candidate MPs, with the exception of university professors<sup>85</sup>. Moreover, it is ensured by constitutional provision that MPs cannot be owners, in the broader sense, of businesses providing services or goods to the public sector, enjoying special privileges, managing media or renting public sector properties, while it is also prohibited for MPs to participate in off-shore companies. MPs who do not comply with this constitutional provision are removed from office<sup>86</sup>, following a relevant court ruling.

<sup>82</sup> Article 93 par. 4 of the Constitution of Greece.

<sup>83</sup> Cases of members of the Parliament Mr. Tasoulas K. (2006) and Mrs. Apostolaki M. (2010).

<sup>84</sup> See indicatively: Mandrou I., “When the Laws are considered illegal” (in Greek), [www.tovima.gr/relatedArticles/Article/?aid=96850](http://www.tovima.gr/relatedArticles/Article/?aid=96850), 08.03.1998. “Catapult decision of the StE - PASOK’s Law 3838/2010 on granting nationality to foreigners was deemed unconstitutional” (in Greek), [www.eglimatikotita.gr/2011/02/38382010.htm](http://www.eglimatikotita.gr/2011/02/38382010.htm), 01.02.2011.

<sup>85</sup> Article 56 of the Constitution of Greece.

<sup>86</sup> Article 56 of the Constitution of Greece and Article 6 of the Standing Orders of the Hellenic Parliament.

By law<sup>87</sup>, the members of the Parliament are obliged to declare in detail the source of their income throughout the duration of their mandate, as well as for three (3) years after the end of their mandate. The Parliament is responsible for the implementation of this law. The asset statements of members of the Parliament are audited by the (central) Audit Committee of article 21 of law 3023/2002 (see pillar “Electoral Management Body”). Publication of these statements is allowed, provided that they are published as a whole. Depending on the findings of this audit, the responsible committee’s report is sent to the Court of Audit, to the Parliament if an issue of criminal prosecution of MPs arises, or to any other authority required.

### Integrity mechanisms (practice)

*To what extent is the integrity of legislators ensured in practice?*

#### **Score: 25**

The current legal framework, as depicted in the Constitution, is efficient to an important extent. However, it is rarely implemented in order to impose the sanctions that are provided for<sup>88</sup>. For example, in the framework of the investigation on the Siemens scandal, evidence came up regarding MPs who had received contributions by the company, mainly in the form of technological equipment for their offices<sup>89</sup>. However, it is not known until today if further investigation was carried out<sup>90</sup>.

Serious criticism has been made regarding the way the asset declarations of MPs are being drafted and audited<sup>91</sup>. In particular, the current way of depicting their assets does not allow for safe conclusions as far as the source of their income is concerned, while there are also serious doubts about the audit of these asset declarations. Furthermore, there is partial broadcasting regarding the statements of certain MPs during the period of submission of asset declarations, whereas a declaration as a whole are not accessible at all times<sup>92</sup> (see also pillar “Electoral Management Body»).

### Executive Oversight

*To what extent does the legislature provide effective oversight of the executive?*

#### **Score: 50**

The Constitution and the Standing Orders of the Parliament provide for the Parliament’s capacity, in the framework of parliamentary oversight<sup>93</sup>, to request information from the Government<sup>94</sup>, the Independent Authorities<sup>95</sup> and extra-parliamentary agents<sup>96</sup>.

The state budget is adopted by the Parliament, which may also propose modifications, while it also ratifies the account of the previous financial year<sup>97</sup>. However, when recently the Parliament’s economic service

*87 Law 3213/2003 “Statement and audit of assets of members of the Parliament, public officials and servants, media owners and of other groups of natural entities” (in Greek).*

*88 Anastasiadis S., Member of the Parliament, interview with the author on 05.10.2011.*

*89 Tziouvaras G., “The honourable friends of Michalis Christoforakos” (in Greek), [www.tovima.gr/politics/Article/?aid=335740](http://www.tovima.gr/politics/Article/?aid=335740), 06.06.2010.*

*90 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.*

*91 Anastasiadis S., Member of the Parliament, interview with the author on 05.10.2011.*

*92 Mitsotakis K., “Pothen esches of members of the Parliament on the Internet” (in Greek), <http://www.inews.gr/98/kyriakos-mitsotakis-pothen-esches-vouleifton-sto-diadiktyo.htm>, 31.03.2011.*

*93 Article 70 par. 6 of the Constitution of Greece and Articles 124-138 of the Standing Orders of the Hellenic Parliament.*

*94 Article 66 par. 3 of the Constitution of Greece and Articles 142A and 143 of the Standing Orders of the Hellenic Parliament.*

*95 Article 138A of the Standing Orders of the Hellenic Parliament.*

*96 Article 38 of the Standing Orders of the Hellenic Parliament.*

*97 Articles 72 par. 1 and 79 of the Constitution of Greece and Article 31A of the Standing Orders of the Hellenic Parliament.*

published a report with gloomy findings about the economy of Greece, the Head of the service was forced to resign following criticism against her by the Minister of Finance<sup>98</sup>.

The Standing Orders of the Parliament provide for the operation of a Standing Committee of Armament Programmes and Contracts, in order to examine and monitor the implementation of armament programmes and defence material contracts<sup>99</sup>.

By Constitution, the President of the Hellenic Republic<sup>100</sup> is elected by the Parliament by an enhanced majority, while the Heads of Independent Authorities are elected by decision of the Conference of Presidents of the Parliament, also by an enhanced majority<sup>101</sup>.

The Parliament may set up investigation committees by its members, with proportional representation, for the assessment of issues of special interest. These committees have all the responsibilities of the investigative and prosecution authorities in the framework of the law. Their findings are submitted to the Parliament's Plenum<sup>102</sup>. Such committees may be set up by the Parliament also for the oversight of organisations and enterprises of the public sector<sup>103</sup>. In the recent years, setting up of investigation committees is a common occurrence. However, until today, very few political figures have been charged with offences<sup>104</sup>.

By decision of an absolute majority, the Parliament may withdraw its confidence from the government as a whole or from a member of the government<sup>105</sup>. Furthermore, the members of the Parliament are able to submit a motion of censure on the President and the Presidium<sup>106</sup>. This is a motion of discovery of inability to perform duties on the President of the Hellenic Republic<sup>107</sup>, on the Prime Minister<sup>108</sup> and on the President of the Parliament<sup>109</sup>, as well as to commit the President of the Hellenic Parliament and members of the Government to trial<sup>110</sup>. Since, however, the majority of the Parliament belongs to the governing party the possibility for a motion of censure is rendered devoid of purpose, as it is a priori clear that it is not going to be effective<sup>111</sup>.

Conclusively, as long as the electoral system encourages the formation of strong single-party governments that have the absolute majority of the Parliament, the latter will not be able to perform the auditing role that the Constitution holds for it.

*Since, however, the majority of the Parliament belongs to the governing party the possibility for a motion of censure is rendered devoid of purpose, as it is a priori clear that it is not going to be effective*

98 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

99 Article 31B of the Standing Orders of the Hellenic Parliament.

100 Articles 30 par. 1 and 32 of the Constitution of Greece and Article 140 of the Standing Orders of the Hellenic Parliament.

101 Article 101A of the Constitution of Greece.

102 Articles 68 par. 2 and 3 of the Constitution of Greece and Articles 144-148 of the Standing Orders of the Hellenic Parliament.

103 Article 149 of the Standing Orders of the Hellenic Parliament.

104 See indicatively the cases of the following ex-ministers: "Mandelis: he came, he confessed to have been bribed and he left", [www.tvxs.gr/news](http://www.tvxs.gr/news), 27.05.2010. "Akis Tsochatzopoulos: Passive bribery is prescribed", [www.i-live.gr/news-tsochatzopoulos-paragraph-dwrodokias](http://www.i-live.gr/news-tsochatzopoulos-paragraph-dwrodokias), 29.07.2011.

105 Article 84 par. 2-7 of the Constitution of Greece and Article 142 of the Standing Orders of the Hellenic Parliament.

106 Article 150 of the Standing Orders of the Hellenic Parliament.

107 Article 151 of the Standing Orders of the Hellenic Parliament.

108 Article 151A of the Standing Orders of the Hellenic Parliament.

109 Article 152 of the Standing Orders of the Hellenic Parliament.

110 Articles 153-159 of the Standing Orders of the Hellenic Parliament.

111 Anastasiadis S., Member of the Parliament, interview with the author on 05.10.2011.

## Legal reforms

*To what extent does the legislature prioritise anti-corruption and governance as a concern in the country?*

**Score: 50**

Since the majority of MPs belong to the governing party, the legislative acts concerning corruption that were adopted by the Parliament recently, are in essence initiatives of the government. The most important legislative acts that were adopted recently, include the following [see also pillar “Executive”]:

- **Law 3812/2009** on “Reform of the system for recruitment in the public sector and other provisions”, based on which there will be no recruitment in the public sector without merit procedures.
- **Law 3839/2010** by which a selection system for Heads of units by objective and merit-based criteria is established.
- **Law 3841/2010** which establishes a hearing procedure before the Summit of the Presidents of the Parliament for candidates of the Presidia of the country’s supreme courts .
- **Law 3849/2010** by which the punishment of crimes against the Office have been made more severe. These are the Criminal Code’s crimes, which include, inter alia, passive bribery, conflict of interest and violation of duty. By the new law a new article was also added to the Criminal Code (263B), which regulates matters of witness protection in corruption cases. The same law also provides for the following:
  - the ability of the Minister of Justice to order the Vice-Prosecutor of the Supreme Court to examine (asset declarations when there has been a written complaint or when a relevant matter arises through the media,
  - an extension of the sanctions regarding confiscation of assets and loss of office for all public officials who have not submitted an asset declaration statement or have declared inaccurate information or participate in off-shore companies,
  - realisation of the above also for those who benefit from illegal assets that exceed € 73,000,
  - audit of bank accounts and investment portfolios subsequent of a Minister’s order,
  - favourable treatment of civil servants who disclose corruption acts of their superiors.
- **Law 3852/2010** on “New architecture of local government and decentralised administration – Kallikratis Programme” regards, inter alia, matters of audit, transparency, political money, as well as rationalisation of resources and procedures.
- **Law 3861/2010** which sets to affect the “Diavgeia” (“Clarity”) programme<sup>112</sup>, introduces for the first time in Greece the obligation to post on the internet acts and decisions of government and administrative bodies of the narrow and broader public sector.
- **Law 3882/2010** which establishes free disposition of geospatial data, without restrictions and commitments, through [www.geodata.gov.gr](http://www.geodata.gov.gr). Through this website, every citizen (professional or private individual) gains access to data, such as general urban planning designs, borders of protected areas, high resolution aero-photographs, etc. It is underlined that, by today’s standards, Greece is one of the 10 countries in the world that offer free geospatial data.
- **Law 3900/2010** on “Rationalisation of procedures, acceleration of administrative trial and other provisions” (a relevant bill is being drafted regarding civil trials).
- **Law 3943/2011** which establishes for the first time in the Greek legal order the institution of the Prosecutor of Financial Crime. Moreover, this law provides for, inter alia, lenient measures for those who denounce acts of corruption with evidence, fall from office for state officials in violation of their oath, who will be more strictly punished, and confiscation of assets that have been illegally acquired or have been withheld from the asset declaration statements.

<sup>112</sup> [www.diavgeia.gov.gr](http://www.diavgeia.gov.gr)

• **Law 3961/2011** which modified law 3126/2003 on “Criminal Responsibility of Ministers”. These modifications mainly focus on the following points:

- setting up a three-member consultative council which, prior to the set up of a preliminary inquiry committee, will proceed to a legal audit of the evidence and will give its opinion regarding the investigation of a potential criminal responsibility of a minister, while the final decision will still be taken by the Parliament
- equalisation of crimes of ministers with common crimes ability to enforce the restrictive clause that forbids leaving the country
- the Parliamentary Committee that conducts the preliminary hearing is able to order confiscation of the illegal financial benefit
- if the prosecution concerns a felony, it will be possible to block accounts, securities and financial assets in general, following the judge’s decision.

• **Law 3978/2011** on “Public procurement in defence and safety”, aiming inter alia at the enforcement of transparency in the field of armament.

• **Law 3979/2011** on “Electronic Governance and other provisions” which aims at the promotion of electronic governance in the whole range of the public sector, the local administration organisations, but also the legal entities of private law that are controlled by the state. Based on this law, citizens, businesses and public sector agencies have at their disposal technological means and institutional facilitations that reduce the obligation for personal presence, in order to deal with a case, and minimise the time required for completing the administrative procedures. At the same time, the possibilities for cases of illegal transactions and corruption are reduced, since not only the provision of the public service is de-personalised, but there are also records of the procedures and of their completion, so that it is possible to monitor their legality. Furthermore, the reduction of administrative costs for citizens and businesses is established, while electronic communication and transaction between public sector agencies is regulated, thus leading to the reduction of the operational cost and of the time required for completing a procedure.

• **Law 4013/2011** which provides for all public procurement contracts of the Greek public sector to be included in the responsibilities of the new Single Public Procurement Authority. The purpose of this is to deal effectively with the chronic problems and big political and non-political scandals that arise in the area of public procurement contracts, due to, inter-alia, the fragmentation of the rules and the procedure for their assignment and execution. The above-described situation has led, until today, to the inadequate interpretation and implementation of the existing legal framework, but also to excessive delays, which arise from judicial disputes between the agents participating and the assigning authorities, and which have often cost the country convictions from the Court of Justice of the European Union.

The opposition, despite the occasional disagreements, often supports these governmental initiatives and, in any case, it does not fail to declare its commitment to the fight against corruption. Indicatively, it is mentioned that a bill was recently adopted by three parties of the Parliament, regarding the cases of corruption of politicians and state official and cases of public interest<sup>113</sup>.

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<sup>113</sup> “PASOK – ND – LAOS voted for a bill on corruption of politicians” (in Greek), [www.iefimerida.gr/news](http://www.iefimerida.gr/news), 28.09.2011.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to proceed with legislative initiatives and measures for the achievement of the following:**

- Enhancement of the audit powers of the Parliament (i.e. setting up an investigation committee should be a right of the minority).
- Participation of the Parliament in the formation of the budget.
- Prior to the participation of government agents in international fora, in order to carry out discussions or sign contracts on behalf of the country, there should be a relevant consultation in the Parliament.
- Establishment of the citizens' right to address questions without the intervention of MPs.
- Enhancement of the independence of MPs. Reinforcement of intra-party democracy.
- Establishment of the prohibition of participation in the next elections for first-degree relatives of a current MP in office.
- Establishment of capacities incompatible with that of ex-member of the Parliament.
- Reinforcement of the services of the Parliament with specialised professionals.
- Establishment of the representation of private interests by the MPs (lobbying).
- Reinforcement of the legislative initiative of the opposition.
- Restriction of urgent bills.
- A law that has been voted for should not be able to undergo modification before it has been applicable for a reasonable amount of time, except by an enhanced majority.
- Every article of a previous law that is amended fully or partially, should be re-stated from the beginning, and every law should mention clearly the abolished provisions.
- A law should not be in force following its publication in the National Gazette, but after the publication of all Ministerial Decisions and Presidential Decrees that are provided for, so that it can be fully implemented.

*Establishment of the representation of private interests by the MPs (lobbying)*

**The Parliament has to proceed with the adoption of measures for the achievement of the following:**

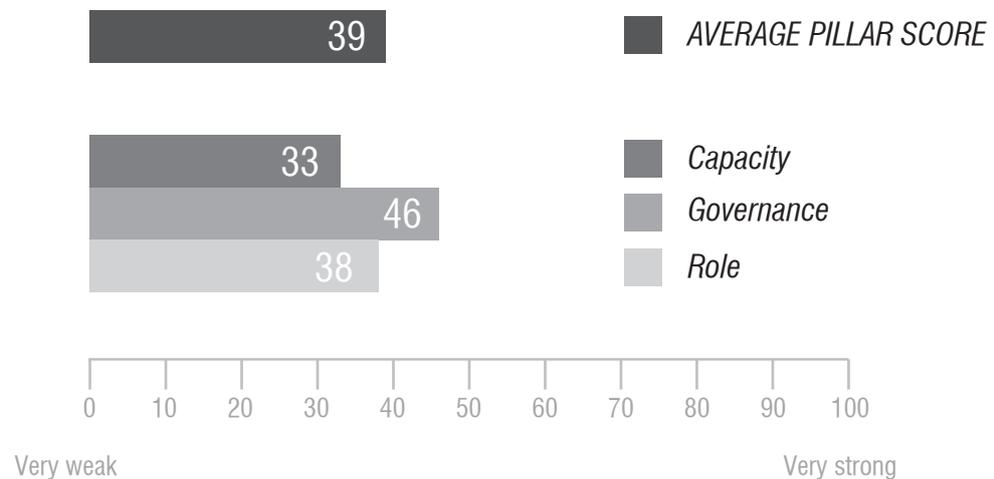
- Drafting a code of conduct for MPs.
- Substantial audit of the asset declarations ("pothen esches") of MPs.
- The institution of parliamentary immunity should not be abusively implemented.
- The physical presence of MPs in the Parliament during the performance of legislative and audit work should be required.
- Administration of legislative authorisations unsparingly and within clearly defined frameworks.

*Substantial audit of the asset declarations ("pothen esches") of MPs*

**The Judiciary has to proceed with the adoption measures for the achievement of the following:**

- More intensive judicial oversight of the obligation not to add irrelevant provisions in the body of legislative acts.
- More intensive judicial oversight of possible current unconstitutional provisions.

## EXECUTIVE



## SUMMARY

Even though the Constitution characterises the executive as equal to the other two powers (legislature and judiciary), the responsibilities that it allocates to it are anything but consistent with this characterisation. Moreover, in practice, the Government is the one having power over the Parliament, while it also influences the Judiciary to an important extent.

Despite the occasionally strong majorities by which the governments of the country are elected, they prove to be anything but strong and independent, due to pressure by organised interests to which the governments succumb. Even though, admittedly, important steps have been taken towards transparency this progress has not contributed as expected to the enhancement of the control on the executive.

## STRUCTURE & ORGANISATION

The executive power in Greece is exercised by the President of the Hellenic Republic and by the Government<sup>114</sup>. The constitutional reform of 1986 limited the responsibilities of the President to a great extent and, thus, the Government became the strong pole of the executive.

The President of the Hellenic Republic is considered to be the regulator of the regime. He is elected by the Parliament by an enhanced majority for a five-year mandate. Re-election of the same individual is allowed only once<sup>115</sup>.

The Government is the Ministerial Council composed by the Prime Minister and the Ministers<sup>116</sup>. The Government defines and directs the general policy of the Country, according to the provisions of the Constitution and the laws. The Prime Minister ensures the unity of the Government and directs its actions, as well as the actions of public services, for the implementation of governmental policy within the framework of the laws<sup>117</sup>.

<sup>114</sup> Article 26 par. 2 of the Constitution of Greece.

<sup>115</sup> Article 30 of the Constitution of Greece.

<sup>116</sup> Article 81 of the Constitution of Greece.

<sup>117</sup> Article 82 of the Constitution of Greece.

**The current structure of the government is as follows<sup>118</sup>:**

Prime Minister  
 Deputy Prime Minister  
 Deputy Prime Minister and Minister of Finance  
 Ministry of Administrative Reform and Electronic Governance  
 Ministry of Interior  
 Ministry of Finance  
 Ministry of Foreign Affairs  
 Ministry of National Defence  
 Ministry of Development, Competitiveness and Shipping  
 Ministry of Environment, Energy and Climate Change  
 Ministry of Education, Lifelong Learning and Religious Affairs  
 Ministry of Infrastructure, Transport and Networks  
 Ministry of Employment and Social Security  
 Ministry of Health and Social Solidarity  
 Ministry of Rural Development and Food  
 Ministry of Justice  
 Ministry of Citizen Protection  
 Ministry of Culture and Tourism  
 Minister of State  
 Minister of State and Government Spokesman

## ASSESSMENT

### Resources (practice)

*To what extent does the executive have adequate resources to effectively carry out its duties?*

**Score: 25**

According to the recent census (July 2010), the number of all public servants, including all categories, rises to 768,009 people. 39% of them hold a Bachelor's Degree, 9% have acquired education by a technological institute, 28% have acquired Secondary Education, while 10% have a master's degree or a PhD<sup>119</sup>. In this census the staff of companies of public utilities and of legal entities of private law, namely the broader public sector, was not included. It is worth noting that 45% of public servants are employed just by two ministries, namely the Ministry of Health and the Ministry of Interior (the employees of municipalities and prefectures included)<sup>120</sup>.

The budget that is allocated to the Government to carry out its work is the state budget<sup>121</sup>. According to the budget for 2011, net revenue was expected to rise to €60,262 million, namely 26% of GNP, whereas expenditure was expected to rise to €76,351 million, namely 32.9% of GNP. Both revenue and expenditure appear to be slightly higher compared to the values of 2010, which rose to percentages of 23.6% and

118 Last update 17.02.2012.

119 "The Profile of the 768 Thousand Public Servants" (in Greek), [www.enet.gr/?i=news.el.Article&id=188530](http://www.enet.gr/?i=news.el.Article&id=188530), 30.07.2010.

120 Xanalatos N., "Greece, the Country of Public Servants" (in Greek), [www.thebest.gr/news/index/viewStory/13412](http://www.thebest.gr/news/index/viewStory/13412).

121 Xanalatos N., "Greece, the Country of Public Servants" (in Greek), [www.thebest.gr/news/index/viewStory/13412](http://www.thebest.gr/news/index/viewStory/13412).

31.8%, respectively. However, it is not certain that these figures will be verified at the end of the year, since the debt crisis that the country is going through and the measures taken to deal with it have upset all plans.

Given the above, the number and qualifications of employees in the public sector are adequate for the executive to carry out its work effectively, to such an extent that leads to thoughts of human resources being wasted<sup>122</sup> and to plans of dismissal of up to 150,000 public servants due to the crisis. On the other hand, the financial crisis that Greece is dealing with has also brought about an important cutback in public expenditure that does not have to do with human resources<sup>123</sup>, which stands in the way of the achievement of government goals.

### Independence (law)

*To what extent is the executive independent by law?*

#### **Score: 50**

The Government in office is elected by the popular majority. The Government has to have the confidence of the Parliament<sup>124</sup>. Within fifteen days from the Prime Minister's oath of office, the Government is obliged to request the vote of confidence of the Parliament, while it can also request it at any other time as well. The Parliament is called upon to decide on the vote of confidence within fifteen days. The Parliament can decide to withdraw its confidence from the Government or from any of its members. The Government defines and directs the general policy of the Country, according to the provisions of the Constitution and the laws<sup>125</sup>.

The Prime Minister directs the actions of the Government, as well as the actions of public services in general, for the implementation of government policy within the relevant legal framework<sup>126</sup>. As a result, the members of the executive become to a large extent executioners of the Prime Minister's plans<sup>127</sup>. Another limitation to the independence of the executive occurs because of the rules that emanate from the legal order of the European Union (EU), to which Greece, as a member state, has transferred significant powers<sup>128</sup>.

After the Memorandum of 2010 and the accompanying agreements between Greece and the so-called "troika" [International Monetary Fund (IMF), European Central Bank (ECB), EU] were signed, with the objective of lending to the country, in order to deal with its debt crisis, a significant number of the measures taken by the Government are dictated by these bodies, in order to ensure the achievement of the fiscal goals of the Greek economy and the payment in full of the borrowed capitals to the aforementioned creditors of Greece<sup>129</sup>.

It is noted that the current legal framework does not include provisions relevant to the representation of interests (lobbying) by the Government.

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122 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

123 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

124 Article 84 par. 1 of the Constitution of Greece

125 Article 82 par. 1 of the Constitution of Greece.

126 Article 82 par. 2 of the Constitution of Greece.

127 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

128 Article 28 par. 2 of the Constitution of Greece.

129 See indicatively Law 3845/2010.

## Independence (practice)

*To what extent is the executive independent in practice?*

**Score: 25**

In Greece, the so-called “interplay” is identified mainly in the relations between politicians, economic agents and the media. More specifically, political figures need financial resources but also publicity in the media, in order to be elected and re-elected. Economic agents and the media need political figures, and more so the governing agents in office, so that the last may take favourable measures for the interests of the first<sup>130</sup>.

This interplay is so deeply rooted in the Greek society that a provision has been included in the Constitution prohibiting the concentration of mass media and the incompatibility of the capacity of owner or executive of the media with the capacity of owner or executive of a business that provides goods or services to the public sector. This incompatibility also concerns relatives and any other intercalated physical or legal entities<sup>131</sup>.

The Greek governments have had limitations as to their independence by multinational corporations as well, which bribed government officials in order to receive public sector commissions. The cases of Siemens<sup>132</sup> and Ferrostaal<sup>133</sup> are indicative of this.

Another limiting factor of the independence of the executive is also the patron-client networks that are developed between politicians and their voters<sup>134</sup>. A typical indication of this transaction is, inter alia, the oversizing of the public sector through the hire of excess staff throughout the years using non-transparent procedures.

## Transparency (law)

*To what extent are there regulations in place to ensure transparency in relevant activities of the executive?*

**Score: 75**

The following are mandatorily published in the Government Gazette: the Constitution, the laws, the Standing Orders of the Parliament, acts of legislative content, presidential decrees, proclamations of the President of the Hellenic Republic, acts of regulatory nature of the members of the Government and of the public administration in general, rulings of the Supreme Special Court, administrative acts of individual character, acts of set up of organs, invitation to tender for staff selection, appointments, transfers, resignation, dismissals, acts regarding the granting state aid to investments, acts regarding public procurement contracts, supplies, services, acts regarding expropriations, the special report on electoral income and expenditure of political parties, etc.

A recent law<sup>135</sup> established the mandatory post of laws and acts of governmental, administrative and local administrative organisations on the Internet (programme “Clarity”)<sup>136</sup>. It is noted that the number of

130 See indicatively: Matthias S., “Corruption and State Authority” (in Greek), <http://revma.wordpress.com>, 06.07.2010. Economou G., “Parliamentarism and Oligarchy” (in Greek), <http://feltor.wordpress.com>, 26.12.2010.

131 Article 14 par. 9 of the Constitution of Greece.

132 See indicatively: “Mandelis: I took money from Siemens” (in Greek), [www.tanea.gr/ellada/Article/?aid=4576557](http://www.tanea.gr/ellada/Article/?aid=4576557), 27.05.2010.

133 See indicatively: Pappas G., “Harsh fine on Ferrostaal for commissions in Greece and Portugal” (in Greek), [www.tanea.gr/ellada/Article/?aid=4681901](http://www.tanea.gr/ellada/Article/?aid=4681901), 21.12.2011.

134 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

135 Law 3861/2010.

136 [www.diavgeia.gov.gr](http://www.diavgeia.gov.gr)

acts that are mandatorily posted on the internet is significantly higher than the number of acts that are mandatorily published in the Government Gazette, thus covering almost all the required acts. Moreover, there is consultation on upcoming legislative acts, announcements of job vacancies in the public sector and more through the Government's website<sup>137</sup>.

The official transcript of the Ministerial Council is classified for thirty (30) years<sup>138</sup>, while the Ministerial Council may convene without the presence of the Secretary General and stenographers, when the Prime Minister considers the matters for discussion to be classified<sup>139</sup>.

According to the Constitution<sup>140</sup>, the Minister of Finance submits a draft of the budget to the responsible standing parliamentary committee on the first Monday of each October every year for discussion. The Minister of Finance, taking into account the observations of the committee as well, introduces the budget to the Parliament, at least forty days before the start of the fiscal year. The budget is discussed and voted by the Plenum, which adopts the account of activities of the outgoing year and the budget of the oncoming year, as well. The principle of transparency and subsequent publicity of the state budget is also established in the relevant law<sup>141</sup>.

By law<sup>142</sup>, the members of the government, the members of the Parliament, high public officials, civil servants who participate in committees of public procurement, media owners and journalists are obliged to declare in detail the source of their income throughout the duration of their aforementioned capacities, as well as for three (3) years after the end of their mandate. The Parliament is responsible for the implementation of this law on MPs and members of the Government, and the judge of the chamber of appeals is responsible for the rest. The penalties for non-compliance are fines, imprisonment and deprivation of political rights.

### Transparency (practice)

*To what extent is there transparency in relevant activities of the executive in practice?*

#### **Score: 50**

Recently, there has been significant progress regarding the promotion of political awareness on transparency. The laws and acts whose publication in the Government Gazette or the internet (programme "Clarity") is required by law, are published without any exception. However, since the "Clarity" programme is still at a premature stage of operation, it entails certain restrictions, such as the fact that it does not draw statistical evidence, in order to reach conclusions regarding the operation of each body<sup>143</sup>.

The -required by law- publication of the budget is also implemented in practice, while the budget is also posted on the website of the Ministry of Finance and some more domains.

There is live broadcast of certain sessions of the Ministerial Council or at least of a significant part of them on the Government's website<sup>144</sup>. This website also hosts an archive of older sessions<sup>145</sup>.

The assets of the members of the government are published, according to the provisions of the law. However, the law in name has been criticised because it depicts only the assets and not the source of ownership, namely it mostly depicts the existing assets without adequately disclosing the sources of

137 [www.opengov.gr](http://www.opengov.gr)

138 Article 9 par. 1 Presidential Decree 63/2005.

139 Article 4 par. 2 Presidential Decree 63/2005.

140 Article 79 of the Constitution of Greece.

141 Law 3871/2010, which to its greater extent modifies Law 2362/1995.

142 Law 3213/2003.

143 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

144 [www.opengov.gr/home/?page\\_id=223](http://www.opengov.gr/home/?page_id=223)

145 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

See also Rigou M., "Open Governance: the Application of opengov.gr" (in Greek), Science and Society: Political and Moral Theory Revue, issue 24, 2010.

income, while usually there is no possibility for discovering evidence that has perhaps been withheld<sup>146</sup>. The fact that, in the framework of the Siemens and Ferrostaal cases, there has been disclosure of information regarding bribery of government members, though this had remained a secret for many years, proves that the audit of asset declarations is performed ineffectively and without the intention of imposing sanctions to the offenders.

Until today, there is no recorded incident of the Government's refusal to provide further information<sup>147</sup>. However, the fact that the Government does not systematically "translate" procedures and rules to a simpler form, in order to ensure their understanding by the average citizen<sup>148</sup> is equal, to a large extent, to the lack of information provision to the citizens.

## Accountability (law)

*To what extent are there provisions in place to ensure that members of the executive have to report and be held accountable for their actions?*

### Score: 50

The Government and the public administration in general are audited by the Parliament (see pillar "Legislature")<sup>149</sup>, the Judiciary<sup>150</sup> (see pillar "Judiciary"), but also by the Independent Administrative Authorities (indicatively see pillar "Ombudsman"), whereas, concerning their financial management, particularly, they are audited by the Court of Audit, as well (see pillar "Supreme Audit Institution")<sup>151</sup>.

In particular, the Parliament is able to audit regularly the work of the Government<sup>152</sup>, set up investigation committees, adopt the account of activities, the state budget and the balance sheet, but also to submit a motion of mistrust to the Government, in order to withdraw its confidence. The Independent Authorities, reporting to the Parliament, contribute greatly to its audit role.

The Court of Audit conducts, inter alia, an a priori<sup>153</sup> and ex-post<sup>154</sup> audit of the state's finances. Restrictions for governmental action may, furthermore, originate from decisions of the Judiciary and EU bodies, but also from decisions of the Council of Europe (especially the European Court of Human Rights). These institutions are characterised, inter alia, by their dedication to the eradication of corruption.

During the drafting and adoption of legislative acts originating from the Government, the latter is obliged to justify them and conduct public consultation on them with all the interested bodies. In particular, every bill (legislative initiative of the Government) and every law proposal (legislative initiative of MPs) has to be accompanied by a preamble<sup>155</sup>. Additionally, apart from certain exceptions, the bills submitted for adoption have to be mandatorily accompanied by a report on the public consultation that was conducted<sup>156</sup>.

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146 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

147 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

148 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

149 Articles 66 par. 3, 68 par. 2, 70 par. 6-8, 79, 84 of the Constitution of Greece.

150 Articles 83-100 of the Constitution of Greece.

151 Article 98 of the Constitution of Greece.

152 See also: "Introduction of the President of the Hellenic Parliament" (in Greek) in the Standing Orders of the Hellenic Parliament & Constitution of Greece, October 2010, after the decision of 16.07.2010 of the Plenum of the Parliament on reforms of its Standing Orders.

153 Chapter G of executive Presidential Decree 774/1980.

154 Chapter H of executive Presidential Decree 774/1980.

155 Article 74 of the Constitution of Greece.

156 Article 85 par. 3 of the Standing Orders of the Hellenic Parliament.

There is a provision for individual and collective<sup>157</sup>, political<sup>158</sup>, criminal<sup>159</sup> and civil liability for the members of the Government<sup>160</sup>. Specifically, regarding criminal liability of those who are or have been members of the Government or Vice-Ministers, there is a provision that their prosecution, inquiry, preliminary inquiry or preliminary examination for criminal offences that they committed while exercising their duties is not permitted without prior permission by the Parliament<sup>161</sup>, since only the Parliament has the mandate to proceed with the prosecution against the aforementioned individuals<sup>162</sup>. The recent law 3961/2011, as amended by law 3126/2003 on “Criminal liability of Ministers”. These amendments mainly focus on the following points:

- setting up a three-member advisory council which, before the set up of the preliminary inquiry committee, will proceed with a legal audit of the evidence and will give its opinion if there is a case for the investigation of a possible penal liability of a minister, while the Parliament will still take the final decision,
- equalisation of the offences of ministers to common offences,
- ability to enforce the restrictive clause of prohibition to leave the country,
- the Parliamentary Committee conducting the preliminary examination will be able to order the confiscation of the illegal financial benefit,
- if the prosecution regards a felony, by the inquirer’s decision, it will be possible to confiscate bank accounts, titles and financial products in general.

However, article 86 of the Constitution is putting obstacles to the criminal prosecution of all those who are or have been members of the Government or Vice-Ministers, since it is required to have the prior consent (decision) of the Parliament, which has to be given -at the latest- until the end of the second regular session of the Parliament (which lasts from September until June), which began its work after the offence was committed. In order to obtain this consent, a decision by absolute majority is required, following a proposal by at least 30 MPs. In essence, this time limit serves as an extinction deadline for prescription, since it is not possible to allocate criminal liability to these persons without the Parliament’s consent. There have also been cases where no criminal liabilities were allocated to political figures due to the expiration of the aforementioned deadline<sup>163</sup>.

#### Accountability (practice)

*To what extent is there effective oversight of executive activities in practice?*

#### Score: 25

In the Greek political and electoral system the rationale of strong single-party governments prevails. The result of this is that the majority of MPs belong to the governing party, the legislative initiative is monopolised by the government and the Parliament does not have an actual audit role<sup>164</sup>.

The main characteristic of the constitutional reform of 1985 was the reinforcement of the Prime Minister’s role, with a corresponding weakening of the other pole of the executive power, namely the President of the Hellenic Republic<sup>165</sup>.

157 Article 85 of the Constitution of Greece.

158 Article 68 par. 2 of the Constitution of Greece.

159 Article 86 of the Constitution of Greece.

160 Articles 105-106 of the Introductory Law to the Civil Code.

161 Article 86 par. 2 of the Constitution of Greece.

162 Article 86 par. 1 of the Constitution of Greece.

163 Transparency International, Prescription of offences in Europe and in Greece – Countdown to impunity 2010-2011, 2011. “The Law on ministerial liability changes” (in Greek), [www.tovima.gr/politics/Article/?aid=379228](http://www.tovima.gr/politics/Article/?aid=379228), 20.01.2011

164 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

165 See indicatively: Matthias S., “Corruption and state authority” (in Greek), [www.revma.wordpress.com](http://www.revma.wordpress.com), 06.07.2010.

*In essence, this time limit serves as an extinction deadline for prescription, since it is not possible to allocate criminal liability to these persons without the Parliament’s consent. There have also been cases where no criminal liabilities were allocated to political figures due to the expiration of the aforementioned deadline*

The Government's audit system, as described above, cannot be considered unbiased and effective, since the other pole of the executive power, namely the President of the Hellenic Republic, is elected by the governing party, the majority of MPs (legislature) belongs to the governing party and the majority of Ministers are MPs, as well.

Correspondingly, the presidents of the supreme courts (see pillar "Judiciary") are elected by the Government, mostly with party-related criteria, while the operational framework of the judiciary is also regulated by it. Furthermore, judicial control is time-consuming and, therefore, untimely and unsuccessful, while civil servants, as well, are not sufficiently familiar with the existing legislation, in order for the procedures of internal audit to be effectively implemented<sup>166</sup>.

Furthermore, the vast majority of MPs, despite the fact that by Constitution they have the obligation to act according to the best of their knowledge and belief<sup>167</sup>, in practice they abide by the party policy, almost without any exceptions, while they often act with their re-election as their ulterior motive, thus maintaining a system of patron-client relationships. It is indicative that parliamentary audit very rarely leads to a motion of mistrust against the government. Inversely, when the governmental majority in the Parliament is weak, then the Government might succumb to interests and blackmailing, inter alia, by political agents<sup>168</sup>. Moreover, the legislative initiative mainly belongs to the government.

Furthermore, the institution of parliamentary immunity has been many times abusively implemented by the Parliament, a matter for which Greece has been convicted twice by the European Court of Human Rights<sup>169</sup> (violation of article 6 par. 1 of the European Convention on Human Rights). More specifically, in these cases, the Parliament refused to waive the immunity of MPs, despite the fact that the disputes pending before the Judiciary was of private nature (see pillars "Legislative" and "Judiciary").

Independent Authorities (indicatively see pillar "Ombudsman") are audited to a large extent by the government, are subject to legislative restrictions and occasional influences, whereas their responsibilities are often limited, as well. These characteristics finally render them an inadequate offset to governmental omnipotence.

It is also doubtful, whether the Parliament is able to substantially audit the drafting of the financial budget and the adoption of the account of activities, given the way they are presented and discussed<sup>170</sup>. In particular, the discussion on the account of the previous year is a mere formal procedure. This is partly due to the fact that there are usually deviations from or modifications of the budget in the course of the year and, therefore, the audit of the account cannot be rigorous<sup>171</sup>.

The audit that is conducted by the Court of Audit (see pillar "Supreme Audit Institution") is a typical audit of a judicial body, and it is subject to restrictions of time and of the general capacities of this body<sup>172</sup>, whereas the annual report of the Court of Audit is submitted to the Parliament, as provided for by article 79 par. 7 of the Constitution, but is not exhaustively and substantially discussed<sup>173</sup>.

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166 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

167 Articles 59-62 of the Constitution of Greece.

168 See indicatively: "The moral bankruptcy of the political system of authority" (in Greek), [www.enkripto.com/2010/11/blog-spot\\_13.html](http://www.enkripto.com/2010/11/blog-spot_13.html), 13.11.2010.

169 Cases of members of the Parliament Mr. Tasoulas (2006) and Mrs. M. Apostolakis (2010).

170 See indicatively: "For the upgrade of the function of the parliament – Democracy in the institutions" (in Greek), [www.democracyreloaded.gr/Articles/view/184](http://www.democracyreloaded.gr/Articles/view/184), 10.04.2009.

171 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

172 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

173 "Suggestions of the Court of Audit: administration of Justice should be improved" (in Greek), Hellenic Mail, 07-13.05.2011.

*However, it is often attempted to bypass the obligation for public consultation, by submitting the bills as extremely urgent, since prior public consultation is not required for urgent bills*

However, an electronic system for the State General Accounting Office is currently being developed. The system is going to match the credits of the budget with public procurement expenditures. Both monitoring of expenditure and its planning for the future will be facilitated through this system<sup>174</sup>.

Public consultation that is required to precede the adoption of laws is conducted both by the usual means (meetings with representatives of interested bodies, exchange of documents, etc.) and online through the site [www.opengov.gr](http://www.opengov.gr), which was established by the current government almost since the first day it came to power. However, it is often attempted to bypass the obligation for public consultation, by submitting the bills as extremely urgent, since prior public consultation is not required for urgent bills<sup>175</sup>.

Finally, it is noted that internal administrative procedures rarely lead to imposition of penalties, in the framework of a misunderstanding of the concept of solidarity between colleagues, while criminal courts rarely take such cases in hand. Therefore, liability of Ministers is practically inexistent against anybody but the Prime Minister<sup>176</sup>.

### Integrity (law)

*To what extent are there mechanisms in place to ensure the integrity of members of the executive?*

Score: 50

In the Constitution<sup>177</sup>, as well as in Presidential Decree 63/2005 (“Codification of legislation regarding the Government and the governing bodies”), there are provisions for incompatibilities regarding the post of Prime Minister<sup>178</sup>, the members of the Government<sup>179</sup> and the appointees<sup>180</sup>. However, these incompatibilities refer only to the period of their mandates.

Upon assumption of power by the Government that was elected in 2009, a draft code of conduct was designed by the Prime Minister’s Office for the members of the Government and their immediate collaborators, based mainly on the relevant code of conduct of Great Britain. This draft code, which –inter alia- included provisions regarding the selection of collaborators, the assignment of projects, expenditure limits and values of gifts, was discussed in the ministerial council, however, it was never formally adopted<sup>181</sup>.

Currently, the institution of favourable treatment of people who disclose information leading to the disclosure of serious offences is being established in the Greek legal system<sup>182</sup>. The new law 3849/2010<sup>183</sup> provides for -inter alia- the favourable treatment of employees who disclose acts of corruption of higher-ranking officials, even of Ministers. In case the reprehensible action concerns a Minister, then the criminal procedure is interrupted and the file is passed on from the Judiciary to the Parliament, in order to activate the procedures that are defined by the law on liability of Ministers<sup>184</sup>.

174 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

175 Article 85 par. 3 of the Standing Orders of the Hellenic Parliament. See indicatively: Antoniou H., “Extremely urgent democracy” (in Greek), [www.avgi.gr/ArticleActions/show.action?ArticleID=540508](http://www.avgi.gr/ArticleActions/show.action?ArticleID=540508), 05.05.2010.

176 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

177 Article 81 of the Constitution of Greece.

178 Article 26 Presidential Decree 63/2005.

179 Article 42 Presidential Decree 63/2005.

180 Articles 35 and 57 Presidential Decree 63/2005.

181 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

182 Delli A., Specialized Professional at the Ombudsman, interview with the author on 18.04.2011.

183 Article 15 of Law 3849/2010.

184 Law 3126/2003 “Criminal Liability of Ministers” (in Greek), as applicable after its amendment by Law 3961/2011.

## Integrity (practice)

*To what extent is the integrity of members of the executive ensured in practice?*

**Score: 25**

As it is concluded by the aforementioned, the existing provisions which aim at ensuring the integrity of the members of the executive (incompatibilities), are extremely few rationae materiae. However, even these provisions are often violated through the transfer of professional activities to relatives, wherever this is possible<sup>185</sup>. Cases of politicians assuming duties incompatible to those of a resigned member of the Government are unknown.

In the recent years, Greece has been deplored by many scandals, in the framework of which, even when there are no criminal liabilities of former or current members of the executive, there is suspicion regarding the moral integrity of these individuals<sup>186</sup>. In the aforementioned scandals, there is evidence of involvement of politicians belonging to both governing parties (PASOK and ND) (see also pillar “Anti-Corruption Agencies”).

*However, even these provisions are often violated through the transfer of professional activities to relatives*

## Public sector management (law and practice)

*To what extent is the executive committed to and engaged in developing a well-governed public sector?*

**Score: 25**

Over the years, there were more than a few cases where, despite the possibly good intentions of the governing party at the time, audit was becoming weaker during its course in the lower brackets of public administration. Responsibility for oversight and management is dispersed in the mechanism of public administration, thus, resulting to audit gaps and maladministration<sup>187</sup>.

As the General Inspector of Public Administration notices<sup>188</sup>, the Government often provides the administration with uncontrollable and unrestricted power, which is exercised by invoking the existing political will. At the same time, there is disciplinary impunity for employees, bodies and officials of the public administration, which gives the offenders a sense of immunity.

The National Survey on Corruption in Greece - 2010<sup>189</sup> of Transparency International-Greece, revealed that the public sector is in a leading position in cases of petty corruption, while hospitals, tax offices and urban planning departments remain at the top of the list of the most corrupt public services.

Staff management in public services by the governments is in many cases levelling and not based on merit criteria, but based on formal and often party-related criteria, while the patron-client system is also endemic. Moreover, there is also lack –to a great extent- of establishment of performance incentives for public servants. The staff of public services is often disdained by the occasional political leadership, which causes public servants to refuse to be efficient or even to undermine the political leadership. The financial crisis that the country is dealing with causes furthermore a feeling of job insecurity and uncertainty as regards social security to employees of the public sector<sup>190</sup>.

185 See indicatively: “Company Valyrakis and its contracts with OPAP A.E.”, [www.dimokratianews.gr/content/1377](http://www.dimokratianews.gr/content/1377), 21.07.2011..

186 See indicatively: [http://skandalakommaton.blogspot.com/2010/10/blog-post\\_3221.html](http://skandalakommaton.blogspot.com/2010/10/blog-post_3221.html). <http://www.fimes.gr/2011/01/siemens-ypourgoi-porisma-onomata>. <http://www.fimes.gr/2011/02/upovrychia-skandalo>. [www.tovima.gr/politics/Article/?aid=405387](http://www.tovima.gr/politics/Article/?aid=405387).

187 Chrysogonos K., Professor of the Law School of the Aristotle University of Thessaloniki, interview with the author 13.09.2011.

188 Speech of the General Inspector of Public Administration to students of the National School of Public Administration and the National School of Local Administration, National Centre for Public Administration, 15.10.2010.

189 Transparency International-Greece & Public Issue, National Survey on Corruption in Greece- 2010, 2011.

190 More analytically in pillar “Public Sector”.

A step to the right direction is the new law 3839/2010 on the system of selection of supervisors of established units, composition of a Special Council for Selection of Supervisors, which establishes a series of objective criteria as regards promotions of civil servants, aiming at the eradication of promotions based on political party-related criteria.

### Legal system

*To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?*

#### Score: 50

Apart from the above mentioned legislative and administrative reforms (“Transparency”, [opengov.gr](http://opengov.gr), electronic system of connection between credits-expenditure, law 3839/2010), aiming at the enhancement of transparency, audit and citizen’s rights, the following took place during the last period:

- **Law 3812/2009** on “Reform of the system for recruitment in the public sector and other provisions”, based on which there will be no recruitment in the public sector without merit procedures.
- **Law 3839/2010** by which a selection system for Heads of units by objective and merit-based criteria is established.
- **Law 3841/2010** which establishes a hearing procedure before the Summit of the Presidents of the Parliament for candidates of the Presidia of the country’s supreme courts.
- **Law 3849/2010** by which the punishment of crimes against the Office have been made more severe. These are the Criminal Code’s crimes, which include, inter alia, passive bribery, conflict of interest and violation of duty. By the new law a new article was also added to the Criminal Code (263B), which regulates matters of witness protection in corruption cases. The same law also provides for the following:
  - the ability of the Minister of Justice to order the Vice-Prosecutor of the Supreme Court to examine (asset declarations when there has been a written complaint or when a relevant matter arises through the media,
  - an extension of the sanctions regarding confiscation of assets and loss of office for all public officials who have not submitted an asset declaration statement or have declared inaccurate information or participate in off-shore companies,
  - realisation of the above also for those who benefit from illegal assets that exceed € 73,000,
  - audit of bank accounts and investment portfolios subsequent to a Minister’s order,
  - favourable treatment of civil servants who disclose corruption acts of their superiors.
- **Law 3852/2010** on “New architecture of local government and decentralised administration – Kallikratis Programme” regards, inter alia, matters of audit, transparency, political money, as well as rationalisation of resources and procedures.
- **Law 3861/2010** which sets to affect the “Diavgeia” (“Clarity”) programme<sup>191</sup>, introduces for the first time in Greece the obligation to post on the internet acts and decisions of government and administrative bodies of the narrow and broader public sector.
- **Law 3882/2010** which establishes free disposition of geospatial data, without restrictions and commitments, through [www.geodata.gov.gr](http://www.geodata.gov.gr). Through this website, every citizen (professional or private individual) gains access to data, such as general urban planning designs, borders of protected areas, high resolution aero-photographs, etc. It is underlined that, by today’s standards, Greece is one of the 10 countries in the world that offer free geospatial data.
- **Law 3900/2010** on “Rationalisation of procedures, acceleration of administrative trial and other provisions” (a relevant bill is being drafted regarding civil trials).

<sup>191</sup> [www.diavgeia.gov.gr](http://www.diavgeia.gov.gr)

- **Law 3943/2011** which establishes for the first time in the Greek legal order the institution of the Prosecutor of Financial Crime. Moreover, this law provides for, inter alia, lenient measures for those who denounce acts of corruption with evidence, fall from office for state officials in violation of their oath, who will be more strictly punished, and confiscation of assets that have been illegally acquired or have been withheld from the asset declaration statements.

- **Law 3961/2011** which modified law 3126/2003 on “Criminal Responsibility of Ministers”. These modifications mainly focus on the following points:

- setting up a three-member consultative council which, prior to the set up of a preliminary inquiry committee, will proceed to a legal audit of the evidence and will give its opinion regarding the investigation of a potential criminal responsibility of a minister, while the final decision will still be taken by the Parliament
- equalisation of crimes of ministers with common crimes ability to enforce the restrictive clause that forbids leaving the country
- the Parliamentary Committee that conducts the preliminary hearing is able to order confiscation of the illegal financial benefit
- if the prosecution concerns a felony, it will be possible to block accounts, securities and financial assets in general, following the judge’s decision.

- **Law 3978/2011** on “Public procurement in defence and safety”, aiming inter alia at the enforcement of transparency in the field of armament.

- **Law 3979/2011** on “Electronic Governance and other provisions” which aims at the promotion of electronic governance in the whole range of the public sector, the local administration organisations, but also the legal entities of private law that are controlled by the state. Based on this law, citizens, businesses and public sector agencies have at their disposal technological means and institutional facilitations that reduce the obligation for personal presence, in order to deal with a case, and minimise the time required for completing the administrative procedures. At the same time, the possibilities for cases of illegal transactions and corruption are reduced, since not only the provision of the public service is de-personalised, but there are also records of the procedures and of their completion, so that it is possible to monitor their legality. Furthermore, the reduction of administrative costs for citizens and businesses is established, while electronic communication and transaction between public sector agencies is regulated, thus leading to the reduction of the operational cost and of the time required for completing a procedure.

- **Law 4013/2011** which provides for all public procurement contracts of the Greek public sector to be included in the responsibilities of the new Single Public Procurement Authority. The purpose of this is to deal effectively with the chronic problems and big political and non-political scandals that arise in the area of public procurement contracts, due to, inter-alia, the fragmentation of the rules and the procedure for their assignment and execution. The above-described situation has led, until today, to the inadequate interpretation and implementation of the existing legal framework, but also to excessive delays, which arise from judicial disputes between the agents participating and the assigning authorities, and which have often cost the country convictions from the Court of Justice of the European Union.

- The adoption of a system of electronic prescription of drugs<sup>192</sup> by doctors of the public sector, in order to control the resources that are allocated for this purpose and minimise their waste.

