

Greece

1. No progress has been made in the field of the independence of the judiciary. On the contrary the so called operation “purification in Justice” or operation “clean hands” is going on, meaning that the persecution of opposing judges and prosecutors to the ideals of our conservative government is still in progress. The last indicative example of this task is the disciplinary prosecution of the President of the Union of Greek Public Prosecutors because he “dared” to give a press conference about the delay in the penal procedure of a certain case having to do with the responsibility of certain persons, among which there were suspects belonging to the party of “ New Democracy” which is in the government and further more because he criticized the attitude of the High Disciplinary Council against some colleagues. His disciplinary trial is still pending.
2. The independence of the judiciary is based on the Constitution and on the Law for the Organization of the Judiciary and the Courts. According to articles 87 and 88 of the Constitution judges and prosecutors are granted by personal and functional independence and also they are only under the Constitution and the laws. Judges and Prosecutors are appointed by a Presidential Decree and they are for life.
3. The right of participating in an association is protected by the Constitution (article 89 par.5). In Greece each branch or sector of judges has its own association i.e. there is the Association of Civil Judges, the Association of Public Prosecutors, the Association of the Administrative Judges, the Association of the Judges of the Council of State, the Association of the Judges of the Audit Court and, finally the Association of the Judges of the Court Martial. The proportion of the Judges participation in each association is approximately up to 80%.
4. Although, as it was fortold, the independence of the judiciary is guarantied by the Constitution and the laws about the status of the judges, the public’s feeling of the independence of the judiciary is not so strong and the explanation of that is because the Presidents and the Vice Presidents of the High Courts (Supreme Court, Council of State and Audit Court) and the Prosecutor General, as well, are appointed by the government, according to the article 90 par. 5 of the Constitution. This means that each government or each political party which wins the elections, tries to appoint in the above mentioned positions judges who are in favor of them. In the past there were many examples of manipulation, directly or indirectly, of lower judges by their superiors. There were many discussions about the necessary changes of the article of the Constitution, mentioned above, but it seems that each time a Revision of the Constitution can be done, everybody “forgets” or avoids to discuss it.
5. The answer of this question is relevant to the previous one. Within the last ten years justice has been criticized seriously because the heads of it had interfered in cases attracting the interest of the public, either because they were so called “economic scandals” or affairs in which politicians were involved. The last incident is about Siemens and the unveiling of the financing of politicians and political parties not only in Europe, but almost in the whole world by hidden or “black” money came from that company, in its efforts to gain some interesting contracts with governments. Some days ago our Minister of Justice hurried to declare that there is no responsibility of any politician (of its own party) although

the judicial investigation is going on and there are suspicions about a young M.P. who is the son of a former prime minister belonging to the political party which is in power now.

6. The share of the budget of the judiciary in the state budget is about 1,5% which obviously is very low and it is the same for many years.
7. The first criterion in the selection of judges is their diploma of the Law School either of a Greek university or of a European Union country's university. The second step is the examinations for their entrance in the National School of Magistrates. The duration of their training is 18 months and it is theoretical and practical. The students are practicing on the elaboration of law cases, either civil, criminal or administrative in the school and also in courts under the guidance of judges and prosecutors. The students after their graduation of the National School of Magistrates are appointed as assistant judges or assistant prosecutors and after a period of about two years they become regular judges or prosecutors.
8. There is a High Council of the Judiciary in each judicial branch i.e. in the Supreme Court of Civil and Penal Justice, in the Supreme Court of the Administrative Justice, which is the Court of State, in the Audit Court, which is a Supreme Court and in the Military Courts. The above mentioned High Councils are consisted only by the members of the relevant courts presided by the President of them and they are selected by drawing between the members of the court having a previous service of at least two years in that court. Their competences are the appointments, promotions, transfers and secondments of the judges and prosecutors.
9. Rank is not separated from the post. The first rule in promotions is the previous service for a period of time which is 2 or 5 years depending of the rank, i.e. a judge of a first instance court is promoted to a president of the same court after a service of at least 5 years or a judge of a second instance court is promoted to a president of that court after having a service of at least 2 years. The second rule is the suitability reports made by surveyors, which are members of the Supreme Courts mentioned above. These reports are annual and are based on the abilities, the rapidity on rendering of judgments, the capacity on speech (for prosecutors), the social appearance etc. The duration of the service of a judge or prosecutor in the same geographical location for a long period of time, except two or three big cities, could be a reason of transfer.
10. The answer to this question has been given above in 9th issue.
11. Under the Constitution judges and prosecutors are prohibited to exercise other functions than those which they are appointed for, except to be members of the Athens Academy, or tutors in universities or equivalent institutions or members of legislative, disciplinary and audit committees. Also they can participate in international committees i.e. of the European Union, of the Council of Europe etc.
12. The salary of an assistant judge or assistant prosecutor after their graduation of the National School of Magistrates and their appointment is about 1.200 Euros.
13. The principle of legality is governing the Greek penal system. In crimes punished by an imprisonment up to 5 years the prosecutor has to conduct a preliminary investigation and then if the evidence is enough or well based he can prosecute the person charged of.

