

C.O.N.T.A.C.T.

Desktop research results

Greece

Annex 2.a) Relevant International Legal Provisions in Greek context

Country	Law	Ratified	Exceptions, declarations
Greece	Universal Declaration on Human Rights (UDHR) 1948: Articles 1 , Art 2, Art 19	Ratified	
Greece	International Covenant on Civil and Political Rights (ICCPR): Articles 2, 19, 26, 27	Ratified	
Greece	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD): Article 4	Ratified	
Greece	European Convention for the Protection of Human Rights and fundamental freedoms (ECHR): Article 14	Ratified	
Greece	Protocol No 12 to the Convention for the Protection of Human Rights and fundamental freedoms(ECHR)	Signed /not ratified	
Greece	Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (Council of Europe):Articles 2-6	Signed/not ratified	

2.b) Relevant Provisions in the Greek law

Country	Law	Provisions
Greece	<p>Law No 927/1979 (O.G. A 139) as amended by Law No 4285/2014 (OG 191) enacted on 9/9/2014 that implements within the Greek legal order the E.C. Framework Decision 2008/913/JHA, <i>“On combating certain forms and expressions of racism and xenophobia by means of criminal law.</i></p> <p>(Νόμος 927/1979 (A 139) όπως τροποποιήθηκε με το Ν.4285/2014: «Τροποποίηση του Ν.927/1979 (Α’ 139) και προσαρμογή του στην απόφαση – πλαίσιο 2008/913/ΔΕΥ της 28/11/2008, για την καταπολέμηση ορισμένων μορφών και εκδηλώσεων ρατσισμού και ξενοφοβίας μέσω του ποινικού δικαίου (L328) και άλλες διατάξεις».</p>	<p>This law is the main legal instrument addressing hate speech. It makes a criminal offence the public incitement – either orally or through the press or Internet – to violence or hatred or any other act of discrimination against a person or a group of persons in a way that threatens public order or their life, freedom and their body integrity, for the sole reason of their identification in reference to a certain race, color, religion, genealogical origin, national or ethnic origin, sexual orientation, gender identity or disability.</p> <p>The clause foresees penalties which range from imprisonment of three months to three years and a fine of 5,000 to 20,000 euros. In the case of imprisonment of at least one year, the offender is additionally deprived of the political rights for one to five years.</p> <p>The same penalties also apply to whoever creates or participates in an organization or union of persons that seeks to accomplish the previous acts. If the incitement results in the committing of any of those acts, the imprisonment is minimum six months and the penalty is between 15,000 to 30,000 euros. Heavier penalties are foreseen in cases where any of these acts were committed by a public official or other government employee during the exercise of duty. All the above acts and activities can be prosecuted ex officio.</p> <p>Article 2 of Law 4285/2014 criminalises the act of denying, condoning, or trivialising genocide, crimes against humanity and war crimes recognised by international courts or the Hellenic Parliament, if the denial or the appraisal can provoke violence.</p>
Greece	<p>81^A Criminal Code (Article 10§2 of law 4285/2014 added this</p>	<p>This provision came into force in 2014. Law 4285/2014 abolished the last sentence of art 79 par 3 (d) that provided that made it an aggravating circumstance to commit an act out of hatred based on race, religion,</p>

	<p>clause in the Criminal Code. It was amended by art. 1 Law 4356/2015 (OG A 181) that came into force on 24/12/2015 (Νόμος 4356/2015 «Σύμφωνο συμβίωσης, άσκηση δικαιωμάτων, ποινικές και άλλες διατάξεις» ΦΕΚ Α181 24/12/2015).</p>	<p>national or ethnic origin, or because of the different sexual orientation or gender identity of the victim. This circumstance was related to the personality of the offender and it was considered at the time the punishment was imposed. Thus, the judge had an obligation to take this under consideration when imposing the penalty provided by the law. The sentence could not be suspended.</p> <p>Law 4285/2014 abolished the part of Article 79(3) on aggravating circumstances and introduced Article 81A to the Penal/Criminal Code rendering more severe the lowest and highest sentences that can be imposed for hate motivated offences. The list of grounds in Article 81A is the same as the one that used to figure in Article 79(3) only that colour and disability has been included. Again the sentences cannot be suspended.</p> <p>This clause was last amended in December 2015.</p> <p>Art. 81A foresees that if the circumstances lead to the assumption that a crime has been committed against a person who has been chosen as a victim because of his/her race, color, religion, genealogical origins, ethnic or national origins, sexual orientation, gender identity, gender characteristics or disability, then there is a certain increase in the minimum and maximum sanction limits.</p>
Greece	<p>Art. 361-367 Penal Code (άρθρα 361-367 Ποινικού Κώδικα περί εξύβρισης)</p>	<p>Whoever insults a person through speech or actions or in any other way will be punished with maximum one year imprisonment or and pecuniary penalty This provision is not implemented when the speech is protected under freedom of expression.</p>
Greece	<p>Law 3304/2005 (OG A 16) The implementation of equal treatment without discrimination on race or ethnic origin, religious or other convictions, disability, age or sexual orientation.</p> <p>N. 3304/2005 - ΦΕΚ: 16/A (27/01/2005) «Εφαρμογή της αρχής της ίσης μεταχείρισης</p>	<p>Art 16 provides that whoever violates the prohibition of non discrimination as described in this particular law, in the sector of exchange of goods or in public services, will be punished with imprisonment of 6 months to 3 years and pecuniary penalty (1.000)to (5.000) euro.</p>