- The electronic census of civil servants of the public and broader public sector, in order for the public sector to be aware of the number of employees that are included in its payroll, as well as of the salary rates<sup>193</sup>.

- The adoption of a double-entry system for recording the finances of Local Administration Organisations<sup>194</sup>.

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192 [www.e-syntagografisi.gr](http://www.e-syntagografisi.gr)

193 [www.apografi.gov.gr](http://www.apografi.gov.gr)

194 [www.eetaa.gr/diplografiko](http://www.eetaa.gr/diplografiko)

Finally, with regard to the fight against corruption, indicatively the previous Prime Minister of the country, G. Papandreou, had mentioned<sup>195</sup>:

- changes in the provisions regarding the politicians' "asset declarations,
- changes in the electoral law,
- seeking new ways for the enhancement of the audit capacity of the Parliament, given the inadequacy of the institution of Investigation Committees,
- reduction of the state funding of parties
- absolute transparency as regards the finances of parties, through their publication,
- reinforcement of the Legal Council of State (hereinafter also "LCS"),
- reinforcement of the Court of Audit,
- Constitutional reform.

Beyond any doubt, the aforementioned legislative reforms and the expressed intentions are steps to the right direction. However, it remains for the executive's will for actual and effective implementation of these legislative acts to be proved.

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195 "Papandreou: Initiatives – shield against corruption" (in Greek), [www.micronews.gr](http://www.micronews.gr), 15.03.2010.

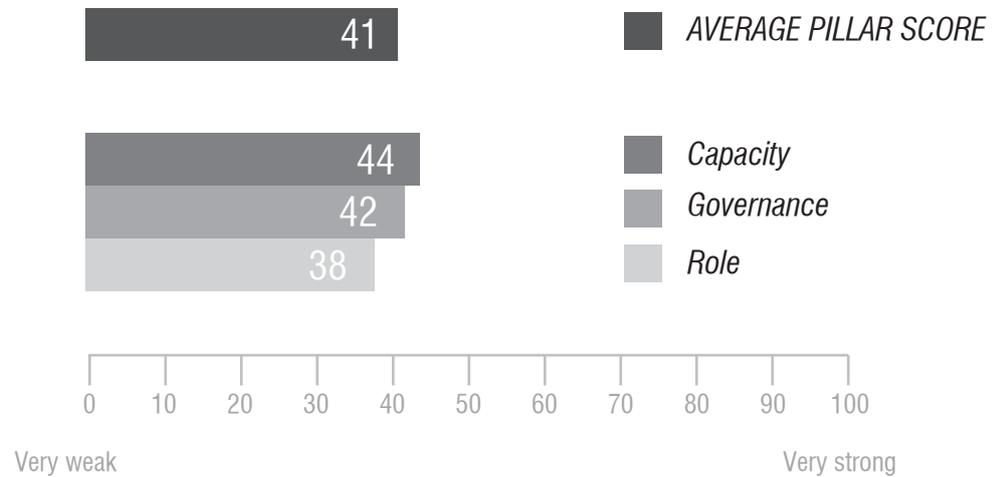
## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to proceed with legislative initiatives and measures towards the achievement of the following goals:**

- Enhancement of the role of the President of the Hellenic Republic.
- Revision of the legal framework regarding ministerial responsibility.
- Drafting of committing flowcharts , so as to personalise responsibility.
- Substantial audit of the asset declarations of the members of the Government.
- The institution of parliamentary immunity should not be abusively implemented (see also pillar “Legislature”).
- Setting up a Secretariat in the Prime Minister’s Office, responsible for the coordination and oversight of the effectiveness of the Government.
- Establishment of posts of permanent Vice-Ministers, in order to ensure the continuity of the work of the government.
- Drafting a code of conduct for the members of the Government.
- Establishment of the representation of interests by the Government (lobbying).
- Continuous education of the members of the Government.
- Reinforcement of the audit responsibilities, as well as of the right of legislative initiative, of the Parliament (see also pillar “Legislature”).

*Drafting a code  
of conduct for the  
members of the  
Government*

## JUDICIARY



### SUMMARY

Greece has a sufficiency thorough legal framework to safeguard the Judiciary against corruption, which is to a large extent implemented in practice, as well. Litigiousness of the Greek people proves, inter alia, that the citizens trust the independence and integrity of the Judiciary, despite isolated judicial scandals, which have been brought to light from time to time.

However, a serious problem is the judicial power's dependence on the executive power in important issues, a fact that abolishes in practice the established by law self-administration of the Judiciary. Thus, the latter is affected not only in routine cases, which represent the vast majority of cases, but also in a few cases with political implications or interest, in which, however, the interests at stake may be of particular importance.

### STRUCTURE & ORGANISATION

In the concerned pillar, the term "Judiciary" includes all three branches, namely civil, criminal and administrative Judiciary, as well as the Court of Audit.

Wherever there is no clarification, the term "judges" refers both to judges and Prosecutors.

### ASSESSMENT

#### Resources (law)

*To what extent do existing laws seek to ensure appropriate salaries and working conditions of the judiciary?*

#### **Score: 50**

Judges are subject to a special payroll based on a Constitutional provision<sup>196</sup>. Their salary is always established by law. In the framework of the recent salary cuts due to the financial crisis judges were proportionately affected, since the law does not provide for their exclusion. Disputes arising from judges'

<sup>196</sup> Article 88 par. 2 of the Constitution of Greece.

salary issues are adjudicated by a 9-member special court (the so-called “Misthodiikeio”), formed by three judges, three lawyers and three university professors.

Funds allocated to the Judiciary are provided for in the annual budget every time, without legal provision for a minimum budget percentage which shall be mandatorily allocated to the Judiciary. Judges do not take part in the relevant budget’s drafting, whereas the objectives, for which the relevant funds are allocated, are mainly decided in advance by the government.

## Resources (practice)

*To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?*

### Score: 50

Judges’ salaries are higher than any other public servants’. Indicatively, the President of the Supreme Court (Areios Pagos) has the highest salary compared with any other public official<sup>197</sup>. Many of the rulings issued by the “Misthodiikeio” have been criticised for adjudicating generously in favour of judges even in times of financial crisis, when the working force as a whole experiences serious salary cuts<sup>198</sup>. Nevertheless, in any case, the salaries of judges should contribute to safeguarding their independence.

On the other hand, voices from different directions<sup>199</sup> speak of huge deficiencies in the courts’ infrastructure (buildings, court rooms, electronic equipment, computerisation, libraries), as well as of great delays in issuing rulings, mainly due to organisational deficiencies.

As regards human resources in the Judiciary, according to the general view<sup>200</sup>, the National School for Judges, operating for the last fifteen years, has performed an important work regarding the professional training of judges, reinforced by the various seminars organised from time to time, in order for judges to follow rapidly evolving sectors of the law. It is noted that judges are selected according to merit-based criteria, after written exams of a particularly high level<sup>201</sup>.

The afore-mentioned deficiencies aggravate the problem of delays observed in the administration of Justice, given the fact that in order for a case to be tried in court to the final degree, it may need more than a decade, while there is lapse of time limitations for many offences before they reach the court<sup>202</sup>.

197 [www.edugate.gr/content/orofi-6200-eyro-gia-toys-misthoys-sto-dimosio](http://www.edugate.gr/content/orofi-6200-eyro-gia-toys-misthoys-sto-dimosio).

198 See indicatively: “Misthodiikeio granted generous salary increases for judges” (in Greek), <http://news.in.gr/greece/Article/?aid=753136>, 08.11.2006.

199 See indicatively: “Athens Bar Association: the State turns a blind eye to the problems of the Judiciary” (in Greek), [www.directnews.gr/greece/4568-2011-07-20-16-02-15.html](http://www.directnews.gr/greece/4568-2011-07-20-16-02-15.html), 20.07.2011. “Evelpidon Courts: unacceptable working conditions for judges” (in Greek), [www1.risospastis.gr/story.do?id=4974859&publDate=28/2/2009](http://www1.risospastis.gr/story.do?id=4974859&publDate=28/2/2009), 28.02.2009.

200 See indicatively: Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011. Manoledakis I., “National School for Judges: 15 years of operation. Evaluation and Prospects” (in Greek), *Nomika Chronika*, March-April Issue 2010.

201 Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

202 See indicatively: Bakopoulos K. “Efficiency of the Judiciary – the citizen’s view” (in Greek), in *Citizens’ Movement, Efficient judiciary – public scientific debate*, 2001. Roupakiotis A., “Intervention” (in Greek), in *Citizens’ Movement, Efficient judiciary – public scientific dialogue*, 2001. *Citizens’ Movement, Administration of Justice from the citizen’s perspective*, 2009, p. 8-9. Kalamidas G., “Proposal” (in Greek), in *Citizens’ Movement (ed.), Justice and the Citizen*, 2010, pp. 24-25.

It is noted that Greece is ranked 4th amongst 47 state members of the Council of Europe for the systematic and repeated violation of the reasonable time required for the administration of Justice. A recent bill that was submitted provides for a series of changes for speeding up the administration of Justice, such as, inter alia, the following:

- uncontested divorce
- extension of the working hours of courts (by two hours)
- establishment of single-member chambers of criminal appeals
- reduction of trial postponements
- transfer of a large part of court material to Magistrates' Courts
- establishment of express trials by the Court of Audit, as well
- activation of electronic Judiciary
- establishment of the right to compensation for citizens in the case of a delay in the administration of Justice by the Greek courts.

However, it should be noted that Administrative Justice in Greece is in a slightly better state than the other two sectors of Justice, regarding matters of organisation and efficiency<sup>203</sup>.

### Independence (law)

*To what extent is the judiciary independent by law?*

#### **Score: 50**

The legal framework that encompasses the Judiciary has been stable as regards its main points during the last 35 years, namely since the enactment of the Constitution of 1975, while every legislative modification that has taken place regarding the institutional framework of the Judiciary was generally to the right direction<sup>204</sup>. The Constitution states clearly that judges enjoy operational and personal independence, whereas in exercising their duties they are subject only to the Constitution and the laws. All courts are responsible to investigate the constitutionality of laws and, in case of an unconstitutional law, they are obliged to refrain from implementing it<sup>205</sup>. The Constitution also sets forth clearly the division of Justice to civil, criminal and administrative<sup>206</sup>, while it mentions the country's high courts, namely the Supreme Court (Areios Pagos), the Council of State (StE), the Court of Audit (HCA) and the Supreme Special Court (AED), which, however, is not a permanent court. These provisions are able to be revised in the same way as the rest of the revisable constitutional provisions.

The exams for the selection of judges are carried out by the Judiciary itself. Judges are subject, as it was mentioned before, to a special payroll, they have life tenure and they can be relieved of their duties only by a court's ruling, on account of criminal conviction for a serious disciplinary offence, illness, impairment or deficiency in service. They leave mandatorily upon completion of 65 or 67 years of age, depending on their rank. Transfer of judges to other public service posts is prohibited<sup>207</sup>.

Judges are not allowed to offer any other paid service, exercise any profession or be members of the Government. As an exception, they are allowed to be members of the Academy of Athens, members of the teaching staff of universities, members of a council or a committee with disciplinary, audit, judicial, arbitration and legislative mandates. Furthermore, they are allowed to represent Greece before international organisations<sup>208</sup>.

203 Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

204 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

205 Article 87 par. 1 and 2 of the Constitution of Greece.

206 Article 93 par. 1 of the Constitution of Greece.

207 Article 88 of the Constitution of Greece.

208 Article 89 of the Constitution of Greece.

Promotions, appointments, transfers, secondments and reallocations of judges<sup>209</sup> are carried out according to a presidential decree issued after a ruling of the supreme judicial council. This is formed by the president of the relevant high court and by members of the same court appointed after a draw among those having at least two years of service in this court. The Prosecutor of the Supreme Court (Areios Pagos) takes part in the supreme judicial council of civil and criminal judiciary, along with two Vice-Prosecutors of the Supreme Court appointed after a draw among those having at least two years of service in the Supreme Court's Prosecutor's Office. The General State Commissioner takes part in the supreme judicial council of the Council of State and the administrative judiciary, for matters regarding judges of the ordinary administrative courts and the General Commission. The General State Commissioner of the Court of Audit also takes part in the supreme judicial council of the Court of Audit. Two judges of the sector concerned with the changes are also members of the supreme judicial council, but without a right to vote. They have to be judges of appeal or equivalent and they are selected through draw. If the Minister of Justice disagrees with the judgement of the supreme judicial council, he can refer the matter to the plenary of the relevant high court. The affected judge has the right to appeal, too.

Promotions to the posts of President and Vice-President of the Council of State, the Supreme Court (Areios Pagos) and the Court of Audit are carried out according to a presidential decree issued after a proposal of the Council of Ministers, and the candidates are members of the corresponding high court. Promotion to the post of the Prosecutor of the Supreme Court is carried out according to a similar decree, and the candidates are members of the Supreme Court and its Vice-Prosecutors. Promotion to the post of General Commissioner of the Court of Audit is carried out according to a similar decree, and the candidates are members of the Court of Audit and the corresponding General Commission. Promotion to the post of General Commissioner of administrative courts is also carried out according to a similar decree, and the candidates are members of the corresponding General Commission and the presidents of the judges of appeal of administrative courts. The mandate of the President of the Council of State, the Supreme Court and the Court of Audit, as well as that of the Prosecutor of the Supreme Court and the General Commissioners of administrative courts and the Court of Audit, cannot exceed four years even if the judge in service has not reached the age limit.

A recent law<sup>210</sup> imposes the Parliament's intervention regarding the selection of the Heads of the supreme courts by stating an opinion through its Conference of Presidents, before the Council of Ministers states a final proposal. The Conference of Presidents<sup>211</sup> is a body with a complex and volatile composition that does not ensure adequate speed and transparency of motives in the procedure of candidacy submissions and final selection, while it is charged, to a great extent, with the difficulties in the selection procedure, which is promoted and carried out, not in the main centre, but in the twilight of public interest, allowing thus for the independence of the body to be questioned. However, unanimity or strong majority of 4/5 of its members that is required for stating an opinion is considered to form an environment of consent. The Parliament's Conference of Presidents calls the judges selected by the Council of Ministers, for a hearing.

These Heads of courts are permanent members of the corresponding Supreme Judicial Councils. Moreover, the highest-ranking member of the Supreme Court, among those selected by draw (and in case of equal rankings, the oldest one), is -ipso jure- the President of the Court of article 86 of the Constitution, for adjudicating cases regarding the penal liability of Ministers. The President of the Supreme Court, along with the Presidents of the Council of State and the Court of Audit, are permanent members of the Supreme Special Court of article 100 of the Constitution. The Presidents of supreme courts can, under certain circumstances, rise to the post of Prime Minister<sup>212</sup>.

Given all the above, it is clear that the involvement of the executive in promotions, appointments, transfers, secondments and reallocations of judges, as described above in detail, significantly reduces the independence of the judiciary.

*it is clear that the involvement of the executive in promotions, appointments, transfers, secondments and reallocations of judges, significantly reduces the independence of the judiciary*

209 Article 90 of the Constitution of Greece.

210 Law 3841/2010.

211 See Article 13 of the Standing Orders of the Hellenic Parliament.

212 Article 37 par. 3 of the Constitution of Greece.

Other provisions aiming at safeguarding the independence of judges, are as follows:

- Judges are banned from providing any other paid services as well as exercising any other profession (not including the exceptions specifically provided for).
- Judges are banned from participating in the Government.
- Judges, employees in the courts' secretariats and Prosecutor's offices and lawyers are not allowed to act jointly in the same procedure or action, if they are spouses or related by blood or by affinity up to the third degree.
- The judge is able to exempt himself or herself from a case when his impartiality is doubted, and the litigants are also able to request the exemption of a judge from the composition of a court.
- Judges are banned from expressing themselves in favour of political parties.
- It is prohibited for a judge to participate in foundations or associations and organisations in general, which have secret agendas or activities or impose secrecy on their members.

### Independence (practice)

*To what extent does the judiciary operate without interference from the government or other actors?*

#### Score: 25

As it was mentioned before, the selection of judges upon their introduction to the judicial body, is conducted according to merit-based and, so far, indisputable criteria. However, the fact that the Head of the Judiciary is selected by the Council of Ministers, combined with examples of high court judges who, after leaving the service, took up high-ranking governmental and administrative posts<sup>213</sup>, probably raises reasonable suspicion regarding the Judiciary's independence, especially in the higher ranks, while this way division of power, as declared by the Constitution, is also abolished<sup>214</sup>. In particular, high-ranking judges were appointed Heads of Independent Administrative Authorities, as well as advisors at the offices of politicians after leaving the service.

Unfavourable transfers of judges take place mainly on grounds of inadequacy, suspicion for inappropriate relationships, inappropriate behaviour and matters of ethics<sup>215</sup>.

In any case, the fact that the Government establishes the Judiciary's institutional framework creates opportunities for inappropriate relationships between the two institutions<sup>216</sup>. For example:

- On the eve of trials that interest the Government, due to their political character or political party cost, there have been cases where political agents have intervened in an attempt to predispose the public opinion. With interviews, statements and all kinds of indirect interventions, they aim to put pressure on the judges who are handling the relevant documents<sup>217</sup>. The most recent case of intervention of a politician in the work of the Judiciary is the expression of support of a party leader towards a defendant for corruption-related crimes, a fact that was strongly criticised by a large part of the political world<sup>218</sup>.

*The most recent case of intervention of a politician in the work of the Judiciary is the expression of support of a party leader towards a defendant for corruption-related crimes*

213 See indicatively: Tsakiris G., "Be it Zorbas, be it Palaiokrassas" (in Greek), [http://archive.enet.gr/online/online\\_text/c](http://archive.enet.gr/online/online_text/c), 07.12.2005. "The most senior vice-president of the Council of State and president of the Third Department for years, submitted his resignation" (in Greek), [www.Lawnet.gr/index.php?id=50&nid=23839](http://www.Lawnet.gr/index.php?id=50&nid=23839), 05.07.2011.

214 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

215 See indicatively: Fotopoulou B., "15 judge getting unfavourable transfer during a year" (in Greek), [http://archive.enet.gr/online/online\\_text/c](http://archive.enet.gr/online/online_text/c)=112, dt=29.01.2005, id=21435712, 29.01.2005.

216 Matthias S., "Intervention" (in Greek), in Citizens' Movement, Efficient judiciary – public scientific dialogue, 2001.

217 Citizens' Movement, Administration of Justice from the citizen's perspective, 2009, p. 38.

218 [www.inews.gr/102/katangelies-syriza-gia-paremvasi-laos-sti-dikaiosyni.htm](http://www.inews.gr/102/katangelies-syriza-gia-paremvasi-laos-sti-dikaiosyni.htm)

- In the framework of the investigation of a big political scandal, concerning damage to the public sector interests due to the exchange of real estate between the public sector and a convent, two Prosecutors stated that they were forced to resign due to pressure from higher-ranking judges urging them not to submit a file to the Parliament, when, according to the resigned Prosecutors, criminal responsibilities of political figures were arising<sup>219</sup>. A former judge stated that he was removed from the body when he disclosed a financial scandal regarding funds intended for earthquake victims, the operation of a house of prostitution on court premises and theft of a significant number of legal documents<sup>220</sup>.
- In certain cases pending before the court, the government decides that the matters at stake should not be resolved in court and for this reason it promotes their legislative settlement through a provision of immediate implementation, often retroactive or even pseudo-interpretative.

Moreover, involvement of judges in out-of-court projects (committees, councils, etc. of the public administration and arbitration cases) is not advised. This is because it can be used many times to cover up violations of the law by administrative bodies, shielding behind the judge's signature, while it also opens communication channels for judges with various administration, political and official agents, who occasionally aim to manipulate judges<sup>221</sup>.

Particularly dangerous for the prestige, but also for the moral integrity and public image of the judges, is also the exercise of duties of arbitrator or third arbitrator in private disputes, receiving fees, as well.

Even though arbitration is not broadly practiced in Greece, nevertheless, interconnection with private interests, sometimes very powerful, creation of relationships with agents related to these interests on a strictly financial basis, expectation of new arbitrations and being grateful towards quasi clients, is evidence strongly supporting abstinence of current judges from all kinds of arbitration service<sup>222</sup>.

It is noted, finally, that the Council of the State, based on the principle of the division of powers, declared unconstitutional the provision of the law regarding the hearing before the Conference of the Presidents of the Parliament of candidates for the posts of supreme judges<sup>223</sup>, while the Supreme Court declared unconstitutional the provision of the Standing Orders of the Parliament regarding the possibility of calling the Heads of the Judiciary before the Parliament, so that the Parliament is informed on Judiciary matters<sup>224</sup>.

## Transparency (law)

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?*

### Score: 50

There is a provision safeguarding that appointments, transfers and removals of judges have to be mandatorily published in the issue of the Government Gazette<sup>225</sup>.

219 See indicatively: "Two Prosecutors resigned on account of the Vatopedio scandal" (in Greek) (collection of newspaper Articles), [www.politikokafeneio.com/forum/viewtopic.php](http://www.politikokafeneio.com/forum/viewtopic.php).

220 "Maria Margariti. Judicial scandal in Giannena" (in Greek), [http://hellasxgtopvideos.blogspot.com/2010/02/blog-post\\_9658.html](http://hellasxgtopvideos.blogspot.com/2010/02/blog-post_9658.html), 08.02.2010.

221 Etaireia Dikastikon Meleton (Judicial Studies Association), "Findings of July 1993: Revisable provision of the Constitution regarding judicial power" (in Greek), [www.etdime.gr](http://www.etdime.gr), 17.06.1993.

222 Etaireia Dikastikon Meleton (Judicial Studies Association), "Findings of July 1993: Revisable provision of the Constitution regarding judicial power" (in Greek), [www.etdime.gr](http://www.etdime.gr), 17.06.1993.

223 See indicatively: "Changing the way of selection of judges by the Council of State is unconstitutional" (in Greek), [www.voria.gr/index.php?module=news&func=display&sid=10027](http://www.voria.gr/index.php?module=news&func=display&sid=10027), 05.02.2010.

224 See indicatively: "The gap between the judges and the government is getting deeper" (in Greek), [www.newsbeast.gr/greece/arthro/147059](http://www.newsbeast.gr/greece/arthro/147059), 30.03.2011.

225 Article 5 of Law 3469/2006.

According to the Constitution, court sittings are public, unless the court decides that publicity will be harmful for moral ethics or there are specific reasons for the protection of the private or family life of the litigants<sup>226</sup>. Court rulings and other relevant documents are considered public documents.

Apart from the aforementioned, the Judiciary is not obliged to submit regularly an account of its activities, its financial management, etc.

Judges are obliged to declare their source of assets and funds annually during their mandate, as well as for the three years following their retirement from the judicial body<sup>227</sup>. These asset statements are audited by the Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism and Statement of Assets Audit. However, there is no provision for the publication of these statements.

### Transparency (practice)

*To what extent does the public have access to judicial information and activities in practice?*

#### **Score: 25**

Appointments, transfers and removals of judges are not only published in the Government Gazette, but they are also usually published in the press, in a source of information for everyone.

Infrastructure in courts, in their current state, does not facilitate the immediate and timely access of the interested parties and the public (in cases where it is legal for them to have access, since there is also the need to protect sensitive personal data) to court rulings and other relative documents. In particular, there are, inter alia, very long queues in secretary offices, due to inadequate technological equipment and personnel, delays in finalizing the draft rulings, etc.

However, what renders research and reaching useful conclusions particularly difficult, is the fact that the account of the Judiciary's activities, the relevant statistical data etc. are not published regularly, since it is not mandatory. Some of the larger courts of the country might publish to some extent statistical data and other information regarding their work<sup>228</sup>.

With the exception of the country's high courts, which run websites albeit with limited information, the rest of the courts do not have websites at all. This leads to, inter alia, giving publicity only to court rulings which are of academic interest, through the commentary they get in law journals<sup>229</sup>.

Finally, as regards the audit of asset declarations of judges, it is underlined that it is inadequate, judging by the results. If this audit was conducted effectively, the actions of judges betraying their oath and participating in corruption scandals would have been brought to light much earlier<sup>230</sup>.

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226 Article 93 par. 2 of the Constitution of Greece.

227 Law 3213/2003.

228 Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

229 Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

230 See indicatively: "Domino effect of disclosures regarding the para-judicial network" (in Greek), [http://portal.kathimerini.gr/4dcgi/\\_w\\_Articles\\_kathextra\\_100653\\_02/11/2005\\_137677](http://portal.kathimerini.gr/4dcgi/_w_Articles_kathextra_100653_02/11/2005_137677), 02.11.2005. "Surprise-names in the new para-judicial network" (in Greek), <http://ellas2.wordpress.com>, 03.10.2010. "Para-judicial network: Bourboulia's and Kalousis' convictions with a significant reduction of the initial sentences" (in Greek), [www.ethemis.gr](http://www.ethemis.gr), 01.12.2010. "Judicial scandal in Corfu" (in Greek), [www.directnews.gr/greece/4034-2011-06-29-19-41-20.html](http://www.directnews.gr/greece/4034-2011-06-29-19-41-20.html), 29.06.2011.

## Accountability (law)

*To what extent are there provisions in place to ensure that the judiciary has to report and be held accountable for its actions?*

### Score: 50

The Minister of Justice supervises the administration of the Judiciary<sup>231</sup>. Oversight by the Ministry of Justice includes publishing of informative guidelines for the Prosecutor's offices in relation to the implementation of legal instruments established in the framework of the Council of the European Union and regarding judicial cooperation between the member states in the areas of prevention and fight against organised crime, international drug trafficking and terrorism, conspiracy and setting up of criminal organisations for perpetration of homicides, human trafficking and crimes against children, legalisation of income from illegal activities, high technology crimes and international financial crime.

Courts are supervised by the responsible judge according to the law<sup>232</sup>. This oversight consists in monitoring and issuing general guidelines for the normal function of the services of courts and Prosecutor's offices. Any guideline, recommendation or indication towards a judge for a substantial or legal matter in a specific case or category of cases is unacceptable and constitutes a disciplinary offence.

The Constitution states that every court ruling has to be specifically and thoroughly justified and pronounced in a public hearing. The opinion of the minority is published mandatorily<sup>233</sup>. Rulings which are problematic in terms of their justification can be reversed after implementation of the legal means provided for, such as the declaration of a mistrial<sup>234</sup>. The aforementioned judges can be subject to disciplinary sanctions or they can be even put to trial before criminal courts on grounds of breach of duty.

Charges against judges can also be monitored by inspection bodies of the Judiciary<sup>235</sup>, which are made up of judges. These bodies conduct both regular and exceptional controls on the judges' work and ethics.

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231 Article 19 of the Code of Organisation of Courts and Status of Judges.

232 More specifically: The President of the Council of State supervises the administrative courts of the whole country, the General Commission of the State of ordinary administrative courts and their secretariats. The President of the Supreme Civil and Criminal Court supervises the civil and criminal courts of the whole country and their secretariats. The Prosecutor of the Supreme Civil and Criminal Court supervises the Prosecutor's offices of the whole country and their secretariats. The general commissioner of the state of ordinary administrative courts supervises these courts and their secretariats. The president of the council or the judge in charge of the court of appeal supervises the courts of the region of the court of appeal and their secretariats. The Prosecutor in charge of the Prosecutor's office of the court of appeal supervises the Prosecutor's offices and the secretariats of its region. The president of the council or the judge in charge of the court of first instance supervises the courts of the region of the court of first instance and its secretariats. The Prosecutor in charge of the Prosecutor's office of the court of first instance supervises inquiry officers, public Prosecutors, notaries, registrars, mortgages, land registers, shipping registers, ship and aircraft mortgage registers, registrars, employees, bailiffs of the Prosecutor's office of the court of first instance and unpaid bailiffs.

233 Article 93 par. 3 of the Constitution of Greece.

234 Article 99 of the Constitution of Greece:

Lawsuits on grounds of mistrial against judges are tried, as provided for by the Law, by a special court made up of the President of the Council of State, as President, one judge of the Council of State, one judge of the Supreme Civil and Criminal Court, one judge of the Court of Audit and two permanent professors of Law modules in Law schools of the country's universities, as members, selected through draw. Among the members of the special court exclusion is made each time concerning the member belonging to the body or branch of the judiciary whose officers have perpetrated the actions or omissions which the court is expected to rule on. In case of a Lawsuit on grounds of mistrial against members of the Council of State or judges of the ordinary administrative courts, this Supreme Disciplinary Council is presided by the President of the Supreme Civil and Criminal Court. No permission is required to raise a Lawsuit on grounds of mistrial.

235 Articles 82-89 of the Code of Organisation of Courts and Status of Judges .

Disciplinary power regarding judges<sup>236</sup>, for the ranks of judge or Prosecutor of the Supreme Court and above, or their equivalents, is exercised by the Supreme Disciplinary Council. Disciplinary claims are raised by the Minister of Justice.

The Supreme Disciplinary Council is made up of the President of the Council of State as President, two vice-presidents or judges of the Council of State, two vice-presidents or judges of the Supreme Court (Areios Pagos), two vice-presidents or judges of the Court of Audit and two professors of law modules in law schools of the country's universities, as members. Every time the Council is called upon to decide on an action or omission of a member of a high court, Prosecutor or commissioner, members of this particular court are excluded from its composition. In case of a disciplinary prosecution against members of the Council of State, the Supreme Disciplinary Council is presided by the President of the Supreme Court. Disciplinary power regarding the other judges is exercised to the first and second degree by councils made up of permanent judges selected through a draw. Disciplinary lawsuit can also be raised by the Minister of Justice.

The aforementioned disciplinary rulings are not appealed against in the Council of State, while sanctions applicable for disciplinary violations by judges, even include their suspension from the judicial body.

### Accountability (practice)

*To what extent do members of the judiciary have to report and be held accountable for their actions in practice?*

#### Score: 25

The vast majority of court rulings are specifically thorough and justified, according to the requirements of the law<sup>237</sup>. Sanctions enforced on judges do not usually concern insufficient justification of rulings. Moreover, the procedures of objections and appeals are also carried out normally in the Greek judicial system.

In cases of imposing sanctions on judges (mainly due to suspicion of reprehensible conduct, inappropriate behaviour and ethics), a greater frequency of disciplinary penalties is observed, in contrast to the complete inexistence of convictions by the mistrial court and the criminal courts. This creates reasonable questions regarding the possibility of trying to cover up violations this way, given the fact that the disciplinary procedure is secret and carried out by the violator's colleagues, so that sanctions are not as strict as they can be<sup>238</sup>. It is not possible, however, to rule out cases where mistrial lawsuits are a means of prevarication, which aims at self-serving purposes and finally at the escape from Justice<sup>239</sup>.

It is noted that in the recent years Greece has been troubled by scandals involving judges, among others<sup>240</sup>. In these cases, the judges involved committed breach of duty, while some of them were also bribed, as discovered after an audit of their declarations of the source of assets and funds. The judges who violated their oath were punished in the end with many years of imprisonment. Nevertheless, the fact that these scandals were taking place for quite a while before their disclosure raises questions regarding the quality of the oversight of the Judiciary.

<sup>236</sup> Article 91 of the Constitution of Greece.

<sup>237</sup> Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

<sup>238</sup> See indicatively: Beis K., "Originated by the recent prosecution of a magistrate. Shortcomings of the disciplinary Law for judges" (in Greek), [www.kostasbeys.gr/Articles.php?s=3&mid=1096&mnu=1&id=22768](http://www.kostasbeys.gr/Articles.php?s=3&mid=1096&mnu=1&id=22768).

<sup>239</sup> Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

<sup>240</sup> See indicatively: "Domino effect of disclosures regarding the para-judicial network" (in Greek), [http://portal.kathimerini.gr/4dcgi/\\_w\\_Articles\\_kathextra\\_100653\\_02/11/2005\\_137677](http://portal.kathimerini.gr/4dcgi/_w_Articles_kathextra_100653_02/11/2005_137677), 02.11.2005. "Surprise-names in the new para-judicial network" (in Greek), <http://ellas2.wordpress.com>, 03.10.2010. "Para-judicial network: Bourboulia's and Kalousis' convictions with a significant reduction of the initial sentences" (in Greek), [www.ethemis.gr](http://www.ethemis.gr), 01.12.2010. "Judicial scandal in Corfu" (in Greek), [www.directnews.gr/greece/4034-2011-06-29-19-41-20.html](http://www.directnews.gr/greece/4034-2011-06-29-19-41-20.html), 29.06.2011.

## Integrity mechanisms (law)

*To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?*

**Score: 50**

In the case of the Judiciary, matters regarding the integrity of judges are not only subject to the disciplinary code, but they are also regulated by the Constitution itself and the laws, where specific and detailed provisions exist regarding the impediments, the incompatibilities and the fundamental duties of judges<sup>241</sup>. These provisions include, inter alia, the following:

- The judges, while exercising their duties, are subject only to the Constitution and the laws, and under no circumstances are they obliged to comply with provisions that have been established in breach of the Constitution.
- The judge is obliged to maintain discretion regarding confidential evidence as referred to by the applicable provisions, as well as regarding facts or information he has come to knowledge of, while performing his duties or due to his capacity.
- Judges are banned from providing any other paid services as well as exercising any other profession (not including the exceptions specifically provided for).
- Judges are banned from participating in the Government.
- Judges, employees in the courts' secretariats and Prosecutor's offices and lawyers are not allowed to act jointly in the same procedure or action, if they are spouses or related by blood or by affinity up to the third degree.
- The judge is able to exempt himself from a case when his impartiality is doubted, and the litigants are also able to request the exemption of a judge from the composition of a court.
- Judges are banned from expressing themselves in favour of political parties.
- It is prohibited for a judge to participate in foundations or associations and organisations in general, which have secret agendas or activities or impose secrecy on their members.
- Judges are subject to restrictions concerning locality issues as regards the area they provide services in. However, the lack of a provision prohibiting the appointment of judges in posts of the private or public sector after they have left the judicial body, is undermining the credibility of the institution of the Judiciary.

## Integrity mechanisms (practice)

*To what extent is the integrity of members of the judiciary ensured in practice?*

**Score: 50**

During the last fifteen years, namely since the National School for Judges started operating, judges are trained in matters of integrity<sup>242</sup>. On the other hand, litigants use their right to ask for the exemption of a judge from a court's composition, when there is suspicion of partiality and the judge has not been self-exempted. These requests of the litigants are usually satisfied by the court<sup>243</sup>.

Moreover, as mentioned before, the fact that judges in breach of their duties who were bribed repeatedly, were not detected on time, raises questions as to the quality of control of judges' integrity<sup>244</sup>. The current

<sup>241</sup> See indicatively: Article 87, 89 of the Constitution of Greece, 8, 40, 41, 42 of Code of Organisation of Courts and Status of Judges.

<sup>242</sup> Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011. Evidence regarding the frequency and the assessment of this education are not available.

<sup>243</sup> Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

<sup>244</sup> Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

circumstances do not allow in practice the expected substantial work of inspection and this is because of the extent of the work of inspection and particularly because of the large number of judges that each inspector has undertaken to inspect and the equally significant number of courts under inspection, which are located all over Greece<sup>245</sup>. Controls are conducted with sampling and sometimes not substantially<sup>246</sup>, without taking measures so that during their judges' term of office personality and behavioural problems can be detected<sup>247</sup>.

## Executive oversight

*To what extent does the judiciary provide effective oversight of the executive?*

### Score: 25

Actions of public administration, the Head of which is the Government, are controlled inter alia by courts<sup>248</sup>, including the Court of Audit, when audit of financial management is concerned<sup>249</sup>. The courts issue a plethora of rulings, by which actions of the public administration are annulled. However, there is not always the political drive for immediate compliance with these court rulings. The European Court of Human Rights has convicted Greece many times on account of non-compliance with court rulings<sup>250</sup>, while the Ombudsman has also recorded many court rulings that were not implemented<sup>251</sup>.

A limitation to the immediate compliance of the public sector with court rulings is posed also by the privileges that the public sector enjoys in the Greek legal order, such as longer deadlines, more favourable procedures, enforceability of court rulings that are against the public sector only after they have become irrevocable, prohibition of compulsory confiscation against the public sector, etc.<sup>252</sup>

It is doubtful, nevertheless, how impartial and efficient can the Judiciary be when its judgement concerns high-ranking government officials, given the fact that the presidents of high courts are selected by the Government, without justification, but mainly with party-based criteria, while the operational framework of the judicial power is also regulated by the government. The Minister of Justice can order the criminal prosecution of a judge.

Moreover, with regard to the criminal responsibility of current or former members of the Government or Vice-Ministers, it is provided for that their prosecution, inquiry, preliminary inquiry or examination for criminal offences committed in the course of the exercise of their duties is not allowed without prior permission from the Parliament<sup>253</sup>, since the Parliament alone has the mandate to prosecute the aforementioned agents<sup>254</sup>. Article 86 of the Constitution, together with law 3126/2003 regarding "Criminal responsibility of ministers", is putting obstacles in the way of criminal prosecution against current or former members of the Government or Vice-Ministers, since prior consent (decision) of the Parliament is required, which has to be given at the latest by the end of the second regular session of the Parliament (lasting from September until June) that began after the offence was committed. In order to obtain this consent, a unanimous decision is required, following the proposal of at least 30 members of the Parliament. Actually, this time limitation functions as a prescription period, since no criminal responsibility can be attributed for these political figures without the Parliament's consent. There were cases where criminal responsibilities were not attributed to political figures, due to expiration of this limitation period<sup>255</sup>.

245 Etaireia Dikastikon Meleton (Judicial Studies Association), "Findings of 2005: Discoveries and conclusions from the Inspection of the Courts" (in Greek), [www.etdime.gr](http://www.etdime.gr).

246 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

247 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

248 Articles 83-100 of the Constitution of Greece.

249 Article 98 of the Constitution of Greece.

250 See indicatively: Case of Hornby vs. Greece. Matthias S.. "Intervention" (in Greek), in Citizens' Movement, Efficient judiciary – public scientific dialogue, 2001. <http://eLawyer.blogspot.com/2009/08/o.html>

251 See indicatively: [www.synigoros.gr/annual00/E3.pdf](http://www.synigoros.gr/annual00/E3.pdf)

252 Article 86 par. 2 of the Constitution of Greece.

253 Article 86 par. 2 of the Constitution of Greece.

254 Article 86 par. 1 of the Constitution of Greece.

255 Transparency International, Prescription of offences in Europe and in Greece – Countdown to im-

Moreover, the institution of parliamentary immunity has been excessively implemented by the Parliament in many cases, causing Greece's conviction by the European Court of Human Rights twice (violation of article 6 par. 1 of the European Convention of Human Rights)<sup>256</sup>. More specifically, in these cases, the Parliament refused to lift the parliamentary immunity of MPs, despite the fact that the disputed pending before the Judiciary were of a private nature.

With reference to the audit of the state's finances, the Court of Audit, conducts among other things preventive<sup>257</sup> and repressive<sup>258</sup> audit. The Greek system for auditing the implementation of the budget is limited to legality and regularity audit, whereas it abstains completely from efficiency and expediency audits<sup>259</sup>. The Court of Audit conducts audits both ex officio and following a request by a Minister or a court ruling, both on a regular basis and unexpectedly. Based on the constitutional reform of 2001, audit of public works contracts, procurement, and services of great economic value was also added to the mandate of the Court of Audit.

However, the audit conducted by the Court of Audit is a typical of a judicial body, subject to time limitations and the general capacity of this body, while the Court of Audit's reports that are submitted to the Parliament, are not exhaustively discussed to the point<sup>260</sup> (see also pillar "Court of Audit").

## Corruption Prosecution

*To what extent is the judiciary committed to fighting corruption through prosecution and other activities?*

### Score: 50

The Judiciary proceeds with a fair and impartial trial for corruption cases in their majority, while it gives judicial aid in many cases with inter-border characteristics<sup>261</sup>. However, there is no available statistical data regarding the volume of cases, their outcome etc., a fact that has also been underlined during the last years in the annual reports of the OECD on corruption<sup>262</sup>.

The Judiciary participates in the debate regarding internal reforms, mainly through judicial associations, but also through the Judicial Studies Association<sup>263</sup>. However, it has not undertaken, as it would normally be expected, dynamic initiatives in the fight against corruption. Apart from fragmentary and isolated statements by judges, there have not yet been any collective and detailed proposals for the eradication of corruption. Moreover, in many cases regarding public denunciations for lack of transparency, the Judiciary has not acted ex officio, as it is supposed to do according to the law<sup>264</sup>.

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punity 2010-2011, 2011. [http://thesecretrealtruth.blogspot.com/2011/10/blog-post\\_9371.html](http://thesecretrealtruth.blogspot.com/2011/10/blog-post_9371.html). www.newsbomb.gr/politikh/story/81849/anhychia-karatzaferrh-gia-kindyno-paragrafhs-adikhmatwn-ypoyrgwn. www.newsbeast.gr/politiki/arthro/109134/ta-adikimata-gia-to-vatopedi-ehoun-paragrafei-

256 Cases of members of the Parliament Mr. K. Tasoulas (2006) and Mrs. M. Apostolakis (2010).

257 Chapter G of executive Presidential Decree 774/1980.

258 Chapter H of executive Presidential Decree 774/1980.

259 Milionis N., *The Institutional Role of the Court of Audit*, 2006, p. 478.

260 "Proposals of the Court of Audit: to improve the administration of Justice" (in Greek), Hellenic Mail, 07-13.05.2011.

261 [www.ministryofjustice.gr](http://www.ministryofjustice.gr)

262 Transparency International, *Progress Report 2011 Enforcement of the OECD Anti-Bribery*

263 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

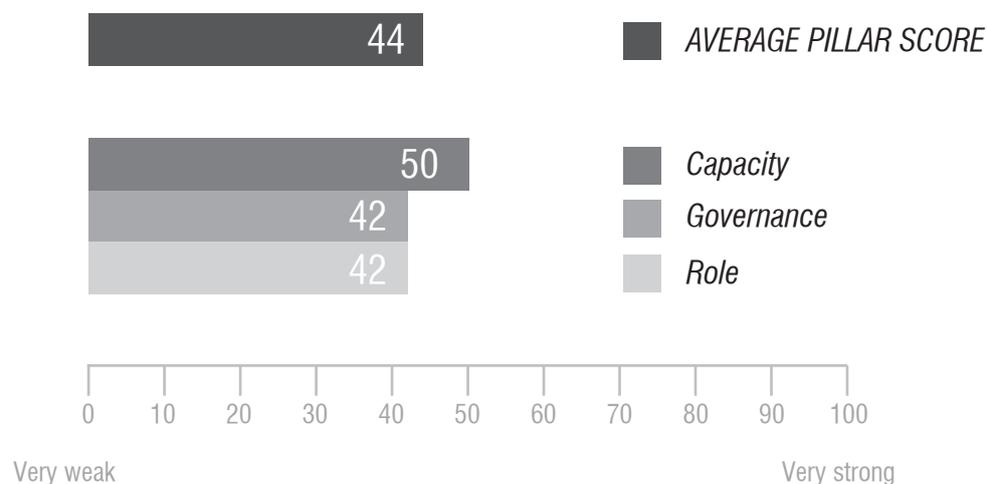
264 Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to proceed with legislative initiatives and measures for the achievement of the following:**

- Acceleration and rationalisation of the judiciary system by:
  - enhancing the infrastructure of the Judiciary (buildings, technological equipment, etc.)
  - simplification and codification of the legislation
  - simplification of the procedural system
  - promotion of alternative dispute-settlement institutions (i.e. by arbitration, intermediation, etc.)
  - transfer of court material to the notaries
  - transformation of judicial procedures to administrative ones
  - setting goals
  - establishing motives.
- Upgrade of the curriculum of the National School for Judges by:
  - teaching specialised modules, so that judges are able to deal with modern matters of the society and the market
  - internships in courts abroad
  - on-site visits to agencies of special significance.
- Reform of the disciplinary law and inspection procedures of judges.
- Establishment of an actual self-administration of the Judiciary – complete separation of the judicial power from the executive power. Establishment in this framework of, among others, an objective and unimpeachable system for the selection of the Heads of high courts.
- Increase of the incompatibilities related the post of judge (i.e. abolishing their participation in committees, arbitrations, etc.).
- Establishment of prohibitions regarding judges taking up posts after their retirement from the Judiciary.
- Establishment of the obligation for drafting and publication of an annual account of activities of the Judiciary (with the inclusion of statistical data).

## PUBLIC SECTOR



### SUMMARY

The modernisation and the increase of the public sector's efficiency is a constant request of the Greek society. Public sector downsizing alone is not a panacea for improving its effectiveness and relieving the state budget, but there is need for additional actions, as well<sup>265</sup>. In the recent years there have been efforts in the legislative area for reinforcing transparency and audit in the public sector. However, until today, these efforts have not resulted to a dramatic reduction of corruption in the public sector. This is particularly crucial for inter alia the Greek economy, since the public sector is administering remarkably large funds through public procurement.

### STRUCTURE & ORGANISATION

The public sector in Greece includes<sup>266</sup>:

- Ministries,
- Local Administration Organisations of the first and second degree (namely municipalities and regions),
- legal entities of the public sector, which include legal entities of public law, legal entities of private law and public enterprises,
- independent administrative authorities.

Based on data collected until 29.07.2010, in the framework of the public sector census<sup>267</sup>, the total number of civil servants rises up to 768,009 people. It is noted that this number does not include the staff of legal entities of private law and enterprises of the public sector.

265 See indicatively: Rapanos V. (IOBE), Volume and range of activities of the public sector, Foundation for Economic and Industrial Research, 2009, pp. 1-4.

266 Ministry of the Interior, Public Administration and Decentralisation, The public administration in Greece, 2005, [www.gspa.gr](http://www.gspa.gr), p. 6.

267 [www.apografi.gov.gr/2010/07/379](http://www.apografi.gov.gr/2010/07/379).

## Inventory of civil servants by age

<b>Age</b>	<b>Number of Civil Servants</b>
>60	43.743
50 - 60	168.958
40 - 50	258.280
30 - 40	205.277
20 - 30	86.246
<20	4.174

## Inventory of civil servants by level of education

<b>Level of Education</b>	<b>Number of Civil Servants</b>	<b>Percentage %</b>
BA - BACHELOR'S DEGREE	300,905	39%
SECONDARY EDUCATION	212,574	28%
SPECIAL POSTS	73,305	10%
COMPULSORY EDUCATION	69,559	9%
TECHNICAL STUDIES	66,669	9%
WITHOUT EDUCATIONAL LEVEL	43,540	6%
NOT FILLED	142	<1%

## Inventory of civil servants by sex

<b>Sex</b>	<b>Number of Civil Servants</b>	<b>Percentage %</b>
MALE	412.607	54%
FEMALE	355.150	46%

## Inventory of civil servants by employment relationship of the primary employment

Employment Relationship	Αριθμός Υπαλλήλων	Ποσοστό %
PERMANENT CIVIL SERVANTS/ JUDICIAL OFFICIALS/ PUBLIC OFFICIALS	625.738	82%
PRIVATE LAW NON FIXED TERM	53.833	7%
PRIVATE LAW FIXED TERM	44.811	6%
CONTRACTORS	12.609	2%
CIVIL SERVANTS APPOINTED AFTER ELECTION	86.246	2%
FOR A TERM	7.495	1%
PAID BY THE HOUR/PAID BY THE DAY	4.614	1%
APPOINTEES	1.175	<1%
FIXED SALARY	1.003	<1%
MEMBERS OF ADMINISTRATIVE BOARDS	493	<1%
PRESIDENT, CHIEF EXECUTIVE OFFICER, DIRECTOR, VICE-DIRECTOR	380	<1%

## ASSESSMENT

## Resources (practice)

To what extent does the public sector have adequate resources to effectively carry out its duties?

**Score: 50**

For the time being, due to inter alia the financial crisis, Greece is in a process of fundamental reconstruction of its public sector. In particular, an attempt is made to reaudit and -where needed- limit public expenditure. The means for achieving this goal are expected to be the establishment of a new, reduced and more uniform salary grid for civil servants, abolition and merging of bodies with possible layoffs of civil servants, restructuring of public services and procedures, re-organisation of Local Administration Organisations, reformation of taxation and social security systems and privatisation of public enterprises<sup>268</sup>. However, the significant salary cut-backs, which civil servants have already undergone, have dramatically reduced their purchasing power, while at the same time they hurt morale and performance at work<sup>269</sup>.

The admittedly, until today, oversized public sector is justified to a great extent by the need for offering certain services, such as health and education at reduced charges, since these services are offered by the private sector at much higher prices, often deterring for the average citizen. The recent measures, in order

268 See indicatively: "The troika asks for a downsizing of 30% of the broader public sector" (in Greek), [www.ethnos.gr/Article.asp?catid=22770&subid=2&pubid=41794949](http://www.ethnos.gr/Article.asp?catid=22770&subid=2&pubid=41794949), 15.11.2010. Michalos P.G., "The bet on purging by downsizing the public sector" (in Greek), [www.tovima.gr/opinions/Article/?aid=411425](http://www.tovima.gr/opinions/Article/?aid=411425), 17.07.2011. Kovaivos A., "The new salary grid of the public sector first among legislative priorities" (in Greek), [www.tovima.gr/politics/Article/?aid=412865](http://www.tovima.gr/politics/Article/?aid=412865), 27.07.2011.

269 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDI), interview with the author on 26.07.2011.

to deal with the Greek debt crisis, include, inter alia, a dramatic reduction of the income of public servants and layoffs of up to 150,000 public servants in a few years time<sup>270</sup>. The fact that the public sector does not provide a high income renders it, inter alia, unable to attract actually talented employees<sup>271</sup>. The public sector attracts personnel mainly because of the job security it guarantees, due to the constitutionally established permanent status of civil servants.

It should be emphasised that Greece is one of the first countries of the Organisation for Economic Co-operation and Development (OECD) on expenditure for public administration expressed as percentage of its gross national product (GNP), while at the same time the effectiveness of its public administration is among the lowest<sup>272</sup>. The National School of Public Administration aims, inter alia, at increasing the effectiveness of the public sector through the training of civil servants. However, until today, the National School of Public Administration has not been able to show the expected results, mainly due to the fact that the public sector does not have an integrated policy for human resources management<sup>273</sup>.

### Independence (law)

*To what extent is the independence of the public sector safeguarded by law?*

#### **Score: 50**

The Constitution<sup>274</sup> provides for, inter alia, civil servants being responsible for the implementation of the will of the state, serving the people and owing loyalty to the Constitution and devotion to the country. Their qualifications and the procedure for their appointment are determined by law. No one shall be appointed as a civil servant to an established post not provided for by law. Special laws may provide for exceptions, in order to cover unforeseen and urgent needs with personnel hired for a certain period of time on a private law contract.

Recruitment of civil servants in the narrow and broader public sector is carried out either through competition or through selection according to predetermined and objective criteria and it is subject to audit by the Supreme Staff Selection Council. A legislative act may provide for special selection procedures encompassed with increased guarantees of transparency and meritocracy or special staff selection procedures for posts where responsibilities are encompassed with special constitutional guarantees or have a specific objective.

Civil servants occupying established posts are permanent for as long as these posts exist. They progress in terms of salary according to the provisions of the law and, except for cases when they retire due to the age limit or they are dismissed by court ruling, they cannot be transferred without consultation or be demoted or dismissed without the decision of the internal council, two thirds of which have to be permanent civil servants. Recourse to the Council of State against the decisions of such councils is allowed.