14. There is no a special authority charged to implement criminal policy. The latter is decided and implemented by the Ministry of Justice, either by taking special measures against criminality, such as to introduce to the Parliament draft laws of such a policy and the Parliament decides or not to pass these drafts, or to send guidelines or circulars to the Prosecutor's office for the implementation of already existing laws or methods. On the other hand the Prosecutor's office can address to the police authorities and ask for the implementation of such laws.
15. Prosecutors are not obliged to inform the Minister of Justice of any case they are working on, but the Minister of Justice has the right, after having previously taken the opinion of the government to stall or postpone the prosecution of a crime if there is a possibility or a danger that the international relations of the country be disturbed by that prosecution. Also the same minister has the right to ask from the prosecutor to start a preliminary investigation of any criminal activity, according to article 30 of the Code of Penal Procedure. There is a whole complex of laws protecting confidentiality either in the Penal Code or in the Code of Penal Procedure. Doctors, lawyers, notaries and even priests are obliged not to reveal, even during their testimony in the court or in a criminal investigation what they have learned or been informed during the exercise of their function from their clients or during the confession to a priest.
16. There is no judicial police in Greece. There were many discussions on the establishment of a judicial police according to the principles and experience of other countries, but these discussions never reach to an end.
17. There is a court composed by professional judges and citizens (Court of Jury) whose jurisdiction is to judge certain severe crimes, such as homicides, sexual crimes, arsons if there are human losses from them and some other crimes. There are First and Second Instance Courts of Jury composed by 3 professional judges and 4 members of the jury who decide together about the particular case. The members of the jury are elected from a catalogue sent every year to the prosecutor's office by the public services, the professional associations of doctors, lawyers and others. Before the beginning of a trial the defendant and the prosecutor has the right to exclude up to two members of the jury, after their election, without explaining the reason of this exclusion.
18. If a person having been prosecuted or involved in a civil proceeding has not the financial means to appoint a legal assistant, he or she can submit a petition to the prosecutor's office or to the Master of the Court explaining and giving facts for his or her inability to pay a legal assistant in order to support his or her case in the court. In this case the prosecutor or the master of the court appoints a lawyer from a catalogue which is sent to them by the Bar of Lawyers. The fees and expenses of this lawyer are paid by the state.
19. There is a special authority for combating money laundering and corruption, consisted by officials of many cabinets and public authorities. Its duty is to investigate cases having to do with money laundering, not only in the Greek territory but also abroad, if Greek citizens are involved in these cases and to exchange any kind of information with the relevant foreign authorities. If the result of these investigations is positive the head of this authority sends a report to the prosecutor's office analyzing the facts and the conclusions of the investigation. As for the issue of terrorism, there is a special branch in the police composed by highly trained officers and staff. This branch investigates a criminal case if there is a clue or a fact of a terrorist's group involvement.

20. The maximum penalty is imprisonment for life but there are provisions which permit the detainee to ask for a parole release after being detained for 20 years if he or she has been sentenced for life, under certain circumstances or being detained for a sentence of up to 5 years when he or she has remained in prison for two fifths or three fifths of his or her sentence. Within the last ten years the number of detainees has been increased dramatically. The answer for the reason of this increase is not simple. First of all it is because of the large number of immigrants, legal or illegal arriving in the country. According to some calculations the whole number of these immigrants is about 1.200.000 persons while the population of Greece is 10.500.000. It is estimated that people of 124 different nationalities came in the country, either for a permanent staying or as passers by with a destination to USA, Canada or other European countries. According to the statistics given by the Ministry of Justice the 40% of the prisoners are not Greek citizens in a whole prisons population of 6.000. The most frequent criminal activity is drug trafficking, starting from small drug dealers and reaching the big ones importing big quantities of any kind of illegal drugs.
21. Magistrates can be charged for a number of disciplinary misconducts, namely for actions against the democratic regime, the participation in associations or groups with secret or hidden purposes, the use of his or her profession to pursuit a self interested cause, the unjustified delay in the exercise of his duties, the breach of his professional confidentiality and the failure to disclose that he or she is linked with any kind of relationship with the person or persons involved in a case, civil or criminal which he or she is to try. The sanctions which can impose to a magistrate for these disciplinary misconducts are a written censure, a fine, a temporary suspension of his or her duties up to six months and a permanent suspension. The authorities which initiate the proceedings are the Minister of Justice, the Prosecutor General for all the members of the civil and penal judiciary, except for the members of the Supreme Court and the Heads of the courts and prosecutors offices. There are Disciplinary Councils in all the Supreme Courts and Courts of Appeal depending of the rank of the magistrate being accused. The right to appeal disciplinary council's decisions belongs to the Minister of Justice, either this decision is for or against the accused magistrate and, of course to the latter if he or she is sentenced to a sanction or declared not guilty, but with a diminutive reasoning.
22. Magistrates Unions or Associations can make proposals and start debates on defining deontological or ethical rules of the magistracy with the political authorities especially with the Ministry of Justice.