Schriftenreihe des Max-Planck-Instituts für
ausländisches und internationales Strafrecht

Sammlung ausländischer Strafgesetzbücher in Übersetzung

Herausgegeben von Ulrich Sieber und Hans-Jörg Albrecht

Band G 124

Research Series of the Max Planck Institute for
Foreign and International Criminal Law

Collection of Foreign Criminal Laws in Translation

Edited by Ulrich Sieber and Hans-Jörg Albrecht

Volume G 124

Max-Planck-Institut für ausländisches
und internationales Strafrecht

The Greek Penal Code

Law 1492 of 1950
in conjunction with Presidential Decree 283 of 1985
as of 28 February 2017

English translation by
Vasiliki Chalkiadaki • Emmanouil Billis

Introduction by
Emmanouil Billis

Edited by Emmanouil Billis

Duncker & Humblot • Berlin

Bibliografische Information der Deutschen Nationalbibliothek

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.ddb.de> abrufbar.

https://doi.org/10.30709/978-3-86113-794-8

Lektorat/English language reviser: Robert Packer

Vertrieb in Gemeinschaft mit/Distribution in cooperation with
Duncker & Humblot GmbH, Berlin
http://www.duncker-humblot.de

Umschlagbild/Cover photo: © www.justmedia.de
Druck/Print: Stückle Druck und Verlag, Stückle-Straße 1, 77955 Ettenheim
Printed in Germany

ISSN 1862-9377
ISBN 978-3-86113-794-8 (Max-Planck-Institut)
ISBN 978-3-428-15230-8 (Duncker & Humblot)
Gedruckt auf alterungsbeständigem (säurefreiem) Papier
entsprechend ISO 9706

Foreword

The series *Sammlung ausländischer Strafgesetzbücher* [Collection of Foreign Criminal Laws] dates back to 1882 and the supplement to the first volume of the renowned German law journal *Zeitschrift für die gesamte Strafrechtswissenschaft*, in which the editors *Adolf Dochow* and *Franz von Liszt* published translations of three foreign criminal laws. Following the publication of seven such supplements, subsequent translations – beginning with volume 8 in 1894 – appeared as *Sammlung außerdeutscher Strafgesetzbücher in deutscher Übersetzung* [Collection of Extra-German Criminal Laws in German Translation]. In 1997 – beginning with volume 106 – the series was continued by the Max Planck Institute for Foreign and International Criminal Law in Freiburg as the *Sammlung ausländischer Strafgesetzbücher in deutscher Übersetzung* [Collection of Foreign Criminal Laws in German Translation] (for more on the historical development of the series, see the foreword to volume G 115). With volume G 124, the series presents for the first time a criminal code in English translation. Thus, beginning with the publication of this volume, the series will be known as *Sammlung ausländischer Strafgesetzbücher in Übersetzung* [Collection of Foreign Criminal Laws in Translation], a title that leaves open the possibility of presenting translations in other widely-spoken languages as well.

With this most recent change, the tradition-steeped series remains true to the original intent of *Adolf Dochow* and *Franz von Liszt*, who wished to make foreign legislation accessible to criminal law comparativists in a language they understood. The opening of the series to English-language translations takes account of changes in overall conditions attributable to internationalization. Today, progress in the area of criminal law takes place more and more frequently by way of European regulations and international discourse. Consequently, knowledge of foreign legal systems is necessary not only for criminal law scholarship and practice in the German-speaking world but also for international criminal law scholarship and practice on the international level, where much of the comparative legal discourse currently takes place in English.

This does not mean that the series will continue exclusively in English. The translation of statutes is an extremely difficult and time-consuming task and one that requires in-depth knowledge of both the source and the target languages as well as extensive experience in comparative legal research. Translators with this level of expertise are few and far between. While the opening of this series to English-language translations improves the chances of finding such academically-

qualified translators, it does not mean dispensing entirely with translations into German.

Access to foreign criminal laws as facilitated by the translations presented in this series is an indispensable prerequisite for a successful encounter with the laws of another jurisdiction, but it is not sufficient. Consequently, over time, the introductions provided in all volumes have become more and more important. Moreover, in recent years the Max Planck Institute for Foreign and International Criminal Law in Freiburg has invested in the development of another medium that promotes access to foreign criminal law: in the meantime, the International Max Planck Information System for Comparative Criminal Law offers a systematic presentation of the general part of criminal law of numerous legal systems in German and/or English. This information is available both in print form (five German-language and eight English-language volumes, with additional volumes published at regular intervals) and electronically. Access to these data via the internet is free of charge: users can easily find the information they need via an innovative database and expert system and can view information concerning several systems simultaneously on their computer screens (http://infocrim.org). Additional comparative legal scholarship appears in the Max Planck Institute series *Strafrechtliche Forschungsberichte* [Reports on Research in Criminal Law], in which studies on cutting-edge issues as well as comparative analyses of the general part of criminal law are published.

My sincere thanks are due to my collaborator Dr. *Emmanouil Billis*, editor of this volume, who is the author of both the introduction to Greek criminal law published here and of the country report on Greece for the aforementioned International Max Planck Information System for Comparative Criminal Law. For the outstanding translation of the Greek Penal Code, I would like to thank Dr. *Billis* and Dr. *Vasiliki Chalkiadaki*, who also worked as a researcher for a significant period of time at the Max Planck Institute for Foreign and International Criminal Law. I am grateful as well to *Robert Packer* for the linguistic revision of the translation and my collaborator *Ines Hofmann* for the layout of the text and for preparing it for publication.

In the tradition of *Franz von Liszt,* the great criminal law scholar, my hope for this book is for it to enhance the understanding of the Greek Penal Code in both scholarship and in practice and for it to make positive contributions to the development of European criminal law and to international cooperation in the field of criminal law!

Freiburg i.Br., February 2017

Prof. Dr. Dr. h.c. mult. Ulrich Sieber,
Director at the Max Planck Institute for
Foreign and International Criminal Law

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The Greek Penal Code

English translation by *Vasiliki Chalkiadaki* and *Emmanouil Billis*

Abbreviations

AECC	ΑΔΑΕ (Αρχή Διασφάλισης του Απορρήτου των Επικοινωνιών, Authority for Ensuring the Confidentiality of Communications)
art(s).	article(s)
CCP	Greek Code of Criminal Procedure
Const.	Greek Constitution of 1975/1986/2001/2008 (Σύνταγμα, Syntagma)
D.C.C.	ΚΕ.Π.Α. (Κέντρο Πιστοποίησης Αναπηρίας, Disability Certification Centre)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ed./eds.	edition/editor, editors
e.g.	exempli gratia
et seq.	et sequens
EU	European Union
eucrim	The European Criminal Law Associations' Forum (law journal)
GA	Goltdammer's Archiv für Strafrecht (law journal)
ICCPR	International Covenant on Civil and Political Rights
i.e.	id est
introd.	Introduction
JZ	Juristenzeitung (law journal)
L.	Law(s)
L.D.	Legislative Decree
lit.	littera
L.P.P.L.	Ν.Π.Δ.Δ. (Νομικό Πρόσωπο Δημοσίου Δικαίου, Legal Person of Public Law)
M.L.	Mandatory Law
no.	number
OGG	ΦΕΚ (Εφημερίδα της Κυβερνήσεως, Official Government Gazette)
O.L.SG.	Ο.Τ.Α. (Οργανισμός Τοπικής Αυτοδιοίκησης, Organization of Local Self-Government)

p./pp.	page/pages
para./paras.	paragraph(s)
PC	Greek Penal Code
P.D.	Presidential Decree
PoinChr	Poinika Chronika (Ποινικά Χρονικά, law journal)
RHDI	Revue Hellenique de Droit International (law journal)
sent.	sentence
transl.	translation
UN	United Nations
vol.	volume
ZIS	Zeitschrift für Internationale Strafrechtsdogmatik (law journal)
ZStW	Zeitschrift für die gesamte Strafrechtswissenschaft (law journal)

Introduction to the basic characteristics and fundamental principles of the criminal law and Penal Code of Greece

Emmanouil Billis

I. General characteristics of the Greek criminal justice system

1. Constitutional framework and fundamental rights

The Hellenic Republic *(Ελληνική Δημοκρατία)* is located in southeast Europe (Mediterranean region). It is a Member State of the European Union and a Eurozone country with the Euro as its official currency. The usual resident population amounts to around 11,000,000 people and the official language is Standard Modern Greek. The prevailing religion is that of the Eastern Orthodox Church of Christ (art. 3(1) of the Greek Constitution, *Syntagma*, *Σύνταγμα,* Const.).[1] However, freedom of religious conscience is inviolable; all known religions are free, and their rites of worship may be performed unhindered and under the protection of the law (art. 13 Const.).[2]

The form of government of Greece is that of a parliamentary republic (art. 1(1) Const.).[3] The Constitution regulates the system of government on the basis of the separation of powers principle. According to art. 26 Const., legislative powers shall be exercised by the Parliament and the President of the Republic, executive powers shall be exercised by the President of the Republic and the Government (i.e., the Prime Minister and the Ministers), and judicial powers shall be exercised by the courts, the decisions of which shall be executed in the name of the Greek people.[4]

Courts are composed of regular judges who enjoy functional and personal independence; in the discharge of their duties, judges are subject only to the Constitution and the laws. All courts are bound not to apply a law whose content is contrary to the Constitution. The Special Highest Court, a form of constitutional court with

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[1] The English translation of the Greek Constitution of 1975/1986/2001/2008 is available on the website of the Hellenic Parliament (http://www.hellenicparliament.gr/en/Vouli-ton-Ellinon/To-Politevma/Syntagma/, last visited February 2017).

[2] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 189–192.

[3] See also *Dagtoglou*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 26.

[4] See with further references *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 192–195.

limited jurisdiction,[5] settles, among other things, controversies about whether the provisions of a law enacted by Parliament are contrary to the Constitution (unconstitutional).[6] The ordinary courts are divided between administrative, civil, and criminal courts. The jurisdiction of ordinary criminal courts comprises the punishment of criminal offences and the imposition of all measures provided by criminal laws.[7] Finally, the Supreme Court *Areios Pagos (Άρειος Πάγος)* is a cassation court in civil and criminal matters competent to give rulings on specific legal issues.[8]

Every court as well as all state, law enforcement, and judicial organs are directly bound by the Constitution of the Hellenic Republic, which is the fundamental law of Greece and the most important source of supra-statutory rules.[9] By treating the individual as a citizen and bearer of rights and obligations *vis-à-vis* the state, the Constitution of 1975/1986/2001/2008 establishes the elements that are necessary for a legal system to function in an effective, protective, and fair way. These elements are: the democratic, representative, and parliamentary form of government;[10] the state's primary obligation to respect and protect human dignity by guaranteeing equality, personal freedom, and the protection of fundamental rights;[11] the principles of the rule of law and of proportionality;[12] and the principle of the welfare state.[13]

Fundamental constitutional rights, freedoms, principles, and rules that are related, directly or indirectly, to the criminal law and procedure of Greece, include in particular:

– the right of all persons to develop their personality freely and to participate in the social, economic, and political life of the country (art. 5(1) Const.);
– the right of all persons living within the Greek territory to enjoy the full protection of their life, honour, and liberty irrespective of nationality, race or language, and of religious or political beliefs (art. 5(2) Const.);
– the prohibition of the extradition of foreigners who are being prosecuted for their actions as freedom fighters (art. 5(2) Const.);
– the inviolability of personal liberty; no one shall be prosecuted, arrested, imprisoned, or otherwise confined except according to law (art. 5(3) Const.);

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5 *Dagtoglou*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 33.

6 Arts. 87(1–2), 90(5), 93(4), 100(1, 4) Const.

7 Arts. 93(1), 96(1) Const.

8 For more details, see *Dagtoglou*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 31–33.

9 See *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 222–228.

10 Arts. 1, 26, 37, 51(2), 52, 84, 120 Const.

11 Arts. 1(3), 2(1), 4–25, 29, 51, 55 Const.

12 Art. 25(1) as well as arts. 7, 8, 10, 20, 26, 93, 95 Const.

13 Art. 25(1, 2) as well as arts. 16, 17(1), 21, 22, 24, 106, 108 Const.

- the right of every Greek citizen to free movement or free domicile in the country, and to free exit from, and entry into, Greek territory. Measures restrictive of these rights may only be imposed as a supplementary punishment by a criminal court in exceptional emergency cases and only in order to prevent the commission of punishable acts, as specified by law (art. 5(4) Const.);
- the right of all persons to the protection of their health and genetic identity (art. 5(5) Const.);
- the right to information; restrictions to this right may be imposed by law only insofar as they are absolutely necessary and justified for reasons of national security, combating crime, or protecting the rights and interests of third parties (art. 5A(1) Const.);
- the right to participate in the "information society" (art. 5A(2) Const.);
- due process guarantees in the context of deprivation of liberty and illegal detention (art. 6 Const.);
- the principle of *nullum crimen nulla poena sine lege* (art. 7(1) Const.);
- the prohibition of torture and of general confiscation of property (art. 7(2, 3) Const.);
- the prohibition of the death penalty, except in cases provided for by law for felonies perpetrated in war time and related thereto (art. 7(3) Const.);
- the right to a "natural judge" (art. 8 Const.);
- the inviolability of the home and of the individual's private and family life; no home search shall be made, except when and as specified by law, and always in the presence of representatives of the state who have judicial power (art. 9(1) Const.);
- the right of every person to the protection of personal data (art. 9A Const.);
- the right of Greek persons to peaceful and unarmed assembly (art. 11 Const.);
- freedom of religious conscience (art. 13 Const.);
- freedom of personal expression and freedom of the press; art. 14 Const. also includes provisions relating to the civil and criminal liability of the press, for example, in the case of inaccurate and offensive publications;
- freedom of art and science, research and teaching, and the right of all Greeks to free education (art. 16 Const.);
- the right to the protection of property (art. 17 Const.);
- the absolute inviolability of the secrecy of letters and all other forms of free correspondence or communication. The circumstances under which the judicial authorities are not bound by this provision for reasons of national security or for the investigation of especially serious criminal offences, must be specified by law. In any case, the use of evidence acquired in violation of art. 19 as well as arts. 9 and 9A Const. is prohibited;

- the right of every person to legal protection by the courts and to a prior hearing (art. 20 Const.);
- the prohibition of any form of compulsory work (art. 22(4) Const.);
- the right of the President of the Republic to grant a pardon (art. 47(1, 2) Const.);
- provisions relating to amnesty for political crimes (art. 47(3, 4) Const.);
- provisions relating to a state of siege (art. 48 Const.);
- provisions relating to the criminal liability and immunity of the President of the Republic (art. 49 Const.);
- the prohibition to prosecute or interrogate a Member of Parliament for an opinion expressed or a vote cast by him or her in the discharge of his or her parliamentary duties, and, respectively, the right of Members of Parliament to refuse to give evidence (art. 61 Const.);
- parliamentary immunity (art. 62 Const.);
- the exclusive power of the Parliament to prosecute serving or former Ministers for criminal offences committed during the discharge of their duties, and the prohibition on establishing specific ministerial offences (art. 86 Const.);
- the guarantees of judicial independence (arts. 87–90 Const.); and
- the publicity of court hearings, and the obligation to render specifically and thoroughly reasoned judgments (art. 93(2, 3) Const.).

2. International ties

Rules of international origin are, at the supra-statutory level, part of the Greek legal order. In particular, according to the Constitution, generally recognized rules of international law, as well as international conventions as of the time they are ratified by law (act of Parliament) and become operative according to their respective conditions, are an integral part of domestic law and prevail over any contrary provision of law (art. 28(1) Const.).[14] Hence, these kinds of norms are located in the hierarchy between the Constitution and ordinary acts of Parliament.

This means, for example, that, with regard to principles of criminal law and procedure and to human rights guarantees, the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (ECHR)[15] must – like all international convention rules ratified by law – always be applied directly by the domestic courts in a way that prevails over any possible contrary statutory provision.[16] Thus, Greece, as a Member State of the Council of Europe since 1949, is bound by decisions of the European Court of Human Rights that de-

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[14] See also art. 36 Const.

[15] L. 2329/1953 and L.D. 53/1974.

[16] See also art. 1 ECHR.

clare state violations of the rights provided in the Convention.[17] In the same context, the provisions of the International Covenant on Civil and Political Rights of 1966 (ICCPR)[18] are also an integral part of the Greek legal system.[19]

Furthermore, art. 28(2–3) Const. provides that, under strict conditions, powers granted by the Constitution may be vested, by treaty or agreement, in agencies of international organizations when this serves an important national interest and promotes cooperation with other states; Greece can also limit the exercise of national sovereignty, insofar as this is dictated by an important national interest. As a whole, art. 28 Const. establishes a national legal basis for Greece's participation in the European integration process and determines, at the same time, the supremacy of European law over domestic statutory law.[20]

In this context, Greece has already become a Member State of the European Community (1981) and the European Union (EU, 1992)[21] that succeeded and replaced the European Community in 2009.[22] Greece is, hence, subject to the rules, rights, freedoms, and principles set out in the Treaty on the European Union, the Treaty on the Functioning of the European Union, and the secondary legal acts of the Union,[23] as well as in the Charter of Fundamental Rights of the EU (2000, 2007).[24] The supranational legal acts of the Community and the third pillar EU instruments have had an important impact on re-shaping and harmonizing Greek criminal law and procedure. With the entry into force of the Lisbon Treaty in 2009, it remains to be seen how and to what extent Greece, together with other Member States, will implement future binding EU penal rules.

Finally, Greece is one of the 51 founding members of the United Nations (UN). It has ratified and implemented into national criminal law most of the important UN legal instruments and international conventions regarding contemporary social problems such as transnational organized crime and corruption. Greece joined the

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[17] See in that respect the ECHR-Protocol Nr. 11, ratified by Greece, and art. 525(1) CCP; also, art. 46 ECHR.

[18] L. 2462/1997.

[19] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 216–217, 226–228.

[20] On the controversy relating to the question of supremacy of European laws over the Constitution, see *Christianos*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 66–68; see further *Kanellopoulos*, To Dikaio tis Europaikis Enosis, pp. 340–343 and *Spyropoulos/Fortsakis*, Constitutional Law, pp. 63, 79–80.

[21] For more details and references, see *Dagtoglou*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 25–26.

[22] See L. 3671/2008 ratifying the Treaty of Lisbon (2007, in force since 1 December 2009), which amended the former European Union and European Community Treaties; also art. 1 of the current Treaty on European Union.

[23] See especially arts. 2, 4, 6 Treaty on European Union and arts. 82–89, 288, 291 Treaty on the Functioning of the European Union.

[24] See art. 6(1) Treaty on European Union.

North Atlantic Treaty Organization (NATO) in 1952 and the Organization for Security and Cooperation in Europe (OSCE, former CSCE) in 1973. Since 1961, the country has also been a member of the Organization for Economic Cooperation and Development (OECD).[25]

3. Comparative legal classification and sources of criminal law

The Greek legal system is generally regarded as a member of the Romano-Germanic family of law, although it is also claimed that it is a hybrid or mixed jurisdiction and is therefore difficult to classify.[26] In any case, the main influences on the modern Greek criminal justice system are entrenched in the continental legal tradition.

In short, modern Greek law has its principle roots in Roman law, which was influenced itself in its origins by ancient Greek legal and philosophical thought.[27] During the Greek Revolution against the Ottoman Empire (1821 to 1830), which led to the establishment of the modern Greek state in 1830, the main influences on the first Greek legislatures were the laws of the Byzantine Emperors (who restated and codified ancient Roman law), the Enlightenment, the spirit and ideas of the French Revolution, and the post-revolutionary French codifications of the Napoleonic years. In the field of criminal justice, the influence of the French and, later, the German codifications was – and still is – of great importance.

The contemporary criminal law and criminal justice system of Greece belongs to the civil law family. The criminal process, overseen by the competent state authorities (prosecutors and judges as objective and impartial judicial officials), is mainly "inquisitorial"[28] and its central objective is the search for the substantive truth. As in most other continental European systems, jury trials in their pure form do not exist (any more) in Greece. The participation of lay judges in "mixed jury courts" is, in practice, limited to specific cases of serious offences, and always involves the co-participation of professional judges. Moreover, according to the Constitution, all judgments (judicial decisions), including those of the mixed jury courts, must always be specifically and thoroughly reasoned.[29]

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[25] For an overview of the international legal acts ratified by Greece, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 215–219.

[26] *Grammaticaki-Alexiou*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 13. See with further references *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 213–215.

[27] See, e.g., *Yiannopoulos*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 2–5. See also *Charalambakis*, Synopsi, p. 69.

[28] On this term, see, e.g., *Billis*, Die Rolle des Richters, pp. 13–140.

[29] Art. 93(3) Const.

The main characteristic that permits classification of the Greek criminal legal order as a civil law system concerns the sources of law. Notwithstanding the ongoing controversy surrounding the supremacy of European Union law over constitutional provisions, the Greek Constitution sits at the top of the hierarchy of all national legal norms. Rules of international origin, which can also affect national criminal law and procedure, are placed below the Constitution and enjoy, under specific conditions, supra-statutory force.[30] At a lower – but in practice, the most important – level stand the legal norms with ordinary force. The principle ordinary source of law in criminal matters is the legislation, i.e., written laws enacted by Parliament and/or by the executive by virtue of delegation granted by an act of Parliament. Custom cannot repeal legislation and plays only a very limited role in the field of substantive criminal law. Specifically, customary rules may only be applied *in bonam partem*, for example, as grounds for excluding criminal liability; in some cases custom may also have an interpretative function and serve, thus, as an indirect source of law.[31]

The heart of Greek criminal law is the systematic codification of written norms with ordinary force concerning central matters of crime and procedure in the Penal Code (*Ποινικός Κώδικας*, *Poinikos Kodikas*, PC)[32] and the Code of Criminal Procedure (*Κώδικας Ποινικής Δικονομίας, Kodikas Poinikis Dikonomias*, CCP)[33] respectively. Specific issues of criminal procedure and administration of justice are further regulated in the Code for the Organization of Courts (L. 1756/1988). Military criminal law is found in the Military Penal Code (L. 2287/1995), and prison law in the Penitentiary Code (L. 2776/1999). Matters of substantive and procedural law are to a large extent also addressed through legislation provided in special laws. Examples of these laws are: the Law on Narcotics (L. 4139/2013), the Law on Weapons (L. 2168/1993), and the Law on Prevention and Suppression of Money Laundering and Terrorist Financing (L. 3691/2008). Finally, a large number of penal provisions are situated in laws that primarily regulate subjects outside the criminal law area (e.g., statutes relating to the protection of private electronic data or to market and fiscal issues).[34]

The special laws and major codifications are drafted and revised with the participation and under the supervision of legal scholars and academics. Although legal doctrine is in itself not a source of law, it is very often taken into account by the courts for the systematic interpretation and implementation of legal norms. Further-

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[30] See art. 28 Const.

[31] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 254–260 with further references.

[32] L. 1492/1950 (in conjunction with P.D. 283/1985).

[33] L. 1493/1950 (in conjunction with P.D. 258/1986).

[34] For more details, also with respect to the modern developments in Greek criminal law, criminal procedure, and the execution of punishment, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 245–247, 256–259, 265–284.

more, according to the principle of separation of the state powers, legislative competence mainly belongs to Parliament. Judges are subject to the Constitution and he penal laws and must apply them as legislated, especially under consideration of the *nullum crimen nulla poena sine lege scripta et stricta* principle. Ordinary judicial decisions do not constitute a formal and direct source of abstract legal norms. Case law as binding judge-made law is not acknowledged in the Greek legal system. Previous judgments and precedents are, in principle, not binding in new cases, although they may be (and are in fact) used, especially by the lower courts, as interpretation tools.[35]

4. Stages and organs of criminal prosecution and trial

Criminal proceedings may be initiated by complaint by the harmed person, denouncement by a citizen, a denunciatory report of an authority, or any other possible notice of a criminal offence. The ordinary Greek criminal process is divided into a pre-trial and a trial phase. Apart from the ordinary process, special forms of proceedings are also provided for in the Code of Criminal Procedure. These (simplified) proceedings exclude either the extended pre-trial investigatory phase or the trial phase (fully or partially). Such proceedings include: "summary proceedings" (e.g., for perpetrators caught in the act); extradition proceedings; proceedings of "penal mediation" in domestic violence cases, and "penal conciliation" (i.e., a mixed kind of plea-bargaining and mediation process) in economic crimes.

In the ordinary proceedings the pre-trial mainly consists of the prosecution and investigation of criminal offences. The prosecutor – in most cases the prosecutor assigned to the competent misdemeanours court – is responsible for the prosecution of crimes in the name of the Greek state, but also has a central role as an investigating authority. As in the case of professional judges, prosecutors are appointed for life as judicial officials. The prosecutor's office is, however, a judicial authority independent of the courts and the executive authority. Every prosecutor represents not themselves, but, at all times, the prosecutorial authority as a whole. All prosecution officials are related through hierarchical dependence. In judicial practice, namely in the execution of his/her duties and the expression of his/her opinion, the prosecutor must only obey the law and his/her conscience.[36]

Before a criminal prosecution is commenced, it is possible, and for serious offences mandatory, for the prosecutor to order and supervise investigative actions ("preliminary inquiries") conducted by magistrates (i.e., professional judges of a lower rank) or police officers in order to establish whether or not there are suffi-

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[35] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 260–262.

[36] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 199–200 with further references.

cient grounds to prosecute in the first place. Moreover, preliminary investigations (known as "police pre-investigations") may be carried out by investigating officers – mainly magistrates or police officers – alone and without prior order of the prosecutor when necessary, due to the urgency of the situation, to secure evidence immediately, or when the offender was apprehended during the commission of the offence.[37]

Notice of a criminal offence or the conduct of preliminary inquiries (when/if ordered) is followed by the prosecution phase which is initiated by the prosecutor when legal and substantial grounds for doing so exist. The prosecution is commenced, under specific conditions, either by referring the case directly to trial (e.g., with respect to minor misdemeanours) or by ordering the further conduct of investigations. The latter are divided into "pre-investigations" (mainly with respect to misdemeanours of major importance) conducted by general and special investigating officers under the immediate supervision and direction of the prosecutor, and "investigations" (mainly with respect to felonies) conducted exclusively by ordinary professional judges upon written order of the prosecutor. Moreover, these investigating judges are, in cases of serious offences, responsible for: issuing arrest warrants; ordering restrictive conditions (e.g., bail); and for issuing, under specific conditions, namely, only with the agreement of the public prosecutor and – almost – only in felony cases, a pre-trial detention warrant.[38]

The pre-trial phase also includes the intermediate *in camera* proceedings held before judicial councils composed of professional judges. The latter are competent to decide, on the basis of the investigation results, whether or not a felony case should be referred to trial or dismissed; for minor offences, however, the case is dismissed or referred directly to trial by the prosecutor. The trial phase before the criminal courts consists of the "preparatory proceedings" (e.g., summoning of witnesses) and the "main court proceedings" (i.e., first-instance evidentiary trial and appeal proceedings) which take place under the direction of a presiding professional judge. In the intermediate and the trial stage, although the prosecutor represents the prosecution, as a judicial authority he/she is not a party to proceedings in the strict sense: he or she may also plead for an acquittal, must summon all necessary prosecution and defence witnesses, and may lodge appeals in favour of, or against, the defendant.[39]

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[37] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, p. 197.

[38] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 197–198 with further references.

[39] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 196, 200 with further references. For more details on the pre-trial and trial proceedings, see *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 131–191; *Mylonopoulos*, in: Van den Wyngaert (ed.), Criminal Procedure Systems, pp. 163–183; *Spinellis/Spinellis*, in: HEUNI (Publ.), Criminal Justice Systems, pp. 18–35.

5. Criminal courts

Depending on the type and gravity of the offence as well as other conditions, the following trial courts have ordinary jurisdiction in criminal matters in the first instance:

- the "petty violations courts" (composed of one magistrate);
- the "misdemeanours courts" (composed of one or three professional judges);
- the "mixed jury courts" (felony courts composed of three professional judges and four jurors, i.e., lay judges selected by lot – all members of the mixed courts decide jointly and equally by majority vote on all basic matters of fact and law including the question of sentence);
- the *Efeteia* ("courts of appeal") acting as first instance felony or misdemeanours courts (composed of one or three professional judges); and
- the "juvenile courts" (composed of one or three professional judges).

The courts of second instance are usually composed of more experienced or qualified judges. They have jurisdiction to decide both on the merits (facts) and the law that was applied by the first instance courts, provided that an appeal is statutorily permitted and formally submitted. Depending on the court that decided in the first instance, the courts with jurisdiction to hear an appeal are:

- the "misdemeanours courts" (composed of one or three professional judges);
- the *Efeteia* ("courts of appeal") acting as second instance courts (composed of three or five professional judges);
- the "mixed jury courts of appeal" (composed of three professional judges and four jurors);
- the "juvenile courts" (composed of one professional judge); and
- the "juvenile courts of appeal" (composed of three professional judges).

The Supreme Court *Areios Pagos* only assesses and decides upon the substantive and procedural law applied in criminal proceedings before the lower courts. The decisions of the *Areios Pagos* must relate to specific grounds for appeal (cassation), and can ultimately lead to the complete re-trial of a case by the trial court. Cassation grounds comprise, for example, the erroneous interpretation and application of the substantive law by the trial court, the violation of the rights of a defendant, or the disregard of the principle of double jeopardy. *Areios Pagos* is composed of 5, or in the case of (ordinary) plenary hearings, at least 17 higher judges.

Finally, special criminal courts with limited jurisdiction include military courts and the Special Court, which, under specific conditions, deals with offences committed by Members of the Government or the President of the Republic. Extraordinary courts can be established during a state of siege, namely, in the case of war, an

imminent threat to national security, or an armed coup aimed at overthrowing the democratic regime.[40]

6. Principles of criminal procedure

In the Greek criminal process the accusatory principle (i.e., accusation and trial in the hands of separate judicial authorities) governs the prosecution of every crime. Investigation of crimes, prosecution, and the continuation of fact-finding procedures belong, as a rule, to the *ex officio* competences of state officials. Furthermore, the prosecutor is bound by the principle of mandatory prosecution so long as the legal and substantive grounds for initiating a prosecution exist; whilst on the other hand, the provisions in favour of discretionary prosecution are limited.

Structurally, the criminal process is mainly "inquisitorial" and governed by the principle of the search for the substantive truth. The institutions vested with the competence for this purpose are the state authorities, that is, the prosecutors and judges, as objective and impartial judicial officials. Pre-trial inquiries, particularly in cases of serious offences, are extensive, judge-ruled, *in camera*, and basically non-adversarial. The pre-trial evidentiary results are documented and gathered into a dossier (principle of written proceedings), which may be used by the trial court.

During both the pre-trial and the trial phase, the accused has the right to a defence counsel and to unlimited communication with him/her, to legal representation, to appoint an expert advisor, as well as (if needed) to the free assistance of an interpreter. Possibilities for an *ex officio* appointment of counsel and free legal assistance are also provided. The accused and his/her defender have the right, not only in court, but during the pre-trial investigations as well to: be informed of the nature and cause of the accusations; acquire knowledge of the case dossier before stating (orally and/or in writing) the defence arguments and prepare the defence; be present at most proceedings; (be called to) address questions and submit comments regarding the investigation material; as well as present or suggest further defence strategies and evidence. During all proceedings, the accused is also free not to answer any accusations and to remain silent (*nemo tenetur se ipsum accusare* principle). The accused must be informed promptly and explicitly of his or her rights by the state officials.

The trial process is controlled by, and under the direction of, the presiding judge. Judges are not bound in their rulings by formal rules (on the exclusion) of evidence; on the contrary, the principle of free evaluation of evidence prevails, with the exception of illegally gathered evidence material. Every criminal court has, nevertheless, a constitutional obligation to give specific and full reasons for every

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[40] For more details and references, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 201–203.

judgment. In any case, adversarial elements are also known to the Greek criminal trial: the trial hearings are, as a rule, oral and public, while the defence enjoys, in accordance with the principle of equality of arms or opportunities, the right to participate actively in the evidentiary process, and especially the right to be heard, to comment on all the evidence, to make arguments, and to present evidence of its choice and in its favour. The principle of immediacy in its substantive sense (i.e., the preference for direct evidence), however, is not absolutely guaranteed.

The fundamental principles and safeguards shaping criminal procedure are located for the most part in the Constitution, in other supra-statutory rules such as the ECHR, and in the Code of Criminal Procedure. Most of the principles and rights stem directly from the constitutional obligation of the state to respect and protect human dignity (art. 2(1) Const.), as well as from the principle of equality (art. 4(1–2) Const.), the rule of law, and the principle of proportionality (art. 25(1) Const.). Of particular significance in this context are also the fair trial principle and the special due process, procedural, and defence guarantees expressly provided in arts. 5 and 6 ECHR. Of equal importance is the right to a judicial hearing, which is enshrined in art. 20(1) Const. and in various provisions of the Code of Criminal Procedure, as well as the guarantees of "natural judge" (i.e., the law establishes *a priori*, according to general and abstract criteria, which judges and courts are competent to try the various kinds of offences) and of judicial impartiality and independence.[41]

II. Historical and theoretical foundations of the Penal Code

In general, the history of the law and legal systems (Ancient, Hellenistic, Byzantine, and Post-Byzantine) of Greece goes back many centuries.[42] With respect to modern Greece, the first (provisional) Greek penal law entered into force in 1824 during the Revolution against the Ottoman Empire and was modelled on the French Penal Code of 1810.[43] After liberation and the establishment of the modern Greek state in 1830, the first criminal law codifications of the new state were introduced during the reign of King *Otto* of the Bavarian Wittelsbach dynasty (1832–1862) and under the supervision of the legal scholar *Ludwig von Maurer*.

Among these codifications was the "Penal Law of 1834," which remained in force, with several amendments, until 1950. This law was mainly based on the French Penal Code of 1810 and the Bavarian Penal Code of 1813 along with its

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[41] For a more detailed overview, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 237–241 with further references. For an introduction to Greek proceedings, see also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 131–191.

[42] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 265–267.

[43] See *Courakis*, Poiniki Katastoli, pp. 200–202.

reformatory works.[44] From the former it mainly borrowed the classification of criminal offences into three categories, while the choice for clarity, precision, and legality in the adoption and implementation of legal terms and norms stemmed from the Bavarian Penal Code and the criminal law theories of *Anselm von Feuerbach*.[45] The Penal Law of 1834 was promulgated both in German and in Greek. Although it enshrined the liberal principle *nulla poena sine lege*, it was also characterized by a propensity to "central and extensive control of all aspects of public and private life," as well as to the exhaustive regulation of matters even of mostly minor importance.[46] The provisions of the Penal Law basically aimed for general prevention.[47] With the beginning of the era of the Penal Law of 1834, German legal thought has arguably determined all major developments in Greek legal science and legislation.[48]

The Penal Law of 1834 was finally succeeded in 1951 by the Greek Penal Code of 1950[49] which reformed and adapted the legal models of its predecessors to the needs of modern reality. It was influenced primarily by the more contemporary legislative works of Germany and secondarily by Italian and Swiss legislation.[50] The Penal Code of 1950, which is still in force, is characterized by its liberal foundation, the systematic consistency in the provisions of the general part, especially regarding the definition of the criminal offence, as well as a mixed protective system which simultaneously promotes both general and special prevention and adopts a "multi-track" model of traditional punishments, measures of security, and special treatment measures.[51]

Changes in the general part of the Penal Code of 1950 that have taken place in the past 65 years have focused mainly on the sentencing provisions, the execution of punishments, and the rules referring to juvenile offenders. Overall, the basic principles governing the substantive criminal law and the provisions on the general structure of the criminal offence have remained, for the most part, unaltered. In contrast, the special part of the Code, which consists of the individual definitions of criminal offences, has been widely amended several times. Efforts have always been made to adapt the Code to modern socio-ethical, political, economic, and in-

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[44] For more details, see *Samios*, in: Kotsalis/Kioupis (eds.), Istoria, pp. 125–133, 140–149.

[45] See *Samios*, in: Kotsalis/Kioupis (eds.), Istoria, pp. 140–174.

[46] *Courakis*, Poiniki Katastoli, pp. 210–211.

[47] *Charalambakis*, Synopsi, p. 102; see, however, for the provisions on sentencing *Samios*, in: Kotsalis/Kioupis (eds.), Istoria, pp. 244–248.

[48] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, p. 270 with further references.

[49] L. 1492/1950. The translation from the Katharevusa into the Demotic Greek language (Standard Modern Greek) was enacted by P.D. 283/1985.

[50] See *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, pp. 262–264.

[51] See also *Mangakis,* in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 4–8.

ternational developments, particularly in the fields of terrorism, corruption, and organized, white-collar, and sexual crime, as well as to address the problems of an overloaded and dysfunctional criminal justice system.[52]

In turn, the first Criminal Procedure Code of 1834 of the modern Greek state was based on provisions and principles of the French *Code d'Instruction Criminelle* (1808).[53] The Criminal Procedure Code of 1834 was succeeded in 1951 by the Code of Criminal Procedure of 1950[54] which remained loyal to the institutions of the former code; however, it also took into account the provisions of the German Code of Criminal Procedure of 1877 and the Italian Code of Criminal Procedure of 1930.[55] The Code of Criminal Procedure of 1950 remains in force today, although many changes in its corpus have taken place over the years, mainly in order to improve methods for the administration of justice, as well as the speed and effectiveness of an extremely overloaded judicial system.[56] Unfortunately, the many major and minor amendments and re-amendments have led in many cases to an inconsistent, unsystematic, and unclear "patchwork" of procedural provisions.

Overall, although the codes of 1950 were, generally speaking, a step towards a more liberal, scientific, and humanitarian administration of criminal justice, the (national and international) political and social instability of the 1950s and 1960s, which ultimately led to the military coup d'état of 1967, permitted the parallel existence, for over 20 years, of a illiberal and authoritarian criminal law.[57] Arbitrariness and absoluteness in the Greek criminal justice system reached their peak during the era of the military dictatorship (1967 to 1974). Crucial developments during this period included, among other things, the declaration of martial law, the adoption of pseudo-constitutions, and the suspension of human rights guarantees, as well as the temporary "withdrawal" of Greece from the Council of Europe in 1969 and the denunciation of the ECHR in effect from 1970 up to the restoration of democracy in 1974. The adoption of the new Constitution in 1975 – which, in response to the atrocities of the previous regime, among other things, identified

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[52] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 271–273 with further references. For more on developments and reforms of the Penal Code, see *Anagnostopoulos*, ZStW 98 (1986), 542–570, 720–742; *Catsantonis*, ZStW 70 (1958), 537–541; *Charalambakis*, Synopsi, pp. 104–115; *Livos*, JZ 1984, 82–83; *Spinellis*, ZStW 95 (1983), 459–482.

[53] See *Spinellis/Spinellis*, in: HEUNI (Publ.), Criminal Justice Systems, p. 10.

[54] L. 1493/1950. The translation from the Katharevusa into the Demotic Greek language (Standard Modern Greek) was enacted by P.D. 258/1986.

[55] For more details, see *Spinellis/Spinellis*, in: HEUNI (Publ.), Criminal Justice Systems, pp. 9–11.

[56] For a detailed overview, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 273–278.

[57] See, with examples, *Livos*, Grundlagen, pp. 22–25; *Livos*, JZ 1984, 82–83; *Spinellis*, ZStW 95 (1983), 461–467.

torture as a punishable act (art. 7) and reformed the provisions on high treason (art. 120) – initiated a broad liberal reform of the criminal justice system on the basis of human rights and rule of law guarantees.[58] The question of whether or not, and when, the contemporary legal reform movement will lead to completely new, truly modern codifications of criminal law remains, however, uncertain due to the major political, social, and economic transitions Greece is currently experiencing.

III. Structure of the Penal Code: general and special part

The Penal Code of 1950 is the principle codification of the Greek substantive criminal law, that is, the set of rules determining the elements that constitute criminal behaviour (offence definition) and the appropriate sanctions that should be imposed.[59] The Code is divided into three "books." The eight chapters of the first book encompass the "general part" (arts. 1–133), the twenty-seven chapters of the second book, the "special part" (arts. 134–459), while the third book consists of "transitional provisions" (arts. 460–473). The general part of the Penal Code refers to the general principles and rules of substantive criminal law, especially to the general conditions of criminal liability that apply to all criminal offences. It includes provisions on the principle of legality of crimes and punishments, the time and territorial limits of force of the penal laws, the concept of the punishable act, the internal structure (objective and subjective aspects) of the criminal offence, the grounds for excluding and expunging criminal liability, attempt liability, criminal participation, the imposition and execution of punishments and measures of security, as well as the liability of minors. According to art. 12 PC, the provisions of the general part of the Penal Code apply, as a rule, to punishable acts that are defined not only in the special part of the Code but also in special laws.

In the special part of the Penal Code are defined the exact elements of the core offences under Greek criminal law and the corresponding punishment limits. With regard to its primary function, criminal law is an *ultima ratio* instrument of state social regulation and control. It protects the fundamental values of the person and society, which, at any given time, are considered critical for the peaceful coexistence, prosperity, and development of the community. The fundamental values recognized and protected in the Greek legal system are referred to as "legal interests"

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[58] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, p. 269. See also *Anagnostopoulos*, ZStW 98 (1986), 542–545; *Spinellis*, ZStW 95 (1983), 467–475.

[59] On the nature and form of criminal law in Greece as well as on the boundaries between criminal law and other areas of law, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 245–249.

or "legal values."[60] Examples of such legal interests include life, health, personal freedom, and property. Every penal provision of the special part of the Penal Code protects legal interests.[61]

The different chapters of the special part schematically divide criminal acts into the following larger groups primarily in accordance with the various interests that are, at each instance, under protection: 1) offences against the system of government (e.g., high treason); 2) treason against the country (e.g., espionage); 3) criminal offences against foreign states (e.g., insult to the honour of diplomatic representatives); 4) criminal offences against the free exercise of political rights (e.g., deception of voters); 5) offences against state authorities (e.g., resistance); 6) violation of public order (e.g., terrorist acts); 7) violation of the religious peace (e.g., denigration of religion); 8) criminal offences concerning military service and the obligation to join the army (e.g., artificially causing incapacity for military service); 9) currency-related criminal offences (e.g., counterfeiting); 10) document-related criminal offences (e.g., forgery of documents); 11) criminal offences related to the administration of justice (e.g., perjury); 12) service-related criminal offences (e.g., passive bribery); 13) criminal offences endangering the general public (e.g., arson); 14) criminal offences against the safety of transport and telephone communications, and against public utilities (e.g., obstruction of transport); 15) criminal offences against life (e.g., intentional homicide); 16) bodily harm (e.g., dangerous bodily harm); 17) duelling; 18) criminal offences against personal freedom (e.g., unlawful detention of a person); 19) criminal offences against sexual freedom and criminal offences related to commercial sexual exploitation (e.g., rape, child pornography); 20) criminal offences related to marriage and family (e.g., bigamy); 21) criminal offences against honour (e.g., defamation); 22) breaches of confidentiality (e.g., breach of the confidentiality of letters); 23) criminal offences against property (e.g., theft); 24) criminal offences against assets (e.g., fraud); 25) begging and vagrancy; 26) petty violations (e.g., illegal practice of a profession); 27) final provisions (e.g., violation of administrative provisions).

IV. General principles and rules of the Penal Code

1. Principle of legality and principle of guilt

The principle of legality of crimes and punishments is a fundamental cornerstone of the Greek penal system which is democratically organized around the principle

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[60] *Mylonopoulos*, Poiniko Dikaio I, p. 6. See also *Manoledakis*, Poiniko Dikaio, p. 13. On the different Greek terms used in this respect, see *Androulakis*, Poiniko Dikaio I, pp. 65–68. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 46.

[61] For more details, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 231–232.

of the rule of law.[62] According to the principle of legality as enshrined in art. 7(1) Const.[63] and in art. 1 PC, the creation of a criminal offence and the corresponding punishment must be specified by law, this law must be in force prior to the perpetration of the act in question, and it must define the elements of the offence.[64] Moreover, art. 2 PC expressly regulates the retroactive effect of the most lenient law.

The principle of legality applies with regard to all legal acts and judicial decisions and interpretations[65] that create or establish criminal offences or that (can) lead to the imposition of (more severe) punishments *in malam partem*.[66] What is important, in accordance with art. 7(1) Synt. and art. 7(1) ECHR, is the substantive penal nature of the legal act, the legality of which is in dispute. The focus is entirely on the substantive criminal law; this also includes general issues of substantive law, such as the regulation of attempt liability, participation in the commission of a crime, grounds for excluding or expunging criminal liability, and sentencing conditions and results.[67] The principle of legality and its guarantees and prohibitions do not directly apply with regard to "true" administrative offences and sanctions that are clearly (not just seemingly) distinguishable from criminal unlawfulness.[68] Neither does the principle of legality apply to provisions of a procedural nature (e.g., to the regulation of the procedural stages or to the trial rules of evidence). There are some exceptions, however (at least according to academic opinion), primarily involving the prohibition of retroactive application of specific procedural rules (e.g., laws that abolish the right of a defendant to appeal or provide for severe coercive and investigative measures may not have retroactive effect).[69]

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[62] See, e.g., *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 33; *Bathiotis*, Stoicheia Poinikou Dikaiou, pp. 24–25; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 12–14; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 460.

[63] Art. 7(1) Const.: "There shall be no crime, nor shall punishment be imposed unless specified by law, which is in force prior to the perpetration of the act, and which defines the constitutive elements of the act. In no case shall punishment more severe than that specified at the time of the perpetration of the act be inflicted."

[64] See also art. 7 ECHR and art. 15 ICCPR.

[65] On the separate issue (of minor practical importance in Greece) of the stability and consistency of the (not generally binding) judicial practice with regard to the retroactive interpretation of legal rules, see *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 38–39.

[66] See *Androulakis*, Poiniko Dikaio I, pp. 94–95, 121.

[67] *Androulakis*, Poiniko Dikaio I, p. 121; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, p. 276; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 36–37.

[68] *Androulakis*, Poiniko Dikaio I, p. 95. On tax law issues, see art. 78 Const.

[69] See *Charalambakis*, Synopsi, pp. 165–167; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 37–38 with further references; *Mylonopoulos*, Poiniko Dikaio I, p. 80.