No civil servant may be appointed to a different post of a public service or local administration organisation or other legal entity of public law or public enterprise or public utility. As an exception, appointment to a second post may be allowed by special law. In this case, all kinds of additional salary or earnings of civil

<sup>270</sup> See indicatively: Tsachakis K., "Plan-fire for the reduction of expenditure in the public sector" (in Greek), [www.ethnos.gr/Article.asp?catid=22770&subid=2&pubid=63349087](http://www.ethnos.gr/Article.asp?catid=22770&subid=2&pubid=63349087), 03.09.2011. "Immediate reduction of the public sector by" (in Greek), [www.i-reportergr.com/2011/09/30\\_20.html](http://www.i-reportergr.com/2011/09/30_20.html), 20.09.2011.

<sup>271</sup> OECD, Government capacity to assure high quality regulation in Greece, 2001, p. 8. Vagianos D. and Chaliasos M., "How can Greece enter a positive growth trajectory" (in Greek), [www.greekeconomistsforreform.com](http://www.greekeconomistsforreform.com).

<sup>272</sup> OECD, Government capacity to assure high quality regulation in Greece, 2001, p. 8. Rapanos V. (IOBE), Volume and range of activities of the public sector, Foundation for Economic and Industrial Research, 2009, p. 3.

<sup>273</sup> See indicatively: Rammata M., "Management and development of human resources as factors of modernisation in the public administration" (in Greek), [www.special-edition.gr/pdf\\_dioik\\_enim/pdf\\_de\\_32/RAMMATA.pdf](http://www.special-edition.gr/pdf_dioik_enim/pdf_de_32/RAMMATA.pdf)

<sup>274</sup> Articles 103 and 104 of the Constitution of Greece.

servants may not supersede per month the total salary of the established post. No prior permit is required to bring civil servants before the court, as well as employees of local administration organisations or other legal entities of public law.

A law shall specify the conditions and duration of private law employment relations in the narrow and broader public sector, as regards established posts or posts created to meet temporary or unforeseen and urgent needs. Conversion of this staff to permanent civil servants by law or conversion of their contracts into contracts of indefinite duration is prohibited. These prohibitions also apply to those employed on the basis of a contract for work.

The Code of Civil Servants<sup>275</sup> specifically establishes the appointment conditions (qualifications and impediments) for the public sector<sup>276</sup>, the obligations, the incompatible work or capacities and the civil responsibility<sup>277</sup>, their possible in-service modifications<sup>278</sup> and the disciplinary sanctions they could be subjected to<sup>279</sup>.

More specifically, the Code of Civil Servants provides for, inter alia, the following:

- A civil servant is responsible for the performance of his duties and the legitimacy of his official acts. A civil servant must obey the commands of his superiors. However, when performing a command which he considers illegal, he must express in writing his dissenting opinion prior to obeying said command, and proceed to the performance thereof without causing any delay. The command does not acquire legitimacy as a result of the fact that the civil servant is required to obey it. If the command is manifestly unconstitutional or illegal, the civil servant must refrain from performing it and must make a report to that effect without any delay. When a command that is manifestly contrary to the provisions of the law or to regulatory acts cites urgent or exceptional reasons of public interest, or if after the civil servant has refused to obey the first command which is manifestly contrary to such provisions, a second command follows citing urgent and exceptional reasons of public interest, the civil servant is required to perform the command and at the same time refer to the supervising authority of the person giving the command. If the civil servant does not agree to a commanded action, which requires his endorsement or legalisation, he must express his dissent in writing in order to release himself from the responsibility. If he fails to endorse or legalise the act, he is deemed to have endorsed or legalised it.
  
- The freedom of the expression of political, philosophical and religious beliefs as well as of professional views and in-service criticism of the acts of the supervising authority constitutes a right for civil servants and is warranted by the State. No discriminations are allowed against civil servants on the basis of their beliefs or views or any criticism of the acts of the supervising authority on their part. Civil servants are allowed to participate in the country's political life pursuant to the provisions in effect.
  
- The freedom to form a union and the unimpeded exercise of the associated rights are guaranteed to civil servants. Civil servants are free to establish trade union organisations, to become members and exercise their trade union rights. Strike constitutes a right for civil servants, exercised through their trade unions, as a means to safeguard and promote their financial, labour, trade union, social and insurance interests and as a manifestation of solidarity to other employees for the same purposes. Trade union organisations are entitled to negotiate with the responsible authorities in regard with the terms, emoluments and employment conditions of their members.
  
- In-service modifications of civil servants are decided by the collective organs established by the provisions in effect.

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275 Law 3528/2007.

276 Articles 4-23 of Law 3528/2007.

277 Articles 24-64 of Law 3528/2007.

278 Articles 65-105 of Law 3528/2007.

279 Articles 106-167 of Law 3528/2007.

A step to the right direction is the new law 3839/2010 on the system of selection of supervisors of established units, composition of a Special Council for Selection of Supervisors, which establishes a series of objective criteria as regards promotions of civil servants, aiming for the eradication of promotions based on political party criteria.

In any case, civil servants who believe their independence is being compromised are able to appeal to their trade union bodies, where leading authority is the Supreme Administration of Civil Servants' Trade Unions (ADEDY), the General Inspector of Public Administration, the Corps of Inspectors Auditors of Public Administration, and to the Judiciary.

### Independence (practice)

*To what extent is the public sector free from external interference in its activities?*

#### **Score: 50**

In the vast majority of cases, the current legal framework ensures that there are no illicit external agents interfering with the appointment and dismissal of civil servants. Specifically, these recruitments are mostly carried out by the Supreme Staff Selection Council, which is an independent administrative authority, whereas the grounds for leaving the service are set out expressly and exhaustively in the law, without granting relevant discretion to public administration bodies, given the permanent status of civil servants<sup>280</sup>.

Nevertheless, political agents interfere<sup>281</sup> in cases such as, for example, those of contract agents of the Public Sector, who are appointed usually by non-transparent procedures and become objects of political exploitation, given their reasonable desire to get permanent contracts<sup>282</sup>, but also in cases of promotions, where usually employees friendly towards the governing party are favoured, since the criteria established by law until today did not ensure the objective and impartial judgement of the bodies taking the relevant decisions<sup>283</sup>. Trade unions, which are closely depended on political parties, also have an important role in this<sup>284</sup>.

Moreover, the participation of civil servants in official boards as a majority leads probably to the manifestation of a misunderstanding of solidarity between colleagues, thus, rendering the function of these boards useless.

However, in no case can there be a suggestion that civil servants are silenced or punished for their political beliefs or for expressing them<sup>285</sup>. This is proven also by the fact that trade unions in Greece have many members and they are particularly dynamic<sup>286</sup>. However, sometimes it is possible for a political party to dominate in these unions and, therefore, to render them incapable of representing effectively all the employees. Undoubtedly, bodies such as the General Inspector of Public Administration, the Corps of Inspectors Auditors of Public Administration and the Judiciary, provide stronger guarantees of impartiality.

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280 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDI), interview with the author on 26.07.2011.

281 OECD, Government capacity to assure high quality regulation in Greece, 2001, p. 8.

282 See indicatively: "Stop the hostage-type situation of contract staff" (in Greek), [http://archive.enet.gr/online/online\\_text/c=112, dt=04.10.2007, id=4608928, 04.10.2007](http://archive.enet.gr/online/online_text/c=112, dt=04.10.2007, id=4608928, 04.10.2007).

283 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDI), interview with the author on 26.07.2011.

284 See indicatively: Kalyvis A., "For an new strategy of the unionist movement" (in Greek), [www.iskra.gr/index.php?option=com\\_content&view=Article&id=2347:2011-02-10-12-46-59&catid=88:an-ergasiaka&Itemid=161](http://www.iskra.gr/index.php?option=com_content&view=Article&id=2347:2011-02-10-12-46-59&catid=88:an-ergasiaka&Itemid=161).

285 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDI), interview with the author on 26.07.2011.

286 <http://ec.europa.eu/eures/main.jsp?>

## Transparency (law)

*To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the public sector?*

### Score: 50

Public administration in its entirety is governed by common principles of organisation and function, which are set out extensively in the Administrative Procedure Code<sup>287</sup>.

A primary source of publishing information in the public sector is the Government Gazette<sup>288</sup>. In the Government Gazette the following are mandatorily published, in order to gain effect, inter alia:

- the Constitution,
- the laws issued and ratified according to the Constitution,
- the Standing Orders of the Hellenic Parliament,
- legislative acts,
- the acts of the Hellenic Parliament and of its President
- presidential decrees of regulatory and individual character,
- acts of regulatory character by the Prime Minister, the Council of Ministers, the Ministers, as well as by any other Administrative body,
- the rulings of the Supreme Special Court,
- administrative acts of individual character, defining fees and allowances for their members, whose publication is required by law,
- announcements for staff recruitment in the public sector and the broader public sector,
- overviews of acts of appointment, reallocation, suspension, resignation acceptance, dismissal or demotion of civil servants and officials of public-law legal entities, the clergy and church organisations' staff, whose publication is required by law,
- tables of results of the announcements for staff recruitment in the public sector and the broader public sector,
- decisions of disciplinary boards whose publication is required by law,
- summaries of announcements of public works contracts, procurement, services and researches of the public sector and the broader public sector that contracting authorities are carrying out according to the current legislation,
- the special report of election campaign income and expenditure of political parties.

In 2010 the required publication formalities increased in order for the public administration acts to gain effect, since, in the framework of the "Clarity" programme<sup>289</sup>, the individual bodies are obliged to publish on the internet more categories of acts than the ones they are obliged to publish on the relevant Government Gazette. Specifically, the following are published on the internet, inter alia:

- budgets, annual reports, balances and individual expenses of Ministries, central and regional public services, legal entities of public law, bodies of the broader public sector and bodies of local administration organisations of the first and second degree,
- acts for the set-up of paid or unpaid committees, work groups, project groups and relevant consultative or other bodies, independent of whether their members are getting paid or not,
- acts for the establishment of fees and allowances for members of single-member and collective administrative organs, committee members, work groups, project groups and relevant consultative or other organs,

<sup>287</sup> Law 2690/1999 (Code of Administrative Procedure).

<sup>288</sup> Law 3469/2006.

<sup>289</sup> Law 3861/2010.

- opinions and minutes of opinions of the Legal Council of the State,
- acts and opinions of independent and regulatory administrative authorities,

The mandatory publication in the Government Gazette and the post on the Internet of the abovementioned acts has decisively contributed to achieving actual transparency in the public sector. It is also underlined that the aforementioned clauses provide for the publication of announced job vacancies, as well as for the announcement of the lists of successful and failed candidates, so that the relevant appointments are carried out in complete transparency.

In any case, after submitting an application to the responsible public services, citizens are entitled to have access to public and private documents that concern them if there is proof of their relevant legal interest<sup>290</sup>. The public administration is obliged to answer, normally within 50 days<sup>291</sup>.

Pursuant to the Code of Civil Servants<sup>292</sup>, civil servants are obliged to submit their asset declarations (“pothen esches”) upon the commencement of their employment, and then every two years. These declarations are sent for processing to the General Secretariat of Information Systems of the Ministry of Finance without being published. However, audit of assets can be carried out ex officio as well, following a request from the service where the civil servant is employed or following a complaint.

### Transparency (practice)

*To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?*

#### **Score: 50**

The implementation of the “Clarity” programme in the public administration has contributed greatly to the reinforcement of transparency, since publication of information in the Government Gazette was limited to much less categories of acts<sup>293</sup>. The deadline of 50 days, usually provided for by law<sup>294</sup>, that the Administration has in order to deal with a citizen’s request, contributes to the timely and unimpeded access of citizens to public documents. If this deadline is over without action, it means silent refusal of the Administration, which gives the citizen the right to make an appeal against it. Moreover, this omission might also give rise to disciplinary liability of the employee. The increasing requests of public services towards the Data Protection Authority<sup>295</sup> prove that the public administration now realises its obligation to examine responsibly the requests of citizens for the provision of information. Moreover, it is underlined that in the annual reports of the Ombudsman in the last years there is no reference to an extended problem regarding lack of access of citizens to public documents.

With regard to the recruitment procedures, it is a fact now that almost all recruitment procedures are carried out with transparency and with complete publicity, through the Government Gazette and the press in general. However, there is room for further exposure in special categories of vacancies in the public sector which can –by law- be filled according to personal selections of the members of the government in office (i.e. appointees, Heads of legal entities of public law, etc.).

Civil servants indeed submit asset statements both upon their appointment and afterwards, every two years. However, the large number of cases of bribery of civil servants [see also pillar “Anti-Corruption Agencies – Integrity Mechanisms (practice)”] reveals, on one hand, that these statements are not recorded in the right way and, on the other hand, that their audit is not substantial<sup>296</sup>.

290 Article 5 of Law 2690/1999.

291 Article 4 par. 1(a) of Law 2690/1999 (Code of Administrative Procedure).

292 Article 28 of Law 3528/2007.

293 See indicatively: Belegris A., “London is calling Athens: Teach us about Transparency” (in Greek), [www.protothema.gr/politics/Article/?aid=99742](http://www.protothema.gr/politics/Article/?aid=99742), 13.01.2011.

294 Article 4 par. 1(a) of Law 2690/1999 (Code of Administrative Procedure).

295 See indicatively: Hellenic Data Protection Authority, Annual Report 2010, p.44-45.

296 See indicatively: Nikolakopoulos D., “What is changing in the declarations of assets (“pothen

## Accountability (law)

*To what extent are there provisions in place to ensure that public sector employees have to report and be held accountable for their actions?*

**Score: 50**

The executive power is the political leader of public administration employees. The Corps of Inspectors-Auditors of Public Administration, as well as the General Inspector of Public Administration, also perform audit on civil servants. Moreover, the Directorate of Internal Affairs of the Police is the main body with the responsibility of the eradication of offences regarding bribery and corruption in general in the public sector (see also pillar “Anti-Corruption Agencies”). The Ombudsman also performs audit on civil servants (see also pillar “Ombudsman”), through the examination of citizens’ complaints, which require addressing the responsible public authorities and their political supervisor Heads.

The Code of Civil Servants explicitly defines civil servants’ obligations. These include<sup>297</sup> faith in the Constitution, legal performance of their duties, confidentiality, decent conduct and not acquiring income from illegal sources or from sources not declared to the service.

In case of non-compliance with the aforementioned obligations, civil servants may face disciplinary<sup>298</sup>, criminal and civil liability. In particular, civil servants have civil liability for any damage they caused to the public sector by fraudulent action or serious negligence, during the performance of their duties<sup>299</sup>. This is true also in case where no damages were adjudicated in favour of a citizen in a claim against the public sector, following the relevant lawsuit.

## Accountability (practice)

*To what extent do public sector employees have to report and be held accountable for their actions in practice?*

**Score: 25**

Impunity of civil servants in cases of disciplinary and criminal violations is a common phenomenon. Specifically, what usually happens is that the case is archived without sufficient investigation. However, even when cases are investigated, the sanctions imposed are minor. Indicatively, it is mentioned that, during 2010, the General Inspector of Public Administration appealed to the responsible court against 13 final disciplinary rulings. In 8 of these cases the General Inspector of Public Administration requested the annulment of these disciplinary rulings on grounds of them being too lenient, and in 4 of them he requested annulment because the responsible disciplinary body had acquitted the civil servants. In the last case, the General Inspector of Public Administration appealed to the responsible court because the second-degree disciplinary organ that adjudicated the case, following the General Inspector of Public Administration’s appeal against the ruling of the first-degree disciplinary body, imposed a theoretically heavier sanction, but, in practice, this sanction was of no real effectiveness<sup>300</sup>.

The aforementioned phenomenon leads to, inter alia, the discouragement of citizens from filing complaints, even though occasionally colleagues are the ones who disclose repeated unlawful conduct of civil servants<sup>301</sup>.

*The General Inspector of Public Administration appealed to the responsible court because the second-degree disciplinary organ that adjudicated the case, following the General Inspector of Public Administration’s appeal against the ruling of the first-degree disciplinary body, imposed a theoretically heavier sanction, but, in practice, this sanction was of no real effectiveness*

eschés”)” (in Greek), [www.tovima.gr/society/Article/?aid=405396](http://www.tovima.gr/society/Article/?aid=405396), 08.06.2011.

297 Articles 24-30 of Law 3528/2007.

298 Articles 103-163 of Law 3528/2007.

299 Article 38 of Law 3528/2007.

300 General Inspector of Public Administration, Annual report 2010, p. 77.

301 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants’ Trade Unions (ADEDI), interview with the author on 26.07.2011.

The reasons for the insufficient oversight of civil servants can be summarised as follows:

- overlapping jurisdictions of audit bodies and lack of coordination,
- bureaucratic impediments,
- very slow progress in the workings of audit mechanisms, so that, by the time the investigation is completed, the criminal offences are prescribed<sup>302</sup>,
- discretion of the responsible disciplinary organs, which occasionally follow the orders of the executive power in office,
- lack of adequate protection of inspectors,
- delays in the administration of justice by the courts.

Regarding claims for losses against the public sector, it must be underlined that citizens are in a particularly disadvantageous position, on one hand, because of the privileges of actual and procedural law that the public sector enjoys, and, on the other hand, because of the delays of the Judiciary (see also pillar “Anti-Corruption Agencies”).

### Integrity Mechanisms (law)

*To what extent are there provisions in place to ensure the integrity of public sector employees?*

**Score: 50**

Apart from the aforementioned constitutional guarantees, the Code of Civil Servants, which is in essence a legally binding code of conduct, includes also other provisions aiming at ensuring the integrity of civil servants. Specifically, there is provision<sup>303</sup> for restrictions with regard to the performance of a paid private project, participation in companies, incompatibilities with the profession of the civil servant, provisions regarding abstinence from transactions and situations where family members and locality obstacles are involved.

In the Criminal Code there is a definition of office-related crimes<sup>304</sup>. These include bribery for performing legal or illegal actions, abuse of power, false statement, document falsification, violation of official secrecy, deliberate omission of grounds for exemption, unlawful conflict of interest, taking advantage of entrusted material, misappropriation and breach of duty.

Under law 3849/2010, the provisions regarding crimes in service have become stricter. These are crimes of the Twelfth Chapter of the Criminal Code, which includes, inter alia, passive bribery, unlawful conflict of interest and breach of duty. Under the new law, there was even a new article introduced (263B), which regulates matters of witness protection in corruption cases.

### Integrity Mechanisms (practice)

*To what extent is the integrity of public sector employees ensured in practice?*

**Score: 25**

As it is evident from researches carried out in Greece during the last years<sup>305</sup>, the public sector has a leading position as regards cases of petty corruption, compared to the private sector. Hospitals, tax offices and urban planning departments appear at the top of the list of the most corrupt public services. However, in the results of the research for 2010, there is a decrease of the cases of corruption in relation

302 General Inspector of Public Administration, Annual report 2010, pp. 5-17.

303 Articles 31-37 of Law 3528/2007.

304 Articles 235-263 of Criminal Code.

305 See indicatively: Transparency International-Greece & Public Issue, National Survey on Corruption in Greece (2005, 2007, 2008, 2009, 2010), [www.transparency.gr/Content.aspx?page=11](http://www.transparency.gr/Content.aspx?page=11)

to the previous years for the first time. This is probably due to the financial crisis and the austerity measures that were implemented, which deprived households of resources and, consequently, reduced the amounts of money that were available for bribery<sup>306</sup>.

Despite the extensive cases of corruption that the citizens admit to, according to data obtained from the General Inspector of Public Administration, only 2% approximately of civil servants are subject to a disciplinary procedure<sup>307</sup>. This fact raises reasonable questions as to the number of law-breaking civil servants who are never subject to a disciplinary procedure. This is possibly due to the non-disclosure of these incidents<sup>308</sup>.

Regarding the education of civil servants on transparency issues, it is noted that occasionally there are relevant efforts made, however, these efforts are fragmentary and, therefore, insufficient<sup>309</sup>.

## Public education

*To what extent does the public sector inform and educate the public on its role in fighting corruption?*

### Score: 50

Given the fact that the public sector is a source of corruption on its own, the information campaign for citizens as regards their rights and means of protection is undertaken mainly by the Ombudsman and the General Inspector of Public Administration<sup>310</sup>, which belong to the public sector. These bodies develop remarkable activity with regard to the awareness of citizens in matters regarding corruption. In particular, the Ombudsman and the General Inspector of Public Administration often communicate<sup>311</sup> their work through:

- their annual and ad hoc reports,
- their websites,
- their participation in public events,
- educational activities,
- organisation of conferences,
- cooperation with non-governmental organisations,
- publications of print material,
- public statements, etc.

This activity exists because of the independence of the bodies, the sufficient specialisation of their staff, but also due to the strong disposition of their Heads.

## Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption

*To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?*

### Score: 25

306 Transparency International-Greece & Public Issue, National Survey on Corruption in Greece (2005, 2007, 2008, 2009, 2010), [www.transparency.gr/Content.aspx?page=11](http://www.transparency.gr/Content.aspx?page=11)

307 General Inspector of Public Administration, Annual report 2010, p. 63, [www.gedd.gr/news.php?Article=85](http://www.gedd.gr/news.php?Article=85).

308 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDI), interview with the author on 26.07.2011.

309 Iliopoulos I., Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDI), interview with the author on 26.07.2011.

310 See their annual reports on their websites, [www.synogoros.gr](http://www.synogoros.gr) and [www.gedd.gr](http://www.gedd.gr), respectively.

311 Ombudsman, Annual Report 2009, pp. 26-31.

The entire public sector is controlled by the Anti-Corruption Agencies. Therefore, it is not a voluntary cooperation but, actually, it is compliance with the obligations it has under law. Nevertheless, the National Centre of Public Administration and Local Administration and Local Administration often organise workshops with the participation of Anti-Corruption Agencies, in addition to the training seminars for civil servants on matters of integrity and transparency.

The Ombudsman and the General Inspector of Public Administration, as it was mentioned before, often assist the Civil Society in its actions against corruption<sup>312</sup>, through their participation in seminars, conferences, etc. that are organised by bodies of the Civil Society.

The cooperation of the public sector with the business world is fragmentary and indirect, limited to the promotion of matters, such as for example the eradication of bureaucracy, which serve business interests, while at the same time they limit the reasons for corruption in the Public Sector.

### Reduce Corruption Risks by Safeguarding Integrity in Public Procurement

*To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?*

#### **Score: 50**

Nine per cent (9%) of Greece's GNP is allocated through public procurement contracts<sup>313</sup>. However, there is no legislative regulation for the intervention of members of the Parliament on behalf of businesses (lobbying) in the country, in order for the latter to secure access to state funding, public procurement, etc.

The law distinguishes the kind of contracts that the Public Sector is obliged to conclude with suppliers, based on the amount of the contract<sup>314</sup>. Specifically, settle a contract-to-direct assignment is allowed for amounts up to €20,000, signing a contract through an accelerated procedure is allowed for amounts up to €60,000 (accelerated restricted invitation to tender), while for amounts above €60,000 it is required to sign the contract through open invitation to tender. The establishment of the potential for concluding a contract-to-direct assignment for amounts up to €20,000 aims at avoiding time-consuming procedures for projects and procurement contracts of low cost. However, it is often observed for projects to be divided in subprojects of costs up to €20,000, in order to be assigned directly through non-transparent criteria and procedures, and to by-pass the requirements of the law on invitations to tender, which require certain formalities regarding transparency.

The current legal framework regulates exhaustively, depending on the case, the requirements that candidate suppliers for the public sector must meet, as well as their selection procedure<sup>315</sup>.

The current legal framework also regulates, depending on the case, the type of forms, their content, as well as the terminology that is required to be used<sup>316</sup>. Despite the fact that there are no pre-printed forms, now there is relevant debate on the need for using pre-printed forms, so that the procedures will become faster and more effective<sup>317</sup>.

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312 See their annual reports on their websites, [www.synogoros.gr](http://www.synogoros.gr) and [www.gedd.gr](http://www.gedd.gr), respectively.

313 OECD, Government at a glance – Country note: Greece, 2011, p. 2.

314 Article 83 par. 1 of Law 2362/1995.

315 See indicatively: Law 3310/2005, Law 2286/1995, Presidential Decree 60/2007, Presidential Decree 118/2007.

316 See indicatively: Regulation EC 213/2008, Regulation EC 1150/2009, Articles 37, 62 and appendices Presidential Decree 60/2007.

317 Loka Ch., Member of the Planning, Public Procurement and Project Management Unit at the Hellenic Institute of Local Administration, interview with the author on 07.07.2011.

Audit and oversight of public procurement contracts is the responsibility of many bodies with jurisdictions that are often overlapping, also depending on the type of contracts, with origin of resources as a primary criterion, namely if they are purely national resources or projects co-funded by the European Union . More specifically:

In the framework of the general governmental policy for establishing transparency and efficiency while assigning public procurement contracts, the Ministry of Finance, Competitiveness and Maritime Affairs has put in place –initially pilot and now already permanent– a plan for the operation of a single national audit system for controlling the procedure for public procurement contracts and providing legal, technical and advisory support for the national contracting authorities.

Thus, since January 1st 1997, it proceeded with the establishment and operation of the Calls for Tenders and Contracts Monitoring Unit<sup>318</sup>.

The initiative taken by the Ministry of Finance, Competitiveness and Maritime Affairs was to cover a real gap, namely the absence of coordinated advisory support towards the contracting authorities of the country by an established body at all the stages of the procedure for the assignment of public procurement contracts for projects and services. Furthermore, the establishment of the Unit in 1997 was a breakthrough not only in national but also at community level, and a guide to the other member states of the European Union for relevant initiatives<sup>319</sup>.

The Unit is already cooperating with other member states of the European Union in the framework of European programmes and also with the responsible European agencies for the establishment of uniform rules in matters of interpretation and implementation of the community law on public procurement<sup>320</sup>.

The Greek contracting authorities are obliged to send to the Unit the following:

- draft text of preliminary briefing,
- draft text of general invitation to tender,
- draft text of analytical invitation to tender,
- draft announcement of contract assignment,
- draft declaration for the correction, completion or annulment of the abovementioned invitations to tender, before they are sent to the official gazette of the EU for publication and in general before the bidding procedure starts.

The draft invitations to tender concern projects and technical services that fall into the scope of implementation of the community directives regarding public procurement.

The Greek contracting authorities are entitled to request from the Unit:

- a preventive legality control of the above-mentioned invitations to tender,
- a written response to written questions regarding problems during the bidding procedure for contracts regarding projects and services,
- assistance in cases of complaints during the pre-contractual stage of assigning public procurement contracts regarding projects and services, which concern violations of provisions of the community law or the national transposition law, aiming at the fuller justification and documentation of their views,
- general information regarding the current community law on public procurement contracts,
- information regarding the procedure of sending invitations to tender for public procurement contracts to the Office for the Official Publications of the EU,
- clarifications regarding written opinions that the Unit drafted on their behalf.

The Court of Audit is responsible for the audit of high financial value contracts where the counterparty is the narrow or broader public sector (see pillar “Court of Audit”).

318 [www.mopadis.cieel.gr](http://www.mopadis.cieel.gr)

319 [www.mopadis.cieel.gr](http://www.mopadis.cieel.gr)

320 [www.mopadis.cieel.gr](http://www.mopadis.cieel.gr)

The Committee of Fiscal Control is an independent audit authority for the control of the actual operation of the administration and control system and it is common for all operational programmes of the 2007-2013 period. Its mission is to ensure compliance with the principles of sound fiscal management of co-funded programmes. It is a seven-member committee administratively supported by three Directorates of the Directorate General of Administration and Control of Programmes co-funded by the EU, and of the General Accounting Office of the State. The Committee of Fiscal Control performs its duty according to responsibilities that have been determined by Ministerial Decision and according to the Audit Strategy that has been drafted based on international audit standards.

In particular:

- it performs audits to the systems of Administrative Authorities, Intermediary Management Bodies and of the Certification Authority, as well as to an adequate sample of actions which are realised by the beneficiaries,
- it monitors and evaluates the measures and corrective actions which are taken by the responsible authorities as a follow-up to the audit,
- it drafts an annual audit report and an annual opinion regarding the operation of administration and control systems,
- it certifies the validity of requests for reimbursement, which are submitted to the European Commission taking into consideration the results of the audits that have been performed by all the responsible national and community organs,
- it cooperates with the audit services of the European Commission for the coordination of the audits of Operational Programmes and of the methods for performing these audits and it exchanges views regarding the results of audits of the administration and control systems as well as for other issues,
- it evaluates the establishment of the administration and control systems.

The Managing Authorities of Operational Programmes are determined in every Operational Programme and they are responsible for the efficiency and normality of the management and the implementation of the relevant OP.

Under law 4013/2011, all public procurement contracts of the Greek public sector will be subjected to the jurisdiction of the Single Public Procurement Authority and Central Electronic Public Procurement Register, which, however, has not operated yet. This is going to be the way for dealing effectively with the chronic problems and the big political -or not- scandals<sup>321</sup> that arise in the field of public procurement, because of, inter alia, the fragmentation of rules and the process of their assignment and implementation. This, very often leads to insufficient interpretation and implementation of the existing legal framework, but also to excessive delays, which arise from judicial disputes between participants and contracting authorities and have often cost the country convictions by the Court of Justice of the European Union.

In particular, the most important responsibilities of the Single Public Procurement Authority, are the following:

- harmonisation of the national legislation regarding public procurement with the European Union law and the recommendations of the European Commission,
- coordination of Ministries and other public or private bodies that assign public procurement contracts,
- rationalisation of the procedure for the assignment of public procurement contracts, unification of the practice of the various contracting authorities, as well as proposal of plans for the simplification, completion, reformation, codification and unification of the relevant legislative and regulative provisions to the responsible ministers who have the relevant initiative,

<sup>321</sup> Transparency International, OECD Anti-Bribery Convention – Progress Report 2009, pp. 29-30.

- obligatory opinion on draft provisions regarding the legislative or regulative framework of public procurement contracts,
- issuing regulations and guidelines for the responsible public bodies and contracting authorities regarding matters of public procurement contracts and putting forward proposals for the responsible ministers as regards the issuing of relevant circulars,
- stating prior consent on decisions of the contracting authorities regarding recourse to the negotiation procedure for assigning public procurement contracts above community limits,
- publication of model bidding issues and draft contracts of a binding character, after consultation with the case-specific public bodies,
- monitoring and evaluation of the efficiency and effectiveness of public bodies' actions in the field of public procurement contracts,
- ex officio search for information and data regarding the ongoing procedures of invitation to tender, assignment and implementation of public procurement contracts by the contracting authorities and the public and private bodies involved and call of their representatives to a hearing for the provision of information and data,
- possibility for intervention in trials before the responsible courts on disputes arising in the process of conclusion of public contracts,
- supporting the work of the contracting authorities regarding the legal implementation of the procedures of assigning and executing public contracts and the uniform implementation of European and national legislation regarding public procurement,
- creating and keeping a national database of public procurement contracts, which is meant to collect and publish information regarding the legislative and regulative framework of public procurement contracts and the relevant case law of European and national courts of justice, as well as to coordinate and control the collection, processing and publication of data regarding the ongoing procedures of call to tender, assignment and implementation of public procurement contracts, such as decisions for call to tender, announcements of accepting the tender, complementary contracts, data from annual accounts regarding contracts that have been tendered out, assigned and are executed by the contracting authorities,
- representation of the country in European and international organisations and meetings in the field of public procurement and participation -as the primary national communication authority- in the responsible European institutions for exchanging views, information and data regarding the national strategy, the legal framework and the procedures for invitation to tender, assignment and execution of public procurement contracts,
- drafting and submission to the President of the Hellenic Parliament, within the first quarter of every calendar year, of an annual report, which is published on the internet and includes an assessment of the account of proceedings of the Authority according to its purpose and responsibilities of the suggestions for the improvement of the legislative and regulative framework and of the procedures of call to tender, assigning and execution of public procurement contracts that have been put forward by the responsible bodies and organs, as well as the progress of the compliance of responsible bodies and organs with these suggestions.

Moreover, a central electronic register of expenditure of public procurement is created. Specifically, aiming at reinforcing transparency and at monitoring the normal implementation of the budget as to the part of the expenditure that concerns public procurement, there is introduction of a regulation providing for the creation of the Central Electronic Register of Expenditure of Public Procurement.

In this Register there will be registration of, inter alia, data regarding submission of requests for conclusion

of the contract, approval of the relevant expense, procedure of assigning and executing the contract and payment of every relevant expense. This Register is initially established at the Ministry of Regional Development and Competitiveness. However, it is provided in the draft legislation that it will be transferred to the Authority, following its request.

There is no reference in the law to the qualifications required for state officials involved in public procurement. Moreover, the current legal framework does not distinguish between civil servants responsible for drafting the calls to tender and those concerned with evaluating the bids, which often results to the performance of these tasks by the same people. However, it is required by law that there are different persons forming the committees for the evaluation of bids, evaluation of objections and material receipt<sup>322</sup>.

The current legal framework includes detailed conditions of disclosure, which have to encompass public procurement contracts and with a pending sanction for the annulment of the procedure too<sup>323</sup>, while keeping records and statistical data is regulated by the current legal framework<sup>324</sup>. Greece does not have a central website regarding public procurement. Each contracting authority publishes relevant information on its own website. However, Greece publishes data in the EU website, as well, in compliance with its obligations according to the European Union law. There are significant shortcomings with regard to publishing data on modifications of the contracts, as well as publishing data on monitoring the execution of these contracts<sup>325</sup>.

In the case of contracts-to-direct-assignment and accelerated procedure it is noted that there is no requirement for compliance with all the transparency conditions that are applicable for contracts by open invitation to tender<sup>326</sup>.

Apart from the means of legal protection that are provided for by law in general, specifically with regard to public contracts, the law provides for additional judicial protection. In particular, among other things, there is provision for temporary judicial protection, annulment of the illegal action of the contracting authority or of the signed contract and adjudication of damages<sup>327</sup>. However, these procedures often lead to never-ending judicial disputes, which hurt the interests of the public sector and consequently, those of the tax-paying citizen.

The law analytically provides for administrative and penal sanctions in case of active bribery especially on public procurement contracts, apart from the general legal framework<sup>328</sup>. Moreover, there is explicit provision for incompatibilities with the status of supplier of the public sector, as well as for impediments in the participation in public sector invitations to tender<sup>329</sup>. The incompatibilities and impediments indicatively include the capacity of mass media owner, conviction for participation in a criminal organisation, fraud, bribery, money laundering, etc.

Conclusively, with regard to public procurement, Greece has complied to a large extent with the relevant EU guidelines. Nevertheless, further enhancement of transparency in this field is required in order to eradicate phenomena of fraud, corruption and maladministration, to give a more fair treatment to candidate suppliers, but also for the responsible bodies to exercise a more effective control<sup>330</sup>.

322 See indicatively: Articles 65 and 66 Presidential Decree 60/2007, Article 38 Presidential Decree 118/2007.

323 See indicatively: Articles 29-38 of Presidential Decree 60/2007 and Article 4 of Presidential Decree 118/2007.

324 See indicatively: Article 4 of Law 2286/1995, Articles 50, 56 and 57 of Presidential Decree 60/2007.

325 OECD, Government at a glance – Country note: Greece, 2011, p. 2.

326 Loka Ch., Member of the Planning, Public Procurement and Project Management Unit at the Hellenic Institute of Local Administration, interview with the author on 07.07.2011.

327 See indicatively: Article 4 of Law 2286/1995, Article 15 of Presidential Decree 118/2007, Law 3886/2010.

328 Article 7 of Law 3310/2005.

329 See indicatively: Article 43 of Presidential Decree 60/2007 and Law 3310/2005.

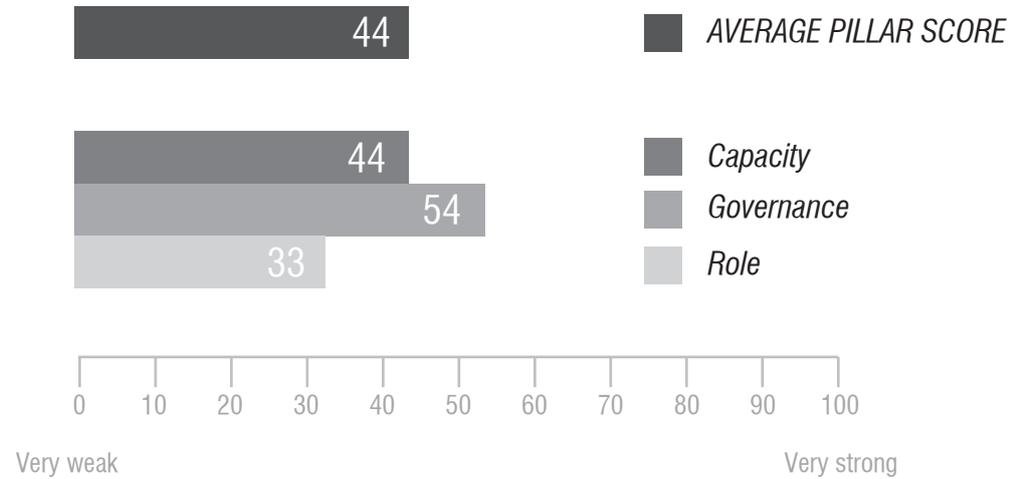
330 OECD, Government at a glance – Country note: Greece, 2011, p. 2.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to proceed with legislative initiatives and measures for the achievement of the following:**

- Detachment of the public administration from the Government, through the creation of an independent authority which will be monitoring the public sector.
- Establishment of a system of setting goals in the public sector and connection of public servants' salaries to their productivity. Establishment of motives and tight schedules binding for the civil servants.
- Establishment of an objective system for the evaluation and promotion of civil servants. Sound utilisation of human resources.
- Implementation of all appointments through the Supreme Staff Selection Council. Selection procedure not only through evaluation of qualifications, but also through interviews.
- Actual audit of the civil servants' asset declarations.
- Reformation of the Code of Civil Servants.
- Simplification and codification of legislation. Simplification of procedures.
- Distancing citizens from civil servants, through the development of electronic systems for handling cases with the public administration: computerisation, digitisation and unification of services.
- Adoption of a double-entry accounting system in public bodies
- Outsourcing services, where it is considered necessary, under the supervision of the public sector, in order to improve its effectiveness.
- Raise of citizens' awareness against corruption, through informational campaigns.
- Reinforcement of the oversight and control system for public procurement, through:
  - simplification and codification of the relevant legislation
  - establishment of a system for drafting complete calls for tender with the help of experts
  - leaving requirements to the interested parties' judgement for possible observations
  - submission of the proposal of the interested party in a anonymous file
  - substitution of pre-printed forms by electronic procedures
  - objective way of selecting the members of committees for public works and procurement (committees of offer evaluation, experts, works acquisition, etc.)
  - controls over asset declarations of the members of committees of public procurement
  - acceleration of the procedures for adjudicating appeals
  - establishment of special penalties for the committee members (conversion of common offences to special ones)
  - activation of the provisions forbidding for a certain time the assignment of public procurement to businessmen who were caught committing bribery or violating their contractual obligations, aiming at illegal profit
  - adoption and implementation of the "Integrity Pact" of TI

## ANTI-CORRUPTION SERVICES



### SUMMARY

The large number and profound diversification of anti-corruption agencies (ACAs)<sup>331</sup> in Greece does not enable their uniform evaluation. However, the conclusion that could be safely reached is that the ACAs operate in an environment of strong dependence from politics, overlapping responsibilities, lack of cooperation between the agencies, lack of uniformity of practices and lack of transparency. These conditions, obviously, do not ensure the effectiveness of ACAs.

Nevertheless, the constantly increasing number of cases handled by the ACAs shows to a certain extent the citizens' increasing trust towards them. This, on the other hand, creates the need for improving the staffing of these agencies and for their re-organisation, so that they can complete their mission successfully, following at the same time the cost-benefit logic.

### STRUCTURE & ORGANISATION

The inspection and control bodies and agencies have a dominant position as instruments of administration actions control. There is a variety of actions of these bodies and agencies, which operate mainly as:

- public administration internal control mechanisms in most of its sectors (General Inspector of Public Administration, Corps of Inspectors-Controllers Body for Public Administration)
- internal control mechanisms in certain public administration sectors (i.e. Public Works Inspectors Body)
- internal control mechanisms of a specific public sector (inspection departments)
- internal control mechanisms of certain public administration sectors but also of sectors, foundations, etc. that are subsidised by the State (i.e. Financial Inspection Directorate General)
- internal control mechanisms of certain public administration sectors but also of private bodies that are active in these sectors (i.e. Inspectors Body of the Ministry of Health and Welfare)
- control mechanisms for compliance with certain legislation on the part of public administration and private bodies (i.e. Labour Inspectors Body)

<sup>331</sup> In this chapter there is co-examination, for systematic reasons, of prosecuting authorities and anti-corruption agencies under the single title "Anti-Corruption Agencies".

- control mechanisms for compliance with certain legislation on the part of individuals, private and public enterprises (Financial and Economic Crime Unit )

Selection of some of the aforementioned bodies to be presented in the framework of this investigation was made having as a primary criterion the subject's broad range and the volume of their cases. Therefore, the following bodies will be examined next:

- **Public Prosecutor's Office** (see also pillar "Justice")
- Department of Internal Affairs (**DEY**) of the Hellenic Police (EL.AS.)
- Financial Police and Electronic Crime Prosecution Agency (**YPOADIE**) of the Hellenic Police (**EL.AS.**)
- Financial and Economic Crime Unit (**SDOE**) of the Ministry of Finance
- Corps of Inspectors-Controllers for Public Administration (**SEEDD**) of the Ministry of Interior, Public Administration and Decentralisation.
- General Inspector of Public Administration (**GEDD**)
- Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism and Statement of Assets Audit (**Anti-Money Laundering Authority**)

The Public Prosecutor's Office, SDOE and GEDD are the most important among the aforementioned bodies in terms of subject range and volume of cases.

## ASSESSMENT

### Resources (law)

*To what extent are there provisions in place that provide ACAs with adequate resources to effectively carry out their duties?*

**Score: 50**

ACAs, due to their legal nature (see below, under "Independence – Law") do not have their own resources. Their budget is incorporated in the corresponding ministries' budget and the objectives for which there is allocation of relevant funds are, to a large extent, decided in advance. Their financing is not based on their performance, while they are not allowed to use other funds, such as for example confiscated funds originating from criminal activity.

### Resources (practice)

*To what extent do ACAs have adequate resources to achieve their goals in practice?*

**Score: 50**

In the midst of the financial crisis, financial resources that in the past were considered more or less adequate despite any shortcomings<sup>332</sup>, are continuously decreasing, actually depriving the ACAs of the ability to conduct controls<sup>333</sup>.

Regarding human resources, the number of officials in individual ACAs is generally deemed satisfactory. However, there are deviations of qualifications and integrity guarantees of ACAs' personnel. For example,

<sup>332</sup> Alexopoulos P., Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011. Kladas S., Lawyer, former Secretary General of Special Controls Service (YPEE – now SDOE), interview with the author on 29.06.2011.

<sup>333</sup> Alexopoulos P., Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011.

GEDD is a lean and flexible structure of around 30 people highly qualified and under direct daily control of the Head of the body<sup>334</sup>. The Anti-Money Laundering Authority operates according to the standards of GEDD.

SDOE is considered to be on the other end of the spectrum in relation to GEDD, staffed with around 1,200 employees, stationed all over the Greek territory, in many cases inadequately qualified, while many of them have been transported to this service based on party-related criteria and often motivated by the opportunities for passive bribery while conducting their duties<sup>335</sup>, as it is proved by the large number of corruption cases within SDOE that are made public from time to time<sup>336</sup>. An important recent development in relation to the staffing of SDOE has been the appointment of a special Financial Crime Prosecutor with a broad range of responsibilities<sup>337</sup>.

SEEDD, DEY and YPOADIE function according to the organisational standards of SDOE covering the entire Greek territory. However, as opposed to SDOE, there have not been observed any extended corruption incidents within these bodies until today. [See also pillar “Justice – Resources (law)” in relation to the Public Prosecutor’s Office]

### Independence (law)

*To what extent are ACAs independent by law?*

#### **Score: 50**

- The Public Prosecutor’s Office is an integral part of the Judiciary, whose independence is explicitly established in the Constitution<sup>338</sup>. Specifically, the Public Prosecutor’s Office is independent both of the executive power and the courts of justice as far as its administration is concerned, while it is mandatory that it takes part in the administration of Justice. The Prosecutor acts under his dual, according to the law, capacity, namely that of Prosecutor and of court counsellor<sup>339</sup>.

Prosecutors are recruited after rigorous exams for judicial officials organised by the Ministry of Justice, and they have life tenure. Dismissal of Prosecuting Authority officials is permitted only on grounds of inadequate or unlawful performance of their duties.

While performing their duties, Prosecutors enjoy personal and operational independence. However, in contrast with judges, Prosecutors are obliged to obey the legal orders of their superiors. Thus, the Minister of Justice or a superior Prosecutor may order a Prosecutor who is in a lower level in hierarchy to prosecute someone –though he may not order the opposite–, but he is not allowed to influence the Prosecutor’s judgement in the course of a trial before the audience (exactly as it applies in the case of judges). Possible attempt to influence constitutes a serious disciplinary offence.

The Prosecutor participates in the composition of the Court, addresses the Court during the trial without, however, having the right to participate in the deliberation to reach a decision, even though he/she oversees the enforcement of the decision. The Prosecutor represents the prosecuting authority, but he/she is not a litigator. His/her primary objective is to solve the case and not to convict the defendant. After having proceeded with the prosecution, he/she cannot revoke it if in the course of events it is proved that the defendant is not the perpetrator of the offence he is charged with. The defendant will then be discharged either by a judicial council during the pre-trial stage, after a relevant proposal by the Prosecutor, or before the audience. This is also the reason why the Prosecutor is obliged to request the defendant’s acquittal by the Court, if during the trial he is convinced that the defendant is innocent.

<sup>334</sup> Alexopoulos P., *Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011.*

<sup>335</sup> Kladas S., *Lawyer, former Secretary General of Special Controls Service (YPEE – now SDOE), interview with the author on 29.06.2011.*

<sup>336</sup> Kladas S., *Lawyer, former Secretary General of Special Controls Service (YPEE – now SDOE), interview with the author on 29.06.2011. See indicatively: “These are the three oathbreaking SDOE officials” (in Greek), [www.iefimerida.gr/news/6631](http://www.iefimerida.gr/news/6631), 18.05.2011.*

<sup>337</sup> *Article 2 of Law 3943/2011.*

<sup>338</sup> *Article 26 par. 3 of the Constitution of Greece.*

<sup>339</sup> *See Article 138 par. 2 and 3 of the Code of Criminal Procedure Presidential Decree.*

- DEY is an individual special police service subject directly to the Chief of the Police<sup>340</sup>. Its Director is a police officer and he/she is appointed by the Minister of Citizen Protection, following the consent of the Special Permanent Committee on Institutions and Transparency of the Parliament. DEY's personnel consists of police officers who are transferred to this service for a period of three years, with a possibility for three renewals, each lasting one year. Three years after leaving the DEY, the abovementioned personnel may be relocated there. Dismissal of the Head of the DEY during his mandate is permitted only on grounds of inadequate or wrongful performance of his duties. The members of the personnel are subject to the Civil Servants' Code of Ethics and may be removed on the same grounds as the rest of the civil servants.
- YPOADIE is an individual central service of the Police Headquarters, subject directly to the Chief of the Police<sup>341</sup>. The Head of YPOADIE is a police officer, chosen by the Head of the Police, who in turn is chosen by the government in office. The same provisions apply as those for DEY with regard to the dismissal of its Director.
- SDOE is a service subject directly to the Ministry of Finance and its Head is a Special Secretary<sup>342</sup>. SDOE's Special Secretary is a person appointed by the government. The members of the personnel are subject to the Civil Servants' Code of Ethics and may be removed on the same grounds as the rest of the civil servants. All administrative actions required are carried out through the Ministry's services.
- SEEDD is an instrument of internal control and coordination of all control and inspection bodies of the public administration, with the exception of those of the Ministry of Finance, and it is subject to the Minister of Interior, Public Administration and Decentralisation<sup>343</sup>. Head of this body is a Special Secretary appointed by the government. The members of the personnel are subject to the Civil Servants' Code of Ethics and may be removed on the same grounds as the rest of the civil servants.
- GEDD is an administrative authority, in charge of SEEDD and the rest of the inspection and control bodies of the narrow and broader public sector<sup>344</sup>. As Head of this body, a person of authority and high scientific qualifications is selected by the Council of Ministers following a proposal from the Minister of Interior, Public Administration and Decentralisation. The mandate is five years with a possibility for renewal. The Chief of the GEDD and his Deputies enjoy personal and operational independence and they are bound only by law and their conscience. During their mandate, the exercise of any public function or other profession is suspended.
- The Anti-Money Laundering Authority is an administrative authority<sup>345</sup>. It consists of the Chairman and 11 Members. Its Head, selected by the Supreme Judicial Council, is a high Prosecutor in service, employed full time by the Authority. Everyone's mandate is three years with a possibility of one renewal. While conducting their duties, they enjoy personal and operational independence and they are bound only by law and their conscience. The Members of the Authority and their substitutes are appointed by common decision of the Minister of Justice, Transparency and Human Rights and the Minister of Finance, following a proposal depending on the respective responsibilities by the Ministers of Justice, Transparency and Human Rights, Finance, Foreign Affairs and Citizen Protection, the Governor of the Bank of Greece and the Capital Market Commission's Board of Directors, who suggest people distinguished for their scientific qualifications, morals and professional ability and experience in the banking, financial, legal or business sector, depending on the requirements of the individual Authority Units. The regular Members' appointment takes place after getting the opinion of the Special Permanent Committee on Institutions and Transparency of the Parliament as regards the proposed members' suitability for the post.

From the above, it is made clear that, with the exception of the Public Prosecutor's Office which is encompassed with strong constitutional guarantees of independence, the rest of the ACAs have the structure of common public services without ignoring the legislator's choice to allow a certain degree of independence for DEY, GEDD and the Anti-Money Laundering Authority.

*With the exception of the Public Prosecutor's Office which is encompassed with strong constitutional guarantees of independence, the rest of the ACAs have the structure of common public services*

<sup>340</sup> Article 1 of Law 2713/1999.

<sup>341</sup> Article 1 of Presidential Decree 9/2011.

<sup>342</sup> Article 1 of Presidential Decree 218/1996 and Article 1 of Presidential Decree 85/2005.

<sup>343</sup> Article 6 of Law 2477/1997.

<sup>344</sup> Article 1 of Law 3074/2002.

<sup>345</sup> Article 2 of Law 3932/2011.

## Independence (practice)

*To what extent are ACAs independent in practice?*

### Score: 25

Apart from the Prosecutor's Office which, as part of the judicial power, is independent [See also pillar "Justice – Resources (law)"] and the GEDD, who is encompassed with independence guarantees by law, it is obvious that the rest of the ACAs are following the orders of their political supervisors, namely the government and the Heads that it has recruited for every ACA. Changing these Heads with every change of government does not ensure unimpeded function and independence for the relevant ACAs.