	<p>ανεξαρτήτως φυλετικής ή εθνοτικής καταγωγής, θρησκευτικών ή άλλων πεποιθήσεων, αναπηρίας, ηλικίας ή γενετήσιου προσανατολισμού».</p>	
Greece	<p>No 7100/4/3 24/5/2006 internal circular of the Hellenic Police <i>“Dealing with racism hate and non tolerance in police action”</i> (Υπ’ αριθ. 7100/4/3 από 24.5.2006 Εγκύκλιος της ΕΛ.ΑΣ «Η αντιμετώπιση του ρατσισμού, της μισαλλοδοξίας και της μη ανεκτικότητας κατά την αστυνομική δράση».</p>	<p>Police is obliged to search on the motives of the crimes committed, to collect all the relevant information and to write down incidents that were caused due to national or ethnic origin, color, religion, disability, sexual orientation and gender identity, when there is such confession from the offenders the victims or a reference by the victims or witnesses and there are clues that the offenders or the victims belong to different racial, ethnic, religious or social groups. The search of the racist motive is also obligatory in discipline internal procedures that examine complaints against officers by persons who belong to vulnerable groups or who are aliens.</p>
Greece	<p>Presidential Decree 132/2012 (A 239) <i>“Departments and Offices to combat Racist Violence –Amendment p.d. 12/2001”</i>. (Π.Δ. 132/2012 «Σύσταση Τμημάτων και Γραφείων Αντιμετώπισης Ρατσιστικής Βίας – Τροποποίηση διατάξεων π.δ. 14/2001 (Α’ 12)» (Α’ 239) Relevant laws: P.d. 120/2008 (OG A182) <i>“Discipline law for</i></p>	<p>The mission of these departments and offices of the Hellenic Police is to intervene ex officio or after a complaint for acts or preparatory acts that can cause discrimination, hate, violence against persons or group of persons due to race, color, religion, genealogical or national or ethnic origin, to collect and analyse information that refer to racist crimes, cooperates with government and non government organisations to combat racist crime, keep records of incidents of racist violence, informs the victims of their rights, inform clinical services and hospitals when it is needed for the victims of racist violence inform the public prosecutor for any case of racist violence, as well as the Ministry of Foreign Affairs and the consulate services of the country of origin of the victims. There will be a single phone number for complaints (Since 10/1/2013 this line is 11414)</p>

	<p><i>police personnel” Law 3938/2011 (OG A61) and P.D. 78/2011 «Office to Combat Incidents of Arbitrary Conduct in the Ministry of Citizens Protection” «Σύσταση Γραφείου Αντιμετώπισης Περιστατικών Αυθαιρεσίας στο Υπουργείο Προστασίας του Πολίτη».</i></p>	
Greece	<p>Presidential Decree 109/2010 (OG A 190) Implementation of directive 2010/13/E.U. Π.δ. 109/2010 (A 190) Εναρμόνιση της ελληνικής ραδιοτηλεοπτικής νομοθεσίας στις διατάξεις της οδηγίας 2010/13/E.E.</p>	Article 4 παρ. 2 and 7.
Greece	<p>Presidential Decree 77/2003 Code of conduct for news and other journalist and political transmissions Π.Δ. 77/2003 (Α 77) περί του κώδικα δεοντολογίας ειδησεογραφικών και άλλων δημοσιογραφικών και πολιτικών εκπομπών</p>	Art 4. The presentation of persons in a way that could enhance demining, social exclusion or discrimination because of sex, race, ethnicity, language, religion, is prohibited

2.c) Remarks/recommendations from International Institutions, National Bodies, Non Governmental Organisations