The following aspects of the principle of legality can be deduced directly from the provisions of art. 7(1) Const. and arts. 1–2 PC:[70]

– *Lex scripta*: The definition of an act as a criminal offence and the imposition of punishment must be based on written legislation, not on customary rules or judicial precedent. However, custom *in bonam partem* may constitute a source of legal norms, even in the area of substantive criminal law. Specifically, customary rules may apply as grounds for excluding criminal liability as well as for establishing extra-statutory circumstances that lead to the mitigation of punishment.[71]
– *Lex certa*: Imprecise legal offence definitions (particularly those that are difficult to interpret and/or apply) and imprecise punishments are prohibited. Clarity is required in the legal description of the prohibited conduct and in the prescription of the applicable penal sanctions, with special regard to the establishment of specific punishment ranges.[72]
– *Lex stricta*: The judicial filling of "real" legal gaps *in malam partem* by way of teleological interpretation as well as the creation of new offences and the imposition of (higher) punishments by analogy are forbidden. In contrast, the interpretation by analogy *in bonam partem* (e.g., to expand the applicability of grounds of justification) is always permitted.[73]
– *Lex praevia*: A person cannot be found guilty of an offence and punishment cannot be imposed unless offence and punishment were defined by a law prior to the commission of the act. Also, in no case may punishment that is more severe than that specified at the time of perpetration of the act be imposed. The prohibition of the retroactive application of substantive criminal law provisions applies only with regard to their use *in malam partem*. According to the rule of retroactive effect of the most lenient law, if, between the commission of the act and the

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[70] See, e.g., *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 33–36; *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, p. 5; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 460–461.

[71] *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, pp. 274–275; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 22–24. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 33–35; *Androulakis*, Poiniko Dikaio I, pp. 97–99; *Charalambakis*, Synopsi, pp. 128–130; *Mylonopoulos*, Poiniko Dikaio I, pp. 62–65.

[72] *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, p. 275; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 24–28; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 461. See further *Androulakis*, Poiniko Dikaio I, pp. 131–137; *Charalambakis*, Synopsi, pp. 125–128; *Kioupis*, PoinChr 2000, 193–203; *Mylonopoulos*, Poiniko Dikaio I, pp. 81–86.

[73] See *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 35–36; *Chorafas*, Poinikon Dikaion, pp. 60–65; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 28–34; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, p. 275; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 461. See also *Androulakis*, Poiniko Dikaio I, pp. 103–120; *Charalambakis*, Synopsi, pp. 198–206; *Mylonopoulos*, Poiniko Dikaio I, pp. 66–71.

irrevocable adjudication, two or more laws were in force, the law that has *in concreto* the most favourable results for each individual defendant applies (e.g., provisions that define lighter penalties, new grounds of justification, or a limitation period of shorter duration).[74] The time of commission of the act is defined as the time at which each perpetrator (or participant) acted or – with regard to offences of omission – should have acted, regardless of when the result occurred, unless otherwise provided (art. 17 PC).

The prohibition of retroactive application and the rule of retroactive effect of the most lenient law do not, however, apply to the measures of security provided for in the Penal Code. These penal sanctions, which are not punishments in the narrow sense, are – according to the heavily criticised art. 4(1) PC – always imposed in accordance with the law in force at the time of adjudication.[75] Furthermore, so-called "temporary laws" – laws that are enacted, for example, only with regard to specific cases of emergency – are applicable, even after the cessation of their validity, to acts that were committed while they were in force; at the same time, the rule of retroactive effect of the most lenient law applies (art. 3 PC).

Finally, the *nullum crimen nulla poena sine lege* principle is also connected to the principle of guilt.[76] According to art. 14(1) PC in conjunction with art. 2(1) Const., imposition of punishment presupposes the personal responsibility of the actor, which is normatively expressed in the element of imputability, "namely the element of personal disapprobation of the perpetrator".[77] Furthermore, an imposed punishment may not exceed the level of personal guilt of the perpetrator.[78] Personal responsibility presupposes, in turn, *inter alia*, prior knowledge of the wrongful nature of the act or at least the possibility for the actor to be informed thereof through the legal description of the constitutive elements of the crime.[79]

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[74] See *Androulakis*, Poiniko Dikaio I, pp. 120–126; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, pp. 276–278; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 35–37, 40–46; *Mylonopoulos*, Poiniko Dikaio I, pp. 71–77.

[75] See more in *Androulakis*, Poiniko Dikaio I, pp. 130–131; *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 56–59; *Mylonopoulos*, Poiniko Dikaio I, p. 78.

[76] On the principle of guilt, see *Mylonopoulos*, Poiniko Dikaio I, pp. 576–586.

[77] *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, p. 15. See also *Spinellis/Spinellis*, in: HEUNI (Publ.), Criminal Justice Systems, p. 14.

[78] See *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 232–235. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 36–37; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 171–177; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, pp. 267–268; *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 7, 12, 15–21; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 464–467.

[79] *Kioupis*, PoinChr 2000, 196. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 36; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, pp. 265–268; *Mangakis*, ZStW 81 (1969), 997–998; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 464–467.

2. Territorial limits of force of the penal laws

The offence definitions and punishment provisions of Greek substantive criminal law are aimed at the protection of (individual and collective) legal interests that have a domestic, foreign, and/or universal nexus. The principles and legal norms regulating the "territorial limits of applicability" of the criminal law of Greece and the (extraterritorial) criminal jurisdiction of its justice system are mainly located in arts. 5–11 PC.[80] Of general importance with respect to the examination of issues of extraterritorial jurisdiction is also art. 16 PC which defines the place of commission of the act as the place where the responsible person carried out the punishable activity or omission in whole or in part, as well as the place where the punishable result occurred, or, in the case of attempt, where the punishable result should have occurred according to the intention of the responsible person.[81]

Among the rules of the Penal Code defining the territorial limits of force of penal laws, the central – and in practice, most relevant – is that of art. 5 PC which enshrines the principle of territoriality and the flag principle. These principles focus on the locus of commission of the offence, expressing the applicability of Greek penal laws to all criminal acts committed in Greek territories and on Greek ships or aircraft, irrespective of the nationality of the perpetrator.

The principle of active personality focuses on the nationality of the offender and stipulates that, under specific conditions, Greek penal laws are applicable to Greek nationals for crimes they commit abroad (art. 6 PC). The passive personality (or individual protective) principle protects the individual legal interests of Greek nationals by rendering applicable, under specific conditions, the Greek penal laws to crimes committed against them by foreign perpetrators abroad (art. 7 PC). With respect to the implementation of both principles, the double criminality requirement applies.

According to the state protective principle, Greek penal laws are always applicable, irrespective of the nationality of the offender and regardless of the laws of the

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[80] For some individual offence definitions with a foreign nexus, a prior request of the appropriate foreign government is an additional prerequisite for the initiation of national criminal proceedings, see, e.g., arts. 153–155 PC and art. 41 CCP. Furthermore, according to art. 2 CCP, the Greek criminal courts have no jurisdiction to try persons such as leaders of foreign countries, diplomats, or other persons who enjoy legal privileges of state and diplomatic immunity, even with regard to offences to which Greek penal laws would otherwise apply according to their territorial limits of force. On the power of the Minister of Justice to postpone or suspend a prosecution that could disturb the international relations of Greece, see also art. 30(2) CCP. Special rules of applicability and extraterritorial jurisdiction are included in arts. 2, 17 L. 3948/2011 on the implementation of the provisions of the Rome Statute of the ICC. See also art. 5 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 ratified by L. 1782/1988.

[81] See also art. 5(3) PC with regard to internet criminality.

place of commission, with respect to crimes (e.g., high treason) committed abroad that injure specific fundamental legal interests of the state and society (art. 8(α', β', γ', δ', ε', ζ') PC). In turn, the principle of universality protects, by means of Greek law, specific legal interests of universal importance against offences committed abroad (e.g., piracy; art. 8(στ'–ια') PC); in such cases, the nationality of both the offender and the victim is irrelevant. Furthermore, according to the representation principle (which is not regulated in the Penal Code), Greek penal laws are applicable to cases in which a foreigner has committed a crime abroad but, due to legal or factual reasons, is not extradited from Greece to the foreign state with territorial jurisdiction over the crime in question; the legal basis for the application of the representation principle is mainly the special norms that regulate Greece's international obligations with regard to the protection of legal interests of high (international) importance.[82]

Finally, Greek courts trying criminal cases and applying provisions of substantive criminal law must sometimes take into account judgments of foreign courts referring to the same facts.[83] The provisions of art. 9 PC refer to crimes committed abroad, the prosecution of which is, under specific conditions, prohibited. Furthermore, in cases to which the *ne bis in idem* prohibition does not apply and a second trial in Greece for the same acts is possible, art. 10 PC provides credit for sentence already served abroad. In any case, following a foreign criminal judgment, the Greek courts may impose supplementary punishments and measures of security provided for in Greek law in accordance with art. 11 PC.[84] In addition to these provisions, art. 90(2) PC refers to previous punishments imposed and served abroad that must be taken into account by the Greek courts when they examine a new case and have to decide whether or not to impose the increased punishment of incarceration for an indefinite period of time on habitual or professional offenders who pose a danger to public safety.[85]

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[82] For more detailed overviews, see *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 40–44; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, pp. 278–280; *Manoledakis*, Poiniko Dikaio, pp. 127–136; *Mylonopoulos*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 62–64; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 461–462. See also *Charalambakis*, Synopsi, pp. 140–144; *Chorafas*, Poinikon Dikaion, pp. 449–454.

[83] On issues of the *ne bis in idem* principle, see in particular art. 57 CCP, art. 4 of Protocol No. 7 to the ECHR, art. 14(7) ICCPR, art. 54 of the Convention Implementing the Schengen Agreement of 14 June 1985 (1990), and arts. 50, 52 of the Charter of Fundamental Rights of the European Union.

[84] For more details, see *Mylonopoulos*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 95–101.

[85] See also art. 92 PC. See also art. 574 CCP regarding the inclusion of foreign criminal judgments in the national register of criminal records.

3. Classification of criminal offences and the system of penal sanctions

Criminal acts are classified, according to the threatened punishment, into three categories: felonies, misdemeanours, and petty violations (arts. 18–19 PC). According to arts. 50–58 PC, the "main punishments" are: the death penalty;[86] incarceration; imprisonment; detention; confinement in a special detention facility for young offenders who have reached the fifteenth year of age (minors up to the age of 15 are subject only to educational and therapeutic measures);[87] confinement in a psychiatric facility for offenders with diminished criminal responsibility who pose a danger to public safety;[88] pecuniary punishment; and fine. In accordance with the categorization described in the aforementioned provisions, the criminal offences known to the Greek penal order, together with their abstract punishment ranges, descending from the more severe to those of minor importance, are:

– felonies, which are acts punishable by death, or by lifelong or temporary (from five years to twenty years) incarceration. Special punishments – which are, however, not of real importance for judicial practice – such as incarceration for an indefinite period of time,[89] are provided for habitual or professional offenders and habitual or professional recidivists who pose a danger to public safety;
– misdemeanours, which are acts punishable by imprisonment from ten days to five years, by pecuniary punishment from EUR 150 to EUR 15,000 unless specially provided otherwise, or by confinement in a special detention facility for young offenders; and
– petty violations, which are acts punishable by detention from one day to one month unless the law specially provides otherwise, or by fine from EUR 29 to EUR 590 unless specially provided otherwise.

The Penal Code identifies certain conditions and circumstances, such as the personality of the perpetrator and the perpetrator's previous record of convictions that the court must take into account when deciding upon the punishment and its (actual or alternative) method of execution.[90] Under specific conditions a "conversion" of a minor or medium sentence may be possible, that is, the trial court may (and sometimes must) convert the custodial punishment into a pecuniary punishment, a fine,

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[86] The death penalty was abolished in 1993. In provisions, which for a specific punishable act provide for as punishment only the death penalty, lifelong incarceration shall be regarded as the threatened punishment; if the death penalty or another punishment are alternatively provided, only the latter shall be regarded as the threatened punishment (see art. 33 para. 1 L. 2172/1993, art. 1 para. 12 L. 2207/1994, see also L. 2610/1998 and L. 3289/2004, as well as art. 7 para. 3 Const.).

[87] See arts. 121–133 PC.

[88] See arts. 38–41 PC.

[89] See arts. 90–92 PC.

[90] See especially arts. 79–87 PC.

or community service.[91] In extenuating circumstances, such as where there is no prior criminal record, or a relatively minor record, the court may also order a "conditional suspension" of the execution of minor and medium custodial punishments, with or without the supervision of a social assistance supervisor, depending on the seriousness of the offence.[92] In addition, the Penal Code also recognizes the practice of "conditional release," which, under certain circumstances including the prison time already served and the offenders behaviour in prison, allows the prisoner to serve the remainder of his or her sentence outside of prison.[93] Due to these provisions, with the exception of punishments imposed for the most serious felonies, most custodial punishments are, in practice, not served, either wholly or partially, in prison.

Furthermore, "supplementary punishments" are imposed under specific conditions and in accordance with the content and gravity of the main punishment imposed by the court. These punishments are mainly, though without prejudice to those provided by special laws: permanent or temporary deprivation of political rights; prohibition of the practice of a profession; publication of judgments of conviction; and confiscation of the proceeds and instruments of the crime.[94]

Finally, in addition to (main and supplementary) punishments, the system of sanctions in the Greek Penal Code also includes so-called "measures of security." The principle aim of these measures is the protection of society against further dangers that may arise from special categories of offenders.[95] The measures of security may (and in some cases must) be ordered by the court, under specific conditions, in cases involving criminally irresponsible persons, as a substitute for, or, if criminally responsible persons are involved, as a supplement to, the main punishments. Some measures of security can even be ordered for an indefinite period (arts. 69–70 PC). Measures of security include:

– custody of non-imputable offenders in a public therapeutic facility;
– commitment of alcohol and drug addicted persons to special therapeutic facilities;
– referral to a correctional labour facility;
– prohibition on a convicted offender from residing in certain areas;
– the deportation of convicted foreigners upon their release from prison; and

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[91] See art. 82 PC.

[92] See arts. 99–104 PC.

[93] See arts. 105–110Γ PC.

[94] Arts. 59–68, 76(1) PC.

[95] On the purposes of punishment, of the measures of security, and of other measures of treatment provided for in the Penal Code, see *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 235–237, 249–251 with further references.

– the mandatory confiscation of the proceeds and instruments of a crime that are considered to pose a danger to public order.[96]

4. Concept and internal structure of the criminal offence

a) Definition and structure of the criminal offence

The Greek Penal Code provides the legal definitions of the concept of the "criminal offence" and of the term "act" in an abstract and general way in order to set clear limits to law enforcement officials, the judiciary, and the legislature, as well as to enhance the protective function of the principle of legality.[97] According to art. 14 PC, a criminal offence is a wrongful act imputable to the perpetrator and punishable by law; the term "act" in the provisions of the penal laws also includes omissions. Consequently, the imposition of a legally prescribed punishment always presupposes the commission of a legally defined act (therein included are also omissions), which is wrongful and imputable (i.e., can be attributed) to the perpetrator.[98]

For the analysis of the internal structure of each criminal offence, a tripartite system – three consecutive levels corresponding, to some extent, to the core offence elements prescribed in art. 14 PC – is mainly used. The three levels consist of the level of the "specific constituent aspects" of the criminal offence, the level of "wrongfulness", and the level of "imputability." Before examining these three levels, however, consideration must first be given in each individual case and to whether or not an act (inclusive of omissions) exists at all.

The first level of the tripartite system concerns the conduct fulfilling the legally and specifically defined elements of criminal behaviour, i.e., the specific constituent aspects of the criminal offence.[99] Of central importance thereby are the individual objective-external crime descriptions, i.e., the objective constituent aspects, in

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[96] Arts. 69–76 PC. For more on penal sanctions, see *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 103–130; *Courakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 831–841; *Spinellis/Spinellis*, in: HEUNI (Publ.), Criminal Justice Systems, pp. 35–42.

[97] See *Mangakis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 17–18. See also *Billis*, in: Sieber et al. (eds.), National Criminal Law, pp. 232–235.

[98] See *Mylonopoulos*, Poiniko Dikaio I, pp. 87–89. On terminology issues, see *Fletcher*, Basic Concepts, pp. 77–85. See also with variations regarding the exact theoretical identification of the core elements of the crime, among others, *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 46–47; *Androulakis*, Poiniko Dikaio I, pp. 68–69; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 140–141; *Mangakis*, in: Lolis (transl.)/ Mangakis (introd.), The Greek Penal Code, pp. 11–13.

[99] See on the specific (objective and subjective) constituent aspects of the criminal offence *Androulakis*, Poiniko Dikaio I, pp. 138–144, 253–265; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 140–143, 150–152; *Mylonopoulos*, Poiniko Dikaio I, pp. 89–94, 117–121.

the special part of the substantive criminal law. The objective constituent aspects include: the subject and (where appropriate) the object of a crime; the exact description of the criminal conduct; with regard to some crimes, the result of the conduct and the causation requirement, and; in some cases, the elements of time, place, modus, and means of commission.[100]

In addition to the objective constituent aspects, the subjective constituent aspects of the criminal offence must also be considered; the appropriate level for their examination, however, is not an undisputed issue. Subjective aspects of the criminal offence are, for all offences, the requirements of intent and negligence, as well as, for some offences, the so-called "subjective elements of wrongfulness." The subjective elements of wrongfulness (e.g., the purpose of acquiring an unlawful benefit in the form of assets as a prerequisite of fraud, art. 386 PC) are examined at the first level of the internal structure system as specific constituent aspects. Intent and negligence as the two forms of culpability (arts. 26–28 PC) set the starting point for evaluating the imputability of the act to the perpetrator. Intent and negligence are to this extent, according to the prevailing opinion, directly connected with the third level of the internal structure system. According, however, to some parts of the doctrine, the existence of intent or negligence as legally required subjective constituent aspects must be initially examined at the first level together with the consideration of the objective constituent aspects of the criminal offence.[101]

On the whole, the fulfilment of the constituent elements – i.e., according to the prevailing opinion, the objective constituent aspects and, if necessary, the subjective elements of wrongfulness – of a legally defined criminal behaviour indicates, as a rule, the existence of a wrongful act. That does not mean, however, that in all cases such a conduct constitutes a "definitively" wrongful and imputable act: in order to definitively determine whether or not a punishable criminal offence was committed, the second and third levels of the internal structure system must be examined.

The second level concerns the exceptional abolition of the wrongfulness of the act: it refers to the negative examination of the existence and applicability of grounds of justification,[102] classic examples of which are those of self-defence and defence of others (art. 22 PC). In a case to which such a ground applies, the conduct that fulfils the constituent aspects of a criminal behaviour, is *in concreto* exceptionally allowed: it does not constitute a ("definitively") wrongful act, and thus,

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[100] *Androulakis*, Poiniko Dikaio I, p. 165; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 150.

[101] See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 150–151 with further references. See also *Androulakis*, Poiniko Dikaio I, pp. 253–254; *Mylonopoulos*, Poiniko Dikaio I, pp. 119–121, 221–229.

[102] See *Androulakis*, Poiniko Dikaio I, pp. 142–143; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 140–141.

in accordance with art. 14 PC, it is not to be regarded as a criminal offence. On the other hand, if the existence of a ground of justification cannot be established, the act is ("definitively") wrongful and the examination must proceed to the third level of the internal structure system.

The third level refers to the personal disapprobation of the actor and, more concretely, to the imputability of the wrongful act to the perpetrator; in this context, what needs to be taken into special consideration is the *in concreto* existence of grounds for the exclusion of imputability and excuses.[103] The existence of the culpability element due to the presence of intent or negligence indicates the possibility of attributing the act to its perpetrator at an internal-mental level. The prerequisite for this is that the person can be held criminally responsible according to the law, and, in particular, that imputability is not excluded on the basis of his/her mental and physical state (personal capacity). Furthermore, the consciousness of wrongdoing of the perpetrator as a ground for the exclusion of imputability and the volitional possibility to comply must be examined *in concreto*. Regarding the volitional possibility to comply, there can be exceptional grounds whose presence can lead to an excuse. Such a ground is, for example, that of necessity (choice of evils) provided for in art. 32 PC, which applies as a kind of subjective-mental excuse for the conduct.

Overall, if a wrongful act is not imputable to the perpetrator, there is no criminal offence. On the other hand, a criminal offence exists, if the conduct corresponds to an act specifically defined by law as punishable, and that conduct constitutes a wrongful act as well as an imputable act. The perpetrator of this offence shall then be punished in accordance with the provisions on the punishability of the particular criminal behaviour, unless there are grounds for the *in concreto* preclusion of punishment (e.g., expunging punishability due to expiration of the limitation period; personal grounds for the exemption from punishment) or other procedural obstacles to prosecuting and ruling on the offence.

b) Objective side of the criminal offence

aa) General remarks

The objective side of the criminal offence consists of its principle and most important constituent aspects: these are the elements that concretely and clearly differentiate one legally defined offence from another. The objective constituent aspects include: the criminal conduct (for all crimes); the subject of the criminal conduct (for all crimes); the object of the conduct (only with regard to some crimes); the results of the conduct and, implicitly, the causation requirement (only

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[103] See *Androulakis*, Poiniko Dikaio I, pp. 142–143; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 140–141.

for result offences); as well as situation-related elements such as the time, place, modus and means of commission (not for all crimes).[104] Additional objective requirements for the punishability of an already wrongful and imputable act constitute the so-called "external conditions of punishability."[105] Intent or negligence as forms of culpability do not need to extend to these objective conditions of punishability. External conditions of punishability are to be found only in some criminal offence definitions. For example, the actual commission of a felony constitutes an extra objective condition for punishing the wrongful and imputable behaviour of failing to report in good time the planned commission of a felony by another person (art. 232 PC).

bb) Offender

Criminal offenders can only be, in accordance with the principle of guilt, natural persons; criminal liability of non-natural (legal) persons is at present not known to the Greek penal law system.[106] Initially, every human being can be a criminally responsible offender of an act legally defined as a common offence, with the exception of persons under the age of 8 years; the misconduct of persons under the age of 8 years is not addressed by means of criminal law (art. 121 PC). The common offences make up the majority of punishable behaviours. There also exist, however, offence definitions that refer only to specific types of offenders, the so-called special offences. These are divided into authentic special offences (e.g., the crime of breaching professional confidentiality according to art. 371 PC can be committed only by specific professionals such as lawyers and medical doctors) and inauthentic special offences (e.g., the perpetrator of misappropriation is more severely punished if he/she is a public employee, arts. 258, 375 PC).[107]

cc) Act

The act, which is a specific human conduct (commission or omission), is a "*sine qua non* element" of the criminal offence.[108] There can be no wrongfulness, no blameworthiness, and no punishment without an act; punishment can only be imposed due to acts, not due to mere personal thoughts and beliefs.[109] In any case,

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[104] *Androulakis*, Poiniko Dikaio I, p. 165; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 150; *Mylonopoulos*, Poiniko Dikaio I, pp. 121–122.

[105] See *Mylonopoulos*, Poiniko Dikaio I, pp. 132–138.

[106] See *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 49; *Mylonopoulos*, Poiniko Dikaio I, pp. 110–112.

[107] See *Androulakis*, Poiniko Dikaio I, pp. 166–167; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 152; *Mylonopoulos*, Poiniko Dikaio I, pp. 143–145.

[108] *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 143.

[109] *Mylonopoulos*, Poiniko Dikaio I, p. 95.

according to Greek penal theory, conduct that is not human, that is not of external-social importance, and that does not constitute an expression of the internal world (consciousness) of the actor are irrelevant for purposes of the criminal law and may be referred to as "non-acts."[110] Consequently, the following forms of "conduct" must be excluded, from the outset, from any criminal law consideration:

- the "conduct" of animals;
- the "conduct" of legal persons;
- internal thoughts and beliefs that are not associated with a direct and socially important change in the external world;
- conduct that is the result of a *vis absoluta* (i.e., a force that exerts absolute physical control over a person). On the other hand, conduct that is the result of a *vis compulsiva* (i.e., a compulsory force that does not entirely override a person's volition) is an "act" that, at least initially, is relevant for purposes of the criminal law;
- behaviour that is performed in a state of sleep or narcosis; and
- reflex movements.

In contrast, impulsive behaviour, "in the heat of the moment" behaviour, and automatism (e.g., driving automatism) are considered acts relevant for the purposes of the criminal law.[111]

dd) Crimes of omission

A criminal behaviour can be not only a positive action, but also an omission. According to art. 14(2) PC, the term "act" in the provisions of the penal laws also includes omissions. There are criminal offences in the special part of the Penal Code whose constituent elements expressly define an omission – i.e., put simply, abstention from an obligatory "positive" conduct – as the respective form of criminal behaviour. These offences are called "authentic crimes of omission" (e.g., art. 307 PC).[112]

Crimes of omission are possible, however, even if there is no express statutory reference to an omission. These are the so-called "inauthentic crimes of omission" or "crimes of commission committed by omission."[113] In such cases, a result legally prescribed as an objective constituent aspect of a crime of commission is not

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[110] *Androulakis*, Poiniko Dikaio I, p. 147–158; *Mylonopoulos*, Poiniko Dikaio I, pp. 100–113. See also *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 147–150; *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 11–12.

[111] *Androulakis*, Poiniko Dikaio I, pp. 155–157.

[112] See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 180; *Mylonopoulos*, Poiniko Dikaio I, pp. 153–154.

[113] *Androulakis*, Poiniko Dikaio I, p. 179.

prevented by means of the respective obligatory (appropriate) positive conduct.[114] According to art. 15 PC, for the omitting person to be held criminally liable in such situations it is presupposed that he/she was under a special legal obligation – established by law, contract, or previous objectively dangerous conduct – to actively prevent the occurrence of the result.[115] For example, a parent who fails to feed his or her child may be liable for intentional homicide (arts. 15, 299 PC).

ee) Object of the act

The tangible object that is described as an objective constituent aspect of a criminal offence and on which the respective criminal conduct has its effect *in concreto* is the object of the act. For example, in the case of theft, the object of the act is the stolen moveable object itself; in the case of intentional homicide, the material object is the specific person killed. While all criminal offence definitions protect *in abstracto* legal interests that can be harmed by the prohibited criminal behaviour, not all offence definitions include a material object as an objective constituent aspect. For example, offences such as bigamy (art. 356 PC) and perjury (art. 224 PC) have no object of the act.[116] Even if it has no material object, every crime has a "victim" in the broad sense or, more precisely, a harmed person. The harmed person, that is, the "holder" of the harmed legal interest, can be a natural person, a legal person, or even society as a whole (as represented by the state).[117]

ff) Result of the offence

Offence definitions according to which the criminal behaviour is inseparably connected with a change that affects the object of the act are known as "conduct offences" (e.g., forgery, art. 216 PC). Conduct offences also include most offences in which there is no object of the act at all (e.g., perjury, art. 224 PC).[118] The consequence (result) of a crime, however, may be distinguishable from the prohibited

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[114] See *Charalambakis*, Synopsi, pp. 305–306; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 180; *Mylonopoulos*, Poiniko Dikaio I, p. 154. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 49–52; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 462.

[115] See *Mylonopoulos*, Poiniko Dikaio I, pp. 358–365. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 50–52; *Androulakis*, Poiniko Dikaio I, pp. 230–234; *Bathiotis*, Stoicheia Poinikou Dikaiou, pp. 71–80; *Charalambakis*, Synopsi, pp. 307–317; *Papacharalampous*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 193–197 with further references.

[116] See *Androulakis*, Poiniko Dikaio I, p. 168

[117] See *Androulakis*, Poiniko Dikaio I, pp. 168–169; *Chorafas*, Poinikon Dikaion, pp. 151–152; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 139–140.

[118] See for more *Androulakis*, Poiniko Dikaio I, pp. 170–171; *Charalambakis*, Synopsi, pp. 228–229; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 152–153; *Mangakis*, Poiniko Dikaio, pp. 133–135; *Mylonopoulos*, Poiniko Dikaio I, pp. 145–148.

conduct in that the conduct can lead to further (temporally and spatially separate) changes in the physical world. This is the case with regard to the so-called "result offences." Physically measurable results that are included in the objective constituent aspects of offences in the special part of the Greek Penal Code include, for example, death (intentional homicide, art. 299 PC) and assets damage (fraud, art. 386 PC). A special category of result offences constitutes the so-called "offences characterized by their result" (offences with unintendedly serious results).[119] These are, in accordance with art. 29 PC, offences in which an (intentional) act that is already punishable is more severely punished if the act causes certain unintended consequences as well (e.g., robbery resulting in death, arts. 29, 380(2) PC).

In general, a criminal result may correspond to actual harm, as in the case of harm offences (e.g., art. 299 PC, where the death of a person is an element of the offence of intentional homicide). A result can also constitute a change in the physical world in the form of a mere endangerment of a legal interest.[120] This is the case with regard to (concrete) endangerment offences, where the offence definition requires the causing of a dangerous situation. The danger referred to in this context is any unusual situation that leaves open the possible occurrence of harm to a legal interest and that facilitates uncertainty and insecurity.[121]

In the case of concrete endangerment offences, the danger is an element of the offence's objective constituent aspects (e.g., art. 286 PC).[122] In contrast, concrete danger is not an objective constituent aspect of abstract endangerment offences. Such offences are completed not with the *in concreto* occurrence of danger but simply when a criminal behaviour takes place that has been *a priori* abstractly regarded by the legislature as dangerous (e.g., art. 313 PC or drunk driving). Finally, with regard to the intermediate category of concrete-abstract endangerment offences, what must be examined as an element of the objective constituent aspects is whether or not the criminal behaviour is capable of causing danger to the legal interest.[123] The essential issue is whether or not a danger can be caused, not whether or not an actual danger *in concreto* has been caused (e.g., intentionally setting fire to a usually inhabited building, conduct potentially dangerous to human beings, art. 264(β) PC).

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[119] See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK , p. 153.

[120] For a detailed analysis of this distinction, see *Androulakis*, Poiniko Dikaio I, pp. 171–178; *Charalambakis*, Synopsi, pp. 229–234; *Chorafas*, Poinikon Dikaion, pp. 174–178; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 153–154; *Mangakis*, Poiniko Dikaio, pp. 135–137; *Mylonopoulos*, Poiniko Dikaio I, pp. 148–153.

[121] *Androulakis*, Poiniko Dikaio I, p. 172. See also *Mylonopoulos*, Poiniko Dikaio I, p. 149.

[122] See *Androulakis*, Poiniko Dikaio I, pp. 174–175; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 153.

[123] See *Charalambakis*, Synopsi, pp. 230–234; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 153–154. See also *Androulakis*, Poiniko Dikaio I, pp. 175–178.

gg) Causation requirement

In the context of result offences, the objective constituent aspects are only fulfilled if it can be established that the conduct at issue caused the result that is an element of the crime. The causation requirement constitutes, thus, an (unwritten) specific constituent aspect of the result offences. Various theories have applied different criteria for the establishment of the objective causal connection between conduct and result.

In the Greek penal system, the prevailing theory today is the "theory of the equivalence of conditions," which relies primarily on the *conditio sine qua non* formula.[124] According to this theory, there is a causal connection between conduct and result if the conduct constitutes a necessary condition of the result. A necessary condition is one without which the specific result would not have occurred in its concrete form; there can be many such conditions that are equivalent to each other, and each of them may constitute a cause of the same result.[125] Another diagnostic formula sometimes applied on the basis of the theory of the equivalence of conditions is the "condition complying with natural law." According to this test, the causal condition of a result is every previous fact inseparably connected with that result in accordance with some known natural law.[126]

The strict application of the theory of the equivalence of conditions leads to a significant broadening of the spectrum of the objective constituent aspects of result offences with regard to the attribution of the criminal result to specific subjects; hence, the attribution of criminal liability solely on the basis of this theory can often go too far.[127] For example, pursuant to the *conditio sine qua non* formula, not only the person who bought a box of matches and started a fire in a building, but even the manufacturer of the matches "causes" the burning of the building. Aside from the opinion that such paradoxes should be corrected at the subjective level of culpability (especially: existence or not of intent), the theories of causation, which may be applied complementarily and in a corrective manner regarding the broad liability limits established by the pure theory of the equivalence of conditions, include the following: the theory of adequate cause; the theory of legally relevant causation; and the theory of objective imputation.[128] In particular, the theory of

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[124] See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 157 with further references. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 52–53.

[125] *Androulakis*, Poiniko Dikaio I, pp. 212–213; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 157.

[126] See *Androulakis*, Poiniko Dikaio I, pp. 213–215; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 158–159.

[127] *Mylonopoulos*, Poiniko Dikaio I, p. 188.

[128] See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 159–168. For more details on the various theories as well as for examples on the special forms of the "hypothetical," the "interrupted," the "cumulative," and the "alternative" causation, see *Mylonopoulos*, Poiniko Dikaio I, pp. 175–213.

objective imputation focuses on the question of whether or not the result can be objectively attributed to the perpetrator as the actual product of his/her work (and not a product of chance), especially whether or not it constitutes the realization of a legally relevant (impermissible) risk taken by the perpetrator. This theory is continually gaining in importance in Greek penal doctrine in the context of evaluative criteria of attribution that limit criminal liability.

c) Subjective side of the criminal offence

aa) General remarks

The subjective side of the criminal offence involves the "mental connection" between the fulfilment of the objective constituent aspects of a legally defined crime and the internal world of the perpetrator: such a mental connection must exist in order for conduct to be punishable.[129] The subjective side consists of:

– The mental element of culpability (intent and negligence). The existence of culpability is examined, as mentioned above, according to the prevailing opinion, at the third level (imputability) of the internal offence structure, while, according to another opinion, it must also be examined at the first level (specific constituent aspects of the crime). In any case, intent or negligence must "cover" (i.e., correspond at a subjective-internal level to) the various types of external criminal behaviour in accordance with the relevant legal provisions and differentiations. In order to establish if conduct constitutes a punishable criminal offence, what must, *inter alia*, be examined in each case is whether or not the appropriate (legally required) form of culpability exactly extends to all of the objective-external elements of a legally defined criminal behaviour (including the causal connection in result offences). Exceptions to the principle of full concordance between the objective and the subjective aspects consist in particular regarding the offence definitions that include, as discussed above, external conditions of punishability or subjective elements of wrongfulness.[130] Overall, the fundamental provision of art. 26 PC requires the existence of culpability (intent or negligence) for the punishment of all criminal behaviour.[131] Hence, Greek criminal law does not recognize offences of strict liability.[132]
– The subjective elements of wrongfulness. These elements are examined, as explained above, at the first level of the internal structure system. Their main characteristic is that they do not refer to any objective-external element included in

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[129] *Androulakis*, Poiniko Dikaio I, p. 253.

[130] See *Androulakis*, Poiniko Dikaio I, pp. 253–264.

[131] See also arts. 14, 29–31 PC.

[132] See *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 36; *Mangakis*, in: Mezger et al. (eds.), Das ausländische Strafrecht, p. 267; *Mylonopoulos*, Poiniko Dikaio I, p. 229; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 464.

the legal description of the criminal behaviour. In this context, the existence of an additional purpose (direct intent of the first degree) is a prerequisite for wrongfulness and, hence, the punishability of the respective conduct; this additional internal purpose (pursuance of a certain result) of the perpetrator does not need, however, to have actually materialized.[133] These subjective elements are found in the legal description of crimes with "overabundant subjective constituent aspects" and especially in the so-called "purpose offences" (e.g., the extra purpose of acquiring an unlawful benefit in the form of assets in fraud, art. 386 PC).

The Penal Code determines in general the required form of culpability for all of the three main offence categories (felonies, misdemeanours, petty violations). According to art. 26 PC, felonies and misdemeanours are punished only if committed with intent. In exceptional cases specified by law, misdemeanours are also punished when committed negligently. Petty violations are always punished, even if committed negligently, except in cases where the law expressly requires intent.[134]

bb) Intent

In penal theory and practice intent is usually defined as the knowledge of, and the will to realize, the objective constituent aspects of a criminal offence; more precisely, intent is "the will to commit a criminal act in the knowledge of its objective circumstances."[135] According to art. 27 PC, a person who acts with intent either wills the production of the circumstances which constitute, according to the law, the concept of a punishable act, or knows and accepts that due to his actions these circumstances may be produced. Where the law requires that the act be committed in the knowledge of a particular circumstance, *dolus eventualis* does not suffice. Where the law requires that the act be committed with the purpose of causing a specific result, it is required that the perpetrator has strived to cause that result.[136]

Intent has a cognitive component and a volitional component. On the one hand, the cognitive component concerns the prerequisite of knowledge (including prediction) of the situation (acts, circumstances, and their future progression); the knowledge (or prediction) of the perpetrator may refer to the certain, or just the possible, fulfilment of the objective constituent aspects. On the other hand, the volitional component can include the will to achieve a result as well as the simple

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[133] See *Mylonopoulos*, Poiniko Dikaio I, pp. 239–240. See also *Androulakis*, Poiniko Dikaio I, pp. 254, 261.

[134] For more details, see *Androulakis*, Poiniko Dikaio I, pp. 253–265; *Charalambakis*, Synopsi, pp. 321–322.

[135] *Mylonopoulos*, Poiniko Dikaio I, pp. 232–233.

[136] See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 54; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 465.

acceptance of the result (as necessary or as possible).[137] Intent must, in general, exist at the time of the physical commission of the conduct.[138] Marginal or subliminal knowledge of the elements of the offence during the commission of the act or, more concretely, the possibility to comprehend their social meaning at any time[139] is sufficient.[140]

In art. 27(1–2) PC are defined the different types of intent: direct intent *(dolus directus)* of the first degree, direct intent *(dolus directus)* of the second degree (or "necessary intent"), and eventual or conditional intent *(dolus eventualis)*. In general, in order to punish offences of intent, the existence of any type of intent is normally sufficient as long as the individual crime definitions do not specially provide otherwise, or if they simply include words like "wilfully," "intentionally," or "decision."[141] For example, with regard to the felony of intentional homicide (art. 299 PC) not only *dolus directus*, but also *dolus eventualis* is sufficient.

In cases of direct intent of the first degree, the perpetrator strives (acts in order) to fulfil the objective constituent aspects and to cause a particular criminal result. Here, the presence of the volitional component (pursuance) is strong, even in cases where the cognitive component refers only to an eventuality.[142] If an offence definition explicitly (or implicitly through words like "try" and "achieve") requires the pursuance of a particular result, then, according to art. 27(2) PC, direct intent of the first degree is required (e.g., art. 310(3) PC).[143]

In cases of direct intent of the second degree, the perpetrator does not directly pursue the fulfilment of the objective constituent aspects of the criminal offence at issue. The perpetrator predicts the realization of the offence elements as a certain (necessary) consequence of his/her conduct, although his/her basic aim is not the commission of the criminal offence under consideration; nevertheless he/she decides to act, accepting the realization of the criminal offence.[144] For example, a man who decides to burn down his house in order to collect insurance money although he knows that his old bedridden grandfather lies inside it, accepts the "necessary" occurrence of his grandfather's death; he has direct intent of the second

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[137] *Androulakis*, Poiniko Dikaio I, pp. 266–267; *Bathiotis*, Stoicheia Poinikou Dikaiou, pp. 235–237; *Mylonopoulos*, Poiniko Dikaio I, pp. 232–233, 235; *Paraskeuopoulos*, Ta Themelia tou Poinikou Dikaiou, p. 236.

[138] See also *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, p. 465.

[139] *Mylonopoulos*, Poiniko Dikaio I, pp. 282–283.

[140] See *Charalambakis*, Synopsi, pp. 338–339; *Mylonopoulos*, Poiniko Dikaio I, pp. 279–282.

[141] See arts. 26–27 PC. *Mylonopoulos*, Poiniko Dikaio I, pp. 237–238.

[142] For more details, see *Androulakis*, Poiniko Dikaio I, pp. 267, 271–277; *Charalambakis*, Synopsi, pp. 325–327; *Mylonopoulos*, Poiniko Dikaio I, pp. 235–236.

[143] See *Mylonopoulos*, Poiniko Dikaio I, pp. 240–241.

[144] *Androulakis*, Poiniko Dikaio I, p. 267.

degree with regard to the result of death (art. 299 PC), even if he did not pursue it or if it was, in reality, undesirable to him.[145] According to art. 27(2) PC, where the law requires that the act be committed "in the knowledge of" a particular circumstance, *dolus eventualis* does not suffice (e.g., in art. 323A(3) PC or in art. 386 PC with regard to the presentation of false facts as true).[146]

In cases of *dolus eventualis* the perpetrator foresees the realization of the objective constituent aspects of a criminal offence as merely possible; nevertheless he/she accepts this possibility and continues to act (art. 27(1) PC).[147] For example, a man aims with his gun at the feet of another man just in order to injure him; although the perpetrator predicts that the victim could also die because of the shooting due to possible complications, he nevertheless accepts the possibility of the occurrence of that result, and shoots the victim, who then actually dies (intentional homicide, art. 299 PC).

Sometimes the issue of distinguishing between *dolus eventualis* and conscious negligence may arise. This (theoretically and empirically) very difficult distinction has recently been of practical importance in major cases of road traffic, sea traffic, and building construction accidents that resulted in many deaths. The main question in such cases is whether or not intentional homicides (felonies) or negligent homicides (misdemeanours) were committed.[148] *Dolus eventualis* and conscious negligence seem to have the same cognitive component but different volitional components.[149] In brief, a perpetrator acts with *dolus eventualis* if he/she knows that due to his/her act the circumstances that, according to the law, fulfil the definition of a criminal offence may occur, and he/she accepts (the possibility of) their occurrence (art. 27(1) PC). In cases of conscious negligence, the person foresees the possibility of the occurrence of the criminal result, but he or she believes that, nonetheless, the result will not occur (art. 28 PC). In some borderline cases the distinction in accordance with the above definitions may face significant theoretical and evidentiary difficulties. Theory and court practice have applied, in this regard, various (cognitive and volitional) theories and have used many differentiating indicators (e.g., the real aim and criminal determination of the perpetrator, "acceptance" and "hope" versus "belief" that the result will not occur, dangerousness of the conduct, behaviour after the conduct).[150]

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[145] *Mylonopoulos*, Poiniko Dikaio I, pp. 236–237.

[146] *Mylonopoulos*, Poiniko Dikaio I, pp. 241–242. See also *Charalambakis*, Synopsi, pp. 327–328.

[147] *Androulakis*, Poiniko Dikaio I, p. 268.

[148] See on these important court cases *Androulakis*, Poiniko Dikaio I, pp. 289–296.

[149] *Mylonopoulos*, Poiniko Dikaio I, p. 249. See also *Charalambakis*, Synopsi, p. 329.

[150] On the various theories and indicators, see *Androulakis*, Poiniko Dikaio I, pp. 277–296; *Mylonopoulos*, Poiniko Dikaio I, pp. 249–279.

cc) Consciousness of wrongdoing and dolus malus

Intent as a form of culpability only needs to cover the objective constituent aspects of a legally defined criminal offence – absence of knowledge with regard to an objective element of a crime may be considered a mistake of fact (art. 30 PC). Intent does not need to be *dolus malus*.[151] This means that in the Greek legal order the perpetrator does not need to know that his/her act is illegal in order to act intentionally in legal terms; consciousness of wrongdoing is not a condition of intent.

In cases of serious crimes (homicide, fraud, theft), a perpetrator who acts intentionally is, logically, also conscious of his wrongdoing. In other less clear-cut cases however, the perpetrator may not know of the illegal nature of the act; nevertheless he/she can act with intent, i.e., with the knowledge and will to produce circumstances that are objective constituent aspects of a legally defined crime. For example, a schoolteacher who lightly hits a disruptive student acts with intent to cause very light bodily harm to the student, but he may not know that his/her act is forbidden.[152] The consciousness of wrongdoing is, however, of importance with regard to the establishment of excusable mistakes of law and to the exclusion therefore (not due to the lack of intent *per se*) of the element of imputability (art. 31 PC).

dd) Mistakes of fact and law

The provision on mistakes of fact refers in essence to the existence or not of intent. In contrast, the provision on mistakes of law does not refer directly to the element of intent *sensu stricto*; rather, it is related to the actor's awareness that in the concrete case he/she is doing something against the law, i.e., to the person's consciousness of wrongdoing as necessary prerequisite for imputability.

A mistake of fact is the absence of knowledge (or the misapprehension) with regard to circumstances that fulfil the objective constituent aspects of a legally defined offence. According to art. 30 PC, a mistake of fact during the commission of an act leads to the exclusion of imputability. For example, a hunter who does not know that he or she is firing at a human being is not criminally liable for intentional homicide (art. 299 PC). More concretely, the absence of knowledge excludes intent. The wrongful act cannot, therefore, be attributed to its perpetrator as a crime of intent. In cases, however, in which it can be established that the absence of knowledge was negligent and the penal laws define a corresponding crime of negligence, the act may be attributed to the perpetrator as a crime of (unconscious)

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[151] See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, p. 54.

[152] See *Mylonopoulos*, Poiniko Dikaio I, pp. 283–285. See also *Androulakis*, Poiniko Dikaio I, pp. 305–306.

negligence (e.g., negligent homicide, art. 302 PC).[153] Art. 30(2) PC also includes a provision referring to mistakes of fact with regard to aggravating circumstances.

In turn, mistakes of law are directly related to the concrete consciousness of wrongdoing of the perpetrator as an independent prerequisite for guilt. Consciousness of wrongdoing means that the person under consideration knows (or has the possibility of knowing) that his/her behaviour violates some legal norm. Detailed legal knowledge is not required, but rather only knowledge of the unlawfulness (not just of the unethical nature) of the act in accordance with the standards of a lay person.[154] According to art. 31(1) PC, ignorance of the fact that the act is punishable under criminal law (ignorance of punishability) does not suffice for the exclusion of imputability. If, however, the perpetrator mistakenly believed that he/she had the right to commit the act, and this mistake was excusable, the act shall not be imputed to him/her (art. 31(2) PC); criminal responsibility is, hence, excluded.

A mistake of law is excusable if the perpetrator could not have known the wrongful character of his/her act regardless of the amount of care taken.[155] In order to conclude *in concreto* if a mistake was unavoidable in this regard, factors such as the concrete circumstances of each case, the age, the personal (mental and professional) abilities of the actor, and the attempts made to obtain relevant (objectively accessible and sound) information from other responsible agencies or experts must be taken into account. If the mistake of law was avoidable and, thus, not excusable, imputability is not excluded; however, in cases of non-excusable mistakes of law the court may, according to the prevailing opinion, decide upon a lighter punishment.[156]

ee) Offences of negligence

According to art. 26 PC, offences of negligence cannot be felonies, but only specific misdemeanours (if a legal norm explicitly establishes a misdemeanour of negligence, e.g., negligent homicide, art. 302 PC) and petty violations (as long as the law does not exclusively require, for specific petty violations, intent). The existence of negligence is primarily examined as a form of culpability at the subjective levels of the internal structure of the criminal offence; the wording of the Penal Code, which defines only the subjective characteristics of negligence, concurs, at least at

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[153] For more details, see *Androulakis*, Poiniko Dikaio I, pp. 303–305; *Charalambakis*, Synopsi, pp. 584–589; *Chorafas*, Poinikon Dikaion, pp. 291–294. See also *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 17–18.