But even in the case of the GEDD, a former Head of the body was dismissed before the end of his mandate, after modification of the relevant law<sup>346</sup>. This dismissal was deemed anticonstitutional by the Council of State (StE)<sup>347</sup>. [See also below "Investigation"]

## Transparency (law)

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of ACAs?*

### Score: 75

- The actions of the Prosecutor's Office are public to the extent that there is no violation of the rights of the defendant and the other trial participants, but also to the extent that confidentiality must be ensured, in order to resolve the case [see also pillar "Judiciary – Transparency (law)"]
- DEY, through the Minister of Citizen Protection, submits each year by the end of February, an account of activities and proposals report to the Special Permanent Committee on Institutions and Transparency of the Parliament, in the framework of parliamentary supervision<sup>348</sup>. This report is also published on the website of DEY.
- YPOADIE is not subject to the above obligations.
- SDOE is not obliged by law to disclose information regarding its mechanisms.
- Inspections – Controls Coordinative Body (SOEE), whose members are, among others, the GEDD, the Special Secretary of SEEDD and the Director of DEY, submits every year in April an account of its activities to the Minister of Interior, Public Administration and Decentralisation<sup>349</sup>.
- Every year no later than May, the GEDD submits an annual report to the Prime Minister and the President of the Parliament, with notification to the members of the Council of Ministers. In this report, which is discussed in a Parliament special plenary session and published in a special edition, the most important cases of corruption, maladministration and non-transparent practices in the domain of public administration are presented, the work of all bodies and services coordinated by the GEDD is evaluated and proposals are set forth regarding improvement of the operation of public administration. Moreover, the GEDD, in the course of the year, may submit to the Prime Minister, the President of the Parliament and the corresponding accountable Minister, reports on special matters<sup>350</sup>.
- At the end of each year, the Anti-Money Laundering Authority is obliged to submit an account of its activities to the Committee on Institutions and Transparency of the Parliament and to the Ministers of Finance and Justice.

<sup>346</sup> Alexopoulos P., *Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011.*

<sup>347</sup> See indicatively: "From the position of the General Inspector of Public Administration" (in Greek), [www.Lawnet.gr/index.php?id=50&lid=3412](http://www.Lawnet.gr/index.php?id=50&lid=3412), 19.01.2007.

<sup>348</sup> Article 8 of Law 2713/1999.

<sup>349</sup> Article 8 par. 4 of Law 3074/2002.

<sup>350</sup> Article 1 par. 2(h) of Law 3074/2002.

From the above, it is made clear that, with regard to the legal framework, independence goes hand in hand with transparency. In other words, the legislator has imposed more obligations to the bodies it has provided with greater independence, namely the DEY, the GEDD and the Anti-Money Laundering Authority, in order to keep the balance.

### Transparency (practice)

*To what extent is there transparency in the activities and decision-making processes of ACAs in practice?*

**Score: 50**

- Prosecutor's Office: There is no website or publication of official data in regular intervals. [See also pillar "Justice – Transparency (practice)"]
- DEY: Its annual reports are also accessible on the DEY website<sup>351</sup>. Presentation of its work through the aforementioned reports is reasonably adequate and comprehensible.
- SEEDD: Accounts of activities and statistical data are available on the SEDD's website<sup>352</sup>. However, reports are not always drafted on an annual basis, but occasionally they are for longer periods of time, not clearly defined, leading to difficulties in drawing conclusions.
- GEDD: Annual reports and findings are accessible also through the GEDD's website<sup>353</sup>. These reports are the most extensive, analytical and well-documented, while findings and proposals that are set forth draw the attention of the press and become the subject of public debate.
- Anti-Money Laundering Authority: The Authority's annual reports are available on its website<sup>354</sup>. Nevertheless, these reports are mostly devoted to the presentation of the relevant legal and institutional framework, without stating the Authority's activities sufficiently.

### Accountability (law)

*To what extent are there provisions in place to ensure that ACAs have to report and be held accountable for their actions?*

**Score: 50**

- Prosecutor's Office: [See also pillar "Justice – Accountability (law)"]

Specifically, with regard to Prosecutors, the following also apply:

Despite the fact that the inspection of permanent judges is carried out by high-ranking judges as well as by the Prosecutor and the Vice-Prosecutors of the Supreme Court, inspection of Prosecutors is carried out by judges of the Supreme Court and high-ranking Prosecutors<sup>355</sup>. The Supreme Court's Prosecutor is supervising all Prosecutors' offices in the country along with their secretariats. This supervision consists of supervising and issuing general instructions for the smooth operation of the services of courts and Prosecutors offices. Any instruction, recommendation or indication for a specific case or category of cases constitutes a disciplinary offence<sup>356</sup>.

Supervision is also conducted by the Minister of Justice, who is responsible for issuing general information guidelines for the Prosecutors' offices in relation to the implementation of legal measures established in the framework of the Council of the European Union regarding judicial cooperation of member states in the areas of prevention of and fight against organised crime, trafficking and distribution of drugs, international terrorism, conspiracy and criminal organisations for committing homicides, human trafficking and

<sup>351</sup> [www.astynomia.gr/index.php?option=ozo\\_content&perform=view&id=49&](http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=49&)

<sup>352</sup> [www.seedd.gr](http://www.seedd.gr)

<sup>353</sup> [www.gedd.gr](http://www.gedd.gr)

<sup>354</sup> [www.hellenic-fiu.gr](http://www.hellenic-fiu.gr)

<sup>355</sup> Article 87 par. 3 of the Constitution of Greece.

<sup>356</sup> Article 19 of Law 1756/1988 ("Code of Court Organisation and Judicial Officials").

crimes against minors, legalisation of income from illegal activities, technology crimes and international financial crime<sup>357</sup>.

- DEY: Subject directly to the Chief of Police and consequently to the Minister of Citizen Protection. Supervision over preliminary inquiries and the preliminary work it carries out is conducted by the Prosecution Authority. The Minister of Citizen Protection submits to the Permanent Committee on Institutions and Transparency of the Parliament, by the end of February each year, an account of DEY's activities of the past year, in the framework of parliamentary supervision.
- YPOADIE: Subject directly to the Chief of Police and consequently to the Minister of Citizen Protection. The Financial Police branch is supervised, additionally, by the Prosecutor responsible for organised crime.
- SDOE: Supervised by the responsible Special Secretary of the Ministry of Finance and consequently by the Minister of Finance. It is possible to appeal against actions of SDOE before the administrative courts.
- SEEDD: Supervised by the accountable Special Secretary of the Minister of Interior, Public Administration and Decentralisation and consequently by the Minister of Interior, Public Administration and Decentralisation. It is possible to appeal against actions of SEEDD before the administrative courts.
- GEDD: The Head of the GEDD and his Deputies enjoy personal and operational independence and they are bound only by law and their conscience. The GEDD submits an account of last year's activities to the Prime Minister and to the President of the Parliament, with notification to the members of the Council of Ministers, every year in May. During the year the GEDD may submit reports on certain matters to the Prime Minister, the President of the Parliament and the responsible Minister. The actions of the GEDD are binding for disciplinary instruments, but they do not constitute administrative acts. Therefore, they cannot be appealed against before the courts.
- Anti-Money Laundering Authority: Under the Minister of Finance. At the end of every year, the Authority submits a report to the Committee on Institutions and Transparency of the Parliament and to the Ministers of Finance, Citizen Protection and Justice, Transparency and Human Rights. It is possible to appeal against actions of the Authority before the administrative courts.

Provisions regarding the protection and special treatment of witnesses are not common in the Greek legislation. Only recently, relevant provisions were added to legislative acts aiming at the eradication of corruption (i.e. laws 3849/2010 and 3943/2011). [See also pillar "Executive – Law"].

### Accountability (practice)

*To what extent are ACAs held accountable for their actions in practice?*

#### **Score: 50**

All ACAs are able to investigate reports following citizen complaints. Citizens may anonymously report cases of corruption and maladministration, in case they fear consequences for themselves or risks<sup>358</sup>. However, solving the case may subsequently be impeded by political agents, given the dependence of ACAs on the executive power, since they are actually public services<sup>359</sup>. Judicial control of the actions of ACAs, where applicable, amends for possible illegal actions on their part.

In cases where there is a provision for the submission of an annual report on the ACAs' part, this report is merely submitted, without being actually discussed, as is the case for almost all reports submitted to the Parliament<sup>360</sup>.

<sup>357</sup> Article 19 par. 4 of Law 1756/1988.

<sup>358</sup> Alexopoulos P., Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011. Kladas S., Lawyer, former Secretary General of Special Controls Service (YPEE – now SDOE), interview with the author on 29.06.2011.

<sup>359</sup> See indicatively: Lambropoulos V.G., "The whole country a (black) launderette!!!" (in Greek), newspaper "To Vima", 18.04.2009.

<sup>360</sup> Alexopoulos P., Director of Secretariat of the General Inspector of Public Administration, interview

*The Head of the GEDD and his Deputies enjoy personal and operational independence and they are bound only by law and their conscience*

As regards the Judiciary, audit means, furthermore, issuing court rulings that are specifically thorough and justified, according to the requirements of the law<sup>361</sup>. Sanctions imposed on judges do not usually concern insufficient justification of rulings. Moreover, the procedures of objections and appeals in the Greek judicial system are also carried out normally.

In cases of sanctions imposed on judges, mainly due to suspicion of reprehensible conduct, inappropriate behaviour and ethics, a greater frequency of disciplinary penalties is observed, in contrast to the complete inexistence of convictions by the mistrial court and the criminal courts. This creates reasonable questions regarding the possibility of attempts to cover up violations, given the fact that the disciplinary procedure is secret and carried out by the colleagues of the offender, so that sanctions shall not be as strict as possible<sup>362</sup>. It is not possible, of course, to rule out cases where mistrial lawsuits are a means of prevarication, which aims at self-serving purposes and at escaping Justice<sup>363</sup>.

### Integrity Mechanisms (law)

*To what extent are there mechanisms in place to ensure the integrity of members of ACAs?*

#### Score: 50

ACAs' personnel are all civil servants, who are required to have a clean criminal record at the time of their employment in the public sector. Moreover, all ACA employees, as civil servants, are obliged to comply with the provisions of the Civil Servants' Code of Ethics, which is sufficiently detailed as regards matters of integrity (confidentiality, incompatibilities, conflict of interests, statement of assets, bribery, etc.). Restrictions regarding appointments to posts after leaving the service are not provided for.

Officials of DEY and YPOADIE, as police officers, are obliged to comply with the provisions of the Police Officer's Code of Ethics<sup>364</sup>, which also refers to matters of integrity, even though in a more general manner. Moreover, in order for personnel to be hired or transferred to DEY, additional integrity guarantees are required<sup>365</sup>.

A safeguard for the integrity of the ACA personnel is also their fixed term of office, which is provided for as a general rule (except for the Prosecutor's Office, where Prosecutors have life tenure) [See also pillar "Judiciary – Integrity (law)" regarding the Prosecutor's Office].

### Integrity Mechanisms (practice)

*To what extent is the integrity of members of ACAs ensured in practice?*

#### Score: 50

According to the annual report of the GEDD for 2010, disciplinary procedure seems to be carried out only for around 2% of public servants. This raises reasonable questions as regards the number of civil servants who have committed an offence and are never brought to a disciplinary procedure.

In roughly 4% of disciplinary cases regarding civil servants, the following are observed:

- imposition of extremely lenient sanctions,
- inappropriate assessment of evidence,

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*with the author on 15.06.2011.*

*361 Dr. Perakis, M., Lawyer & Specialised Professional of the National Kapodistrian University of Athens, interview with the author on 06.07.2011.*

*362 See indicatively: Beis K., "Originated by the recent prosecution of a magistrate. Shortcomings of the disciplinary Law for judges" (in Greek), [www.kostasbeys.gr/Articles.php?s=3&mid=1096&mnu=1&id=22768](http://www.kostasbeys.gr/Articles.php?s=3&mid=1096&mnu=1&id=22768).*

*363 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.*

*364 Presidential Decree 254/2004.*

*365 Department of Internal Affairs of the Greek Police, Stocktaking Report 2010, p. 8-9.*

- inadequate or unlawful reasoning,
- incorrect interpretation of the law while assessing evidence.

Moreover, the legislative provision regarding fixed term of office for employees transferred to the ACAs is not enforced in many cases<sup>366</sup>. Usually, mandates are renewed constantly, thus, leading to the annulment of this safety guarantee.

In contrast to the other ACAs, cases of corruption regarding the staff of SDOE, often are brought to light<sup>367</sup>. An important development was the recent set-up of an Internal Affairs Service in the Ministry of Finance<sup>368</sup>, a body tantalised by employee corruption cases. Its mission is the collection, processing, assessment and utilisation of information and evidence regarding the involvement of employees of the Ministry of Finance and of legal entities supervised by it, in corruption, interplay and other serious disciplinary offences and crimes (misappropriations, extortions, passive or active bribes, cases of maladministration in the exercise of their duties, etc.), as well as the investigation and prosecution of these cases, in cooperation with the Prosecutor of Financial Crime. Moreover, this service will proceed with the audit of asset declarations of employees of the Ministry of Finance and of the supervised legal entities. [See also pillar “Judiciary – Integrity (law)” regarding the Prosecutor’s Office]

## Prevention

*To what extent do ACAs engage in preventive activities regarding fighting corruption?*

### Score: 25

Almost all the ACAs have, according to the law, responsibilities regarding prevention of corruption. In particular:

- YPOADIE:

(a) the financial police sector is responsible for the prevention, investigation and suppression of financial crimes, especially those against the interests of the public sector and the national economy and those bearing organised crime characteristics.

(b) the prosecution of electronic crime sector is responsible for the prevention, investigation and suppression of crimes or antisocial behaviour conducted through the internet or other means of electronic communication.

- SDOE is responsible for:

(a) preventive control of the implementation of tax and customs legislation.

(b) prevention and prosecution for crimes related to drugs, arms, explosives, toxic and hazardous substances, antiquities and cultural goods.

- The SEEDD is responsible for carrying out inspections, controls and investigations in the narrow and broader public sector, preliminary investigations and inquiries, following a Prosecutor’s order regarding civil servants’ offences, for referring state officials and employees’ to the prosecution authorities and the competent disciplinary bodies, as well as for controlling the employees’ assets.

- The GEDD sets forth, through its annual report and other documents, organisational and operational proposals, inter alia, for legislative reforms, the improvement of administrative procedures, reduction of bureaucracy, reform of disciplinary legislation, etc.

<sup>366</sup> Kladas S., Lawyer, former Secretary General of Special Controls Service (YPEE – now SDOE), interview with the author on 29.06.2011.

<sup>367</sup> See indicatively: “These are the three oath-breaking employees of SDOE” (in Greek), [www.iefimerida.gr/news/6631](http://www.iefimerida.gr/news/6631), 18.05.2011.

<sup>368</sup> Article 5 of Law 3943/2011.

- The Anti-Money Laundering Authority is responsible for taking and implementing measures for the prevention and eradication of: (a) legalisation of income from criminal activities, and (b) financing terrorism, as well as for the audit of asset declarations.

In the case of the ACAs, prevention consists mainly of creating procedures and stating proposals for legislative and organisational reforms. These proposals are stated mainly in the annual reports of ACAs, where there is provision for drafting and submitting such reports. However, these reports are not substantially discussed in the Parliament or with executive power agents, in order for preventive measures to be taken and implemented<sup>369</sup>. It is worth noting that the ACAs in Greece are not responsible for carrying out academic research, and, therefore, do not have the appropriate resources for such research.

## Education

*To what extent do ACAs engage in educational activities regarding fighting corruption?*

### Score: 25

Among the ACAs, the only body engaging in notable activity regarding citizen awareness in matters of corruption is the GEDD<sup>370</sup>. In particular, the GEDD systematically communicates<sup>371</sup> its work, through:

- its annual and ad hoc reports,
- its website,
- its participation in public events,
- its cooperation with the civil society,
- publications of print material,
- its public statements, etc.

Even though the GEDD does not have a legal obligation as regards the citizens' awareness or education in matters regarding the eradication of corruption, this particular body has gone beyond its requirements. This is largely due to the body's independence, the sufficient specialisation of its personnel, but also due to the strong spirit that its current Head has shown.

## Investigation

*To what extent do ACAs engage in investigation regarding alleged corruption?*

### Score: 50

ACAs are by law provided with the ability to investigate corruption cases. In particular:

- **Prosecutor's Office:** The Prosecutor is in charge of prosecuting authorities (Police, Port Police, Customs, etc.) in the framework of crime prosecution, but also in charge of public Prosecutors, notaries, registrars, mortgages, shipping registers, land registers, ship and aircraft mortgage registers, registrars and employees, bailiffs and unpaid bailiffs. He supervises judicial employees, confirms possible disciplinary offences on their part and prosecutes them either ex officio or after a complaint/charge has been filed. If someone has a legal interest in prosecution authorities taking a certain action, he may request from the Prosecutor to issue an order to the authorities, obliging them to take a certain action. The Prosecutor has the right to order public services, legal entities of public law, public utilities and all public sector enter-

<sup>369</sup> Alexopoulos P., Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011.

<sup>370</sup> See indicatively: General Inspector of Public Administration, Annual Report 2010, pp. 133-134. Alexopoulos P., Director of Secretariat of the General Inspector of Public Administration, interview with the author on 15.06.2011.

<sup>371</sup> Ombudsman, Annual Report 2009, pp. 26-31.

prises in general, to give documents or submit copies of them, upon request by legal or physical entities with a right or legal interest to do so.

The Prosecutor is in charge of supervising the preliminary inquiry for all offences. When a police inquiry takes place, meaning after the authorities have appeared, the preliminary inquiry employee who is present is obliged to immediately inform the relevant Prosecutor, who has the right to personally proceed with the inquiry. Moreover, the Prosecutor has the right to independently carry out every preliminary inquiry act, such as collecting witness testimonies, conducting an autopsy, or drafting documents (misdemeanour verification report, confiscation report, etc.). According to the legislation the Prosecutor, while taking actions against crime (not during prosecution), is superior to all other authorities. In case of a felony, prosecution is followed by the main or regular inquiry on the interrogator's part (court of first instance judge).

No criminal court's ruling taken in a public session or council is valid if the Prosecutor has not previously stated an opinion. The Prosecutor may file an appeal or a reversal against criminal court rulings. He is the only one who can file appeals against acquittal rulings (against decrees, the applicant, i.e. the victim, may also file appeals).

In major Courts of First Instance (Athens, Piraeus, Thessaloniki) Prosecutors with specialised duties are appointed. Thus, there is a Prosecutor for Criminal Prosecution, a Prosecutor for Execution of Sanctions, a Prosecutor for Minors, etc.

The Prosecutor has limited responsibility also in civil courts, in cases tried during the non-contentious proceeding (association recognition, judicial support, declared missing, registrar's denial to register a contract, etc.). In these cases he/she represents the state's interests and may file an appeal against court rulings, if he/she thinks that the law was not implemented correctly. The Prosecutor of the Supreme Court has a very broad range of jurisdiction as regards civil law cases, since he/she has the right to state his/her opinion on every case, of civil or penal law, independently or through the Supreme Court's Vice-Prosecutors.

It is noted that not only may an Attorney General become a Supreme Court's Prosecutor or Vice-Prosecutor, but also judges (Chief Judges of Appeal, Supreme Court Judges), due to the Supreme Court's Prosecutor's extended responsibilities in civil law cases. It is the only rank where transfer from the position of judge to Prosecutor, which is prohibited in all other cases, is allowed.

Prosecutors are being consulted in legal matters that have not been tried in courts when asked questions by the supervised public officials (public Prosecutors, notaries, etc.), public services and legal entities of public law on the process of executing their duties regarding interpretation and implementation of penal law. The Supreme Court's Prosecutor is also being consulted in legal matters of general interest.

- DEY: is responsible for

- (a) investigation and prosecution of crimes in which police officers, border guards and special guards are involved, related to offending the regime, related to memoranda, related to service, crimes against property, against property rights, legislation for drugs, gambling, arms, antiquities, smuggling and foreigners,

- (b) investigation and prosecution of crimes of bribery (active and passive) and extortion in which civil servants are involved,

- (c) receipt and audit of asset declarations of police officers, border guards, special guards and rural policemen.

- YPOADIE:

- (a) the financial police sector is responsible for the prevention, investigation and eradication of financial crimes and mostly of those conducted against the interests of the State and national economy and those bearing organised crime characteristics,

- (b) the prosecution of electronic crime sector is responsible for the prevention, investigation and eradication of crimes or anti-social behaviour committed through the internet and other means of electronic communication.

- SDOE: is responsible for

(a) the investigation and eradication of financial breaches of large scale, such as money laundering, breaches related to state supplies, subsidies and funding, illegal financial transactions and generally fraud against the Greek public sector and the European Union,

(b) the preventive control of the implementation of tax and customs legislation,

(c) the investigation and eradication of illegal activities conducted through the internet and new technologies,

(d) the prevention and prosecution of breaches related to drugs, arms, explosives, toxic and hazardous substances, antiquities and cultural goods,

(e) the supervision of maritime space for the eradication of tax evasion and smuggling,

(f) the protection of the coastline from arbitrary land grabbing and constructions.

- SEEDD: is responsible for

(a) conducting inspections, controls and investigations in the narrow and broader public sector,

(b) conducting preliminary examinations and inquiries following a Prosecutor's order for public servants' offences,

(c) committal of state officials and employees to prosecution authorities and responsible disciplinary bodies,

(d) audit of employees' asset declarations.

- GEDD: is responsible for

(a) ensuring the normal and effective function of the administration,

(b) monitoring and evaluating the work of public administration audit bodies,

(c) detecting cases of corruption and maladministration,

(d) audit of asset declarations of all members of inspection and audit bodies, as well as of high-ranking officials of services related to the eradication of financial crimes.

Moreover, the GEDD:

- presides over the Inspections – Controls Coordinative Body (SOEE), in which the Heads of all audit bodies and services participate, including DEY and SDOE,

- may order ex officio inspections, audits and investigations,

- may commit to a superior disciplinary body, cases for which lower disciplinary bodies have issued a ruling, as well as appeal to the Council of State against all final decisions of disciplinary councils (in this framework, the GEDD is also receiving all criminal decisions, decrees, etc. concerning civil servants).

- **Anti-Money Laundering Authority:** is responsible for taking and implementing measures for the prevention and eradication of: (a) legalisation of income from criminal activities, and (b) financing terrorism, as well as for the audit of asset declarations of political figures and high-ranking public officials.

As it becomes obvious by the above, the attempt to eradicate corruption in Greece is characterised by multi-fragmentation, entrenchments, overlapping responsibilities of the existing audit mechanisms and a lack of coordination. This situation not only causes confusion as to "who protects what" but, furthermore, leads to waste of resources, time-consuming and ineffective procedures, and excessive bureaucracy.

Evidence occasionally published in the press has shown that at least the Prosecutor's Office, SDOE, GEDD and the Anti-Money Laundering Authority have conducted controls for high-ranking members of parties in power. The usual practice, however, does not entail disclosing scandals of former governments or former officials of governing parties<sup>372</sup>, so as to, on one hand, satisfy the common belief regarding atonement and, on the other hand, not affect the people in power.

Indicative of the situation is the "adventure" of the "Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism", when it attempted to bring to light scandals regarding high-ranking officials of a governing party. Specifically, in 2005, the "Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism" was founded, as an independent administrative authority, led by an honorary Prosecutor of the Supreme Court, according to the Authority's founding act<sup>373</sup>. The Authority investigated successfully a scandal regarding investments of insurance funds in structured bonds and attempted to investigate the Siemens scandal. However, and while the mandate of the Head of the Authority was ending in the middle of 2009, a modification of the Authority's founding act was voted in the summer of 2008<sup>374</sup>, based on which the Authority was turned into "Committee Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism", thus directly controlled by the Minister of Finance. A high-ranking prosecution official in service was appointed as its Head<sup>375</sup>. By recent law<sup>376</sup>, the Committee was renamed "Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism and Statement of Assets Audit", only this time it is not an independent administrative authority, but merely an administrative authority under the Minister of Finance, led again by a high-ranking prosecution official in service.

In the framework of the investigation of another big political scandal, two Prosecutors were forced to resign, due to, according to their statement, the pressure they received by their superiors not to send a file to the Parliament, while, according to the resigned Prosecutors, there was evidence of criminal responsibilities of political figures<sup>377</sup>.

The specific actions of the ACAs under examination, in the recent past, are as follows:

- **Prosecutor's Office:** No available evidence.
- **DEY:** In 2010<sup>378</sup>, it handled 909 cases in total (increase of 84% compared to 2009). Among these, 689 concerned police personnel, 105 concerned employees of the broader public sector, 46 entailed involvement of police officers and public sector employees and 69 concerned private individuals. These last ones, even though they are not included in the legislative framework governing DEY, they were dealt with by DEY, since they were originally concerning offending conduct either by police personnel or by public sector employees, which was not confirmed during the investigation's development. DEY received in total 785 complaints and dealt with 232 case files. The procedure for flagrant crimes was applied for 25 cases, during which 44 people were arrested.
- **YPOADIE:** No available evidence.
- **SDOE:** No available evidence.

372 See indicatively: Galanopoulos A., "Discounts in...ministers in the Siemens scandal – Commitment to trial for 4 instead of the 12 mentioned in the findings of the committee" (in Greek), [www.enet.gr/?i=news.el.Article&id=291046](http://www.enet.gr/?i=news.el.Article&id=291046), 07.04.2011.

373 Law 3424/2005.

374 Law 3691/2008.

375 See indicatively: Kostarelou E., "They took Zorbas' Head, just before he touched the Siemens case" (in Greek), [http://archive.enet.gr/online/online\\_text/c=110,dt=18.07.2008](http://archive.enet.gr/online/online_text/c=110,dt=18.07.2008), 18.07.2008.

Lambropoulos V.G., "The whole country a (black) launderette!!!" (in Greek), newspaper "To Vima", 18.04.2009.

376 Law 3932/2011.

377 See indicatively: "Resignation of 2 Prosecutors on account of the Vatopedi scandal" (in Greek) (collection of press Articles), [www.politikokafeneio.com/forum/viewtopic.php](http://www.politikokafeneio.com/forum/viewtopic.php).

378 Department of Internal Affairs of the Greek Police, Stocktaking Report 2010, p. 13.

- **SEEDD:** During the period 2006-2009 (until 23.10.2009)<sup>379</sup>, SEEDD conducted in total 1,939 controls of public services, 188 preliminary inquiries and examinations, 27 administrative inquiries under oath and 66 controls of employee assets (increase by 422% in 2008 compared to 2007 and increase by almost 12% in 2009 compared to 2008). (It is noted that until 2007, in SEEDD's annual accounts of activities, examination of complaints was depicted by the number of complaints examined by SEEDD that year, irrespective of whether their investigation had been completed or not. Since then, and particularly since 01.01.2008, for each examined complaint an order for audit is issued and a concise and documented report is drafted. In the account of activities this work is recorded by the number of reports adopted by the responsible Committee and disclosed to the audited services).

- **GEDD:** In 2010, 3,200 disciplinary rulings issued by the responsible bodies, were notified to the GEDD's Office. For 149 cases, almost 4.7%, GEDD filed an appeal, so that the high disciplinary body would rule on the cases anew<sup>380</sup>.

In the framework of its audit work<sup>381</sup>, in 2010, GEDD's cases rose up to 1,437 (increase of 46.4% compared to 2009), 1,409 of which were beyond its jurisdiction. Non-anonymous complaints rose to 658 and anonymous to 175 (these numbers do not include complaints that were not processed, based on the relevant discretion of the GEDD). The GEDD proceeded ex officio mainly for the investigation of cases concerning matters of financial management and health-welfare, while the majority of complaints concerned city planning matters.

- **Anti-Money Laundering Authority:** In 2010, 2,982 new cases were introduced for investigation, 1,999 of which were closed<sup>382</sup> (during the period from 01.09.2008 until 30.04.2009, 1,708 cases were introduced, 1,545 were opened and only 266 were closed<sup>383</sup>).

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379 *Inspectors-Controllers Body for Public Administration, Account of Activities 2006-2009*, p. 4.

380 *General Inspector of Public Administration, Annual report 2010*, p. 29.

381 *General Inspector of Public Administration, Annual report 2010*, pp. 44-45.

382 *Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism, Annual report 2010*, p. 22.

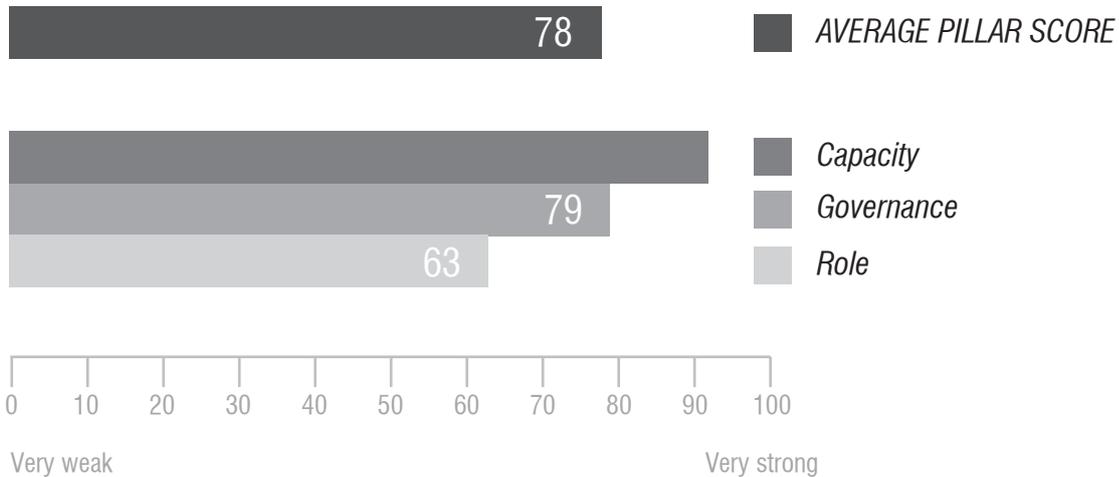
383 [http://www.hellenic-fiu.gr/index.php?option=com\\_content&view=Article&id=54&Itemid=63&lang=el](http://www.hellenic-fiu.gr/index.php?option=com_content&view=Article&id=54&Itemid=63&lang=el)

## **SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION**

**The Government has to take legislative initiatives and measures for the achievement of the following objectives:**

- Merging of the existing anti-corruption agencies that have overlapping responsibilities.
- Establishment of a system of evaluation and oversight of audit mechanisms by international agencies, the Parliament, the Civil Society, etc.
- Transfer of know-how from abroad.
- Drafting of a national charter of self-commitment against corruption.

## ELECTORAL MANAGEMENT BODY



### SUMMARY

Implementation of the electoral process in Greece is one of the most unimpeachable and least controversial procedures. This is an achievement of the Greek democracy, which has learned from the mistakes and the extremities of the past and, therefore, has made sure that this institution is provided with all the necessary guarantees.

However, even for this -admittedly successful- institution there is significant room for improvement. Waste of resources and ineffective audit of the finances of parties and candidates are noted as the main problems.

### STRUCTURE & ORGANISATION

The legal framework that regulates the pre-election period and the electoral process is constituted by Presidential Decree 96/2007 on “Codification in a uniform text of the legislation provisions regarding the election of members of the Parliament” and law 3023/2002 on “Funding of political parties by the state, income and expenditure, promotion, publicity and audit of the finances of political parties and candidate members of the Parliament”, as regards parliamentary elections, as well as by law 3870/2010 on “Election expenditure of parties and candidates and their audit during regional and municipal elections”, as regards regional and municipal elections. It is noted that as regards the elections of the European Parliament, the aforementioned provisions of national law are implemented respectively, if there is not a different provision in the European Union law<sup>384</sup>.

The following bodies are involved in the organisation and oversight of elections (parliamentary, European, municipal and regional) with explicit responsibilities:

- a. the Ministry of Interior (central services and local administration organisations of the first and second degree), regarding organisational matters of all electoral processes,
- b. judges, lawyers, notaries, registrars and high-ranking officials of the Ministry of Justice, who –due to lack of an adequate number of judges- act as representatives of the judicial authority for the implementation of the electoral processes,
- c. the Three-Member Misdemeanours Court for adjudicating criminal offences related to the elections<sup>385</sup>,

<sup>384</sup> Article 7 of Law 3216/2003.

<sup>385</sup> Articles 109-124 Presidential Decree 96/2007.

d. in the framework of parliamentary elections:

- the Supreme Special Court for adjudicating electoral breaches and cases of lack of legal qualifications<sup>386</sup>,
- the Court of First Instance regarding adjudicating appeals on (non) registration in the electoral rolls<sup>387</sup>, declaration of candidates<sup>388</sup>, gathering and verification of election results<sup>389</sup>, declaration of members of the Parliament<sup>390</sup>,
- the Supreme Court (Areios Pagos) regarding declaration of parties<sup>391</sup>, adjudicating disputes regarding the logos, names and Heads of parties<sup>392</sup>,
- the (central) Audit Committee of finances of parties and candidate members of the Parliament<sup>393</sup>, as well as the Local Committees of Audit of Financial Breaches in the seat of each prefecture<sup>394</sup>, regarding accusations related to the expenditure of parties and candidates,

e. in the framework of municipal elections:

- the Court of First Instance regarding declaration of parties and candidates<sup>395</sup>, gathering, verification and disclosure of election results<sup>396</sup>
- the Three-Member Administrative Court of First Instance in first and last degree regarding the validity of the results of municipal elections<sup>397</sup>,
- the Council of State on adjudicating appeals in cassation against rulings of the Three-Member Administrative Court of First Instance,
- Expenditure and Electoral Breaches Audit Committees of every Region regarding expenditure of parties and candidates, as well as electoral breaches<sup>398</sup>,

f. in the framework of regional elections:

- the Court of First Instance regarding declaration of parties and candidates<sup>399</sup>, gathering, verification and disclosure of election results<sup>400</sup>
- the Administrative Court of Appeal in first and last degree regarding the validity of the results of regional elections<sup>401</sup>,
- the Council of State on adjudicating appeals in cassation against rulings of the Three-Member Administrative Court of Appeal<sup>402</sup>,
- Expenditure and Electoral Breaches Audit Committees of every Region regarding expenditure of parties and candidates, as well as electoral breaches<sup>403</sup>.

*386 Article 58 of the Constitution combined with Article 100 par. 1 (a) of the Constitution.*

*387 Article 17 and 18 of Presidential Decree 96/2007.*

*388 Article 33 of Presidential Decree 96/2007.*

*389 Article 94 and 98 par. 6 of Presidential Decree 96/2007.*

*390 Article 103 of Presidential Decree 96/2007.*

*391 Article 35 of Presidential Decree 96/2007.*

*392 Article 38 of Presidential Decree 96/2007.*

*393 Article 21 par. 1-8 of Law 3023/2002.*

*394 Article 21 par. 9 of Law 3023/2002, as amended by Article 29 par. 14 of Law 3731/2008.*

*395 Article 20 of Law 3852/2010.*

*396 Articles 42 par. 2 and 43 par. 2 and 3 and 44 of Law 3852/2010.*

*397 Article 46 par. 3 of Law 3852/2010.*

*398 Article 12 of Law 3870/2010.*

*399 Article 122 of Law 3852/2010.*

*400 Articles 144, 145 and 146 of Law 3852/2010.*

*401 Article 148 par. 3 of Law 3852/2010.*

*402 Article 152 of Law 3852/2010.*

*403 Article 12 of Law 3870/2010.*

## ASSESSMENT

### Resources (practice)

*To what extent does the electoral management body (EMB) have adequate resources to achieve its goals in practice?*

**Score: 100**

Since European elections and elections for local administration are carried out on dates announced in advance, the relevant funds are registered on time in the state budget. There is an issue regarding parliamentary elections, which are carried out unexpectedly most of the time and, in any case, with a greater frequency than provided for in the Constitution. In this case, the Ministry of Interior sets forth a relevant request to the General Accounting Office of the State, which provides for administering the relevant funds<sup>404</sup>.

Material and human resources used for the implementation of the electoral process are adequate, while there is provision for multiple safeguards for dealing even with extreme incidents<sup>405</sup>. Moreover, the fixed deadlines that the legislation provides for, in order to regulate the pre-election period and the implementation of the electoral process, add further predictability and, therefore, normality to the electoral process<sup>406</sup>. Assigning the organisation of the elections to the Ministries of Interior and Justice ensures passing on the know-how regarding elections, whereas in every electoral contest there are seminars for everyone involved in the process (judges, lawyers, officials of the Ministry of Interior, etc.).

The phenomenon that is observed is waste of resources. Indicatively, it is noted that the elections of 2007 entailed a cost of around € 115,000,000, while the elections of 2009 entailed a cost of around €147,800,000. According to a recent report by the General Accounting Office of the state, the cost of a referendum is especially high, namely around € 110,000,000<sup>407</sup>. This is because the electoral process entails excessive bureaucracy and recruitment of staff in excess of what is necessary. This shoots the cost of the elections to very high levels, especially given the additional bonuses, compensations, etc. that the aforementioned staff is entitled to<sup>408</sup>. A waste of resources is observed across the parties as well, during pre-election periods, since they spend unreasonably large amounts of money in order to shape the public opinion<sup>409</sup>. These amounts cannot be defined with accuracy, since, as mentioned in detail below, the current framework does not ensure the non-circulation of black political money.

### Independence (law)

*To what extent is the electoral management body independent by law?*

**Score: 100**

Organisational matters of the elections are the responsibility of the Election Department of the relevant Directorate of the Ministry of Interior. Regarding the implementation of parliamentary elections, it is noted that, immediately after the announcement of the elections, the Minister and Vice-Minister(s) of Interior resign and, until the new government is formed, there is an interim Minister of Interior, in order to further ensure an unimpeachable electoral process.

*404 Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.*

*405 Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.*

*406 Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.*

*407 "Disclosure: Elections and referendum have the exact same cost for the state!" (in Greek), www.olympia.gr, 05.10.2011.*

*408 Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.*

*409 Diamantopoulos Ath., Professor of Political Science at the Panteion University of Athens, interview with the author on 25.05.2011.*

The electoral process in the various polling stations is carried out by judges, lawyers, notaries, registrars and –to a much smaller degree, if the officials from the aforementioned categories are not adequate– by high-ranking officials of the Ministry of Justice, who are selected by draw. Lawyers, notaries and registrars are considered public officials by law but, nevertheless, they are not directly dependent from the state. The electoral process is monitored in every polling station, throughout its duration, also by party representatives<sup>410</sup>, who are able to state their objections both in writing and orally.

Courts and their jurisdiction are explicitly provided for in the Constitution<sup>411</sup>.

The Supreme Special Court consists of the Presidents of the Council of State, the Supreme Court (Areios Pagos) and the Court of Audit, of four (4) judges of the Council of State and by four judges of the Supreme Court, appointed as members by draw every two (2) years<sup>412</sup>.

The aforementioned courts, of high and lower degree, as well as the judges serving as representatives of the judicial authority in the various polling stations, are encompassed by the guarantees for independence that are provided for the judiciary in general (see pillar “Judiciary”).

Other than that, responsibilities are clearly defined as follows:

As regards parliamentary elections<sup>413</sup>, the audit of the finances of parties and candidate members of the Parliament is assigned to a (central) Audit Committee, which acts, as a special body, according to paragraph 2 of article 29 of the Constitution. The Committee is supported by a special service of the Parliament. The committee consists of a member of the Parliament representing each party or coalition of parties that are represented in the Parliament, as well as of a member of the Council of State, a member of the Supreme Court (Areios Pagos) and a member of the Court of Audit, who are appointed by draw along with their substitutes by the plena of the corresponding courts. If a party or a coalition of parties has received regular or electoral funding and is not represented in the Parliament, its representative, appointed for this reason, is a member of the Committee for matters that are related to the oversight of this party or coalition of parties. In the case where there is audit of the finances of parties that took part in the elections for appointing Greek Representatives in the European Parliament, an MP of the Party that is represented in the European Parliament also participates in the Audit Committee, if the Party lacks relevant representation in the Parliament. It goes without saying that the participation of MPs in this committee, who represent both the auditors and the audited persons, along with the fact that the findings of the committee are communicated to the Parliament, does not ensure the required independence of the body. The Committee is constituted by decision of the President of the Parliament within fifteen (15) days from the assembly of the Parliament. The mandate of its members, including the presiding member and the rest of the elected members, is terminated with the constitution of a new Committee after general parliamentary elections. In order to fulfil its mission, the Committee assigns the implementation of an accounting or financial expert report or other audit acts to sworn accountants, who examine in detail the accounting books and invoices of parties and candidate members of the Parliament before the audit by the Committee, and draft an analytical report that is submitted to the Committee in order to assist and support its task.

Furthermore, in the seat of each Prefecture, a Local Committee for Monitoring Electoral Breaches is set up, by decision of the Secretary General of the Region, issued within three (3) days from the announcement of elections at the latest. The President of the Committee is the Secretary General of the Region and its members are representatives of the parties. The relevant Local Committee receives and audits complaints regarding fulfilment of obligations by parties and coalitions as regards their election expenditure. The relevant drafted documentation is forwarded to the aforementioned (central) Audit Committee, which assesses independently its content. The (central) Audit Committee, if it discovers a breach able to lead to loss of the parliamentary seat, forwards its report to the Supreme Special Court, whereas if it proposes sanctions, it forwards its report to the President of the Parliament<sup>414</sup>. The participation of representatives of the parties, who represent both the auditors and the audited persons, along with the fact that their findings are communicated to the aforementioned (central) Audit Committee, does not ensure the required independence of the body.

410 Article 88 of Presidential Decree 96/2007.

411 Articles 93-100 of the Constitution.

412 Article 100 par. 2 of the Constitution.

413 Article 29 par. 2 of the Constitution combined with Article 21 of Law 3023/2002.

414 Article 23 par. 1(c) of Law 3023/2002.

*It goes without saying that the participation of MPs in this committee, who represent both the auditors and the audited persons, along with the fact that the findings of the committee are communicated to the Parliament, does not ensure the required independence of the body*

Within fifteen days of the elections, the Local Committee for Monitoring Electoral Breaches drafts a report on the proceedings or the electoral contest, to which the relevant documentary material is attached. This report is forwarded to the aforementioned (central) Audit Committee. To complete its task, the Local Committee is assisted by officials of the Region, who are appointed by decision of the Secretary General of the Region.

The audit of finances of parties and candidate vice-Heads of regions, regional and municipal councillors<sup>415</sup>, their obligations according to law 3870/2010 on election expenditure, parties and candidates and their oversight during regional and municipal elections, as well as monitoring of electoral breaches, is assigned to the Committees of Expenditure and Electoral Breaches Audit that are constituted in the seat of each Region and serve as a special, judicial and audit body.

These committees are established by decision of the relevant Secretary General, four months before the election date. Their members are the President of the Administrative Court of Appeal of the seat of the Region, and in case there are more than one, the senior in terms of years of serving as a President, substituted by the senior Judge of Appeal of the Court, who is appointed by the President, a member of the Legal Council of the State, who is appointed along with his/her substitute by the President of the Legal Council of the State, the Commissioner of the Court of Audit in the seat of the Region, who also indicates his substitute, and by the Head of the Regional Directorate of the Body for the Prosecution of Financial Crime (SDOE) in the seat of the Region, who also indicates his substitute, and in case there is no Regional Directorate of SDOE in the seat of the Region, his place is taken by the Head of the First Public Financial Service, who also indicates his substitute. In these committees also participate, depending on the subjects in question, a representative of the Union of Prefectural Administrations of Greece and of the Local Union of Municipalities and Communities of the prefecture where the seat of the Region belongs, who were not candidates and are indicated along with their substitutes by these bodies, whereas even if these bodies do not indicate anyone, the committee can still convene legally. The mandate of the members of the Committee is terminated with the completion of its task, which is verified by decision of the Secretary General of the Region. If during the exercise of its duties, the Committee discovers the perpetration of criminal offences, it is obliged to bring them before the responsible Prosecutor<sup>416</sup>. It is made clear, that this more recent legislative regulation has taken into account the weakening of the role of these audit bodies when there are representatives of parties participating, who represent simultaneously opposite interests. Therefore, these persons are not included in the Committees of Expenditure and Electoral Breaches Audit.

### Independence (practice)

*To what extent does the electoral management body function independently in practice?*

#### **Score: 75**

The electoral process in Greece is considered completely trustworthy by the citizens<sup>417</sup>, since the people responsible for its implementation (judges, lawyers, etc.) have the required legal knowledge, an increased sense of responsibility and impartiality due to their professional status, while legislation provides for multiple guarantees even for extreme cases<sup>418</sup>. Memories of the past (the 1960s), when there have been incidents of electoral fraud, have rendered the Greek people very conscious as regards the independence of agents involved in the electoral process. Among other things, the -obligatory by law- substitution of the Party Ministers of Interior and Press by interim ones is an important guarantee. The fact that only these two Ministers are substituted and not the entire government, is indicative of the public confidence in the government in office that it is going to conduct the elections without attempting to falsify the election results<sup>419</sup>.

<sup>415</sup> Article 12 of Law 3870/2010.

<sup>416</sup> Article 13 par. 4 of Law 3870/2010.

<sup>417</sup> Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.

<sup>418</sup> Article 88 of Presidential Decree 96/2007

<sup>419</sup> Diamantopoulos Ath., Professor of Political Science at the Panteion University of Athens, interview with the author on 25.05.2011.

## Transparency (law)

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the EMB?*

**Score: 100**

The current legal framework regulates issues relevant to the drafting and publication of electoral rolls, as well as to the submission of appeals against them<sup>420</sup>, declaration of parties and candidates<sup>421</sup>, sites of open-air promotion of political messages<sup>422</sup>, broadcast of campaign messages of the parties by audiovisual media<sup>423</sup>, publication of polls<sup>424</sup>, drafting and disclosure of the voting programme<sup>425</sup> and announcement of the results<sup>426</sup>. Legislation provisions on the election of members of the Parliament are implemented accordingly during municipal and regional elections as well, for all matters that are not subject to special provision<sup>427</sup>.

As regards transparency issues, of particular weight are the regulations regarding income and expenditure of candidates and parties (see pillar “Political Parties”). This legal framework is not adequate for achieving a total and substantial transparency<sup>428</sup>. The relevant provisions do not ensure, inter alia, the access of citizens to all the required information, since there is no provision for publication on the internet or elsewhere, of all the information. Modern electronic media that was adopted by the current government, the wide use of the internet, as well as the recent electoral law on municipal and regional elections, are expected to contribute greatly to the enhancement of transparency as regards the finances of parties<sup>429</sup>.

## Transparency (practice)

*To what extent are reports and decisions of the electoral management body made public in practice?*

**Score: 50**

All provisions of the law regarding the organisation of elections and publication of the aforementioned data are adequately upheld in every electoral process<sup>430</sup>.

Among other things, during the pre-election period relevant websites and telephone lines operate for the purpose of informing the public, provided for by the Ministry of Interior, whereas the election results are immediately available through the website of the Ministry of Interior and audiovisual media. Moreover, special measures are taken regarding voters who do not reside in their voting district, namely those who wish to vote at the place of their residence for the candidates of their place of origin. These are organised at both central and regional level.

However, there are shortcomings as regards the disclosure of the finances of parties and candidates, which are not published in any way, thus not promoting transparency in this area. Specifically, the relevant legal framework is not adequate because<sup>431</sup>:

420 Article 17 of Presidential Decree 96/2007, Article 12 of Law 3852/2010.

421 Article 39 of Presidential Decree 96/2007, Articles 12 and 122 of Law 3852/2010.

422 Article 44 of Presidential Decree 96/2007 and Articles 5 and 6 of Law 3870/2010.

423 Article 45 of Presidential Decree 96/2007 and Article 6 of Law 3870/2010.

424 Article 49 of Presidential Decree 96/2007.

425 Article 56 of Presidential Decree 96/2007.

426 Article 94 of Presidential Decree 96/2007 and Articles 42 and 144 of Law 3852/2010.

427 Articles 21 par. 1 and 134 par. 1 of Law 3852/2010.

428 See indicatively: Transparency International-Greece, *Transparency in the management of Political Money: 15+43 proposals of Transparency International-Greece on political money*, 2010.

429 Diamantopoulos Ath., Professor of Political Science at the Panteion University of Athens, interview with the author on 25.05.2011.

430 Diamantopoulos Ath., Professor of Political Science at the Panteion University of Athens, interview with the author on 25.05.2011.

431 See indicatively: Transparency International-Greece, *Transparency in management of Political Money*, 2010.

- State funding based exclusively on the percentage of votes that a party achieved in the elections, creates conditions of partiality, favouring existing parties to the disadvantage of parties recently introduced to the political arena.
- The relevant legal framework, as described in detail above, does not provide for the possibility of funding by legal entities, which often leads to the ostensible use of parenthetical natural persons.
- Recording of the sponsor's identity is not always ensured, thus leading to the existence of obscure funds.
- The period examined is only the pre-election one, whereas parties and political figures receive donations in cash, as well as contributions in kind, throughout the duration of their elected mandate. In particular, as regards contributions in kind, the provisions regulating its evaluation are extremely insufficient.
- There is no provision for direct connection of these funding sources with tax returns.
- Political parties offer assistance to the coalitions of regional and municipal elections, but it is not possible to keep record of this assistance efficiently.
- The above-mentioned legal framework does not include analytical provisions for recording transactions of parties and politicians with advertising and polling companies.
- Audit is not complete but partial and only regarding finances of the pre-election period.
- The timeframe in which financial audits have to be conducted by the responsible committees is very tight.
- Until today, there has not been a complete legal framework established to govern the function of parties, including their financial administration, taking under consideration the particularities of these entities. The current legal framework does not even provide for the method of book-keeping by the parties, whereas there is not even provision for their continuous audit.
- The above-mentioned provisions do not ensure the citizens' access to all this information, since there is no provision for publishing this information as a whole on the Internet.

### Accountability (law)

*To what extent are there provisions in place to ensure that the EMB is held accountable for its actions?*

**Score: 100**

As described in detail above (see "Structure and Organisation"), the current legal framework provides in detail the responsibilities of each entity regarding the organisation and oversight of the elections. Objections and appeals for those having a relevant legal interest, are provided for in every stage of the electoral procedure, namely from drafting electoral rolls until the declaration of the winners and audit of the finances of parties and candidates during the pre-election period. Sanctions, depending on the violation, are of a disciplinary, administrative or even penal nature.

### Accountability (practice)

*To what extent is the EMB held accountable for its actions in practice?*

**Score: 50**

The most crucial issue during the electoral procedure is undoubtedly the recording of the true will of the electoral body. As regards this issue, there are two degrees of audit. The first degree is the audit within the polling station, where the procedure is supervised by the representative of the judicial authority, the board of volunteer citizens, but also by representatives of the parties. These last ones also have the right to file objections to the procedure. Therefore, it is made clear that it is extremely difficult to falsify the will of the

electoral body, since in order to do something like that, a “collusion” would be required on the part of the people in the polling station, who usually have conflicting arguments and may also be strangers. Moreover, the fact that there is audit of the ballot papers in the Court of First Instance, which often reverses the count that took place at the polling station, proves that non-falsification of the will of the electoral body is ensured to a great extent<sup>432</sup>.

Rulings on objections and appeals that are adjudicated in courts are issued, nevertheless, with relative delay, due to the workload of courts in Greece (see pillar “Judiciary”). However, those that are dealt with by ad hoc committees are adjudicated in a shorter period of time. These rulings are public and in any case they are disclosed to the interested parties.