Greece	International Covenant on Civil and Political Rights Concluding observations on the second periodic report of Greece 3/12/ 2015	<p><i>“13. While acknowledging efforts made by the State party to combat hate crimes, the Committee is concerned that the new Law 4285/2014 and the provisions introduced in the Penal Code may hinder investigations into and prosecutions of those responsible for racist hate crimes involving public insults and defamation against groups. The Committee is also concerned about continued reports of racist attacks and hate speech against migrants, refugees and Roma. The Committee notes with concern that cases of racism are underreported owing, allegedly, to lack of trust in the authorities and the absence of an effective complaints mechanism. The Committee regrets that sanctions imposed are insufficient to discourage and prevent discrimination (arts. 2, 19-20 and 26).</i></p> <p><i>14. The State party should review its legislation with a view to ensuring that all advocacy of national, racial or religious hatred is prohibited by law, and that all cases of racially motivated violence are systematically investigated, that perpetrators are prosecuted and punished and that appropriate compensation is awarded to the victims. The State party should take effective measures to improve the reporting of hate crimes and should strengthen its efforts to eradicate stereotyping and discrimination against migrants, refugees and Roma, inter alia, by conducting public awareness campaigns to promote tolerance and respect for diversity.”</i></p>
Greece	ECRI Report on Greece (fifth monitoring cycle) Adopted on 10/12/ 2014 Published on 24/2/ 2015	<p>-While the law covers the recommendation contained in § 18 c of ECRI’s General Policy Recommendation (GPR) No. 7 which relates to racist threats, it does not address those in §§ 18 b, referring to insults and defamation, or 18 f, concerning the public dissemination, public distribution or production or storage of racist material.</p> <p>-ECRI recommends that language and citizenship are included in the list of grounds of Article of Law 927/1979. It also recommends that the offences that are still missing be included in the law.</p> <p>-ECRI recommends to amend Law 927/1979 in order to criminalise racial discrimination in the exercise of one’s public office or occupation.</p> <p>-ECRI recommends to amend Law 927/1979 in order to criminalise the public expression, with a racist aim, of ideologies with a claim of superiority.</p> <p>-Law 927/1979 does not follow § 20 of GPR No. 7 (criminalising the instigating, aiding, abetting, or attempting to commit the criminal offences)</p>

		<p>directly, but there are general provisions in the Criminal Code to this effect.)</p> <ul style="list-style-type: none"> -The concept of criminal liability of legal persons does not exist in Greek law. However, Article 4 of Law 4285/2014 provides for the imposition of administrative fines on legal persons, when one of the punishable offences of Law 927/1979 is committed on their behalf. -ECRI notes that Article 81A does not correspond entirely to § 21 of GPR No. 7. However, ECRI’s attention has also been drawn to the perfunctory application of Article 79(3). In ECRI’s view, it is important for the authorities to monitor carefully the way Article 81A will be used by the courts to assess whether it can help overcome the problems encountered with Article 79(3). ECRI recommends that language and citizenship are included in the list of grounds in Article 81A of the Criminal Code -Greece should ratify Protocol No. 12 to the European Convention on Human Rights. -The Greek authorities should create a Task Force to develop a comprehensive national strategy to combat racism and intolerance. -The question of a racist and/or homo-/transphobic motivation in cases of violent incidents should be made an integral part of investigations and judicial proceedings from their very beginning. There should be further training provided to the police, for which programmes proposed by international organisations could be used. The authorities should also offer training to judges and prosecutors on the application of Article 81A of the Criminal Code on hate motivated offences -The Greek authorities need to develop an effective strategy to put an immediate end to racial segregation affecting Roma children in schools and to prevent any reoccurrence in the future. Such a strategy should be in full compliance with the judgments of the European Court of Human Rights and can also draw inspiration from ECRI’s General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.
Greece	<p>Commissioner for Human Rights – Report by Nils Muiznieks, Council of Europe Commissioner for Human Rights, following his visit to Greece, from 28 January to 1 February 2013, 16/4/2013</p>	<p><i>“38. The Commissioner urges the Greek authorities and political leaders to abstain from using rhetoric that stigmatises migrants and to condemn firmly and unequivocally all instances of hate speech, in line with the Council of Europe Committee of Ministers Recommendation No. R (97) 20 on “hate speech”, as well as all forms of hate crime....”</i></p> <p><i>“39. Greek political parties and the national parliament are called on to adopt self-regulatory measures to effectively counter and sanction intolerant, xenophobic and racist speech used by politicians. It would be useful to include these grounds in the disciplinary measures that may be imposed on MPs</i></p>