[154] See *Mylonopoulos*, Poiniko Dikaio I, pp. 632–634.

[155] See *Mylonopoulos*, Poiniko Dikaio I, p. 653 with reference to court decisions.

[156] For more details and examples, see *Androulakis*, Poiniko Dikaio I, pp. 530–536; *Mylonopoulos*, Poiniko Dikaio I, pp. 653–669.

first sight, with this position.[157] According to art. 28 PC, a person who acts negligently is he/she who, due to lack of care, which he/she was able and bound to exercise under the circumstances, did not foresee the punishable result caused by his/her act, or, although he/she did foresee it as possible, believed that it would not occur. Negligence must, in general, exist at the time of the physical commission of the conduct.[158]

Today the opinion that prevails in the doctrine is that offences of negligence also have a purely objective side; this opinion can be found only partially and implicitly in court practice, where even issues of objective negligence are often formally addressed at the level of culpability. The examination of the objective side, however, must precede the examination of the subjective side. For example, in the context of a misdemeanour offence of negligence (e.g., negligent homicide, art. 302 PC; negligent bodily harm, art. 314 PC), what must first be examined is whether or not the behaviour of the suspect constitutes an external mistake, i.e., a breach of an objective duty of diligence. This breach is called "external negligence."[159] Only once the existence of a non-diligent behaviour causally connected to the criminal result has been established, may the internal world of the person under consideration be further examined in accordance with art. 28 PC.[160]

The objective constituent aspects of offences of negligence include therefore, at least according to some scholars, the following elements:[161]

- the occurrence of the result. Almost all legally defined offences of negligence are result offences,[162] specifically, harm or concrete endangerment offences;
- the objective breach of a duty of diligence (external negligence), for example: a surgeon who does not operate in accordance with the commonly known rules of medicine or a driver who violates road traffic provisions;
- the objective possibility to foresee the result (adequacy of the act with regard to the result). An example is a parent who gives his or her 12-year old child a fully loaded gun, and the child finds it "funny" to shoot a neighbour. In contrast, the death of a haemophiliac after a light injury is not objectively foreseeable according to the reasonable person standard;

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[157] See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 56–58; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 465–466.

[158] See also *Androulakis*, Poiniko Dikaio I, p. 246.

[159] See *Androulakis*, Poiniko Dikaio I, pp. 309–316. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 56–58.

[160] See *Mylonopoulos*, Poiniko Dikaio I, pp. 301–302 with further references.

[161] *Mylonopoulos*, Poiniko Dikaio I, pp. 303–327 with details, examples, and court judgment references. See also, with variations regarding especially the problems of causation, of objective imputation, and of the objective possibility to foresee the result, *Androulakis*, Poiniko Dikaio I, pp. 309–324; *Kaiafa-Gbandi*, Eksoteriki, pp. 5–115.

[162] *Androulakis*, Poiniko Dikaio I, p. 312.

– the general objective causal connection between act and result; and
– the risk relationship between the breach of the duty of diligence (non-diligent behaviour) and the result (e.g., cases of lawful alternative behaviour).

At the subjective level (internal negligence) there are, according to art. 28 PC, two types of negligence: unconscious negligence and conscious negligence. In cases of unconscious negligence, the subjective constituent aspects of the offence of negligence consist of the subjective breach of a duty of diligence and the subjective possibility of foreseeing the result. A person with the personal abilities to foresee and avoid the criminal result subjectively breaches a duty of care and consequently fails to foresee the result. In cases of conscious negligence, the subjective offence side consists of the subjective breach of a duty of diligence and the belief that the result, although considered possible, would not occur.[163] The person foresees the possibility of the occurrence of the criminal result but does not actually accept it; he or she believes out of carelessness that the result can ultimately be prevented.

The care that the average reasonable and conscientious person must exercise under the same circumstances serves as a standard against which the subjective care owed by the perpetrator under consideration can be measured. The subjective breach of a duty of diligence is excluded, i.e., the person under consideration is not negligently liable according to art. 28 PC, if, due to personal circumstances, insufficient knowledge, or inadequate abilities, he/she was unable to exercise *in concreto* the generally (objectively) required care. Likewise, the subjective possibility to foresee the result and the causal connection are excluded if the person under consideration was, due to personal circumstances, knowledge, or abilities, unable to foresee the result and the manner in which it occurred.[164] Nevertheless, even in such cases, a person can be negligently liable with regard to the undertaking itself, i.e., with regard to the adoption of a concrete activity that (he/she knew) he/she should not have adopted due, for example, to a physical inability. This is the case of the so-called "activity-adoption negligence" (e.g., an elderly man decides to drive despite knowing that he has diminished reflexes).[165]

5. Grounds for excluding criminal liability

a) Introductory remarks

In accordance with the abstract definition of the criminal offence in art. 14 PC, criminal liability for an act that initially fulfils the specific constituent aspects of a legally defined crime is excluded due to the following grounds: when the (initial)

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[163] *Mylonopoulos*, Poiniko Dikaio I, p. 328. See also *Androulakis*, Poiniko Dikaio I, pp. 324–332.

[164] See, with examples, *Mylonopoulos*, Poiniko Dikaio I, pp. 329–331.

[165] For more details, see *Mylonopoulos*, Poiniko Dikaio I, pp. 331–333.

wrongfulness of the act is abolished (justification) and when the imputability of the act to the perpetrator is excluded (exclusion of imputability *ab initio* or excuse of the act). More precisely, an act fulfilling the definitional elements of an offence may not be, on specific occasions due to the existence of grounds of justification, wrongful; criminal liability is, hence, excluded. If, in contrast, there are no grounds of justification, the act is unquestionably wrongful. It may be, however, not imputable to the perpetrator. As mentioned previously, the existence of culpability (intent or negligence) enables, in most cases directly, the personal disapprobation of the perpetrator, i.e., the attribution of the wrongful act at the internal-mental level. Under specific circumstances, however, the existence of grounds for excluding imputability in a broad sense may be taken into consideration. On a theoretical level, one can distinguish in this context between grounds for excluding imputability in the strict sense (i.e., exclusion *ab initio*) and excuses.[166] Anyhow, in all of these cases the element of imputability as a necessary condition of the criminal offence is missing, and, thus, criminal liability is excluded.

Neither punishments nor measures of security may be imposed if a ground of justification exists of which the actor under consideration is aware. Intentionally exceeding the legal limits of self-defence and the legal limits of necessity as grounds of justification leads, however, to the imposition of a mitigated punishment (in accordance with art. 83 PC); exceeding the same limits because of fear or distress constitutes an excuse (arts. 23, 25 PC). Furthermore, no person has a legal right to defend himself/herself against an act of another person that is justified due to a ground of justification, and equally, no person can rightfully obstruct the justified act of another person. Conversely, a person may lawfully defend himself/herself against an act that is wrongful but not imputable.[167]

With regard to a wrongful act, no punishment may be imposed if a ground for excluding imputability *ab initio* or an excuse applies. However, a mitigated punishment is to be imposed if the prerequisites for specific grounds for excluding imputability in cases of deaf-mutes and mentally disturbed perpetrators are only partially fulfilled, especially if the personal capacity for imputability of mentally disturbed persons is considerably diminished but not completely absent (arts. 33, 34, 36 PC). Moreover, if the conditions for excluding imputability due to the complete lack of personal capacity in cases of deaf-mutes and mentally disturbed perpetrators are fulfilled, only measures of security, rather than a punishment, may be imposed (arts. 33, 34, 69 PC).

In the Greek penal system, the commission of a crime must be proved in public trial before an objective and impartial criminal court. The defendant is, at least

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[166] See, e.g., *Chorafas*, Poinikon Dikaion, p. 301; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 510. See also *Androulakis*, Poiniko Dikaio I, p. 418.

[167] *Mylonopoulos*, Poiniko Dikaio I, p. 379; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 248.

normatively, in accordance with the presumption of innocence, not obligated to prove actively that he/she did not commit the offence. As a rule, the court must examine *ex officio* whether all basic elements of the charged criminal offence – i.e., specific constituent aspects; wrongfulness; and imputability – are present or if for some reason, e.g., due to a ground of justification or a ground for excluding imputability, the respective offence elements are not fulfilled. If the judge-driven evidentiary proceedings regarding the fulfilment of the elements of the crime are inconclusive, for example, if there is doubt about the existence of a ground for excluding criminal liability (e.g., self-defence, incapacity for imputability, or mistake of law), the court must reach a verdict of not guilty in accordance with the principle *in dubio pro reo*. Nevertheless, in some cases it may make strategic sense for the defence to provide the court with specific written and oral arguments including the details of the possible existence of grounds for excluding criminal liability. If the defence fails to give such arguments, the court is not obliged to give *ex officio* full reasons or even to make an express comment in that regard, in the case that it holds that no ground for excluding criminal liability exists. In any case, if the court decides to convict the defendant, it must always (explicitly or implicitly) be sure that no such ground exists, while the reverse of the burden of proof to the disadvantage of the defendant shall never be allowed.[168] The practice of the Greek courts seems to be, in this context, especially problematic in cases of mistakes of law with regard to which the Supreme Court actually demands specific arguments about the existence of the mistake and the facts that make it excusable for the defendants.[169]

b) Grounds of justification

The grounds of justification are not exclusively listed in the Penal Code. They are founded upon norms of all legal fields: upon provisions of the general and the special part of the Penal Code, upon provisions of the Code of Criminal Procedure, and, for example, also upon provisions of private law. The source of grounds of justification, which apply *in bonam partem*, can also be customary law. In this context one may consider, for example, the abolition of wrongfulness of negligently caused injuries during sport activities or the custom of extensive use of fireworks during the Easter celebrations.[170] Apart from the general grounds of justification, which are applicable to all offences (e.g., self-defence, art. 22 PC), there are also specific grounds, which are applicable only to certain offences (e.g., art. 371(4) PC). Nevertheless, some specific grounds of justification, such as the consent of the

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[168] See *Androulakis*, Poiniko Dikaio I, pp. 142–144, 535–536; *Mylonopoulos*, Poiniko Dikaio I, pp. 381–382, 613–614, 651–652; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 234.

[169] See, with references to the judicial practice, *Mylonopoulos*, Poiniko Dikaio I, pp. 651–652.

[170] See *Mylonopoulos*, Poiniko Dikaio I, pp. 382–383.

victim with regard to the offence of bodily harm (art. 308(2) PC), may, under specific conditions, also apply by analogy to other offences.[171]

In accordance with art. 20 PC, the basic grounds of justification include:

– Superior orders (art. 21 PC). In order for art. 21 PC to apply, a hierarchical relationship under public law between the competent superior public authority (e.g., the army, police, public administration, or judiciary) giving the order for an action or omission and the person executing this order in accordance with his/her duty to obey is presupposed.[172] For the justification of the act of the person acting under orders it is presupposed that, although formally lawful (i.e., issued according to the proper procedures), the order is unlawful in its essence and that the person acting under orders is not allowed to examine the essential lawfulness of the order, i.e., whether or not it contradicts substantive legal rules enshrined in the Constitution or other laws. It is then the person (superior) who gave the unlawful order who shall be punished, according to art. 21 PC, as (indirect) perpetrator.[173] The ground of justification of art. 21 PC never applies to the use by state officials of "investigative" practices and unlawful coercive measures that constitute torture and inhuman treatment (art. 137Δ PC). Special provisions preclude justification and set strict limits to the exclusion of imputability in cases of grave crimes under international criminal law.[174]
– Self-defence and defence of others (arts. 22–24 PC). According to art. 22(2) PC, the objective prerequisites for (the right to) self-defence and defence of others are the defensive situation (wrongful and present attack of a human being) and the defensive act (necessary active assault on the aggressor). The necessary extent of self-defence and defence of others is measured by the degree of dangerousness of the attack, the type of harm threatened by the attack, the manner and the intensity of the attack, and all other surrounding circumstances (art. 22(3) PC); excessive defence does not constitute a lawful act (art. 23 PC). The subjective prerequisites for self-defence and defence of others are, in accordance with art. 22(2) PC, the knowledge of the objective defensive situation and the will of the person under consideration to defend himself/herself or others against the attack (subjective elements of justification).[175] In a situation where the perpetrator of an (intentional) act is not aware of the existence of a defensive situation, but such a situation objectively exists, the consequence is, according to the prevail-

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[171] See *Mylonopoulos*, Poiniko Dikaio I, pp. 383–384.

[172] See *Mylonopoulos*, Poiniko Dikaio I, p. 414; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 267–268.

[173] See *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 269–270. See also *Mangakis*, Poiniko Dikaio, pp. 221–223; *Mylonopoulos*, Poiniko Dikaio I, pp. 415–417.

[174] See art. 5 L. 3948/2011.

[175] *Mylonopoulos*, Poiniko Dikaio I, p. 462; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 289–290.

ing opinion of today, the application of art. 43 PC (inadequate attempt). In the context of a putative defence the actor believes erroneously that the situation calls for a defensive action, i.e., that the factual conditions of self-defence and defence of others exist, which justify the commission of an initially wrongful act (supposed defence). The prevailing opinion accepts in such cases the analogous application of art. 30(1) PC (mistakes of fact). In contrast, if the person is mistaken with regard to the limits (legal conditions) of the right to defence, e.g., with regard to the time limits defining that the attack must be present, art. 31(2) PC on mistakes of law applies. Finally, art. 24 PC refers to a defensive situation which is actually provoked by the person defending himself/herself; the "defending act" remains in such cases fully punishable.

– Necessity as ground of justification (art. 25 PC). An objective prerequisite for necessity as ground of justification is any danger which is inherent in a choice-of-evils-type situation involving the person or the assets of the actor responding to the dangerous situation or of another (third) actor. The danger must be present and unavoidable by other means. The person responding to the dangerous situation must not be responsible for having caused the danger. Furthermore, according to art. 25(2) PC, the justifying necessity does not apply to someone who has a duty to expose himself to the (concrete) danger (e.g., police officers, firefighters, ship captains, etc.). A further objective prerequisite for necessity is the action taken in order to avoid the danger, which is only justified if the harm caused to the other actor is significantly less than the harm threatened by the danger, especially in terms of type and importance.[176] The subjective prerequisites for necessity as ground of justification are the knowledge that there is a state of necessity and the will of the actor under consideration to prevent the respective danger (the potential harm).[177] Regarding the subjective elements of justification and the issues of mistakes of fact and law, the above remarks on self-defence apply respectively. Concerning excessive necessity, art. 25(3) PC refers to art. 23 PC on excessive self-defence and defence of others.
– Consent, proper medical care, and other relevant conditions with regard to the offence of technical termination of pregnancy (art. 304(4, 5) PC).
– Consent of the harmed person (victim) with regard to the offence of simple bodily harm, provided that the consensually committed act is not contrary to good morals (art. 308(2) PC). The other prerequisites for justifying consent are the cognitive capacity to consent, the serious and voluntary nature of the consent, the *a priori* express declaration of the consent or a clear allusion to it, the specific object and the specific recipient of the consent, and the perpetrator's knowledge

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[176] According to art. 137Δ PC, the justification of torture conducted by state or military officials on grounds for necessity is expressly excluded.

[177] *Mylonopoulos*, Poiniko Dikaio I, pp. 494–495; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 310–311.

of the actual existence of consent prior to the act.[178] Consent as ground of justification may also apply by analogy to other offence definitions protecting disposable legal interests, such as destruction of property or minor violations of honour.[179]

– Protection of justified interests with regard to offences against honour (art. 367 PC).[180]
– Fulfilling a duty or protecting legal or other justified interests with regard to the offence of breach of professional confidentiality (art. 371(4) PC).
– Exercising a right or fulfilling a duty imposed by (any) law. This is a general category of grounds of justification provided for in accordance with the principle of unlimited grounds of justification and the principle of unity of the legal order.[181] The most common examples establishing such grounds are: the official (e.g., arrest and investigating) duties of law enforcement officials (as well as the respective rights of citizens);[182] the private right of the rightful possessor to protect and recover possession by force (art. 985 Civil Code); the private right to rightfully take the law into one's own hands (legitimate self-redress, art. 282 Civil Code); the necessity as provided for in art. 285 Civil Code; and the disciplinary rights of parents and other persons according to family law[183] (today, physical violence against a minor as disciplinary action is, in any case, strictly forbidden).

c) Grounds for excluding imputability

With regard to the grounds for the exclusion of the element of imputability as a condition of criminal liability, one can theoretically distinguish between grounds that lead, from the beginning, to the exclusion of imputability, and excuses. In addition to the rules of culpability (existence of intent/negligence), the basic grounds that exclude imputability *ab initio* are:

– Specific conditions referring to the mental and physical state of the person under consideration. These mainly concern issues surrounding the age of the actor (arts. 121, 126 PC) as well as issues of intellectual and physical disability, mental illness, and intoxication (arts. 33–36 PC) which are relevant to establishing

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[178] See *Mylonopoulos*, Poiniko Dikaio I, pp. 511–535; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 241–248.

[179] On the consent in cases of medical intervention, see arts. 11–12 L. 3418/2005.

[180] See also arts. 14, 16 Const.

[181] On these principles, see *Mylonopoulos*, Poiniko Dikaio I, pp. 382–391, 536–537; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 234–236.

[182] See especially arts. 253–259, 275(1), 276(1), 282–284, 549, 552 CCP. On the use of weapons by police officers, see art. 3 L. 3169/2003.

[183] See in particular art. 1518 Civil Code. See also arts. 2, 4 L. 3500/2006.

the personal capacity of the person to be held criminally responsible according to the law ("capacity for imputability"). Art. 35 PC regulates issues of responsibility in cases of the so-called *actio libera in causa*.[184]

– Mistakes of law, which are directly linked to the consciousness of wrongdoing as a prerequisite for imputability (art. 31 PC).

The excuses recognized in the Greek penal system, which refer to the volitional possibility of a person to comply with the law as prerequisite for imputability and criminal liability, are:

– Exceeding the legal limits of self-defence and defence of others due to fear or distress (art. 23 PC) as well as exceeding the limits of necessity (as ground of justification) due to fear or distress (art. 25(3) PC).
– Necessity as excuse and exceeding the legal limits of necessity (as excuse) due to fear or distress (art. 32 PC). Situations that do not fulfil the prerequisites of necessity as ground of justification (art. 25 PC) may be covered by the provisions on necessity as excuse. In such cases the act remains wrongful, but imputability is excluded due to heavy internal pressure on the perpetrator and the absence of the volitional possibility to comply. The two main differences between necessity as ground of justification and necessity as excuse refer to: the harm caused by the action taken in order to avoid the danger, which according to art. 32(1) PC must be proportional to the harm threatened (and not significantly less, as art. 25(1) PC requires); and those to whom the protection of art. 32 PC applies.
– Other (extra-legal) excuses, not specifically regulated by written provisions, which refer primarily to situations of heavy "internal" conflict of duties beyond the scope of arts. 25 and 32 PC (e.g., in the case of a man who, out of necessity, kills a number of persons who are complete strangers to him in order to save the lives of a greater number of persons)[185] and to situations of coercion[186] (e.g., the perpetrator commits robbery or rape whilst threatened with a gun).[187]

6. Grounds for expunging criminal liability

a) Overview

If a wrongful act is imputable and constitutes, according to a (prior) law, a criminally punishable behaviour, the general structural conditions of the criminal offence are fulfilled and the respective prescribed punishment must be imposed. In

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[184] See also arts. 37–41, 69–71, 193, 303 PC.

[185] For more theoretical details, examples, and relevant decisions of the Greek courts, see *Mylonopoulos*, Poiniko Dikaio I, pp. 670–674, 688–700; *Spinellis*, in: Spinellis (ed.), Systematiki Ermineia PK, pp. 316–317, 513–514.

[186] See *Mylonopoulos*, Poiniko Dikaio I, pp. 497–498, 695 with further references.

[187] See also arts. 84(2β), 84(2γ), and 299(2) PC.

exceptional occasions punishment, nevertheless, may be precluded due to "grounds for expunging punishability," e.g., in cases of amnesty concerning political offences (art. 47(3–4) Const.)[188] or expiration of the limitation period. In such cases, criminal liability is expunged or terminated.[189] Relevant in this context is also the institution of pardon, which refers to the withdrawal of an already imposed punishment (art. 47(1–2) Const.).[190] The punishability of specific acts and the imposition of punishment may also be affected by the active repentance of the perpetrator.[191] A ground for expunging punishability constitutes, moreover, the failure to file in due time, or the withdrawal of, a criminal complaint by the victim with regard to specific crimes of minor importance for the prosecution of which a criminal complaint is a necessary condition. Furthermore, the criminal liability of an offender is obviously terminated with his/her death; the court must then, as in the case of other grounds for expunging punishability, permanently terminate prosecution.[192]

Punishment may also be precluded due to "personal grounds for the exemption from punishment," for example: in cases of immunity of the Head of State and Members of Parliament,[193] with regard to the conduct of protecting and hiding a criminal who is a family member (art. 231(2) PC), or with regard to the offences of minor theft and minor fraud committed out of the need to immediately use or consume an object (arts. 377, 387 PC).[194] Exemption from punishment also applies in cases of inadequate attempt committed due to naivety (art. 43(2) PC). Furthermore, the voluntary withdrawal from an incomplete attempt (art. 44(1) PC) constitutes, according to at least one opinion, a ground for expunging punishability; according to another opinion, in such cases a personal ground for the exemption from punishment applies.[195] According to the latter opinion, an (optional) personal ground for the exemption from punishment also applies in cases of voluntary withdrawal from a complete attempt that occurs by preventing its result (art. 44(2) PC). According to another opinion, however, the withdrawal from a complete attempt constitutes a "ground for (optional) forgiveness of the punishability through the

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[188] See also arts. 310(1), 370(β), 568, 578(1γ) CCP.

[189] For other overviews of grounds for terminating or expunging criminal liability, see *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 73–74, 76–77, 109–112, 119–122; *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 25–32; *Spinellis*, in: Kerameus/Kozyris (eds.), Introduction to Greek Law, pp. 467, 470–471.

[190] See also arts. 567, 574(3α) CCP.

[191] See, with regard to specific offences, arts. 134–137, 186, 266–267, 290–291 and 298, 384, and 406A PC. See also art. 84(2δ) PC on punishment mitigation and art. 308B CCP on penal conciliation. See also art. 187B PC on cooperative witnesses in cases of criminal or terrorist organizations.

[192] See arts. 309(1β), 310(1), 370(β), 567 CCP.

[193] See arts. 49, 61 Const.

[194] See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 178 with further references.

[195] See *Mylonopoulos*, Poiniko Dikaio II, p. 85 with further references.

judge."[196] Forgiveness of the punishability through the judge is further possible, for example, in cases of attempt of minor misdemeanours (art. 42(3) PC),[197] as well as with regard to the offence of non-disclosing to the authorities in due time the finding of a lost object of insignificant value (art. 376 PC).[198] In all these cases the wrongful and imputable act will or may remain unpunished by the courts.

b) Limitation periods

The Greek judicial authorities must always take into account *ex officio* specific legally prescribed limitation periods for the prosecution of, and ruling on, offences as well as for the execution of punishments. These limitation periods (statutes of limitation) are, according to the prevailing opinion, a legal institution of substantive criminal law, and only secondarily of the law of criminal procedure.[199] Specifically, arts. 111–113 PC refer to the limitation periods after the expiration of which the punishability of offences is expunged (limitation periods as ground for expunging punishability). The limitation periods after the expiration of which imposed but not yet executed punishments can no longer be executed are regulated, on the other hand, in arts. 114–116 PC. Overall, the limitation periods for the prosecution of all offences and the execution of all punishments expire in accordance with these general provisions of the Penal Code taking into account the type and gravity of the respective offence or punishment. However, there can also be found, to a limited extent, special provisions on limitation periods with regard to specific offences.[200]

According to art. 111(1) PC, the punishability of offences is expunged with the expiration of specific limitation periods and prosecution may not be commenced; in case of already initiated (yet not irrevocably concluded) criminal proceedings, the judicial authorities must permanently terminate prosecution.[201] The limitation periods for the prosecution of, and ruling on, crimes begin to run on the day of the commission of the punishable act, unless other special provisions in this regard exist (art. 112 PC). According to art. 111 PC, the punishability of felonies is expunged after 20 years with regard to acts for which the law imposes lifelong incarceration, and after 15 years in all other cases. The punishability of misdemeanours is expunged after five years. The punishability of petty violations is expunged after

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196 See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 178.

197 See *Mylonopoulos*, Poiniko Dikaio II, p. 14.

198 See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 178.

199 See *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 179 with further references. See also *Androulakis*, Poiniko Dikaio III, pp. 89–95.

200 See in particular art. 187A(1) PC with regard to terrorist acts. See also art. 3 L. 3948/2011, which refers to the prosecution and execution of punishments in the context of felonies under international criminal law (i.e., genocide, crimes against humanity, and war crimes), with regard to which no limitation periods apply.

201 See arts. 43, 310(1), 370(β) CCP; art. 113(5) PC.

two years. These general limitation periods are, nevertheless, suspended for as long as criminal prosecution cannot begin or cannot be continued according to law. They are also suspended for the entire duration of the trial proceedings up to the point at which the convicting judgment of the court becomes irrevocable (art. 113(1–2) PC). However, there are, with some exceptions (art. 113(3, 6) PC), absolute limitation periods, after the expiration of which punishability is always expunged. According to art. 113(3) PC, the suspension of limitation periods cannot last longer than five years with regard to felonies (absolute time limit: 25 and 20 years respectively), three years with regard to misdemeanours (absolute time limit: eight years), and one year with regard to petty violations (absolute time limit: three years).

According to art. 114 PC, the limitation periods for the execution of irrevocably imposed punishments that have not been executed are: 30 years in the case of life-long incarceration; 20 years in the case of temporary incarceration and of confinement in a psychiatric facility; 10 years in the case of imprisonment, pecuniary punishment, or confinement in a special detention facility for young offenders; and two years in the case of any other lesser punishment. These time limits begin running on the day the respective judgment became irrevocable (art. 115 PC). Limitation periods are suspended, according to art. 116 PC, for as long as the execution of the punishment cannot commence or continue due to a provision of the law, for as long as the execution of the punishment has been suspended in accordance with art. 99 PC, and for as long as one of the measures of security defined in arts. 71 and 72 is being executed. With the expiration of the above limitation periods the imposed punishment, which remained unexecuted, is expunged and can no longer be executed.[202] Finally, the execution of the measures of security defined in arts. 69, 71, 72, and 74 PC has its own limitation period in accordance with art. 75 PC.

c) Criminal complaint by the victim

The criminal prosecution of specific offences of minor or medium gravity presupposes the filing of a criminal complaint (e.g., arts. 308 and 315, 362 and 368, 381 and 383 PC). Criminal complaint is primarily an institution of substantive criminal law that takes directly into account the interests of victims in the prosecution of crimes, although it is also partly regulated by the law of criminal procedure.[203] With respect to the prosecution of offences that presuppose a criminal complaint, the victim, i.e., the person immediately harmed by the punishable act – and in the case of minors or the case of death, the legal representatives and close relatives respectively – must file the complaint to the competent authorities within

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[202] See art. 568 CCP.

[203] See *Charalambakis*, Synopsi II, pp. 165–171; *Giannidis*, in: Spinellis (ed.), Systematiki Ermineia PK, p. 179.

three months from the day on which the committed act and the person who committed it, or one of the participants, became known (arts. 117, 118 PC).[204]

If the person having the right to file such a complaint does not do so on time, punishability is expunged. The explicit statement of the person entitled to a criminal complaint before the competent authority that he/she waives the right of criminal complaint also leads to the same outcome (art. 117(2) PC). In proceedings that begun in absence of a complaint, the court must permanently terminate prosecution in the case of a waiver (arts. 310(1), 370(β) CCP). Altogether, in absence of a necessary criminal complaint, prosecution shall not be commenced at all. If the prosecution was, nevertheless, initiated in absence of such a complaint, the criminal complaint can be lawfully filed later, up until the beginning of the evidentiary court proceedings, provided that there was no waiver of the respective right and that the three-month period has not expired (arts. 50(2), 51 CCP). In any other case, prosecution shall be regarded by the courts as inadmissible (art. 370(γ) CCP).

In criminal proceedings that began after the necessary criminal complaint had been lawfully submitted, the person that filed the complaint can withdraw it any time up until the publication of the judgment of the court of second instance (a later withdrawal is inadmissible). The result of such a withdrawal is that the court must permanently terminate prosecution (arts. 52, 310(1), 370(β) CCP). According to art. 120(2) PC, a withdrawal referring to one of the participants also results in the termination of criminal prosecution with respect to the other participants, provided that for their prosecution a criminal complaint is also required. However, withdrawal has no result with regard to the defendant who declares to the authorities that he does not accept the withdrawal. Finally, following withdrawal of a filed criminal complaint, a new complaint cannot be filed (art. 120(3) PC).

7. Attempt

Liability for inchoate criminal offences, i.e., conduct prior to the completion of the target offence, is a special manifestation of criminal liability. In the Greek legal order the establishment of such liability is relevant for the most part in the context of attempt, which is regulated abstractly for all crimes through provisions of the general part of the Penal Code (arts. 42–44 PC).[205] According to art. 42(1) PC, whoever, having decided to commit a felony or a misdemeanour, carries out an act that constitutes at least the initiation of the commission of the offence shall be punished with a mitigated punishment (in accordance with art. 83 PC) if the felony or

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[204] On the procedural aspects of filing a complaint, see arts. 46–53 CCP.

[205] Exceptionally, Greek law defines as autonomous criminal offences specific particularly dangerous preparatory acts committed prior to attempt and completion of the target offence, see, e.g., arts. 135 and 211 PC.

the misdemeanour is not completed.[206] The basic aspects of a punishable attempt, which in any case must also encompass the general elements of the crime (including wrongfulness and imputability), are:[207]

– The decision to commit a felony or a misdemeanour (e.g., homicide or bodily harm). Only the attempt of crimes of intent (including *dolus eventualis*) is punishable. The attempt to commit a petty violation is not punishable at all.
– The initiation of the commission of the felony or the misdemeanour. In the Greek legal order prevails the opinion that the commission of a criminal offence has started when the conduct in question constitutes part of the objective constituent aspects of the offence under consideration or when the conduct is necessarily and directly linked to the objective constituent aspects insofar as it can be commonly recognized as a part thereof.[208]
– The non-completion of the offence. A criminal offence is only completed once all specific constituent aspects are fulfilled.[209]

According to art. 43(1) PC, whoever attempts the commission of a felony or misdemeanour through the use of, or against, such an object that the actual commission of these criminal offences is rendered absolutely impossible, shall be punished in accordance with art. 83 PC but the punishment shall be mitigated by one half. In order for this provision to apply, the fulfillment of the objective constituent aspects of the crime in question must be logically and *ab initio* excluded due to the particular characteristics of the means used to commit the crime (e.g., an unloaded gun) or of the object of the crime (e.g., firing a gun against someone who is already dead due to another cause). Such an attempt constitutes a case of so-called inadequate attempt. Furthermore, according to art. 43(2) PC, no punishment shall be imposed for such an inadequate attempt when it is carried out due to "naivety," that is, total ignorance of the basic rules of empirical reality (e.g., a person participates in voodoo ceremonies in order to cause the death of another person). The attempt that is objectively inadequate for the completion of the crime due to the particular characteristics of the perpetrator (subject of the crime) is not regulated in the Penal Code and remains, in accordance with the principle of legality, unpunished.[210]

Finally, according to art. 44(1) PC, the attempt remains unpunished if the perpetrator initiated the commission of the felony or misdemeanour but did not complete

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[206] On further issues related to punishment, see art. 42(2–3) PC.

[207] See *Mylonopoulos*, Poiniko Dikaio II, pp. 3–5, 12–13. See also *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 75–77; *Mangakis*, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 21–22.

[208] For more details, see *Mylonopoulos*, Poiniko Dikaio II, pp. 26–48 with further references.

[209] See *Mylonopoulos*, Poiniko Dikaio II, pp. 9–11 with further references.

[210] For more details and theoretical considerations, see Mylonopoulos, Poiniko Dikaio II, pp. 48–65.

it – he/she abstained from continuing the action he/she initiated – through his/her own (free) volition and not due to external obstacles. This is the case regarding the voluntary withdrawal from an incomplete attempt; an attempt is incomplete when, according to the plan of the perpetrator, the continuation of his/her action is necessary in order to fulfil the objective constituent aspects. On the other hand, according to art. 44(2) PC, if the perpetrator, after completing his/her action, (actively) prevented, through his/her own volition, the result which could have occurred due to his action and which was necessary for the commission of the felony or misdemeanour, he/she shall be punished with a mitigated punishment, in accordance with art. 83 PC, that is further mitigated by one half; the court may decide, however, upon free consideration of all the circumstances, to leave the attempt unpunished. This is the case regarding the voluntary withdrawal from a complete attempt; an attempt is complete when the perpetrator believes that he/she has taken any action necessary, according to plan, in order to fulfil the objective constituent aspects of the criminal offence under consideration. For the application of art. 44 PC, the existence of a punishable attempt and especially the non-completion of the target offence is presupposed.[211]

8. Participation

Liability for participation in the commission of a criminal offence is a special manifestation of criminal liability. Liability for the various forms of criminal participation is regulated abstractly for all crimes in the general part of the Penal Code (arts. 45–49 PC). The legal and theoretical issues surrounding participation are, in general, highly complex and their analysis consists of numerous levels. Here we briefly examine only the basic structures and rules of the Penal Code governing liability for criminal participation.[212]

In addition to the (physical) perpetrator, i.e., the person himself/herself fulfilling the objective constituent aspects of a crime, participants in a criminal offence (in a broad sense) encompass:

– The (physical) co-perpetrators (art. 45 PC): two or more persons who have jointly committed a punishable act. Presupposed are a common decision for the commission of the criminal offence and the fulfilment by each of the persons involved of at least a part of the objective constituent aspects. Each of these persons shall then be punished as a (physical) perpetrator of the act.
– The indirect perpetrator: a person not himself/herself directly fulfilling the objective constituent aspects of the criminal offence but only through the act of another person whom he/she uses as his/her "instrument" for the commission of the

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[211] See *Mylonopoulos*, Poiniko Dikaio II, pp. 65–67, 84–120.

[212] See also the overviews in *Anagnostopoulos/Magliveras*, Criminal Law in Greece, pp. 78–81; Mangakis, in: Lolis (transl.)/Mangakis (introd.), The Greek Penal Code, pp. 22–24.

offence. For example, someone persuading a (mentally ill) person to harm himself/herself with a knife is the indirect perpetrator of severe bodily harm (art. 310 PC); and someone persuading another person to destroy something that belongs to the latter by falsely telling him/her that it belongs to someone else is the indirect perpetrator of damage to the property of another (art. 381 PC). The behaviour of the person hurting himself/herself or destroying his/her own property does not fulfil the objective constituent aspects of a criminal offence. Hence, in such cases, as well as in similar cases where a ground of justification applies, the conduct of the person ("instrument") committing the main act does not constitute a wrongful act. Therefore, the provisions on participation in the narrow sense (e.g., the provisions on instigation) cannot apply. The actors using other persons as their "instruments" shall hence be punished as perpetrators of the act in question.[213] The Greek Penal Code does not include an autonomous provision regarding indirect perpetration as a form of participation.

– The instigator (art. 46(1α) PC): a person intentionally inducing (in any way) another person's decision to commit a wrongful act.[214] The instigator must have "double intent" referring both to the inducement of the decision and to the commission of the act by the perpetrator. The instigator shall then receive the punishment that is stipulated in the law with respect to the perpetrator, i.e., not necessarily the exact same punishment, but certainly a punishment within the same punishment range. Instigation, as form of participation in the narrow sense, presupposes the existence of a main wrongful act; that is, an act which fulfills the objective constituent aspects of a legally defined criminal offence and which is not justified by a ground of justification.[215] In order for art. 46 PC to apply, the main act must be wrongful, but does not need to also be imputable to the perpetrator.[216]
– The direct accomplice (art. 46(1β) PC): a person intentionally providing direct (physical) aid to the perpetrator during the commission and in the execution of the main wrongful act. The direct accomplice shall also receive the punishment that is stipulated in the law with respect to the perpetrator, i.e., not necessarily the exact same punishment, but certainly a punishment within the same punishment range. As with instigation, direct complicity as a form of participation in the narrow sense presupposes the existence of at least a wrongful (but not necessarily imputable) main act.
– The simple accomplice (art. 47 PC): a person (not including the direct accomplice) intentionally providing any kind of aid (i.e., physical or mental) to another

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[213] See *Charalambakis*, Synopsi, pp. 765–788; *Mylonopoulos*, Poiniko Dikaio II, pp. 277–292.

[214] On the so-called "attempt of instigation," see art. 186 PC.

[215] For more details, see *Mylonopoulos*, Poiniko Dikaio II, pp. 132–135.

[216] See also art. 48 PC.

person before or during his/her commission of a wrongful act. The simple accomplice shall be punished with a mitigated punishment in accordance with art. 83 PC (or, in some cases, in accordance with art. 42(2) PC). With regard to petty violations, simple complicity is only punishable in those cases specifically defined by law. As with instigation and direct complicity, simple complicity as a form of participation in the narrow sense presupposes the existence of at least a wrongful (but not necessarily imputable) main act.

– Art. 46(2) PC refers to the liability of the so-called *agent provocateur*.

If a person plays more than one role in the commission of the same crime, he/she shall be punished only once for the more severe form of participation. According to the prevailing opinion, the hierarchical order of the participation forms (descending from the more severe to those of lesser importance) is: (co-) perpetration, instigation, direct complicity, simple complicity.[217]

Finally, according to art. 49(1) PC, in the cases of some special offences, where the law requires special capacities (e.g., the capacity of lawyer in art. 371 PC) or relationships for an act to be punishable, if these exist only with regard to the perpetrator, then the participants under art. 46(1) PC (instigators and direct accomplices) may receive a mitigated punishment (in accordance with art. 83 PC). If, however, these special capacities or relationships exist only with regard to the persons that are participants under arts. 46(1) and 47 PC (instigators, direct accomplices, and simple accomplices), then the latter shall be punished as (indirect) perpetrators, and the perpetrator shall be punished as accomplice. According to art. 49(2) PC, the special capacities (e.g., capacity of public employee or deaf-muteness) or relationships or other circumstances (e.g., habitual or professional commission of the crime) that aggravate, mitigate, or preclude punishment shall be taken into account only with respect to the participant (including co-perpetrators) with regard to whom they exist.[218]

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[217] See *Mylonopoulos*, Poiniko Dikaio II, p. 148 with further references.

[218] See e.g., art. 375(2) PC.

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The Greek Penal Code

Law 1492 of 1950
in conjunction with Presidential Decree 283 of 1985
as of 28 February 2017

English translation by
Vasiliki Chalkiadaki and Emmanouil Billis

Presidential Decree 283/1985

"Penal Code"

THE PRESIDENT OF THE HELLENIC REPUBLIC

Taking into account:

The provisions of article 36 para. 2 sent. γ' and 3 L. 1406/83, upon proposal by the Minister of Justice, we decide:

Single article:
The text of the Penal Code as already in effect, and translated into the demotic by the committee established according to article 36 para. 1 L. 1406/83, reads as follows:

LAW 1492

of 17/7 August 1950

"RATIFICATION OF THE PENAL CODE"

Single article: The Penal Code, drafted by the Committee established according to L.D. 222/1947, is ratified and states as follows:

PENAL CODE*

FIRST BOOK
GENERAL PART

FIRST CHAPTER
The penal law

I. Time limits of force of the penal laws

Art. 1 – No punishment without law

Punishment may not be imposed except for those acts for which the law had expressly stipulated the punishment prior to their commission.

Art. 2 – Retroactive effect of the most lenient law

1. If, between the commission of the act and the irrevocable adjudication, two or more laws were in effect, the law with the most lenient provisions for the defendant shall be applied.

2. If a subsequent law has declared the act as non-punishable, the execution of the imposed punishment as well as its penal consequences shall be terminated.

Art. 3 – Laws temporarily in force

Laws temporarily in force are applicable, even when no longer in force, to acts that were committed while they were in force. In all other instances, the provision of para. 1 of the previous article applies.

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* According to the grammar of the Greek language, the masculine form is also used to refer to generic forms, namely to imply persons of both sexes. As with every provision in Greek law, the Penal Code follows this rule and uses the masculine form to refer generally to natural persons subjected to its provisions. This use of the masculine form has been adhered to throughout the translated text.

In the Greek text, numbers for amounts and time periods are not written uniformly; in some articles, numbers are only spelled out in words, in others, both in figures and words. In order to stay as close to the original Greek text as possible, the authors of this translation have kept to the Greek original, either spelling out only the numbers or providing both numbers and words.

Art. 4 – Imposition of measures of security

1. The measures of security provided for in articles 69, 71, 72, 73, 74, and 76 shall be imposed in accordance with the law in force at the time of adjudication.

2. Regarding para. 2 of article 2, the court that issued the judgment shall decide, upon proposal by the prosecutor, whether or not the measures of security that had been imposed should be maintained.

II. Territorial limits of force of the penal laws

Art. 5 – Criminal offences committed within [Greek] national territory

1. The Greek penal laws are applicable to all acts committed within state territory, even if they are committed by foreigners.

2. Greek ships or aircraft, wherever they are located, are considered to be territory of the state, unless they are subject to a foreign law, in accordance with international law.

3. When the act is committed via the internet or any other means of communication, the place of commission is also considered the territory of the Greek state, as long as on its territory the access to the particular means is provided, irrespective of the place in which these means are based.

Art. 6 – Criminal offences committed abroad by Greek nationals

1. The Greek penal laws also apply to any act which they characterize as a felony or misdemeanour committed abroad by a Greek national if this act is also punishable according to the laws of the country where it was committed, or if it was committed in a country with no state structure.

2. Criminal prosecution shall also be brought against any foreigner who was a Greek national at the time of the commission of the act. It shall also be brought against he who gained the Greek nationality after the commission of the act.

3. With regard to misdemeanours, a criminal complaint from the harmed person or a request from the government of the country in which the misdemeanour was committed is required in order to apply the provisions of paras. 1 and 2.

4. Petty violations committed abroad shall be punishable only in cases specifically provided for by the law.

Art. 7 – Criminal offences committed abroad by foreigners

1. The Greek penal laws also apply to a foreigner with regard to an act which was committed abroad and is characterized as a felony or misdemeanour, if this act is committed against a Greek citizen, and if it is also punishable according to the laws

of the country in which it was committed, or if it was committed in a country with no state structure.

2. The provisions of paras. 3 and 4 of the previous article shall also apply here.

Art. 8 – Criminal offences committed abroad that are always punishable under Greek law

The Greek penal laws apply to Greek and foreign nationals, regardless of the laws of the place of commission, with regard to the following acts committed abroad: α) high treason, treason against the country committed against the Greek state, and terrorist acts (article 187A); β) criminal offences related to military service and the obligation to join the army (special part, chapter H); γ) a punishable act committed in the capacity of an employee of the Greek state or of an organ or agency of the European Union based in Greece; δ) an act committed or directed against an employee of the Greek state or a Greek employee of an organ or agency of the European Union, during his service or in relation to the exercise of his duties; ε) perjury in proceedings pending before the Greek authorities; στ) piracy; ζ) currency-related criminal offences (special part, chapter Θ); η) slave trading, trafficking in human beings, sex trafficking, travelling with the purpose of committing sexual intercourse or other lascivious acts with a minor, the rape or sexual abuse of a minor, enticement of children, felony sexual abuse of minors, child pornography, pornographic performances involving minors, procuring a minor, committing lascivious acts with a minor in exchange for payment, or enforced disappearance of a person; θ) illegal trafficking in narcotics; ι) illegal circulation of, and trade in, obscene publications; ια) any other criminal offence, with regard to which special provisions or international conventions signed and ratified by the Greek state provide for the application of the Greek penal laws.

Art. 9 – Non-prosecution of criminal offences committed abroad

1. Criminal prosecution of an act committed abroad is excluded: α) if the responsible person has been tried abroad for this act and was acquitted, or, if convicted, has fully served his sentence; β) if, according to the foreign law, the limitation period for the prosecution of the act or the execution of the imposed punishment has expired, or if pardon as regards the punishment has been granted; γ) if, according to the foreign law, a criminal complaint is required for the prosecution of the act, and such a criminal complaint has either not been submitted or has been withdrawn.

2. These provisions do not apply to the acts defined in article 8.

Art. 10 – Calculation of sentences served abroad

A sentence served in whole or in part abroad, when followed by a conviction in Greece for the same act, shall be deducted from the punishment imposed by Greek courts.

Art. 11 – Recognition of foreign criminal judgments

1. If a Greek national is convicted abroad for an act which, according to the provisions of the domestic [Greek] laws, is subject to supplementary punishments, the competent misdemeanours court may impose these punishments.

2. The competent misdemeanours court may also impose upon a person convicted or acquitted abroad the measures of security defined by the Greek laws.

III. Relationship of the Code with special laws and explanation of its terms

Art. 12 – Special penal laws

The provisions of the general part of the Penal Code also apply to punishable acts defined by special laws if these laws do not specify otherwise with an explicit provision.