As regards the audit of the finances of parties and candidates, based on the above-mentioned data, it is made clear that there is no guarantee for their total, sufficient and substantial audit (see under “Independence”, “Transparency” and “Suggestions for the Improvement of the Institution”).

### Integrity (law)

*To what extent are there mechanisms in place to ensure the integrity of the electoral management body?*

#### Score: 100

During the performance of their duties, including those related to the electoral procedures as mentioned above in detail, public officers are bound by the Civil Servants’ Code of Conduct, judges are bound by the Code of Organisation of Courts and Status of Judicial Officials, lawyers are bound by the Lawyer’s Code, notaries are bound by the Code of Notaries and registrars are bound by the Organisation of State Land Registries.

The above-mentioned Codes and Organisations regulate extensively matters regarding the integrity of persons subject to them, during the performance of their duties, whereas they also provide for disciplinary sanctions. More specifically, these Codes and Organisations include restrictions as regards incompatibilities, cases of conflict of interests, asset declarations, bribery, confidentiality, etc.

Apart from the disciplinary sanctions, there are also criminal ones applicable for offences regarding the elections<sup>433</sup>, such as violence against voters, deceiving voters, violation of the secrecy of the vote, falsification of results, active and passive corruption during the elections, disturbance of the elections, destruction of the ballot box, etc.

### Integrity (practice)

*To what extent is the integrity of the electoral management body ensured in practice?*

#### Score: 75

The parties mainly involved in the most sensitive aspects of the electoral procedure (judges, lawyers, etc.) are legal experts and professionals with a –by definition- increased sense of responsibility towards the law. Moreover, the multiple safeguards provided by law do not leave the involved parties room for irregularities. This justifies to a great extent the fact that, until today, hardly any incidents of lack of integrity as regards bodies involved in the electoral procedure have been reported.

### Campaign regulation

*Does the electoral management body effectively regulate candidate and political party finance?*

#### Score: 25

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<sup>432</sup> Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.

<sup>433</sup> Articles 109-124 of Presidential Decree 96/2007.

As it is evident by the aforementioned, Greece does not have a central body for the audit of finances of candidates and parties for all electoral procedures, unlike other countries, where this body even has a responsibility of legislative initiative. On the contrary, in Greece, these responsibilities are distributed across many bodies, of a different nature, depending on the electoral procedure (parliamentary, regional and municipal elections).

As mentioned above, the composition of these bodies for parliamentary elections does not ensure their independence. The responsible committee for municipal and regional elections is encompassed with greater guarantees for independence. Nevertheless, the fact that, until today, there has not been disclosure of cases of violations, suggests –reasonably– that the procedure within the committee is unimpeachable.

## Election administration

*Does the EMB ensure the integrity of the electoral process?*

**Score: 100**

The current legal framework regarding the pre-election period regulates extensively all matters relevant to the declaration of parties and candidates, names and emblems of the parties, pre-election campaign funding of parties, sites of open-air promotion of political messages, broadcast of campaign messages of the parties by the audiovisual media, publication of polls and matters of public order. Moreover, the voters are able to get information regarding the specific polling station where they vote through telephone centres, while, when there are significant changes to the electoral procedure, there are usually relevant campaigns, in order to properly inform the voters.

As regards the electoral procedure, it is ensured by law<sup>434</sup> and it is so in practice, that no voter is deprived of his/her right to vote even if, for any reason, he/she is not found to be registered in the polling rolls. On the day of the election, the state mechanism of the Ministry of Interior is alert, whereas the representatives of the judicial authority in the various polling stations are also assisting the voters in exercising their voting right<sup>435</sup>.

The unimpeachability of the electoral process is ensured by, inter alia, appointment of returning boards made up of citizens chosen by lot for this purpose<sup>436</sup>, appointment of representatives of the judicial authority<sup>437</sup>, safeguarding the authenticity of ballot papers<sup>438</sup> and ballot envelopes<sup>439</sup>, sealing the ballot box<sup>440</sup>, cross-checking the identity of the voters with the names registered in the polling rolls<sup>441</sup>, correct completion of the relevant forms by the returning board<sup>442</sup>, guarding the polling stations<sup>443</sup>, presence of representatives of the parties<sup>444</sup>, correct vote count<sup>445</sup> and forwarding the results to the Court of First Instance, where they are kept<sup>446</sup>, verified and further communicated<sup>447</sup>.

Thanks to the long-standing know-how of the Ministries of Interior and Justice, as regards the organisation and implementation of the electoral processes, all the provisions in the legislation are applied unswervingly in every electoral process. Very few problems, of minor importance in most cases, are observed during both the pre-election period and the electoral process<sup>448</sup>.

<sup>434</sup> Article 8 par. 4 of Presidential Decree 96/2007.

<sup>435</sup> Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.

<sup>436</sup> Articles 58-65 of Presidential Decree 96/2007.

<sup>437</sup> Articles 66-69 of Presidential Decree 96/2007.

<sup>438</sup> Articles 70-71 of Presidential Decree 96/2007.

<sup>439</sup> Article 75 of Presidential Decree 96/2007.

<sup>440</sup> Article 79 of Presidential Decree 96/2007.

<sup>441</sup> Article 82 of Presidential Decree 96/2007.

<sup>442</sup> Article 84 of Presidential Decree 96/2007.

<sup>443</sup> Article 86 of Presidential Decree 96/2007.

<sup>444</sup> Article 88 of Presidential Decree 96/2007.

<sup>445</sup> Articles 89-93 of Presidential Decree 96/2007.

<sup>446</sup> Article 94 of Presidential Decree 96/2007.

<sup>447</sup> Article 98 of Presidential Decree 96/2007.

<sup>448</sup> Georgiadis P., former Secretary General of the Ministry of Interior, Public Administration and Decentralisation, interview with the author on 07.09.2011.

*There was also an incident where representatives of parties were arrested because they tried to interfere with the marks on the ballot papers*

The delegation of the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE) observes<sup>449</sup>, inter alia, that the most recent elections in Greece (04.10.2009) were carried out in peace and order, whereas the result of the elections was not questioned by the parties and voters either. It observes, however, that the voters were allowed to use pre-marked ballot papers, which were given to them by parties or candidates, since it is allowed for political parties to give out ballot papers during the pre-election period. A few shortages were noted as regards the available material in election centres for voters who were away from their constituencies, while there was also an incident where representatives of parties were arrested because they tried to interfere with the marks on the ballot papers. Finally, in a few cases there was inefficient keeping of the election material by the courts, as well as mistakes in the telegrams with the election results that were transmitted to the Ministry of Interior.

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*449 OSCE, Greece: Early Parliamentary Elections 4 October 2009 – OSCE/ODIHR Election Assessment Mission Report, 2009.*

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

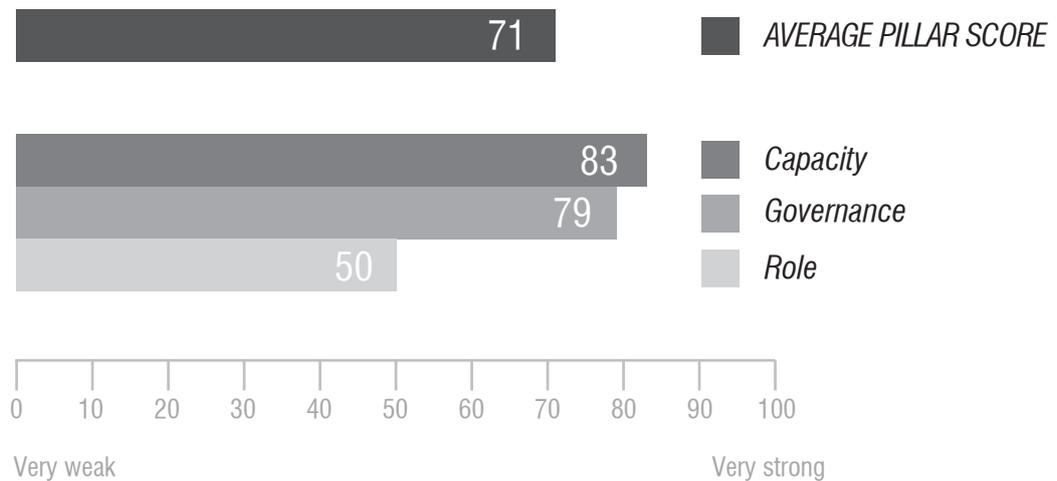
**The Government has to take with legislative initiatives and measures for the achievement of the following objectives:**

- Reform of the (central) Audit Committee of electoral expenditure of parties and candidates:
  - its members should not be members of the Parliament, but they should be selected by the plenum of the Parliament, have auditing expertise, be exclusively occupied with this project and be restricted as regards their candidacy for the next elections.
  - the committee should be linked to the other audit mechanisms, should be able to impose sanctions without intervention by the Parliament with direct referral to the Supreme Special Court, control the finances of parties and candidates for the whole period of their elected mandate, along with the relevant complaints, and it should post on the internet the audited finances in their entirety.
- Abolition of other financial audit committees.
- Funding of parties and candidates through one and only bank account per party or candidate.
- Adoption of joint financing based on the election percentage of each party and in relation to private funding.
- Prohibition of loan allocation by banks to the political parties having as a guarantee state funding beyond the current fiscal year.
- Provision for a specific method of book-keeping.
- Re-distribution of electoral seats and regions.
- Saving of resources by decreasing bureaucracy, involved staff and ad hoc allocated grants/compensations (considering that, for example (a) in other countries elections are carried out by volunteers, (b) there is no longer reason for assigning representatives of the judicial authorities to areas far away from their place of residence, which leads to extravagant compensations), even by assigning the implementation of the electoral process to a private company under state supervision.
- Interconnection of registry offices with the National Citizens Inventory.

*Prohibition of loan allocation by banks to the political parties having as a guarantee state funding beyond the current fiscal year*

*Saving of resources by decreasing bureaucracy, involved staff and ad hoc allocated grants/compensations*

## OMBUDSMAN



### SUMMARY

The enactment and operation of the Greek Ombudsman is a recent (1997) achievement for the Greek society. Both the largely sound enactment of the body and its –beyond the law- effective operation have rendered the institution a stronghold of legality and a last resort for the citizen, who is hampered by the multiple deficiencies of the Greek public administration.

However, even in the case of this –according to the general opinion- successful body, there is still room for reforms, particularly as regards its further independence, expansion of its responsibilities, the ability to inflict its views and a more effective control of its operation.

### STRUCTURE & ORGANISATION

The Ombudsman is responsible<sup>450</sup> for cases referring to the services of:

- the public sector
- local administration organisations (municipalities, prefectures)
- other legal entities of public law
- public utility companies (water, electricity, postal service, etc.)
- state legal entities of private law, public enterprises, enterprises of local administration organisations and enterprises whose administration is determined directly or indirectly by the public sector by an administrative act or as a shareholder, with the exception of banks and the Athens Stock Exchange.

The Ombudsman is not responsible:

- if it has been at least 6 months since the citizen was informed about the last, relevant to his/her case, action or omission of the public administration and did not proceed to any other action against it
- in cases of disputes between private individuals

<sup>450</sup> Article 3 and 4 of Law 2477/1977 and Article 3 and 4 of Law 3094/2003.

- in cases where the administrative action has caused or created rights and favourable conditions for third parties, which can be reversed only by court ruling, except if there is obvious illegal action or if these rights are related primarily with the protection of the environment.

The Ombudsman's responsibilities do not include:

- matters regarding the official status of the public services' staff
- cases pending before the court, except if they are cases regarding violation of the principle of equal opportunities and equal treatment of men and women in the field of employment<sup>451</sup>.
- matters included in the responsibilities of certain authorities (i.e. judicial authorities, the Legal Council of the State, the NIS) or other independent administrative authorities (i.e. the Supreme Council for Civil Personnel Selection)
- matters concerning national defence and security
- cases concerning state security
- religious legal entities of public law
- actions of ministers and vice-ministers as to the administration of political operation
- services of the Ministry of Foreign Affairs for activities referring to the foreign policy or the international relations of the country.

The Ombudsman proposes a Deputy Ombudsman to be a member of the Special Council for Selection of Supervisors<sup>452</sup>.

For the protection of the rights of the child, the Ombudsman is also responsible for matters concerning private individuals, natural or legal entities that are offending the rights of the child.

## ASSESSMENT

### Resources (practice)

*To what extent does an ombudsman or its equivalent have adequate resources to achieve its goals in practice?*

**Score: 100**

The Ombudsman's budget is incorporated in the budget of the Ministry of the Interior. For the year 2011, the budget was € 8,442,800<sup>453</sup>.

The body is comprised of 6 Deputy Ombudsmen (Deputy Ombudsman for equal treatment, Deputy Ombudsman for the citizen, Deputy Ombudsman for the immigrant, the refugee and the person of Greek origin, Deputy Ombudsman for the child, Deputy Ombudsman for the environment, Deputy Ombudsman for health and social solidarity)<sup>454</sup>, who are accredited professionals in their field, with high-level profiles. The Deputies oversee and coordinate the operation and the employees of the corresponding theme cycles of the body.

At the end of 2010, the Ombudsman's staff included 55 permanent administrative employees and 140 highly qualified specialists<sup>455</sup>, who were appointed according to procedures based on merit.

<sup>451</sup> Article 25 par. 7 of Law 3896/2010.

<sup>452</sup> Article 157 of Law 3839/2010.

<sup>453</sup> Decision of the Ombudsman No. prot. F. 213.3/53928/2010 (ADA: 4IIKIMO-5), [www.et.diavgeia.gov.gr](http://www.et.diavgeia.gov.gr).

<sup>454</sup> Article 1 par. 2 of Law 3094/2003.

<sup>455</sup> Ombudsman, Annual Report 2010, pp. 15-16.

The afore-mentioned material and human resources that have been allocated to the Ombudsman are generally considered satisfying, in order for the body to effectively carry out its work<sup>456</sup>.

### Independence (law)

*To what extent is the ombudsman independent by law?*

#### **Score: 100**

The Ombudsman is one of the constitutionally provided Independent Administrative Authorities<sup>457</sup>, while matters relevant to its formation, responsibilities and operation are defined by laws<sup>458</sup>.

Specifically, it is explicitly provided for by law that the Ombudsman -as a body- is not subject to control by any governmental body or administrative authority<sup>459</sup>, while both the Ombudsman him/herself and his/her Deputies enjoy personal and operational independence<sup>460</sup>.

The relevant laws define, furthermore, the required high qualifications of the body's staff, whereas, regarding the qualifications of the Ombudsman him/herself and of his/her Deputies, it is defined that they should be people of prestige, high qualifications and broad social recognition<sup>461</sup>.

The Ombudsman is selected by the Conference of Presidents of the Parliament by an enhanced majority of 4/5 for a four-year mandate that is possible to be renewed once<sup>462</sup>. The Deputies are appointed by decision of the Minister of Interior after a proposal by the Ombudsman himself. It is noted, that when the Ombudsman changes, the new one, within a short period of time, is obliged to declare if he/she is going to keep the existing Deputies, or their mandate is terminated.

During their mandates, the Ombudsman and his Deputies are not able to undertake other duties, paid or not, in the private and the public sector, whereas there is also suspension of the exercise of any other public office<sup>463</sup>. An exception, as regards the Deputy Ombudsmen, is the ability to exercise the duties of a faculty member of a University in the framework of a part-time employment status<sup>464</sup>.

The Ombudsman and his/her Deputies are not liable, prosecuted or examined on grounds of an opinion they stated or an action they realised during the performance of their duties. Prosecution is only allowed after an accusation of defamation, insult or violation of confidentiality<sup>465</sup>.

As any other public body, the Ombudsman is able to have recourse to the Judiciary, in order to protect his/her mission and his/her work.

### Independence (practice)

*To what extent is the ombudsman independent in practice?*

#### **Score: 50**

The enhanced majority required for the selection of the Ombudsman is considered to guarantee an independent body. However, the Conference of Presidents of the Hellenic Parliament<sup>466</sup> is a body of complex and variable composition, which does not ensure sufficient speed and transparency of motives in the

*456 Loukakos K., Specialised Professional at the Ombudsman, interview with the author on 13.05.2011. Chrysogonos K., Professor at Aristotle University of Thessaloniki Law School, interview with the author on 13.09.2011.*

*457 Article 103 par. 9 of the Constitution.*

*458 Law 2477/1997, P.D. 273/1999, Law 3094/2003, Law 3293/2004, Law 3304/2005.*

*459 Article 1 par. 2 of Law 2477/1997.*

*460 Article 1 par. 3 of Law 2477/1997.*

*461 Article 2 par. 1 of Law 2477/1997.*

*462 Article 101A of the Constitution and Law 3051/2002*

*463 Article 2 par. 5 of Law 2477/1997.*

*464 Article 2 par. 4 of Law 3094/2003.*

*465 Article 1 par. 2 of Law 3094/2003.*

*466 See Article 13 of the Standing Orders of the Hellenic Parliament.*

procedure of submission of candidacies and final choice, while it is charged, to a great extent, with the great difficulty in the selection procedure, which is promoted and carried out not in the centre, but in the shadows, of public interest, thus, allowing doubts as regards the independence of the body<sup>467</sup>.

Until today, the people who occupied this post were considered successful choices, since they were people of high prestige, strong qualifications and broad social recognition, as required by law. The first Greek Ombudsman, after his mandate in Greece (1998-2003), was elected European Ombudsman, while the second one was re-elected Ombudsman for a second mandate (2003-2008 and 2008-2010).

Until today, there have not been any cases of conflict of interest regarding the Ombudsman. However, it is worth noting that the resignation of the second Ombudsman, in September 2010, namely in the middle of his second and last mandate, in order to run for mayor of Athens, a post to which he was eventually elected, gave rise to comments regarding his political neutrality, as well as the possibility for the institution of the Ombudsman to be considered in the future as another stepping stone for transition onto the political stage<sup>468</sup>. Unfavourable comments were also made for the lack of his substitution for a significant period of time<sup>469</sup>.

As regards the selection of Deputies, it is noted that it is, by law and with a single restriction that is the general conditions of the relevant provision, an exclusive privilege of the Ombudsman, thus, allowing a great degree of subjectivity in his/her judgement<sup>470</sup>.

The first Ombudsman and current European Ombudsman claims that he/she had political support in his work as an Ombudsman, as well as no involvement of political power in his work<sup>471</sup>. Until today, the body has not been obliged to have recourse to the Judiciary in order to protect its mission and its work<sup>472</sup>.

The independence of the institution is ensured definitively by the fact that the specialised personnel that works in the theme cycles of action of the Authority, under the Ombudsman and the Deputies, is structured horizontally, thus, facilitating the free distribution and composition of professional views inside the body<sup>473</sup>. The establishment of the independence of the institution that has an audit mission is supported by the satisfying salaries of the staff<sup>474</sup>.

An issue arises, however, by the staffing of the Ombudsman through temporary staff from other bodies. This often results to situations where the seconded staff has to oversee the services from which it comes from and to which it will return to eventually<sup>475</sup>.

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467 Loukakos K., *Specialised Professional at the Ombudsman*, interview with the author on 13.05.2011.

468 See indicatively: V. Sotiropoulos, "The Ombudsman as a Candidate for Mayor" (in Greek), 24.08.2010, [www.eLawyer.blogspot.com/2010/08/o.html](http://www.eLawyer.blogspot.com/2010/08/o.html).

469 Sotiropoulos V., "The annual shedding of responsibility of the Ombudsman" (in Greek), [www.eLawyer.blogspot.com/2011/03/blog-post\\_29.html](http://www.eLawyer.blogspot.com/2011/03/blog-post_29.html), 29.03.2011.

470 Loukakos K., *Specialised Professional at the Ombudsman*, interview with the author on 13.05.2011.

471 Parayios P., "Interviews of Alekos Papadopoulos, Nikiforos Diamandouros & Antonis Makridimitris", *Independent Authority*, July-December 2008, p.15.

472 Loukakos K., *Specialised Professional at the Ombudsman*, interview with the author on 13.05.2011.

473 Loukakos K., *Specialised Professional at the Ombudsman*, interview with the author on 13.05.2011.

474 Loukakos K., *Specialised Professional at the Ombudsman*, interview with the author on 13.05.2011.

475 Loukakos K., *Specialised Professional at the Ombudsman*, interview with the author on 13.05.2011.

### Transparency (law)

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsman?*

**Score: 75**

Every year in March, the Ombudsman submits to the Prime Minister and to the President of the Parliament, with notification to the Minister of Interior, the body's annual report, which presents concisely the most important cases, as well as the proposals for legislative reforms and improvement of the public services. This report is published in a special edition of the National Printing Office. Nevertheless, throughout the year as well, the Ombudsman is able to submit reports to the Prime Minister and to the President of the Parliament, with notification to the relevant minister<sup>476</sup>.

Moreover, in the framework of the recent programme "Clarity", which is implemented in all the public and broader public sector, the Ombudsman is obliged to publish promptly all data relevant to the budget, expenditure, personal and regulative acts, procurement and services contracts, invitation to tender for staff vacancies, appointment acts for persons and organs, opinions, as well as any other information provided for by the relevant law<sup>477</sup>.

All of the Ombudsman's staff is obliged, both upon appointment and in regular intervals, to declare its assets. However, the law does not provide for publication of these declarations.

### Transparency (practice)

*To what extent is there transparency in the activities and decision-making processes of the ombudsman in practice?*

**Score: 75**

Through the Ombudsman's annual report, the Parliament is informed about the Ombudsman's work as an auditor and mediator and, therefore, the citizens are also informed, through the posting of the report on the body's website<sup>478</sup>.

Moreover, on the Ombudsman's website there are posts, with particularly comprehensive and detailed information about the body's role, the way of submitting reports to the body, annual reports, more special reports and findings, as well as informative newsletters regarding the body's actions.

As regards the asset statements of the Ombudsman's staff, these are submitted as provided for by law.

### Accountability (law)

*To what extent are there provisions in place to ensure that the ombudsman is held accountable for its actions?*

**Score: 50**

The Ombudsman, as all Independent Administrative Authorities<sup>479</sup>, enjoys operational independence and it is not subject to the oversight or control (preventive and suppressive, for legality and advisability). This means that it has the greatest possible degree of administrative, regulative and financial independence that is allowed by the Greek legal order<sup>480</sup>. The Ombudsman does not impose sanctions, but only tries to convince for the soundness of its views. Therefore, there is no question of recourse to courts against its

*The Ombudsman does not impose sanctions, but only tries to convince for the soundness of its views*

<sup>476</sup> Article 3 par. 5 of Law 2477/1997.

<sup>477</sup> Article 2 of Law 3861/2010.

<sup>478</sup> [www.synigoros.gr](http://www.synigoros.gr).

<sup>479</sup> Law 3051/2002.

<sup>480</sup> E. Venizelos. Proposal at the workshop of the Center of International and European Economic Law, on 29.10.2002, in Thessaloniki, under the title "The Independence of Independent Authorities" (in Greek).

decisions. Nevertheless, the Ombudsman's annual report is discussed in a special meeting of the Parliament's Plenum<sup>481</sup>, whereas its finances are also audited by the Court of Audit.

Furthermore, the Ombudsman is the disciplinary supervisor of the administrative and specialised staff of the body<sup>482</sup>, while dismissal of the Deputies is possible by a proposal and decision of the Minister of Interior<sup>483</sup>. The Ombudsman himself may be dismissed on grounds of physical or mental inability to perform his duties.

### Accountability (practice)

*To what extent is the ombudsman held accountable for its actions in practice?*

#### Score: 75

From the above it is deduced that the Ombudsman as an Independent Administrative Authority is not subject to a hierarchical-administrative control, but it is only subject to a limited control by the Parliament<sup>484</sup>. However, it is strongly doubted whether there is significant discussion in the Parliament, during the presentation of the body's annual report, mainly due to lack of specialised knowledge on the part of the members of the Parliament<sup>485</sup>.

From the overview of the Ombudsman's annual reports it is deduced that not only the aforementioned minimum requirements of the law regarding the content are met, but in these reports there is also a plethora of useful and interesting data for the body's action and the general situation in the country today. In 2010, the Ombudsman and the Deputies appeared six times before parliamentary committees, in order to provide information regarding issues within their responsibilities<sup>486</sup>.

As was mentioned before, the acts issued by the Ombudsman are not executable administrative acts and, therefore, are not appealed against before the courts. However, there have been cases of court rulings adopting the content of documents of findings of the Ombudsman, while it has been noted, in extremely isolated cases, the recall of an Ombudsman's document after the acknowledgement of important facts for his judgement<sup>487</sup>.

### Integrity mechanisms (law)

*To what extent are there provisions in place to ensure the integrity of the ombudsman?*

#### Score: 100

The Ombudsman's staff is subject to the Civil Servants' Code of Conduct<sup>488</sup>, which regulates matters related to incompatibilities, conflict of interests, asset statements, bribery, confidentiality, as well as other matters relevant to the moral integrity of the civil servants

[See pillar "Public Sector – Integrity Mechanisms (law)".]

481 Article 3 par. 5 of Law 2477/1997.

482 Article 1 par. 2 of P.D. 273/1999.

483 Article 2 par. 3 of Law 3094/2003.

484 Chrysogonos K., Professor at Aristotle University of Thessaloniki Law School, interview with the author on 13.09.2011.

485 See indicatively: L. Mitrou, "Five Questions on the Role of Independent Authorities" (in Greek), Reform, April 2007. P. Staikouras "'Independent Authorities': With or Without Quotation Marks?" (in Greek), www.civilitas.gr, 2007. Loukakos K., Specialised Professional at the Ombudsman, interview with the author on 13.05.2011.

486 Ombudsman, Annual Report 2010, p. 31.

487 Loukakos K., Specialised Professional at the Ombudsman, interview with the author on 13.05.2011.

488 Law 3528/2007.

Specifically as regards the Ombudsman, matters concerning confidentiality and secrecy as to citizens' data are provided for also by article 17 of PD 273/1999, which is actually the body's internal regulation.

### Integrity mechanisms (practice)

*To what extent is the integrity of the ombudsman ensured in practice?*

#### **Score: 100**

Very few cases of violation of provisions of the Civil Servants' Code of Conduct and of the Presidential Decree 273/1999 have been observed in the Ombudsman. In these cases the disciplinary procedure, as provided by the law, has been followed<sup>489</sup>.

Regarding the Heads of the body, nothing suspicious has been brought to light until today, regarding possible lack of integrity on their part.

### Investigation

*To what extent is the ombudsman active and effective in dealing with complaints from the public?*

#### **Score: 50**

In 2010<sup>490</sup>, a total of 13,179 citizens' reports were submitted to the body. The number is slightly reduced by 1.89% compared to 2009, when there was an increase of 18.50% in comparison to 2008. A percentage of 40.21% was outside the body's jurisdiction. As regards reports that were within the body's jurisdiction, 53.07% were found to be well-grounded, while 73.16% of those well-grounded reports had a positive outcome. There was no solution, despite the body's intervention, to problems mentioned in 10.46% of the well-grounded reports, because the Ombudsman's proposals were not accepted by the responsible service. In 12.94% of the well-grounded reports, a solution was not possible, due to gaps in legislation or fixed organisational weaknesses and malfunctions of the public administration. 3.26% was solved without actions by the Ombudsman, but by the responsible service itself or after actions of another body.

Since there is a stable increase of the number of reports, leading to a number of reports in 2009 which was almost two times the number of reports in 2006, it could be said that this is partly due to the increase of confidence of the citizens in the institution of the Ombudsman, as it has been proved by consecutive public opinion researches, during the last three years<sup>491</sup>.

In 2010, there was ex officio investigation of 2 cases only<sup>492</sup>.

Indications regarding the performance of a criminal act by a public official were considered to exist in only one case, which was sent to the Prosecutor, while in only one case there was a referral of an elected person for disciplinary action<sup>493</sup>.

The ex officio investigation of only 2 cases, sending to the Prosecutor only one public official and referral for disciplinary action of only one elected person, are perhaps considered insufficient. However, the Ombudsman's independent judgement forces public services to face their responsibilities. It has been observed many times that public services comply and serve the citizen after just hearing about the possibility of an intervention by the Ombudsman. This, however, is not always the rule, since public services might not even provide the Ombudsman with the required data<sup>494</sup>.

<sup>489</sup> Loukakos K., *Specialised Professional at the Ombudsman, interview with the author on 13.05.2011.*

<sup>490</sup> Ombudsman, *Annual Report 2010*, p. 19.

<sup>491</sup> Ombudsman, *Annual Report 2009*, pp. 11, 19. See also "There cannot be a Democracy when the majority acts however it wishes" (in Greek), 07.05.2007, [www.tanea.gr/default.asp?pid=96&ct=20&artid=20847&nid=0&rid=](http://www.tanea.gr/default.asp?pid=96&ct=20&artid=20847&nid=0&rid=).

<sup>492</sup> Ombudsman, *Annual Report 2010*, pp. 29-33.

<sup>493</sup> Ombudsman, *Annual Report 2010*, p. 28.

<sup>494</sup> Chrysogonos K., *Professor of Aristotle University of Thessaloniki Law School, interview with the author on 13.09.2011.*

It is also worth noting that the Ombudsman's staff has an organised unit to receive citizens in its Headquarters on a daily basis. The public is served, informed and guided for the submission of reports, by members of the specialist staff in rotation, with administrative support for the registration of reports and the entry of information in a special central computer system for the management of reports, which is the first step for transferring to electronic governance. There is also a citizen service telephone number<sup>495</sup>.

For the citizens who make an appeal there is no fear on account of this intervention by the Ombudsman, since they may declare to the Ombudsman that it should not mention their name in its communication with the public service, a right that is sometimes exercised by the citizens<sup>496</sup>.

The Ombudsman is, however, also entrusted with the responsibility of external control of the procedure for the evacuation of illegal immigrants. This responsibility is not related with the general responsibilities of the Ombudsman, while it is also doubtful whether the body is able to adequately manage it, since it belongs to a large extent to the hard core of the executive power. The latter entrusts this responsibility to an Independent Administrative Authority, perhaps, in order to divest itself of the relevant responsibility, using the Authority as an "alibi"<sup>497</sup>.

### Promoting good practice

*To what extent is the ombudsman active and effective in raising awareness within government and the public about standards of ethical behaviour?*

#### **Score: 50**

In 2000, a Communication Department was also set up in the Ombudsman. The Ombudsman, on his own initiative, communicates<sup>498</sup> regularly its work, through:

- the body's website,
- an electronic informative newsletter every four months,
- SMS alerts to journalists that there is new material in their mails, faxes and in the Ombudsman's website,
- his participation in collective bodies,
- campaigns outside the capital,
- educational activity,
- organisation of conferences,
- cooperation with non-governmental organisations,
- publications of print material in various languages,
- publications of alternative material, such as posters, calendars, etc.

The increase of the Ombudsman's presence in the sphere of public life is the reason for, inter alia, the constant decrease of submitted reports that are out of the defined responsibility<sup>499</sup>.

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<sup>495</sup> Loukakos K., *Specialised Professional at the Ombudsman, interview with the author on 13.05.2011.*

<sup>496</sup> Loukakos K., *Specialised Professional at the Ombudsman, interview with the author on 13.05.2011.*

<sup>497</sup> See indicatively: P. Georgiadis & A. Kontogianni, "Independent Authorities and Political Power" (in Greek), *Epikaira*, 27.01.2011.

<sup>498</sup> *Ombudsman, Annual Report 2009*, pp. 26-31.

<sup>499</sup> *Ombudsman, Annual Report 2009*, pp. 11, 19.

*Criticism has also been made towards the Ombudsman for restricted use of the institutional potential for imposing his recommendations*

Nevertheless, criticism<sup>500</sup> has also been made towards the Ombudsman for restricted use of the institutional potential for imposing his recommendations, namely the ability to publish findings in case the Administration denies to comply with his recommendations, the ability to submit a report to the Prosecutor concerning civil servants who are not cooperating with the Ombudsman and the ability to cause disciplinary prosecution against a public official or a civil servant.

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<sup>500</sup> See indicatively: V. Sotiropoulos, "The Ombudsman can put more pressure for equal treatment" (in Greek), 16.06.2010, [www.eLawyer.blogspot.com/2010/06/o.html](http://www.eLawyer.blogspot.com/2010/06/o.html).

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

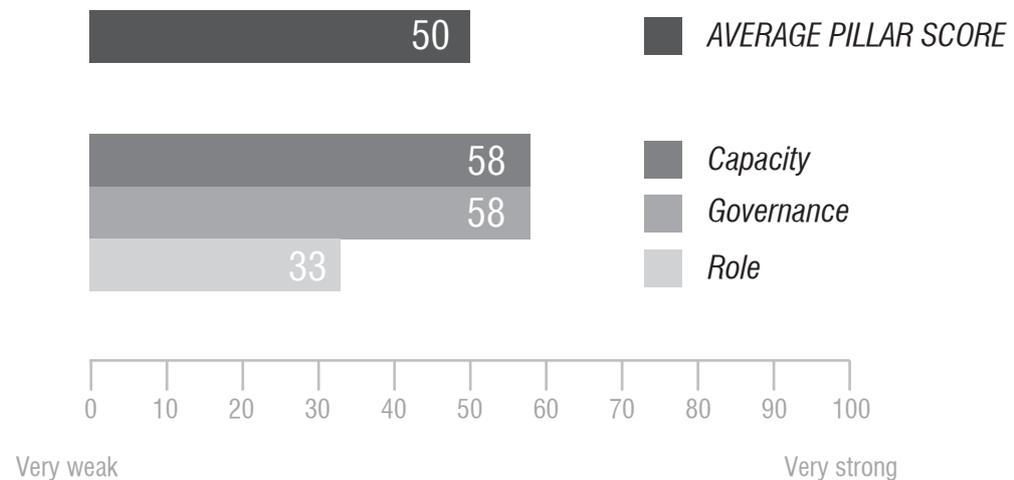
**The Government should proceed with legislative initiatives and measures to achieve the following objectives:**

- Enhancement of the Ombudsman's responsibilities, so that it will be also responsible for investigating cases of maladministration which offend legal entities.
- Incorporation of the Ombudsman's budget to the Parliament's budget, in order to enhance the independence of the Ombudsman.
- Election of the Ombudsman by the Parliament with enhanced majority and a mandate longer than the government's.
- Establishment of provisions that shield the institution's credibility, such as, for example, additional incompatible capacities for the Ombudsman, which will be effective before, during and after the end of his/her mandate.
- Staffing the Ombudsman not by seconded temporary staff, but by appointments, so that, on one hand, the seconded staff is not auditing the services from which it comes from, and, on the other hand, the acquired experience is utilised for a longer time.
- Adoption of specialised forms of parliamentary control, adapted to the particularities of the Ombudsman (revision of article 138<sup>A</sup> of the Standing Orders of the Parliament).
- Strengthening the relationship of the Ombudsman with the Parliament's Committee on Institutions and Transparency, so that the Ombudsman is more effectively controlled and the legislative initiative is enhanced.
- Processing of the account of the Ombudsman's activities (annual report) by professionals with specialised knowledge, who will assist the members of the Parliament in performing the relevant parliamentary control, since Independent Administrative Authorities are active, usually, in fields that require specialised know-how.
- Relieving the Ombudsman of responsibilities foreign to the body's nature and mission, such as for example the external control of the procedure for the evacuation of illegal immigrants, offending children's rights within the family, etc., where the Ombudsman, instead of controlling, is substituting the public administration.
- Adding a binding character (not sanctions) to the Ombudsman's annual reports and monitoring the implementation of his proposals.
- A more substantial oversight of the administrative organs' obligation for honest cooperation with the Ombudsman. The public administration bodies should be obliged to specifically justify why they choose not to comply with the Ombudsman's findings.

**The Ombudsman should:**

- Exercise more pressure towards the executive and the legislative power, in order for the legislative and regulative proposals to be adopted.
- Increase the number of ex officio on-the-spot investigations and inspections that are carried out.

## COURT OF AUDIT



### SUMMARY

The Court of Audit is one of the oldest institutions of the Greek state. As one of the country's high courts, it also faces with the problems tantalising the Greek Judiciary in general, as regards resources, independence and integrity. Moreover, the Court of Audit is one of the bodies whose potential has not been utilised to the maximum.

The authority of the Court of Audit is undoubtedly reduced by the limited responsibilities that it is entrusted with by law. However, especially in the time of a financial crisis, the need for supporting the Court of Audit and especially for providing it with a mandate entailing the monitoring of efficiency, expediency and viability is considered to be more urgent than ever<sup>501</sup>.

### STRUCTURE & ORGANISATION

The Court of Audit was founded in Greece in 1833<sup>502</sup>, modeled on the French Cour des Comptes, established by Napoleon in 1807.

The Court of Audit is referred to in the Constitution<sup>503</sup> as one of the country's three high courts<sup>504</sup>. It is an institution of judicial, audit and consultative jurisdiction, made up of judges, auditors and administration personnel. There is disagreement over the legal nature of the Court of Audit and, therefore, over the status of its personnel. However, according to the case-law of the Supreme Special Court<sup>505</sup>, the Council of State and the Court of Audit itself, it is a body of a "dual nature" or a "dual mission", whose members, except for the judges, are considered to be judges<sup>506</sup> or –in a different way- a court of many responsibilities<sup>507</sup>.

The Court of Audit, for a period of over a hundred years, undertook the role of an administrative body dealing with pension matters, which, however, was becoming more and more judicial, as regards the solution of emerging disputes. The assignment of the procedure for allocating pensions to the State General Accounting Office, left as a legacy to the Court of Audit the judicial part of the aforementioned procedure.

<sup>501</sup> Dr. Vraniali E., Programme Manager and representative in Greece of the Association pour la Fondation Internationale des Finances Publiques (FONDAFIP), interview with the author on 07.07.2011.

<sup>502</sup> Decree 27.09.1833/09.10.1833.

<sup>503</sup> Article 98 of the Constitution of Greece.

<sup>504</sup> Milionis N., *The Court of Audit's Institutional Role*, 2006, p. 89-96. The other two are the Council of State and the Supreme Court (Areios Pagos).

<sup>505</sup> Article 100 of the Constitution of Greece.

<sup>506</sup> Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 193-240.

<sup>507</sup> Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

Institutionally, the confidence of the state towards the Court of Audit was made evident when assigning advisory responsibility of the Court of Audit towards the Parliament in the context of legislation regarding pension issues<sup>508</sup>.

The Court of Audit is strictly limited to auditing legality and normality. In other words, it does not audit economy and efficiency matters, based on the standards of private auditing. According to the legislation of the European Union, the Court of Audit has, furthermore, the responsibility to audit European funds, as regards their effective management.

The Court of Audit's responsibilities mainly consist of<sup>509</sup>:

- a. Auditing the expenditure of the State and local administration organisations or other legal entities.
- b. Auditing contracts of large financial value signed by the State or by a legal entity equivalent to the State.
- c. Auditing the accounts of public accounting officers, local administration organisations or other legal entities.
- d. Providing an expert opinion upon bills on pensions or on the acknowledgement of service for granting the right to a pension, as well as on any other matter specified by the law.
- e. Drafting and submitting to the Parliament a report on the Annual Financial Statement and the Balance Sheet of the State.
- f. Adjudicating on cases of dispute arising from pension grants and the audit of the accounts.
- g. Adjudicating on cases related to the liability of civil or military public servants, as well as of the employees of local administration organisations and of the other legal entities of public law for any damage caused to the State, the local administration organisations or other legal entities of public law due to fraud or negligence.

These responsibilities of the Court of Audit are divided in audit (under a, b and c), consultative (under d and e) and judicial (under f and g).

The above-mentioned responsibilities are stated indicatively in the Constitution, thus, the legislator is not deprived of the capacity to assign to the Court of Audit additional relevant competencies. For this reason, other legislative acts provide for further responsibilities of the Court of Audit<sup>510</sup>.

The Court of Audit's jurisdiction is extended to the central public administration, the local administration and the legal entities of public law, while it does not include legal entities of private law<sup>511</sup>, several special accounts, secret expenditure on defence and international relations, as well as public procurement in the defence sector.

The Court of Audit is structured in seven Units (equivalent of the Courts of First Instance), seven Sections (equivalent of the Courts of Appeal) and the Plenum. A General Commissioner is also appointed to the Court and its mission is to safeguard the state interests.

The Court of Audit has Commissioner audit services, allocated as follows: 16 in the premises of the Court of Audit, 19 in various Ministries, 7 in legal entities of public law and organisations, 8 in Municipalities of Attiki and 57 in the rest of the Greek region.

508 Milionis N., *The Court of Audit's Institutional Role*, 2006, p. 68.

509 Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 91-95.

510 See indicatively: Presidential Decree 774/1980, Law Decree 3033/1954 and Law Decree 2888/1954.

511 Nevertheless, legal entities of private Law that receive funding or subsidies from the Public Sector or the European Union, are included in the responsibilities of the Court of Audit, according to recent case Law.

## ASSESSMENT

## Resources (practice)

*To what extent does the audit institution have adequate resources to achieve its goals in practice?*

**Score: 50**

The Court of Audit's budget is part of the state budget. The relevant decision is exclusively a governmental responsibility. The Court of Audit is often stating requests for raises in its budget. However, the current financial situation and other state priorities do not allow it<sup>512</sup>. In particular, for the year 2010, the budget of the Court of Audit rose to € 17,543,000, whereas for 2011 it was reduced to € 14,524,000. These amounts regard only operational expenditure, namely they do not include the cost for salaries.

As regards the Court of Audit's personnel, there is provision for 650 people. However, around 25% of these posts are not filled, due to delay on the part of the state. Moreover, in the years to come, around 25% of the current personnel is expected to retire<sup>513</sup>. Auditors rise up to some 60% of the total Court of Audit's personnel<sup>514</sup>.

The Court of Audit's personnel is permanent<sup>515</sup>, the judges have life tenure, while in its entirety the personnel is chosen after exams and, therefore, has the required qualifications. In particular, as regards the judges of the Court of Audit, the selection procedure is identical to that for the selection of the other judges. However, due to the upcoming retirement of a big part of the Court of Audit's personnel, it is necessary to proceed immediately with new appointments<sup>516</sup>.

## Independence (law)

*To what extent is there formal operational independence of the audit institution?*

**Score: 50**

The Judiciary is provided for in the Constitution<sup>517</sup> as one of the three independent powers of the state<sup>518</sup>.

The Court of Audit is one of the three –constitutionally established<sup>519</sup>– high courts in Greece<sup>520</sup> and, therefore, institutional guarantees of independence provided for the Judiciary in general are proportionally applied to it as well [see also pillar “Judiciary – Independence (law)”]. Therefore, the Head of the Court of Audit is actually selected by the executive power in office. This undoubtedly contributes to the weakening of its independence.

The Court of Audit grants its opinion, in the context of the legislative procedure for the establishment of pension laws<sup>521</sup>. Submission of the State's annual financial statement and balance sheet to the Parliament by the Government is mandatorily accompanied by the relevant report of the Court of Audit<sup>522</sup>. The fact that the Court of Audit was set up in Greece immediately after the end of the revolution and the founda

*the Head of the Court of Audit is actually selected by the executive power in office*

512 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

513 Hawkesworth I., Bergvall D., Emery R., Wehner J., “Budgeting in Greece”, OECD Journal on Budgeting, issue 3, 2008, p. 27.

514 Hawkesworth I., Bergvall D., Emery R., Wehner J., “Budgeting in Greece”, OECD Journal on Budgeting, issue 3, 2008, p. 43.

515 Article 92 of the Constitution of Greece.

516 Court of Audit, Annual report of financial year 2008, 2011, p. 462. “The need to reinforce the Court of Audit was underlined by its representatives” (in Greek), [www.express.gr/news/ellada/463208oz\\_20110503463208.php3](http://www.express.gr/news/ellada/463208oz_20110503463208.php3), 03.05.2011.

517 Article 26 of the Constitution of Greece.

518 The other two are legislature and executive.

519 Article 98 of the Constitution of Greece.

520 The other two are the Council of State and the Supreme Court (Areios Pagos).

521 Article 73 par. 2 of the Constitution of Greece.

522 Article 98 par. 1(e) of the Constitution of Greece.

tion of the Greek state, namely at a premature stage of the constitutional order, had as an institutional consequence the fact that the Court of Audit never became a subsidiary body of the Parliament<sup>523</sup>. It is, however, the Parliament's collaborator, submitting reports annually on the results of the audits it carries out, which concern the financial operation of the executive power. This collaboration of the Court of Audit with the Parliament is carried out by submission to the Parliament of the -reinstated 25 years ago- annual report, as well as of the constitutionally established annual report on the financial statement and the balance sheet of the State (the so-called "declaration")<sup>524</sup>.

The Court of Audit, as an *ex ante* and *ex post* auditor (*ex officio* or following a joint ministerial decision) of public expenditure, is also the natural judge of public administration, Head of which is the executive power. This, however, does not render the relationship between the two bodies a superior-subordinate one, but one of equal powers<sup>525</sup>. The Court of Audit has also emerged as an important consultative body of the executive power, namely for matters of financial interest that escape the legislative procedure<sup>526</sup>.

The hiring of personnel in the Court of Audit is carried out by the body itself through transparent and demanding procedures<sup>527</sup>. Promotion of judges already in the service of the Court of Audit to the top of its hierarchy is carried out by the Council of Ministers, as it is also the case in the other high courts. The mandate of the Heads of the Court of Audit cannot be longer than 4 years<sup>528</sup>.

### Independence (practice)

*To what extent is the audit institution free from external interference in the performance of its work in practice?*

**Score: 75**

The Court of Audit operates in Greece as "institutional opposition"<sup>529</sup>. Its officers carry out their work with professionalism and impartiality. Until today, there have been no cases of political involvement in their work. Neither have there been cases of the Court of Audit's dealing with political agents. Furthermore, there have not been cases of removing the Heads of the Court of Audit, namely the President and the General Commissioner, before the end of their mandate<sup>530</sup>.

However, the fact that the Heads of the Court of Audit are selected by the Council of Ministers, combined with the recent examples of high-ranking judges who took up government posts after leaving the service<sup>531</sup> invokes, perhaps, reasonable doubts as to the independence of the Court of Audit<sup>532</sup>.

[See also pillar "Judiciary – Independence (practice)"]

523 Milionis N., *The Court of Audit's Institutional Role*, 2006, p. 190.

524 Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 261-263.

525 Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 261-263.

526 Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 556-558.

527 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

528 Article 90 par. 5 of the Constitution of Greece.

529 Milionis N., *The Court of Audit's Institutional Role*, 2006, p. 591.

530 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

531 See indicatively: "The oldest Vice-President of the Council of the State and President of the Third Section for years, submitted his resignation" (in Greek), [www.Lawnet.gr/index.php?id=50&nid=23839](http://www.Lawnet.gr/index.php?id=50&nid=23839), 05.07.2011.

532 Dr. Vraniali E., Programme Manager and representative in Greece of the Association pour la Fondation Internationale des Finances Publiques (FONDAFIP), interview with the author on 07.07.2011.

### Transparency (law)

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions by the Court of Audit?*

**Score: 75**

The Court of Audit grants its opinion, in the framework of establishing pension laws<sup>533</sup>. Furthermore, within a year, at the latest, from the end of the financial year, at the submission of the annual financial statement and the balance sheet of the State to the Parliament, the Court of Audit submits its relevant report (“declaration”) to the Parliament<sup>534</sup>, while it also publishes annually a report on the results of its workings. Finally, the Court of Audit publishes rulings on the disputes it resolves in the framework of its mandate as well<sup>535</sup>. All the above accounts of workings of the Court of Audit are published.

### Transparency (practice)

*To what extent is there transparency in the activities and decisions of the audit institution in practice?*

**Score: 50**

The Court of Audit publishes all acts required by law. The aforementioned reports, as well as important rulings, are also accessible through the Court of Audit’s website<sup>536</sup>, which includes more information regarding its organisational structure, the relevant legal framework, etc. Nevertheless, it is not possible to obtain all the necessary information on the Court of Audit’s work through its website, given the fact that the latter still has serious shortcomings<sup>537</sup>, whereas an important part of it is still under construction. Indicatively, it is mentioned that there is lack, for example, of information regarding the internal management of the Court of Audit, statistical data, etc.

The Parliament and, consequently, the citizens are informed both through the annual report and the “declaration”, about the management of public funds, and also about breaches and infringements of the competent administrative bodies in the course of the aforementioned management<sup>538</sup>.

As regards the Court of Audit’s annual report, it is not discussed substantially either, since it concerns proceedings of the previous two years. The reasons that the Court of Audit gives for this outdated submission is the belated dispatch of evidence from the Ministry of Finance to the Court of Auditors, a fact that obstructs the timely processing of the relevant evidence<sup>539</sup>.

### Accountability (law)

*To what extent are there provisions in place to ensure that the Court of Audit is held accountable for its actions?*

**Score: 50**

The Judiciary is established in the Constitution<sup>540</sup> as one of the three independent powers of the State (the other two being the legislature and the executive). Therefore, the Court of Audit is not subject to control by the legislature or the executive power. The submission of its aforementioned reports to the Parliament

533 Article 73 par. 2 of the Constitution of Greece.

534 Article 98 par. 1(e) of the Constitution of Greece.

535 Article 98 par. 1(f)(g) of the Constitution of Greece.

536 [www.elsyn.gr](http://www.elsyn.gr).

537 Dr. Vraniali E., Programme Manager and representative in Greece of the Association pour la Fondation Internationale des Finances Publiques (FONDAFIP), interview with the author on 07.07.2011.

538 Milionis N., *The Court of Audit’s Institutional Role*, 2006, pp. 561-562.

539 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

Hawkesworth I., Bergvall D., Emery R., Wehner J., “Budgeting in Greece”, *OECD Journal on Budgeting*, issue 3, 2008, p. 44.

540 Article 26 of the Constitution of Greece.

is not meant to be a way of monitoring of the Court of Audit, but of monitoring public administration on behalf of the Court of Audit, and, consequently, of informing the Parliament and, through it, the people, as regards the sound management of the state finances.

Objections to the actions of the auditors of the Court of Audit are adjudicated by the Units of the Court of Audit. The Court's structure in Sections, Units and Plenum also ensures audit of the Court's rulings at a second and at a third degree, while legal guarantees are also provided by the General Commissioner of the Court of Audit. The Court's rulings are not subject to the Council of the State's control. Therefore, it is made clear that the cases in all degrees are adjudicated by units of the same court, while there is no provision for monitoring of the Court of Audit by international bodies.

The Court of Audit is supervised in terms of organisation by the Minister of Finance<sup>541</sup>, in the sense that the Minister is not legally allowed to be involved in the auditing and judicial work of the Court of Audit.

The Court of Audit also implements procedures of internal audit, like the rest of the Judiciary.

[see also "Transparency (law)", pillar "Judiciary – Accountability (law)"]

### Accountability (practice)

*To what extent is the Court of Audit held accountable for its actions in practice?*

#### Score: 25

The Annual Report of the Court of Audit does not include information regarding its internal management, while such information cannot be found in any other print material of the Court of Audit.