	CommDH(2013)6	<p><i>under Article 77 of the Greek Parliament’s Standing Orders. ...”</i></p> <p><i>“65. What Greek law has failed to do so far is to criminalise, as prescribed by Article 4 (a) ICERD, individual acts of racist violence, which in practice may be combined with other grounds, such as the victim’s religion and sexual orientation. The Commissioner was informed by various interlocutors during his visit that a legislative amendment aimed at creating a special criminal offence (ιδιώλυμο) of acts of racist violence has been under consideration by competent authorities. Legal practitioners have indicated that such a provision would facilitate the prosecution of racist violence and the inclusion of racist motivation in the early stages of criminal proceedings, including the indictment, instead of in the last phase of assessment of the criminal penalty by the court, as it is now possible under Article 79, paragraph 3, of the criminal code ...”</i></p> <p><i>“67. The Commissioner, whilst recognising the importance of the abovementioned criminal code provision, notes with grave concern that it has never been applied by courts in Greece so far, leading to the imposition of excessively lenient, non-dissuasive penalties. For example, in September 2012 the Xanthi Magistrates Court imposed a suspended sentence of eight months and a pecuniary fine of €200 on a person reportedly linked to “Golden Dawn” who had violently attacked a member of the Muslim minority of Turkish ethnic origin.... 68. As well as the non-application of Article 79, paragraph 3 of the criminal code, the Commissioner is also concerned at the rare application of Law 927/1979 itself, a law that is not without shortcomings but is certainly potentially effective..... 69. During the Commissioner’s visit and discussions with competent authorities, it became clear that the problem of non-application of the aggravating circumstance provision originates in the non-inclusion in the file or non-examination by the police, prosecutors or courts, of evidence related to the racist or other motivation of a criminal offence. Despite the issuance of a number of circulars on the issue by the police and the Court of Cassation prosecutor, the lack of systematic, continuous training of police officials, prosecutors and judges appears to lie behind the ineffective application, or non-application, of the existing anti-racism legislation.” ...</i></p>
Greece	Greece: Human Rights Watch Submission to the United Nations Committee against Torture 24/3/2014	<p><i>“The failure of the police and prosecutors to investigate properly and collect evidence on the racist motivation of a crime makes it harder for courts to apply penalty enhancements. While racist motivation was introduced in 2008 as an aggravating circumstance in the commission of a crime, giving judges the discretion to impose the maximum penalty for any given crime at the sentencing phase, the provision has been applied only once to our</i></p>

		<p><i>knowledge, in November 2013, in the nearly six years since its introduction.....</i></p> <p><i>Yet, proposed reforms to the criminal code, introduced in November 2013 and still pending in parliament at this writing, to impose sanctions for hate speech and increase sanctions for incitement to violence, do not include measures to improve state response to hate violence. Greek law should include an explicit requirement that any crime that may be categorized as a violent hate crime, regardless of its nature, should prompt mandatory investigation and prosecution without requiring victims to pay a fee to file their complaint; a requirement for law enforcement officials to suspend any immigration law actions arising from the undocumented status of a victim or witness of an alleged attack, pending a prima facie assessment by a prosecutor of the merits of the complaint about the attack; and an explicit requirement for prosecutors to investigate bias as a possible motive in a crime and to present any evidence to the court.”</i></p>
Greece	<p>Ombudsperson www.synigoros.gr</p> <p>Brief presentation of the complaints until 30/6/2013 «Special Report on Racist Violence in Greece» p. 24-27 September 2013</p> <p>Συνοπτική παρουσίαση των αναφορών που χειρίστηκε ο Συνήγορος του Πολίτη (ως 30/6/2013) «Ειδική Έκθεση. Το φαινόμενο της ρατσιστικής βίας στην Ελλάδα και η αντιμετώπισή του» σ. 24-27 Σεπτέμβριος 2013</p>	<ol style="list-style-type: none"> 1. Racism in police conduct and procedures and inadequate discipline measures 2. Tolerance by authorities and denial to investigate by police authorities 3. Arbitrary police controls 4. Arbitrary prosecutions of aliens 5. violent speech and demining behaviour 6. violence by police officers