Art. 13 – Meaning of terms of the Code

Throughout the Code, the following terms are used with the following meaning:

α) an employee is a person who has been legally entrusted, even temporarily, with the exercise of public, municipal or community service or service within another legal person of public law;

β) kin are relatives by blood and by marriage in a direct line, adoptive parents and adopted children, spouses, *fiancés*, siblings and their spouses, and *fiancés* of siblings, as well as the legal guardians of, or carers for, the responsible person and those under the guardianship or custody of the responsible person;

γ) a document is any text intended or suitable for proving a fact of legal significance and any mark intended to prove such a fact. A document is also any medium used by a computer or by a computer peripheral memory, electronically, magnetically or otherwise, for the recording, storing, production, or reproduction of data, which cannot be directly read, as well as any magnetic, electronic, or other material where any information, image, symbol, or sound is recorded, individually or jointly, as long as these media and materials are intended or suitable for proving facts of legal significance;

δ) physical violence also constitutes the act of rendering a person unconscious or incapable of resistance through [the use of] hypnotics, narcotics, or similar means;

ε) an army consists of all armed forces operating on land, sea, and in the air;

στ) the professional commission of a criminal offence occurs when the repeated commission of the act, or the infrastructure developed by the perpetrator with the intention of repeated commission of the act, indicates purpose of the perpetrator for the generation of revenue. The habitual commission of a criminal offence occurs

when the repeated commission of the act indicates a constant tendency of the perpetrator towards the commission of this particular criminal offence as an aspect of the personality of the perpetrator;

ζ) a perpetrator is characterized as particularly dangerous when the severity of the act, the manner and circumstances of its commission, the causes that led the perpetrator [to commit the act], as well as his personality, indicate his antisocial character and his constant tendency towards the commission of new criminal offences in the future;

η) information system is a device or a group of interconnected or interrelated devices, one or more of which, pursuant to a program, automatically processes digital data, as well as digital data stored, processed, retrieved or transmitted by that device or group of devices for the purposes of its or their operation, use, protection and maintenance;

θ) digital data is the representation of facts, information, or concepts in a form suitable for processing in an information system, including a program suitable for causing an information system to perform a function.

SECOND CHAPTER
The punishable act

I. General provisions

Art. 14 – Concept of the punishable act

1. A criminal offence is a wrongful act that is imputable to its perpetrator and punishable by law.

2. In the provisions of the penal laws the term "act" also includes omissions.

Art. 15 – Criminal offence committed by omission

Where the law requires as a constituent element of a punishable act the occurrence of a certain result its non-prevention shall be punished in the same way as its active commission if the person responsible for the omission was under a special legal obligation to prevent the occurrence of the result.

Art. 16 – Place of commission of the act

The place of commission of the act is considered the place where the responsible person carried out the punishable activity or omission in whole or in part, as well as the place where the punishable result occurred, or, in the case of attempt, where the punishable result should have occurred according to the intention of the responsible person.

Art. 17 – Time of commission of the act

The time of commission of the act is considered the time at which the responsible person acted or should have acted. The time at which the result occurred is irrelevant, unless otherwise specified.

Art. 18 – Classification of punishable acts

Every act punishable by death* or by incarceration is a felony. Every act punishable by imprisonment, pecuniary punishment, or confinement in a special detention facility for young offenders is a misdemeanour. Every act punishable by detention or fine is a petty violation.

Art. 19 – The penal character of acts tried in court

Whether an act tried in court constitutes a felony or a misdemeanour shall be determined on the basis of the most severe punishment specified in law with regard to this act, and not on the basis of a more lenient punishment possibly imposed by the judge due to mitigating circumstances (article 84) or due to any other reason for mitigating punishment in accordance with article 83. This shall also apply in the case of a sentence of confinement in a psychiatric facility according to article 38.

II. The wrongful character of the act

Art. 20 – Grounds for excluding the wrongfulness of the act [i.e., grounds of justification]

In addition to the cases mentioned in the Penal Code (articles 21, 22, 25, 304 paras. 4 and 5, 308 para. 2, 367, 371 para. 4), the wrongful character of the act is also excluded when the act constitutes the exercise of a right or the fulfilment of a duty imposed by law.

Art. 21 – Order

An act is not wrongful if carried out with the intention of executing an order issued by a competent authority in accordance with the formal legal conditions provided that the law does not allow the person receiving the order to examine its lawfulness. In such a case, the person who gave the order shall be punished as perpetrator.

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* The death penalty was abolished in 1993. In provisions, which for a specific punishable act provide as punishment only the death penalty, lifelong incarceration shall be regarded as the threatened punishment; if the death penalty or another punishment are alternatively provided, only the latter shall be regarded as the threatened punishment (see art. 33 para. 1 L. 2172/1993, art. 1 para. 12 L. 2207/1994, see also L. 2610/1998 and 3289/2004, and art. 7 para. 3 Const.).

Art. 22 – Defence [i.e., self-defence and defence of others]

1. An act committed in a defensive situation is not wrongful.

2. Defence is the necessary assault committed against an aggressor by a person in order to defend himself or another person against a wrongful and present attack directed against him.

3. The necessary extent of the defence is measured by the degree of dangerousness of the attack, the type of harm threatened [by the attack], the manner and the intensity of the attack, and all other circumstances.

Art. 23 – Excessive defence [i.e., excessive self-defence and defence of others]

Whoever exceeds the limits of defence shall be punished, if the excess was caused intentionally, with a mitigated punishment (article 83), and if the excess was caused due to negligence, in accordance with the provisions on negligence. He shall not be punished and the excess shall not be imputed to him if he acted in such a way due to fear or distress caused by the attack.

Art. 24 – Deliberately provoked situation of defence
[i.e., deliberately provoked situation of self-defence and defence of others]

Whoever intentionally provoked the attack of another person in order to commit a punishable act against that person under the pretext of defence cannot be exempted from the punishment specified by law.

Art. 25 – State of necessity excluding wrongfulness

1. An act is not wrongful if committed by someone in order to prevent a danger that is present and unavoidable by any other means and that threatens, through no responsibility of his own, his person or his assets, or the person or the assets of another, provided that the harm caused [due to this act] to any other person is significantly less in terms of type and importance than the harm threatened [by the aforementioned danger].

2. The above provision does not apply to someone who has a duty to expose himself to the threatened danger.

3. The provisions of article 23 apply accordingly to cases to which the present article is applicable.

III. The imputability of the act

Art. 26 – Responsibility

1. Felonies and misdemeanours shall be punished only if committed with intent. In exceptional cases specified by law, misdemeanours shall also be punished when committed through negligence.

2. Petty violations shall always be punished, even if committed through negligence, except in cases where the law expressly requires intent.

Art. 27 – Intent

1. A person who acts with intent (acts intentionally) is he who wills the production of the circumstances which constitute, according to the law, the concept of a punishable act; also, [a person who acts with intent is] he who knows and accepts that due to his act these circumstances may be produced.

2. Where the law requires that the act be committed in the knowledge of a particular circumstance, eventual intent does not suffice. And where the law requires that the act be committed with the purpose of causing a specific result, it is required that the perpetrator has strived to cause that result.

Art. 28 – Negligence

A person who acts negligently is he who, due to lack of care which he was able and bound to exercise under the circumstances, did not foresee the punishable result caused by his act, or, although he did foresee it as possible, believed that it would not occur.

Art. 29 – Responsibility due to result

In cases where the law specifies that an act shall be punished with a more severe penalty when it has a specific result, this penalty is only imposed if that result can be attributed to negligence of the perpetrator.

Art. 30 – Mistake of fact

1. An act shall not be imputed to the perpetrator if, at the time of commission of the act, he was ignorant of the circumstances that constitute this act. However, if ignorance of such circumstances can be regarded as the result of the responsible person's negligence, the act shall be imputed to him as a negligent criminal offence.

2. Likewise, circumstances that aggravate, according to the law, the punishability of the act shall not be imputed to the perpetrator if he was ignorant of them.

Art. 31 – Mistake of law

1. Ignorance of punishability alone does not suffice for the exclusion of imputability.

2. The act, however, shall not be imputed to the perpetrator if he mistakenly believed that he had the right to commit the act, and this mistake was excusable.

Art. 32 – State of necessity excluding imputability

1. An act is not imputed to the perpetrator if committed in order to prevent a danger that is present and unavoidable by any other means and that threatens, through

no responsibility of his own, his person or his assets, or the person or assets of a relative of his, ancestor, descendant, sibling, or spouse, provided that the harm caused due to the act to any other person is proportional in terms of type and importance to the harm threatened [by the aforementioned danger].

2. Here, the provisions of paras. 2 and 3 of article 25 also apply.

Art. 33 – Deaf-mute offenders

1. Any act committed by a deaf-mute person shall not be imputed to him, if it can be established that he did not have the required mental ability to understand the wrongfulness of his act or to act in accordance with his perception of this wrongfulness.

2. If the previous paragraph does not apply, the deaf-mute person shall be subject to a mitigated punishment (article 83).

Art. 34 – Disturbance of mental functions or consciousness

The act shall not be imputed to the perpetrator if, at the time of commission, due to a morbid disturbance of the mental functions or due to a disturbance of consciousness, he did not have the ability to understand the wrongfulness of his act or to act in accordance with his perception of this wrongfulness.

Art. 35 – Voluntary disturbance of one's own consciousness [i.e., *actio libera in causa*]

1. An act that was decided upon by a person in a normal mental state, for the commission of which, however, he brought himself into a state of disturbed consciousness, shall be imputed to him as if it were committed with intent.

2. For any act, other than the one decided upon, committed in such a state the responsible person shall be subject to a mitigated punishment (article 83).

3. An act that the responsible person predicted or could have predicted that he would possibly commit if brought into a state of disturbed consciousness shall be imputed to him as an act committed negligently.

IV. Offenders with diminished capacity for imputability

Art. 36 – Diminished capacity for imputability

1. If, due to a mental condition of those mentioned in article 34, the capacity for imputability required by this article has been significantly reduced, yet not entirely abolished, a mitigated punishment shall be imposed (art. 83).

2. The provision of the preceding paragraph does not apply in the case of voluntary alcohol intoxication.

Art. 37 – Serving a sentence in special facilities

When the condition of a person with diminished capacity for imputability according to article 36 necessitates specialized treatment or care, the imposed custodial punishments shall be executed in special psychiatric facilities or prison wards.

Art. 38 – Dangerous offenders with diminished [capacity for] imputability

1. If the person with diminished capacity for imputability due to disturbance of the mental functions according to article 36, or the deaf-mute person according to article 33 para. 2, is dangerous to public safety, and the committed act is a felony or misdemeanour for which the law imposes a custodial punishment of more than six months, the court shall sentence that person to confinement in a psychiatric facility or prison ward as mentioned in article 37.

2. In the judgment, only the lower limit of the confinement period shall be determined, which [i.e., the lower limit] shall never be less than half the upper punishment limit for the committed act as specified in article 36 para. 1.

3. In the same judgment, in the case of application of article 40, the court shall determine the sentence of imprisonment or incarceration that must be served in place of confinement [in psychiatric facilities]; the process of determination shall take place within the punishment limits defined by law for the committed act, disregarding the punishment mitigation stipulated in article 36. In any case, any punishment determined in such a way shall never be less than half the upper limit of the punishment set by law with respect to the committed act. If the law imposes the death penalty* or lifelong incarceration, a punishment of temporary incarceration for twenty years shall be pronounced.

Art. 39 – Duration of confinement in psychiatric facilities

1. Upon completion of the lower limit set by the judgment in accordance with article 38 para. 2, and every two years thereafter, it shall be considered, either upon application from the detainee or *ex officio*, whether or not he may be released. The misdemeanours court of the district in which the punishment is executed, after acquiring an expert's opinion, shall decide upon this issue.

2. Any release is always conditional and may be revoked in accordance with the conditions defined in article 107; it becomes final if not revoked within five years, according to the provisions of article 109.

3. In any case, upon completion of the lower limit set by the judgment, confinement shall not exceed ten years in the case of misdemeanours and 15 years in the case of felonies.

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* On the death penalty, see art. 18.

Art. 40 – Conversion of confinement [in psychiatric facilities] to imprisonment or incarceration

The court specified in the previous article may decide at any time, upon application from the prosecutor and an expert's opinion, to replace confinement [in psychiatric facilities] with the punishment of imprisonment or incarceration determined in accordance with para. 3 of article 38, if it finds that the retention of the convicted person in the psychiatric facility or prison ward is unnecessary. In such a case, any time served in the psychiatric facility or prison ward shall be deducted from the imposed custodial punishment.

Art. 41 – Habitual offenders with diminished [capacity for] imputability

1. If the person sentenced to confinement in a psychiatric facility according to article 38 is found to be a habitual or professional offender in accordance with articles 90 and 91, the lower limit of duration of confinement shall be determined within the punishment limits set out in article 89, disregarding the punishment mitigation specified in article 36; and the upper limit shall be determined in accordance with the provisions of article 91. If the punishment stipulated by law with respect to the committed act is the death penalty* or lifelong incarceration, the latter shall be imposed.

2. The court may at any time, in accordance with the previous article, convert the confinement [in psychiatric facility] to the punishment of incarceration for an indefinite period of time as provided for in articles 90 and 92.

THIRD CHAPTER
Attempt and participation

I. Attempt

Art. 42 – Concept and punishment of attempt

1. Whoever, having decided to commit a felony or a misdemeanour, carries out an act that constitutes at least the initiation of the commission [of the offence], shall be punished with a mitigated punishment (article 83) if the felony or the misdemeanour is not completed.

2. If the court finds that the mitigated punishment according to the previous paragraph is not sufficient to deter the responsible person from the commission of other punishable acts, it may impose any punishment that according to the law is applicable to [the commission of] the completed act, except for the death penalty*.

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* On the death penalty, see art. 18.

3. The court may decide to leave unpunished the attempt to commit a misdemeanour for which the law imposes the punishment of imprisonment for no more than three months.

Art. 43 – Inadequate attempt

1. Whoever attempts the commission of a felony or misdemeanour by such means, or against an object of such nature, so that the actual commission of these criminal offences is rendered absolutely impossible, shall be punished in accordance with article 83 but the punishment shall be mitigated by one half.

2. Whoever carries out such an inadequate attempt out of naivety shall remain unpunished.

Art. 44 – Withdrawal [from the attempt]

1. The attempt remains unpunished if the perpetrator initiated an action for the commission of the felony or misdemeanour but did not complete [his action] through his own volition and not due to external obstacles.

2. If the perpetrator, after completing his action, prevented through his own volition the result, which could have occurred due to his action and which was necessary for the commission of the felony or misdemeanour, although he shall be punished according to the punishment defined in article 83, this shall be mitigated by one half. The court may decide, however, upon free consideration of all the circumstances, to leave the attempt unpunished.

II. Participation

Art. 45 – Co-perpetrators

If two or more persons have jointly committed a punishable act, each of them shall be punished as perpetrator of the act.

Art. 46 – Instigator and direct accomplice

1. With the same punishment provided for the perpetrator shall also be punished: α) whoever intentionally induced another person's decision to execute the wrongful act that the latter committed; and β) whoever intentionally provided direct aid to the perpetrator during [the commission of] the act and in the execution of the main act.

2. Whoever intentionally induced another person's decision to commit a criminal offence with the sole purpose of apprehending him while he attempts to commit the criminal offence or while he carries out a punishable preparatory act, and with the will to prevent him from completing the criminal offence, shall be subject to the punishment provided for the perpetrator mitigated by one half.

Art. 47 – Simple accomplice

1. Whoever, except in the case described in para. 1 *lit.* β' of the previous article, intentionally provided any kind of aid to another person before or during his commission of a wrongful act, shall be punished as accomplice with a mitigated punishment (article 83).

2. Accordingly, the provision of article 42 para. 2 shall also apply to this case.

3. With regard to petty violations, complicity is only punishable in those cases specifically defined by law.

Art. 48 – General provision

The punishability of the participants according to articles 46 and 47 is independent of the punishability of the person who committed the act.

Art. 49 – Special capacities or relationships

1. Where the law requires special capacities or relationships for an act to be punishable, if these exist only with regard to the perpetrator, then the participants according to article 46 para. 1 may be subject to a mitigated punishment (article 83); if, however, they exist only with regard to the persons that are participants according to articles 46 para. 1 and 47, then the latter shall be punished as perpetrators, and the perpetrator as accomplice.

2. The special capacities or relationships or other circumstances that aggravate, mitigate or preclude punishment shall be taken into account only with respect to the participant with regard to whom they exist.

FOURTH CHAPTER
Punishments, measures of security, and compensation

I. Main punishments

Art. 50 – Death penalty[*]

[Art. 50 has been abolished; see art. 1 para. 12 L. 2207/1994].

Art. 51 – Custodial punishments

1. Custodial punishments consist of incarceration, imprisonment, confinement in a special detention facility for young offenders, confinement in a psychiatric facility, and detention.

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[*] On the death penalty, see art. 18.

2. With regard to temporary custodial punishments, one day is calculated as 24 hours, one week as seven days, and one month or one year according to the calendar in force.

3. The duration of punishment shall always be measured in full days, weeks, months, and years.

Art. 52 – Incarceration

1. The punishment of incarceration is lifelong or temporary, and it shall be executed in facilities or facility wards exclusively intended for this purpose.

2. If the law does not expressly stipulate that the imposed incarceration be lifelong, the incarceration shall be temporary.

3. The duration of temporary incarceration shall not exceed twenty years nor be shorter than five years, without prejudice to the definitions of article 91 regarding incarceration for an indefinite period of time.

Art. 53 – Imprisonment

The duration of imprisonment shall not exceed five years nor be shorter than ten days.

Art. 54 – Confinement in a special detention facility for young offenders

The duration of confinement in a special detention facility for young offenders shall not exceed five (5) years nor be shorter than six (6) months, if, for the committed act, the law imposes incarceration of up to ten (10) years. If the threatened punishment is lifelong incarceration, or temporary incarceration that exceeds that stipulated in the previous sent., the duration of confinement in a special detention facility for young offenders shall not exceed ten (10) years nor be shorter than two (2) years.

Art. 55 – Detention

Unless the law states otherwise in special provisions, the duration of detention shall not exceed one month nor be shorter than one day. Detention is executed in separate prison wards or, if such wards do not exist, in police detention facilities.

Art. 56 – Execution of punishments and measures of security

1. The execution of the punishments stipulated in articles 38 and 51–55, as well as of the measures of security stipulated in articles 69–72, is regulated by special laws.

2. A person over seventy-five (75) years of age shall serve at his home the sentence or the remainder of the imprisonment or incarceration of up to ten (10) years that had been imposed upon him, unless, following a specific statement of grounds, it is decided that serving the sentence in a detention facility is absolutely necessary

in order to prevent him from committing other criminal offences of similar gravity. The aforementioned also applies to the case of a convicted mother who has custody of her underage child, until the latter completes the age of 8.

In the latter case, the interests of the minor are taken into special consideration. Whether or not the prerequisites of the present paragraph exist during adjudication of the case shall be decided by the court that imposes the punishment. In any other case, the council of the misdemeanours court shall decide upon application from the defendant.

3. The persons serving their sentence at home may be granted permission for [temporary] leave by the prosecutor of the misdemeanours court* of the place where the sentence is served for educational, professional, or health reasons. These persons are obliged to report within the first five days of each month to the police station of their place of residence. If they omit to fulfil this obligation, the prosecutor responsible for them throughout the period during which they serve the sentence, after considering the frequency of, and reasons for, the omissions, may: α) give a caution, β) order [them] to serve part of their sentence, which may not exceed one (1) month, in the detention facility, or γ) order [them] to serve their sentence in the detention facility. The provision of article 105 applies here accordingly.

Art. 57 – Pecuniary punishments

Unless stated otherwise in special provisions, a pecuniary punishment shall not amount to less than one hundred and fifty (150) nor more than fifteen thousand (15,000) euros, and any fine shall not amount to less than twenty nine (29) nor more than five hundred and ninety (590) euros.

Art. 58 – Annullment of pecuniary punishments

In the case of death of the convicted person, all pecuniary punishments and fines are annulled; in no case shall these be executed against the heirs of the deceased.

II. Supplementary punishments

Art. 59 – Ipso jure deprivation of political rights

1. The sentence to capital punishment** or lifelong incarceration entails *ipso jure* the permanent deprivation of the political rights of the convicted person.

2. The sentence to incarceration for an indefinite period of time according to article 90 et seq. entails *ipso jure* the deprivation of political rights for ten years.

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* Prosecutors are hierarchically assigned to a misdemeanours court, a court of appeal, or the Supreme Court *(Areios Pagos)*.

** On the death penalty, see art. 18

Art. 60 – Deprivation [of political rights] in the case of sentence to temporary incarceration

In the case of sentences to temporary incarceration, a temporary deprivation of political rights for two to ten years shall also be imposed.

Art. 61 – Deprivation [of political rights] in the case of a sentence to imprisonment

When the perpetrator is sentenced to imprisonment, except in cases specifically prescribed by law, the deprivation of political rights shall also be imposed for one to five years if: α) the punishment imposed is of at least one year in duration, and β) the act committed reveals, on the basis of the motives, the type, the method of execution, and all other circumstances, a moral perversion of the perpetrator's character, or article 81A PC applies.

Art. 62 – Deprivation [of political rights] in the case of a sentence to confinement in a psychiatric facility

When the perpetrator is sentenced under article 38 to confinement in a psychiatric facility, if the act is a felony, the provisions of article 60 shall apply; if the act is a misdemeanour, the provisions of articles 61 and 64 [shall apply].

Art. 63 – Effect of the deprivation [of political rights]

The consequences of deprivation of political rights are that the convicted person: 1) lose definitely the public, municipal or community offices to which he has been elected, the public, municipal or community positions he has held, every army rank, the capacity of lawyer, as well as any honorary positions and decorations; 2) be unable to acquire the above, either permanently, in the case of para. 1 of article 59, or during the time specified by law or court judgment, in the cases of para. 2 of article 59 and articles 60, 61, and 62; 3) be unable, in accordance with the previous number, to: α) vote or be elected in political, municipal, or community elections; β) be a member of jury courts and be appointed as an expert by any public authority.

Art. 64 – Partial deprivation [of political rights] in the case of imprisonment

In the case of imprisonment, the court, provided that the conditions of article 61 are met, may impose the partial deprivation of some of the rights mentioned in article 63 if the type of act and the surrounding circumstances eliminate the possibility of abuse of any remaining rights.

Art. 65 – Calculation of the duration of the deprivation of political rights

1. The effect of the total or partial deprivation of political rights shall commence as soon as the judgment becomes irrevocable. The duration of the deprivation of polit-

ical rights shall be calculated onwards from the day after a sentence is completely served, or [onwards from the day after] the custodial punishment, together with which the deprivation [of political rights] had been imposed, is terminated due to expiration of the limitation period or the granting of a pardon.

2. In the case of article 105 paras. 1 and 2, the duration of the deprivation of political rights shall be calculated onwards from the day after temporary release from prison; in the cases of articles 71 and 72 [the duration of the deprivation of political rights shall be calculated] onwards from the day after the convict's release from the facility in which he has been held.

Art. 66 – Restoration

1. Whoever has been deprived of their political rights under articles 59–65 may have them restored by the court upon application. This restoration may occur after five years when the sentence refers to incarceration or the death penalty* converted into custodial punishment; when the sentence refers to imprisonment, restoration may occur three years after the sentence has been served, terminated due to the granting of a pardon or expiration of the limitation period, or, in the cases of articles 71 and 72, after any measures of security have been served or terminated due to expiration of the limitation period. For restoration to be granted, it must be established that during this period the applicant has lived an honest life and has fulfilled, as far as possible, the obligations which were judicially determined as the consequence of the criminal offence. If the deprivation of political rights provided for in article 11 para. 1 was imposed after the sentence had been served, or after the termination of the punishment due to the granting of a pardon or expiration of the limitation period, a restoration may occur three years after the day on which the judgment of the misdemeanours court ordering the deprivation became irrevocable.

2. In the case of a sentence to confinement in a psychiatric facility, the restoration provided for in para. 1 may be granted after five years if the act was a felony and after three years if the act was a misdemeanour.

3. If an application for restoration is rejected, it cannot be resubmitted until two years have passed.

4. The procedure for granting restoration is regulated in accordance with the rules of criminal procedure.

Art. 67 – Prohibition of the practice of a profession

1. If the responsible person has committed a felony or misdemeanour by seriously breaching the duties of his profession, the practice of which requires special permission from the authorities, provided that a custodial punishment of at least three

* On the death penalty, see art. 18.

months has been imposed upon him, the court may also order the [prohibition] to practise this profession for a period of one to five years. This [prohibition] entails the definitive revocation of the given permission. In the case of conviction for any punishable act provided for in articles 336, 338 para. 1, 339, 342 paras. 1 and 2, 348A, 348B, 348Γ, 349, 351, 351A committed against a minor, the court may impose upon the convicted person the prohibition to practice his professional activity for a period of one to five years, provided that this activity involves frequent contact with minors. In the case of a second conviction for any of the punishable acts mentioned in the previous sent. of the present article the court is obliged to impose the permanent prohibition of the professional activity resembling that mentioned in this sent.

2. The provisions of article 65 shall also apply to such a case.

Art. 68 – Publication of the judgment of conviction

1. The court may order publication of a judgment of conviction if the public interest requires so.

2. In those cases specified by law, the publication of a judgment of conviction may be ordered upon application from the harmed person, and the publication of a judgment of acquittal upon application from the acquitted person, if the court establishes that the applicant has a lawful interest.

3. The method of publication and the obligation to pay for it shall be determined in the same judgment.

III. Measures of security

Art. 69 – Custody of non-imputable offenders

If a person, due to a morbid disturbance of his mental functions (article 34) or due to deaf-muteness (article 33 para. 1), has been exempted from punishment or prosecution for a felony or misdemeanour for which the law imposes a punishment exceeding six months, the court shall order his custody in a public therapeutic facility, provided that the court is of the opinion that the offender presents a danger to public safety.

Art. 70 – Duration of custody [of non-imputable offenders]

1. The prosecuting authority shall ensure that the judgment provision on the custody be executed.

2. Custody shall continue as long as required in order to ensure public safety.

3. Every three years the misdemeanours court of the district in which the person is held in custody shall decide if this custody should continue. The same court, how-

ever, may order at any time the release of the person in custody upon application from the prosecutor or the facility administration.

Art. 71 – Commitment of alcohol and drug addicted persons to therapeutic facilities

1. If a person is convicted of α) a felony or misdemeanour that can be attributed to the abuse of alcoholic drinks or other narcotics and that is punishable by law with imprisonment for more than six months, or β) a criminal offence in a state of voluntary alcohol intoxication, as defined in article 193, if this person is a habitual user of alcoholic drinks or other narcotics, the court may order his commitment to a special therapeutic facility.

2. Commitment to a therapeutic facility occurs after the sentence has been served and confinement lasts as long as is necessary to fullfil its purpose as long as this does not exceed two years. Release before these two years are passed is decided upon by the misdemeanours court of the district in which the facility is located and upon proposal of the administration of the latter.

Art. 72 – Referral to a labour facility

1. If the act, for which a person was found guilty and imprisonment was imposed upon him, can be attributed to indolence or a tendency to a disorderly lifestyle, the court may also order, in cases specified by law, along with the imposed punishment, referral to a correctional labour facility.

2. Commitment to a labour facility occurs after the sentence has been served. The duration of stay must be no shorter than one year nor longer than five years.

3. Once the minimum stay has been completed and every year thereafter, the misdemeanours court of the district in which the facility is located decides, upon application from its administration or the prosecutor, whether or not the detainee is to be released.

4. If the convicted person is a recidivist, his referral to a correctional labour facility is obligatory.

Art. 73 – Prohibition of residence

1. If the court, on estimating the type of act committed by the convicted person, his personality, and the other surrounding circumstances, considers his residence in certain places as a concrete danger to public order, and if the punishment imposed upon him is incarceration or imprisonment of a duration of at least one year, but regarding imprisonment, only in the cases specified by law, this court may determine the places where the police authority can prohibit his residence, according to para. 2, for an upper limit of five years starting on the day on which the sentence

was served or the punishment was terminated due to expiration of the limitation period or the granting of a pardon.

2. Based on this decision, the police authority has the right, taking into account the opinion of the prison administration, to prohibit the convicted person from residing, for as long as it is deemed necessary in the decision, in all or some of the places determined by the latter with regard to the period fixed in the decision.

3. In the case of a second and of every other consecutive conviction for any punishable act of theft, fraud, forgery of documents, extortion, child pornography, procuring, sex trafficking, committing lascivious acts with a minor in exchange for payment, exploitation of a prostitute, violation of the provisions on narcotics, illicit trade, and the protection of the national currency and antiquities, as well as the cases of para. 1 of this article, the court shall impose upon the convicted person the obligation to declare his home address to the police authority in his place of residence within ten days after having served his sentence or being released in any way, and to notify every change of address to the same authority for a period of three years. The provision of article 182 shall also apply to this case.

Art. 74 – Deportation of a foreigner

1. Without prejudice to the relevant provisions of the international treaties ratified by the country, the court may order the deportation of a foreigner sentenced to incarceration, if it considers his stay in the country as incompatible with the conditions of social co-existence, taking into particular account the type of the criminal offence for which he has been convicted, his degree of responsibility, any special conditions under which the act was committed, the consequences of the act, the time of his stay within Greek territory, the legality or illegality of his stay, his behaviour in general, his professional orientation, and the existence of a family and generally the level of his integration into Greek society. If the foreigner was a minor at the time of commission of the act, any lawful arrival and residence of his family in the country or, in case his family resides abroad, any existing serious danger to his life, bodily integrity, or personal or sexual freedom in the country of destination, shall also be taken into consideration regarding his deportation. Deportation is carried out immediately after the sentence has been served or after release from prison. This shall also apply when deportation is imposed by the court as a supplementary punishment.

2. The court may also order the deportation of every foreigner upon whom a measure of security of the articles 69, 71, and 72 has been imposed. In this case, deportation can be ordered in place of these measures.

3. The court ruling on the deportation of the foreign offender shall impose upon him the prohibition to re-enter the country for a period of up to ten (10) years. The council of the misdemeanours court of the place of the court which imposed this deportation, taking into account the opinion of the competent police authority, may

allow the return of the foreigner to the country upon his application, provided that three years have passed since the deportation was executed, without prejudice to the provisions of the law of the European Union. The time limitation mentioned in the previous sentence shall not apply in the case of a foreigner who has married a Greek national, for as long as the marriage endures, as well as in the case of a repatriated person of Greek origin. The council decides irrevocably and can only examine a new application for re-entering [the country] one (1) year after the rejection of the previous [application].

4. α) Deportation is carried out through action taken by the competent police authorities, in line with the relevant legislation on foreigners and the rules of international and European law. Five (5) months before the completion of the time required for conditional release of the detainee, the director of the detention facility is obliged to notify thereof the prosecutor of the misdemeanours court of the place of detention, so that the prosecutor may immediately request that the competent police authority investigate the feasibility of the deportation and prepare its execution. At least one (1) month before the completion of the time required for conditional release, the competent police authority announces, with a reasoned report to the prosecutor of the place of detention, whether or not the deportation is feasible. In the case of feasibility, the deportation shall be carried out immediately after the conditional release of the detainee or after the sentence has been served. Upon reasoned order of the prosecutor of the misdemeanours court of the place of detention, detention can be prolonged for only one (1) month from the time of conditional release or after the sentence has been served, provided that the deportation process is underway and is about to be carried out within this time period. Once this time has lapsed, and provided that the deportation has not already taken place, upon order of the prosecutor of the misdemeanours court of the place of detention, the deportation of the foreigner shall be suspended obligatorily, all or some of the conditions provided in para. 3 of article 100 shall be imposed upon him, and the prisoner shall be released immediately.

β) In the case of a foreigner obstructing the preparation of his removal [from the country] by refusing to cooperate with the authorities and to disclose his true identity, the prosecutor of the misdemeanours court of the place of detention may prolong his detention for up to three (3) months from the time of conditional release or after the sentence has been served. In this case, as in case α', the foreigner shall remain, upon order of the prosecutor of the misdemeanours court of the place of detention, in a special part of the detention or therapeutic facility or in a special part of the police facilities created for this purpose, until the execution of his deportation. The detainee may file an appeal against the order of the prosecutor prolonging the detention, upon which the competent prosecutor of the court of appeal decides irrevocably within a time limit of fifteen (15) days. After the lapse of the three-month period, upon order of the prosecutor of the misdemeanours court of the place of detention, the deportation of the foreigner shall be suspended obligatorily, all or

some of the conditions provided in para. 3 of article 100 shall be imposed upon him, and the detainee shall be released immediately.

γ) When the deportation is declared feasible according to the reasoned opinion of the police authority, the decision on its suspension shall be revoked following the same procedure as for its issuance, and the detention of the foreigner for the purposes of his deportation shall be ordered for a time period of fifteen (15) days maximum.

5. If, in accordance with the reasoned report of the police authority under case α' of para. 4, the deportation is not feasible for any reason, and especially if: α) the foreigner is a stateless person, seeks international protection, or already enjoys international protection, β) the consular authority of his country of origin does not operate or fails to cooperate, γ) his country does not constitute a safe destination or any return constitutes a violation of article 3 ECHR, or δ) his country of origin does not accept him, then, after conditional release has been granted or the sentence has been served, the prosecutor of the misdemeanours court of the place of detention shall, with an order, suspend obligatorily the deportation, impose all or some of the conditions determined in para. 3 of article 100, and the prisoner shall be released immediately. When the deportation is made feasible, case γ' of the previous paragraph shall apply accordingly.

6. Whoever breaches the condition or conditions imposed upon him by the prosecutor of the misdemeanours court during the suspension of the deportation, shall be punished in accordance with article 182 para. 1.

Art. 75 – Expiration of limitation period for measures of security

1. If, after the judgment imposing the measures of security of articles 69, 71, 72, and 74 has become irrevocable, a three-year period passes without the execution of the measures having begun, these [measures] may no longer be executed unless the court orders otherwise.

2. The court may order the execution of a measure of security according to the previous paragraph only if the purpose of the measure requires its application.

3. Regarding the calculation of the time limit of three years, the time during which the person who has been subjected to a measure of security serves a custodial sentence or any other custodial measure of security shall not be taken into account.

Art. 76 – Confiscation

1. Objects which are the product of a felony or of a misdemeanour committed with intent, as well as their value and everything acquired therewith, and the objects used or determined for the commission of such an act can be confiscated if they belong to the perpetrator or to one of the participants. With regard to other punishable acts, this measure can only be taken in those cases specified by law.

2. If the above objects cause a danger to public order, their confiscation shall be imposed obligatorily on whoever possesses them, even without the conviction of a specific person for the committed act. The confiscation shall also be executed against the heirs, if the judgment became irrevocable during the time the person against whom the confiscation had been pronounced was alive. If a previous conviction of a specific person did not exist or the prosecution could not take place, the confiscation shall be ordered either by the court which heard the case or by the misdemeanours court, upon proposal of the prosecutor.

3. In the case of confiscation, the court shall decide whether or not the confiscated objects should be destroyed.

IV. Compensation

Art. 77 – Payment Preference

If a person was sentenced to a pecuniary punishment or fine and simultaneously to compensation of the victim, yet his assets do not suffice for the fulfilment of both of these obligations, the payment of compensation shall take priority.

Art. 78 – Persons liable to pay

Those convicted as perpetrators or participants for the same act are jointly and severally liable to pay the compensation.

FIFTH CHAPTER
Assessment of punishment

I. General rules

Art. 79 – Judicial assessment of punishment

1. During the assessment of punishment within the limits designated by law, the court shall take into account: α) the severity of the criminal offence committed and β) the personality of the offender.

2. In the determination of the severity of the criminal offence the court shall be guided by: α) the harm or danger caused by the criminal offence; β) the nature, type, and object of the criminal offence, as well as all circumstances of time, place, means, and methods accompanying its preparation or commission; γ) the intensity of intent or the degree of negligence of the responsible person.

3. During the determination of the personality of the offender the court shall pay particular attention to weighing up the degree of the criminal disposition of the responsible person during the act. In order to diagnose this precisely, [the court]

shall examine: α) the reasons that pushed him to commit the criminal offence, the pretext given to him, and the objective he pursued; β) his character and the degree of its development; γ) his personal and social circumstances and earlier life; δ) his behaviour during and after the act, especially any regret he demonstrated and his willingness to correct the consequences of his act.

4. The grounds of the court's decision on the imposed punishment are explicitly mentioned in the judgment.

Art. 80 – Assessment of pecuniary punishments

1. During the assessment of the pecuniary punishment and fine, the financial conditions of both the convicted person and those family members supported by him shall also be taken into consideration.

2. In those cases in which the law imposes either custodial punishment or alternatively pecuniary punishment or a fine, the court may impose both punishments if it considers one of the two alone to be insufficient for preventing the responsible person from committing other punishable acts.

Art. 81 – Criminal offence motivated by avarice

1. When the criminal offence was motivated by financial gain, the court may also impose a pecuniary punishment or a fine along with the custodial punishment, even if the law does not impose a monetary penalty for the committed criminal offence.

2. In those cases in which the law stipulates solely a pecuniary punishment or a fine for the criminal offence, the court, if the grounds of para. 1 exist, may impose such a punishment increased to up to the equivalent of three times the upper punishment limit stipulated for this criminal offence.

Art. 81A – Criminal offences with racist elements

If the circumstances indicate that a criminal offence has been committed against a harmed person, the targeting of whom was due to characteristics related to race, skin colour, national or ethnic origin, genealogical descent, religion, disability, sexual orientation, gender, or gender identity, the punishment ranges shall be the following:

α) In the case of a misdemeanour that is punished with imprisonment of up to one (1) year, the lower punishment limit shall be increased to six (6) months and the upper limit to two (2) years. In all other cases of misdemeanours, the lower punishment limit shall be increased by one (1) year.

β) In the case of a felony, for which the stipulated punishment range is set at between five (5) and ten (10) years, the lower punishment limit shall be increased by two (2) years. In all other felony cases the lower punishment limit shall be increased by three (3) years.

γ) In the case of a criminal offence for which a pecuniary punishment shall be imposed, the lower punishment limit shall be doubled.

In the case of conversion of the imposed imprisonment in accordance with the above, the conversion sum cannot be lower than twice the lower limit of the stipulated conversion sum.

Art. 82 – Conversion of custodial punishments

1. The custodial punishment which does not exceed one year shall be converted into a pecuniary punishment or a fine. The custodial punishment which is longer than one year but does not exceed two years shall be converted into a pecuniary punishment, unless the perpetrator is a recidivist and the court decides in a specifically reasoned judgment that the non-conversion [of the punishment] is required in order to prevent the perpetrator from committing other punishable acts. The custodial punishment which is longer than two years but does not exceed five years shall be converted into a pecuniary punishment, unless the court decides in a specifically reasoned judgment that the non-conversion [of the punishment] is required in order to prevent the perpetrator from committing other punishable acts.

2. The sum of the conversion shall be determined in a specifically reasoned judgment after considering the perpetrator's personal and financial circumstances based on the average net daily revenue generated through his work, other sources of income, and his assets, as well as his family obligations. Other obligations of the perpetrator may also be taken into account by the court.

3. Every day of imprisonment shall be calculated as a sum of between five (5) and one hundred (100) euros and every day of detention as a sum of between five (5) and one hundred (100) euros. With a joint decision of the Minister of Justice, Transparency and Human Rights and the Minister of Finance, the sums provided for the conversion of custodial punishments may be increased or decreased.

4. After conversion of the custodial punishment, the court estimates whether or not the convicted person is able to pay the total sum of the conversion immediately. If inability to pay immediately is established or if it is established that the payment would lead to inability to pay compensation to the victim, the court sets a time limit of between two and three years, so that within this [time limit] the convicted person pays the above sum in instalments set by the same court.

5. If the convicted person declares himself unable to pay the sum of the conversion within the time limit set out in the previous paragraph, the court shall further convert the pecuniary punishment or the fine, in whole or in part, into community service, provided that the convicted person agrees or requests it. In such a case, the court shall also set the number of hours of community service, which range from 100 to 240 hours for a punishment of up to one year, 241 to 480 hours for a punishment of between one and two years, 481 to 720 hours for a punishment of between two and three years, 721 to 960 hours for a punishment of between three and

four years, and 961 to 1200 hours for a punishment of between four and five years, and, in addition, [the court] shall also set a time limit of no longer than five years for the execution of this community service.

6. Community service is performed without remuneration for the benefit of the services of the state, organizations of local self-government, legal persons pertaining to the public sector, non-profit legal persons of private law, or other [legal persons] determined by decision of the Minister of Justice, Transparency and Human Rights and any other co-competent Ministers. It may also refer to the provision of services to the harmed person, as long as the latter concurs. Unless the court orders otherwise, the community service is supervised by the social assistance supervisor. The same ministerial decision shall also determine the organization of the provision of community service, the procedure for the selection, assignment, and supervision of the relevant service, and any other relevant detail.

7. If the convicted person is blameworthy for providing the [community] service in an insufficient or incorrect manner, the prosecutor responsible for the execution of the punishment, after taking into consideration the frequency and the severity of the breach of obligations by the convicted person, the degree of his responsibility, and how much of the sentence has been served, may: α) issue the convicted person with a warning, β) prolong the time limit for the execution of the service by up to one additional year, γ) allow the execution of the pecuniary punishment or the fine which had initially been imposed following the conversion of the custodial punishment, after having subtracted the sum which corresponds to any punishment of community service already executed by determining that every four hours of work corresponds to one day, δ) increase or decrease the number of hours of community service within the limits corresponding to the duration of the custodial punishment initially imposed, ε) order that the following custodial sentences be served: one to three months for a punishment of community service of up to 240 hours; two to five months for a punishment of community service exceeding 240 and up to 480 hours; four to eight months for a punishment of community service exceeding 480 and up to 720 hours; seven to twelve months for a punishment of community service exceeding 720 and up to 960 hours; and eleven to seventeen months for a punishment of community service exceeding 960 hours, στ) order that the custodial sentence imposed before the conversion be served.

8. If, after the conversion of a custodial punishment into a pecuniary punishment or a fine, a significant change of the conditions of the personal and financial situation of the convicted person occurs, he may ask the same court to set a time limit or to extend the time limit for the payment of the pecuniary punishment, which may not exceed two years, to modify the rate of conversion, or even to convert the pecuniary punishment into community service, to the extent determined by the court. The consequences of the non-fulfilment of the above obligations are also set in this same judgment.

9. The custodial punishment converted into a pecuniary punishment, a fine, or community service shall maintain the character of a custodial punishment, even after the execution, in whole or in part, of the punishment into which it was converted.

10. Conversion according to the previous paragraphs is excluded in cases of conviction for felonies related to the trafficking in narcotics. Provisions of the Penal Code or special penal laws which exclude or specify differently the conversion of custodial punishments into pecuniary punishments or fines, or define differently the concept of the conversion, are abolished without prejudice to the previous sent.

11. The application of this article does not require an irrevocable judgment of conviction.

12. If the court omitted to decide on the conversion of a custodial punishment, the convicted person may request conversion through application to the court which issued the judgment.

Art. 83 – Grounds for mitigating punishment

Where a mitigated punishment is provided in the general part [of the Penal Code] with no further specification whatsoever, the punishment to be imposed is assessed as follows: α) Instead of the death penalty* or lifelong incarceration, temporary incarceration of at least ten years shall be imposed; β) instead of the punishment of incarceration of more than ten years, incarceration of up to twelve years or imprisonment of at least two years shall be imposed; γ) instead of the punishment of incarceration of up to ten years, incarceration of up to six years or imprisonment of at least one year shall be imposed; δ) in any other case, the judge is free to mitigate the punishment down to the lower limit [prescribed] for this type of punishment; ε) if the law imposes custodial punishment and pecuniary punishment cumulatively, it is also possible that only the latter be imposed.

Art. 84 – Mitigating circumstances

1. Punishment shall also be mitigated, to the extent provided in the previous article, in cases in which the court decides that mitigating circumstances occur.

2. As mitigating circumstances the following shall be taken especially into consideration: α) the fact that the responsible person lived an honest personal, family, professional and, in general, social life until the time of the criminal offence; β) the fact that he was led into committing the act through honest motives, by extreme poverty, a serious threat, or under the influence of the person to whom he owes obedience or with whom he is in a dependent relationship; γ) the fact that he was

* On the death penalty, see art. 18.

pushed into committing the act by inappropriate behaviour on the part of the harmed person, or that he was carried away by fury or violent sorrow caused to him by a wrongful act against him; δ) the fact that he has shown honest regret and has sought to eliminate or reduce the consequences of his act; and ε) the fact that the responsible person behaved in a duly manner for a relatively long period after the act.

Art. 85 – Concurrence of grounds for mitigating punishment

If more than one grounds for the mitigation of punishment according to article 83 occur, or one or more such grounds occur concurrently with mitigating circumstances (article 84), the mitigation of punishment shall apply only once to the extent prescribed in article 83; with regard to the assessment of the punishment, all the above grounds and mitigating circumstances shall be taken into consideration.

Art. 86 – Imposition of the death penalty*

[Art. 86 has been abolished; see art. 1 para. 12 L. 2207/1994].

Art. 87 – Calculation of the time of temporary detention [i.e., pre-trial detention]

1. When a custodial punishment is imposed and following the determination of its duration, the time of the temporary detention of the convicted person ordered by the investigating authority of any jurisdiction, shall be subtracted; the time during which he was detained between his arrest and his temporary detention shall also be subtracted.

2. In the case of concurrence of criminal offences that are tried together, the time of temporary detention ordered for any of them shall be subtracted from the punishment imposed for one of them; the time of detention mentioned in the first sent. of this article shall also be subtracted, even if the judgment pronounced the convicted person innocent for the criminal offence for which he had been temporarily detained.

3. Time spent by the defendant in a psychiatric hospital (article 200 of the Code of Criminal Procedure) shall also be subtracted.

4. The competent authority for the execution of judgments shall subtract from the punishment the time of imprisonment between the issuance of the judgment and the moment at which the judgment became irrevocable.

* On the death penalty, see art. 18

II. Recidivists and habitual offenders

Art. 88 – Recidivism

1. Whoever had been convicted of a felony or an intent misdemeanour to a custodial punishment exceeding six months, and within the five years following the publication of the irrevocable judgment of conviction if he had been convicted of a misdemeanour, or within ten years if he had been convicted of a felony, commits a new felony or an intent misdemeanour for which the law stipulates the punishment of imprisonment of at least three months, is considered to be in a state of recidivism.

2. For the calculation of the five-year period or the ten-year period, the time the custodial punishment or the measure of security was actually served in prison or another correctional or therapeutic facility or institution, as well as the time during which the convicted person evaded the execution of punishment, shall not be taken into consideration.

Art. 89 – Punishment for recidivism

1. In the case of recidivism, the stipulated punishment for the act shall be aggravated, and may exceed the upper punishment limit [for that act] set by law and may reach instead the upper limit for that type of stipulated punishment. If the law imposes custodial punishment or alternatively pecuniary punishment, the former shall always be imposed, aggravated as the previous sent. of this article provides.

2. Regarding a third and every further case of recidivism, if the act is threatened with the punishment of imprisonment, the upper limit of which exceeds one year, imprisonment of at least eighteen months shall be imposed.