As regards the "declaration" of the Court of Audit, it is mentioned that, in practice, the Special Standing Committee of the Financial Statement and the General Balance Sheet of the State and Audit of the State Budget implementation, convenes only once a year, in view of the discussion on the financial statement, general balance sheet and budget of the State, in the Plenary of the Parliament, without calling other competent bodies. This discussion is just a formality and it lasts roughly two days, while the outcome of the vote does not deviate from the party line<sup>542</sup>. Therefore, submission of the "declaration" by the Court of Audit is rendered a mere formal requirement of the whole procedure.

Moreover, the fact that the Annual Report of the Court of Audit is published with a considerable delay also makes it difficult to proceed with the audit of its workings.

The parties affected by the audit results, as well as by the Court's rulings, are able to appeal against these actions and, if having a case, get a ruling in their favour<sup>543</sup>. [

See also pillar "Judiciary – Accountability (practice)"]

### Integrity mechanisms (law)

*To what extent are there mechanisms in place to ensure the integrity of the audit institution?*

#### Score: 50

In the case of the Judiciary, including the Court of Audit, matters regarding the integrity of judges are not only subject to the disciplinary code, but they are also regulated by the Constitution itself and the laws, where specific and detailed provisions exist regarding the impediments, the incompatibilities and the fundamental duties of judges<sup>544</sup>. These provisions include, inter alia, the following:

<sup>541</sup> Article 24 par.3 of Law 1558/1985.

<sup>542</sup> Hawkesworth I., Bergvall D., Emery R., Wehner J., "Budgeting in Greece", *OECD Journal on Budgeting*, issue 3, 2008, p. 44.

<sup>543</sup> Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

<sup>544</sup> See indicatively: Article 87, 89 of the Constitution of Greece, 8, 40,41, 42 of Code of Organisation of Courts and Status of Judges.

- The judges, while exercising their duties, are subject only to the Constitution and the laws, and under no circumstances are they obliged to comply with provisions that have been established in breach of the Constitution.
- The judge is obliged to maintain discretion regarding confidential evidence as provided by law, as well as regarding facts or information that have come to his/her knowledge, while performing his/her duties or due to his/her capacity.
- Judges are banned from providing any other paid services as well as exercising any other profession (not including the exceptions specifically provided for).
- Judges are banned from participating in the Government.
- Judges, employees in the courts' secretariats and Prosecutor's offices, as well as lawyers are not allowed to act jointly in the same procedure or action, if they are spouses or related by blood or by affinity up to the third degree.
- The judge is able to exempt him/herself from a case when his/her impartiality is doubted, and the litigants are also able to request the exemption of a judge from the composition of a court.
- Judges are banned from expressing themselves in favour of political parties.
- It is prohibited for a judge to participate in foundations or associations and organisations in general, which have secret agendas or activities or impose secrecy on their members.
- Judges are subject to restrictions concerning locality issues as regards the area they provide their services in.
- Moreover, judges are obliged to declare the source of their assets and funds annually during their mandate, as well as for the three years following their retirement<sup>545</sup>. These asset declaration statements are audited by the Authority Against Legalisation of Income from Criminal Activity and Financing of Terrorism and Audit of Asset Statements.

However, the lack of a provision prohibiting the appointment of judges in posts of the private or public sector after they have left the judicial body, along with the election of the Head of the Judiciary by the executive power in office, is undermining the credibility of the institution.

[See also pillar "Judiciary"]

As regards the administrative personnel of the Court of Audit, the Civil Servants' Code applies, which includes provisions aiming at safeguarding the integrity of civil servants. Specifically, there are provisions<sup>546</sup> for restrictions with regard to the performance of a paid private project, participation in companies, conflict of interest with the profession of the civil servant, provisions regarding abstinence from transactions and situations where family members and locality obstacles are involved.

There is a definition of office-related crimes in the Criminal Code<sup>547</sup>. These include bribery for performing legal or illegal actions, abuse of power, false statement, document falsification, violation of official secrecy, deliberate omission of grounds for exemption, unlawful conflict of interest, taking advantage of entrusted material, misappropriation and breach of duty.

Under law 3849/2010, the provisions regarding crimes in service have become stricter. These are crimes of the Twelfth Chapter of the Criminal Code, which include, inter alia, passive bribery, unlawful conflict of interest and breach of duty. Under the new law there was even a new article introduced in the Criminal Code 263B), which regulates matters of witness protection in corruption cases.

[See also pillar "Public Sector"]

<sup>545</sup> Law 3213/2003.

<sup>546</sup> Articles 31-37 of Law 3528/2007.

<sup>547</sup> Articles 235-263 of Criminal Code.

## Integrity mechanisms (practice)

*To what extent is the integrity of the audit institution ensured in practice?*

**Score: 100**

Until today, there have not been cases of lack of integrity among the Court of Audit's personnel<sup>548</sup>, a fact that proves the effective implementation of the relevant provisions. This is –undoubtedly- also due to the fact that the nature of the work of the Court of Audit entails the minimum degree of personal transactions between auditors and audited bodies. Moreover, every complaint, anonymous or not, is immediately sent to the disciplinary judge, who investigates its grounds and if the result is positive, prosecutes the offending judge, auditor or employee<sup>549</sup>.

## Effective financial audits

*To what extent does the audit institution provide effective audits of public expenditure?*

**Score: 25**

The Greek system for audit of budget implementation is limited to audit of legitimacy and normality, while it is completely detached from audits of efficiency, expediency and viability<sup>550</sup>. The Court of Audit's alleged reasons for this limitation are the lack of a relevant legal framework, as well as of specialised personnel<sup>551</sup>. However, recently, members of the Court of Audit have mentioned the need to extend the Court's audit jurisdiction to other fields apart from legitimacy and normality<sup>552</sup>.

The Court of Audit carries out audits both *ex officio* and following the request of a Minister or a court ruling, both regularly and unawares. The findings of this audit often reach the root of the problems and underline the reasons<sup>553</sup>. However, there is a delay in the audit of public expenditure, as regards its *ex ante*, *ex post* and judicial role.

It has been said that the Court of Audit should reduce *ex ante* audits, which take up half of its resources, so as to be able to use a larger part of its resources for *ex post* audits, given the fact that irregularities detected by *ex ante* audit represent less than 1% of the audited transactions<sup>554</sup>. *Ex ante* audits should be carried out in the framework of internal audit in the individual agencies or remain in the hands of the State General Accounting Office, which is anyway co-responsible with the Court of Audit<sup>555</sup> and their responsibilities often overlap<sup>556</sup>.

However, the Court of Audit insists on the importance of preventive audit, since the *ex post* ones are significantly delayed. On the contrary, today in Greece, *ex ante* audits significantly limit violations of the law, arbitrary actions and indifference on the part of the internal audit bodies, as regards the punishment of civil servants who commit crimes in service<sup>557</sup>. Indicatively, it is mentioned that preventive audit of the expenditure of local administration has led to the significant restriction of large scale corruption in this particular field<sup>558</sup>.

548 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

549 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

550 Milionis N., *The Court of Audit's Institutional Role*, 2006, p. 478.

551 Hawkesworth I., Bergvall D., Emery R., Wehner J., "Budgeting in Greece", *OECD Journal on Budgeting*, issue 3, 2008, p. 43.

552 See indicatively: . "The need to reinforce the Court of Audit was underlined by its representatives" (in Greek), [www.express.gr/news/ellada/463208oz\\_20110503463208.php3](http://www.express.gr/news/ellada/463208oz_20110503463208.php3), 03.05.2011.

553 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

554 Hawkesworth I., Bergvall D., Emery R., Wehner J., "Budgeting in Greece", *OECD Journal on Budgeting*, issue 3, 2008, p. 43.

555 Hawkesworth I., Bergvall D., Emery R., Wehner J., "Budgeting in Greece", *OECD Journal on Budgeting*, issue 3, 2008, pp. 5, 27.

556 Hawkesworth I., Bergvall D., Emery R., Wehner J., "Budgeting in Greece", *OECD Journal on Budgeting*, issue 3, 2008, pp. 39, 44.

557 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

558 Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

## Detecting and sanctioning misbehaviour

*Does the audit institution detect and investigate misbehaviour of public officeholders?*

**Score: 50**

The Court of Audit employs all those responsibilities and mechanisms required for detecting irregularities and imposing sanctions according to the law<sup>559</sup>.

On the basis of the constitutional reform of 2001, audit of public works and contracts for the supply of goods and services to the state (public procurement) of high financial value was added to the Court of Audit's responsibilities. The allocation of this responsibility to the Court of Audit represents recognition of this high financial court's contribution to the audit of legitimacy, occasionally fighting strong financial and political interests<sup>560</sup>.

TI-Greece has repeatedly underlined the indifference –if not negative attitude- of the political power towards assisting the Court of Audit in its work, which is shown through:

- systematic efforts to bypass the Court of Audit
- obvious indifference for the complaints stated in the annual reports of the Court of Audit
- governmental, party-related and legislative interventions which mainly aim at eradicating the consequences of the findings of the Court of Audit
- not recognizing liability of public officials and politicians
- not imposing sanctions on offenders.

## Improving financial management

*To what extent is the Court of Audit effective in improving the financial management of government?*

**Score: 25**

The aim of the annual report submitted by the Court of Audit to the Parliament is mainly to provide guidance to the relevant administration bodies for dealing properly with similar situations in the future. This is carried out by stating observations and proposals for better management of public money<sup>561</sup>. In particular, the Court of Audit puts forward proposals for reforms and improvements<sup>562</sup> regarding budget drafting, set-up of cost accounting, financial management in certain sectors, extension of the Court's responsibilities, organisational matters of the Court etc. Therefore, the Court of Audit ends up being a form of opposition for the bodies of the executive power, as regards state budget implementation.

The Court of Audit makes efforts toward the adoption of these proposals, but they are not always effective<sup>563</sup>. Public administration is reluctant to comply with the Court of Audit's suggestions or takes long to modify its operation methods. Nevertheless, the aforementioned annual report often has preventive value, to the extent that the executive power bodies do not wish to become subjects of the report.

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<sup>559</sup> Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

<sup>560</sup> Milionis N., *The Court of Audit's Institutional Role*, 2006, p. 102. See indicatively also: Karathanasopoulos E., *Precontract audit by the Court of Audit*, 2010.

<sup>561</sup> Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 561-563.

<sup>562</sup> See indicatively: *Court of Audit, Annual report of the financial year 2008, 2011*, pp. 458-463.

<sup>563</sup> Milionis N., *The Court of Audit's Institutional Role*, 2006, pp. 568-569. Rizos C., former President of the Court of Audit, interview with the author on 14.06.2011.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to take legislative initiatives and measures for the achievement of the following objectives:**

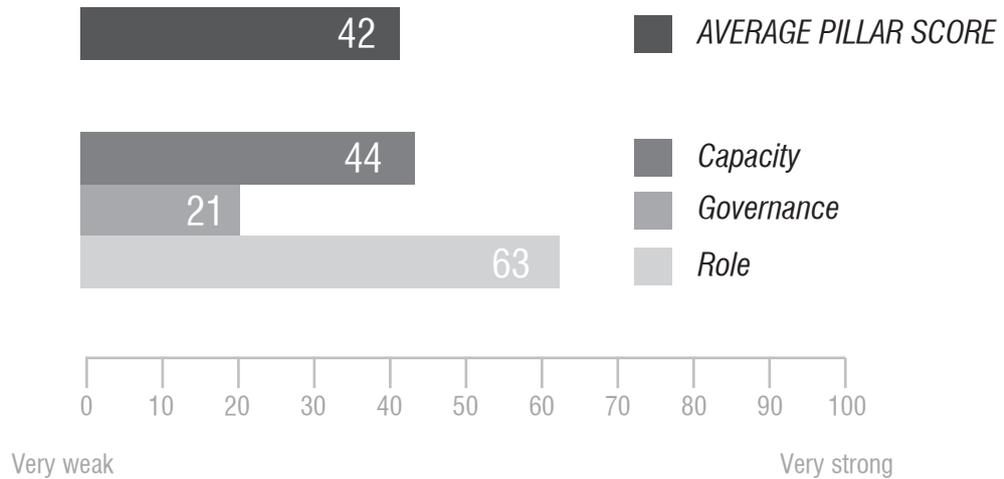
- Clarification of the legal framework concerning the responsibilities of the Court of Audit.
- Extension of the Court of Audit's jurisdiction to sectors that are currently out of its jurisdiction.
- Reinforcement of the Court of Audit's self-sufficiency through, inter alia, the adoption of its budget by the Parliament.
- Establishment of the monitoring of the efficiency and effectiveness on behalf of the Court of Audit, based on the standards of private accounting.
- Provision of the necessary human and material resources to the Court of Audit.
- Substantial discussion of the Court of Audit's annual report.
- Subjection of the Court to audit by international bodies.
- Explicit definition of the relationships between the Court of Audit, the State General Accounting Office and the Parliament.

[See also pillar "Judiciary – Suggestions for the improvement of the institution"]

**The Court of Audit should take initiatives for the promotion of its transparency through, inter alia:**

- Enrichment of its Annual Report with data concerning its internal operation.
- Drafting its Annual Report in a comprehensive way, so that it can be understood by the average tax-paying citizen.
- Upgrading its website.

## POLITICAL PARTIES



### SUMMARY

Political parties in Greece are the main representatives of social interests. The Constitution and the legislation sufficiently provide for safeguards for the unobstructed function and independence of political parties. However, this is not the case for matters concerning their governance. This legislative shortcoming has led, inter alia, to the involvement of political parties in big economic scandals.

Nevertheless, political agents of the country are not sufficiently mature, so as to move towards establishing a more efficient framework regarding transparency, control and integrity of the parties. This is, however, an urgent need since political parties in Greece are the most populated bodies of the civil society.

### STRUCTURE & ORGANISATION

There is no legal definition of political party neither in the Constitution nor in the legislation.

During the seven-year period 1967-1974 Greece was a dictatorship. Since 1974, the country is a parliamentary republic. The two biggest political parties of Greece, PASOK and ND, which constantly succeed each other in power, were established right after the fall of the dictatorship.

After the Greek parliamentary elections in 2009 and the MPs who became independent or were expelled from their parliamentary groups from time to time, the composition of the Parliament is as follows<sup>564</sup>:

Panhellenic Socialist Movement (PASOK): 160 seats, percentage 43.92%,

New Democracy (ND): 91 seats, 33.48%,

Communist Party of Greece (KKE): 21 seats, 7.54%,

Popular Orthodox Rally (LAOS): 15 seats, 5.63%,

Coalition of the Radical Left (SYRIZA): 13 seats, 4.60%.

<sup>564</sup> Last update 17.02.2012.

PARTY	MPs
Panhellenic Socialist Movement (PASOK)	131
New Democracy	62
Communist Party of Greece (KKE)	21
Popular Orthodox Rally (LAOS)	16
Coalition of the Radical Left (SYRIZA)	9
Independent	61
Democratic Left (unofficially)	4
Democratic Coalition (unofficially)	4
Panhellenic Citizen Chariot (unofficially)	1
Movement of Free Citizens (unofficially)	1

## ASSESSMENT

### Resources (law)

*To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?*

#### Score: 100

The Constitution Articles (11 and 12) establish the right to free assembly and to form an association.

Article 29 of the Constitution establishes the freedom to form parties and participate in them, as long as the normal function of the democratic regime is served. Moreover, it provides for financial support to the parties by the state, as well as oversight of the financial management of the parties. Finally, it is prohibited for public servants in the broader sense, to express themselves in favour or against a political party while exercising their duties.

Political parties, before the initiation of their activities, submit a founding declaration to the Prosecutor of the Supreme Court (Areios Pagos), which states that the party's function serves the normal function of democracy. The Prosecutor of the Supreme Court is also notified of the name, the emblem, the headquarters of the party, as well as of the statute or the founding act of the party that has to be signed by at least 200 citizens with a right to vote<sup>565</sup>. The conditions of the statute or the founding act obviously must not be against the Constitution and the laws.

Political parties receive state funding both for their expenditure during the elections and for their running costs. The legislation describes in detail the funding procedure, the beneficiaries, as well as the distribution of resources<sup>566</sup>.

The legal framework that regulates the election campaigns of the parties is composed of Presidential Decree 96/2007 regarding "Codification of the provisions of the legislation for the election of members of the Parliament in an uniform text", and law 3023/2002 regarding "Financing of political parties by the state, income and expenditure, promotion, publicity and audit of the finances of political parties and parliamentary candidates", as regards parliamentary elections and European elections, as well as of law 3870/2010 regarding "Election expenditure of parties and candidates and their audit, during regional and municipal elections", as regards regional and municipal elections. These legal instruments extensively regulate, inter alia, the sites of open-air promotion of political messages, the broadcast of campaign messages of the parties by the audio-visual media, as well as publication of polls.

All these lead to the conclusion that the current legal framework includes all the necessary regulations for the unimpeded foundation and operation of political parties in the country.

<sup>565</sup> Article 29 of Law 3023/2002.

<sup>566</sup> Articles 1-4 of Law 3023/2002.

## Resources (practice)

*To what extent do the financial resources available to political parties allow for effective political competition?*

### Score: 25

The requirement of a certain number of votes in favour of a party, so that it can receive state funding, is a reasonable prerequisite, in order to ensure that this particular party represents an existing flow in the society. However, this practice is possibly keeping new parties from being represented in the Parliament<sup>567</sup>. On the other hand, there are parties that often have scandalous expenditure, thus, spending irrationally the state budget's resources<sup>568</sup>.

Moreover, the cross of preference is an important source of corruption, since competition often leads candidates to unlawful practices and transactions.

The finances of the two biggest parties (PASOK and ND) are in a dire situation, not only because of the financial crisis, but also because of their excessive bank loans. Loans are mainly required so that the parties can meet their election campaign expenditure. Due to lack of assets, parties offer the future state financing to the banks as guarantees<sup>569</sup>. The result of all these is that parties have already preceded with firing personnel, cutting back expenses, etc.

On the contrary, KKE and LAOS seem to be in a better financial condition<sup>570</sup>. It is noted that the law regarding state funding, favours small parties<sup>571</sup>. The announced 20% reduction of state funding of the parties is expected to worsen their financial condition<sup>572</sup>.

At the central level, funding originates mainly from state funding and the fundraising campaigns of the parties. At the regional level, income is also increased by the various social events organised by local party organisations. Moreover, ND for example, is making an effort to increase its own resources through selling products bearing its logo, distribution of membership cards, SMS etc.<sup>573</sup>.

As regards provisions on equal access to television time, they are often violated by the appearance of candidates in broadcasts supposedly as guests. Moreover, there is no equal treatment between the parties regarding their access to television time. This is happening because the media are favouring specific parties, since there is interplay due to the multiple capacities of owners of mass media, as well as of journalists, thus, producing conflicts of interest. In addition, television channels, during pre-election periods, raise excessively their charges for the advertisement of political parties, taking advantage of the limited duration of the pre-election period<sup>574</sup>.

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567 Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

568 Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

569 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

570 See indicatively: Markopoulos D., "The parties' finances in an IMF state!" (in Greek), [www.proto-thema.gr/politics/Article/?aid=108767](http://www.proto-thema.gr/politics/Article/?aid=108767), 01.03.2011. "Parties' debts to the Greek Banks" (in Greek), [www.ethnosnews.com](http://www.ethnosnews.com), 16.01.2011.

571 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

572 See indicatively: "G. Ragousis reduces state funding of the parties" (in Greek), [www.tanea.gr/default.asp?pid=2&ct=1&artid=4630248](http://www.tanea.gr/default.asp?pid=2&ct=1&artid=4630248), 10.05.2011.

573 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

574 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

## Independence (law)

*To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?*

### Score: 25

Article 11 of the Constitution provides that the right to free assembly must be exercised peacefully and without weapons, while the police is able to be present only in public gatherings. The right in name can be restricted by a justified decision of the police, if there is a possibility of serious danger for public security or a serious disturbance of the socio-economic life. This provision is implemented in a very narrow sense.

Article 12 of the Constitution states, among other things, that associations and unions of people, in general, cannot be dissolved on grounds of violating the law or a crucial provision of their statute, but only by court order.

Other than that, political parties are not overseen by a competent authority.

## Independence (practice)

*To what extent are political parties free from unwarranted external interference in their activities in practice?*

### Score: 25

In Greece there are no cases of state intervention in the internal affairs of the parties or intimidation of representatives of the opposition by state agents<sup>575</sup>.

However, in some cases, the government does not invite to a discussion all the parties. Occasionally, it invites parties that are close to its ideology, which may have not even taken part in recent elections, ignoring parties that have taken part in recent elections, which have sometimes obtained remarkable percentages<sup>576</sup>. Moreover, in local administration it is a common phenomenon for elected officeholders to favour the parties that have supported them in their election<sup>577</sup>.

Moreover, the case of the Siemens scandal in Greece brought to light in the most vivid way the dependence of political parties on the business sector. In particular, Siemens has allegedly funded a certain party in power at the time<sup>578</sup>, as well as individual politicians<sup>579</sup>.

Small parties sometimes have a more positive contribution to democratic institutions than bigger ones, since they do not expect to rise to power soon and, therefore, speak more truthfully, as they are not dependent on interests<sup>580</sup>. One should not ignore, though, the possibility that due to their distant chance of rising to power, it is possible that they act irresponsibly. However, in cases of small person-centred parties, cases of influence by unlawful interests cannot be ruled out, while it is not impossible to be dependent on institutional bodies, such as trade unions etc.<sup>581</sup>.

<sup>575</sup> Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

<sup>576</sup> See indicatively: "George, leave a window open" (in Greek), [www.isotimia.gr/default.asp?pid=24&ct=31&artid=94414](http://www.isotimia.gr/default.asp?pid=24&ct=31&artid=94414), 12.03.2011

<sup>577</sup> Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

<sup>578</sup> See indicatively: "The black funds of PASOK" (in Greek), [http://pithia-gr.blogspot.com/2010/05/blog-post\\_31.html](http://pithia-gr.blogspot.com/2010/05/blog-post_31.html).

<sup>579</sup> Tziouvas G., "The honourable friends of Michalis Christoforakos" (in Greek), [www.tovima.gr/politics/Article/?aid=335740](http://www.tovima.gr/politics/Article/?aid=335740), 06.06.2010.

<sup>580</sup> Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

<sup>581</sup> Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

## Transparency (law)

*To what extent are there regulations in place that require parties to make their financial information publicly available?*

**Score: 25**

As regards parties that are not represented in the Parliament<sup>582</sup>, up to at least 80% of their income and expenditure is circulating through accounts kept in banks based in Greece. These accounts are notified, within five days of their opening, to the Oversight Committee of the Parliament. Election campaign income and expenditure circulate, in the same way, through separate bank accounts, up to the same percentage, with a similar obligation for notification. A deposit to the aforementioned accounts is allowed only under one's own name, with the bank being responsible for the verification of the identification details of the depositor.

Up to at least 60% of the Income and expenditure of parliamentary candidates circulate through accounts kept in banks based in Greece. These accounts are notified, within five days of their opening, to the Oversight Committee of the Parliament. A deposit to the aforementioned accounts is allowed only with prior consent of the parliamentary candidate and it is made under one's own name, with the bank being responsible for the verification of the identification details of the depositor.

There is prohibition of funding and providing all kinds of benefits to the political parties and parliamentary candidates by:

- a) Natural persons that do not have the Greek citizenship.
- b) Legal entities of public or private law.
- c) Local administration organisations of any degree.
- d) Natural persons that are owners or publishers of daily or periodical press of national or local circulation or owners of radio and television stations in general.

This prohibition does not include funding to political parties if it originates exclusively from enterprises and all kinds of legal entities of private law, whose shares or stocks are mandatorily registered and belong, evidently, without exemptions, to a political party or, on behalf of the party, to its leader or other natural persons authorised for that by the responsible party body.

Funding of parties or coalitions, by the same person, during the same year, must not exceed the amount of fifteen thousand euro (€ 15.000). Funding of parliamentary candidates, during the pre-election period, by the same person, must not exceed the amount of three thousand euro (€ 3.000).

The highest level of election expenditure of political parties and coalitions taking part in general parliamentary elections or elections for the appointment of representatives to the European Parliament, for which the value of assessed allowances and benefits is also taken into account, is not allowed to exceed 20% of the most recent, each time, allocated regular funding to all the parties.

The highest limit of election expenditure allowed to each parliamentary candidate, taking also into account the value of assessed allowances and benefits, is determined based on the number of seats of the candidate's electoral region.

The highest limit of election expenditure allowed to each member of the Parliament from the nationwide list or member of the European Parliament, in parliamentary elections or elections for the appointment

<sup>582</sup> Law 3023/2002.

of Greek representatives to the European Parliament, is determined according to the amount that is applicable each time for parliamentary candidates of the First Region of Athens.

The highest limit of election expenditure allowed for advertisements in the press for each parliamentary candidate is determined to 20% of the maximum amount allowed of election expenditure.

The management of finances of political parties is entrusted to the bodies provided for by the statute of the party. These bodies and their members are reported to the President of the Oversight Committee of the Parliament until January 31<sup>st</sup> each year. Any change during the year is immediately reported to the President of the Committee. Parliamentary candidates are themselves responsible for managing their finances.

Political parties and coalitions of parties, which receive state, regular or election campaign funding, keep a special book at their Headquarters, in which they register mandatorily, by categories and separately for each year, all income and expenditure. Moreover, there is separate registration of the amounts collected by each party during the election campaign and of the election expenditure. In a book kept by a coalition there is also registration of the income and expenditure of the parties that constitute the coalition. The income and expenditure book is validated, in the first ten days of January each year, by the President of the Oversight Committee.

In the book there is registration of the name, surname and father's name of everyone contributing either by direct payment or through a bank account to the party or coalitions of parties, a total amount higher than € 600 annually. There is also registration of the personal details of individuals receiving any amount from the party or coalition, irrespectively of the type of expense. For every source of income and expenditure there is a reference of the corresponding receipts. For every amount higher than € 600 that is collected by political parties and coalitions, with the exception of state funding, a receipt of payment is issued mandatorily in case it was not conducted through the aforementioned accounts. Receipt and coupon slips are numbered and validated by the Oversight Committee of the Parliament. Political parties and coalitions of parties that receive regular state funding publish a balance sheet of income and expenditure for each year. The balance sheet is published in the first two months each year, in at least two daily newspapers circulating in Athens.

Political parties and coalitions of parties that receive state funding for the elections, within 2 months from parliamentary elections or elections for the appointment of representatives in the European Parliament, publish a special report of election income and expenditure, which includes registration, reference of the amounts collected by the party or the coalition during the election campaign to the corresponding receipt, as well as of other election expenditure. The special report of election income and expenditure is published within the aforementioned deadline in the relevant issue of the Official Gazette. The data included in the aforementioned special report and every necessary detail is regulated by common decision of the Ministers of the Interior and Finance, published in the Official Gazette.

A copy of the balance sheet and the special report of election income and expenditure, along with the issues of newspapers and the relevant issue of the Official Gazette, in which they were published respectively, are sent by the Parties, within 15 days of publication, to the Oversight Committee, as well as to the Minister of the Interior.

Parties and coalitions that participated, individually or as part of a coalition, in general or by-elections or elections for the appointment of representatives in the European Parliament and are not entitled to receive state, regular or election campaign funding, are obliged to publish a special report of election income and expenditure, within 2 months of the elections, in the relevant issue of the Official Gazette.

A copy of the statement of election income and expenditure, along with the relevant issues of the Official Gazette, in which it was published, are sent to the Oversight Committee within 15 days from publication.

Members of the Parliament elected in parliamentary elections, general or by-elections, are obliged to draft a detailed statement including, by categories, their election income and expenditure and reference of the relevant receipts, as well as a concise statement of their election income and expenditure. The same obligation is applicable to runners-up of parties or coalition of parties' slates who were elected as members of the Parliament.

The detailed statement of election income and expenditure together with the receipts is submitted, within 40 days of the voting, to the Oversight Committee. The detailed statement also mentions the names of those paying amounts higher than € 150 to the parliamentary candidate in order to support his/her election campaign.

Income and expenditure of regional and municipal parties<sup>583</sup> circulate through specific accounts kept in banks based in Greece. Circulation of income concerns the relevant amounts as a total and 95% of the expenditure. The relevant account is kept in the name of the candidate for Head of region or for mayor or of the appointed manager. A deposit to the aforementioned accounts is allowed after explicit consent of the persons in the name for whom these accounts are kept. Deposits must include, with the bank's responsibility, the name and surname, father's name, residential address, the Identification Card number or the passport number and the Tax Registration Number of the depositor. The balance of the account cannot exceed the maximum limit allowed for election expenditure of the parties.

The pre-election period is the four-month period prior to the date of the elections.

Income and expenditure of candidates circulate through specific bank accounts. In any case, the total amount collected cannot exceed 1/5 of the maximum limit for election expenditure allowed for the candidates.

There is prohibition of funding and all kinds of allowances towards regional and municipal parties, as well as towards candidates for the posts of vice-Head of region, regional and municipal counsellors, from:

- a. Natural persons owing to the relevant prefectural and municipal administrations an amount of money higher than € 1,000. For this reason, the aforementioned local administration organisations are obliged to submit lists of debtors of amounts higher than € 1,000 to the Heads of the relevant parties. Submission of the lists takes place within 10 days, after submission of the relevant request.
- b. Natural persons, owners or publishers of daily or periodical press of national or local circulation or owners of radio and television stations in general, or owners of internet and telecommunications providers, as well as from their spouses or descendants.
- c. Natural persons who are employees of the relevant Local Administration Organisations or their corresponding legal entities of public and private law.

It is not possible to receive bank loans for the funding of parties and candidates.

The funding of parties by the same person, during the pre-election period, is not allowed to exceed the amount of € 2,000. The funding of candidates for the posts of vice-heads of regions and regional and municipal counsellors, during the pre-election period, by the same person, is not allowed to exceed the amount of € 500.

The maximum limit of allowed election expenditure, based on calculations provided for by the law, is determined for each region and municipality, by decision of the Minister of Interior, Decentralisation and E-government, which is issued within five (5) days from the beginning of the pre-election period and is published in the Official Gazette.

<sup>583</sup> Law 3870/2010.

Management of finances of parties is carried out by a specific person, determined by the Head of the party and notified to the Committee of Expenditure Audit and Electoral Violations. In Local Administration Organisations with a population larger than 10,000 people, the Head of each party is obliged to appoint a specific natural person as manager of finances of the party and notify his/her identity to the Committee of Expenditure Audit and Electoral Violations. In Local Administration Organisations with a population up to 10,000 people, the appointment of a manager is optional and the Head of the party is personally responsible for the management if he/she does not appoint a manager. The candidates are themselves responsible for the management of their finances.

A special individual Tax Registration Number is administered in the name of the party and it is valid for the whole duration of the regional and municipal period. For the administration of the Tax Registration Number a written statement is submitted to the relevant Tax Authority, which mentions the name of the party and the name of its Head.

Parties are obligated to keep a special book in which all income and expenditure during the pre-election period is registered. A copy of the aforementioned book is submitted within 30 days from the day of the announcement of the successful parties to the Committee of Expenditure Audit and Electoral Violations.

To ensure transparency of income and expenditure of parties and candidates in regional elections, as well as of parties and candidates in elections in municipalities with a population larger than 10,000 people, a central database is installed and functions with the Ministry of Interior being responsible for that. The update of the central database is conducted both for the parties and their candidates. The aforementioned published evidence is also posted, under the charge of the parties, on the websites of the relevant local administration organisations.

Leading candidates for the posts of Head of region and mayor for the corresponding parties, as well as vice-Heads of regions, regional and municipal counsellors who were elected, are obliged to draft a detailed statement including, by categories, their election income, the donors' names, their election expenditure, as well as the supporting documentation. In this statement there is also reference of the relevant receipts. An aggregated election income and expenditure statement is also drafted. The same obligation is applicable to the first five runners-up of the corresponding parties.

Parties and candidates that are not included in the previous cases and have a written and signed complaint against them, submitted to the Committee of Expenditure Audit and Electoral Violations for exceeding the maximum limit for election expenditure, are obliged to submit the aforementioned aggregated statement.

The aggregate statement of election income and expenditure along with the receipts, for those under the obligation to submit them, are submitted within 30 days from the announcement of the successful parties and candidates, to the Committee of Expenditure Audit and Electoral Violations.

Provisions for sanctions for parties, coalitions of parties, candidates for violations of the aforementioned legislation, include administrative fines and criminal sanctions and even removal from the relevant post to which they were elected.

The aforementioned legal framework is not sufficient for achieving total and substantial transparency<sup>584</sup>. The following points of the law are presenting outstanding problems:

- The abovementioned provisions do not ensure, inter alia, access of the citizens to all the aforementioned information, since there is no provision for publication of all information on the Internet.
- The limit of expenditure for parties and candidates, the prohibition of funding by legal entities, as well as the limitation regarding the amount that each natural person is allowed to give, are hypocritical provisions, since there is no limit as to the frequency of the contribution<sup>585</sup>.

<sup>584</sup> See indicatively: *Transparency International-Greece, Transparency in the management of political money 15+43 proposals of Transparency International-Greece on political money, 2010.*

<sup>585</sup> *Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.*

*The abovementioned provisions do not ensure, inter alia, access of the citizens to all the aforementioned information, since there is no provision for publication of all information on the Internet*

*There is no provision for limitation as regards the expenditure of research and studies centres of parties*

- The distribution of coupons is one of the main ways of violating the limitations in funding per person, since the purpose of the applicable provisions regarding identification of the sponsors of parties and the highest limit of contributions is not achieved.
- A window of opportunity for breaking the law is also left by the provisions<sup>586</sup> regarding the ability of parties and candidates to discreetly circulate amounts up to 20% and 40% respectively, of their total budget.
- There is no clear statement of the method used for assessing non-monetary contributions.
- The non-transparent circulation of capital is facilitated by the non-obligation for parties and candidates to use one and only bank account.
- There is no provision for limitation as regards the expenditure of research and studies centres of parties.

### Transparency (practice)

*To what extent can the public obtain relevant financial information from political parties?*

#### **Score: 0**

Political parties proceed with the publications that are provided by the aforementioned legal framework<sup>587</sup>. From the balance sheets that are published by parties it is deduced that these hardly depend on private funding<sup>588</sup>.

This is proved wrong though, by the recent scandals that have been brought to light as regards black political money<sup>589</sup>. Therefore, it is proved that the current legal framework is implemented only formalistically, whereas the framework itself is not sufficient for ensuring transparency as regards the finances of political parties.

It is common secret that funding through coupons and the ability to collect amounts out of the framework of bank accounts, with the obligation to issue a receipt only for amounts exceeding € 600, are the main ways of introducing black political money in the funds of the parties<sup>590</sup>. Competition between political parties will always lead them to seek extra financial resources, often by-passing the applicable provisions. Therefore, it is required to establish a legal framework that will eliminate the possibilities for the circulation of illegal capitals. Disclosure itself does not ensure transparency. There is moreover requirement of effective audit mechanisms.

### Accountability (law)

*To what extent are there provisions governing financial oversight of political parties by a designated state body?*

#### **Score: 25**

Political parties usually have internal audit committees<sup>591</sup>.

<sup>586</sup> Articles 5 and 6 of Law 3023/2002.

<sup>587</sup> Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

<sup>588</sup> *To Vima*, 20.12.2009.

<sup>589</sup> See indicatively: "The black funds of PASOK" (in Greek), [http://pithia-gr.blogspot.com/2010/05/blog-post\\_31.html](http://pithia-gr.blogspot.com/2010/05/blog-post_31.html). Tziouvas G., "The honourable friends of Michalis Christoforakos" (in Greek), [www.tovima.gr/politics/Article/?aid=335740](http://www.tovima.gr/politics/Article/?aid=335740), 06.06.2010.

<sup>590</sup> See indicatively: Rizos C., "The current system of funding political parties and candidate MPs: income-expenditure-transparency-audit" (in Greek), Honorary volume for professor Th.I.Panagopoulos, 2011, pp. 668-669. *Ta Nea*, 21-22.08.2010.

<sup>591</sup> Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

Additionally, audit is carried out by audit committees that are provided by the current legal framework<sup>592</sup>. In particular:

As regards parliamentary elections, the Audit Committee of the Parliament is set up. To fulfil its mission, the Committee assigns the accounting or financial expert report or other audit acts to certified auditors, who examine thoroughly the books and receipts of parties and candidate MPs before the audit by the Committee and draft a detailed report which is submitted to the Committee to assist its work. In the audit that is conducted by the Committee, as well as to carry out the audit acts that are conducted by its order by certified auditors, there is no application of the provisions regarding bank, stock exchange and tax confidentiality. After the audit, a detailed report is drafted, to which the certified auditors' report is attached as an annex. The Committee's report, along with its annex, is immediately submitted to the President of the Parliament and to the Minister of Interior, Public Administration and Decentralisation, and it is sent to the audited parties and coalitions. It is obvious that monitoring of this audit by the President of the Parliament and by the Minister of Interior, who are part of the audited political system itself, is a flawed point of the law.

As regards municipal and regional elections, the audit of the finances of parties and candidate vice-Heads of regions, regional and municipal counsellors, as well as monitoring of electoral breaches, is assigned to the Committee of Expenditure and Electoral Breaches Audit that is constituted in the seat of each region and serves as a special, judicial and audit body. However, the composition of these committees does not ensure substantial and unimpeachable audits, given the participation of representatives of the audited bodies. In particular:

The Committee of the Parliament is constituted by a member of the Parliament representing each party or coalition of parties that are represented in the Parliament, as well as by a member of the Council of State, a member of the Supreme Court (Areios Pagos) and a member of the Court of Audit, who are appointed by draw along with their substitutes by the plena of the corresponding courts. President of the Committee is the Vice-President of the Parliament who is appointed by the Presidium of the Parliament. If a party or a coalition of parties has received regular or electoral funding and is not represented in the Parliament, its representative, appointed for this reason, is a member of the Committee for matters that are related to the oversight of this party or coalition of parties. In the case where there is audit of the finances of parties that took part in the elections for appointing Greek Representatives to the European Parliament, an MP of the Party that is represented in the European Parliament also participates in the Audit Committee, if the Party lacks relevant representation in the Parliament.

The Committee for municipal and regional elections is set up by the President of the regional Administrative Court of Appeal, a member of the Legal Council of the State, the Commissioner of the regional Court of Audit, and the Head of the Regional Directorate of the Body for the Prosecution of Financial Crime. Also participants in this committee, depending on the subjects regarding regional and municipal elections, are representatives of the Union of Prefectural Administrations of Greece and of the Local Union of Municipalities and Communities of the prefecture where the regional seat belongs. Those are obviously members of the audited bodies, who have never been candidates and are indicated by these bodies.

## Accountability (practice)

*To what extent is there effective financial oversight of political parties in practice?*

### Score: 25

Parties of municipal and regional elections and candidates submit their finances for audit, according to the aforementioned provisions of the law.<sup>593</sup> However, the fact that there are parties financed by the state budget which refuse to be subject to a thorough audit of their finances is scandalous<sup>594</sup>. This is made easier by the fact that political parties are sui generis structures between private and public law, thus not being able to be effectively controlled<sup>595</sup>.

<sup>592</sup> Law 3023/2002 and 3870/2010.

<sup>593</sup> Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

<sup>594</sup> See indicatively: "KKE denies audit of its finances and accuses PASOK" (in Greek), <http://news.kathimerini.gr>, 16.07.2009.

<sup>595</sup> Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

*The fact that there are parties financed by the state budget which refuse to be subject to a thorough audit of their finances is scandalous*

It is also noted that in the aforementioned oversight committees audit is selective. Moreover, the standard pre-election period provided for by law is short, namely 21 to 42 days, thus not allowing for a complete financial oversight.

Until today, there has not been a known case of sanctions imposed on parties or candidates. More specifically, even though there have been cases where sanctions were imposed on candidates, thanks to a government regulation they were never enforced<sup>596</sup>.

#### Integrity (law)

*To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?*

#### **Score: 25**

There is no law regulating the internal operation of parties. The rules regarding their operation and governance arise from their statutes, which regulate, among other things, matters such as the way their Heads and their election candidates are elected, as well as the process of their policy planning<sup>597</sup>, through democratic and multi-stakeholder procedures.

#### Integrity (practice)

*To what extent is there effective internal democratic governance of political parties in practice?*

#### **Score: 25**

Despite the fact that party statutes provide for democratic procedures, it is common for these procedures not to be applied, especially if the party leader is powerful<sup>598</sup>.

Nevertheless, in recent years, a conscious further democratisation of procedures is taking place. An outstanding example is PASOK leadership elections in 2004.

Specifically, at that time, by deviation from the provisions of the statute of PASOK, the president of the party was elected after an open vote by the members and friends of the party. This was considered a particularly ground-breaking and revolutionary action<sup>599</sup>. New Democracy followed the example of PASOK in 2009, electing its current leader the same way<sup>600</sup>.

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596 Rizos C., "The current system of funding political parties and candidate MPs: income-expenditure-transparency-audit" (in Greek), Honorary volume for professor Th.I.Panagopoulos, 2011, p. 678.

597 See indicatively: "Statute of the Panhellenic Socialist Movement" (in Greek), [www.pasok.gr/portal/resource/section/statuteMenu](http://www.pasok.gr/portal/resource/section/statuteMenu). "Statute of the New Democracy" (in Greek), <http://www.nd.gr/katastatiko>.

598 Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

599 See indicatively: "By more than 1.000.000 "yes's" George Papandreou is the new president of PASOK" (in Greek), <http://news.in.gr/greece/Article/?aid=515463>, 08.02.2004.

600 See indicatively: Tsioufos D., "Landslide election victory of A. Samaras for the leadership of New Democracy" (in Greek), [www.imerisia.gr/general2.asp?catid=15459&subid=20110&pubid=22329143](http://www.imerisia.gr/general2.asp?catid=15459&subid=20110&pubid=22329143), 30.11.2009.

## Interest aggregation and representation

*To what extent do political parties aggregate and represent relevant social interests in the political sphere?*

### Score: 75

In Greece there are, in general, stable parties with distinct policies<sup>601</sup>. However, these policies tend to overlap<sup>602</sup>, especially because of interventions coming from the top (i.e. European Union and international organisations) as well as of interventions coming from the bottom (i.e. social demands, Heads of regions, in particular those not belonging to the same party as the government)<sup>603</sup>.

Political parties are the main instrument of political representation of the citizens<sup>604</sup>. However, it is not common for certain social groups or interest groups to be represented exclusively by specific parties. The latter try to take advantage of the occasional circumstances. Certain trade union organisations maintain, however, preferential relationships with specific parties or wings of parties, while it is not unlikely for businesses to be exclusively related to certain parties<sup>605</sup>.

In Greece, parties are close to the people, in the sense of social networking and promotion of social demands<sup>606</sup>. In a sense, parties are themselves instruments of the civil society, so they develop individual action and dynamics<sup>607</sup>.

## Anti-corruption commitment

*To what extent do political parties give due attention to public accountability and the fight against corruption?*

### Score: 50

Political parties, in various occasions, declare their commitment to the promotion of transparency<sup>608</sup>. A characteristic of their need to show this commitment to the fight against corruption is also the fact that, regarding the two biggest parties, PASOK on one hand has established the “Code of Conduct & Transparency for its members”<sup>609</sup>, while New Democracy on the other hand is operating the “Observatory for Transparency”<sup>610</sup>. Moreover, the Government (PASOK) in the last two years of being in power has established several legislative acts against corruption (see in particular chapter “Measures against corruption” and pillars “Legislature” and “Executive”).

It is, however, true that parties, as well as politicians, now feel a greater need to provide answers to the people and operate in greater transparency, since the financial crisis has made the public more assertive and suspicious towards politicians<sup>611</sup>.

601 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

602 See indicatively: Spourdalakis M., proposal at the event of the Citizens' Movement “Political parties and their role in the function of the democratic regime” (in Greek), 29.05.1990.

603 Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

604 See indicatively: Spourdalakis M., proposal at the event of the Citizens' Movement “Political parties and their role in the function of the democratic regime” (in Greek), 29.05.1990.

605 Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011.

606 Diamantopoulos Ath., Professor of Political Science at Panteion University of Athens, interview with the author on 25.05.2011

607 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

608 See indicatively: “Papandreou: initiatives-shield against corruption” (in Greek), [www.inews.gr/23/papandreou-protovoulies---aspida-kata-diafthoras.htm](http://www.inews.gr/23/papandreou-protovoulies---aspida-kata-diafthoras.htm), 27.01.2011. “Samaras: national agreement against corruption” (in Greek), [www.antinews.gr/2010/12/09/75220](http://www.antinews.gr/2010/12/09/75220), 09.12.2010.

609 [www.pasok.gr/portal/resource/section/codeMenu](http://www.pasok.gr/portal/resource/section/codeMenu)

610 [www.nd.gr/web/secretary-diafaneia](http://www.nd.gr/web/secretary-diafaneia)

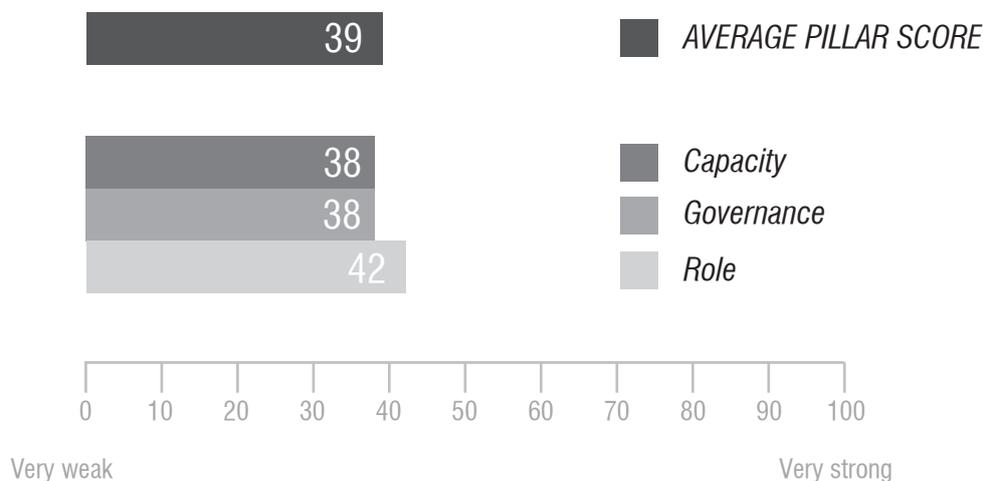
611 Skordas Ath., General Director of New Democracy, interview with the author on 19.05.2011.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government should proceed with legislative initiatives and measures to achieve the following objectives:**

- Establishment of a constitutional provision regarding the democratic operation of political parties.
- Establishment of a legislative act regarding the function of political parties.
- Oversight and audit of political parties by an independent authority.
- Reform of the amounts and the way of administering state funding to political parties.
- Reform of the legal framework regarding income and expenditure of parties and candidates. For example:
  - Abolition of the limitation regarding the amount of contribution allowed to each individual,
  - abolition of the prohibition of funding by legal entities,
  - registration of the various forms of contribution of central parties to municipal and regional parties,
  - registration of contributions by party institutes, businesses, trade union organisations, etc.,
  - abolition of the potential for invisible trading of a portion of the capitals,
  - establishment of the obligation for political parties and candidates to use one and only bank account,
  - establishment of the obligation to keep more detailed accounting books according to the international accounting principles,
  - modification of the composition of the Audit Committee, so that the audited parties are not auditors as well,
  - disclosure of transactions between, on one hand, political parties and politicians and, on the other hand, advertising and polling companies, so that the real funders of parties are registered.
- Reform of the accounting framework regarding income and expenditure of parties and candidates.
- Reform of the electoral system, so that parties and politicians will not violate provisions regarding election expenditure (i.e. implementation of the institution of postal voting, abolition of the cross of preference, limitation of large regions).
- Establishment of a legal and institutional framework regarding lobbying.
- Establishment of a new regulative framework for the restriction of conflict of interests, since the “primary shareholder” law has proved to be ineffective.

## MEDIA



### SUMMARY

The development of the media in Greece is inseparably linked to the political and general socio-economic system of the country. Media outlets operate under a regime of strong politicisation, while there have been efforts by successive governments regarding supervision of the media, with common phenomena of regression<sup>612</sup>.

At the end of the 1980s, the deregulation of the audiovisual media in Greece led to the introduction of publishers of print media to the audiovisual sector, where state interest media were already operating. Law 1866/1999 gave a clear priority to the existing media enterprises, namely print media, using the experience they already had as a justification. Before the National Council for Radio and Television (NCRTV) was able to allocate frequencies, these media enterprises occupied them arbitrarily, taking advantage of the legal gap that existed at the time.

The subject of audiovisual media licensing in Greece is a paradox. An extensive legal framework has been established, which, however, has been only partially implemented. As a consequence, the audiovisual media outlets operate under a regime of legal insecurity, thus being susceptible to political pressure. On the other hand, media owners are also pressuring the politicians, so as to serve their various business interests. Indicatively, it is mentioned that a task force of the NCRTV charged with the task of codification of the current legislation regarding the media, suggested abolition, amendment or simplification of almost 2/3 of the current legislation.

*The audiovisual media outlets operate under a regime of legal insecurity, thus being susceptible to political pressure*

### STRUCTURE & ORGANISATION

The media sector in Greece is as follows<sup>613</sup>:

- In 2009, there were 76 national and around 420 local newspapers, all private.
- After the deregulation of the audiovisual sector in 1989, public and private audiovisual media are operating in Greece. In particular, there are 4 public television stations and around 130 private ones, 8 of which are of national range.

<sup>612</sup> Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 12).

<sup>613</sup> Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, pp. 8-11.

- As regards radio stations, there are 24 national and around 960 private and municipal radio stations.
- As regards news sites on the internet, most of them are the online versions of print media and television channels. Few of them are exclusively news sites and they mostly belong to large media groups.
- More than half of internet users visit blogs. However, only 10% of them operate their own blog.
- In Greece, there is a news agency that has a leading role, the Athens News Agency – Macedonian Press Agency.
- The number of journalists working in Greece is not completely defined, because, on one hand there is no disclosure of data from the journalists' unions, but on the other hand there is no particular education or license is required to work as a journalist. However, it is estimated that there are around 17,000 people who work as journalists.

## ASSESSMENT

### Resources (law)

*To what extent does the legal framework provide an environment conducive to a diverse independent media?*

#### **Score: 50**

The current legal framework allows the operation of public and private electronic and print media of national and local range. However, the issue of licensing continues to present an obstacle for the uninterrupted operation of the media.

Current provisions prevent over-concentration of media in the hands of the same owner<sup>614</sup>. In particular, the Constitution prohibits concentration of the control of more media of the same or of different types and, more specifically, it prohibits concentration of more than one electronic media of the same type. The factors based on which, over-concentration and dominant position are judged, are further specified by law.

Moreover, the Constitution<sup>615</sup> prohibits holding the capacity of owner or management executive of both a media enterprise and an enterprise that provides goods or services to the public sector. This prohibition is extended to possible intermediaries and it is specified in separate laws<sup>616</sup>. However, the aforementioned regulations regarding ownership were annulled, due to their contradiction with European legislation on economic freedom. So, under a more recent law there is no prohibition at the outset, but there has to be proof of interplay<sup>617</sup>. Moreover, following a relevant ruling of the European Court of Justice (ECJ)<sup>618</sup>, the “transparency certificate”<sup>619</sup>, which was awarded by the NCRTV to persons who wished to participate in competitions regarding public sector contracts was abolished<sup>620</sup>.