Greece	<p>National Commission for Human Rights www.nchr.gr</p> <p>Annual Report 2014 Observations on the law on racist speech p. 53-60 Ετήσια Έκθεση 2014 Παρατηρήσεις επί του σχεδίου νόμου για το ρατσιστικό λόγο σ. 53-60</p>	<p>The threat to public order is substantiated regardless of whether actual crimes are committed because of the hate speech. The law criminalises the possibility that the speech will cause a crime, either because of the nature of the speech or the circumstances. It is important that the judgment gives reasons to substantiate the provocation to violence, because simple expression of an opinion, scientific or not, is not a crime. With regard to the offence of the appraisal or the negation of historical facts. These are criminalised when there are conditions to provoke violence and when these facts have been recognised as international crimes (genocide, war crimes) by international courts or the greek parliament. NCHR stresses that the absolute prohibition of an opinion different to the recognition of these crimes would violate freedom of speech</p>
Greece	<p>National Commission for Human Rights www.nchr.gr</p> <p>Observations on the 20 and 21 periodical report of the Hellenic Democracy for the implementation of ICERD . 15/1/2015</p> <p>ΕΕΔΑ Παρατηρήσεις επί του σχεδίου της 20^{ης} και 21^{ης} Περιοδικής Έκθεσης της Ελληνικής Δημοκρατίας για την εφαρμογή της Διεθνούς Σύμβασης για την Εξάλειψη κάθε Μορφής Φυλετικών Διακρίσεων (ICERD) 15 /1/2015</p>	<p>Law 4285/2014 helps the victims and the witnesses to report a crime and expands the possibility of the authorities to investigate the racist motive. The prosecution should be on the base of a particular act together with 81A P.C. and there is a need that the racist motive is investigated at the stage of the prehearing by the public prosecutor and the stage of the ex officio police investigation. The implementation of internal circular 7100/4/3 24.5.2006 on the obligation for this investigation, the collection of evidence and the reporting of any racist incident by police officers is very important The law should provide for the ex officio prosecution of all punishable acts of racist motive and the pro bono filing of a complaint.</p>

<p>Greece</p>	<p>Racist Violence Recording Network April 2013</p> <p>http://rvrn.org/2013/12 Position of the Racist Violence Recording Network on crimes with racist motive,</p> <p>Δίκτυο Καταγραφής Περιστατικών Ρατσιστικής Βίας/Θέσεις αναφορικά με τα εγκλήματα που τελούνται με ρατσιστικό κίνητρο, Απρίλιος 2013</p>	<p>Law 4139/2013 provides that the sentences on crimes committed with racist motive (art 79 παρ.3 p.c.) will not be suspended. However, what is critical is that police officers and prosecutors do not use art 79 par. 3 to press charges and to collect evidence. This article has never been used till 2013. Thus, the commitment of a crime with racist motive should be described a particular crime in order that the public prosecutor can press charges on the base of this article also.</p>
<p>Greece</p>	<p>Racist Violence Recording Network rvrn.org</p> <p>Observations on the draft law that inserts 81a in the penal code 1/12/2015 Παρατηρήσεις επί των σχετικών με τη ρατσιστική βία διατάξεων του Σχεδίου Νόμου «Σύμφωνο Συμβίωσης και άλλες διατάξεις» 1/12/2015</p>	<p>The network believes that the founding of a National Council for Racism and Hate is positive. It suggests that a phrase should be added to art 81A Penal Code, a phrase that will clarify that a crime may have multiple motives, in order to avoid the non punishment of the racist motive. It suggests also the systematic legal regulation against racism.</p>

<p>Greece</p>	<p>Hellenic League for Human Rights www.hlhr.gr A roadmap: What to do with Golden Dawn (2013) http://www.hlhr.gr/index.php?MDL=pages&SiteID=962 Ένας οδικός χάρτης: τι να κάνουμε με τη Χρυσή Αυγή</p>	<p>The league thinks that Greece needs to reevaluate its antiracist legislation (at the time there was only Law 927/1979 to deal with hate crime and hate speech). Furthermore Greece should protect undocumented migrants that are very often the victims of such crimes and Greek justice must investigate the “racist motive” beginning from the preliminary investigation of a crime.</p>
<p>Greece</p>	<p>Hellenic League for Human Rights www.hlhr.gr Note on the bill against racism and xenophobia (30.03.2011) http://www.hlhr.gr/index.php?MDL=pages&SiteID=616 Για το νομοσχέδιο κατά του ρατσισμού και της ξενοφοβίας</p>	<p>The League opposes to the penalization of racist/hate speech insisting on the fact that freedom of speech should not be restricted in any way and on the fact that in Greece the problem is racist violence that is not properly investigated and punished and not racist speech and its further penalization. The League also refers to the growing diffusion of hate speech in Greece by politicians, mass media and by members of the clergy pointing also to the fact that a penalization of the racist /hate speech in Greece will not solve what it seems to be rather a social and ideological problem than a legal one.</p>