3. In the case of conversion of the punishment of imprisonment imposed in accordance with this article, the sum of the conversion cannot be lower than: α) twice the lower limit of the conversion sum regarding the first case of recidivism; β) three times the lower limit of the conversion sum regarding the second case of recidivism; and γ) five times the lower limit of the conversion sum regarding every further case of recidivism.

Art. 90 – Habitual recidivists

1. If a person, though punished repeatedly with custodial punishments, and at least three times, for felonies or intent misdemeanours, one such punishment being at least incarceration, commits a new felony or an intent misdemeanour which, in conjunction with the previous acts, proves that he is a habitual or professional offender and poses a danger to public safety, the court shall impose incarceration for an indefinite period of time when the punishment which should be imposed according to the conditions of the preceding article is temporary incarceration. This punishment is executed in special facilities or special prison wards. In the judgment

only the lower limit of the duration of the incarceration is set, which cannot be lower than two thirds of the upper punishment limit as determined in the preceding article.

2. Custodial punishments imposed for an act that constitutes a felony or an intent misdemeanour in accordance with Greek law, which were in whole or in part served abroad, shall be taken into consideration for the application of the above punishment; the custodial punishment provided for in the foreign legislation, which, in terms of content, mostly corresponds to incarceration, is assimilated to incarceration [as understood in Greek law].

Art. 91 – Termination of incarceration for an indefinite period of time

1. After the lower incarceration limit determined in the judgment according to para. 1 of the previous article has elapsed, and every three years thereafter, it shall be examined either upon application from the prisoner or *ex officio*, whether or not he may be released. Release is ordered if the prisoner has demonstrated good conduct during his prison-term leading one to expect that he will not go on to commit a new criminal offence. The misdemeanours court of the district in which the punishment is executed decides on this matter, taking into account the opinion of the facility administration.

2. Release is always conditional: it can be revoked according to the conditions of article 107 para. 1 and it becomes definitive if it is not revoked within five years. The provisions of article 110 paras. 3, 4, 5 shall apply accordingly with regard to the revocation.

3. In any case, after the lower limit set in the judgment has elapsed, the prison-term of a person sentenced to incarceration for an indefinite period of time cannot last longer than fifteen years in the case of an act punishable by incarceration of up to ten years, and longer than twenty years in all other cases.

4. In the case of concurrence according to article 97 *lit.* α', the court determines once again the lower limit of the punishment to be imposed according to article 90 para. 1, by increasing it to the extent provided for in article 94 para. 1.

Art. 92 – Habitual offenders irrespective of recidivism

Irrespective of the existence of recidivism, the provisions of article 89 para. 1 shall also apply to habitual or professional offenders. Incarceration for an indefinite period of time may be imposed upon them, especially if they pose a danger to public safety and the stipulated punishment for the committed act or acts is temporary incarceration. The lower limit of its duration may be no less than half the upper limit of the punishment to which the perpetrator is subjected. In all other instances, the provisions of articles 90 and 91 shall apply.

Art. 93 – Recidivists with regard to negligent criminal offences

The provisions of article 89 para. 1 shall also apply in the case of a sentence to a custodial punishment of at least 6 months for a negligent misdemeanour, if the responsible person, within the five years following the publication of the irrevocable judgment of conviction, commits the same or a similar negligent misdemeanour.

III. Concurrence of criminal offences

Art. 94 – Total punishment in the case of custodial punishments

1. Upon the person responsible for two or more criminal offences, which were committed with two or more acts and are punishable by law with temporary custodial punishments, a total punishment shall be imposed after their assessment, which consists of increasing [appropriately] the heaviest among the concurrent punishments. If the concurrent punishments are of the same type and of equal duration, the total punishment shall be calculated by increasing one of them. The increase of the heaviest punishment with respect to each one of the concurrent punishments cannot be less than: α) four months, if the concurrent punishment is longer than two years; β) one year, if this [concurrent] punishment is incarceration of up to ten years; and γ) two years, if this [concurrent] punishment is incarceration of longer than ten years. In any case, however, the increase cannot exceed three quarters (3/4) of the total sum of the other concurrent punishments, neither can the total punishment exceed twenty-five years in the case of incarceration, ten years in the case of imprisonment, and six months in the case of detention.

2. If the concurrent criminal offences were committed with one act, the court increases freely the heaviest of the concurrent punishments, but may not exceed the upper limit for this type of punishment. In the case of concurrent negligent homicides, in exceptional cases the court may impose a total punishment in accordance with para. 1.

3. If amnesty, pardon, suspension of prosecution, or conditional release were granted, the limitation period has expired, or punishment was forgiven in any way regarding one or more of the concurrent criminal offences the punishments for which were calculated according to the provisions of the previous paragraphs, the execution of the remaining punishments shall continue, and, if necessary, the prosecutor shall submit them to a new calculation, *ex officio* or upon application from the convicted person.

4. Punishments imposed for felonies or misdemeanours committed with intent, which involved the use of physical violence and have been committed by prisoners against other prisoners or detention facility employees or during a leave of absence

[from prison], shall be served in their entirety after the sentence which was or will be imposed for the act for which the responsible person was detained has been served.

Art. 95 – Concurrent supplementary punishments etc.

Supplementary punishments (articles 59–64) and measures of security (articles 71–76) shall be imposed or may be imposed along with the total punishment, as long as the law provides so for one of the concurrent criminal offences.

Art. 96 – Total punishment in the case of concurrence of monetary penalties

1. If more than one pecuniary punishment or fine concur, the imposed total punishment shall consist of the heaviest among them, increased in accordance with the financial conditions of the convicted person. This increase, however, cannot exceed three quarters (3/4) of the total sum of the rest of the concurrent punishments. If the concurrent punishments are equal, the total punishment shall be calculated by increasing one of them.

2. The provision of para. 2 of article 94 shall also apply to this article.

Art. 97 – Total punishment in other cases

The provisions of articles 94 para. 1 and 96 para. 1 shall also apply when a person, before the sentence imposed upon him for a punishable act has been served in whole or before the punishment has been terminated due to expiration of the limitation period or the granting of a pardon, is convicted of another punishable act, whenever the latter was committed.

Art. 98 – Repeated commission of a criminal offence

1. If more than one act committed by the same person constitute the repeated commission of the same criminal offence, the court may impose one and only one punishment instead of applying the provision of article 94 para. 1. For the assessment of this punishment, the court shall take into consideration the content of the partial acts in its entirety.

2. The value of the object of the act and the damage to assets or the benefit in the form of assets deriving from the repeated commission of the criminal offence shall be taken into consideration in their entirety if the perpetrator aimed for this outcome through his partial acts. In such cases, the penal character of the act is determined on the basis of the total value of the object and the total damage to assets or the total benefit in the form of assets which, depending on the criminal offence, may have occurred or was intended.

SIXTH CHAPTER

Conditional suspension of punishment and conditional release

I. Conditional suspension of the execution of punishment

Art. 99 – Punishments which shall be suspended and duration of the suspension

If a person not irrevocably sentenced for a felony or a misdemeanour to a custodial punishment exceeding one year with one or more judgments imposing punishments which do not exceed in total the aforementioned limit, is sentenced to such a [custodial] punishment which does not exceed three years, the court shall order in its judgment the suspension of the execution of the punishment for a specific period of time of no less than one year and no more than three years, unless it decides, on the basis of specifically mentioned evidence in the grounds of the judgment, that the execution of the punishment according to article 82 is absolutely necessary in order to prevent the convict from committing new punishable acts. The suspension period cannot be shorter than the duration of the punishment. The suspension of the execution of the punishment cannot depend on previous payment of the court costs.

Art. 100 – Suspension with regard to punishments exceeding three years. Supervised suspension

1. If a person is sentenced to imprisonment for more than three years but no more than five years and the conditions of article 99 para. 1 apply to him, the court shall order the conditional suspension of the execution of his punishment in the custody and under the supervision of a social assistance supervisor, for a specific period of time of no less than three years nor more than five years, unless the court decides, on the basis of specifically mentioned evidence in the grounds of the judgment, that the execution of the punishment is absolutely necessary in order to prevent the convict from committing new punishable acts.

2. The supervision and custody of the social assistance supervisor involves weekly sessions with the convicted person, individually or together with other persons convicted of similar criminal offences, of which the objective shall be to bring the person to realize the severity of the acts he committed, to highlight their consequences, to search for the causes that led to the criminal offence, and also to make suggestions in order to prevent its repeated commission. The supervisor's duties also include the supervision of the fulfilment of the conditions imposed by the court and the submission of a report thereof to the competent prosecutor once every six months. Accordingly, he [i.e., the supervisor] immediately reports every serious breach of the conditions imposed upon the convicted person.

3. In the judgment regarding the supervised suspension, the court notifies the convicted person of the conditions under which [the suspension] is granted to him and which, alternatively or concurrently, may be: α) The restoration of the damage in-

flicted upon the victim of the punishable act. β) The obligation of the convicted person to appear at regular intervals before the police authorities of his place of residence. γ) The withdrawal of his driving license for a period of time of up to one year if the act constitutes a serious violation of the traffic laws. δ) The prohibition to leave his usual place of residence or other place arranged by the court without permission. Permission to leave, which must be in written form and of temporary validity, is granted to the convicted person by the prosecutor of the misdemeanours court, upon proposal of the social assistance supervisor, exclusively on the grounds of work, studies, health or family. ε) The withdrawal of his passport or of any other equivalent travel document and the prohibition to exit the country, unless permission to do so, which cannot exceed one month, has been granted in this case as well, in accordance with *lit.* δ'. στ) The prohibition of association or communication with specific individuals. ζ) The fulfilment of the convicted person's subsistence or custody obligations towards other individuals. η) The submission of the convicted person to therapy or special treatment and his stay in a specific institution.

4. If, during the suspension of the punishment, the convicted person violates the conditions imposed upon him and the obligation to participate in the sessions organized by the social assistance supervisor, the court which issued the judgment, upon application from the competent prosecutor, decides whether or not the revocation of the suspension should be ordered. If this court is a mixed jury court or a mixed jury court of appeal, the competent courts are the three-judge and the five-judge courts of appeal respectively. The abrogation of the suspension is ordered if the court considers the violations so significant in terms of repetitions and severity that the custodial sentence must be served in order to prevent the convicted person from committing other punishable acts.

5. The court specified in the previous paragraph, upon application from the competent prosecutor or the convicted person, may decide to modify the conditions, to reduce or extend the supervision period, or even abolish the supervision altogether, while at the same time maintaining the suspension of the punishment, as long as it finds it necessary due to the general conduct of the convicted person during the suspension of the punishment. A new application from the convicted person may only be submitted after a period of six months has passed since the rejection of the previous [application].

Art. 100A – Suspension under supervision

[Art. 100A was abolished; see art. 34 L. 3904/2010].

Art. 101 – Revocation of suspension

1. If, after the granting of the suspension but throughout its duration, it is proven that the person to whom it has been granted had previously been irrevocably sen-

tenced to a custodial punishment for any of the actions defined in article 99, the court shall revoke the granted suspension upon application from the prosecutor.

2. If, during the suspension, a conviction for any of these acts, committed before the publication of the judgment on the suspension, becomes irrevocable, the suspension shall be considered as non-granted; the suspended punishment shall be executed according to the provisions of articles 94 para. 1 and 96 para. 1 unless the court, on pronouncing the new conviction, orders explicitly in the same judgment the maintenance of the suspension due to the non-serious nature of the misdemeanour for which the new conviction has been pronounced. This shall also apply if, after the lapse of the suspension period, a conviction followed or the criminal prosecution commenced for an act committed before the suspension, as soon as the conviction for this [latter] act becomes irrevocable.

Art. 102 – Abrogation of suspension

1. If, during the suspension period, the convicted person is sentenced again to a custodial punishment for a felony or a misdemeanour committed during the suspension, the suspension shall be abrogated as soon as the new conviction becomes irrevocable. The punishment imposed for the new conviction is thus executed after the punishment that was suspended, unless, due to the non-serious nature of the misdemeanour to which the new conviction refers, the court orders explicitly in the same judgment not to abrogate the suspension.

2. If the suspension is not abrogated as provided above, or is not revoked in accordance with the provisions of article 101, the punishment that was suspended shall be considered as non-imposed.

Art. 103 – Effect of a foreign judgment

If the conviction stipulated in articles 99, 101, and 102 was reached through the judgment of a foreign court, its effect in terms of granting, revocation, or abrogation of the suspension in any case, shall be freely decided upon by the [Greek] court.

Art. 104 – Legal expenses, compensation, and supplementary punishments

1. Suspension of the punishment shall not exempt the convicted person from the payment of any court costs, civil compensation, or pecuniary satisfaction.

2. The deprivations of rights and the incapacities [pronounced] as supplementary to the punishment shall be suspended and removed together with the main punishment. However, in the case of deprivations [of rights] or incapacities detrimental to public employees (article 263), the court may order that they not be suspended.

II. Conditional release of the convict

Art. 105 – Convicts entitled to release

1. Persons sentenced to a custodial punishment may be released under the condition of revocation according to the following provisions and provided that they have already served:

α) with regard to imprisonment, two fifths of their sentence,

β) with regard to temporary incarceration, three fifths of their sentence,

γ) with regard to lifelong incarceration, at least nineteen (19) years.

For the granting of conditional release, it is not required that the conviction has become irrevocable.

2. The time period of three fifths shall be limited to two fifths of the imposed punishment, and, regarding lifelong incarceration, the nineteen (19) years shall be limited to fifteen (15) years if the convict is older than seventy (70) years of age. The time period of fifteen (15) years shall be increased by two fifths of any remaining punishments that may have been imposed, in case they occur cumulatively. In any case, however, the convict may be released, if he has served nineteen (19) years. After the completion of the sixty-fifth (65th) year of age, every day of his internment in a correctional facility shall be beneficially calculated as two (2) days of served sentence. If the convict works, every workday is calculated as an additional half-day of served sentence. If, for these convicts, there exists a more advantageous calculation of the sentence under other provisions, the latter shall apply. The provisions of this paragraph shall not apply to convicts for the criminal offence of high treason, for whom para. 2 of article 105 L. 1492/1950 "Ratification of the Penal Code" shall continue to apply.

3. In the case of non-converted sentences of imprisonment, if one fifth of them has been served in any way, the three-judge misdemeanours court of the district of detention converts the next fifth of these [sentences] into a pecuniary punishment and orders the release of the prisoner, unless, stated in a specific reasoning, the court considers, based on the convict's general conduct while serving his sentence, the pecuniary punishment as insufficient for preventing the convict from committing other punishable acts. The convict may appeal against this judgment. If the court considers the convict financially absolutely incapable of paying the pecuniary punishment, it converts the latter into a punishment of community service, according to the provisions of para. 5 of article 82. In all other instances, paras. 6 to 8 of article 82 shall apply accordingly.

4. In the case of the concurrence of more sentences, the convict may be conditionally released if he has served the total sum of the parts of those sentences as provided for in para. 1. In any case, the convict may be released if he has served twenty-five years, even when the aforementioned total sum exceeds this limit.

5. If a convict, who is to be subjected to a custodial measure of security after serving his sentence, is released conditionally, the trial period shall begin after this measure has been terminated. If the deportation of the conditionally released convict has been ordered by court judgment, the deportation shall be executed immediately after his conditional release, unless deportation is impossible, in which case the convict shall be released and the trial period shall begin.

6. For the granting of conditional release, the sentence which was beneficially calculated according to the provisions in force shall be considered as the served sentence. Nonetheless, in the case of incarceration punishments, the conditional release cannot be granted to the convict if he has not remained in the correctional facility for a time period equal to one third of the imposed punishment or, in the case of lifelong incarceration, [for] fifteen (15) years. The time period of one third or, in case of lifelong incarceration, fifteen (15) years, shall be increased by two fifths of any remaining punishments that may have been imposed, in case they occur cumulatively. In any case, however, the convict may be released if he has served nineteen (19) years. The provisions of this paragraph shall not apply to those convicted of the criminal offence of high treason to whom article 5 L. 2058/1952 shall continue to apply. In addition, the provisions of this paragraph shall not apply to those convicted of the criminal offence of para. 1 of article 299, provided that their act was committed during their detention in a correctional facility.

7. Every day of detention is beneficially calculated as two (2) days of served sentence with respect to prisoners suffering from hemiplegia, paraplegia, or multiple sclerosis, those who have been subjected to a heart, liver, kidney, or bone marrow transplant, are carriers of the acquired immune deficiency syndrome, suffer from malignant neoplasm, kidney failure, for which they are regularly subjected to dialysis, or from tuberculosis during its treatment. The same [provision] shall also apply to: α) prisoners with a disability to a degree of fifty per cent (50%) and above who cannot work, provided that their stay in the detention facility is considered to be especially burdensome due to incapacity of self-care, β) prisoners with a disability to a degree of sixty-seven per cent (67%) and above, γ) prisoners to whom it is prohibited, upon opinion of the Disability Certification Centre (D.C.C.), to take up any work or employment likely to cause serious and permanent harm to their health, δ) prisoners who are hospitalized in therapeutic facilities or hospitals provided that their hospitalization has lasted at least four (4) months, ε) detained mothers for as long as they keep their minor children with them, στ) prisoners who participate in a therapeutic programme of mental rehabilitation for narcotic addiction with a certified organization according to article 51 L. 4139/2013 (A' 74), and ζ) detainees for as long as their detention in police stations or headquarters lasts. The certification of the disability in cases α' and β' is carried out according to the procedure described in para. 4 of article 110A. The beneficial calculation is undertaken by the competent judicial official in accordance with the provisions of arti-

cle 46 para. 1 of the Penitentiary Code and shall be taken into consideration, in addition to instances of conditional release, also with regard to the end of the execution of punishment, its conversion into a pecuniary punishment or community work, or to the cumulative execution of the punishments.

8. In any case, the sum of the beneficial calculation of the days of sentence of convicts or persons awaiting trial shall not be interrupted due to treatment in the Prison Hospital, the Psychiatric Prison Hospital of Korydallos, or any other healthcare institution.

Art. 106 – Prerequisites for granting release

1. Conditional release shall be granted in any case, unless it is decided, following specific reasoning, that the prisoner's conduct while serving his sentence renders the continuation of his detention absolutely necessary in order to prevent him from committing new punishable acts. This provision shall not apply to persons convicted of high treason, for whom para. 1 of article 106 L. 1492/1950 "Ratification of the Penal Code" shall continue to apply.

2. Upon the released person certain obligations may be imposed which will be related to his lifestyle and, in particular, his place of residence. These obligations can always be revoked or modified upon application from the released.

3. The provisions of paras. 2 to 4 of article 100A shall apply accordingly.

Art. 106A – [without title]

[Art. 106A has been abolished; see art. 1 para. 12 L. 2207/1994].

Art. 107 – Revocation of release

1. Release can be revoked if the released person does not comply with the obligations imposed upon him on his release.

2. In the case of revocation, the time period between the release and the new arrest shall not be included in the calculation of duration of punishment.

Art. 108 – Abrogation of release

If, during the time period set in article 109, the released person commits an intent criminal offence, for which imprisonment for more than one year has been irrevocably imposed upon him at any given time, he shall serve cumulatively and entirely the rest of the previous sentence which he would have otherwise served during the period of his conditional release.

Art. 109 – Consequences of non-revocation

If the period of time corresponding to the sentence that remained to be served has passed since the release, in those cases in which this [period] exceeds three years,

or if three years have passed without revocation [of the release], the sentence shall be considered as served. Lifelong incarceration shall be considered as served if ten years have passed since the release without the latter being revoked.

Art. 110 – Procedure for the granting and revocation of release

1. The council of the misdemeanours court of the place where the sentence is served shall decide upon the granting and revocation of conditional release. The convict shall neither be called nor appear before the council, but may submit a written memorandum after he has been notified of the prosecutor's proposal by the director of the detention facility. However, if the council finds it necessary, it may order the convict to appear before them.

2. Conditional release shall be granted upon application from the administration of the facility in which the convict is detained. Applications must be submitted one month before the completion of the time period provided in article 105. If the administration of the facility decides that conditions for declining conditional release exist, it shall submit a report thereon, along with a report from the social services of the facility, to the prosecutor of the misdemeanours court, who shall submit it to the council.

3. The same judicial council shall decide on the revocation upon proposal of the authorities supervising the released person.

4. This supervision may also be assigned to a society for the protection of released persons.

5. In the case of emergency, in order to prevent any danger to public order, the prosecutor of the misdemeanours court of the place where the released person resides can order his temporary arrest immediately after which the decision on the revocation [of the release] is made according to the legal procedure provided. In the case of a permanent revocation, this is deemed to have occurred on the day of the arrest.

Art. 110A – [without title]

1. Conditional release shall be granted irrespective of whether or not the prerequisites of articles 105 and 106 concur, provided that the convict suffers from the acquired immune deficiency syndrome, chronic kidney failure and is regularly submitted to dialysis, drug-resistant tuberculosis, terminal malignant neoplasm, liver cirrhosis in conjunction with a disability to a degree of sixty-seven per cent (67%) and above, dementia after having passed the eightieth (80th) year of age; or he is tetraplegic, or has been subjected to a liver, bone marrow, or heart transplant.

2. Release is also granted, irrespective of whether or not the prerequisites of articles 105 and 106 concur, in the following cases in which a temporary custodial punishment has been imposed upon: α) any convict with a disability to a degree of fifty per cent (50%) and above, provided that their stay in the detention facility is

considered to be especially burdensome due to incapacity of self-care, and upon β) convicts with a disability to a degree of sixty-seven per cent (67%) and above. In the case of temporary incarceration, it is required that one fifth of the sentence has already been served by any means.

3. With respect to lifelong incarceration, the prisoner with a disability to a degree of eighty per cent (80%) and above who has served by any means five (5) years as long as his criminal offence has not involved homicide, or ten (10) years in any other case, shall serve the rest of his sentence in his residence, by the analogous application of article 56 para. 3. In such a case, it is possible to impose electronic monitoring as the latter is prescribed in article 283A of the Code of Criminal Procedure. It is also possible to impose conditions by analogous application of paras. 2 and 3 of article 100 of the Penal Code.

4. The verification of the aforementioned prerequisites shall be carried out upon application from the prisoner, by the council of the misdemeanours court or, in the case of a prisoner serving lifelong incarceration, by the council of the court of appeal. The prosecutor, after the submission of the application, shall order a special expert's report for the verification of the prerequisites of the previous paragraphs as well as a certification of the degree of disability, if this has not already been certified by the Disability Certification Centre (D.C.C.). The aforementioned special expert's report or the D.C.C. certification is submitted by the prosecutor, together with his proposal, to the competent council. An appeal in cassation against the decision of the council of the court of appeal may be submitted. The details concerning the aforementioned special expert's report shall be determined by a joint decision of the Minister of Justice, Transparency and Human Rights and the Minister of Health. In the special experts' report or the D.C.C. certification it is obligatorily specified whether the disability is permanent or temporary and, in the case of temporary disability, its duration and degree is mentioned. In the case of a temporary disability, the competent prosecutor submits to the competent council, one (1) month before the end of the specified duration of the disability, his proposal regarding the re-examination of the granted conditional release. For this reason, two (2) months before the completion of the duration of the specified disability, he orders a special expert's report or a referral to the competent D.C.C. so as the prerequisites of the certification of the degree of disability may be newly ascertained. If the prerequisites of the previous paragraphs do not apply, the continuation of the execution of punishment is ordered. The time passed since the conditional release is considered as time actually served. The re-examination of the disability and the verification of the prerequisites of this article are completed within the time period provided in article 109.

5. Without prejudice to articles 107 and 108, conditional release according to paras. 1 and 2 shall be registered in the criminal record of the convict, granted only once, and extended *ipso jure* to all punishments concurring for execution, for

which a total punishment can be determined according to article 551 of the Code of Criminal Procedure.

6. Conviction during the trial period for an act that had been committed before the serving of the sentence had commenced, for which conditional release has been granted, does not result in the revocation of the release.

7. In all of the aforementioned cases, except for those of lifelong incarceration, it is possible to impose only the condition of prohibition to exit the country. A revocation of release due to breach of a condition shall not occur when the breach was due to health reasons.

8. To those released according to the provisions of the present article, a personal detention [for civil debt] shall not be imposed.

Art. 110B – Release of convicts under the condition of home confinement with electronic monitoring

1. Upon their application, those sentenced to a custodial punishment may be released under the condition of home confinement with electronic monitoring, as prescribed in article 283A CCP, provided that they have served: α) 2/5 of their sentence regarding temporary incarceration, or β) at least 14 years regarding lifelong incarceration. In the case of sentences occurring cumulatively, it is required that the convict has served the total sum of the parts of the sentences provided in cases α' and β'. In any case, the convict may be released if he has served 17 years, even if the aforementioned total sum exceeds this limit [of the 17 years]. The sentence beneficially calculated according to L. 2058/1952 shall be considered the sentence served. The provisions of this paragraph shall not apply to convicts for the felonies of articles 22 and 23 L. 4139/2013, articles 134, 187, 187A, 336, 338, 339 para. 1 (cases α' and β'), 342 paras. 1 and 2, 348A para. 4, 351A paras. 1 (cases α' and β') and 3, 380 paras. 1 (second sent.) and 2, and 299 para. 1, provided that, in this last case, lifelong incarceration has been imposed. Except for the acts of articles 134 and 187A, the provision of the previous sent. of this paragraph shall not apply to those convicted of the acts mentioned in this [previous sent.], if they suffer from diseases related to a disability to a degree of eighty per cent (80%) and above. Verification of the disability is undertaken upon application from the convict by the competent council of the misdemeanours court, which orders a special expert's report, as provided for in para. 2 of article 110A of the Penal Code.

2. In the case of temporary incarceration, the convict must have remained in the correctional facility for a time period equal to one fifth (1/5) of the punishment imposed upon him, and in the case of lifelong incarceration, for a time period equal to twelve (12) years. The time period of one fifth (1/5) or, in the case of lifelong incarceration, twelve (12) years, shall be increased by one fifth of any remaining punishments that may have been imposed, in case they occur cumulatively. In any

case, however, the convict may be released, if he has in fact served fourteen (14) years in the correctional facility. For the convict's release, in accordance with the provisions of this article, it is not required that the conviction has become irrevocable. The provisions of this paragraph shall not apply to those convicted of high treason, for whom article 5 L. 2058/1952 continues to apply, or [to convicts] of intentional homicide according to para. 1 of article 299 PC, provided that this act was committed against an employee during the execution of his service.

3. The person released according to the provisions of this article shall be allowed to leave the place of his home confinement at predetermined times of the day, exclusively for reasons related to work, education, professional training, participation in a certified programme of rehabilitation for narcotic or alcohol addiction, or the fulfilment of the obligations imposed upon him. The times of absence of the convict from his place of home confinement and his total obligations shall be determined either in the decision [of the council] which ordered his release or, after release is granted, upon order of the prosecutor of the misdemeanours court of the place where the sentence is served. With an order, the same prosecutor, either upon application from the convict or *ex officio*, shall decide on the change of the place of home confinement, on the modification of the programme regarding the absence times of the convict, and on the imposition or modification of obligations of the latter. In all other instances, the provisions of article 106 para. 2 shall apply.

4. The convict's release according to the provisions of this article may be revoked if he fails to comply with the imposed obligations and it is estimated, in view of the severity of the breach of his obligations, the manner, and the general circumstances under which this [breach] occurred, that he can be expected to fail to comply with his obligations in the future. In the case of revocation, the time period between the release and any new arrest shall not be counted as part of [the time of] the served sentence. In any case, the convict maintains the right to be conditionally released according to article 105.

5. The release of the convict according to the provisions of this article shall be abrogated if the convict, during the time period established in para. 6, commits: α) a felony or an intent misdemeanour punishable with imprisonment of at least six (6) months for which he has been irrevocably convicted, or β) the offence of article 173A. In the case of abrogation of the release, the period between the release and the new arrest shall not be counted as part of [the time of] the served sentence. The convict in this case is entitled to be conditionally released according to article 105, after having stayed in the correctional facility one year more than [the time period prescribed in] article 105 para. 1 cases β' and γ'. The previous sent. shall not apply if, at the time at which the conviction became irrevocable, conditional release under article 105 had already been granted to the convict and has not been revoked, so that the sentence, for which the release has been granted, shall be considered as already served according to article 109. If, at the time at which the conviction became irrevocable, the conditional release of article 105 had already been granted

without, however, the lapse of the time period mentioned in article 109, the release granted under article 105 shall be abrogated and the convict shall acquire the right to conditional release according to article 105 after having stayed in the correctional facility for one year more than [the time periods prescribed in] article 105 para. 1 cases β' and γ'.

6. Release granted according to this article shall last until the convict is granted conditional release under article 105.

7. Cases which refer to the commission of offences by those persons released under the condition of home confinement with electronic monitoring shall be heard with absolute priority.

Art. 110Γ – Prerequisites and procedure for the release of convicts under the condition of home confinement with electronic monitoring and its revocation

1. Upon application from the convict, the council of the misdemeanours court of the place where the sentence is served shall decide on the release under the condition of home confinement with electronic monitoring. The convict shall neither be called nor appear before the council, but may submit a written memorandum. If the council finds it necessary, it may order the convict to appear before them. Release shall be granted in any case, unless it is decided in a special reasoning that the convict's conduct while serving his sentence renders the continuation of his detention absolutely necessary in order to prevent him from committing new punishable acts. The convict's application is accompanied by a report from the administration of the detention facility and a report from the social services of the facility, which are submitted to the council by the prosecutor of the misdemeanours court. In the report from the social services, the family and broader social environment of the convict shall be specifically mentioned and his relationships with the persons he may eventually cohabit, in case this release is granted, are to be taken into special consideration.

2. If application for release under the condition of home confinement with electronic monitoring is declined, a new application may be submitted four (4) months after the rejection.

3. The same judicial council, upon application from the prosecutor of the misdemeanours court of the place where the sentence is served, shall decide on the revocation. It is mandatory that the convict be summoned at least ten (10) days before the meeting of the judicial council. Release under article 110B may be revoked at any time upon the order of the prosecutor of the misdemeanours court of the place where the sentence is served, upon application from the convict.

4. In the case of emergency, for the prevention of danger to public order, the prosecutor of the misdemeanours court of the place where the released person resides,

may order the temporary arrest of the released person, immediately after which the decision on the revocation [of the release] is made according to the [relevant] legal procedure. In the case of a permanent revocation, it shall be deemed to have occurred on the day of the arrest.

SEVENTH CHAPTER
Grounds for expunging punishability

I. Limitation periods

Art. 111 – Limitation periods for [the prosecution of] criminal offences

1. Punishability is expunged with the expiration of the limitation period.

2. The limitation period for [the prosecution of] felonies expires: α) after twenty years, if the law imposes, with regard to these felonies, the death penalty* or lifelong incarceration; β) after fifteen years in all other cases.

3. The limitation period for [the prosecution of] misdemeanours expires after five years.

4. The limitation period for [the prosecution of] petty violations expires after two years.

5. The above time limits shall be calculated in accordance with the calendar in force.

6. If the law imposes more than one of several alternative punishments, the aforementioned limitation periods shall be calculated on the basis of the heaviest of these punishments.

Art. 112 – Start date of limitation period for [the prosecution of] criminal offences

Unless provided otherwise, the limitation period [for the prosecution of criminal offences] begins running on the day of the commission of the punishable act.

Art. 113 – Suspension of the limitation period for [the prosecution of] criminal offences

1. The limitation period shall be suspended for as long as the criminal prosecution cannot commence or continue due to a provision of the law.

2. Moreover, the limitation period shall be suspended for as long as the main proceedings last and until the judgment of conviction becomes irrevocable.

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* On the death penalty, see art. 18.

3. Suspension according to the previous paragraphs may not last longer than five years for felonies, three years for misdemeanours, and one year for petty violations. The time limitation of the suspension shall not apply if the criminal prosecution was deferred or suspended according to articles 30 para. 2 and 59 of the Code of Criminal Procedure.

4. If a criminal complaint is required for criminal prosecution, the lack thereof shall not lead to the suspension of the limitation period.

5. In pending cases, in which the limitation period expires in accordance with the present and the two preceding articles, the termination of the criminal prosecution and the closing of the case file may be ordered by the competent prosecutor of the misdemeanours court upon the concurring opinion of the prosecutor of the court of appeal.

6. The limitation period for [the prosecution of] the criminal offences defined in articles 323A, 324, 336, 338, 339, 342, 343, 345, 346, 347, 348, 348A, 348B, 348Γ, 349, 351, and 351A, when these are committed against minors, shall be suspended until the victim becomes an adult and for one year thereafter in the case of a misdemeanour or three years thereafter in the case of a felony.

Art. 114 – Limitation period for [the execution of] imposed punishments

The limitation period for [the execution of] irrevocably imposed punishments that have not been executed expires: α) after thirty years in the case of the death penalty* or lifelong incarceration; β) after twenty years in the case of confinement in a psychiatric facility (article 38) or incarceration; γ) after ten years in the case of imprisonment, pecuniary punishment, or confinement in a special detention facility for young offenders (article 54), and δ) after two years in the case of any other lesser punishment.

Art. 115 – Start date of the limitation period for [the execution of] punishments

The limitation period [for the execution of punishments] begins running on the day the judgment became irrevocable.

Art. 116 – Suspension of the limitation period for [the execution of] punishments

The limitation period shall be suspended: α) for as long as the execution of the punishment cannot commence or continue due to a provision of the law; β) for as long as the execution of the punishment has been suspended in accordance with

* On the death penalty, see art. 18.

article 99, or the payment in instalments of the imposed pecuniary punishment or fine has been permitted, and γ) for as long as one of the measures defined in articles 71 and 72 is being executed.

II. Waiver of criminal complaint

Art. 117 – Non-filing of criminal complaint or statement of waiver of the right to criminal complaint

1. When the law requires a criminal complaint for the criminal prosecution of a punishable act, punishability is expunged if the person entitled to file a criminal complaint does not do so within three months from the day on which the committed act and the person who committed it, or one of the participants, became known to him.

2. The explicit statement of the person entitled to a criminal complaint before the competent authority that he waives the right to criminal complaint also leads to the same outcome.

Art. 118 – Persons with the right to criminal complaint

1. The right to criminal complaint belongs to the person directly harmed by the punishable act, as long as the law does not state otherwise with a special provision.

2. If the harmed person has not completed his 12th year of age or is under judicial guardianship, his legal guardian has the right to criminal complaint. If the harmed person has completed his 12th year of age, both the harmed person and his legal guardian have the right to criminal complaint, and after completing the 18th year of age however, only the harmed person has this right.

3. If two or more persons have a right to criminal complaint, this right is autonomous for each of them.

4. After the death of the harmed person, the right to criminal complaint is transferred to the living spouse and children of the harmed person, and if no spouse or children exist, to his parents.

5. With regard to punishable acts committed against the President of the Republic or against the person who exercises presidential powers, if for the prosecution of these acts a criminal complaint is required, the prosecution occurs upon application from the Minister of Justice.

Art. 119 – Indivisibility of criminal complaint

Criminal prosecution shall be commenced against all participants in the criminal offence, even if the filed criminal complaint is only directed against one of them.

Art. 120 – Withdrawal of criminal complaint

1. The person who filed the criminal complaint may withdraw it according to the conditions provided in the Code of Criminal Procedure.

2. A withdrawal referring to one of the participants also results in the termination of criminal prosecution with respect to the other [participants], provided that for their prosecution a criminal complaint is also required.

3. Withdrawal has no results with regard to the defendant who declares to the authorities that he does not accept the withdrawal. Following withdrawal of a filed criminal complaint, a new criminal complaint cannot be filed.

EIGHTH CHAPTER
Special provisions for minors

Art. 121 – Definitions

1. In this chapter, minors are deemed to be persons who, at the time of the commission of the act, are aged from eight to eighteen years old.

2. Minors shall be subject to educational or therapeutic measures or to penal correction according to the provisions of the following articles.

Art. 122 – Educational measures

1. Educational measures consist of: α) the reprimand of the minor, β) the granting of the diligent custody of the minor to his parents or his legal guardians, γ) the granting of the diligent custody of the minor to a foster family, δ) the granting of the custody of the minor to a protection company, children's institution, or carers for minors, ε) the conciliation between the minor (that is the perpetrator) and the victim with respect to the expression of apology and, generally, an out-of-court settlement regarding the consequences of the act, στ) the compensation of the victim or the alleviation or reduction of the consequences of the act by the minor by any other means, ζ) the provision of community service by the minor, η) the minor's attendance of social and psychological support programmes in state, municipal, community, or private institutions, θ) the minor's attendance at schools for professional or any other education or training, ι) the minor's attendance of special traffic awareness programmes, ια) the granting of the minor's intensive custody and supervision to a protection company or to carers for minors, and ιβ) the placement of the minor in an adequate state, municipal, community, or private educational institution.

2. In any case, as an additional educational measure, extra obligations may be imposed upon the minor concerning his lifestyle or education. In exceptional cases,

two or more of the measures provided in cases α' to ια' of the preceding paragraph may be imposed.

3. The judgment of the court shall determine the maximum duration of any educational measure.

Art. 123 – Therapeutic measures

1. If the minor's condition requires special treatment, especially if he is suffering from a mental illness, a morbid disturbance of his mental functions, an organic disease, a condition which causes him a serious bodily malfunction, if he is a habitual user of alcoholic drinks or narcotics and cannot eliminate his habit through his own efforts, or if he shows signs of abnormally slow mental and ethical development, the court shall order: α) the granting of the diligent custody of the minor to his parents, legal guardians, or a foster family, β) the granting of the custody of the minor to a protection company or to carers for minors, γ) the minor's attendance of a therapeutic consultation programme, and δ) the minor's referral to a therapeutic institution or any other adequate institution. In exceptional cases, the measures provided in cases α' or β' may be imposed in conjunction with the measure provided in case γ'.

2. Therapeutic measures shall be ordered after the preliminary diagnosis and opinion of a specialized team of doctors, psychologists, and social workers, who belong accordingly either to a unit of the Ministry of Justice, a medical health centre, or a state hospital.

3. If the minor is a user of narcotics, the use has become habitual for him, and he cannot eliminate it through his own efforts, the court, before imposing the therapeutic measures provided in para. 1 of the present article, shall order a psychiatric expert's report and a laboratory examination, in accordance with article 13 para. 2 L. 1729/1987.

Art. 124 – Modification or withdrawal of the measures

1. The adjudicating court may replace the educational measures it has imposed at any time if it finds this necessary. If the measures have fulfilled their purpose, the court shall withdraw them.

2. [The adjudicating court] may act likewise regarding therapeutic measures upon the opinion of those mentioned in article 123 para. 2.

3. The court may replace educational measures with therapeutic measures upon the opinion of those mentioned in article 123 para. 2.

4. The existence of the prerequisites for the replacement or withdrawal of educational or therapeutic measures shall be reviewed by the court at the latest one year after they had been imposed.

Art. 125 – Duration of the measures

1. The educational measures imposed by the court are terminated *de jure* once the minor completes his eighteenth year of age. With a specifically reasoned judgment, the court may prolong the measures up until, but not after, the minor's twenty-first year of age.

2. Therapeutic measures may be prolonged after the eighteenth year [of age] upon the opinion of those mentioned in article 123 para. 2. up until, but not after, the minor's twenty-first year of age.

Art. 126 – Criminally irresponsible minors

1. The punishable act committed by a minor between eight and fifteen years of age shall not be imputed to him.

2. Upon a minor who committed a punishable act without having completed his fifteenth year of age, only educational or therapeutic measures shall be imposed.

3. Upon a minor who has committed a punishable act and has completed his fifteenth (15th) year of age, educational or therapeutic measures shall be imposed, unless it is considered necessary to impose penal correction upon him in accordance with the following article. In particular, the educational measure of article 122 para. 1 case ιβ' shall be imposed only for an act which would have been a felony if it had been committed by an adult.

Art. 127 – [without title]

1. Confinement in a special detention facility for young offenders shall only be imposed upon minors who have completed their fifteenth (15th) year of age, provided that their act would have been a felony punishable with lifelong incarceration if it had been committed by an adult. The same punishment may also be imposed for the acts of article 336, provided that they are committed against a person younger than fifteen (15) years old. Confinement in a special detention facility for young offenders may also be imposed upon a minor who has completed his fifteenth (15th) year of age and the educational measure of case ιβ' of para. 1 of article 122 has been imposed upon him, if, after his commitment to an educational institution he commits a criminal offence which would have been a felony if it had been committed by an adult. The judgment must involve specific and thorough reasoning indicating why the educational or therapeutic measures are not considered *in concreto* to be sufficient, taking into consideration in each case the specific circumstances of the commission of the act and the minor's personality.

2. In the judgment of the court the exact duration of the minor's stay in the special detention facility for young offenders shall be specified in accordance with article 54.

Art. 128 – Petty violations committed by minors

If the act committed by the minor constitutes a petty violation only the educational measures under *lit.* α', β' and ι' of para. 1 of article 122 shall apply.

Art. 129 – Conditional release

1. Upon serving half the imposed sentence of confinement in a special detention facility for young offenders, the court shall release the minor according to the following provisions. In the judgment on the conditional release, the trial period, which may not exceed the rest of the sentence, shall be determined.

2. Conditional release shall be granted in any case unless it is decided through specific reasoning that the minor's conduct while serving the sentence renders the continuation of his detention absolutely necessary in order to prevent him from committing new punishable acts. For the granting of conditional release, the administration of the facility in which the minor is detained shall submit an application along with a report from the social services of the facility, as soon as half of the imposed sentence has been served. It is mandatory that the minor be summoned at least ten days before the court hearing, which he may attend in person or in which he may be represented by an attorney assigned by him with a simple document verified as to the validity of the signature by the director of the detention facility, a lawyer, or the competent authorities.

3. Conditional release may also be granted before serving half of the imposed sentence, but only for serious reasons and provided that one third of the sentence has in fact been served.

4. For the granting of conditional release, as served sentence shall also be considered the one beneficially calculated according to the provisions in force. Conditional release cannot be granted, if the minor has not stayed in a special detention facility for young offenders for a time period equal to one third of the imposed punishment.

5. Obligations may be imposed upon the released [minor] for the duration of his trial period concerning his lifestyle and, in particular, his place of residence, his education, or his attendance of a legally certified therapeutic programme of mental rehabilitation for addiction to narcotics or other alcoholic substances. With regard to a released [minor] of foreign nationality, his deportation to his country of origin may also be ordered, unless his family legally resides in Greece or his deportation is unfeasible. If the released minor breaches these conditions, article 107 shall apply analogically.

6. If, during his trial period, the released person is convicted of a felony or intent misdemeanour release shall be abrogated and article 132 shall apply.

7. If, after release, the trial period determined in the judgment passes without revocation, the sentence shall be considered as served.

8. The three-judge juvenile court at the misdemeanours court of the district in which the confinement in a special facility for young offenders is served shall be competent for the minor's release and for any revocation of conditional release.

9. If the minor, during his confinement in a special facility for young offenders for a criminal offence of article 5 L. 1729/1987 as it is in force, or for a criminal offence allegedly committed in order to facilitate the use of narcotics, has successfully attended a certified consultation programme, and the person responsible for a recognized mental rehabilitation programme attests with a declaration that the minor is admitted to the latter, the attendance of the programme constitutes a serious reason for early conditional release in the sense of para. 3. The persons responsible for the external mental rehabilitation programme are obliged to notify the judicial authority once every two months of the thorough attendance, or the successful completion, of the programme by the minor in question as well as, without delay, any unfounded interruption of attendance. In the case of interruption, conditional release shall be revoked.

10. If application for conditional release is not accepted, a new application may not be submitted until two months after rejection, unless new evidence is presented.

Art. 129A – Release of minors under the condition of home confinement with electronic monitoring

1. Minors sentenced to confinement in a special detention facility for young offenders may be released, upon their application, under the condition of home confinement with electronic monitoring, as this is provided in article 283A CCP, provided that they have served 1/3 of their sentence. The application shall be accompanied by a report from the social services of the detention facility and a report from the Child Supervision Service. In these reports the broader social environment of the convict shall be specifically mentioned, with particular reference to his relationships with the individuals with whom he may cohabit if release is granted. The sentence beneficially calculated according to the provisions in force shall be considered the sentence served.

2. The minor's release under the condition of home confinement with electronic monitoring cannot be granted if the minor has not stayed in a special detention facility for young offenders for a period equal to one fifth (1/5) of his sentence.

3. Release under the condition of home confinement with electronic monitoring may be revoked if the minor does not comply with the obligations imposed upon him and it is estimated that, on account of the severity of the breach of his obligations, the way in which the breach occurred, and the general conditions surrounding this breach, he cannot be expected to fulfil his obligations in the future. In the case of revocation, the time period between the release and the new arrest shall not count as served sentence. The minor reserves the right to be conditionally released under article 129.

4. Release under the condition of home confinement with electronic monitoring shall be abrogated if the minor, during the time this release lasts, commits an intent act – which would have been a misdemeanour if it had been committed by an adult – for which he is irrevocably convicted regardless of the time of such conviction. In the case of abrogation the period between the release and the new arrest shall not count as served sentence. The minor reserves the right to be conditionally released under article 129.

5. Release under the condition of home confinement with electronic monitoring shall be abrogated if the minor, during the time this release lasts, commits an act – which would have been a felony if it had been committed by an adult – for which he is irrevocably convicted regardless of the time of such conviction. In this case, the period between the release and the new arrest shall not count as served sentence, and the minor acquires the right to be conditionally released under article 129 after he has stayed in the special detention facility for young offenders for one year more than [the time period prescribed in] article 129 paras. 1 and 4. The previous sent. shall not apply, if, at the time the conviction became irrevocable, conditional release under article 129 had already been granted and has not been revoked, so that the sentence for which the release has been granted shall be considered as already served according to the provisions of article 129 para. 7. If, at the time at which the conviction became irrevocable, the conditional release of article 129 had already been granted without, however, the lapse of the time period mentioned in article 129 para. 7 having occurred, the release granted under article 129 shall be abrogated and the convict shall acquire the right to be conditionally released under article 129 after having stayed in a special detention facility for young offenders for one year more than [the time periods prescribed in] article 129 paras. 1 and 4.

6. The provisions of articles 110B paras. 3 and 7, 110Γ para. 1 third sent. and para. 3 third sent., 129 para. 2 first and third sent., para. 4 first sent., para. 5 first sent., and paras. 8 and 10 shall apply accordingly.