The current legal framework also defines issues related to licensing<sup>621</sup> private radio<sup>622</sup> and television stations<sup>623</sup>, as well as pay-TV and radio<sup>624</sup>. The number of licenses to be granted, as well as the range and the type of programme to be broadcasted, is defined every time by ministerial decision, the content of

<sup>614</sup> Article 14 par. 9 of the Constitution of Greece and Articles 3 and 5 of Law 3592/2007

<sup>615</sup> Article 14 par. 9 of the Constitution of Greece.

<sup>616</sup> Law 2328/1995, Presidential Decree 310/1996, Law 3021/2002, Presidential Decree 234/2003, Presidential Decree 235/2003 and Law 3310/2005.

<sup>617</sup> Law 3414/2005.

<sup>618</sup> European Court of Justice ruling C-213/2007, “Michaniki AE v Ethniko Simvoulío Radiotileorasis & Ipourgós Epikratias”, [www.curia.eu.int](http://www.curia.eu.int).

<sup>619</sup> Law 3310/2005

<sup>620</sup> Joint Ministerial Decision 20977/2007.

<sup>621</sup> Article 15 par. 2 of the Constitution of Greece.

<sup>622</sup> Law 2328/1995, Presidential Decree 235/2003 and Law 3592/2007

<sup>623</sup> Law 2328/1995, Presidential Decree 234/2003 and Law 3592/2007.

<sup>624</sup> Law 2644/1998.

which is a decision of the government. The foundation, establishment and operation of private radio and television stations are allowed, following licensing by the NCRTV, after a call for tender. The short-listed candidates must fulfil certain organisational and technical requirements. The granted license also refers to the material that is going to be broadcasted by the station<sup>625</sup>. Current legislation also provides for a specific appeal procedure for the candidates who were not granted a license for establishing a radio or television station<sup>626</sup>.

As regards print media, even though there is no provision for licensing, their function and circulation must be according to the provisions regarding defamation, public order, security of public property and self-regulation<sup>627</sup>.

The function of blogs on the internet represents a grey zone as regards matters of legislative regulation. A relatively recent court ruling<sup>628</sup> proportionally implemented the legislation regarding the press, in order to weigh a blogger's liability in a case of defamation.

Finally, the Constitution states that<sup>629</sup> the conditions for acquiring the occupational status of a journalist will be defined by law. However, such law has never been established. In order for someone to work for certain media, it is not required, in principle, to be a journalist. Nevertheless, a person whose main occupation is journalism is required to fulfil certain conditions regarding education and experience in order to become a member of the Union of Journalists of Daily Newspapers of Athens (ESIEA), and receive, inter alia, medical insurance<sup>630</sup>.

## Resources (practice)

*To what extent is there a diverse independent media providing a variety of perspectives?*

### Score: 25

During the first phase of the establishment of private radio and television stations (end of the 1980s – beginning of the 1990s) the existing newspaper publishers were favoured. This was reasonable, perhaps, to the extent that these publishers had the required capital and know-how<sup>631</sup>.

Today, radio stations operate with permanent licenses only for the prefecture of Attiki, while television stations of national range operate with the temporary licenses that were awarded upon their establishment and are renewed ever since by law.

In the Greek territory there is a vast number of electronic and print media operating<sup>632</sup>. However, there is often over-concentration in the hands of legal and physical entities, due to serious breaches of the provisions regarding media ownership with the interference of off-shore companies, holdings and intermediaries<sup>633</sup>.

625 Article 5 par. 3 of Presidential Decree 100/2000, Articles 12 and 16 of Presidential Decree 234/2003, Articles 13 and 16 of Presidential Decree 235/2003, Articles 1 par. 3(d), 6 par. 13 and 7 par. 6 of Law 3592/2007.

626 Article 10 par. 13 of Law 3592/2007.

627 Compulsory Law 1092/1938 and Article 13 of Law 2328/1995.

628 Decision 44/2008 of the Single-judge Court of First Instance of Rodopi.

629 Article 14 par. 8 of the Constitution of Greece.

630 See indicatively: Articles 5 and 6 of Statute of the Union of Journalists of Daily Newspapers of Athens.

631 Telloğlu T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

632 Andreou M., "Bad news for the media" (in Greek), [www.adesmeytos.gr/news.php?aid=33209](http://www.adesmeytos.gr/news.php?aid=33209), 15.02.2011.

633 Leandros N., "Media concentration and systemic failures in Greece", 4 *International Journal of Communication* 2010, <http://ijoc.org/ojs/index.php/ijoc/Article/viewFile/795/464>. Telloğlu T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

Concentrations may take various forms<sup>634</sup>:

- Horizontal concentrations, where the same physical or legal entity has the control of more than one media of the same or of different type<sup>635</sup>. Vertical concentrations in the print media sector, where there are print media and press distribution agencies concentrated in the hands of the same publisher.
- Vertical concentrations in the electronic media sector, where there are audiovisual broadcasts or pay-TV services concentrated in the hands of the same entity.
- Diagonal concentrations, where there are enterprises in different sectors (i.e. industry, construction, tourism, energy, and finance-insurance businesses) concentrated in the same hands<sup>636</sup>.

Indicatively, the results of the created concentrations are, inter alia, as follows:

- Six businessmen own the biggest newspapers of national range, many magazines, several audiovisual channels, as well as press distribution agencies<sup>637</sup>.
- During the period 2006-2007 the first four television stations, with total viewership around 60%, gathered around 85% of the capital that was available for advertising in the same period<sup>638</sup>.
- Concentration is even higher as regards information, since in the same period the main news bulletins of the top four television stations had a viewership percentage of around 70%, which is rather disproportionately high if we consider that the number of private television channels at the time was around 150, 8 of which were of national range and over 20 were broadcasting in the region of Attiki<sup>639</sup>.

In spite of the resulting concentrations, it would not be possible to suggest that the media, as operating today in Greece, do not represent to a large extent all political tendencies, social groups and interests<sup>640</sup>. Possible failure to achieve the public's multilateral information is often due to current affairs monopolising information broadcasts<sup>641</sup>. There are reservations as regards pluralism control by the NCRTV, which is based mainly on quantitative and not qualitative criteria<sup>642</sup>.

It is also important that access both to electronic and print media is affordable by all citizens. There is, however, a constant downward trend in the percentage of the public that declares to be satisfied by the media, with television representing the lowest score, even though the majority of the public states that television is their main source of information. It is also worth mentioning that newspapers and magazines are constantly making special offers-gifts (DVDs, magazines, etc.), in order to maintain their sales, thus diluting the published product's role, which is their main reason for operating<sup>643</sup>.

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634 Tsiokos-Plapoutas Th., "Economic concentration and mass media in Greece: who is governing this country" (in Greek), [www.diadromi.com/?p=624](http://www.diadromi.com/?p=624), 14.11.2008.

635 The result is augmented commercial power of the aforementioned groups, which are able to attract advertising packages, advertising one media through the others, but there is also monopoly of information and culture, in cases where these groups own publishing houses, record labels etc. Moreover, a small number of journalists take over many posts in all of the group's media, thus, blocking the way of young or independent journalists. Often, the aforementioned journalistic elite later become media owners.

636 The result is powerful groups that are both media owners and public sector suppliers.

637 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 9.

638 Tsiokos-Plapoutas Th., "Economic concentration and mass media in Greece: who is governing this country" (in Greek), [www.diadromi.com/?p=624](http://www.diadromi.com/?p=624), 14.11.2008.

639 Tsiokos-Plapoutas Th., "Economic concentration and mass media in Greece: who is governing this country" (in Greek), [www.diadromi.com/?p=624](http://www.diadromi.com/?p=624), 14.11.2008.

640 Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011. Economou A., NCRT's legal advisor, interview with the author on 10.06.2011.

641 Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

642 Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

643 Chaikalis S., "Investigation on mass media in Greece" (in Greek), [http://stathishaikalis.blogspot.com/2008/04/blog-post\\_22.html](http://stathishaikalis.blogspot.com/2008/04/blog-post_22.html), 22.04.2008.

Advertising<sup>644</sup> is the main funding source for the media, but it has been reduced to a large extent, due to the financial crisis. Media outlets in Greece are, for the most part loss-making enterprises<sup>645</sup> (excess loans, liabilities to insurance funds, etc.), which, in a strange way, still manage to operate. This raises suspicion for improper relations between politicians and media owners<sup>646</sup>.

The establishment of private audiovisual media led to the rapid increase of the number of journalists, because of the higher demand for journalists. This led to the introduction in the profession, of people who probably did not have the required qualifications. In general, however, ESIEA tends to avoid accepting many new members<sup>647</sup>.

## Independence (law)

*To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?*

### Score: 25

Freedom of expression<sup>648</sup> is provided for in the Constitution. Moreover, the Constitution also establishes the right of participation in the information society<sup>649</sup>. The provision of the Constitution establishing the incompatibility of the duties of Members of Parliament and those of owners of print media of national range or owners of audiovisual media is also important<sup>650</sup>.

The Constitution<sup>651</sup> also provides for freedom of the press and prohibition of censorship and all preventive measures. Confiscation of newspapers and other print material is also prohibited both before and after their circulation. As an exemption, confiscation is allowed after circulation, following the public Prosecutor's order, as well as a specific procedure, in cases referred to in the Constitution, regarding serious damage to moral welfare or risk to national security and democracy<sup>652</sup>.

However, according to the Constitution<sup>653</sup>, audiovisual media are under the control of the state, without the above mentioned provisions for their protection, which are applicable to print media. Direct control by the State aims at the objective and by equal terms transmission of information and news, as well as of literary and artistic production, at ensuring the quality standards of programmes that are mandatory for the social mission of radio and television and for the cultural development of the country, and also aims at the respect of the value of the human being and the protection of childhood and youth. Moreover, under certain circumstances, it is allowed to proceed with the preventive prohibition of the transmission of a television programme<sup>654</sup>.

644 Tsiokos-Plapoutas Th., "Economic concentration and mass media in Greece: who is governing this country" (in Greek), [www.diadromi.com/?p=624](http://www.diadromi.com/?p=624), 14.11.2008.

645 See indicatively: Kontochristou M. & Mentzi N., "Media landscape: Greece", [www.ejc.net/media\\_landscape/Article/greece](http://www.ejc.net/media_landscape/Article/greece), 05.11.2010. "For the attention of the State the financial problems of local media" (in Greek), [www.exipno.gr/index.php/news/ellada/7714-2011-05-25-09-29-34](http://www.exipno.gr/index.php/news/ellada/7714-2011-05-25-09-29-34), 25.05.2011. Maniatis S., "Dangerous slapstick comedy" (in Greek), [www.enet.gr/?i=issue.el.home&date=26/11/2011&s=insider&c=texnes](http://www.enet.gr/?i=issue.el.home&date=26/11/2011&s=insider&c=texnes), 26.11.2011.

646 Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

647 Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

648 Article 14 par. 1 of the Constitution of Greece.

649 Article 5A of the Constitution of Greece.

650 Article 57 par. 1 of the Constitution of Greece.

651 Article 14 par. 2 of the Constitution of Greece.

652 Article 14 par. 3 and 4 of the Constitution of Greece, Law 5060/1931, Articles 40-52 of Compulsory Law 1092/1938.

653 Article 15 of the Constitution of Greece.

654 Article 4 of Presidential Decree 100/2000.

The Codes of Conduct of journalist trade unions include provisions associated with gathering, documentation, control and cross-checking of information<sup>655</sup>, as well as with professional secrecy regarding information that was acquired under circumstances giving rise to a duty to maintain secrecy<sup>656</sup> and following confidential information<sup>657</sup>.

Print media are obliged by law<sup>658</sup> to respect the truth and to aim at the protection of personality and privacy. Defamation of a person is punished, under the Criminal Code<sup>659</sup>, while the publisher is obliged to publish the relevant ruling of conviction.

Public spending for advertising the state and the broader state sector through the media is regulated by law<sup>660</sup>. Among other things, there is regulation of the procedure and media selection criteria, as well as of distribution of spending.

### Independence (practice)

*To what extent is the media free from unwarranted external interference in its work in practice?*

#### **Score: 25**

A research that was carried out by Freedom House Index in 2009, rated the media in Greece as “free”, placing the country on one position higher than Italy and Turkey. Greece ranked 23<sup>rd</sup> out of 25 west-European countries<sup>661</sup>.

State radio and television are owned by the Hellenic Broadcasting Corporation (ERT). In 1987, ERT became autonomous, but without many changes to show since then. The majority of ERT’s Managing Board members are still appointed by the state. These members of the Board are replaced every time the government changes<sup>662</sup>.

The grey area of the legal framework for licensing, in which television media outlets operate, encourages interplay and co-dependences<sup>663</sup>. NCRTV is often occupied with minor matters, ignoring major issues that tantalise the media<sup>664</sup>. Indicatively, it is mentioned that, even though there have been repeatedly observed violations of the law regarding over-concentrations, the NCRTV did not proceed with taking appropriate measures<sup>665</sup>.

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655 See indicatively: Article 2(g)(h) National Council for Radio and Television’s “Principles of Conduct of Journalism”.

656 See indicatively: Article 2(i) National Council for Radio and Television’s “Principles of Conduct of Journalism”.

657 See indicatively: Article 2(j) National Council for Radio and Television’s “Principles of Conduct of Journalism”.

658 Law 1032/1938.

659 Articles 362 and ep. of the Criminal Code.

660 Article 9 Law 2328/1995, Presidential Decree 60/1997 and Presidential Decree 261/1997.

661 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 16.

662 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 9.

663 Leandros N., “Media concentration and systemic failures in Greece”, *4 International Journal of Communication* 2010, p. 896, <http://ijoc.org/ojs/index.php/ijoc/Article/viewFile/795/464>.

Economou A., National Council for Radio and Television’s legal advisor, interview with the author on 10.06.2011.

664 Telloğlu T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

665 Leandros N., “Media concentration and systemic failures in Greece”, *4 International Journal of Communication* 2010, p. 896, <http://ijoc.org/ojs/index.php/ijoc/Article/viewFile/795/464>.

The operation of media outlets as commercial for profit businesses inevitably renders them captive of various business interests<sup>666</sup>. In evidence of that, Greece does not have enough broadcasts of the so-called “investigative journalism”<sup>667</sup>.

In practice, journalists usually comply with the code of conduct regarding information source protection. Nevertheless, cases of publishing news without cross-checking cannot be ruled out<sup>668</sup>. As regards blogs, which operate under a grey legal status, unaccountability and slander often prevail. Therefore, an increase in the compensations that courts award in cases of defamation is probably a step to the right direction<sup>669</sup>.

Print media outlets are substantially supported by state subsidies which often take the form of distribution subsidies, reduced VAT, reduced rates for telecommunications and reduced social security contributions<sup>670</sup>. State advertising that is assigned to private media reaches high figures (i.e. € 42 million in 2003, € 85 million in 2008). However, despite the relevant legal framework, assignment criteria are often vague or non-existent<sup>671</sup>. That is to say, there have been cases of print media of insignificant circulation receiving unjustifiably high amounts for state advertising<sup>672</sup>. Moreover, the favourable regulation of media debt to the state and public organisations is also an important source of power in the hands of governments<sup>673</sup>. State radio and television are additionally subsidised by mandatory license fees imposed on electricity bills, state subsidies, etc.<sup>674</sup>.

## Transparency (law)

*To what extent are there provisions to ensure transparency in the activities of the media?*

### Score: 50

By Constitution<sup>675</sup>, media outlets are obliged to disclose their ownership status, their financial status and their means of funding. A Presidential decree<sup>676</sup> defines in detail the media’s side obligations, in order to comply with the aforementioned constitutional mandate.

666 Panagiotarea A., “Control mechanisms and reality in the media market” (in Greek), [www.contemporaryjournalism.gr/wp-content/uploads/2011/02](http://www.contemporaryjournalism.gr/wp-content/uploads/2011/02). Teloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

667 Economou A., National Council for Radio and Television’s legal advisor, interview with the author on 10.06.2011.

668 Teloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

669 Teloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

670 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 8.

671 Economou A., National Council for Radio and Television’s legal advisor, interview with the author on 10.06.2011.

672 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 8. B. A., “State advertising in Wonderland” (in Greek), [www.http://archive.enet.gr/online/online\\_text/c=110,id=1558672](http://archive.enet.gr/online/online_text/c=110,id=1558672), 26.10.2008.

673 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 8-9. “State advertising and media” (in Greek), [www.http://archive.enet.gr/?i=news.el.Article&id=255192](http://archive.enet.gr/?i=news.el.Article&id=255192), 28.02.2011.

674 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 9.

675 Article 14 par. 9 of the Constitution of Greece.

676 Presidential Decree 310/1996.

The aforementioned provisions are not adequate for the achievement of transparency in the domain of the media, since media outlets do not have additional obligations, such as for example disclosure of the composition of their human resources, of the policies they implement as regards the selection of their issues, of the methods for cross-checking information and presentation of the news, etc., as media outlets in other countries do.

### Transparency (practice)

*To what extent is there transparency in the media in practice?*

#### Score: 25

Media outlets comply with the rule of law regarding disclosure of their ownership status, but there often are off-shore companies, holdings and intermediaries that appear as owners instead of the actual individuals providing the capital<sup>677</sup>, while the registers of shareholders of enterprises are published without the necessary explanations, so as to define who the actual owner is<sup>678</sup>. [See also “Resources (practice)"].

Indicatively, it is mentioned that a television channel appearing to be dealing with financial problems, had been receiving a huge bank loan until recently<sup>679</sup>. This raises reasonable suspicion for, inter alia, the way that its financial figures were represented, so that it would show borrowing capacity.

### Accountability (law)

*To what extent are there legal provisions to ensure that media outlets are held accountable for their activities?*

#### Score: 50

Since the liberalisation of the audiovisual sector at the end of the 1980s, transfer of responsibilities from one body to the other, without planning and definite goals, has been a characteristic of the monitoring framework in the media. This leads to fragmentation of monitoring responsibilities, lack of coordination between the different bodies and bureaucracy, which, in the end, undermine monitoring efficiency<sup>680</sup>.

The bodies responsible for media monitoring are the Secretariat General of Communication – Secretariat General of Information and the NCRTV.

Since 2001, NCRTV is an independent authority, capable of imposing administration penalties for breach of applicable provisions regarding radio and television<sup>681</sup>. Among NCRTV’s responsibilities are also, awarding, renewal and cancellation of operating licenses, ensuring versatility, pluralism, healthy competition<sup>682</sup> and transparency<sup>683</sup>. NCRTV’s operation is subject to parliamentary control and its decisions are appealed against before the Council of State. NCRTV also cooperates with the Hellenic Competition Committee and the National Telecommunications and Post Commission.

<sup>677</sup> Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011. Tsiokos-Plapoutas Th., “Economic concentration and mass media in Greece: who is governing this country” (in Greek), [www.diadromi.com/?p=624](http://www.diadromi.com/?p=624), 14.11.2008.

<sup>678</sup> Economou A., National Council for Radio and Television’s legal advisor, interview with the author on 10.06.2011.

<sup>679</sup> See indicatively: “Contamination of Alter – a nuclear bomb in the foundations of the media” (in Greek), [www.insideinfo.gr/Article/1997/h-molunse-tou-alter-purenike-vomva-sta-themelia-ton-midia](http://www.insideinfo.gr/Article/1997/h-molunse-tou-alter-purenike-vomva-sta-themelia-ton-midia), 07.11.2010. “Banks are stopping advertising companies for checks of Alter” (in Greek), <http://kaythpena2011.blogspot.com/2011/05/alter.html>. “Political degeneracy” (in Greek), [www.newsbomb.gr/bloggers/kwstas-chardabellas/story/86749/politikh-athliothta--](http://www.newsbomb.gr/bloggers/kwstas-chardabellas/story/86749/politikh-athliothta--).

<sup>680</sup> Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 12.

<sup>681</sup> Article 15 par. 2 of the Constitution of Greece.

<sup>682</sup> Article 4 Law 2863/2000. See also Articles 15 and 16 of Law 2644/1998 and Article 14 par. 6 of Law 2328/1995.

<sup>683</sup> Presidential Decree 310/1996.

Journalists are supervised primarily by their trade unions, which are five in number and have local authority. Most important among these, are the Union of Journalists of Daily Newspapers of Athens (ESIEA) and the Union of Journalists of Daily Newspapers of Macedonia-Thrace (ESIEMTH). Journalists from audiovisual media also participate in these unions. The unions' aim is safeguarding freedom of the press, protection of all of their members' interests and disciplinary compliance of the members of ESIEA with the principles that are included in its statute and code of conduct. These unions are part of the Pan-Hellenic Federation of Journalists' Unions (POESY).

The current legal framework sets forth respect of personality, honour, dignity and privacy, while it prohibits defamation, as well as broadcasting inaccurate information through the media. The offended party has the right to answer back, and the media is obliged to broadcast this immediately and clearly, otherwise there is a provision for harsh penalties<sup>684</sup>.

### Accountability (practice)

*To what extent can media outlets be held accountable in practice?*

Score: 25

Multi-fragmentation regarding media supervision is undoubtedly problematic. In the last years, media supervision has changed hands many times, thus leading to uncertainty in terms of allocation of responsibilities<sup>685</sup>.

The main supervisory body of audiovisual media, NCRTV, was not equipped with operational autonomy, and the result was keeping its role mostly advisory, without regulatory responsibilities<sup>686</sup>. Moreover, NCRTV does not operate efficiently also because of the fact that there is no efficient use of its human resources.

The right to answer back is not usually respected by the media<sup>687</sup>. This is partly because the offended parties often do not reach the end of the relevant procedure<sup>688</sup>. Few media outlets employ legal advisors who, by preventive control, ensure that journalists do not commit offences, hurting the honour and reputation of the people they bring out.

Finally, in many cases, some choose to take cover by the internet's anonymity and act irresponsibly and malevolently<sup>689</sup>. For this reason, the Minister of Justice, Transparency and Human Rights, speaking recently before the Committee on Institutions and Transparency of the Hellenic Parliament, announced the end of the anonymity of blogs and the increase in the number of offences for which the Authorities will be able to proceed with lifting confidentiality.

In this framework, a study of a series of regulations will take place, regarding the identification of blog administrators and the increase in the number of offences for which it will be allowed to lift confidentiality of communications. In any case, however, it has been underlined that the legislative modifications will not surpass the red line of freedom of expression, a principle that is constitutionally established<sup>690</sup>.

684 Article 14 par. 5-7 of the Constitution of Greece, Articles 37-39 of Compulsory Law 1092/1938, Article 3 of Law 2328/1995, Article 9 of Presidential Decree 100/2000 and Article 9 Presidential Decree 77/2003..

685 Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

686 Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 13. Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

687 Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

688 Economou A., National Council for Radio and Television's legal advisor, interview with the author on 10.06.2011.

689 Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

690 "The end of anonymity in blogs!" (in Greek), [www.newsbeast.gr/technology/arthro/209747/telos-i-anonomia-sta-blogs](http://www.newsbeast.gr/technology/arthro/209747/telos-i-anonomia-sta-blogs), 02.08.2011.

## Integrity mechanisms (law)

*To what extent are there provisions in place to ensure the integrity of media employees?*

### Score: 50

By law, radio and television stations should proceed with self-commitment and self-regulation contracts, as well as with holding conduct committees<sup>691</sup>. These contracts should be submitted and approved by the NCRTV, in order for the aforementioned media to be awarded a license.

ESIEA, POESY and the Greek Foreign Press Association respect the relevant codes of conduct for journalism. Furthermore, NCRTV has developed codes of conduct for, inter alia, journalists, advertisements, news and entertainment broadcasts. Compliance with these codes of conduct is controlled by the responsible body that drafts and implements them (ESIEA, POESY, etc.).

According to the NCRTV's annual report for the year 2009, the ethics committees in the media that are provided for by law have not been active until today<sup>692</sup>.

## Integrity mechanisms (practice)

*To what extent is the integrity of media employees ensured in practice?*

### Score: 25

Often, journalists are indifferent towards acting within the boundaries of ethics. For example, it is not rare for them to get caught in the trap of disclosing a scoop, publish it without prior cross-checking, thus being obliged to correct it afterwards<sup>693</sup>.

However, the biggest problem in Greece regarding journalists' integrity is that many of them are caught in conflicts of interest. More specifically, it is a common occurrence that journalists are in the payroll not only of media, but also of Ministries, public organisations or companies outside the media sector<sup>694</sup>.

## Investigating and exposing cases of corruption

*To what extent is the media active and successful in investigating and exposing cases of corruption?*

### Score: 25

The so-called "investigative journalism" is particularly costly and time-consuming, while it requires strong journalistic skills. Broadcasts of this kind in Greece are rare and still in a primitive stage<sup>695</sup>. Nevertheless, some of them have had big success as regards disclosure of local and international scandals, and –in particular- scandals related to corruption<sup>696</sup>. These disclosures have more than a few times triggered

<sup>691</sup> Article 8 of Law 2863/2000. Contracts of self-commitment and self-regulation are not applicable as Law.

<sup>692</sup> Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 24.

<sup>693</sup> Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011. See indicatively also "Denial of the news regarding the death of Andreas Vgenopoulos" (in Greek), [www.inews.gr/40/diapsefsi-eidisis-gia-thanato-tou-andrea-vgenopoulou.htm](http://www.inews.gr/40/diapsefsi-eidisis-gia-thanato-tou-andrea-vgenopoulou.htm), 20.12.2011.

<sup>694</sup> Anagnostou D., Psychogiopoulou E. and Kandyla A. (ELIAMEP), *Media Policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: the case of Greece*, 2010, p. 11. Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

<sup>695</sup> Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

<sup>696</sup> See indicatively broadcasts: "Fakeloi", "To kouti tis Pandoras", "Zoungla", "Kitrinos Typos", "Reportage horis synora", etc.

developments in the public life<sup>697</sup>. Often, support of investigative journalism by media owners depends on the subject of the investigation. When the latter touches powerful interests, then media owners often yield to pressure and impose silence to the journalists<sup>698</sup>.

### Informing the public about corruption and its impact

*To what extent is the media active and successful in informing the public about corruption and its impact on the country?*

**Score: 25**

Until today there has not been any coordinated campaign by the media to inform the public about corruption and its consequences. However, in the framework of information broadcasts and broadcasts of the so-called “investigative journalism”<sup>699</sup>, the public is able to be alerted as regards areas where corruption thrives and as regards its multiple costs<sup>700</sup>. High viewership<sup>701</sup> of these broadcasts shows the public’s interest in the disclosure of cases of corruption that are against the public interest. However, given the close relationship of the media with the political parties, disclosures of these broadcasts should be faced with critical attitude, since there is a possibility that they might be serving certain interests<sup>702</sup>.

### Informing the public about governance issues

*To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?*

**Score: 75**

The work of the government is almost monopolising the information sector, considering that it covers the largest part of political newspapers’ pages, as well as the prime time of the one hour-long evening news. However, radio and television media often raise only current affairs with high viewership, but without shedding light on the news as a whole. Information through the print media and the internet is more complete<sup>703</sup>. Nevertheless, the close relationship that has been created between media enterprises and certain political agents is a constant threat to the pluralism of the media, the objectivity of the news and, finally, democracy itself<sup>704</sup>.

*Often, support of investigative journalism by media owners depends on the subject of the investigation*

697 See indicatively: “S. Tsitouridis submitted his resignation to the Prime Minister on grounds of sensitivity” (in Greek), <http://news.in.gr/greece/Article/?aid=568305>, 22.09.2004. “Gkerekou resigns because of Voskopoulos’ debts” (in Greek), [www.tanea.gr/ellada/Article/?aid=4575145](http://www.tanea.gr/ellada/Article/?aid=4575145), 17.05.2010.

698 Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

699 See indicatively broadcasts: “Fakeloi”, “To kouti tis Pandoras”, “Zoungla”, “Kitrinos Typos”, “Reportage horis synora”, etc.

700 Telloglou T., accredited journalist in investigative journalism, interview with the author on 04.05.2011.

701 See indicatively: “Neoi Fakeloi again on SKAI” (in Greek), [www.cosmo.gr/Entertainment/Media/Eidiseis/oi-neoi-fakeloi-kai-pali-ston-skai.1288046.html?service=print](http://www.cosmo.gr/Entertainment/Media/Eidiseis/oi-neoi-fakeloi-kai-pali-ston-skai.1288046.html?service=print), 12.07.2010. “High percentages of viewership achieved by Zoungla” (in Greek), [www.zoungla.gr/page.ashx?pid=2&aid](http://www.zoungla.gr/page.ashx?pid=2&aid).

702 Leandros N., “Media concentration and systemic failures in Greece”, 4 *International Journal of Communication* 2010, p. 895, <http://ijoc.org/ojs/index.php/ijoc/Article/viewFile/795/464>.

703 Economou A., National Council for Radio and Television’s legal advisor, interview with the author on 10.06.2011.

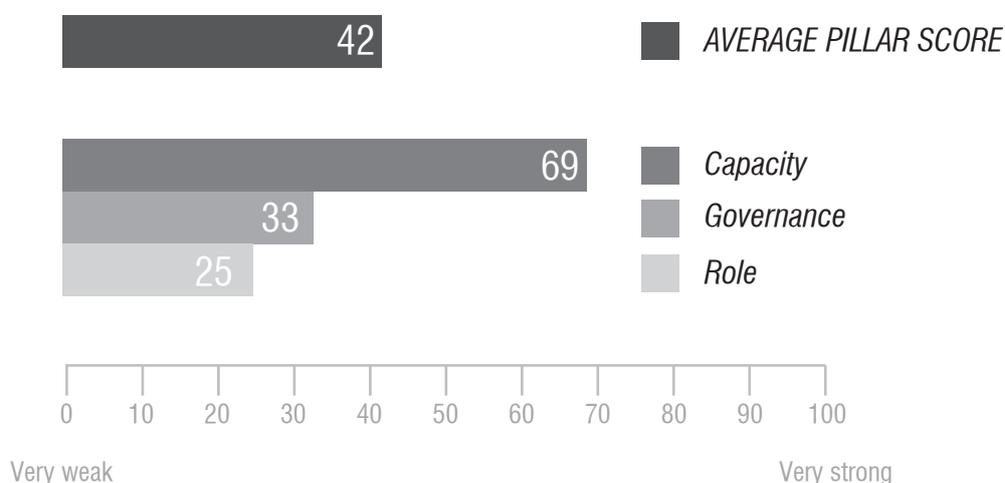
704 Leandros N., “Media concentration and systemic failures in Greece”, 4 *International Journal of Communication* 2010, p. 895, <http://ijoc.org/ojs/index.php/ijoc/Article/viewFile/795/464>.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to proceed with legislative initiatives and measures for the achievement of the following:**

- Implementation of the current legislation.
- Establishment of an operation framework for print media, as well.
- Provision of legal authorisations to the audit authorities of the media, in order to regulate the technical details, so that laws are not rendered out of date and, therefore, inapplicable in a short period of time.
- Support the NCRTV by:
  - selecting specialised personnel
  - providing full and exclusive employment for its members
  - allocating own resources
  - assigning regulation responsibilities.
- Establishment of the general incompatibility of the duties of a journalist with another occupation and establishment of the obligation to make public the posts that are occupied by journalists.
- Regarding state advertising, it should:
  - not be assigned to companies with tax or social security debts
  - not be assigned to newly introduced media, before a certain period of time since the beginning of their circulation
  - establish a body for circulation and viewership certification
  - establish a control committee for the control and annulment of irregular assignments.
- Publication of the register of shareholders of media enterprises to be accompanied by specifications regarding the concentrations that are created.

## CIVIL SOCIETY



### SUMMARY

There has been a rapid increase in the number of Non-Governmental Organisations (NGOs) in Greece, during the last years. However, the legal and institutional framework in which they function is still very immature, thus creating serious doubts regarding their independence, transparency and integrity. There are, nevertheless, hopeful signs as attempts are currently made towards their regulation and self-regulation.

### STRUCTURE & ORGANISATION

The term “Non-Governmental Organisation (NGO)” appeared for the first time in the Greek legislation in Law No. 2646/1998 for the development of the National Social Care System, and later in Law No. 2731/1999 for development aid. However, the definition of the term is not included in the Greek legislation, and it has only developed in practice, mainly through the self-characterisation of organisations as non-governmental. In Greek bibliography, the Civil Society has been defined also as the area “from the doors of households to the entrances of public services”<sup>705</sup>.

Therefore, it is not possible to determine the exact number of NGOs that are active in Greece. The existing data shows, however, that the largest NGOs are athletic associations, religious-ecclesiastical associations, as well as educational-cultural clubs<sup>706</sup>.

*However, the legal and institutional framework in which they function is still very immature, thus creating serious doubts regarding their independence, transparency and integrity*

<sup>705</sup> Sotiropoulos D., “Patron-client relationships and new forms of political participation: a difficult co-existence” (in Greek), announcement at the international scientist symposium “Revisions of the political” (in Greek) of the Department of Social Anthropology and History of the University of the Aegean, Mytilene, 2007.

<sup>706</sup> Sotiropoulos D., “Patron-client relationships and new forms of political participation: a difficult co-existence” (in Greek), announcement at the international scientist symposium “Revisions of the political” (in Greek) of the Department of Social Anthropology and History of the University of the Aegean, Mytilene, 2007.

## ASSESSMENT

## Resources (law)

*To what extent does the legal framework provide an environment conducive to civil society?*

**Score: 100**

The right to free association is explicitly provided for in the Constitution<sup>707</sup>. However, the current legal framework does not include special provisions regarding the foundation and operation of NGOs.

An NGO can have the legal structure of not-for-profit private legal entities under the Civil Code, namely the union of entities<sup>708</sup>, not-for-profit civil companies<sup>709</sup>, associations<sup>710</sup>, (charitable) foundations<sup>711</sup> and fund-raising commissions<sup>712</sup>, as well as the structure of not-for-profit private legal entities under special laws.

The simplest form that a citizens' movement could take is that of a union of entities, which does not actually require any legal formalities. The process of establishing a civil non-for-profit company is also relatively simple, requiring only two entities for its establishment and operation.

The vast majority of NGOs in Greece has the legal structure of an association. In order to establish an association, one is required to file an application to the responsible Court of First Instance, attaching the act of establishment, the names of the members of the administration and a dated statute signed by at least 20 members. In case the legal provisions are met, the Court accepts the application. Then, publication in the press and registration in the book of associations is required, in order for the association to acquire legal status. This whole procedure is deemed simple and it usually lasts less than six months<sup>713</sup>. The Court's ruling is only subject to an appeal. A ruling dismissing the application can be appealed against only by the applicant, whereas a ruling accepting the application can be appealed against only by the State for overriding reasons of public interest.

The special tax provisions that regard associations, which represent the vast majority of the Civil Society entities in Greece, include, inter alia, not being subjected to VAT and the lack of obligation to keep category books. Charitable institutions enjoy many more privileges<sup>714</sup>. The state has offered them lenient tax provisions as a reward to the charitable institutions for the services that offer to society, as well as to encourage the establishment of such institutions. In particular:

- As regards taxation of inheritance – donations, full tax exemption is provided for.
- As regards income tax, they are exempt from any taxation.
- As regards large property holding tax, they are exempt from taxation for buildings they use themselves.
- Tax legislation, in order to encourage citizens and businesses to contribute to the financial strengthening of charitable foundations, recognizes the amounts donated to them as expenditure, which is deducted from the total income or profits.
- Finally, the Constitution provides protection for charitable foundations by prohibiting the alteration of the content of the clauses of the will or donation for a public or charitable cause<sup>715</sup>.

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*707 Article 12 of the Constitution of Greece.*

*708 Article 107 of Civil Code.*

*709 Articles 741-784 Civil Code.*

*710 Articles 78-107 Civil Code.*

*711 Articles 108-121 Civil Code.*

*712 Articles 122-126 Civil Code.*

*713 Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011*

*714 See indicatively: Siomopoulos I., "Unreasonable taxation of charitable institutions" (in Greek), [www.tovima.gr/finance/Article/?aid=150723](http://www.tovima.gr/finance/Article/?aid=150723), 20.04.2003.*

*715 Article 109 of the Constitution of Greece.*

## Resources (practice)

*To what extent do Civil Society Organisations (hereinafter also “CSOs”) have adequate financial and human resources to function and operate properly?*

### Score: 50

NGOs should include in their statutes provisions regarding their funding sources, which, depending on the relevant activities, can be revenues from:

- membership fees,
- donations,
- sponsorships in the framework of corporate social responsibility,
- advertisements in their publications,
- state and European funding,
- distribution of their products,
- organising events,
- utilisation of assets, etc.

Due to lack of available data, it is not possible to rule out dependence from a single funding source<sup>716</sup>. However, NGOs with dispersed funding sources have proved to be more viable<sup>717</sup>.

Regarding sponsorships, it is noted that businesses now tend to fund, in the framework of their corporate social responsibility, NGOs relevant to the product they market, so that in the end the name of the company is related in the public conscience with a specific NGO<sup>718</sup>. However, these sponsorships may constitute, inter alia, cases of circumstantial aid, money laundering or even an attempt to manipulate public opinion, as it has been apparent in various cases until today<sup>719</sup>.

The participation of Greeks in unions and associations is limited, compared to other western-European countries, but their participation in workers' unions and professional associations is not lagging behind<sup>720</sup>. Lately, however, it has been negatively affected by the financial crisis, as citizens struggle to provide for their homes first<sup>721</sup>. It is noted, moreover, that volunteering in our country is based more on social

<sup>716</sup> Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

<sup>717</sup> Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

<sup>718</sup> Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011. Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

<sup>719</sup> Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

Paletsakis G., “Money laundering through donations” (in Greek) [www.makthes.gr/news/economy/69812](http://www.makthes.gr/news/economy/69812), 26.02.2011.

“NGO frauds” (in Greek), [www.oplognosia.com](http://www.oplognosia.com).

“NGO business – the Government’s trick for money laundering” (in Greek), [http://adena-gr.blogspot.com/2011/03/blog-post\\_9025.html](http://adena-gr.blogspot.com/2011/03/blog-post_9025.html)

<sup>720</sup> Sotiropoulos D., “Patron-client relationships and new forms of political participation: a difficult co-existence” (in Greek), announcement at the international scientist symposium “Revisions of the political” (in Greek) of the Department of Social Anthropology and History of the University of the Aegean, Mytilene, 2007.

<sup>721</sup> Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

altruism and patriotic morale (as for example during the 2004 Olympic Games in Athens), that are often circumstantial phenomena, and not a regular and systematic offer that is long-lasting and conscious<sup>722</sup>. Moreover, the client-patron relationships that are often created in the domain of NGOs lead to the fragmentation of the civil society<sup>723</sup>.

Due to lack of a definition of the term “NGO” in the Greek legislation, it is not possible to determine the number of employees in the domain of NGOs, as well as the circulating funds<sup>724</sup>. However, it can be stated with certainty, that the limited financial resources of NGOs have a negative effect on their ability to attract specialised work force<sup>725</sup>.

### Independence (law)

*To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?*

#### Score: 75

In article 12 of the Constitution, the right of free association is established for all citizens without exemption, while article 14 par. 1 of the Constitution safeguards freedom of expression, within the boundaries of the law.

Associations can handle their own affairs without the compulsory participation of state entities in their administration or meetings.

In case of war, mobilisation due to external risks or direct threat for national security, as well as in case of an armed movement against the democratic regime, the Parliament, by its own decision made public by the President, may suspend the implementation of, inter alia, article 12 of the Constitution. The duration of the enforcement of these measures is decided by the Parliament and may not be longer than fifteen days<sup>726</sup>. The duration of these measures may be extended every fifteen days by the Parliament’s decision<sup>727</sup>. These measures are annulled ipso jure after the end of the fifteen-day period and, in any case, after the end of the war, if they have been enforced due to war<sup>728</sup>.

### Independence (practice)

*To what extent can civil society exist and function without undue external interference?*

#### Score: 50

Despite the fact that the law does not provide for governmental intervention in the functioning of NGOs, their financial dependence on state resources obviously entails the possibility of creating client-patron relationships between the two sides<sup>729</sup>. There are also cases where politicians make sure that their names are related to an NGO, which they have possibly founded themselves, so as to improve their public image<sup>730</sup>.

<sup>722</sup> Giannis N., *Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.*

<sup>723</sup> Giannis N., *Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.*

<sup>724</sup> “Non-Governmental Organisations receive millions of euros as funding by the ministry and the EU in a non-transparent system” (in Greek), <http://m-epikaira.gr>, 16.10.2010.

<sup>725</sup> Antypas Tz., *Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.*

<sup>726</sup> Article 14 par. 1 of the Constitution of Greece.

<sup>727</sup> Article 14 par. 3 of the Constitution of Greece.

<sup>728</sup> Article 14 par. 4 of the Constitution of Greece.

<sup>729</sup> Antypas Tz., *Chairman MKO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.*

<sup>730</sup> Giannis N., *Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.*

Cases of intimidation, extortion, etc., by government agents against members of the Civil Society, have not been observed until today. However, the threat of a refusal for future funding by state resources cannot be ruled out<sup>731</sup>. This may lead NGOs that depend mainly on state resources to align with the government's policy<sup>732</sup>.

## Transparency (practice)

*To what extent is there transparency in CSOs?*

### Score: 25

According to article 93 of the Civil Code, unless otherwise indicated in the association's statute, adoption of the balance sheet is among the responsibilities of the association's General Assembly. In practice, every year, the financial report of the previous year and the Board's release from every related responsibility, take place at the association's annual General Assembly, while there is often discussion on next year's budget. However, questions arise concerning the actual capacity and ability of the association's members to control the administration's financial management, even though in several associations there is provision for control by certified auditors. Further disclosure of financial facts lies within the associations' discretion, which admittedly do not usually proceed with this<sup>733</sup>, except in cases where it is required by the law, mainly due to their size.

It is underlined that associations are not obliged to keep detailed accounting books, a practice that does not contribute adequately to the presentation of the associations' finances in the most transparent manner<sup>734</sup>. On the contrary, this could be achieved by keeping detailed accounting books.

Regarding disclosure of the statute of the association's administration, it is noted that the application for the founding of an association is accompanied by a list of the administration's members' names<sup>735</sup>. Afterwards, the obligation for disclosing the names is not provided for by law. However, associations operating websites often upload the names of the administration's members, whereas there are NGOs that do not proceed with this kind of disclosure for various reasons<sup>736</sup>.

In order to promote a common framework for the operation of Civil Society organisations in Greece, a private legal entity under the name "Citizens' Project"<sup>737</sup> was established by the Ministry of Culture with a mission to promote, coordinate and contribute to the NGOs' work. Until today, however, the aforementioned organisation has not delivered the expected results, while there have also been cases of mismanagement<sup>738</sup>.

731 Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

732 Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011

733 Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011. Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

734 Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

735 Article 79 Civil Code.

736 Giannis N., Expert Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

737 [www.ergopoliton.gr](http://www.ergopoliton.gr)

738 Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

"The state organisation for volunteering "Citizens' Project" referred to the District Attorney" (in Greek), [www.myxanthi.gr/news](http://www.myxanthi.gr/news), 30.05.2011. "Citizens' Project? They got the wolf to guard the sheep" (in Greek), <http://maecenas.capitalblogs.gr>, 03.02.2011

## Accountability (practice)

*To what extent are CSOs held accountable to their constituencies?*

**Score: 25**

Experience so far has shown that, in general, productive NGOs do not communicate their actions sufficiently to the public, due to various factors<sup>739</sup>. There are, however, cases of NGOs for which advertising themselves is a primary concern, even more important than offering actual services<sup>740</sup>.

The main reason for the lack of control of NGOs is the absence of an independent monitoring authority<sup>741</sup>. However, following the initiative of the “Campaign of 800 NGOs for the Constitution and the Institutions”, draft legislation has been published, including, inter alia, the definition of the “NGO” and the “volunteer”, categorisation of NGOs, the foundation of an independent monitoring authority and drawing up NGO records<sup>742</sup>. The future of the aforementioned legislative initiative is still uncertain.

Thus, on the opposite side of NGOs trying to promote transparency and respect for human rights, lie several “NGOs-hallmarks”, which operate having as their sole purpose crucial capital drainage from the state and European Union budget. This became obvious both in 2008, when, due to another incident, the record of NGOs funded by the Ministry of Culture was disclosed, and recently, when the record of NGOs funded by the Ministry of Foreign Affairs (MFA) was disclosed<sup>743</sup>. In particular, it was revealed that unknown associations, with a trivial purpose and doubtful efficiency, had received huge amounts of money as funding.

## Integrity (practice)

*To what extent is the integrity of CSOs ensured in practice?*

**Score: 50**

In 2006, eleven big international NGOs drew up and signed the “International Non-Governmental Accountability Charter”<sup>744</sup>, by which they were self-committed to respect universal values and principles, to operate using modern administration and management systems, to accept external independent auditors with complete transparency and with the obligation to be accountable both to the organisation internally, and to third parties<sup>745</sup>.

The example set by these eleven international NGOs, was followed, on 11.04.2008, by ten Greek NGOs which signed the official Greek translation of the Accountability Charter in a formal ceremony<sup>746</sup>. Today, the number of these NGOs has reached 24<sup>747</sup>, while the signing of the Charter is underway by other NGOs, as well. Obviously, this number is insignificant compared to the total number of NGOs that are active in Greece.

<sup>739</sup> Antypas Tz., Chairman of NGO “PRAKSIS” and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

<sup>740</sup> Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

<sup>741</sup> Antypas Tz., Chairman of NGO “PRAKSIS” and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

<sup>742</sup> Giannis N., Expert of the Commission of Institutions and Transparency of the Greek Parliament & author of the draft legislation on NGOs and volunteering, interview with the author on 17.05.2011.

<sup>743</sup> Antypas Tz., Chairman of NGO “PRAKSIS” and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011. See indicatively also: ““Non-Governmental Organisations”: a state of sinecurist opportunists... “instead of” the state!!!” (in Greek), <http://news.kozaninet.gr/?p=9713>, 10.01.2010. Tsimplaki K., ““Accounting error” the NGO scandal”, [http://www.apokalypseis.gr/index.php?option=com\\_content&view=Article&id=3312:mko-sfalma&catid=2:news&Itemid=4](http://www.apokalypseis.gr/index.php?option=com_content&view=Article&id=3312:mko-sfalma&catid=2:news&Itemid=4), 10.03.2011.

<sup>744</sup> [www.ingoaccountabilitycharter.org](http://www.ingoaccountabilitycharter.org)

<sup>745</sup> [www.infoaccountabilitycharter.org](http://www.infoaccountabilitycharter.org)

<sup>746</sup> Open Society – Newsletter of the Citizen’s Movement for an Open Society, *Charter of Self-commitment, Social Responsibility and Accountability of Non-Governmental Organisations*, issue 69(3), 2008.

<sup>747</sup> Antypas Tz., Chairman of NGO PRAKSIS and one of the pioneers of Civil Society in Greece, interview with the author on 21.04.2011.

The initiative “Everyone’s Principles of Focusing on Operation and Organisation Quality by Serving Our Goals (hereinafter also “APOPLOUS” after its Greek acronym)” by the “Campaign of 800 NGOs for the Constitution and the Institutions” is another attempt towards self-commitment. Based on the schedule that was determined, the consultation procedure consisted of two phases. In the first phase, which has already completed after the official publication of APOPLOUS and the campaign members were informed about the draft, included the recording of observations and proposals. In the second phase, which is going on right now, consultation is carried out anew, in order to finalise the plan. The final plan will be sent to the involved NGOs to be approved and accepted by their administrative instruments.

### Holding Government Accountable (law & practice)

*To what extent is civil society active and successful in holding government accountable for its actions?*

#### **Score: 25**

As shown above, the Civil Society in Greece is still in a development phase, inadequately organised and having a much less significant role compared to the power of the state. As a result, its action has limited impact, even though it often develops dialogue with the state<sup>748</sup>. The Civil Society claims its ground regarding both control of the government in office and participation in procedures of public consultation for actions that fall in its areas of interest. However, it has not yet managed to acquire the legal status and power that this domain has in other countries<sup>749</sup>.

Strong initiatives can be detected for example in the areas of environment, human rights and consumer protection, but their impact is limited even in those areas. On the contrary, entities of the Civil Society which are closer to government and party entities (i.e. employee unions, student organisations) prove to be more effective. The aforementioned distance that citizens keep from NGOs, has its roots, inter alia, in the deep politicisation of the Greek people after the fall of the junta regime that lasted from 1967 until 1974<sup>750</sup>.

### Policy Reform (law & practice)

*To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?*

#### **Score: 25**

In Greece, the only NGO exclusively dedicated to the fight against corruption is Transparency International-Greece, which is developing substantial and notable actions of important range<sup>751</sup>. However, other NGOs, along with bodies, such as professional and scientific unions, develop parallel actions on this level.

As a whole, though, the assessment of the role of NGOs in the fight against corruption, shows that Civil Society in Greece still has a long way ahead of it, until it can serve as a contributing factor to social consciousness<sup>752</sup> inter alia in matters relating to the fight against corruption, considering that these very few entities that deal with corruption issues have not managed so far to change the situation in Greece<sup>753</sup>.

<sup>748</sup> See also: Sotiropoulos D. and Karamagioli E., *Greek Civil Society: the Long Way to Maturity (2005) – CIVICUS Civil Society Index Shortened Assessment Tool Report for the Case of Greece, 2006*, p. 55 and ab.

<sup>749</sup> Sotiropoulos D., “Patron-client relationships and new forms of political participation: a difficult co-existence” (in Greek), announcement at the international scientist symposium “Revisions of the political” (in Greek) of the Department of Social Anthropology and History of the University of the Aegean, Mytilene, 2007

<sup>750</sup> Sotiropoulos D. and Karamagioli E., *Greek Civil Society: the Long Way to Maturity (2005) – CIVICUS Civil Society Index Shortened Assessment Tool Report for the Case of Greece, 2006*, p. 55 and ab.

<sup>751</sup> See also [www.transparency.gr](http://www.transparency.gr)

<sup>752</sup> Sotiropoulos D. and Karamagioli E., *Greek Civil Society: the Long Way to Maturity (2005) – CIVICUS Civil Society Index Shortened Assessment Tool Report for the Case of Greece, 2006*, p. 55 and ab.

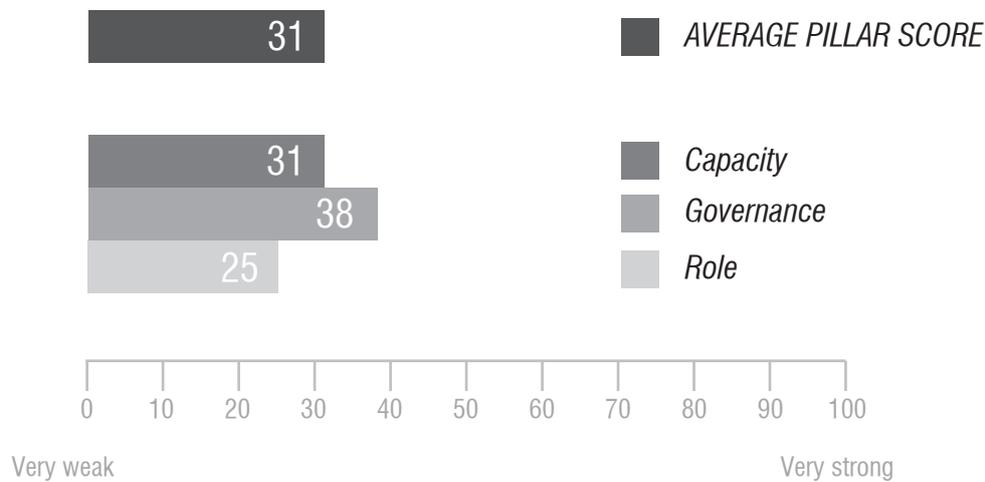
<sup>753</sup> Transparency International-Greece, “National Research on Corruption in Greece 2010 – Analytical Presentation”, [www.transparency.gr/Content.aspx?page=11](http://www.transparency.gr/Content.aspx?page=11)

## **SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION**

**The Government has to proceed with legislative initiatives and measures for the achievement of the following:**

- Adoption of an institutional framework for licensing, monitoring, operation, accountability and funding of NGOs.
- Adoption of an institutional framework for volunteering.
- Adoption of an obligation for the NGOs to keep detailed accounting books and to publish them, especially if they receive state funding.
- Adoption of a limit regarding state funding.
- Promotion of the NGOs' communication with the Parliament, for example through the establishment of a responsible parliamentary committee.

