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# Discrimination

National legal framework - Greece

## **NATIONAL LEGAL FRAMEWORK – GREECE**

### **DISCRIMINATION**

Several articles of the **Constitution of Greece** protect individuals from discriminatory acts and clearly establish their rights; namely, article 2 - paragraph 1 (respect for and protection of human dignity), article 4 - paragraph 1 (equality before the law), article 5 - paragraph 2 (protection of life, honour and freedom), article 20 - paragraph 1 (right to judicial protection) and article 25 - paragraph 1 (unrestricted exercise of individual and social rights with regard to the State and relations between individuals) foresee the protection of some fundamental rights.

### **RVRN – Racist Violence Recording Network**

Forty-six organisations participate in the network, in order to record cases of racist violence. RVRN published an annual report on the total number of cases that have been recorded.

### **CIVIL LAW - PROTECTION**

#### **Discrimination in the workplace**

The first national law that explicitly foresees the prohibition of discrimination based on sexual orientation was passed on 2005. Specifically, the law N. 3304/2005 for the application of the principle for equal treatment irrespective of racial or ethnic origin, religion or belief, disability, age or sexual orientation in the workplace was the integration of the EU Directives for equal treatment without discrimination.

Since discrimination in the workplace based on gender identity and gender characteristics was not included in the aforementioned law, in 2016, the new labour law N. **4443/2016** was passed on 2016, following the Council Directive 2000/78/EC for the establishment of a general framework for equal treatment in employment and occupation and the Directive 2014/54/EU of the European Parliament on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers. The law is implemented in all individuals of the public and private sector and concerns social protection, social services, education and access in the supply of goods and services. The current law defines discrimination based on, amongst others, age, sexual orientation, gender identity and gender characteristics as:

1. Direct discrimination: an individual is treated less favourable compared to other people, because of the abovementioned reasons;
2. Indirect discrimination: an apparently neutral fact can put people in a situation of particular disadvantage compared to other people, because of the abovementioned reasons;

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3. Harassment: the unwanted behaviour, connected to the above reasons, aiming or resulting in the violation of the individual's dignity or the creation of an intimidating, hostile, humiliating, degrading or aggressive environment;
4. Discrimination based on relations: the less favourable treatment of a person because of their relationship with person(s) of, amongst others, specific characteristics of age, sexual orientation, gender identity or gender characteristics;
5. Discrimination based on perceived characteristics: the less favourable treatment of an individual that **is perceived** to have the aforementioned characteristics;
6. Multiple discrimination: any form of discrimination, exclusion or restriction against a person that is based on more than one of the aforementioned reasons.

The violation of the principle of equal treatment as described in the aforementioned law, during the trade of goods or provision of services to the public, follows the ex officio prosecution, meaning that a lawsuit or an official complaint by the victim is not required. The violation of the provisions of the law by an employer in any stage of the access to work and employment, during the establishment or the refusal to establish a relationship of employment, or during or at the end of it, is considered a violation of the labour legislation; in such cases the administrative penalties of the article 24 of the Law N. 3996/2011 are imposed by the Greek Labour Inspectorate Body, after a prior invitation of the employer to provide explanations. The Greek Ombudsman is the national equality body responsible for the tackling of discrimination and the promotion of the principle of equal treatment.

The Law N. 3896/2010 for the implementation of principle of equal opportunities and equal treatment of women and men in matters of employment and occupation also, which implemented the European Directive 2006/54/EC defines as discrimination based on gender any form of less favourable treatment of individuals connected to gender reassignment.

#### Anti-discrimination laws

The Law N. 4285/2014 for combating several forms and manifestations of racism and xenophobia criminalises any public acts with the intention to cause, incite, stimulate or provoke actions, verbally or through the press and the internet, that may lead to discrimination, hate or violence against a person or a group based on, amongst others, their sexual orientation or gender identity (SOGI), that endangers the public order or is a threat for the life, freedom or the physical integrity of the aforementioned people. It also incriminates any relevant acts with the intention to cause, incite, stimulate or provoke actions that will damage possessions that are in use by the aforementioned person(s), in a way that endangers the public order. In case the above criminal acts are committed by a civil servant or public agent, during the exercise of their duty, the penalty or punishment is bigger. The criminal acts protected by the Law N. 4285/2014 follow the ex officio prosecution and during the file of the complaint the victim does not pay the relevant fee in favour of the State.

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Article 21 of the Law N. 4356/2015 introduced the modification of the Article 81A of the Greek Penal Code, regarding crimes with racist characteristics; the article criminalises criminal acts against individuals based on their sexual orientation, gender identity and gender characteristics.

### **Civil partnership and domestic violence**

The Law N. 4356/2015 establishes the right of two individuals to civil union, irrespective of their gender/sex. The laws/provisions concerning the relationship of two spouses that are married also apply for matters concerning the personal relations of the two parties who have signed the contract; the same applies to non-personal relations of the two parties, unless stated otherwise in the contract of civil union and in accordance to the principles of equality and solidarity.

Until 2018 the Law N. 3500/2006 for combating domestic violence and other provisions did not protect same sex couples from any acts of domestic violence, as the Article 1, paragraph 2a clarified that it protected the *'family or community consisted of spouses or parents, as well as first and second degree relatives'*. With the Article 3 of the Law N. 4531/2018 for the Ratification of The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and other provisions, several modifications of the law N. 3500/2006 were introduced, in order for individuals that are connected with a civil union to also be protected by the law, in cases of domestic violence.

The following criminal acts are ex officio prosecuted:

1. Health and physical damage, or the continuous behaviour that causes mild health damage;
2. A family member that forces another member of the family with the use of violence or with the use of threats of great and immediate to actions, omission or tolerance;
3. The cause of terror or anxiety to a family member, with the use of threats of violence or other illegal actions;
4. Violation of sexual integrity;
5. The use of threats or violence towards witnesses or members of the family that are involved in cases of domestic violence.

In case of sexual abuse, a prior complaint of the victim is needed in order for the crime to be prosecuted.

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### **Reporting cases of discrimination**

In case an individual is a victim of a form of discrimination that is criminalised by law, they can call the Hellenic Police (phone no. 100) in order to report the incident. As defined in the Article 37 of the New Greek Criminal Procedure Code, which is put into force since the 1<sup>st</sup> of July of 2019, for the crimes that are ex officio prosecuted, the criminal prosecution is ex officio initiated, upon the report, lawsuit, or information that a criminal act has been committed; meaning that a crime can be reported by anyone and the police initiates the procedure. For the crimes that are not ex officio prosecuted, the prior complaint of the victim themselves is needed, in order for the procedure to initiate. If a third party wants to report a crime, which is not ex officio prosecuted, they need to file a lawsuit in order for the procedure to be initiated.

For cases of racist violence, the victim can call the Special Telephone Line for Complaints 11414 of the Hellenic Police Services against racist violence, which operates 24/7 and anonymity and confidentiality is ensured.

The Phone Line 11528, working under the aegis of the Ministry of Education, Research and Religious Affairs and operating from Monday-Friday 11:00-20:00, provides psychological support to LGBTQIA+ people, their families, and education professionals.

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