Art. 130 – Adjudication after completing the eighteenth year of age

1. The provision of article 127 para. 1 shall also apply to minors who committed the punishable act after completing their fifteenth (15th) year of age but are brought to trial after completing their eighteenth (18th) year of age. In this case, educational measures are terminated *de jure* when the responsible person completes his twenty-fifth year of age. In the case of ιβ' of para. 1 article 122, educational measures are terminated *de jure* when the responsible person completes his eighteenth year of age. If the court decides that the imposition of educational or therapeutic measures is not sufficient and that confinement in a special detention facility for young offenders, though necessary, no longer serves its purpose, it may impose the punishment stipulated for the committed act, mitigated according to the provisions of article 83.

2. The custodial punishments imposed according to the previous paragraph shall in no case lead to the deprivation of political rights or to referral to a labour facility.

3. As a general rule, these convicts are kept separately from the other adult convicts.

Art. 131 – Commencing execution of the judgment after completing the eighteenth year of age

1. If the person sentenced to confinement in a special detention facility for young offenders has completed his eighteenth year of age before the execution of the judgment commences the adjudicating court may replace confinement with the punishment provided in the preceding article, if it estimates that this confinement lacks purpose.

2. Paras. 2 and 3 of the preceding article shall also apply to the cases of this article.

Art. 132 – Concurrence

1. If the detainee in a special detention facility for young offenders commits a punishable act before completing his eighteenth year of age or if another case of concurrence under article 97 occurs, the court shall increase the punishment it had determined with its previous judgment without exceeding the limits of article 54.

2. If the detainee in a special detention facility for young offenders commits a punishable act after completing his eighteenth year of age:

α) Provided that the punishment determined for this act is temporary incarceration, the court shall impose an increased total incarceration punishment. The increase in incarceration time cannot be less than half the punishment that the previous court judgment had determined. In all other instances, the provisions of article 94 para. 1 shall apply.

β) If the punishment imposed for the new act is less severe than temporary incarceration, the court shall increase the punishment which it had determined with a previous judgment, though not beyond the upper limit for confinement provided in article 54.

Art. 133 – Young adults

The court may impose a mitigated punishment (article 83) upon those having completed their eighteenth but not their twenty-first year of age at the time they committed the punishable act. The provisions of paras. 2 and 3 of article 130 shall apply to this case.

SECOND BOOK
SPECIAL PART

FIRST CHAPTER
Offences against the system of government

Art. 134 – High treason

1. Punished with lifelong or temporary incarceration shall be: A) whoever attempts to deprive in any way the President of the Republic, or the person exercising the presidential power, of the powers conveyed to him by the Constitution; B) whoever attempts, through the use or threats of physical violence: α) to prevent any of the aforementioned persons from exercising their constitutional power or to compel them to undertake an act which stems from this power and β) to alter the system of government of the [Greek] state.

2. With lifelong or temporary incarceration shall be punished, except in the case of the previous paragraph, whoever: α) attempts through the use or threat of violence, or the usurpation of his capacity as a representative of the [Greek] state, to dissolve, alter, or render permanently or temporarily inactive, the democratic system of government based on the sovereignty of the people, or the fundamental principles or institutions of this system of government; β) attempts, through the means mentioned in the previous sent. and in a manner sufficient for the disruption of the smooth functioning of the system of government, to deprive or prevent the Parliament, the Government, or the Prime Minister from exercising the power conveyed to them by the Constitution, or to compel them to commit or omit acts that stem from this power; γ) exercises or has exercised the power, which he or another person acquired in the ways and through the means described in this article.

3. Whoever attempts to take the life of the President of the Republic, or of the person exercising the presidential power, shall be punished by death* or with lifelong incarceration.

Art. 134A – The fundamental principles and institutions of the system of government

The fundamental principles and institutions of the system of government within the framework of the previous article are considered to be: α) the election of the Head

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* On the death penalty, see art. 18.

of State; β) the right of the people to vote, through secret ballot, for the Parliament in general, direct, free, and equal elections within the constitutional time frames; γ) the parliamentary system of government; δ) the principle of the multi-party system; ε) the principle of the separation of powers as declared in the Constitution; στ) the principle of the binding of the Legislature by the Constitution and the binding of the Executive and the Judiciary by the Constitution and the laws; ζ) the principle of the independence of justice and η) the general applicability and protection of the civil rights enshrined in the Constitution.

Art. 134B – [without title]

Public employees or officials who exercised their duties for as long as the usurpation of the sovereignty of the people, or the unlawful dissolution, alteration, or inaction of the democratic system of government, lasted shall not be punished as participants in the acts of article 134, provided that the exercise of their duties was necessary exclusively for the continuity of the state functions and did not occur with the purpose of the preservation of power by its usurpers.

Art. 135 – Preparatory acts for high treason

1. Whoever publicly or through the dissemination of documents, pictures, or illustrations intentionally induces, or attempts to incite, others to commit acts of those mentioned in aβrticle 134, shall be punished with incarceration.

2. Whoever conspires with another person with the purpose of committing an act of those mentioned in article 134 or prepares, in deliberation with a foreign government, the commission of one of these acts, shall be punished with incarceration.

3. Any other intentional preparatory action for any of the acts mentioned in article 134 shall be punished with imprisonment of at least three months.

4. A conspiracy exists when two or more persons decide jointly to commit an act of high treason or undertake the mutual obligation to commit such an act.

Art. 135A – Offences against the life of state officials

Whoever attempts to take the life of the Prime Minister, of the President of the Parliament, any of their legal deputies, or of the leader of a [political] party recognized by the Parliament's Standing Orders, shall be punished with lifelong incarceration.

Art. 136 – [without title]

In the cases of article 135, the court may impose, along with imprisonment, the deprivation of political rights (article 61). If the convicted person is a foreigner, the court may also order his deportation (article 74).

Art. 137 – [without title]

1. In the cases of article 134 paras. 1 and 2 and of 135, the perpetrator remains unpunished, if, of his own volition, he prevented the result for which he [originally] aimed with his act.

2. In the case of article 134, if the perpetrator has contributed decisively to the restoration of the democratic system of government he shall be punished with a mitigated punishment. However, the court may, by freely considering all circumstances, decide that the act remain unpunished.

Art. 137A – Torture and other violations of human dignity

1. An employee or an officer of the [Greek] army, whose duties involve the prosecution, investigation, or examination of punishable acts or disciplinary offences, the execution of punishments, or the detention or supervision of detainees, shall be punished with incarceration, if, during the execution of these duties, he submits a person under his power to torture with the purpose of: α) obtaining from him or a third person a confession, testimony, piece of information, or a declaration referring in particular to the denunciation or acceptance of a political or other ideology; β) punishing [the person]; γ) intimidating this person or third persons. The same punishment shall be imposed upon the employee or the army officer, who, upon a superior order or on his own initiative, usurps such duties and commits the acts mentioned in the previous sent.

2. Torture constitutes, according to the previous paragraph, every act of methodically causing intense physical pain or physical exhaustion that is dangerous to the health [of the victim], or psychological pain with the potential to cause serious mental harm, as well as every unlawful use of chemical, narcotic, or other natural or technical means in order to break the will of the victim.

3. Bodily injury, harm to health, the exercise of unlawful physical or psychological violence, and every other serious violation of human dignity, committed by the persons, under the circumstances, and for the purposes provided in para. 1, as long as they do not fall under the meaning of para. 2, shall be punished with imprisonment of at least 3 years, unless it is punished more severely according to another provision. Violations of human dignity are considered to be, in particular: α) the use of a lie detector; β) extended isolation; γ) the serious violation of sexual dignity.

4. Acts or consequences inherent to the legal execution of a punishment or of another lawful restriction of freedom, or [inherent] to another lawful procedural measure of enforcement, do not fall under the scope of this article.

Art. 137B – Aggravated cases

1. The acts of the first paragraph of the previous article shall be punished with incarceration of at least 10 years if: α) means or methods of systematic torture are

used, especially the practice of whipping the feet of the victim (bastinado), electric shocks, mock executions, or the use of hallucinatory substances; β) they result in the severe bodily harm of the victim; γ) the perpetrator commits the acts habitually or is considered, based on the circumstances of the commission of the act, as particularly dangerous; δ) the responsible person gave the order for the commission of the act as a superior.

2. The acts of para. 3 of the previous article shall be punished with incarceration of up to 10 years if the cases β', γ', and δ' of the previous paragraph concur.

3. If the acts of the previous article led to the death of the victim, lifelong incarceration shall be imposed.

Art. 137Γ – Supplementary punishments

A conviction for the acts of articles 137A and 137B entails *ipso jure* the permanent deprivation of political rights in the case of a sentence to lifelong incarceration, deprivation of at least ten years in the case of incarceration, and deprivation of at least five years in the case of imprisonment, unless a more severe deprivation is provided by another provision. In addition, in the case of a sentence to incarceration [the conviction] shall entail the permanent incapability to acquire the capacities prescribed in case 1 of article 63, and in the case of a sentence to imprisonment [the conviction shall entail] an incapability of ten years [to acquire the capacities prescribed in case 1 of article 63].

Art. 137Δ – General provisions

1. A state of necessity shall never exclude the wrongful character of the acts of articles 137A and 137B.

2. A superior order concerning the acts of articles 137A and 137B shall never exclude their wrongful character.

3. In the case that the acts of articles 137A and 137B are committed under a regime of usurpation of the sovereignty of the people, the limitation period shall begin as soon as legitimate power is restored.

4. The person harmed by the acts of articles 137A and 137B is entitled to demand from the perpetrator and the state, which are jointly and severally liable, compensation for the damages he had suffered and a pecuniary satisfaction for mental suffering or moral damages.

SECOND CHAPTER
Treason against the country

Art. 138 – Violation of the [territorial] integrity of the country

1. Whoever attempts, through the use or threat of physical violence, to detach from the Greek state a territory belonging to it, or to merge territory of the Greek state with another state, shall be punished by death.*

2. The provisions of articles 135 and 137 are also applicable here.

Art. 139 – Offence against the international peace of the country

1. Whoever consults or negotiates with a foreign government with the purpose of causing a war or hostilities against the Greek state or one of its allies, shall be punished with lifelong or temporary incarceration.

2. If, due to these actions, a war or any hostilities actually broke out, [the aforementioned person] shall be punished with lifelong incarceration or by death.*

Art. 140 – [without title]

Whoever, with hostile acts not approved by the Government or by machinations, intentionally exposes the Greek state or one of its allies to the risk of war or hostilities, shall be punished with incarceration of up to ten years. If, due to these actions, the war or hostilities actually broke [the aforementioned person] shall be punished with incarceration of at least ten years.

Art. 141 – [without title]

Whoever intentionally and through any action exposes the Greek state, or one of its allies, or their inhabitants, to the risk of retaliation, or exposes the friendly relationship between a foreign state and either the Greek state or one of its allies to the risk of disturbance, shall be punished with imprisonment of between three months and three years. If, due to his actions, retaliation actually occurred, he shall be punished with imprisonment of at least three years.

Art. 142 – [without title]

Whoever becomes negligently responsible for any of the acts of articles 139–141, shall be punished with imprisonment of up to three years in the cases of articles 139 and 140, and with imprisonment of up to one year in the cases of article 141.

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* On the death penalty, see art. 18.

Art. 143 – Military service provided to the enemy

The Greek citizen who, in times of war against the Greek state, serves in a hostile army, or takes up arms against the Greek state or any of its allies, shall be punished by death* or with lifelong incarceration.

Art. 144 – Support of the warfare of the enemy

1. Whoever, in relation to an ongoing or imminent war against the Greek state, acts unlawfully and to his knowledge, in a way that may reinforce the warfare of the enemy or harm the warfare of the Greek state or its allies, shall be punished by death* or with lifelong incarceration.

2. The foreign citizen who provides the enemy with resources or a loan for this war shall not be punished unless he resided in Greece or in territory in the possession of Greece at the time of the act, or unless that with which he provided the enemy comes from these territories.

3. Whoever, in a territory of the [Greek] state that is under enemy attack or occupation in a time of war, facilitates the political aspirations of the enemy upon this territory, or acts, to his knowledge, in a way that could reduce the faith of the citizens in the Greek state, shall be punished with lifelong or temporary incarceration.

Art. 145 – Violation of contracts

1. Whoever, in relation to an ongoing or imminent war against the Greek state, omits, in whole or in part, to execute a contract concerning the military needs of the state or of any of its allies, shall be punished with imprisonment. If the omission is based on negligence, he shall be punished with imprisonment of up to two years.

2. These criminal offences shall only be punished upon request of the Minister of Justice.

Art. 146 – Violation of state secrets

1. Whoever, intentionally and unlawfully, hands over, or allows to come into the possession or the knowledge of another person, documents, plans or other things or information, which the interests of the state or its allies require to be kept confidential from a foreign government, shall be punished with incarceration of up to ten years.

2. In times of war, the responsible person shall be punished with lifelong incarceration or temporary incarceration of at least ten years.

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* On the death penalty, see art. 18.

Art. 147 – [without title]

Whoever becomes negligently responsible for any of the acts mentioned in the previous article, if these plans, documents, things, or infromation have been entrusted to him in his service or have been accessible to him due to his public service or an order from an authority, or if he acquired knowledge of these due to a contract of those mentioned in article 145 of the [present] Code, shall be punished with imprisonment of up to three years.

Art. 148 – Espionage

1. Whoever, intentionally and unlawfully, succeeds in gaining possession or knowledge of objects or information of those mentioned in article 146, shall be punished with imprisonment of at least one year.

2. If, however, the responsible person acted with the purpose of using the above objects or information to forward them to another person or to announce them so as to expose the interests and, in particular, the security of the state or of any of its allies to risk, shall be punished with incarceration, and, in times of war, with lifelong incarceration or by death.*

Art. 149 – [without title]

1. Whoever: α) without having been granted the right, makes pictures or blueprints of fortifications, ships, roads, shops, or other works or military locations, or β) for this purpose enters these places secretly or fraudulently, if access to them is prohibited to the public, shall be punished with imprisonment of two years, unless the act is punished more severely according to a special provision.

2. Whoever enters the aforementioned places secretly or fraudulently shall be punished for this act alone with imprisonment of up to six months.

Art. 150 – Alteration of evidence

Whoever intentionally alters, destroys, or hides documents or other objects that may be useful for proving the rights or for supporting the interests of the Greek state, or any of its allies, *vis-à-vis* another state, shall be punished with incarceration.

Art. 151 – Abuse of the capacity of proxy

Whoever, as a proxy of the Greek state or of an ally of it, intentionally conducts his client's affairs with another government in a way that may lead to the client's harm, shall be punished with incarceration.

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* On the death penalty, see art. 18.

Art. 152 – General provision

In the cases of articles 142, 145, 147, 148, and 149, the court may impose, along with imprisonment, the deprivation of those offices and positions mentioned in article 63 no. 1.

THIRD CHAPTER
Criminal offences against foreign states

Art. 153 – Offence against a foreign state and its leader

1. α) Whoever becomes responsible for one of the acts of articles 134 and 135 against a foreign state recognized by and at peace with Greece, as well as β) whoever intentionally commits or attempts to commit an act of violence against the leader of a foreign state recognized by and at peace with Greece, and whoever in any way insults his honour in public shall be punished with imprisonment; this punishment shall be imposed, unless the act is punished more severely according to another provision, if reciprocity is ensured both during the time of the commission of the act and while the punishment is being imposed. Prosecution is commenced only upon request of the foreign government.

2. Whoever in Greece becomes responsible for one of the acts of para. 1 under *lit.* β' against the leader of this foreign state during his stay in the country, shall be punished irrespective of reciprocity; if he became responsible for an act of violence, or if he attempted to commit such an act of violence, as mentioned above, he shall be prosecuted *ex officio*.

3. The limitation period for [the prosecution of] the insult to the honour mentioned in this article shall expire after six months; proving the truth shall not be allowed.

4. In the case of para. 1 *lit.* α' of this article, the provision of article 137 shall apply.

Art. 154 – Insult to the honour of diplomatic representatives

Whoever becomes responsible for one of the acts of the previous article, para. 1, *lit.* β', against an ambassador accredited in the Greek state or against another diplomatic representative of a foreign state, shall be punished with imprisonment up to two years, unless the act is punished more severely according to another provision of law. Prosecution is commenced only upon criminal complaint by the harmed person or upon request of his government.

Art. 155 – Offence against the symbols of a foreign state

Whoever, in order to express hatred or abhorrence, removes, destroys, deforms, or pollutes the official flag or the emblem of the sovereignty of a foreign state that is

recognized by and at peace with Greece, or interrupts or sonically obstructs the public reproduction of its national anthem, shall be punished with imprisonment of up to six (6) months or with a pecuniary punishment, as long as reciprocity is ensured both during the time of commission of the act and during the adjudication of the court. The prosecution is commenced only upon request of the foreign government.

Art. 156 – Violation of neutrality

Whoever violates a prohibition order issued by the Government and published in the Government Gazette intended to maintain neutrality during war, shall be punished with imprisonment or a pecuniary punishment. Prosecution is commenced only upon request of the Minister of Justice.

FOURTH CHAPTER
Criminal offences against the free exercise of political rights

I. Criminal offences against political bodies and the Government

Art. 157 – Violence against a political body or the Government

1. Whoever, through the use or threat of violence, imposes upon the Parliament, the Government, or one of their members, the obligation to execute, omit, or tolerate an act related to their duties, shall be punished with incarceration of at least ten years. The same punishment shall be imposed if the act is committed against the leader of a political party recognized under the Parliament's Standing Orders.

2. The person responsible for the aforementioned acts against departmental, municipal, or community councils, any other council of local self-government or a member of these [councils], shall be punished with imprisonment of at least one year.

3. Whoever insults the Parliament in public shall be punished with imprisonment of at least three months. If the insult was directed at one of the councils of para. 2, imprisonment up to two years shall be imposed. Criminal prosecution shall be commenced upon request of the Parliament or the council.

4. The court may impose, along with these punishments, the deprivation of the offices and positions of article 63 no. 1.

Art. 157A – Violence against a political party

1. Whoever commits acts of violence against the offices of legally operating political parties shall be punished with imprisonment of at least one year, unless the act is punished more severely according to another provision.

2. Para. 2 of article 167 shall also apply to this case.

3. If damages have been caused due to the acts mentioned in the previous paragraphs, [these acts] are characterized as aggravated cases and the responsible person shall incur the punishments of article 382.

Art. 158 – Alteration [of the results] of elections or polls

1. Whoever intentionally causes in any way the production of a non-genuine result in an election or a poll carried out by the Parliament or any of its committees, or whoever alters the genuine result of the election or poll, shall be punished with imprisonment of up to two years.

2. The person responsible for any one of these acts regarding an election or poll carried out by a departmental, municipal, or community council, any other council of local self-government, or any of their committees, shall be punished with imprisonment of up to one year.

3. The court may impose, along with these punishments, the deprivation of the offices and positions of article 63 no. 1.

Art. 159 – Acceptance of an advantage by political officials [i.e., passive bribery of political officials]

1. The Prime Minister, the member of the Government, the Undersecretary, the Head of Region, the Deputy Head of Region, or the Mayor, who requests or receives, directly or via a third party, for himself or for another person, any kind of undue advantage, or accepts a promise of such an advantage, in exchange for a future or already completed action or omission related to the exercise of his duties, shall be punished with incarceration and a pecuniary punishment of between 15,000 and 150,000 euros.

2. The same punishment shall be imposed upon the member of Parliament, or councils of local self-government and of their committees, who, with regard to any election or poll carried out by the aforementioned bodies or committees, accepts the provision or the promise of any kind of undue advantage for himself or another person, or requests this in exchange for not taking part in the election or the poll, supporting a specific resolution to be passed, or voting in a particular manner.

3. Paras. 1 and 2 shall also apply when the act is committed by a member of the European Commission or European Parliament.

4. The provisions of articles 238, 263 para. 1, and 263B paras. 2 to 5 shall also apply to the criminal offences of the previous paragraphs.

Art. 159A – Offer of an advantage to political officials [i.e., active bribery of political officials]

1. Whoever promises or gives, directly or via a third party, any kind of undue advantage to any person mentioned in article 159, for [the official] himself or for an-

other person, for the purposes mentioned in this article [i.e., art. 159], shall be punished with incarceration and a pecuniary punishment of between 15,000 and 150,000 euros.

2. The director of an enterprise, or any person with decision-making or supervision powers in an enterprise, shall be punished with imprisonment, unless the act is punished more severely according to another provision of criminal law, if they failed through negligence to prevent a person under their command or subject to their control from committing the act of para. 1 in favour of the enterprise.

3. The provisions of articles 238, 263 para. 1, and 263B shall also apply to the criminal offence of para. 1.

Art. 160 – Disturbance of meetings

1. Whoever intentionally obstructs the holding of a meeting of Parliament or of any of its commissions, or disrupts the meeting by causing noise or disorder or in any other way, shall be punished with imprisonment of up to three years.

2. Whoever intentionally obstructs or disrupts in any of the aforementioned ways the meeting of a departmental, municipal, or community council, any other council of local self-government, or any of their committees, shall be punished with imprisonment of up to one year or a pecuniary punishment.

II. Criminal offences during elections

Art. 161 – Violence against voters

Whoever, through the use or threat of violence, prevents a voter from exercising his voting rights, or imposes the exercise of these rights or the vote in favour of or against any candidate in the elections for Parliament or departmental, municipal, or community authorities, shall be punished with imprisonment. The court may impose, in addition to the punishment, the deprivation of the offices and positions of article 63 no. 1.

Art. 162 – Deception of voters

Whoever, with false information, rumours concerning the person of any candidate intended to discredit, or otherwise deceives a voter so that the latter either does not exercise his voting rights, or changes his mind regarding his vote in any of the elections mentioned in article 161, shall be punished with imprisonment of up to two years and a pecuniary punishment.

Art. 163 – Violation of the secrecy of elections

Whoever, in a secret election, in any way manages to learn of, or [enables] a third person [to learn of] the [content of the] vote of a voter, shall be punished with imprisonment of up to one year.

Art. 164 – Alteration of [the results of] elections

1. Whoever votes without having the right to do so in any of the elections of article 161, votes repeatedly, casts a multiple vote, or in any other way intentionally causes the production of a non-genuine election result, or whoever alters the genuine result of the election, shall be punished with imprisonment of up to two years. If the responsible person was executing a service during the election, he shall be punished with imprisonment of up to three years.

2. The last sent. of article 161 shall also apply to this case.

Art. 165 – Offer of an advantage during elections
[i.e., bribery during elections]

1. Whoever, in relation to any of the elections of article 161, from their announcement to the close of voting, suggests, gives, or promises gifts or any other advantage to a voter, which are not due to him, in exchange for his omitting to exercise his voting right, or for his exercise of it in a particular manner, shall be punished with imprisonment of up to two years and a pecuniary punishment. The last sent. of article 161 shall also apply to this case.

2. Imprisonment of up to two years and a pecuniary punishment shall be imposed upon the voter who, in relation to any of the elections of article 161 and during the period set in the previous paragraph, accepts the provision or the promise of gifts or other advantage which are not due to him, or demands these [gifts or other advantages] in exchange for his omitting to exercise his voting right or his exercise of it in a particular manner.

Art. 166 – Disruption of the election

Whoever intentionally obstructs the holding of any election mentioned in article 161, or disturbs it by making noise, causing disorder, or in any other way, shall be punished with imprisonment of up to one year.

FIFTH CHAPTER
Offences against state authorities

Art. 167 – Resistance

1. Whoever uses, or threatens to use, violence in order to compel an authority or an employee to carry out an act related to their duties or to omit a lawful act, as well as whoever commits acts of violence against an employee, [against] a person who has been employed as such, or [against] another employee who has come to his aid during the time his lawful action lasts, shall be punished with imprisonment of at least one year. In such a case, the conversion or the suspension of the punishment is excluded.

2. If the acts described in the previous paragraph were committed by a person carrying a weapon or any other object intended to cause bodily harm, or who has concealed or altered his appearance or [the acts] were carried out by more than one person, as well as if the person against whom the act was committed was put in serious personal danger, imprisonment of at least two years shall be imposed, unless the act is punished more severely according to another provision.

Art. 168 – Offences against the President of the Republic

1. Whoever commits acts of violence against the person of the President of the Republic, or against the person exercising the presidential power, shall be punished with incarceration.

2. Whoever insults the honour of the President of the Republic, or of the person exercising the presidential power, or whoever discredits him in public or in his presence, shall be punished with imprisonment of at least three months.

3. The limitation period regarding the punishability of the criminal offences of paras. 1 and 2 shall expire after six months.

Art. 169 – Disobedience

Whoever refuses to any of the employees of article 13 para. α', upon lawful invitation, without resistance, the service or the aid due by law, or the entrance into any place for the execution of any lawful action of service, shall be punished with imprisonment of up to six months.

Art. 170 – Riot

1. Whoever intentionally participates in a public gathering of people, who commit *en masse* any of the acts of article 167, shall be punished with imprisonment of at least six months.

2. Those who incited the riot, as well as those who used or threatened to use physical violence, or committed acts of violence, shall be punished with imprisonment of at least two years, unless the act is punished more severely according to another provision of law.

Art. 171 – Insolence towards the authorities

1. Whoever participates in an outdoor public gathering that was lawfully prohibited by a competent authority shall be punished with imprisonment of up to six months or a pecuniary punishment.

2. When an assembly of people, gathered outdoors, is lawfully called upon by a competent civil or military employee to dissolve, every person of those gathered who fails to disperse after a third call, shall be punished with imprisonment of up to one year or a pecuniary punishment.

Art. 172 – Freeing a prisoner

1. Whoever intentionally frees a prisoner or another person detained under order of an authority shall be punished with imprisonment of at least two years.

2. Whoever becomes responsible for any of these acts through negligence shall be punished with imprisonment if for any reason it was his duty to guard the person who escaped. He shall remain completely unpunished if the person who escaped is arrested with his aid within fifteen days.

Art. 173 – Escape of a prisoner

1. If a prisoner or another person detained under order of a competent authority escapes, he shall be punished with imprisonment up to one year. The aforementioned punishment shall be executed in whole following the sentence that has been or will be imposed for the act for which the escapee was [originally] detained.

2. Whoever else participates in the escape shall be punished with imprisonment of at least two years. If the participant in the escape has the capacity of a penitentiary or police employee, incarceration up to ten years shall be imposed.

Art. 173A – Breach of home confinement with electronic monitoring

1. Whoever, during the time of his electronic monitoring, intentionally: α) removes, destroys, damages, or in any way tampers with the device or the system of electronic monitoring, or β) in any way alters the personal data relevant to the monitoring, shall be punished with imprisonment of at least one year. With the same punishment shall be punished whoever, during the time of his electronic monitoring, by taking advantage of a defect or of the improper functioning of the device or system of electronic monitoring, escapes the monitoring by the competent authorities. The punishment for the above offences shall be executed in whole following the sentence that has been or will be imposed for the act for which the electronically monitored person was [originally] detained.

2. Whoever participates in the above acts shall be punished with imprisonment of at least two years. If the participant has the capacity of a penitentiary or police employee, or of the competent employee for the electronic monitoring, incarceration of up to eight years shall be imposed.

Art. 174 – Prison riot

1. With incarceration of up to ten years shall be punished those prisoners, or other persons detained under order of an authority, who *en masse*: α) attempt, through the use of violence, to escape, β) physically attack prison or detention facility employees, or persons to whom their custody or supervision has been assigned, γ) attempt, through the use of violence or with threats, to compel any of the above to commit an act or omission.

2. Whoever, among these [prisoners or other detained persons], commits acts of violence against any of the aforementioned persons shall be punished with incarceration of up to ten years.

3. The aforementioned sentences shall be served in whole following the sentence that has been or will be imposed for the act for which the responsible person was [originally] detained.

Art. 175 – Pretence of authority

1. Whoever intentionally pretends that he has the right to exercise any public, municipal, or community service, shall be punished with imprisonment of up to one year or a pecuniary punishment.

2. This provision shall also apply to whoever pretends that he has the right to practise law, as well as to whoever pretends that he has the right to serve as an official of the Eastern Orthodox Church of Christ or of any other religion known in Greece.

Art. 176 – [without title]

Whoever, in public and without the right, wears a uniform or any other distinctive sign of a public, municipal, community, or religious official among those mentioned in para. 2 of article 175, or any honorary decoration or title which he has no right to bear lawfully, shall be punished with imprisonment of up to six months or a pecuniary punishment.

Art. 177 – Violation of confiscation

Whoever intentionally destroys, damages, or removes a confiscated object, shall be punished with imprisonment of up to two years.

Art. 178 – Violation of seals affixed by an authority

Whoever intentionally and arbitrarily breaks or damages a seal affixed by the authorities for the confiscation or the safekeeping of closed things or documents, or for the verification of their identity, or whoever nullifies this sealing in any way, shall be punished with imprisonment of up to two years.

Art. 179 – Violation of custody [of materials under official safekeeping]

Whoever intentionally destroys, damages, or in any way dispossesses an authority of, documents or other things in its safekeeping or that were delivered by the authorities to the safekeeping of another person, shall be punished with imprisonment of up to three years.

Art. 180 – Damaging official notifications

Whoever intentionally and arbitrarily removes, damages, or renders illegible, any official notification publicly posted on walls or displayed by the authorities, shall be punished with imprisonment of up to one year or a pecuniary punishment.

Art. 181 – Violation of the symbols of the Greek state

Whoever, in order to express hatred or abhorrence, removes, destroys, renders unrecognizable, or pollutes the official flag of the [Greek] state or the emblem of its sovereignty, shall be punished with imprisonment of up to two (2) years.

Art. 182 – Breach of restrictions on residence

1. Whoever breaches the restrictions that were imposed lawfully on his freedom of residence, and the relevant obligations [these entail], shall be punished with imprisonment of up to six months.

2. A foreigner who was deported in execution of a court judgment, if he breaches the prohibition to return to the country, shall be punished with imprisonment of at least two (2) years which may not, in any case or for any reason, be converted to a pecuniary punishment, nor may it be suspended in any way according to articles 99 to 104. The use of legal remedies shall not result in a suspension.

3. The punishment of para. 1 of the present article shall be imposed upon whoever, after he has been subjected to home confinement with electronic monitoring, violates the restrictions imposed lawfully on his freedom of residence and the relevant obligations [these entail].

Art. 182A – [without title]

With imprisonment of between one three years shall be punished the defendant who breaches the restrictive terms imposed upon him by court judgment or judicial council decision regarding his freedom of residence and other relevant obligations in the cases of the felonies of criminal organization, terrorist acts, child pornography, money laundering, and terrorist financing, provided that the adjudication in court has commenced but is not yet finished. The punishment imposed upon the fugitive defendant who has breached his terms shall not be converted, nor shall it be suspended, and, in all cases, any filed appeal shall not result in a suspension.

SIXTH CHAPTER
Violation of public order

Art. 183 – Incitement

Whoever in any way publicly induces or incites [others] to disobey the laws, decrees, or other lawful orders of the authorities shall be punished with imprisonment of up to three years.

Art. 184 – [without title]

Whoever in any way publicly induces or incites [others] to commit a felony or misdemeanour shall be punished with imprisonment of up to three years.

Art. 185 – [without title]

Whoever in any way publicly glorifies a committed criminal offence, and therefore exposes the public order to danger, shall be punished with imprisonment of up to three years.

Art. 186 – Inducement and offer to commit a felony or misdemeanour

1. Whoever in any way induces or urges a person to commit a specific felony, as well as whoever offers himself [to commit it] or accepts such an inducement or offer, shall be punished with imprisonment of at least three months.

2. Whoever in any way induces or urges a person to commit a specific misdemeanour, as well as whoever offers himself to commit it or whoever accepts such an inducement or offer, shall be punished with that stipulated for the planned misdemeanour [but] mitigated according to article 83. For the criminal prosecution of this offence, the criminal complaint of the person against whom the commission of the misdemeanour was being planned is required if the misdemeanour is prosecuted upon criminal complaint.

3. The punishments of the previous paragraphs shall be imposed unless the act is punished more severely according to another provision.

4. The acts of this article may remain unpunished if the responsible person withdrew, through his own volition, the inducement, offer, or acceptance [of the offer].

Art. 187 – Criminal organization

1. With incarceration of up to ten years shall be punished whoever forms, or joins as a member, a structured group of three or more persons with continuous activity (organization) that strives to commit more than one of the felonies defined in articles 207 (counterfeiting), 208 (circulation of counterfeit currency), 216 (forgery of documents), 218 (forgery and abuse of stamps), 242 (false attestation, alteration, etc.), 264 (arson), 265 (forest arson), 268 (flood), 270 (explosion), 272 (explosives-related offences), 277 (causing a shipwreck), 279 (poisoning of springs and food provisions), 291 (disruption of the safety of railways, ships, and aircraft), 299 (intentional homicide), 310 (severe bodily harm), 322 (taking away a person [i.e., kidnapping a person]), 322A and 322B (enforced disappearance of a person), 323 (slave trading), 323A (trafficking in human beings), 324 (taking away a minor [i.e., kidnapping a minor]), 327 (involuntary abduction), 336 (rape), 338 (sexual abuse), 339 (enticement of children), 348A (child pornography), 351 (sex trafficking), 351A (lascivious acts with a minor in exchange for payment), 374 (aggravated cases of theft), 375 (misappropriation), 380 (robbery), 385 (extortion), 386 (fraud), 386A (computer fraud), 404 (usury), in the last sent. of para. 5 of article 87 and in article 88 L. 3386/2005 (FEK 212 A') when these acts (facilitation of illegal

entrance or exit or illegal transfer of citizens of third countries) are committed with the purpose of monetary gain, as well as [that strives to commit] more than one of the felonies defined in the legislation on narcotics, weapons, explosives, and the protection from materials emitting radiation harmful to human beings, as well as [that strives to commit] more than one of the felonies defined and punished according to the legislation on the Protection of Antiquities and Cultural Heritage in general, and the legislation on the protection of the environment, as well as [that strives to commit] more than one of the criminal offences defined and punished according to article 41 ΣΤ L. 2725/1999 as it is in force, as well as [that strives to commit] more than one of the criminal offences defined and punished according to article 1280 L. 2725/1999. For the criminal offences of this last article, holding the capacity of doctor, trainer or physiotherapist constitutes an aggravating circumstance. Subject to the same punishment shall also be the person responsible for the act mentioned in the first sentence, if the criminal organization strives to commit several punishable acts in relation to the avoidance of payment of a legal tax, fee, tariff, or other levy during the purchase, sale, reception, delivery, transport, transit, trade, possession, storage, import, or export of a commodity or even of an imitation, counterfeit, or pirate product.

2. Whoever provides essential information or material means with the purpose of facilitating or assisting the organization of the previous paragraph in committing its intended felonies shall be punished with incarceration of up to ten years.

3. Whoever leads the organization of the first paragraph shall be punished with incarceration of at least ten years. Subject to the same punishment shall be any other member of the organization, if, during the time of the commission of the criminal offence mentioned in the second sent. of the first paragraph, he was a public employee or an employee under article 263α.

4. Whoever, through the threat or use of violence against judicial officials, jurors, investigating or court employees, witnesses, experts and interpreters, or by offering to these persons an advantage [i.e., active bribery], impedes the discovery, the prosecution, or the punishment of the criminal offence of forming or joining a criminal organization under para. 1, shall be punished with incarceration of up to ten (10) years and a pecuniary punishment of between one hundred thousand (100,000) and five hundred thousand (500,000) euros. In the above cases, whoever impedes the discovery, prosecution, or punishment, not only of the criminal offence of forming or joining a criminal organization under para. 1, but also of another criminal offence among those mentioned in the same paragraph, shall be punished with incarceration and a pecuniary punishment of between one hundred thousand (100,000) and one million (1,000,000) euros.

5. Except in those cases determined in para. 1, whoever associates with another person in order to commit a felony (forming or participating in a gang), shall be

punished with imprisonment of at least six months. With imprisonment of at least three months shall be punished the responsible person, if the association according to the previous sent. took place in order to commit a misdemeanour punished with imprisonment of at least one year and with which a financial or other material benefit or the violation of life, physical integrity, or sexual freedom is pursued.

6. The manufacture, supply or possession of weapons, explosives, and chemical or biological materials, or materials emitting radiation harmful to human beings, in order to serve the purposes of the organization of para. 1 or of the gang of para. 3,* or the pursuit of financial or other material benefits by their members, constitute aggravating circumstances. The non-commission of any of the pursued criminal offences of paras. 1 and 3 constitutes a mitigating circumstance. Simple mental complicity in the criminal offences of forming or participating in a criminal organization under para. 1 or in a gang under para. 3 shall not be punished, provided that the members of the organization or gang do not strive for financial or other material gain. The commission of the act mentioned in the last sent. of the first paragraph when the material object is crude petroleum, or any other petroleum or energy product, also constitutes an aggravating circumstance.

7. The provisions of the present article also apply when the therein defined punishable acts were committed abroad by a Greek citizen or against a Greek citizen, a legal entity domeciled in Greece, or the Greek state, even if they are not punishable under the laws of the country in which they were committed.

8. The provision of article 238 also applies accordingly to the criminal offences of paras. 1 to 4 of the present article.

Art. 187A – Terrorist acts

1. Whoever commits one or more of the undermentioned criminal offences:

α') intentional homicide (article 299),

β') severe bodily harm (article 310),

γ') fatal [bodily] harm (article 311),

δ') taking away a person [i.e., kidnapping a person] (article 322),

ε') taking away a minor [i.e., kidnapping a minor] (article 324),

στ') aggravated cases of [property] damage (article 382 para. 2),

ζ') arson (article 264),

η') forest arson (article 265),

θ') flood (article 268),

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* Due to an oversight during the various amendments to this paragraph, the law mistakenly refers to “para. 3” instead of “para. 5”.

ι') explosion (article 270),

ια') explosives-related offences (article 272),

ιβ') criminal damage endangering the general public (article 273),

ιγ') disabling safety installations (article 275),

ιδ') causing a shipwreck (article 277),

ιε') poisoning of springs and food provisions (article 279),

ιστ') food alteration (article 281 para. 1),

ιζ') disruption of the safety of transport (article 290),

ιη') disruption of the safety of railways, ships, and aircraft (291),

ιθ') the criminal offences provided in para. 1 of article 8 L.D. 181/1974 "On the protection from ionizing radiation" (OGG 347 A'),

κ') the criminal offences provided for in articles 161, 162, 163, 164, 165, 168, 169, 170, 173, 174, 178, 179, 180, 181, 192, 183, 184 and 186 of the Code of Aviation Law ratified with L. 1815/1988 (OGG 250 A'),

κα') the criminal offences provided for in paras. 1 and 2 of article 15 and in paras. 1 and 3 of article 17 L. 2168/1993 "Regulation of issues regarding weapons, ammunition, explosives, explosive mechanisms, and other provisions" (OGG 147 A'),

κβ') the criminal offences provided for in paras. 2 and 3 of article 4 L. 2991/2002 "Implementation of the Convention on the prohibition of the [development, production, stockpiling and] use etc. of chemical weapons" (OGG 35 A'),

in a way, to an extent, or under circumstances [which are] capable of significantly harming a country or an international organization, and with the purpose of seriously intimidating a population, unlawfully coercing a public authority or an international organization to commit or abstain from committing any act, or of significantly impairing or destroying the fundamental constitutional, political, or economic structures of a country or an international organization, shall be punished:

i) With lifelong incarceration, if the stipulated punishment for one of the criminal offences of the list included under lit. α' to κβ' is lifelong incarceration. In this case the limitation period for [the prosecution of] the act expires after thirty years. If lifelong incarceration is imposed, the provisions of articles 105 to 110 apply, provided that the convicted person has served a sentence of twenty-five years.

ii) With incarceration of at least ten years, if the stipulated punishment for one of the criminal offences of the list included under lit. α' to κβ' is temporary incarceration.

iii) With imprisonment of at least three years, if the stipulated punishment for one of the criminal offences of the list included under *lit.* α' to κβ' is imprisonment.

If the terrorist act resulted in the death of more than one person, the provision of article 94 para. 1 shall apply.

2. The provisions of the previous paragraph do not apply if the prerequisites of articles 134 to 137 concur.

3. Whoever seriously threatens to commit the criminal offence of para. 1, and in this way causes terror, shall be punished with imprisonment of at least two years. The attempt of this criminal offence is not punishable.

4. With incarceration of up to ten years shall be punished whoever forms, or joins as a member, a structured group with continuous activity of three or more persons who act jointly and strive to commit the criminal offence of para. 1 (terrorist organization). With a mitigated punishment (article 83) shall be punished the act mentioned in the previous sent., when the terrorist organization has been formed in order to commit the misdemeanours of para. 1. The manufacture, supply, or possession of weapons, explosives, and chemical or biological materials or materials emitting radiation harmful to human beings, in order to serve the purposes of the terrorist organization, constitute aggravating circumstances. The non-commission by the terrorist organization of any of the listed criminal offences included under *lit.* α' to κβ' of para. 1 constitutes a mitigating circumstance.

5. Whoever leads the terrorist organization, according to the first sent. of the previous paragraph, shall be punished with incarceration of at least ten years. With the mitigated punishment of the previous sent. (article 83) shall be punished whoever leads the terrorist organization according to the second sent. of the previous paragraph.

6. Whoever provides assets of any kind, material or immaterial, movable or immovable, or any kind of financial means, irrespective of the way they were acquired, to a terrorist organization or a terrorist acting individually, or in order to form a terrorist organization or render someone a terrorist, or [whoever] receives, collects, or manages these in the interest of the aforementioned [actors], irrespective of the commission of any of the criminal offences mentioned in para. 1, shall be punished with incarceration of up to ten years. Subject to the same punishment shall also be whoever, aware of its potential future use, provides substantial information in order to facilitate or assist the commission, by the terrorist organization or by the terrorist acting individually, of any of the felonies of para. 1.

7. Whoever commits aggravated theft (article 374), robbery (paras. 1 and 3 of article 380), forgery of documents (article 216) regarding an official document, or extortion (article 385) with the purpose of the commission of the criminal offence of para. 1, shall be punished with incarceration, unless, in the case of extortion, this is punished with a more severe punishment. If the committed act is a misdemeanour, imprisonment of at least three years shall be imposed.

8. Para. 4 of article 187 also applies to the criminal offences of the previous paragraphs.

Art. 187B – Measures of leniency

1. If any of the persons responsible for the acts of forming a criminal organization or a gang or participating in these according to paras. 1 and 3* of article 187, or for forming a terrorist organization or participating in it according to para. 4 article 187A, makes possible the prevention of the commission of one of the planned criminal offences by notifying the authorities, or in the same way contributes substantially to the dismantlement of the criminal organization, gang, or terrorist organization, shall be exempted from punishment for these acts. If the criminal prosecution is yet to be initiated, the prosecutor of the misdemeanours court, with a reasoned order, shall refrain from criminal prosecution and submit the file to the prosecutor of the court of appeal, who shall act according to article 43 para. 2 of the Code of Criminal Procedure.

2. If, in the case of the previous paragraph, the responsible person has committed any of the pursued criminal offences of paras. 1 and 3* of article 187, or has committed any of the criminal offences of para. 1 of article 187A, the court shall impose upon him a mitigated punishment according to article 83. In exceptional cases, the court, upon taking into consideration all circumstances and especially the dangerousness of the criminal organization, gang, or terrorist organization, the extent of the responsible person's participation in it, and the extent of his contribution to its dismantlement, may order the suspension of the execution of the punishment for three to ten years whilst in all other instances articles 99 to 104 shall be applied.

3. With respect to any person who reports punishable acts committed against him by a criminal organization under article 187 or by responsible persons under articles 323A, 348A, 348B, 348Γ, 349 and 351, the prosecutor of the misdemeanours court, if the report is presumed valid, may, upon approval of the prosecutor of the court of appeal, refrain temporarily from any criminal prosecution for violations of the law on foreigners and the law on prostitution, as well as for violations stemming from participation in criminal activities, provided that this participation was a direct consequence of the fact that they were persons harmed by the offences of articles 323A, 348A, 348B, 348Γ, 349, and 351, until an irrevocable judgment on the reported acts is issued. If the report proves to be valid, refraining from criminal prosecution becomes definitive.

3α. A mitigating circumstance is recognized with regard to the person responsible for any criminal act, except for those of article 187A of the Penal Code, for whom it is acknowledged before his irrevocable conviction that he contributed, on his own initiative, to the disclosure or the dismantlement of a terrorist organization by providing information, or he made possible, by notifying the authorities, the

* Due to an oversight during the various amendments to this paragraph, the law mistakenly refers to "paras. 1 and 3 of article 187" instead of "paras. 1 and 5 of article 187".

prevention of the commission of a terrorist act or the disclosure and arrest of individuals avoiding appearance before court or avoiding [the execution of] punishment for terrorist acts under article 187A of the Penal Code. Should the temporary release of the above responsible person be necessary for the disclosure or dismantlement of the terrorist organization or the prevention of the commission of a terrorist act and the arrest of individuals avoiding appearance before court or avoiding [the execution of] punishment for these acts, the council of the misdemeanours court may order with its decision the temporary suspension of the criminal prosecution of the above person and his temporary release from prison for a specific period of time in order to verify the above information. If, after the suspension of the criminal prosecution and the release of the responsible person as regulated above, it turns out that the information provided by him was untrue or that the organization or the acts in question were not of a terrorist nature according to article 187A of the Penal Code, the relevant decision shall be revoked, the imprisonment of the responsible person shall be reordered, and the suspended criminal prosecution against him shall be continued, unless another lenience provision applies in this case. Based on the information provided by the responsible person, a report on the examination under oath of the witness shall be produced and sent to the competent prosecutor of the court of appeal so as he be informed of the content therein. This report shall be kept in a special archive of the Prosecutor's Office along with a report of the competent authority which, on the basis of the aforementioned information, undertook the dismantlement of the terrorist organization, the prevention of the commission of a terrorist act, or the arrest of individuals avoiding appearance before court or [the execution of] punishment for terrorist acts. Knowledge of the above reports shall be limited to the members of the competent judicial council or court who shall consider, also *ex officio*, whether or not to grant the benefits provided in the previous paragraphs. The provisions of paras. 1 and 2 of this article, or of other laws which provide for beneficial measures or measures of leniency, shall not be affected by the provisions of the present paragraph.

4. The deportation of foreigners who are unlawfully present in the country and report punishable acts of the articles 323A, 348A, 348B, 348Γ, 349, and 351, or [report] punishable acts committed by the criminal organization of article 187, may, upon order of the prosecutor of the misdemeanours court and approval of the prosecutor of the court of appeal, be suspended until an irrevocable judgment on the reported acts is issued. During the time of the suspension of the deportation, these foreigners are granted a residence permit, irrespective of the laws on foreigners in force.