## BUSINESS



## SUMMARY

The business sector in Greece, especially with regard to enterprises listed in the Athens Stock Exchange, is subject to international standards for matters regarding its transparency, accountability and integrity. An important gap is observed regarding enterprises not listed on the ASE and small businesses.

The legislative complexity and bureaucracy that prevail in Greece create serious obstacles for the establishment and operation of enterprises, representing at the same time grounds for corruption. However, the business world, despite facing so many problems due to the aforementioned corruption, has not yet risen against it as decisively as it should.

## STRUCTURE & ORGANISATION

Almost 960,000 enterprises are operating in Greece. Nearly 93% of them belong to the small and medium enterprises category<sup>754</sup> and employ in total more than one million employees<sup>755</sup>.

An enterprise in Greece may operate under the following legal statuses<sup>756</sup>:

- sole proprietorship
- general partnership (G.P.)
- limited partnership (L.P.)
- limited liability company (L.L.C.)
- public limited company (P.L.C.)

Each legal form is treated in a different way under legislation.

<sup>754</sup> For Greece, these are enterprises having up to 12 employees.

<sup>755</sup> KEME/ACCI (edit. Athens University of Economics and Business), *Banking System and Businesses*, 2007, p. 4. Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

<sup>756</sup> KEME/ACCI (edit. Bendis Th.), *Establishment of businesses and bureaucracy*, 2009, p. 4. "Ease of doing business in Greece 2012", [www.doingbusiness.org/data/exploreeconomies/greece](http://www.doingbusiness.org/data/exploreeconomies/greece)

## ASSESSMENT

## Resources (law)

*To what extent does the legal framework offer an enabling environment for the formation and operations of businesses?*

**Score: 25**

Procedures required for the establishment of an enterprise, range between 7 and 10, depending on the company's legal form. Ideally, the time required is around 19 days. Procedures for the termination of a business are also complex and time-consuming, especially in cases of business bankruptcy<sup>757</sup>. Disputes between individuals and public administration in the process of establishment and termination of a business are resolved in administrative courts.

The current legal framework regarding the protection of intellectual and industrial property rights is complete<sup>758</sup>. This is also the case with regard to the protection of agreements, given the fact that relevant disputes that may perhaps arise are resolved by the relevant courts.

## Resources (practice)

*To what extent are individual businesses able to form and operate effectively in practice?*

**Score: 25**

According to a World Bank and International Finance Corporation research<sup>759</sup>, Greece ranks 109 out of 183 countries as regards facilitating entrepreneurship. More specifically, Greece's rankings as regards a series of business interest procedures are as follows:

PROCEDURE	RANK
Establishment of a business	149
Building permit issuing	51
Real estate registration	153
Loan issuing	89
Investor protection	154
Taxation	74
Cross-border trade	84
Agreement implementation	88
Termination of a business	49

According to a World Economic Forum research, the biggest problems regarding entrepreneurship in Greece are, among others, in descending order, bureaucracy, corruption, employment framework, policy variation, fiscal framework, access to loan issuing, infrastructures, fiscal factors, as well as the workforce's lack of commitment and dedication<sup>760</sup>.

<sup>757</sup> KEME/ACCI (edit. Bendis Th.), *Establishment of businesses and bureaucracy*, 2009, p. 2. Michalos C., *businessman and chairman of the Athens Chamber of Commerce and Industry*, interview with the author on 01.06.2011. Lambrou Ch., *corporate banking executive of Attica Bank*, interview with the author on 20.05.2011.

<sup>758</sup> See indicatively: *Industrial Property Organisation* [www.obj.gr](http://www.obj.gr).

<sup>759</sup> *World Bank & International Finance Corporation, Doing Business 2011: Making a Difference for Entrepreneurs*, 2011, p. 165.

<sup>760</sup> Schwab K. (World Economic Forum), *The Global Competitiveness Report 2010-2011*, 2010, p. 168

In a research conducted by The Heritage Foundation, it is underlined, furthermore, that Greece's recent financial crisis is caused by, inter alia, many years of maladministration and spending, while reduced competition stands on the way of development. Powerful unions, the country's non-liberal commercial policy, inadequate protection of intellectual property and demand of state licensing in many business sectors, are several more problems tantalising entrepreneurship in Greece<sup>761</sup>.

In practice, the process for the establishment of a business may last up to 2 months, since there is no compliance with legal deadlines<sup>762</sup>, while in some cases the cost supersedes the project's budget due to unexpected problems<sup>763</sup>. Recently, the government established the one-stop-shop regarding the setting up of businesses. However, this objective has not been achieved yet, since there is no interconnection between all the relevant authorities and, therefore, submissions of multiple documents to each authority separately are still required<sup>764</sup>. This applies also to the termination of businesses<sup>765</sup>. In cases where recourse to legal instruments is required, procedures become even more time-consuming. Nevertheless, there is no doubt as regards judicial integrity<sup>766</sup> (see also pillar "Judiciary").

As regards the protection of industrial property rights, the fact that illegal trade flourishes in Greece, shows that the application of the current legislative acts requires adaptation to more functional methods, such as the reinforcement of audit mechanisms, awareness of consumers, imposing of sanctions, promotion of international cooperation, etc.<sup>767</sup>.

## Independence (law)

*To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?*

### Score: 50

The role of the public sector in a company's licensing, operation, bankruptcy and liquidation, is dominating, since most procedures are realised mainly through public services<sup>768</sup>. This transaction, in person most of the times, between individuals and the public sector, combined with the legislation complexity that is characteristic of the Greek legal order, often creates grounds for bribery of public officers.

In particular, according to a recent study by the Hellenic Federation of Enterprises (SEV)<sup>769</sup>, impediments in entrepreneurship in Greece are found in 30 areas.

These 30 areas are related with the current legal and institutional system, and, in order to overcome the obstacles, the following are required:

- codification and simplification of the relevant legislation, as well as of the procedures that arise from it.
- actual coordination of the relevant bodies from a single central body responsible for auditing and monitoring specific domains and markets.

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<sup>761</sup> [www.heritage.org/index/country/greece](http://www.heritage.org/index/country/greece).

<sup>762</sup> KEME/ACCI (edit. Bendis Th.), *Establishment of businesses and bureaucracy*, 2009, pp. 10-11.

<sup>763</sup> Lambrou Ch., *corporate banking executive of Attica Bank*, interview with the author on 20.05.2011.

<sup>764</sup> Michalos C., *businessman and chairman of the Athens Chamber of Commerce and Industry*, interview with the author on 01.06.2011.

<sup>765</sup> Lambrou Ch., *corporate banking executive of Attica Bank*, interview with the author on 20.05.2011.

<sup>766</sup> Lambrou Ch., *corporate banking executive of Attica Bank*, interview with the author on 20.05.2011.

<sup>767</sup> Lambrou Ch., *corporate banking executive of Attica Bank*, interview with the author on 20.05.2011.

<sup>768</sup> Michalos C., *businessman and chairman of the Athens Chamber of Commerce and Industry*, interview with the author on 01.06.2011. Lambrou Ch., *corporate banking executive of Attica Bank*, interview with the author on 20.05.2011.

<sup>769</sup> SEV, *Entrepreneurship without impediments*, 2010

- regular and objective audits, in the base of a single and rational audit methodology.
- establishment of certain specifications for the organisation and operation of services and bodies responsible for audit and monitoring.
- creation of uniform electronic databases, of quantitative and qualitative data.
- actual improvement of the level of awareness of businesses as regards the problems and shortcomings of their field of activities.

As it is evident from the above, the current situation discourages cooperation between the private and the public sector. Therefore, in order to overcome these obstacles, recourse to illegal financial transactions between the business world and public officers, is often required<sup>770</sup>.

The current legal framework always provides for the possibility of recourse to Justice. However, this path is also time and money consuming.

### Independence (practice)

*To what extent is the business sector free from unwarranted external interference in its work in practice?*

#### **Score: 25**

As mentioned before, for the establishment, function and termination of a business, the public administration's cooperation is required, which imposes complex and time-consuming bureaucratic procedures, which, due to legislation complexity, are not always completely clear<sup>771</sup>. This encourages illegal financial transactions between the private sector and public officers, which are often under ineffective surveillance, while there is also immunity from disciplinary action<sup>772</sup>. Tax offices, urban planning departments and state procurement services are considered among the most corrupt services<sup>773</sup>.

Enterprises often succumb to the illegal financial demands of public officers and rarely denounce these cases of corruption<sup>774</sup>. This happens, on one hand because of lack of motivation, and on the other hand because enterprises that denounce cases of corruption may be afterwards targeted by state auditing mechanisms<sup>775</sup>.

### Transparency (law)

*To what extent are there provisions to ensure transparency in the activities of the business sector?*

#### **Score: 50**

The current legal framework includes provisions for accounting, the disclosure of enterprises' identification, property, financial performance and other data. However, this framework is clearly more enhanced as regards companies listed on the Athens Stock Exchange (ASE) and big ones, based on criteria set by the Code of Books and Records, which are subject to many obligations regarding transparency.

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<sup>770</sup> "The small ones are more susceptible to corruption" (in Greek), [www.makthes.gr/news/economy/73994](http://www.makthes.gr/news/economy/73994), 21.05.2011. "Greece first in corruption" (in Greek), [www.pentapostagma.gr/2011/05/blog-spot\\_4766.html](http://www.pentapostagma.gr/2011/05/blog-spot_4766.html), 31.05.2011.

<sup>771</sup> Council of Europe, GRECO First round evaluation report on Greece, 2001. Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

<sup>772</sup> This is underlined in many reports of the General Inspector of Public Administration (GIPA).

<sup>773</sup> Transparency International-Greece, National Research on Corruption in Greece 2010-Analytical Presentation, [www.transparency.gr/Content.aspx?page=11](http://www.transparency.gr/Content.aspx?page=11).

<sup>774</sup> "The small ones are more susceptible to corruption" (in Greek), [www.makthes.gr/news/economy/73994](http://www.makthes.gr/news/economy/73994), 21.05.2011. "Greece first in corruption" (in Greek), [www.pentapostagma.gr/2011/05/blog-spot\\_4766.html](http://www.pentapostagma.gr/2011/05/blog-spot_4766.html), 31.05.2011.

<sup>775</sup> Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011. Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

In particular, companies listed in the ASE are obliged to comply with the international accounting standards, which is optional for the other enterprises. Moreover, companies listed on the ASE are obliged to publish a great deal of information regarding their corporate governance.

Companies listed on the ASE, also have the obligation of audit by certified accountants-auditors, twice a year, while large companies, not listed PLCs, based on criteria set by the Code of Books and Records, have the obligation of annual audit by certified accountants-auditors. The other enterprises have an obligation of annual audit by common accountants-auditors who do not work in the company (external).

The results of this audit by the certified accountants-auditors are published mandatorily in the case of companies listed on the ASE. In the case of big companies, not listed S.A.s, based on criteria set by the Code of Books and Records, a brief note is published. For companies of other legal forms no publications are required.

Especially the financial sector in Greece is still subject to more strict provisions regarding transparency, according to international standards and rules<sup>776</sup>, thanks to the enhanced protection that the state has to provide for depositors and investors.

### Transparency (practice)

*To what extent is there transparency in the business sector in practice?*

#### **Score: 25**

As for data regarding identification, property, etc. of the companies, it is accessible through relevant registers kept by the relevant public services. However, access by the public to this data through the internet has not been made possible yet<sup>777</sup>.

Companies listed on the ASE and large-based on criteria set by the Code of Books and Records- companies, may follow the corporate governance, accounting and auditing international rules, but their implementation in Greece is flawed because their stock register often includes members of the family, they have limited sources of funding (almost exclusively from banks) and they mainly aim at the representation of company tax figures without the provision of additional data. These characteristics are counter motives for the enhancement of transparency in businesses. It is obvious that these problems appear much more often in unlisted and small businesses, which are not even following the aforementioned international standards<sup>778</sup>.

An important impediment in the accounting sector is the Code of Books and Records. This is a multi-paged, complex and difficult to implement legislative act, which is far from promoting transparency, since unsatisfactory compliance with it, may lead to illegal transactions with the state auditing bodies. Because of that, there has been a debate for years regarding its abolishment<sup>779</sup>.

### Accountability (law)

*To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?*

#### **Score: 50**

Current legislation, depending on the legal form of enterprises, defines matters relevant to their organisation and monitoring. In particular, it is provided that S.As are monitored by the corresponding Prefectures, while GPs, LPs and LLCs are monitored by the corresponding Courts of First Instance<sup>780</sup>.

<sup>776</sup> Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

<sup>777</sup> Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011

<sup>778</sup> Ballas A. & Tzovas A., "An empirical investigation of Greek firms' compliance to IFRS disclosure requirements", 2(1) *International Journal of Managerial and Financial Accounting*, 2010.

<sup>779</sup> Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

<sup>780</sup> Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

Regarding accounting/tax issues, monitoring is exercised by the auditing services of the Ministry of Finance.

Actual monitoring is exercised only on PLCs listed on the ASE, by the Securities and Exchange Commission, which has both regulatory and sanctioning authority. This body makes considerable effort to monitor these PLCs. However, innate problems, such as, inter alia, its legal form being legal entity of public law –and not independent authority<sup>781</sup> limit its efficiency<sup>782</sup>.

### Accountability (practice)

*To what extent is there effective corporate governance in companies in practice?*

#### Score: 25

As regards monitoring that is exercised by the various Prefectures and Courts of First Instance, it is noted that these bodies act more as company registers, rather than auditing bodies with a mandate for the imposition of sanctions<sup>783</sup>, thus leaving the companies actually unsupervised.

Regarding the auditing bodies of the Ministry of Finance, it is noted that there are extensive phenomena of corruption regarding their employees<sup>784</sup>. Consequently, there is no record of violations, the relevant sanctions are not imposed at all and, even worse, a relationship based on illegal transactions between auditors and audited bodies is being established<sup>785</sup>.

Indicative of the inefficient audit of businesses in Greece by the relevant state bodies are also the scandals that were recently revealed in two important companies<sup>786</sup> of the financial sector, which, as it was mentioned before, is considered to be one of the most sufficiently audited business sectors. In particular, an insurance company and a bank, which were –due to the nature of their activities- handling huge capitals of private individuals, went bankrupt because they were consistently serving the interests of their owners, who got rich with illegal assets. These companies were monitored for many years by the relevant bodies, which, however, had not reported on time the aforementioned breaches, so as to prevent the unlawful practices of the companies' owners.

### Integrity mechanisms (law)

*To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?*

#### Score: 50

In addition to the current legal framework for matters of corporate governance<sup>787</sup>, the Securities and Exchange Commission in 1999, adopted a code of principles of corporate governance, based on the relevant principles of the Organisation for Economic Cooperation and Development (OECD.), while the Hellenic Federation of Enterprises SEV, in 2001, drafted a code of general principles of corporate

<sup>781</sup> See indicatively: Pagoni S., *The Securities and Exchange Commission's power for imposing sanctions and judicial control of these*. According to Laws 3340/2005 and 3371/2005, 2005.

<sup>782</sup> Lambrou Ch., *corporate banking executive of Attica Bank, interview with the author on 20.05.2011*.

<sup>783</sup> Lambrou Ch., *corporate banking executive of Attica Bank, interview with the author on 20.05.2011*.

<sup>784</sup> See indicatively: "These are the three oathbreaking SDOE officials" (in Greek), [www.iefimerida.gr/news/6631](http://www.iefimerida.gr/news/6631), 18.05.2011. Transparency International-Greece, *National Research on Corruption in Greece 2010-Analytical Presentation*, pp. 14-18.

<sup>785</sup> Lambrou Ch., *corporate banking executive of Attica Bank, interview with the author on 20.05.2011*.

<sup>786</sup> See indicatively: "NewsIt reveals the full scandal of Aspis Pronoia" (in Greek), [www.newsit.gr/default.php?pname=Article&art\\_id=17746&catid=3](http://www.newsit.gr/default.php?pname=Article&art_id=17746&catid=3), 11.03.2010. "Disclosure-fire for the scandal in Proton Bank (in Greek), [www.express.gr/news/business/544624oz\\_20111213544624.php3](http://www.express.gr/news/business/544624oz_20111213544624.php3), 13.12.2011.

<sup>787</sup> Law 3016/2002, Law 3693/2008, Law 3884/2010, Law 3873/2010.

*An insurance company and a bank, which were -due to the nature of their activities- handling huge capitals of private individuals, went bankrupt because they were consistently serving the interests of their owners, who got rich with illegal assets*

governance. Recently, SEV drafted a revised code for corporate governance. These codes of voluntary character are addressed mainly to enterprises listed on the ASE, but they can prove to be a useful tool for enterprises not listed on the ASE, as well. Enterprises listed on the ASE undertake the obligation to report at least once a year on matters of corporate governance, responsibility and viability.

Sectoral codes are rare in Greece<sup>788</sup>. They exist mostly in sectors, such as banking<sup>789</sup> which are under strong influence by international standards<sup>790</sup>.

These codes include, inter alia, rules regarding individual conduct with penal implications. In enterprises of the financial sector there are entities responsible for regulatory compliance appointed by law<sup>791</sup>.

Moreover, Greece has transposed with excess of zeal into the domestic legal order the international and European (European Union and Council of Europe) legislation and it has ratified all relevant provisions<sup>792</sup>. Adoption of the relevant ratifying laws was often accompanied by strong political declarations against corruption in the public and private sectors and declared the unyielding will of Greece to face the problem in a uniform way<sup>793</sup>. The legislator's aforementioned zeal is obvious by, inter alia, the legislative regulation on corruption in the private sector, which is not limited to fighting bribery, as provided for in the criminal convention of the Council of Europe on corruption and in the European Union's framework decision on bribery in the private sector.

Furthermore, in the area of legalising income from illegal activities, the national legislator, following international and European developments, incorporated in the Greek law both the relevant Council of Europe's convention<sup>794</sup> and the three associated community directives<sup>795</sup>.

Penalties provided for by these legislative acts are hard enough. They provide for, inter alia, many years of imprisonment, high fines, as well as confiscation of assets<sup>796</sup>. However, Greek law does not recognise penal liability for legal entities, which may be only subject to administrative sanctions.

The aforementioned legislative acts on corruption were not always transposed to the domestic legal order in a creative way and adapted to the Greek particularities, but were often transposed as mere translation<sup>797</sup>.

*Greek law does not recognise penal liability for legal entities*

788 Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

789 [www.hba.gr/5Ekodosis/5-5kodikes.asp](http://www.hba.gr/5Ekodosis/5-5kodikes.asp)

790 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

791 [www.bankofgreece.gr/pages/el/supervision/legal/creditinstitutions/supervisionrules/control.aspx](http://www.bankofgreece.gr/pages/el/supervision/legal/creditinstitutions/supervisionrules/control.aspx).

792 Under Law 2656/1998, the OECD's convention on bribery in the foreign public sector in the framework of international business transactions was ratified. Under Law 2803/2000, the convention's protocol on protection of community financial interests, bribery of community officers and corruption in the member states' public sector, was ratified. Under Law 2802/2000, the aforementioned community convention was ratified. Under Law 2560/2007, the Council of Europe's criminal convention on corruption was ratified and the community framework decision on bribery in the private sector was transposed in the domestic legal order. Under Law 3666/2008, the UN's convention on corruption was ratified.

793 Kaiafa-Gbandi M., "Criminal repression for corruption in the public and private sector: EU's legislative framework in the broader international scene and our national Law" (in Greek), in Piraeus Bar Association – Hellenic Criminal Bar Association – Centre of International and European Economic Law, Convention Minutes "Modern Developments in the European Economic Criminal Law" (in Greek), p. 139 and ab.

794 Law 2655/1998.

795 Laws 2331/1995, 3424/2005 and 3691/2008, respectively. The last one in particular, provides for severe sanctions, despite the fact that the third relevant community Directive does not bring any changes in the said area compared to the previous ones.

796 Law 3691/2008 as amended by Law 3932/2011.

797 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

## Integrity mechanisms (practice)

*To what extent is the integrity of those working in the business sector ensured in practice?*

### Score: 25

Two researches, one carried out by the World Bank in cooperation with the European Bank for Reconstruction and Development<sup>798</sup> and the other carried out by Ernst & Young<sup>799</sup>, indicate that Greek businessmen are particularly willing to have recourse to bribery and other illicit means in order to fulfil their corporate objectives. Small enterprises appear more susceptible to corruption, compared to medium sized and larger ones, thus underlining the fact that without aid of this kind, small enterprises are not able to survive in this particularly competitive business environment.

More specifically, businesses providing goods and services mainly purchased by the public sector often have recourse to paying “corruption fees”, as a substitute for sales promotion fees, in order to ensure the purchase of their products by the public sector<sup>800</sup>, since the latter has significant discretionary power regarding public procurement<sup>801</sup>. This creates a distorted structure in entrepreneurship (see also pillar “Public Sector” – “Reduce Corruption Risks by Safeguarding Integrity in Public Procurement”).

The consequences of corruption described above are, among others<sup>802</sup>:

- migration of enterprises that cannot endure operating in an environment of corruption,
- increase in production costs,
- deprivation of resources from research,
- no new enterprises entering the market, because of existing established enterprises which are involved in corruption
- reduced tax reimbursement.

Mostly large enterprises are the ones that consciously pay special attention to matters of good corporate governance, given the fact that they wish to remain healthy and competitive in the course of the years, while at the same time they answer to shareholders and audit authorities<sup>803</sup>. In many cases, however, there have been accusations of inadequate information of shareholders in matters of corporate governance<sup>804</sup>. This is due to, inter alia, the fact that proposals by those responsible for regulatory compliance have to be ratified by high-ranking executive managers whose primary objective is profit, and also because hiring procedures –when taking place- are often inefficient and employees are not trained in matters of integrity<sup>805</sup>.

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798 “The small ones are more susceptible to corruption” (in Greek), [www.makthes.gr/news/economy/73994](http://www.makthes.gr/news/economy/73994), 21.05.2011.

799 “Greece first in corruption” (in Greek), [www.pentapostagma.gr/2011/05/blog-spot\\_4766.html](http://www.pentapostagma.gr/2011/05/blog-spot_4766.html), 31.05.2011.

800 Varsakelis N., “Finally, corruption means economic un-development” (in Greek), [www.nikosvarsakelis.blogspot.com/2011/05/blog-post\\_12.html](http://www.nikosvarsakelis.blogspot.com/2011/05/blog-post_12.html), 12.05.2011.

801 Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

802 Varsakelis N., “Finally, corruption means economic un-development” (in Greek), [www.nikosvarsakelis.blogspot.com/2011/05/blog-post\\_12.html](http://www.nikosvarsakelis.blogspot.com/2011/05/blog-post_12.html), 12.05.2011.

803 Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011. Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

804 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

805 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

No black list of companies involved in acts of bribing public officers has been reported until today. Nevertheless, the administrative authority responsible for the prevention and eradication of money laundering is able to gather relevant evidence, mainly in cooperation with companies of the financial sector<sup>806</sup>.

### Anti-Corruption policy engagement

*To what extent is the business sector active in engaging the domestic government on anti-corruption?*

#### **Score: 25**

Eradication of corruption is actually part of the business world's agenda with the state, in the framework of discussions regarding abolition of complex legislation and bureaucracy, in order to promote entrepreneurship in Greece<sup>807</sup>. This effort concerns to an even larger extent businesses that operate in the field of goods and services supply to the public sector<sup>808</sup>. For example, in the past, the field of construction of public works was against a certain law, which was considered not to be ensuring transparency as regards the selection of companies to take over the project<sup>809</sup>.

However, these voices are not yet so strong, as to focus on the eradication of corruption in its entirety<sup>810</sup>. The fact that only 82 Greek enterprises are part of the United Nations initiative against corruption, through the "UN Global Compact" platform<sup>811</sup>, is also indicative.

### Support for/engagement with civil society

*To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?*

#### **Score: 25**

It is a fact that the business world has not been involved in an active dialogue with the civil society regarding the fight against corruption<sup>812</sup>. However, we should not ignore the fact that several enterprises eagerly support financially, through grants, civil society initiatives for the fight against corruption. They are mostly large enterprises, which are also more sensitive in matters of sound governance<sup>813</sup>.

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806 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

807 Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

808 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

809 See indicatively: "Ready to reinstate the mathematical expression" (in Greek), [www.dimokratianews.gr/content/2527/](http://www.dimokratianews.gr/content/2527/), 26.09.2011.

810 Michalos C., businessman and chairman of the Athens Chamber of Commerce and Industry, interview with the author on 01.06.2011.

811 [www.unglobalcompact.org/participants](http://www.unglobalcompact.org/participants).

812 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

813 Lambrou Ch., corporate banking executive of Attica Bank, interview with the author on 20.05.2011.

## SUGGESTIONS FOR THE IMPROVEMENT OF THE INSTITUTION

**The Government has to proceed with legislative initiatives and measures for the achievement of the following:**

- Cut the bridges of transactions in person between enterprises and the public sector (i.e. by widespread use of bank accounts, e-banking services and Internet).
- Reinforcement of corporate governance of companies listed in the Stock Exchange. Indicatively:
  - establishment of the obligation for evaluation of the relevant report by external experts
  - establishment of the obligation for the operation of a telephone centre for recording client complaints.
- Reinforcement of the transparency framework, particularly as regards taxes, for companies not listed.
- Simplification of the Code of Books and Records.
- Reinforcement of the responsible monitoring authorities.
- Full control of offshore companies

[See also “Public Sector – Suggestions for the Improvement of the Institution”]

**The business world** has to be more actively involved in the fight against corruption in all its forms. Indicatively, a first step could be the enrichment of annual reports of corporate governance of businesses with data of social account, namely data regarding the consequences that arise for society due to the operation of the particular business.

## CONCLUSION

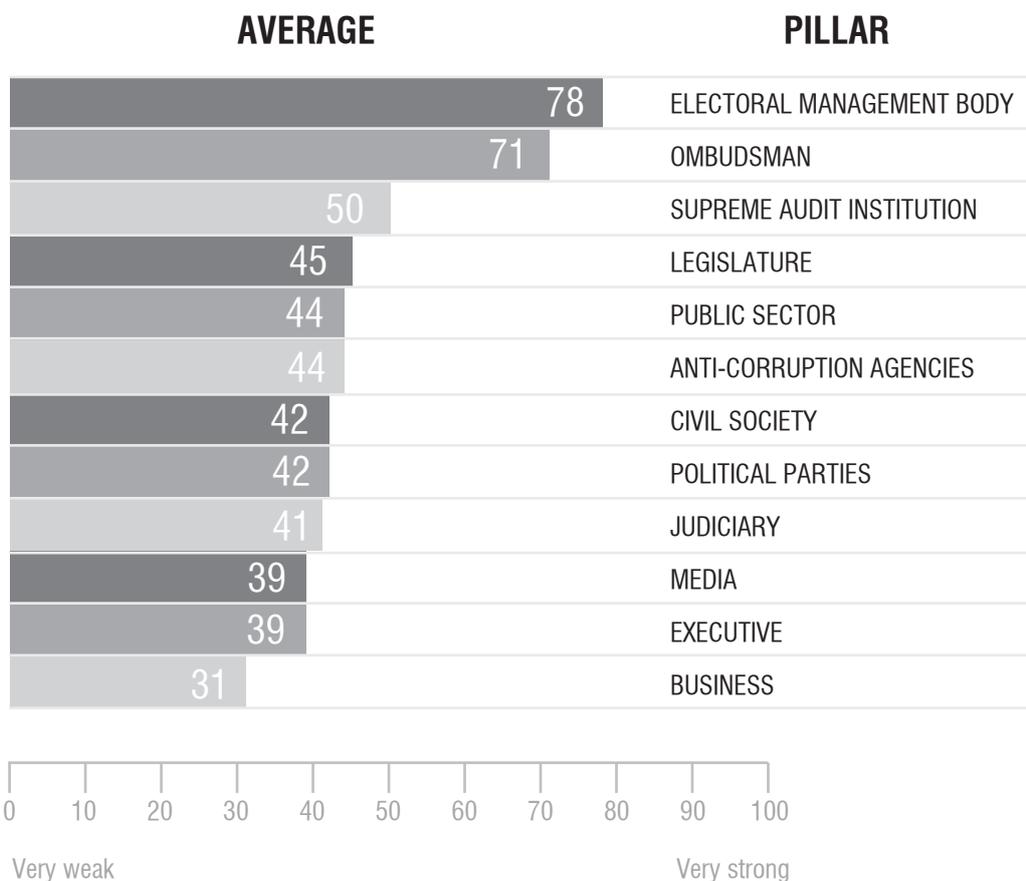
The law is the interpreter of the hierarchy of social interests and values in a given time and place, in a way that offences are distinguished from the socially ambiguous but lawful attitudes. This evaluation of the National Integrity System shows exactly this hierarchy of social interests and values that prevail in Greece today.

A basic cause for the perseverance of corruption in the world is its inclusion among white-collar crimes, namely the limited social demerit that encompasses corruption. Despite legislative regulations, drafting of schedules and establishment of anti-corruption agencies, corruption remains a common crime, because it does not bring about adequate discredit, disapproval and heavy sanctions to the offender, since it is not considered to be offending the fundamental principles of society. Corruption is a crime without a directly visible victim. The community, which is harmed by corruption, is an abstract and disorganised idea. Therefore, since there is no visible victim who will ask for the eradication of crime and reparation of damages, it is mainly up to the state to take over this responsibility.

A basic conclusion of the survey is the acceptance that in most of the examined pillars of the Greek society, the current legal framework is, to a great extent, adequate. Greece has enacted many laws for every occasion, while it has also signed and ratified a great number of international treaties aiming at the eradication of corruption. However, Greece is in a dire position as regards corruption. This is, *inter alia*, due to the fact that the power of the state in its different aspects creates conditions of tolerance of non-compliance with the law and, subsequently, conditions of tolerance of corruption. Moreover, the state in certain cases legalises breaches of the law, while in other cases it directly encourages them. The state lacks, finally, a culture of sound management, accountability and allocation of responsibilities.

These characteristics finally build a relationship between the state and the citizen, which lacks confidence on both sides. Communication between the institutions and the citizens in Greece is based on conflict, uncertainty, transaction, suspicion and a sense of complicity. The dominant social groups are trying to corrupt society, so that the latter will develop an attitude of tolerance towards breaches of the law and scandals. The cost of corruption is huge. The financial stagnation and regression, which result from corruption, bring about a serious wound to social justice as well, since it is people of low income who are affected more in this environment. Therefore, it is made clear that the problem of corruption in Greece is mainly the result of a crisis of values.

In this framework, the following ranking based on the pillar scores, as a result of the survey, is probably not surprising:



#### More specifically:

The conduct of **elections** in Greece is one of the most unimpeachable and least controversial procedures. This is an achievement of the Hellenic Republic, which has learned from the mistakes and the extremities of the past and, therefore, has made sure that this institution is provided with all the necessary guarantees. A weakness of the electoral procedure is the financial audit of election campaigns of parties and candidates, due to the lack of strong will of the legislative bodies, which are at the same time the audited bodies.

Almost equally successful appears to be the institution of the **Ombudsman**, which was introduced in Greece just 15 years ago, in order to contribute to the eradication of widespread cases of maladministration. Both the impeccable legal framework that governs it and its effective operation, render the Ombudsman a refuge for the Greek citizen, who is troubled by the many pathogenies of the Greek public administration. Nevertheless, an institution of such increased independence and professional capacity reasonably creates the expectation for more initiatives, as well as for the exercise of pressure towards the executive power, in order to reform the public administration.

The **Court of Audit** is one of the three supreme courts of the country. However, it holds one of the top positions in the above-mentioned ranking, even though it has a significant distance from the next most successful institution, despite the fact that the Judiciary appears to hold one of the last positions in the same ranking. This is due to the fact that it is encompassed with greater guarantees of transparency compared to the rest of the Judiciary, while its officials have managed, thanks to the independence and integrity they have demonstrated until today, to raise the Court of Audit to the position of one of the most reliable institutions in a country that is tormented in its public life by, inter alia, financial scandals. However, a part of the Court of Audit's dynamic remains unexploited, considering that, until today, it has not been decided

to provide it with further responsibilities, which would allow it to exercise even greater pressure to the government in office for sound financial management.

However, in Greece, **legislature** as well, has not developed the dynamic that its role holds for it. Despite the explicit provision in the Constitution regarding the independence of the legislature from the executive power, the latter influences decisively the legislative and audit role of the Parliament, since the current political system requires the Government to have the support of the Parliament's majority, namely to practically belong to the same party. At the same time, the constitutionally established freedom of opinion of MPs has been practically rendered devoid of meaning, which results to the work of the Parliament reflecting almost exclusively the will of the Government in office. However, a large share of the responsibility for the lack of credibility of the parliamentary institution lies with the MPs themselves, due to the establishment of many complex legislative acts, which subsequently trouble the citizen, and also due to the abusive practices they use in matters that directly hurt their interests.

Despite the fact that corruption in the **public sector** represents the biggest part of corruption in Greece, this sector is not in the last places of the ranking. This is due to the fact that the legal framework that governs the public sector includes to a great extent the required provisions. Nevertheless, the formalistic implementation or even the tolerance towards non-implementation of the existing legislation are characteristics that encourage corruption in the public sector. These characteristics originate to a great extent from the direct dependence of public administration from the executive power at the time, as well as from the intrusion of parties into the public administration.

The place of **anti-corruption agencies** in the ranking is very close to that of the public sector, since they are both public sector agencies with all the characteristics that were mentioned before. The high level of attention in the establishment of these agencies is not always reflected on their legal framework, which has serious defects as regards matters of independence and transparency, whereas the fragmentation of responsibilities to many different agencies, as well, hardly contributes to the achievement of the desired objective.

The above described unrestrained activity of the public sector is also largely due to the lack of counterbalance, namely an active **civil society**. The increase in the number of non-governmental organisations in Greece in the last years has been rapid. However, the independence, transparency and integrity of many of those are seriously doubted, due to the lack of a special regulative framework. The result of this is not only that they do not play the role reserved for them, namely the oversight of the authorities and the reformation of society, but that in some cases they are themselves sources of corruption, due to their interconnection with parties and centres of power.

**Political parties** are in a sense the largest agencies of the civil society. Under this scope, it is not surprising that they have the same score as the civil society. Political parties, as well, operate without a special regulative framework, even though for different reasons. The lack of a regulative framework is, in this case, due to the lack of the corresponding will from the politicians. The legislative power originates from the political parties, which seek to operate in the absence of legislation, so that they are not subject to obligations of transparency and oversight of any kind, in order to conduct their transactions with agents of enterprises and other interests with greater ease.

As mentioned before, the **Judiciary** occupies one of the lowest places in the ranking of this survey. This is not because it is an institution more corrupt than those in higher places. It is mainly because the current legal framework renders this institution susceptible to corruption; the institution that should provide the greatest guarantees of independence and integrity, since it is the citizen's last resort as regards defending his/her legal rights. The dependence of the Judiciary on the existing executive power, as well as on political parties in general, in significant matters, practically abolishes the –established by law- self-administrative character of the Judiciary. Moreover, the significant delays in the adjudication of cases and in the issue of court decisions end up to be denial of justice.

In the last three places of the ranking appears –not accidentally- the threefold that has the leading role in large-scale corruption in Greece, namely the executive power, the media and the business world. The Constitution characterises the **executive** as equal to the other two powers (legislative and judicial). However, the authority that it grants to it hardly goes along with this characterisation, since the Government

is the one dominating the Parliament, while it significantly influences the Judiciary. On the other hand, the governments, despite the strong majorities by which they are elected, based on the current electoral law, often succumb to patron-client relationships, as well as to pressure by organised interests, in order to hold on to power.

The development of the **media** in Greece is inextricably linked to the political and the general socio-economic system of the country. Media outlets operate in a status of intense politicisation, since their owners are usually owners of other enterprises, as well, and they often seek to take over the provision of services or goods to the public sector, while at the same time the politicians seek the media's support. In this framework, it is not strange that audiovisual media operate in a voluntary status of legal insecurity, which renders them susceptible to political pressure. More specifically, while a detailed legal framework has been established with regard to their licensing and operation, this has been implemented, until today, only fragmentarily.

**Enterprises** in Greece have to establish themselves and operate in the overall framework that was described above. The law complexity and bureaucracy that prevail are creating serious obstacles for the establishment and operation of businesses, thus creating ultimately ground for illegal transactions. Particularly businesses not listed on the Athens Stock Exchange are under a regime of almost complete non-transparency. However, cases of corruption are also observed in businesses listed on the ASE, despite the fact that their operation is governed by international standards as regards transparency, accountability and integrity.

For the reasons underlined in this section, as well as for others which are more extensively mentioned under the relevant pillars, TI-Greece has decided that its future actions against corruption should focus on the following tangible objectives for each pillar, based on the significance of the pillars for the eradication of corruption, the feasibility of these objectives and the ability of TI-Greece to contribute to their fulfilment:

#### **ANTI-CORRUPTION AGENCIES**

- Merging all existing anti-corruption agencies with similar mandates under a single authority.

#### **JUDICIARY**

- Acceleration and rationalisation of the judiciary system by:
  - enhancing the infrastructure of the Judiciary (buildings, technological equipment, etc.)
  - simplification and codification of the legislation
  - simplification of the procedural system
  - promotion of alternative dispute-settlement institutions (i.e. by arbitration, intermediation, etc.)
  - transfer of court material to the notaries
  - transformation of judicial procedures to administrative ones
  - setting goals
  - establishing motives.
- Upgrading the curriculum of the National School for Judges by:
  - teaching specialised modules, so that judges are able to deal with modern matters of the society and the market
  - internships in courts abroad
  - on-site visits to agencies of special significance.

**PUBLIC SECTOR**

- Simplification and codification of the legislation; simplification of procedures.
- Detachment of the citizens from the civil servants through the development of electronic systems for carrying out transactions with the public administration: computerisation, digitisation and unification of services.
- Detachment of the public administration from the Government, through the creation of an independent authority which will be monitoring the public sector.

**BUSINESS**

- Discontinue transactions in person between businesses and the public sector (i.e. through the use of bank accounts, e-banking and internet).
- Enhancing the transparency framework, with reference to taxation of small and not listed on the ASE businesses.

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## ANNEXES

## ANNEX I: INTERVIEWS

LEGISLATURE	Anastasiadis Savvas, MP	Tzikalagias Zisis, MP	Chrysogonos Constantinos, Professor of Law School at the Aristotle University of Thessaloniki
EXECUTIVE	Delli Alexandra, Specialist at the Ombudsman	Chrysogonos Constantinos, Professor of Law School at the Aristotle University of Thessaloniki	
JUDICIARY	Rizos Constantinos, former President of the Court of Audit	Perakis Manolis, Lawyer & Specialist at the Law School of the National Kapodistrian University of Athens	
PUBLIC SECTOR	Iliopoulos Ilias, Secretary General of the Supreme Administration of Civil Servants' Trade Unions (ADEDY)	Loka Chara, Member of the Planning, Public Procurement and Project Management Unit at the Hellenic Institute of Local Administration	
ANTI-CORRUPTION AGENCIES	Alexopoulos Panagiotis, Director of Secretariat of the General Inspector of Public Administration	Kladas Spyros, Lawyer & former Secretary General of Special Controls Service (YPEE – now SDOE)	
ELECTORAL MANAGEMENT BODY	Georgiadis Patroclus, Former Secretary General of the Ministry of Interior, Public Administration and Decentralisation	Diamantopoulos Athanasios, Professor of Political Sciences of Panteion University of Athens	
OMBUDSMAN	Loukakos Kyriacos, Specialist at the Ombudsman	Chrysogonos Constantinos, Professor of Law School at the Aristotle University of Thessaloniki	
COURT OF AUDIT	Rizos Constantinos, former President of the Court of Audit	Vraniali Efi, Programme Manager and representative of the Association pour la Fondation Internationale des Finances Publiques (FONDAFIP) in Greece	
POLITICAL PARTIES	Skordas Athanasios, General Director of New Democracy	Diamantopoulos Athanasios, Professor of Political Sciences of Panteion University of Athens	
MEDIA	Telloglou Tasos, Journalist	Economou Alexandros, Legal Advisor of the National Council for Radio and Television	
CIVIL SOCIETY	Antypas Tzanetos, President of NGO PRAKSIS	Giannis Nikos, Specialist at the Commission of Institutions and Transparency of the Greek Parliament	
BUSINESS	Michalos Constantinos, businessman and chairman of the Athens Chamber of Commerce and Industry	Lambrou Charilaos, corporate banking executive of Attica Bank	

## ANNEX II: AGENDA OF THE NATIONAL WORKSHOP

### **Athens, Titania Hotel, 09.12.2011**

09.00 – 10.00:

Welcome: Presentation of TI-Greece, Overview of programme, Purpose of workshop, Overview of the agenda, Participants.

10.00 – 11.30:

1st Round Table: “Judiciary – Anti-Corruption Agencies – Court of Audit – Ombudsman”.

11.30 – 13.00:

2nd Round Table: “Public Sector – Legislature – Executive – Political Parties – Electoral Management Body”.

13.00 – 14.30:

3rd Round Table: “Business – Civil Society – Media”.

14.30 – 15.30:

Lunch break

15.30 – 17.30:

Plenary: Presentation of priorities and policy proposals per work group; Discussion, Ideas for advocacy; Presentation of future activities; Evaluation; Closure.

## ANNEX III: PARTICIPANTS OF NATIONAL WORKSHOP

TABLE A

Name	Surname	Agency
Aggelos	Syrgios	Board Member of TI-Greece
Athanasios	Koutroumanos	Vice-President of the Supreme Court (Areios Pagos)
Charalambos	Athnasiou	President of the Judges and Prosecutors Union
Constantinos	Rizos	Former President of the Court of Audit
Constantinos	Tsardinakis	Department of Information Management & Strategy of the Hellenic Police
Constantinos	Chrysogonos	Professor of Law at the Aristotle University of Thessaloniki
Efi	Vraniali	Programme Manager and representative of the Association pour la Fondation Internationale des Finances Publiques (FONDAFIP) in Greece
Elena	Hounda	Specialised Professional at the Authority Against Legalisation of Revenue from Criminal Activity and Financing of Terrorism and Statement of Assets Audit
Ioannis	Ioannidis	Secretary General of the Ministry of Justice
Ioannis	Karkalis	Vice-Commissioner of the State at the Court of Audit
Ioannis	Michael	President of "Elliniki Etairia" (Society for the Environment and Cultural Heritage)
Kyriakos	Loukakos	Specialised Professional at the Ombudsman
Leonidas	Zervobeakos	Former member of the Supreme Court (Areios Pagos)
Manolis	Perakis	Lawyer & Specialised Professional of the National Kapodistrian University of Athens
Nikolaos	Markou	Brigadier General – Prosecution of Electronic Crime of the Hellenic Police
Panagiotis	Alexopoulos	Director of the Secretariat of the General Inspector of Public Administration
Panagiotis	Efstathiou	Directorate General of Financial Audits – General Accounting Office of the State
Panagiotis	Lymberopoulos	Judge of the Court of Appeal
Paraskevas	Nomikos	Corps of Inspectors-Auditors of Public Administration
Paraskevi	Seraidou	Member of the Administration Board of the Lawyers' Association of Thessaloniki
Spyros	Nikolaou	Former Secretary General of Special Controls Service
Spyros	Σεραΐδου	Former member of the Council of State
Vasilis	Kougeas	Professor at Panteion University
Vasilis	Serdaris	Former Director of Internal Affairs of the Hellenic Police
Vassilis	Karydis	Deputy Ombudsman
Xanthippi	Pappa	Ministry of Justice
Xenofon	Kontiadis	Centre of European Constitutional Law

TABLE B

Name	Surname	Agency
Alexandra	Delli	Specialised Professional at the Ombudsman
Antonis	Makrydimitris	Professor of the National and Kapodistrian University of Athens
Apostolos	Tsorakis	Press Office of the Head of the Region of Pelloponese
Athanasios	Skordas	Director General of New Democracy
Chara	Loka	Executive at the Institute of Local Administration
Christoforos	Skiadas	Director General of the Social Insurance Institute
Christos	Hatziemmanouil	Professor of the University of Pireaus
Constantinos	Chrysogonos	Professor of the Aristotle University of Thessaloniki
Elena	Panariti	MP
Ilias	Iliopoulos	Secretary General of ADEDY
Kostis	Hatzidakis	MP
Maria	Gavouneli	Professor of the National and Kapodistrian University of Athens
Nikolaos	Chrysogelos	Ecologists Green
Panagiotis	Papastavrou	Former President of the External Trade Organisation
Patroclus	Georgiadis	Former Secretary General of the Ministry of the Interior
Petros	Tatoulis	Head of the Region of Peloponnese

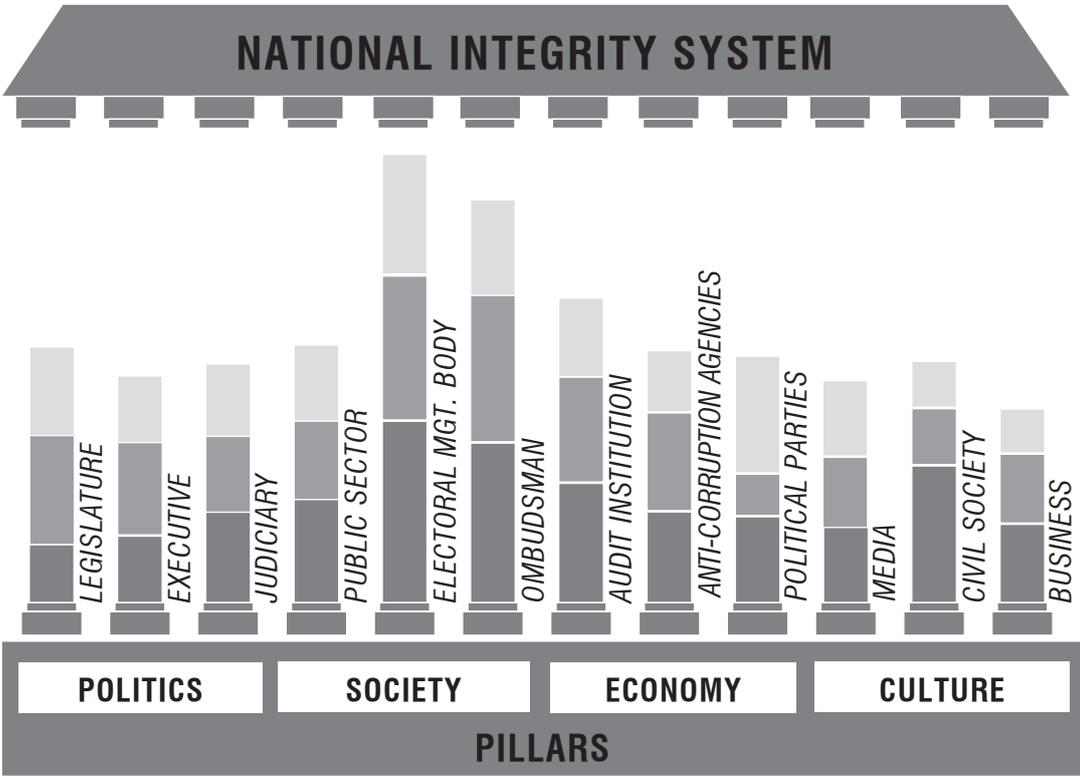
TABLE C

Name	Surname	Agency
Alexandros	Economou	Legal Advisor of the National Council for Radio and Television
Anastasia	Manou	Board Member of TI-Greece
Charilaos	Mertzanis	Head of the Department of Studies of the Hellenic Capital Market Commission
Dimitrios	Sotiropoulos	Professor of the National and Kapodistrian University of Athens
Fotis	Vlachos	Hellenic NGO Platform for Development
Haris	Lambrou	Corporate banking executive at the Bank of Attica
Ioannis	Michael	President of "Elliniki Etairia" (Society for the Environment and Cultural Heritage)
Maria	Diamantopoulou	Directorate General of the International Developmental Cooperation (YDAS)
Marios	Kyriacou	President & Executive of KPMG Hellas
Nikolaos	Haralambidis	Director of Greenpeace Hellas
Petros	Linardos - Rulmon	Specialist Advisor of INE GSEE/ADEDY
Serafeim	Fyntanidis	Journalist
Tasos	Telloglou	Journalist
Theodoros	Papalexopoulos	President of the Citizens' Movement
Vassilis	Panagiotidis	Hellenic Bank Association

## ANNEX IV: PILLAR SCORES

	Legis	Exec	Jud	Publ	Elect	Omb	ES	ACA	P.Par	Media	CivSoc	Bus
<b>Resources</b> (Law)	50	-	50	-	-	-	-	50	100	50	100	25
<b>Resources</b> (Practice)	50	25	50	50	100	100	50	50	25	25	50	25
<b>Indipendence</b> (Law)	50	50	50	50	100	100	50	50	25	25	75	50
<b>Indipendence</b> (Practice)	25	25	25	50	75	50	75	25	25	25	50	25
<b>Transparency</b> (Law)	50	75	50	50	100	75	75	75	25	50	-	50
<b>Transparency</b> (Practice)	50	50	25	50	50	75	50	50	0	25	25	25
<b>Accountability</b> (Law)	50	50	50	50	100	50	50	50	25	50	-	50
<b>Accountability</b> (Practice)	25	25	25	25	50	75	25	50	25	25	25	25
<b>Integrity</b> (Law)	50	50	50	50	100	100	50	50	25	50	-	50
<b>Integrity</b> (Practice)	25	25	50	25	75	100	100	50	25	25	50	25
<b>Pillar Specific Indicator 1</b>	50	25	25	50	25	50	25	25	75	25	25	25
<b>Pillar Specific Indicator 2</b>	50	50	50	25	100	50	50	25	50	25	25	25
<b>Pillar Specific Indicator 3</b>	-	-	-	50	-	-	25	50	-	75	-	-
<b>Capacity</b>	44	33	44	50	92	83	58	44	44	38	69	31
<b>Governance</b>	42	46	42	42	79	79	58	54	21	38	33	38
<b>Role</b>	50	38	38	42	63	50	33	33	63	42	25	25
<b>TOTAL SCORE</b>	45	39	41	44	78	71	50	44	42	39	42	31

ANNEX V: NIS FOUNDATION



- ROLE**
- GOVERNANCE**
- CAPACITY**

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