Art. 188 – Participation in an undue association

Whoever participates in an association whose purposes are contrary to criminal law provisions shall be punished with imprisonment of up to three years.

Art. 189 – Disturbance of the common peace

1. Whoever participates in a public gathering of a number of individuals who, *en masse*, commit acts of violence against persons or objects or intrude unlawfully into the homes, residences, or property of others, shall be punished with imprisonment of up to two years.

2. Those who incited and those who committed acts of violence shall be punished with imprisonment of at least three months.

3. These punishments shall be imposed unless the act is punished more severely according to another provision.

Art. 190 – Disturbance of the peace of the citizenry

Whoever incites the anxiety or terror of the citizenry with threats that felonies or misdemeanours will be committed shall be punished with imprisonment of up to two years.

Art. 191 – [without title]

1. To imprisonment of at least three months and a pecuniary punishment shall be sentenced whoever spreads in any way false information or rumours capable of causing anxiety or fear amongst the citizenry, disturbing the public's faith [in the state], undermining the confidence of the public in the national currency or the armed forces of the country, or causing a disturbance in the international relations of the country. If the act was committed repeatedly through the press, the responsible person shall be sentenced to imprisonment of at least six months and a pecuniary punishment of at least five hundred and ninety (590) euros.

2. Whoever becomes responsible for any of the acts of the previous paragraph through negligence shall be sentenced to imprisonment of up to one year or a pecuniary punishment.

Art. 192 – [without title]

Whoever in any way publicly induces or incites the citizenry to violent acts against one another or mutual hatred, and hence disturbs the common peace, shall be punished with imprisonment of up to two years unless a more severe punishment exists according to another provision.

Art. 193 – Criminal offences [committed] in a state of voluntary alcohol intoxication

1. With the exception of the cases of article 35, whoever intentionally or negligently brings himself into a state of alcohol intoxication that excludes the capacity for imputability according to article 34 and becomes, in this state, responsible for an act which would have otherwise been imputed to him as a felony or a misdemean-

our, shall be punished with imprisonment of up to six months if the act is a misdemeanour, and with imprisonment of up to two years if the act is a felony.

2. If the act is prosecuted only upon criminal complaint, criminal prosecution shall only be commenced after the submission of this criminal complaint.

Art. 194 – Invitation to contribute to [the payment of] pecuniary punishments

Whoever, with the purpose of denouncing a court judgment, with which a pecuniary punishment, compensation, or court costs were imposed, publicly calls on [others] to contribute to the payment of any of the latter, or makes the names of contributors known to the public for this purpose, shall be punished with imprisonment of up to six months or a pecuniary punishment.

Art. 195 – Forming an armed group

Whoever, without the right to do so, forms an armed group that does not aspire to the commission of criminal offences, supplies it with munitions, or takes charge of it, as well as whoever participates in such a group, shall be punished with imprisonment of at least six months.

Art. 196 – Abuse of church office

The religious official who, during the performance of his duties, or publicly and in his official capacity, induces or incites the citizenry to hatred of the state authority or other citizens shall be punished with imprisonment of up to three years.

Art. 197 – Disturbance of meetings

1. Whoever, without disturbing the common peace, arbitrarily obstructs the meetings of an association formed according to the law for conducting public affairs, a legally operating political party, an association recognized by law, the administration of the above, or the administration and councils of an institution, or whoever seriously disturbs them through incitement to noise or disorder or any other way, shall be punished with imprisonment of up to two years.

2. If the committed act concerns a court hearing, imprisonment of at least six months shall be imposed.

SEVENTH CHAPTER
Violation of the religious peace

Art. 198 – Malicious blasphemy

1. Whoever publicly and maliciously denigrates God in any way shall be punished with imprisonment of up to two years.

2. Whoever, except in the case of para. 1, publicly manifests through blasphemy a lack of respect for the divine, shall be punished with detention of up to six (6) months or a fine of up to three thousand (3,000) euros.

Art. 199 – Denigration of religion

Whoever publicly and maliciously denigrates the Eastern Orthodox Church of Christ, or any other religion recognized in Greece, shall be punished with imprisonment of up to two years.

Art. 200 – Disturbance of religious gatherings

1. Whoever maliciously attempts to obstruct or intentionally disturbs a religious gathering for worship or ceremony accepted by the Greek system of government shall be punished with imprisonment of up to two years.

2. Subject to the same punishment shall be whoever, in a church or any place specified for religious gatherings accepted by the Greek system of government, commits improper derogatory acts.

Art. 201 – Desecration of a deceased person

Whoever arbitrarily removes a dead body, parts of it, or its ashes, from those who are entitled to its custody, or commits improper derogatory acts in relation to the latter or a grave, shall be punished with imprisonment of up to two years.

EIGHTH CHAPTER
Criminal offences concerning military service and the obligation to join the army

Art. 202 – Inciting persons obliged to perform military service

1. Whoever in any way intentionally induces or incites a person serving in the military to violate a service duty shall be punished with imprisonment of up to three years.

2. Subject to the same punishment shall be whoever intentionally induces or incites a person obliged to join the army to disobey a call to [join] the army.

3. Whoever, in times of war, armed revolt, or general conscription commits any of the acts mentioned in the previous paragraphs shall be punished with incarceration of up to ten years.

4. The punishments of this article shall be imposed unless the act is punished more severely according to another provision.

Art. 203 – Artificially causing incapacity for military service

1. Whoever, intentionally and in order to avoid joining the army, alone or with the help of another person renders himself incapable of military service through mutilation or in any other way, in whole or in part, permanently or temporarily, shall be punished with imprisonment of up to two years. The court may also impose the deprivation of political rights.

2. Subject to the same punishment of imprisonment and a pecuniary punishment shall also be whoever intentionally causes this incapacity to another person with the consent of the latter unless the act is punished more severely according to another provision.

3. Whoever, in times of war, armed revolt, or general conscription, commits the acts mentioned in the previous paragraphs shall be punished with incarceration of up to ten years unless the act is punished more severely according to another provision.

Art. 204 – Fraud in order to avoid the obligation to join the army

Whoever uses fraudulent means in order to avoid in whole or in part, permanently or temporarily, the obligation of himself or of another person to join the army shall be punished with imprisonment of up to one year unless the act is punished more severely according to another provision. The court may also impose the deprivation of political rights.

Art. 205 – Unlawful emigration

1. Whoever leaves the country without permission in order to avoid joining the army, as well as whoever is abroad and does not return in time to fulfil his military duties, shall be punished with imprisonment of up to one year or a pecuniary punishment unless the act is punished more severely according to another provision.

2. Whoever leaves the country without the relevant permission required by the law concerning military service shall be punished with imprisonment of up to six months or a pecuniary punishment.

Art. 206 – Military enlistment on behalf of a foreign state

Whoever enlists a Greek citizen for military service in a foreign state, as well as whoever helps him [do so] in any way, shall be punished with imprisonment.

NINTH CHAPTER
Currency-related criminal offences

Art. 207 – Counterfeiting

Whoever falsifies or alters a metallic coin or a note of any state or issuing authority, either at or before the time of its legal circulation, or throughout the time period during which it is accepted for exchange by the competent institutions, with the purpose of bringing it into circulation as genuine, as well as whoever procures, accepts, imports, exports, transports, or possesses such a currency for the same purpose, shall be punished with incarceration of at least ten years and a pecuniary punishment. In particularly minor cases, he shall be punished with imprisonment of at least three months and a pecuniary punishment.

Art. 208 – Circulation of counterfeit currency [i.e., coins and notes]

1. Whoever intentionally brings into circulation any counterfeit metallic coin or note of any state or issuing authority as genuine, either at or before the time of its legal circulation, or throughout the time period during which it is accepted for exchange by the competent institutions, shall be punished with incarceration of at least ten years and a pecuniary punishment. In particularly minor cases, he shall be punished with imprisonment of at least three months and a pecuniary punishment.

2. If, however, the responsible person or his representative had accepted the currency as genuine, imprisonment of up to six months or a pecuniary punishment shall be imposed upon him. The same punishment shall be imposed if the responsible person acted under order of the person to whom the currency was given as genuine, when he is in a dependent relationship with the person giving the order, or when he lives with him in the same residence.

Art. 208A – [without title]

Whoever intentionally manufactures, procures, accepts, imports, exports, transports, possesses, or brings into circulation a metallic coin or a note, either at or before the time of its legal circulation, or throughout the time period during which it is accepted for exchange by the competent institutions, for the manufacture of which have been used legal facilities and materials without, however, the permission of the competent authority or in excess of the relevant right, shall be subject to the punishments prescribed in para. 1 of article 208.

Art. 209 – Alteration of coins

Whoever, by cutting, piercing, grinding, or in any other way, reduces the internal value of a metallic coin with the purpose of bringing it into circulation as if it had its full internal value, as well as whoever procures an altered coin for the same pur-

pose, shall be punished with imprisonment of at least three months and a pecuniary punishment.

Art. 210 – Circulation of altered coins

1. Whoever intentionally brings into circulation an altered coin as if it had its full internal value shall be punished with imprisonment of at least three months and a pecuniary punishment.

2. If, however, the responsible person or his representative had accepted this coin as genuine, imprisonment of up to six months or a pecuniary punishment shall be imposed upon him. The same punishment shall be imposed, if the responsible person has acted under order of the person to whom the coin was given as genuine, when he is in a dependent relationship with the person giving the order, or when he lives with him in the same residence.

Art. 211 – Preparatory acts

Whoever, with the purpose of committing any of the criminal offences of articles 207 and 209, manufactures, accepts, procures, or possesses tools, objects, computer programs and data, or any other means useful for this purpose, as well as security features, such as holograms, watermarks, or other components of currency which serve to protect against counterfeiting, shall be punished with imprisonment of at least one (1) year and a pecuniary punishment.

Art. 212 – [without title]

Whoever, in the cases of the previous article, of his own free will, destroys the objects mentioned therein before using them shall be exempted from punishment.

Art. 213 – Confiscation

1. Confiscation of the counterfeit currency or altered coins and of the means, utensils, and tools mentioned in article 211 shall be ordered regardless of whether or not any specific person is [actually] prosecuted and convicted and irrespective of whether or not these [items] belong to the perpetrator or the person co-responsible for the counterfeiting or coin alteration.

2. However, if it has been proved that the owner of the currency, or the material of which it has been made, has not participated in the counterfeiting or coin alteration, the currency shall be rendered unusable [as currency] and returned to its owner.

3. The currency confiscated as suspected product of counterfeiting or coin alteration shall be sent to the competent National Analysis Centre or Euro Coin National Analysis Centre for [the purpose of] analysis, detection, and identification of further products of counterfeiting without delay and at the latest until a final judgment concerning the criminal proceedings has been issued.

Art. 214 – Banknotes and other instruments treated as such

For the application of the provisions of this chapter, banknotes, debt securities containing the promise of payment of a specific sum of money, shares, temporary shares, coupons, dividend warrants, or warrants for the renewal of such dividends, are treated as notes as long as these are payable to bearer instruments and have been issued by a person entitled to do so, or they seem to have been issued by such a person.

Art. 214A – Recidivism

For the application of articles 88 to 93 of the present Code to the criminal offences defined in articles 207 to 211 and 214, shall also be taken into consideration any irrevocable convicting judgments issued by the courts of Member States of the European Union.

Art. 215 – Unlawful issuance of bearer debt securities

Whoever brings unlawfully into circulation in Greece bearer debt securities containing the promise of payment of a specific sum of money shall be punished with imprisonment of up to two years.

Art. 215A – [without title]

1. Whoever produces, sells, imports, or distributes for sale or for other commercial purposes, medals or tokens which: α) bear on their obverse the terms "euro" or "euro cent" or the euro symbol; β) have a size within the reference limits, as determined according to case στ' of article 1 Regulation 2182/2004 of the Council of 6 December 2004 (OJ L 373/1/21.12.2004); or γ) bear on their obverse any design similar to the one [appearing] on the national obverse or on the common reverse of the euro coins, or that is exactly the same or similar to the design of the edge of the 2 euro coins, shall be punished with a pecuniary punishment of between € 1,000 and € 20,000.

2. The aforementioned acts shall not be punished if they fall under the exceptions provided for in article 3 of the above regulation or if special authorization has been granted, as provided for in article 4 of the same regulation.

3. Subject to the same pecuniary punishment shall also be whoever, after the end of 2009, continues to use those medals and tokens issued before 21 December 2004 which do not comply with the terms provided in articles 2, 3, and 4 of the regulation.

TENTH CHAPTER
Document-related criminal offences

Art. 216 – α. Forgery of documents

1. Whoever produces a forged document, or alters a document with the purpose of misleading with its use another person concerning a fact that may have legal consequences, shall be punished with imprisonment of at least three months. His actual use of such a document shall be considered an aggravated circumstance.

2. With the same punishment shall be punished whoever, for the aforementioned purpose, knowingly uses a forged or altered document.

3. If the person responsible for these acts (paras. 1–2) intended to gain a benefit in the form of assets for himself or another person by harming a third person, or if he intended to harm another person, he shall be punished with incarceration of up to ten years if the total benefit or the total damage exceeds a sum of one hundred and twenty thousand (120,000) euros. Subject to the same punishment shall be the responsible person who commits forgery professionally or habitually, and [if] the total benefit or the total damage exceeds a sum of thirty thousand (30,000) euros.

Art. 217 – Forgery of certificates

1. Whoever, with the purpose of facilitating the immediate support, mobility, or social progress, of himself or of another person, produces a forged certificate or alters a certificate, testimonial, or other document that can usually be used for such purposes, or knowingly uses such a forged or altered document, shall be punished with imprisonment of up to one year or a pecuniary punishment.

2. Subject to the same punishment shall be whoever uses for the same purpose such a document that, although genuine, has been issued to another person.

Art. 218 – Forgery and abuse of stamps

1. Whoever: α) produces forged or alters official stamps that are declaratory of value, especially postage or revenue stamps or other tax stamps, with the purpose of using them as genuine; β) knowingly uses them [i.e., the forged or altered stamps] as genuine; or γ) procures them for such a purpose, offers them for sale or exchange, or brings them into circulation, shall be punished with incarceration of up to ten years.

Subject to the same punishment shall be whoever produces forged or alters genuine fare products for public transport (valid tickets or coupon-cards for unlimited itineraries) with the purpose of offering them for sale or bringing them into circulation, if the total benefit or the total damage exceeds a sum of one hundred and twenty thousand (120,000) euros, or if the responsible person commits forgery professionally and the total benefit or the total damage exceeds a sum of thirty thousand (30,000) euros.

2. Whoever knowingly re-uses official stamps that are declaratory of value and have already been used, or acquires them with the purpose of re-using them by offering them for sale or bringing them into circulation, shall be punished with imprisonment of up to one year or a pecuniary punishment.

3. Whoever, with the purpose of committing any of the aforementioned acts, manufactures, procures, or delivers to another person means, utensils, or tools useful for this purpose, shall be punished with imprisonment of up to two years.

4. The court shall order the confiscation of those forged stamps that have been re-used and of those that are intended to be re-used; it may also order the confiscation of the utensils and the tools mentioned in the previous paragraph, regardless of whether or not any specific person is [actually] prosecuted or convicted.

Art. 219 – [without title]

The provision of article 212 shall also apply accordingly to the acts defined in article 218 para. 3.

Art. 220 – β. Obtaining a false attestation

1. Whoever fraudulently manages to get an incident that may have legal consequences falsely attested to in an official document, as well as whoever uses such a false attestation to deceive another person regarding this incident, shall be punished with imprisonment of between three months and two years, unless he is punished more severely according to the provisions on instigation.

2. If, however, the conditions of article 216 para. 3 concur [with those of the present article], imprisonment of at least three months shall be imposed.

Art. 221 – γ. False medical certificates

1. Doctors, dental practitioners, veterinarians, pharmacists, chemists, and midwives who knowingly issue false certificates intended to prove trustworthiness to a public, municipal or community authority, any legal person of public law, or an insurance company, or [false certificates] which may harm the legal and substantial interests of another person, shall be punished with imprisonment of up to two years and a pecuniary punishment. If these false certificates are intended for use in court, the persons who issue them shall be punished with imprisonment of at least six months, a pecuniary punishment, the deprivation of the offices and positions mentioned in article 63 no. 1, and the prohibition to practice their profession for a period of between one and six months.

2. With imprisonment of up to one year shall be punished whoever uses such a false certificate in order to deceive a public, municipal or community authority, a legal person of public law, or an insurance company. If the aforementioned false certificate has been used in court, the party who used it shall be punished with imprisonment of at least three months.

Art. 222 – δ. Making documents unavailable

Whoever, with the purpose of harming another person, hides, damages, or destroys a document of which he is not the owner nor the exclusive owner, or [a document] of which another person has the right to request the delivery or presentation according to the relevant civil law provisions, shall be punished with imprisonment of up to two years.

Art. 223 – ε. Moving of boundary markers

1. Whoever, with the purpose of harming another person, removes, renders unrecognizable, moves, or falsely places boundary markers or other marks used for determining limits, or [for determining] the height and division of waters, shall be punished with imprisonment of up to two years.

2. If the act was committed without this purpose, but nonetheless intentionally, imprisonment of up to three months or a pecuniary punishment shall be imposed.

ELEVENTH CHAPTER
Criminal offences related to the administration of justice

Art. 224 – Perjury

1. Whoever knowingly takes a false oath as a party to a civil trial shall be punished with imprisonment of at least one year.

2. Subject to the same punishment shall be whoever knowingly gives false testimony, or refuses or conceals the truth, while being examined under oath as a witness before an authority competent to conduct examinations under oath, or while referring to an oath already taken.

3. Assimilated to an oath is the affirmation of clergymen to their priesthood, the affirmation recognized by law in place of an oath to followers of religions that prohibit the taking of oaths, as well as any other declaration that replaces the oath according to the rules of procedure.

Art. 225 – False unsworn testimony

1. With imprisonment of at least one year shall be punished: α) whoever, while under examination, unsworn as either a party or a witness, by an authority competent to conduct such an examination, knowingly gives a false testimony, or refuses or conceals the truth, and β) whoever declares that he is ready to take an oath before court that is false, which, however, he does not take because the other party has acknowledged the oath as taken.

2. With imprisonment of at least one year or a pecuniary punishment shall be punished whoever, in any other case, while examined by an authority or by one of its

authorized organs, or while reporting to this [authority], knowingly tells lies or refuses or conceals the truth. Subject to the same punishment shall be whoever appears as a witness before any authority and strongly refuses to give his testimony or the oath referring to his testimony.

Art. 226 – Perjury etc. by experts and interpreters

1. Whoever, as an expert or an interpreter, knowingly tells lies under oath or conceals the truth shall be punished with imprisonment of at least two years.

2. The provision of article 67 shall also apply to this case accordingly.

3. If the false expert's opinion or the false interpreter's translation occurred whilst not under oath, imprisonment of at least two years shall be imposed.

Art. 227 – [without title]

1. In the cases of articles 224 and 226 para. 1, deprivation of political rights for one to five years shall also be imposed upon the responsible person.

2. In the cases of article 225, the act shall remain unpunished if the responsible person revokes, of his own free will, the false testimony by giving a new one before the same authority. This revocation shall not exempt the responsible person from punishment, if the authority has already issued a decision or an adverse legal consequence occurred to another person.

3. If the person responsible for the acts of articles 224 para. 2 and 225 committed them in order to avoid personal criminal responsibility or that of any member of his kin, the court may exempt him from punishment.

Art. 228 – Misleading someone into [committing] perjury

1. Whoever intentionally persuades a person to mistakenly take a false oath according to the provisions of article 224 shall be punished with imprisonment of up to two years, unless the act is punished more severely according to the provisions on instigation.

2. Whoever attempts to persuade by any means a person to commit the criminal offences of articles 224 and 226 para. 1 shall be punished with imprisonment of up to three years.

Art. 229 – False accusation

1. Whoever knowingly falsely accuses another person, or reports to the authorities that this person has committed a punishable act or a disciplinary violation, with the purpose of causing the pursuit of the latter for this [act], shall be punished with imprisonment of at least one year.

2. Subject to the same punishment shall be whoever, for the same purpose, knowingly and falsely renders another person suspect before an authority for a punishable act or a disciplinary violation by submitting, altering, or concealing any type of evidence.

3. Upon the harmed person's application, the court may allow him to have the judgment published at the expense of the convicted person.

4. The right to publication at the expense of the convicted person expires if publication does not occur within three months of the final judgment being served to the harmed person.

Art. 230 – [without title]

Whoever, without rendering another person suspect, knowingly and falsely states to an authority that a felony or a misdemeanour has been committed shall be punished with imprisonment of up to two years.

Art. 231 – Concealment of criminal offenders

1. Whoever knowingly obstructs the prosecution of another person for a committed felony or misdemeanour, or the execution of the imposed punishment or measure of security (articles 69–76 and 122), shall be punished with imprisonment of up to three years.

2. This concealment shall remain unpunished if the responsible person committed it for the sake of any member of his kin.

Art. 232 – Concealment of criminal offences

1. Whoever, after finding out in a credible way that [the commission of] a felony is under consideration or that its commission has already begun, and within a time frame that would allow the prevention of its commission or its result, omits to report it to an authority in time, shall be punished with imprisonment of up to three years, if the felony has been committed or its commission has been attempted, irrespective of whether or not the perpetrator himself [of the felony] is punished.

2. This omission shall remain unpunished should the report to an authority refer to a member of the kin of the person responsible for the omission.

Art. 232A – [without title]

1. Whoever intentionally fails to comply with a temporary order of a judge or a court, a judgment provision according to which he was bound to an omission, tolerance, or an act which cannot be carried out by a third person and the execution of which depends exclusively on his will, or [whoever intentionally fails to comply] with a prosecutor's order regarding the temporary regulation of possession between an individual and the state, an O.L.SG., or another L.P.P.L., shall be punished with

imprisonment of at least six (6) months, unless the act is punished more severely according to another provision.

2. The provision of the previous paragraph shall not apply when the act constitutes the restoration of marital cohabitation, or when [the act] depends on the existence of certain prerequisites regarding the practise of the technical, artistic, or scientific skills of the person refusing to comply, and his refusal is not due to his recalcitrance.

Art. 233 – Breaches of trust committed by lawyers

A lawyer or any other legal representative who intentionally harms the person whose interests he has been mandated to legally represent, or assists both parties by either simultaneously or consecutively providing [legal] services or advice in the same case before court, shall be punished with imprisonment of up to three years. If, however, he acted after having consulted with the persons with conflicting interests, or he pursued gain, he shall be punished with imprisonment of at least three months.

Art. 234 – Breach of the secrecy of court hearings

With imprisonment of up to six months or a pecuniary punishment shall be punished whoever in any way publishes a report on any court hearing that has been conducted behind closed doors [*in camera*] or any document of such a trial, unless the court before which the trial takes place allows publication.

TWELFTH CHAPTER
Service-related criminal offences

Art. 235 – Acceptance of an advantage by an employee [i.e., passive bribery of an employee]

1. An employee who requests or receives, directly or via a third party, for himself or for another person, any kind of undue advantage, or accepts a promise of such an advantage, in exchange for a future or already completed action or omission [of the employee] related to the exercise of his duties, shall be punished with imprisonment of at least one year and a pecuniary punishment of between 5,000 and 50,000 euros. If the responsible person commits the act of the previous sent. professionally or habitually, or if the advantage or undue advantage is of a particularly high value, he shall be punished with incarceration of up to ten years and a pecuniary punishment of between 10,000 and 100,000 euros.

2. If the aforementioned action or omission of the responsible person is contrary to his duties, he shall be punished with incarceration of up to ten years and a pecuniary punishment of between 15,000 and 150,000 euros. If the responsible person commits the act of the previous sent. professionally or habitually, or if the advantage

is of a particularly high value, he shall be punished with incarceration of up to fifteen years and a pecuniary punishment of between 15,000 and 150,000 euros.

3. An employee who requests or receives, for himself or for another person, an undue asset-related benefit, by taking advantage of his capacity [as an employee], shall be punished with imprisonment, unless the act is punished more severely according to another provision of criminal law.

4. Heads of department, inspectors, or persons who have decision-making or supervision powers in public services, the services of the organizations of local self-government, or the services of the legal persons listed in article 263A, shall be punished with imprisonment, unless the act is punished more severely according to another provision of criminal law, if they failed, through negligence and by breaching a specific service duty, to prevent a person under their command or subject to their control from committing an act of the previous paragraphs.

Art. 236 – Offer of an advantage to an employee
[i.e., active bribery of an employee]

1. Whoever offers, promises, or gives to an employee, directly or via a third party, any kind of undue advantage, for [the employee] himself or for another person, [in exchange] for a future or already completed action or omission carried out by the employee and related to the exercise of his duties, shall be punished with imprisonment of at least one year and a pecuniary punishment of between 5,000 and 50,000 euros.

2. If the aforementioned action or omission is contrary to the employee's duties, the responsible person shall be punished with incarceration of up to ten years and a pecuniary punishment of between 15,000 and 150,000 euros.

3. The director of an enterprise, or another person who has decision-making or supervision powers in an enterprise, shall be punished with imprisonment, unless the act is punished more severely according to another provision of criminal law, if they failed through negligence to prevent a person under their command or subject to their control from committing an act of the previous paragraphs in favour of the enterprise.

4. For applying the present article to acts committed abroad by a Greek citizen, it is not necessary to meet the requirements of article 6.

Art. 237 – Acceptance by and offer to judicial officials of an advantage
[i.e., passive and active bribery of judicial officials]

1. If, whoever is called according to law to exercise judicial duties, or a mediator, requests or receives, directly or via a third party, for himself or for another person, any kind of undue advantage, or accepts a promise of such an advantage, in exchange for a future or already completed action or omission of his related to the

exercise of his duties during the administration of justice or the resolution of a dispute, shall be punished with incarceration and a pecuniary punishment of between 15,000 and 150,000 euros.

2. Subject to the same punishments shall be whoever, for the aforementioned purpose, promises or gives such advantages, directly or via a third party, to the persons of the previous paragraph, for these persons themselves or for another person.

3. The director of an enterprise, or another person who has decision-making or supervision powers in an enterprise, shall be punished with imprisonment, unless the act is punished more severely according to another provision of criminal law, if they failed through negligence to prevent a person under their command or subject to their control from committing the act of para. 1 in favour of the enterprise.

Art. 237A – Trading in influence – Intermediaries

1. Whoever requests or receives, directly or via a third party, any kind of advantage, for himself or for another person, or accepts a promise of such an advantage in exchange for undue influence that he asserts or confirms, falsely or truly, that he is able to exert over any of the persons mentioned in articles 159, 235 para. 1, and 237 para. 1 so that they commit an act or an omission in the exercise of their duties, shall be punished with imprisonment of at least one year and a pecuniary punishment of between 5,000 and 50,000 euros.

2. Subject to the same punishments shall also be whoever offers, promises, or gives, directly or via a third party, any kind of advantage, for himself or for another person, to a person who asserts or confirms, falsely or truly, that he is able to exert undue influence over any of the persons listed in articles 159, 235 para. 1, and 237 para. 1 so that they commit an act or an omission in the exercise of their duties.

Art. 237B – Acceptance and offer of an advantage in the private sector [i.e., passive and active bribery in the private sector]

1. With imprisonment of at least one year shall be punished whoever works or provides services, under any capacity or in any kind of relation, in the private sector and, during the exercise of the business activity, requests or receives, directly or indirectly, any kind of undue advantage for himself or for another person, or accepts the promise of such an advantage in exchange for an action or an omission in breach of his duties as these are prescribed by law, the employment contract, internal regulations, the orders or guidelines of his superiors, or as required by the nature of his position or his service.

2. Subject to the same punishment shall also be whoever, during the exercise of a business activity, promises, offers, or gives, directly or indirectly, any kind of undue advantage to a person working or providing services under any capacity in the private sector, for [the person] himself or for a third person, [in exchange] for an action or omission in breach of his aforementioned duties.

Art. 238 – Confiscation

1. In the cases of articles 235 to 237B, the judgment shall order the confiscation of the gifts and of any other given assets, as well as of those acquired directly or indirectly through [the use of] the latter. If the products in question have been mixed up with assets acquired from lawful sources, the relevant assets are subject to confiscation up to the determined value of the product that has been mixed [with the assets acquired from lawful sources]. The income or other advantages stemming from the products in question, from assets acquired with the products in question, or from assets with which they have been mixed, shall also be subject to confiscation to the same extent as the products of the offence.

2. If the assets subject to confiscation according to the previous paragraph no longer exist, have not been found, are impossible to confiscate, or belong to a third person from whom they are impossible to confiscate, assets of the responsible person of an equal value at the time of conviction, as determined in court, shall be confiscated. The court may also impose a pecuniary punishment of up to the amount of the value of the assets if it establishes that no additional assets exist for confiscation, or that the existing [assets] are of a lesser value than those subject to confiscation.

Art. 239 – Abuse of power

An employee whose duties involve the prosecution or the investigation of punishable acts shall be: α) punished with imprisonment of at least one year, unless the act is punished more severely according to articles 137A and 137B, if he has unlawfully used means of extortion in order to gain any written or oral testimony of an accused person, a witness, or an expert; or, β) punished with incarceration of up to ten years, if he knowingly exposed an innocent person to prosecution or punishment or if he omitted to prosecute a responsible person or caused their exemption from punishment.

Art. 240 – Violations regarding the execution of punishments

1. An employee whose duties involve the execution of punishments shall be punished with imprisonment of at least one month if he knowingly executed a punishment unlawfully or if he omitted its execution.

2. If, however, the unlawful execution stemmed from negligence, imprisonment of up to one year or a pecuniary punishment shall be imposed.

Art. 241 – Breach of the inviolability of the home

An employee who, by using his capacity as employee, enters the domicile of another person contrary to the will of the latter, except in cases where this is permitted under law, and without following the legal formalities, shall be punished with imprisonment of between three months and two years.

Art. 242 – False attestation, alteration, etc.

1. An employee whose duties involve the issuance or the redaction of specific official documents shall be punished with imprisonment of at least one year, if, in such documents, he falsely and intentionally attests to an incident that may have legal consequences.

2. Subject to the same punishment shall be the employee who intentionally alters, destroys, damages or makes unavailable a document that has been entrusted to him or that is available to him due to his service.

3. If, however, the person responsible for any of the acts of paras. 1 and 2 had the purpose of acquiring for himself or for another person an undue advantage, or [the purpose] of unlawfully harming another person, incarceration shall be imposed if the total advantage or the total harm exceeds the amount of one hundred and twenty thousand (120,000) euros.

4. Subject to the punishment of para. 1 shall be whoever knowingly uses such a document which is forged or altered or has been made unavailable.

Art. 243 – Omission to ascertain the identity [of a person]

An employee whose duties involve the issuance or the redaction of official documents shall be punished with imprisonment of up to three months if, during their issuance or redaction, he omits to ascertain the identity of the person mentioned in the document as required by law.

Art. 244 – Oppression

An employee who knowingly collects taxes, tariffs, fees or other levies, court costs, or any rights, which are not owed, shall be punished with imprisonment of at least three months.

Art. 245 – [without title]

1. The punishments of article 244 shall also be imposed upon any employee who allows clerks or assistants appointed by them to carry out any of the acts mentioned in article 244 if they have, in doing so and to the knowledge of the employee, collected an undue sum.

2. If these clerks or assistants have collected a sum which they knew is not owed, they shall be punished with imprisonment of up to two years.

Art. 246 – [without title]

With imprisonment shall be punished the employee who, except in the case of article 258, during the delivery of money or other objects, knowingly and intentionally withholds, in whole or in part, the money or objects that he is supposed to deliver.

Art. 247 – Strike of public employees

1. At least three public employees, who, in a joint meeting following a joint decision and with the purpose of obstructing or interrupting the function of any public service, either: α) provided their resignation from service, β) abandoned the exercise of the service assigned to them, γ) neglected the execution of their service duties, or δ) are in any way coming to an understanding in order to declare a strike, are threatening to declare a strike, or are in any way directly or indirectly associating the acceptance or non-acceptance of their demands with the abandonment of their tasks, shall be punished with imprisonment of up to one year.

2. Subject to the same punishment shall also be every public employee who participates *a posteriori* in any of the acts of the previous paragraph.

3. Members of the board of directors of an association or union of public employees who have decided to declare a strike shall be punished with imprisonment of at least three months and a pecuniary punishment. As regards the payment of the pecuniary punishment, the association or the union and the convicted persons are liable jointly and severally.

4. A conviction to any punishment for any of the acts of paras. 1–3 also results in the temporary deprivation of political rights (articles 61–65).

Art. 248 – Violations by postal service employees

A postal service employee who unlawfully opens, makes unavailable, or destroys a letter or any other object entrusted to a post office and is accessible to him due to his service, who knowingly allows another person to commit such an act or assists him in its commission, or who notifies a third person of the contents of such a closed object, shall be punished with imprisonment of at least one year.

Art. 249 – Violations by telegraph service employees

A telegraph service employee who unlawfully opens, makes unavailable, or destroys a telegram entrusted to a telegraph office and accessible to him due to his service, who knowingly allows another person to commit such an act or assists him in its commission, or who notifies a third person of the contents of such a telegram known to him due to his service, shall be punished with imprisonment of at least one year.

Art. 250 – Violations by telephone service employees

A telephone service employee who is aware, due to his service, of the content of a telephone call and makes this known to a third person, or who knowingly allows a third person to listen to a telephone conversation, shall be punished with imprisonment of at least one year.

Art. 251 – Breach of judicial confidentiality

1. Whoever is appointed, according to the law, to perform judicial duties and makes known to another person confidential [information] exchanged in a meeting or a vote in which he participated, shall be punished with imprisonment of up to two years.

2. Subject to the same punishment shall be whoever attends such a meeting or vote in the course of his duties and notifies another person of the confidential [information exchanged] therein.

Art. 252 – Breach of service confidentiality

1. The employee who, except in the cases of articles 248, 249, 250, and 251, in breach of his duties, notifies another person of:

α) something of which he is aware only due to his service, or

β) a document which is entrusted or accessible [to him] due to his service,

and has committed any of these acts with the purpose of obtaining a benefit for himself or of harming the state or another person, shall be punished with imprisonment of at least three (3) months.

2. Whoever, while in service in any way relating to the political office of the Prime Minister, the Ministers, or the Undersecretaries, particularly in the capacity, for instance, of a special associate, special consultant, re-assigned administrative employee, seconded or commissioned employee, staff member under a service contract, or as a member of a working group or committee, notifies another person of: α) a piece of information of which he is aware only due to his service, or β) a document entrusted or accessible [to him] due to his service, shall be punished with imprisonment of at least six (6) months. If he acts with the purpose of obtaining a benefit for himself or another person or of harming the state or another person, he shall be punished with imprisonment of at least one (1) year and a pecuniary punishment of between one hundred thousand (100,000) and five hundred thousand (500,000) euros.

3. The punishments of the previous paragraphs shall also be imposed upon any third person who uses the piece of information or the document with knowledge of its origin and the purpose of obtaining a benefit for himself or another person or of harming the state or another person. The use of the piece of information or document to the necessary extent in order to satisfy a well-founded interest [in this information] of public opinion does not constitute a wrongful act.

Art. 253 – [without title]

The breaches of confidentiality of articles 248 to 252 shall be punished even if they were committed after the employee had left the service.

Art. 254 – Concealing grounds for exception

An employee with respect to whom there is a legal ground for exception in a case, and who knowingly conceals this incident and participates in this case, shall be punished with imprisonment of at least three months if this concealment occurred with the purpose of obtaining an undue advantage for himself or for another person or [with the purpose] of harming another person.

Art. 255 – Undue participation

An employee who, directly or indirectly, and particularly through the use of another person or covert acts, has taken part in a [public] auction, rental, tender process, or any other act related to the performance of his service duties, shall be punished with imprisonment of up to two years and a pecuniary punishment.

Art. 256 – Breach of service trust

An employee who, during the determination, collection, or management of taxes, tariffs, fees, other levies, or any revenue, knowingly reduces the public, municipal or community assets or the assets of a legal person of public law, whose management has been entrusted to him, in order to obtain a benefit for himself or another person, shall be punished with: α) imprisonment of at least six months; β) imprisonment of at least two years if the reduction is of a particularly high value; or γ) incarceration of up to ten years, if: [α)] the responsible person has used a special ruse and the reduction of the assets is of a particularly high value exceeding in total thirty thousand (30,000) euros, or [β)] the total value of the object of the act exceeds one hundred and twenty thousand (120,000) euros.

Art. 257 – Exploitation of entrusted objects

An employee who, with no intention of misappropriation or breach of trust, charges interest on, uses in any other way for his own benefit, or grants to another person the use of, money or objects that have been entrusted to him due to his service, shall be punished with imprisonment of up to one year or a pecuniary punishment.

Art. 258 – Misappropriation in service

An employee who unlawfully appropriates money or other movable objects which he has received or which he possesses due to his capacity as an employee, even if he was not competent to do so, shall be punished with: α) imprisonment of at least six months; β) if the object of the act is of a particularly high value, imprisonment of at least two years; or γ) incarceration of up to ten years if: [α] the responsible person has used a special ruse and the object of the act is of a particularly high value exceeding in total thirty thousand (30,000) euros, or [β)] the value of the object of the act exceeds one hundred and twenty thousand (120,000) euros.

Art. 259 – Breach of duty

An employee who intentionally breaches his service duties with the purpose of acquiring for himself or for another person an unlawful benefit, or in order to harm the state or another person, shall be punished with imprisonment of up to two years, unless the act is more severely punished according to another provision of criminal law.

Art. 260 – Insubordination to a civil authority

A military commander, an officer, a sub-officer, or a police employee who omits to gather and use the armed or police forces under his command, despite the competent civil authority having lawfully called upon him to do so, shall be punished with imprisonment of up to three years.

Art. 261 – Urging of subordinates and tolerance

An employee who attempts to persuade another employee who is subordinate to him or under his supervision to commit any of the criminal offences of articles 235 to 260, or who knowingly tolerates his commission of any of these criminal offences, shall be punished with imprisonment of up to two years, unless the act falls under another provision of criminal law which punishes it more severely.

Art. 262 – General provisions

In the case that an employee, in performing his service or benefiting from his capacity, intentionally becomes responsible for a felony or a misdemeanour prescribed in another chapter of the Penal Code, the upper limit of the punishment stipulated by law for the act shall be increased by half; however, this may not exceed the upper limit that is generally defined for each type of punishment.

Art. 263 – [without title]

1. Upon the employee sentenced to imprisonment for any of the acts of articles 235 to 261 shall be imposed the temporary deprivation of political rights for between one (1) and five (5) years, unless the court decides otherwise in a specifically reasoned judgment.

In particular, the disqualification of the responsible person from the position or the office that he held as a consequence of the deprivation of political rights occurs *de jure* as soon as the judgment of conviction becomes irrevocable, and cannot be excluded through the application of article 64. Regarding a third person who is sentenced to imprisonment of at least three (3) months for any of the acts of articles 235 to 261, the court may simultaneously pronounce the temporary deprivation of political rights (article 61).

2. The provision of article 238 shall apply accordingly to every criminal offence of articles 239 to 261, provided that the responsible persons have acquired benefits in the form of assets.

Art. 263A – [without title]

1. For the purposes of articles 235, 236, 239, 241, 242, 243, 245, 246, 252, 253, 255, 256, 257, 258, 259, 261, 262, and 263, any person is also considered to be an employee who serves, permanently or temporarily and in any capacity or relationship, within: α) state owned enterprises or organizations, organizations of local self-government, or legal persons of public or private law, which are responsible for, through monopoly or preferential exploitation, the procurement or the public supply of water, light, heating, fuel, or any means of transport, communication, or mass media, β) banks that, according to the law or their statute, are legally domiciled in Greece, γ) legal persons of private law founded by either the state, any legal person of public law, or any legal person mentioned in the previous sents., provided that the founding legal persons participate in the management [of the legal persons of private law] or, in the case of a *société anonyme*, its capital, or provided that these legal persons [of private law] have been assigned to the running of state programmes of economic recovery or development, δ) organs or organizations of the European Union, including the members of the European Commission, the Court of Justice of the European Union, and the Court of Auditors of the European Union, and ε) legal persons of private law, to which, according to the existing provisions, grants or subsidies may be awarded by the state, by legal persons of public law, or by the aforementioned banks.

2. For the purposes of articles 235 paras. 1 and 2 and 236, [the following] are also considered to be employees: α) the officials or other employees, in any contractual relationship, of every public international or supranational organization of which Greece is a member, as well as anyone authorized by this organization to act on its behalf, β) the members of the parliamentary assemblies of international or supranational organizations of which Greece is a member, γ) anyone who exercises judicial duties or those of a mediator in an international court, the jurisdiction of which is recognized by Greece, δ) anyone who holds public office in,or provides a service to, a foreign country, including judges, jury members, and mediators, and ε) the members of the parliaments and the assemblies of local self-government of other states.

3. For the purposes of article 237, the members of the Court of Justice and the Court of Auditors of the European Union are also considered to be judicial officials.

Art. 263B – Leniency measures for persons who contribute to the disclosure of acts of corruption

1. The acts of articles 236 paras. 1, 2 and 3, 237 paras. 2 and 3, and 237B para. 1 shall remain unpunished if the responsible person, of his own volition and before

being examined in any way regarding his act, reports it to the prosecutor of the misdemeanours court, to any investigating employee, or to another competent authority, either by submitting a written report or orally, in which case a relevant report is drafted.

2. If the person responsible for the acts of articles 236 paras. 1, 2, and 3, and 237 paras. 2 and 3, or the participant in the acts of articles 235 paras. 1, 2, and 3, 237 para. 1, and [articles] 239 to 261, as well as the act of article 390 when committed by an employee, contributes substantially to the disclosure of the participation of an employee in these acts by reporting this to the authorities, he shall be punished with a mitigated punishment to the extent of article 44 para. 2 first sent. The court may order the suspension of the execution of this punishment, irrespective of whether or not the conditions of articles 99 and 100 concur. The council of the misdemeanours court, in a decision issued upon proposal of the competent prosecutor, orders the suspension of the commenced criminal prosecution of the responsible person for a specific period of time so as the veracity of the contributed evidence may be verified. The suspension of the prosecution may also be ordered by the court provided that the evidence is contributed any time before the issuance of a second instance judgment. In the same council decision or court judgment the withdrawal or the replacement of any imposed coercive procedural measures may also be ordered. If, after suspension of the criminal prosecution, the evidence contributed by the responsible person turns out to be insufficient for the initiation of criminal prosecution of the employee, the relevant council decision or the court judgment shall be revoked and the suspended criminal prosecution of the responsible person shall continue.

3. An employee responsible for the commission of the acts of articles 235 to 261, as well as of article 390, or a participant in these acts, who contributes substantially to the disclosure of the participation of other employees in these acts by reporting this to the authorities, shall be punished according to the provisions of the previous paragraph, provided that the person he is reporting on holds a position superior to his [i.e., the employee's], and he [i.e., the employee] has transferred to the state every asset he has acquired, directly or indirectly, through the commission of, or the participation in, the aforementioned criminal offences. If, exceptionally, this transfer has not been completed before the judicial assessment of punishment, the court may reserve its judgment on the sentence by postponing, for this reason, the procedure until a specific date and without applying the time limit set in article 352 para. 1 of the Code of Criminal Procedure. In this case, [the court] determines the specific transfers or other actions that have to be carried out by the perpetrator in order for him to be able to benefit from the relevant advantage. In the judgment on the postponement of the trial the court may also order the withdrawal or replacement of any imposed coercive procedural measures.

4. α) If any of the persons responsible for the criminal offences of articles 235 to 261 and [article] 390, or for the laundering of money coming directly from these specific criminal activities, contributes evidence for the participation in these acts

of persons who serve or have served as members of the Government or Undersecretaries, the judicial council, in a decision issued upon proposal of the prosecutor, shall order the suspension of the criminal prosecution already initiated against him. The court may also order the aforementioned suspension when the evidence is contributed any time before the issuance of a second instance judgment. In the same council decision or court judgment the withdrawal or replacement of any imposed coercive procedural measures may also be ordered.

β) If Parliament considers, according to the provision of para. 3 of article 86 of the Constitution, that the evidence is insufficient for the commencement of the criminal prosecution of a Minister or an Undersecretary, the council decision or the court judgment shall be revoked and the suspended criminal prosecution shall continue. If the Parliament decides upon the commencement of the criminal prosecution of a Minister or an Undersecretary according to article 86 of the Constitution, in the case of a judgment of conviction by the Special Court, the participant who, according to the previous sent., contributed the evidence, shall be punished with a mitigated punishment to the extent of article 44 para. 2 first sent. The court may order the suspension of the execution of this punishment according to the provisions of para. 2.

5. If commencement of the criminal procedure is not possible due to expunged punishability, according to the provisions of sent. β' of para. 3 of article 86 of the Constitution, a mitigated punishment to the extent of article 44 para. 2 first sent. shall be imposed upon the defendant. The court may also order the suspension of the execution of this punishment, according to the provisions of para. 2.

THIRTEENTH CHAPTER
Criminal offences endangering the general public

Art. 264 – Arson

Whoever intentionally sets a fire shall be punished with: α) imprisonment of at least two years if the act had the potential to result in common danger to the things of others; β) incarceration if the act had the potential to result in danger to a human being; [or] γ) lifelong or temporary incarceration of at least ten years if, in the case of *lit.* β', a death has occurred.

Art. 265 – Forest arson

1. Without prejudice to a more severe punishment under the conditions of article 264, whoever intentionally sets fire to a forest or wooded land according to the meaning of article 3 paras. 1 and 2 of L. 998/1979, or to any land that has been pronounced afforestable or reforestable according to the meaning of para. 5 of the same article, shall be punished with incarceration of up to ten years and a pecuniary punishment of between fifteen thousand (15,000) and one hundred and fifty

thousand (150,000) euros. Conversion or suspension of the imposed punishment is not permitted and the [filing of] appeal does not lead to the suspension of execution. If the act has had as consequence the spread of the fire over a large area, incarceration shall be imposed.

2. If the act has been committed out of self-interest or maliciousness, or if the burnt area is especially large, incarceration of at least ten years shall be imposed.

3. Whoever, with the purpose of committing the criminal offence of para. 1, commits any preparatory act shall be punished with imprisonment of at least one year. This punishment cannot be converted nor suspended, nor can the [filing of] appeal lead to the suspension of its execution.

Art. 266 – Arson committed negligently

1. If the act of article 264 has been committed negligently, imprisonment shall be imposed.

2. If the act of article 265 para. 1 has been committed negligently, imprisonment of at least two years and a pecuniary punishment of between two thousand nine hundred (2,900) and twenty nine thousand (29,000) euros shall be imposed, unless the act is punished more severely according to another provision. The conversion of the imposed punishment is not permitted.

Art. 267 – [without title]

The person responsible for the act of article 266 shall be exempted from any punishment if he, of his own free will, extinguished the fire himself or prompted its extinguishment by quickly reporting it to the authorities.

Art. 268 – Flood

Whoever intentionally causes a flood shall be punished with: α) imprisonment of at least two years if the act had the potential to result in common danger to the things of others; β) with incarceration if the act had the potential to result in danger to a human being; [or] γ) lifelong or temporary incarceration of at least ten years if, in the case of *lit.* β', a death has occurred.

Art. 269 – [without title]

Whoever has become responsible through negligence for the act of article 268 shall be punished with imprisonment.

Art. 270 – Explosion

Whoever intentionally causes an explosion by any means, especially with the use of explosives, shall be punished with: α) incarceration and a pecuniary punishment of at least 290 euros if the act had the potential to result in common danger to the

things of others; β) incarceration of at least ten years and a pecuniary punishment of at least 290 euros if the act had the potential to result in danger to a human being or public utilities; γ) lifelong incarceration and a pecuniary punishment of at least 590 euros if, in the case of *lit.* β', bodily harm or damage to public utilities has been caused; [or] δ) the death penalty* or lifelong incarceration and a pecuniary punishment of at least 880 euros if, in the case of *lit.* β', a death has occured.

Art. 271 – [without title]

Whoever has become responsible through negligence for the act of article 270 shall be punished with imprisonment.

Art. 272 – Explosives-related offences

1. Whoever manufactures, procures, or possesses explosive materials or bombs with the purpose of using them to cause common danger to things of others or a danger to a human being, or [with the purpose of] giving them to another person for this use, shall be punished with incarceration.

2. Whoever manufactures, procures, delivers, receives, stores, hides, or transports explosive materials or bombs, which he knows are intended for the criminal use described in para. 1, shall be punished with incarceration of up to ten years. Subject to the same punishment shall also be whoever, while knowing that another person intends to make criminal use of the explosive materials or bombs of para. 1, guides him in any way as regards their manufacture, use, procurement, delivery, transport, or storage.

Art. 272A – [without title]

[Art. 272A has been abolished; see art. 3 para. 2 L. 2928/2001].

Art. 273 – Damage endangering the general public

Whoever, except in the cases of articles 264, 268, and 270, intentionally causes damage to a thing, belonging to himself or another person, movable or immovable, shall be punished with: α) imprisonment if the act had the potential to result in a common danger to the things of others; β) imprisonment of at least two years if the act had the potential to result in danger to a human being; [or] γ) incarceration if, in the case of lit. β', a death has occurred.

Art. 274 – [without title]

Whoever has become responsible through negligence for the act of article 273 shall be punished with imprisonment of up to three years or a pecuniary punishment.

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* On the death penalty, see art. 18.

Art. 275 – Disabling safety installations

Whoever, in mines, factories, or other places of occupations whose operation poses a danger to the workers' life, intentionally destroys or in any way renders useless the installations protecting [people] from this danger, or interrupts their function, shall be punished with: α) imprisonment of at least two years if the act had the potential to result in danger to a human being; [or] β) lifelong or temporary incarceration, if a death has occured.

Art. 276 – [without title]

Whoever has become responsible through negligence for the act of article 275 shall be punished with imprisonment.

Art. 277 – Causing a shipwreck

Whoever intentionally causes a ship to sink or to run aground shall be punished with: α) imprisonment of at least two years if the act had the potential to result in a common danger to the things of others; β) incarceration if the act had the potential to result in danger to a human being; [or] γ) with lifelong or temporary incarceration of at least ten years if, in the case of *lit.* β', a death has occurred.

Art. 278 – [without title]

Whoever has become responsible through negligence for the act of article 277 shall be punished with imprisonment.

Art. 279 – Poisoning of springs and food provisions

Whoever intentionally poisons springs, wells, water taps, or other water sources or tanks, food or anything else of this kind whose use can cause harm to an indefinite number of persons, or introduces into any of the aforementioned other substances that can produce the same result, shall be punished with incarceration. If the act has resulted in the death of a human being, lifelong incarceration may be imposed.

Art. 280 – [without title]

Whoever has become responsible through negligence for the act of article 279 shall be punished with imprisonment.

Art. 281 – Food alteration

1. Whoever manufactures or processes foodstuffs, beverages, medicines, or other objects in a way so as their use can cause harm to the health of a human being or put the life of a human being in danger, as well as whoever brings the aforementioned into circulation, shall be punished with imprisonment of at least three months.

2. If any of the aforementioned acts has been committed through negligence, imprisonment of up to one year or a pecuniary punishment shall be imposed.

Art. 282 – Poisoning of animal pastures

1. Whoever intentionally poisons pastures, meadows, lakes, or other places for watering animals shall be punished with imprisonment of at least six months; if his act has resulted in the death or the serious and permanent harm to the animals of others, he shall be punished with incarceration of up to ten years.

2. Whoever has become responsible through negligence for the act of para. 1 shall be punished with imprisonment of up to two years or a pecuniary punishment.

Art. 283 – Spreading an animal disease

1. Whoever intentionally transmits an infectious animal disease shall be punished with imprisonment of at least six months; if his act has resulted in the death or serious and permanent harm of the animals of others, he shall be punished with incarceration of up to ten years.

2. Whoever has become responsible through negligence for the act of para. 1 shall be punished with imprisonment of up to two years or a pecuniary punishment.

Art. 284 – Violation of disease prevention measures

1. Whoever violates the measures ordered by law or by the competent authority for the prevention of the outbreak or spread of a contagious disease shall be punished with imprisonment. If the consequence of this violation has been the transmission of the disease to a human being, incarceration of up to ten years shall be imposed.

2. If the act has been committed through negligence, imprisonment of up to one year or a pecuniary punishment shall be imposed.

Art. 285 – Violation of epizootic prevention measures

1. Whoever violates the measures ordered by law or by the competent authority for the prevention of the outbreak or spread of an epizootic or a plant disease shall be punished with imprisonment of up to three years.

2. If the act has been committed through negligence, imprisonment of up to six months or a pecuniary punishment shall be imposed.

Art. 286 – Violation of construction regulations

1. Whoever acts contrary to the generally recognized technical rules while planning [a building], or managing or conducting construction [of a building] or any other relevant work or demolition, shall be punished with: α) imprisonment of between one and five years and a pecuniary punishment if the act had the potential to

result in danger to a human being, β) incarceration of up to fifteen years if, in the case of *lit.* α', the act has resulted in severe bodily harm, [or] γ) incarceration of between ten and fifteen years if, in the case of *lit.* α', the act has resulted in the death of another person, and with a lifelong or temporary incarceration of between fifteen and twenty years if the act has resulted in the death of a large number of human beings.

2. Whoever, in the cases of the previous paragraph, violates through negligence the generally recognized technical rules, or causes through negligence the possibility of danger, shall be punished with imprisonment of up to two years or a pecuniary punishment.

3. The limitation period for the [prosecution of] criminal offences of para. 1 *lit.* β' and γ' commences with the occurrence of the death or severe bodily harm [in question], and in any case it cannot exceed a duration of twenty-five (25) years from the violation of the rules.

Art. 287 – Breach of supply contracts

1. With imprisonment of at least three months shall be punished whoever omits, in whole or in part, the fulfilment of the obligation he has undertaken before an authority to supply or transport foodstuffs or other things, and in this way obstructs the prevention or containment of a general emergency situation.

2. Subject to the same punishments shall also be any other supplier of any kind, subcontractors, intermediaries, or employees of the person who has undertaken the supply or the transport [of foodstuffs or other things], who, through the breach of their obligations, cancel or hinder [supply or transport] and in this way obstruct the prevention or the containment of a general emergency situation.

Art. 288 – Obstruction of the prevention of a common danger and omission of due assistance

1. Whoever intentionally cancels or hinders any action necessary for the prevention or containment of a common danger, present or imminent, shall be punished with imprisonment, unless the act is punished more severely according to another provision.

2. Whoever, in the case of a fatal accident, or of a common danger or general emergency, fails to offer the assistance which had been requested of him and which he could have offered without putting himself in substantial danger, shall be punished with imprisonment of up to six months.

Art. 289 – General provision

1. In the cases of articles 269, 271, 274, 276, 278, 280, 281 para. 2, 282 para. 2, 283 para. 2, 284 para. 2, 285 para. 2, and 286, the responsible person shall be ex-

empted from any punishment, if, of his own free will, he prevents the danger [from occurring], or he prompts its prevention by quickly reporting it to the authorities.

2. The person responsible for the acts of the previous paragraph and the act defined in article 266 shall be exempted from any punishment if he has tried, of his own free will, up until the commencement of the evidentiary proceedings before the court of first instance, to reduce the extent of the danger that he has caused, and, in the case of damage to the things of others, he has completely satisfied the harmed persons through reparation of any [lost] capital plus any interest due for late payment and it is declared by the harmed person or his heirs [that such a satisfaction occurred].

FOURTEENTH CHAPTER
Criminal offences against the safety of transport and telephone communications, and against public utilities

Art. 290 – Disruption of the safety of transport

1. Whoever intentionally disrupts the safety of transport on [public] streets or squares shall be punished with: α) imprisonment, if the act had the potential to result in danger to a human being; [or] β) incarceration, if a death has occurred.

2. If the act has been committed through negligence, imprisonment shall be imposed.

Art. 291 – Disruption of the safety of railways, ships, and aircraft

1. Whoever intentionally disrupts the safety of rail or water transport, or aviation, shall be punished with: α) imprisonment of at least two years if the act had the potential to result in a general danger to the things of others; β) incarceration if the act had the potential to result in danger to a human being; [or] γ) lifelong or temporary incarceration of at least ten years if, in the case of lit. β', a death has occurred.

2. If the act has been committed through negligence, imprisonment shall be imposed.

3. Every violation of decrees or administrative regulations concerning the policing, the safety, and, generally, the administration and use of railways, water transport, and aviation, which is not prescribed in paras. 1 and 2, shall be punished with a pecuniary punishment.

4. Whoever removes with the purpose of unlawful appropriation, or intentionally destroys, in whole or in part, any material or object intended, through its position or its construction, to serve the operation of railways or the safety of rail transport, shall be punished with incarceration, irrespective of the damage that was threatened or caused, or the economic value of the material or object.

Art. 292 – Obstruction of transport

1. Whoever intentionally obstructs the operation of a public utility that serves transport, in particular motorways, railways, aircraft, buses, post offices, or telegraph intended for public use, shall be punished with imprisonment of up to one (1) year.

2. If the act of para. 1 lasted for a considerable duration, imprisonment of up to three (3) years shall be imposed.

Art. 292A – Criminal offences against the safety of telephone communications

1. Whoever, without the right to do so, acquires access to a connection, a telephony services network, or a system of hardware or software used for the provision of such services, and in this way exposes the safety of telephone communications to danger, shall be punished with imprisonment of at least one year and a pecuniary punishment of between twenty thousand (20,000) and fifty thousand (50,000) euros. If the person responsible for the act of the previous sent. is an associate or partner of the telephony services provider, he shall be punished with imprisonment of at least two years and a pecuniary punishment of between twenty thousand (20,000) and one hundred thousand (100,000) euros.

2. The telephony services provider or its legal representative who violates a provision of a regulation of the Authority for Ensuring the Confidentiality of Communications (AECC) or a term of the general permissions or rights to use a radio frequency or rights to use a number, which refer to the safety of electronic communications, shall be punished with imprisonment of at least two years and a pecuniary punishment of between one hundred thousand (100,000) and five hundred thousand (500,000) euros.

3. The telephony services provider, its legal representative, or the person responsible for ensuring the confidentiality of communications according to article 3 of the present law,* who fails to take the necessary measures for the prevention of the act of para. 1, shall be punished with imprisonment of at least two years and a pecuniary punishment of between fifty thousand (50,000) and two hundred thousand (200,000) euros, provided that the act has been committed or attempted, irrespective of whether or not the perpetrator will be punished or not.

4. If the person responsible for the acts of the previous paragraphs had the purpose of obtaining an unlawful benefit in the form of assets for himself or another person, or of causing damage to the assets of another person, he shall be punished with imprisonment of at least three years and a pecuniary punishment of between one hundred thousand (100,000) and three hundred thousand (300,000) euros. If the total benefit or the total damage exceeds the amount of one hundred and twenty thousand (120,000) euros, the responsible person shall be punished with incarcera-

* Para. 3 of art. 292A of the Penal Code refers herewith to art. 3 L. 3674/2008.

tion of up to ten years and a pecuniary punishment of between one hundred thousand (100,000) and five hundred thousand (500,000) euros.

5. If the acts of the previous paragraphs had the potential to pose a danger to the fundamental principles and institutions of the system of government, as they are stipulated in article 134α of the Penal Code, or the confidentiality concerning state security or the safety of public utilities, incarceration shall be imposed.

6. Whoever publicly and unduly offers for sale, or in any other way offers for installation, special technical means for the commission of the acts of para. 1, or publicly advertises or offers his services for their commission, shall be punished with imprisonment of at least one year and a pecuniary punishment of between ten thousand (10,000) and fifty thousand (50,000) euros.

Art. 292B – Information system interference

1. Whoever, without the right to do so, seriously hinders or interrupts the functioning of an information system by inputting, transmitting, deleting, damaging, or altering digital data, or by rendering such data inaccessible, shall be punished with imprisonment of up to three (3) years.

2. The act of the first paragraph shall be punished: α) with imprisonment of between one (1) and three (3) years if it has been committed through the use of a tool designed primarily for the commission of attacks that affect a great number of information systems, or of attacks that cause serious damage, and especially attacks that cause large-scale or long-term disruption of the services [offered by] the information systems, financial damage of a particularly high value, or significant loss of data, β) with imprisonment of at least one (1) year if it has caused serious damage, and especially large-scale or long-term disruption of the services [offered by] the information systems, financial damage of a particularly high value, or significant loss of data, and γ) with imprisonment of at least one (1) year if it has been committed against information systems that are part of an infrastructure for supplying the population with goods or services of critical importance. Goods or services of critical importance are considered to be, in particular, [the areas of] national defence, health, public transport, transport [in general], and energy.

3. If the acts of the previous paragraphs have been committed within the framework of a structured group of three or more persons with continuous activity that strives to commit more than one of the criminal offences defined in the present article, [the responsible person] shall be punished with imprisonment of at least two (2) years.

4. A criminal complaint is required for the criminal prosecution of the act of para. 1.

Art. 292Γ – [without title]

With imprisonment of up to two (2) years shall be punished whoever, without the right to do so and with the purpose of committing the criminal offences of arti-

cle 292B, produces, sells, procures for use, imports, possesses, distributes, or otherwise makes available: α) devices or computer programs designed or adapted primarily for the purpose of committing the criminal offences referred to in article 292B, β) passwords, access codes, or other similar data, by which the whole or any part of an information system can be accessed.

Art. 293 – Obstruction of the operation of other public utilities

1. Whoever intentionally obstructs the operation of a facility or utility that serves the [public] supply of water, light, heating, or fuel shall be punished with imprisonment of at least three months.

2. If the act has been committed through negligence, imprisonment of up to six months shall be imposed.

Art. 294 – Cessation of work

With imprisonment of at least three months shall be punished whoever, for as long as the contractual relationship lasts, intentionally ceases to work without promptly notifying his employer and the competent police authority or maliciously delays completion of his work, and [consequently] becomes responsible for one of the acts of articles 292 and 293 that are causing a general emergency.

Art. 295 – Causing a general emergency

If a general emergency situation is caused by one of the acts of articles 292 para. 1 [or] 293 para. 1, incarceration shall be imposed.

Art. 296 – Obstruction of the supply of bread

Whoever intentionally, in the manner mentioned in article 294 or in any other way, obstructs the operation of a facility or utility, which serves the supply of bread to the public, shall be punished with imprisonment of at least six months, if this act causes a general emergency situation.

Art. 297 – Exposing a ship to danger through illicit trade

1. Whoever intentionally brings onto a Greek ship objects whose existence can cause danger of seizure or confiscation of the ship or the cargo, shall be punished with imprisonment of up to three years.

2. This act shall be punished even if it has been committed outside the state territorial boundaries.

3. Regarding ships of a foreign nationality, this act shall be punished if the loading was committed in whole or in part within [Greek] national territory.

Art. 298 – General provision

The provision of article 289 also applies accordingly to the cases of articles 290 para. 2 and 291 para. 2. As regards the misdemeanours of art. 292 or the act of art. 431, the court may exempt the perpetrator from punishment, provided that the obstruction has been of an insignificant duration or that the perpetrator has committed the act in order to defend a broader social interest.

FIFTEENTH CHAPTER
Criminal offences against life

Art. 299 – Intentional homicide

1. Whoever intentionally kills another person shall be punished with the death penalty* or lifelong incarceration.

2. If the act had been decided upon and executed during a paroxysm of rage, temporary incarceration shall be imposed.

Art. 300 – Consensual homicide

Whoever decides and commits a homicide following serious and persistent request of the victim and out of mercy for this person who is suffering from an incurable disease, shall be punished with imprisonment.

Art. 301 – Participation in a suicide

Whoever intentionally persuades another person to commit suicide, as well as whoever assists in it [i.e., the suicide], shall be punished with imprisonment if the suicide was committed or attempted.

Art. 302 – Negligent homicide

1. Whoever causes the death of another person through negligence shall be punished with imprisonment of at least three months.

2. If the victim of the act mentioned in the previous paragraph is a member of the kin of the responsible person, the court may exempt the responsible person from punishment if it is persuaded that, due to mental suffering resulting from the act, it is not necessary to subject him to a punishment.

Art. 303 – Infanticide

A mother who intentionally kills her child during or after childbirth, while the disturbance due to childbirth of her body persists, shall be punished with incarceration of up to ten years.

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* On the death penalty, see art. 18.

Art. 304 – Artificial termination of pregnancy

1. Whoever terminates a pregnancy without the pregnant woman's consent shall be punished with incarceration.

2. α) Whoever, with the pregnant woman's consent, terminates her pregnancy impermissibly, or supplies her with the means to terminate it, shall be punished with imprisonment of at least six months and if he commits these acts habitually he shall be punished with imprisonment of at least two years.

β) If a severe physical or mental condition of the pregnant woman is caused by the act of the previous provision, imprisonment of at least two years shall be imposed and if her death is caused, incarceration of up to ten years shall be imposed.

3. A pregnant woman who impermissibly terminates her own pregnancy, or allows another person to do so for her, shall be punished with imprisonment of up to one year.

4. The artificial termination of pregnancy, when performed with the pregnant woman's consent by an obstetrician–gynaecologist and with the assistance of an anaesthesiologist in an organized hospital unit, is not a wrongful act, as long as any one of the following circumstances exists:

α) The [first] twelve weeks of pregnancy have not been completed.

β) Indications of a serious anomaly of the fetus, which signify the birth of an ill new-born, have been detected using the current means of prenatal diagnosis, and the pregnancy has lasted no longer than twenty-four weeks.

γ) There is an inevitable danger to the life of the pregnant woman or the danger of a serious and permanent harm to her physical or mental health. In this case, a relevant confirmation [of this prognosis] from the competent doctor is also required.

δ) The pregnancy is the result of rape, enticement of a minor, incest, or abuse of a woman unable to resist, provided that [the first] nineteen weeks of pregnancy have not been completed.

5. If the pregnant person is a minor, the consent of one of the parents, or the person who has been given custody of her, is also required.

Art. 304A – Bodily harm of a fetus or a new-born

Whoever commits an unlawful act on a pregnant person, causing, as a result, severe harm to the fetus or a severe condition of the new-born's body or brain, shall be punished according to the provisions of article 310.

Art. 305 – Advertisement of means of artificial termination of pregnancy

1. Whoever publicly or through the circulation of documents, pictures, or presentations, announces or advertises, even covertly, drugs, or other objects or means that

may cause an artificial termination of pregnancy, or in the same way offers services of his own or of another person regarding the performance of, or the assistance in, the termination of pregnancy, shall be punished with imprisonment of up to two years.

2. Information or healthcare-related education on the artificial termination of pregnancy [conducted] by family planning centres, information [provided] to doctors or persons legally delivering means of artificial termination of pregnancy, and relevant publications in specialized medical or pharmaceutical sciences journals are not wrongful acts.

Art. 306 – Exposure [to danger]

1. Whoever exposes another person [to danger] and in this way renders him helpless, or whoever intentionally leaves helpless another person who is under his protection, [or] whom he owes a duty to feed, care, or transport, or for whose injury he is responsible, shall be punished with imprisonment of at least six months.

2. If the act caused the harmed person: α) severe harm to his health then incarceration of up to ten years shall be imposed; [or] β) his death then incarceration of at least six years shall be imposed.

Art. 307 – Omission to save a person from life-threatening danger

Whoever intentionally omits to save another person from a life-threatening danger, despite being able to without putting his own life or health in danger, shall be punished with imprisonment of up to one year.

SIXTEENTH CHAPTER
Bodily harm

Art. 308 – Simple bodily harm

1. Whoever intentionally inflicts upon another person bodily injury or harm to his health shall be punished with imprisonment of up to three years. If the inflicted injury or harm to health is very light, [the perpetrator] shall be punished with detention of up to six (6) months or a fine of up to three thousand (3,000) euros.

2. The bodily harm of para. 1 is not wrongful if it is committed with the consent of the harmed person and is not contrary to good morals.

3. The person responsible for the act of para. 1 may be exempted from any punishment if he had been pushed into committing the act through legitimate frustration caused by an immediately preceding act, committed against or before him by the harmed person, of a particularly cruel or brutal nature.

Art. 308A – Unprovoked bodily harm

1. Simple bodily harm (article 308 para. 1 sent. α') committed without provocation from the harmed person shall be punished with imprisonment of at least six months.

2. If the act of the previous paragraph constitutes dangerous bodily harm (article 309) or if two or more persons participated, imprisonment of at least one year shall be imposed.

Art. 309 – Dangerous bodily harm

If the act of article 308 was committed in a way which could have caused to the harmed person life-threatening danger or severe bodily harm (art. 310 para. 2), imprisonment of at least three months shall be imposed.

Art. 310 – Severe bodily harm

1. If the act of article 308 resulted in a severe physical or mental condition of the harmed person, imprisonment of at least two years shall be imposed.

2. Severe physical or mental condition exists in particular if the act caused a life-threatening danger to, the severe and long-term illness of, or serious mutilation of, the harmed person, or if [the harmed person] has been substantially hindered in the use of his body or brain for a long time by the act.

3. If the responsible person strived for the result that he caused he shall be punished with incarceration of up to ten years.

Art. 311 – Fatal [bodily] harm

If the bodily harm resulted in the death of the harmed person, incarceration of up to ten years shall be imposed. If the responsible person strived for the severe bodily harm, incarceration shall be imposed.

Art. 312 – Inflicting [bodily] harm through persistent cruel behaviour

1. Whoever inflicts upon a third person bodily injury or any other harm to their physical or mental health through persistent cruel behaviour shall be punished with imprisonment, unless a more severe punishable act has been committed. If the act is committed by a minor on another minor, it shall not be punished unless their age difference is greater than three (3) years, in which case only educational or therapeutic measures shall be imposed.

2. If the victim has not yet completed his eighteenth (18th) year of age or is unable to defend himself, and the perpetrator has the victim under his custody or protection, the victim belongs to the perpetrator's household, the victim is in a work or service relationship with the perpetrator, the victim has been left in the

perpetrator's power by the person responsible for his custody, the victim has been entrusted to the perpetrator for his upbringing, education, and supervision, or the victim was left in the safe keeping, even temporarily, of the perpetrator, imprisonment of at least six (6) months shall be imposed, unless a more serious punishable act has been committed. Subject to the same punishment shall be whoever becomes responsible for bodily injury or any harm to the physical or mental health of the aforementioned persons through a systematic neglect of his duties towards them.

Art. 313 – Brawl

If a brawl or assault committed by many persons results in the death or severe bodily harm of a human being (article 310), each one of those having taken part in the brawl or assault shall be punished, for their participation *per se,* with imprisonment of up to three years unless one had ended up participating in the brawl through no responsibility of his own.

Art. 314 – Negligent bodily harm

1. Whoever causes bodily injury or harm to the health of another person through negligence shall be punished with imprisonment of up to three years. If the inflicted bodily harm is very light, detention of up to three (3) months or a fine of up to three thousand (3,000) euros shall be imposed.

2. The provision of para. 2 of article 302 also applies accordingly to the act of the previous paragraph. In this case, a criminal complaint is always required for criminal prosecution and the second sent. of para. 1 of the following article does not apply.

Art. 315 – Criminal complaint

1. In the cases of articles 308 and 314, criminal prosecution shall only be commenced upon criminal complaint. No criminal complaint is required if the person responsible for the act of article 314 was obliged, due to his service or profession, to show particular care or attention. Driving a vehicle shall fall under the previous sent. if it serves the occupational transport of persons or things. In the case of article 314, if the act has been committed while driving a vehicle and there is no case under the second sent. of the present article, criminal prosecution shall be commenced *ex officio*, although the prosecutor shall issue an order to refrain from criminal prosecution if the harmed person declares that he does not wish to see the perpetrator prosecuted. If this declaration is submitted after the criminal prosecution has commenced, the court shall terminate the prosecution definitively.

2. If, in the case of article 308, the harmed person is a public employee and the act has been committed during the execution of his service or for service-related reasons, prosecution shall be commenced *ex officio*.

Art. 315A – [without title]

The commission of the criminal offences of articles 308A to 311 against an employee of the police, the port police, the fire service, or public health authorities during the execution of his service is a particularly aggravating circumstance.

SEVENTEENTH CHAPTER
Dueling

Art. 316 – Challenge to a duel

[Art. 316 has been abolished; see art. 34 *lit.* β' L. 3904/2010].

Art. 317 – Duels

[Art. 317 has been abolished; see art. 34 *lit.* β' L. 3904/2010].

Art. 318 – Duels excluding life-threatening danger

[Art. 318 has been abolished; see art. 34 lit. β' L. 3904/2010].

Art. 319 – Punishment of accomplices

[Art. 319 has been abolished; see art. 34 lit. β' L. 3904/2010].

Art. 320 – Incitement to a duel

[Art. 320 has been abolished; see art. 34 lit. β' L. 3904/2010].

Art. 321 – Publications relevant to duels

[Art. 321 has been abolished; see art. 34 lit. β' L. 3904/2010].

EIGHTEENTH CHAPTER
Criminal offences against personal freedom

Art. 322 – Taking away a person [i.e., kidnapping a person]

Whoever, through deception, violence or the threat of violence, arrests, abducts, or unlawfully detains a person in order to deprive him of the protection of the state, and, in particular, whoever makes a hostage of another person or deprives them of their freedom in any similar way shall be punished with incarceration. If the act was committed with the purpose of forcing the harmed person or another person to commit, omit, or tolerate an act, for which he has no relevant obligation, [the perpetrator] shall be punished with: α) lifelong incarceration if the use of force [to act, omit, or tolerate] is committed against those [political] bodies or persons mentioned in article 157 para. 1; [or] β) incarceration of at least ten years in any other case.

Art. 322A – Enforced disappearance of a person

1. Whoever commits an enforced disappearance shall be punished with incarceration.

2. Enforced disappearance is considered to be the arrest, detention, or taking away [i.e., kidnapping] of a person, or any other form of deprivation of liberty by state organs or by persons or groups of persons acting with the authorization, support, or consent of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which consequently places such a person outside the protection of the law.

3. Subject to the same punishment shall be any superior who:

α) knew or consciously disregarded information which clearly indicated that subordinates under his effective authority and control were committing or about to commit a criminal offence of enforced disappearance, or β) exercised effective responsibility for and control over activities which were concerned with the criminal offence of enforced disappearance and failed to take all necessary and reasonable measures within his power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and criminal prosecution.

Art. 322B – Aggravating circumstances

1. The acts of the previous article shall be punished with incarceration of at least ten (10) years if: α) the responsible person ordered their commission as a superior, or β) victims of their commission included pregnant women, minors, or persons with a disability to a degree of 67% and above, or γ) they resulted in the severe bodily harm of the victim.

2. If any of the acts of the previous article resulted in the death of the victim, lifelong incarceration shall be imposed.

Art. 322Γ – General provisions

1. Whoever, having been implicated in the commission of an enforced disappearance, effectively contributes to bringing the disappeared person forward alive or makes it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance, shall be punished with a mitigated punishment (article 83 PC).

2. Conviction to lifelong incarceration for the acts of articles 322A and 322B entails *ipso jure* the permanent deprivation of the political rights of the convicted person, whereas a conviction to temporary incarceration entails a deprivation of at least five years.

3. No order from any superior regarding the acts of articles 322A and 322B excludes their wrongfulness.

4. In the case that the acts of articles 322A and 322B are committed under a regime of usurpation of the democratic system of government, the limitation period starts running as soon as legitimate power is restored.

5. The person harmed by the acts of articles 322A and 322B is entitled to demand compensation from the perpetrator and the state who are jointly and severally liable for the damages he [i.e., the harmed person] has been subjected to, as well as pecuniary satisfaction for mental suffering or moral damages.

Art. 323 – Slave trading

1. Whoever commits slave trading shall be punished with incarceration.

2. Slave trading includes every act of capture, acquisition, or disposal of a person with the purpose of reducing him to slavery, every act of acquisition of a slave with the purpose of re-selling or exchanging him, the act of disposal by sale or the exchange of an acquired slave, and, in general, every act of trade or transport of slaves.

3. Whoever undertakes any service on board a ship, in the knowledge that the ship is intended to engage in the slave trade or that it is already being used for this purpose, as well as whoever, through his own volition, remains in this service in the knowledge of the aforementioned purpose of the ship or of its use for such a purpose, shall be punished with imprisonment of at least six months.

4. Whoever contributes, directly or indirectly, to the charter of a ship knowing that this charter is intended for engagement in slave trading, shall be punished with imprisonment of at least six months.

5. Whoever transports slaves from one place to another, with neither the purpose of trading nor freeing them, shall be punished with imprisonment.

6. Subject to the same punishment shall be the owner and the captain of any ship with which, to their knowledge, such transport of slaves would take place.

Art. 323A – Trafficking in human beings

1. Whoever, through the use or threat of violence, of other forms of coercion, imposition or abuse of power, or abduction, recruits, transports, transfers into or out of the state territory, withholds, harbours, delivers to another person, with or without exchange, or receives from another person, a human being, with the purpose of removing cells, tissue, or organs from his body, or with the purpose of exploiting, or allowing another person to exploit, that human being's labour or begging, shall be punished with incarceration of up to ten years and a pecuniary punishment of between ten thousand and fifty thousand euros.

2. Subject to the punishment of the above paragraph shall be the responsible person if, in order to fulfill the same purpose, uses fraudulent means to acquire the

consent of a person or lure him [into being trafficked] by taking advantage of that person's vulnerable position with promises, gifts, payments, or other benefits.

3. Whoever knowingly accepts the labour of a person subjected to the conditions described in paras. 1 and 2, or the revenue generated from this person's begging, shall be punished with imprisonment of at least six months.

4. With incarceration of at least ten years and a pecuniary punishment of between fifty thousand and one hundred thousand euros shall be punished the person responsible according to the previous paragraphs if the act: α) is committed against a minor or a person physically or mentally disabled, β) is committed professionally, γ) is committed by an employee who commits or participates in any way in the act during the exercise of his service or by taking advantage of his capacity as an employee, or δ) resulted in particularly serious damage to the harmed person's health or put this person's life in serious danger.

5. Whoever uses the means of paras. 1 and 2 to recruit a minor with the purpose of using him in armed conflict shall be punished with incarceration of at least ten years and a pecuniary punishment of between fifty thousand and one hundred thousand euros.

6. With lifelong incarceration shall be punished the person responsible according to the previous paragraphs, if the act resulted in the death of a human being.

Art. 323B – Travelling with the purpose of committing sexual intercourse or other lascivious acts with a minor (sex tourism)

Whoever organizes, funds, directs, supervises, advertises, or intermediates in any way or by any means in travelling with the purpose of the participants having sexual intercourse or carrying out other lascivious acts with a minor, shall be punished with incarceration of up to ten years. Whoever, with the aforementioned purpose, participates in the travelling described in the previous sent., shall be punished with imprisonment of at least one year, regardless of his responsibility for the commission of other punishable acts.

Art. 324 – Taking away a minor [i.e., kidnapping a minor]

1. Whoever takes a minor away from his parents, legal guardians, or any person entitled to care for the minor, or whoever supports the voluntary escape of the minor from the supervision of the aforementioned persons, shall be punished with imprisonment. If the minor was exposed to serious danger to his life or of serious harm to his health due to the deprivation of care, the perpetrator shall be punished with imprisonment of at least one year.

2. If the minor has not completed his fourteenth year of age, incarceration of up to ten years shall be imposed unless the act was committed by a relative in ascending

line, in which case the previous paragraph applies. In every case in which the responsible person has committed the act with the purpose of monetary gain, exploitation of the minor in immoral occupations, or of altering the family status of the minor, he shall be punished with incarceration of up to ten years.

3. If the person responsible for the acts of the previous paragraphs had the purpose of demanding a ransom or forcing [another person] to perform an act or omission, incarceration shall be imposed. If the perpetrator, through his own volition and before any of his conditions or demands had been met, freed and returned the minor safe and sound, imprisonment shall be imposed.

Art. 325 – Unlawful detention of a person

Whoever intentionally detains another person against his [i.e., the person's] will, or deprives him of his freedom of movement in any other way, shall be punished with imprisonment, and if the detention lasted a long time, with imprisonment of at least two years.

Art. 326 – Unconstitutional detention of a person

Whoever breaches any of the provisions of article 6 of the Constitution shall be punished with imprisonment of at least six months.

Art. 327 – Involuntary abduction

1. Whoever, with the purpose of marriage or debauchery, abducts or unlawfully detains (article 325) a woman against her will, or [abducts or detains] a woman with intellectual deficiencies or unable to resist due to loss of consciousness, a mental handicap, or for any other reason, shall be punished, if he has committed this act with the purpose of marriage, with imprisonment of at least one year; if he has committed the act with the purpose of debauchery, [he shall be punished] with incarceration of up to ten years.

2. A criminal complaint is required for criminal prosecution.

Art. 328 – Voluntary abduction

1. Whoever, with the purpose of marriage or debauchery, abducts or detains a single and underage woman with her assent, but without the approval of the persons who have her in their power or have, according to law, the right to care for her, shall be punished, if he has committed this act with the purpose of marriage, with imprisonment of up to three years, and if [he has committed the act] with the purpose of debauchery, [he shall be punished] with imprisonment.

2. A criminal complaint is required for criminal prosecution.

Art. 329 – General provision

If, in the cases of articles 327 and 328, the abducted woman got married as this had been the purpose of the abduction, criminal prosecution shall only commence after annulment of the marriage.

Art. 330 – Unlawful violence

Whoever, through the use or threat of physical violence or with the threat of any other unlawful act or omission, forces another person to commit, omit, or tolerate an act, with regard to which the harmed person has no obligation, shall be punished with imprisonment of up to two years, regardless of whether or not the threatened harm is directed against the person who is being threatened or any member of his kin.

Art. 331 – Self-redress

Whoever arbitrarily enforces a claim concerning a right which he actually has or which he asserts with conviction, shall be punished with detention of up to six (6) months or a fine of up to three thousand (3,000) euros. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 332 – Forcing [a person] to cease employment

Whoever, with violence or threats, forces a person to participate in an association whose purpose is the collective cessation of employment in order to succeed in changing the terms governing a relevant contract, or prevents a person from leaving such an association, shall be punished with imprisonment of up to one year or a pecuniary punishment.

Art. 333 – Threat

1. Whoever causes to another person terror or concern by threatening him with violence or any other unlawful act or omission, shall be punished with imprisonment of up to one year or a pecuniary punishment.

2. A criminal complaint is required for criminal prosecution.

Art. 334 – Violation of domestic peace

1. Whoever unlawfully enters or remains in, against the will of the occupant, the residence of another person, this person's place of work, or an enclosed area that this person possesses, shall be punished with imprisonment of up to one year or a pecuniary punishment.

2. The aforementioned acts or the acts of violence against persons or objects, as well as the acts of damage to the property of another person, which take place with the purpose of obstructing the publication and the free circulation of newspapers or

magazines, as well as the free circulation of books, shall be punished with imprisonment of at least one year; the conversion or suspension of punishment is in no case permitted.

3. Whoever unlawfully enters a facility, a place of public, municipal or community service or [a place belonging to] a legal person of public law or a public benefit enterprise, or remains in any of these places against the will of those using them, the will of which is declared by their legal representative or an employee, and in this way causes the interruption or disruption of the smooth operation of the service, shall be punished with imprisonment of at least six months. With imprisonment of at least three months shall be punished whoever unlawfully enters or remains in the aforementioned places or facilities outside of service hours in order to obstruct the said service.

4. Criminal prosecution in the cases of para. 1 shall be commenced only upon criminal complaint by the occupant.

Art. 335 – Fraudulent incitement to emigration

Whoever, with the purpose of monetary gain, deceitfully persuades another person to emigrate from the [Greek] national territory shall be punished with imprisonment of up to two years.

NINETEENTH CHAPTER
Criminal offences against sexual freedom and criminal offences related to commercial sexual exploitation

Art. 336 – Rape

1. Whoever, through physical violence or threat of grave and imminent danger, coerces another person into sexual intercourse, any other lascivious act, or the tolerance of such an act, shall be punished with incarceration.

2. If the act of the previous paragraph has been committed by two or more perpetrators acting jointly, incarceration of at least ten years shall be imposed.

Art. 337 – Violation of sexual dignity

1. Whoever, with lascivious gestures or proposals related to lascivious acts, brutally violates the sexual dignity of another person shall be punished with imprisonment of up to one year or a pecuniary punishment.

2. With imprisonment of between three months and two years shall be punished the act of the previous paragraph, if the harmed person is younger than twelve years old.

3. An adult who, via the internet or by any other means of communication, makes contact with a person who has not completed his fifteenth year of age and, with lascivious gestures or proposals, violates the minor's sexual dignity, shall be punished with imprisonment of at least two years. If the act is committed habitually or was followed by a meeting, the adult shall be punished with imprisonment of at least three years.

4. An adult who, via the internet or by any other means of communication, makes contact with a person appearing to be a minor younger than fifteen years old and, with lascivious gestures or proposals, violates his sexual dignity shall be punished with imprisonment of at least one year. If the act is committed habitually or was followed by a meeting with the person appearing to be a minor, [the adult] shall be punished with imprisonment of at least three years.

5. Whoever commits the act of para. 1 of this article by exploiting the harmed person's position as a worker or the situation of a person seeking employment, is prosecuted upon criminal complaint and shall be punished with imprisonment of between six (6) months and three (3) years as well as a pecuniary punishment of at least one thousand (1,000) euros.

Art. 338 – Sexual abuse

1. Whoever, by abusing the state of insanity of another person or the person's inability to resist due to any other reason, performs sexual intercourse or any other lascivious act with this person shall be punished with incarceration of up to ten years. If the harmed person is a minor, [the perpetrator] shall be punished with incarceration of at least ten years.

2. Whoever, by abusing the aforementioned situations, violates the sexual dignity of another person with lascivious gestures or proposals related to lascivious acts shall be punished with imprisonment of at least six months. If the harmed person is a minor, [the perpetrator] shall be punished with incarceration of up to ten years.

3. If the act of para. 1 has been committed by two or more [perpetrators] acting jointly, incarceration of at least ten years shall be imposed.

Art. 339 – Enticement of children

1. Whoever engages in a lascivious act with a person yet to complete his 15th year of age or misleads this person with the result that he [i.e., the minor] performs or sustains such an act, unless he is punished more severely for the criminal offence of article 351A, shall be punished as follows: α) if the harmed person has not completed his twelfth year of age, with incarceration of at least ten years, β) if the harmed person has completed his twelfth but not his fourteenth year of age, with incarceration of up to ten years, and γ) if [the harmed person] has completed

his fourteenth year of age but not yet his fifteenth year of age, with imprisonment of at least two years.

2. Lascivious acts between minors under fifteen years of age shall not be punished, unless their age difference is greater than three years, in which case only educational or therapeutic measures shall be imposed.

3. If the responsible person and the harmed person are married, criminal prosecution shall not be commenced, and if it has already been commenced, rather than continue, it shall be declared inadmissible. Criminal prosecution shall be commenced or continued following the annulment of the marriage.

4. Whoever pushes or lures a minor into witnessing sexual intercourse or any other sexual act, shall be punished with imprisonment of at least one year, even if the minor does not participate in these acts. With imprisonment of at least two years shall be punished the act of the previous sent. if the minor becomes a witness of sexual abuse.

Art. 340 – General provision

If any of the acts of articles 336, 338, and 339 have resulted in the death of the harmed person, lifelong incarceration shall be imposed.

Art. 341 – Fraudulent sexual intercourse

Whoever succeeds in having sexual intercourse with a woman by causing or exploiting a misunderstanding due to which the harmed person considered that the said sexual intercourse occurred within marriage, shall be punished with imprisonment of at least three months.

Art. 342 – Sexual abuse of minors

1. An adult who engages in lascivious acts with a minor who has been entrusted to his supervision or custody, even temporarily, shall be punished as follows: α) if the harmed person has not completed his fourteenth year of age, with incarceration of at least ten years, [or] β) if the harmed person has completed his fourteenth, yet not his eighteenth, year of age, with incarceration.

2. Aggravating circumstances include the commission of the act of the first paragraph by: α) a member of kin, β) a person who lives with the minor or maintains friendly relations with the minor's kin, γ) an educator, teacher, coach, or any other person who gives lessons to the minor, δ) a person who receives the minor's services, ε) a member of the clergy with whom the minor maintains a spiritual relationship, στ) a psychologist, doctor, nurse, or specialized scientist offering services to the minor, or ζ) a person who abuses the mental or physical disability of the minor.

3. An adult who, with gestures, proposals, or by narrating, illustrating, or presenting sexual acts, offends the modesty of a minor who has been entrusted to his supervision or custody, even temporarily, shall be punished with imprisonment of at least six months, and if the act is committed habitually, with imprisonment of at least two years. Para. 2 also applies accordingly to these cases.

Art. 343 – Sexual abuse and the abuse of authority

With imprisonment of at least one year shall be punished: α) the public employee who engages in a lascivious act with a person dependent on him in the context of his service by taking advantage of this relationship; [or] β) the persons appointed or employed in prisons or other detention facilities, in schools, educational institutions, hospitals, clinics, or any type of therapeutic and rehabilitation facilities, or in other institutions intended to offer care to vulnerable persons, if they engage in a lascivious act with a person that has been admitted to one of these institutions.

Art. 344 – Criminal complaint

In the cases of articles 337 para. 1 and 341, a criminal complaint is required for criminal prosecution. In the cases of article 336, the criminal prosecution is commenced *ex officio*, however the prosecutor may, exceptionally [and] with a reasoned order, upon approval of the prosecutor of the court of appeal, definitively abstain from the commencement of criminal prosecution, or if he has [already] commenced criminal prosecution, he may present the case to the competent council of the misdemeanours court; the latter may definitively terminate criminal prosecution based on a declaration of the victim, or of the persons mentioned in article 118, stating that the publicity generated by the criminal prosecution will lead to serious psychological trauma of the victim.

Art. 345 – Incest

1. Sexual intercourse between blood relatives, in ascending or descending line, shall be punished: α) with respect to relatives in ascending line, with incarceration of at least ten years if the descendant had not completed his fifteenth year of age, with incarceration if the descendant had completed his fifteenth but not his eighteenth year of age, or with imprisonment of up to two years if the descendant has completed his eighteenth year of age; β) with respect to descendants, with imprisonment of up to two years; and γ) as regards [sexual intercourse] between siblings or half-siblings, with imprisonment of up to two years.

2. Relatives in descending line or siblings may be exempted from punishment if at the time of [the commission of] the act they had not completed their eighteenth year of age.

Art. 346 – Lascivious acts between relatives

1. Apart from sexual intercourse, the punishments of article 345 para. 1 shall also be imposed for the engagement in any other lascivious act which takes place between those relatives mentioned in article 345.

2. Para. 2 of article 345 shall also apply to this case.

Art. 347 – Unnatural lascivious acts

[Art. 347 has been abolished; see art. 68 L. 4356/2015].

Art. 348 – Facilitating debauchery between others

1. Whoever professionally facilitates lascivious acts [performed] between others in any way shall be punished with imprisonment of up to one year.

2. Subject to imprisonment of up to three years and a pecuniary punishment shall be whoever facilitates lascivious acts between others by using fraudulent means, even if he does not act professionally.

3. Whoever, professionally or with the purpose of monetary gain, attempts to facilitate, even covertly, by means of publication of an announcement, picture, or telephone number, by means of electronic messaging, or in any other way, lascivious acts with a minor, shall be punished with imprisonment and a pecuniary punishment of between ten thousand and one hundred thousand euros.

Art. 348A – Child pornography

1. Whoever intentionally produces, distributes, publishes, demonstrates, imports into the state territory or exports from it, transports, offers, sells, or in any other way makes available, buys, procures, acquires, or possesses child pornography material, or disseminates or transmits information regarding the commission of the aforementioned acts, shall be punished with imprisonment of at least one year and a pecuniary punishment of between ten thousand and one hundred thousand euros.

2. Whoever intentionally produces, offers, sells, or in any other way makes available, distributes, transmits, buys, procures, or possesses child pornography material, or disseminates information regarding the commission of the aforementioned acts through information systems, shall be punished with imprisonment of at least two (2) years and a pecuniary punishment of between fifty thousand and three hundred thousand euros.

3. Child pornography material according to the meaning of the previous paragraphs constitutes the representation, or a real or simulated depiction on an electronic or other physical storage medium, of the sexual organs or, in general, the body of a minor in a way that manifestly causes sexual arousal, or of a real or simulated lascivious act performed by or with a minor.

4. The acts of paras. 1 and 2 shall be punished with incarceration of up to ten years and a pecuniary punishment of between one hundred thousand and five hundred thousand euros:

α) if they have been committed professionally or habitually,

β) in cases in which the production of the child pornography material is connected with the exploitation of need, psychological or mental illness, or of any dysfunction caused by the physical illness of a minor, with the use or threat of violence against a minor, or involves the participation of a minor who has not completed his fifteenth year of age, or if the production of the child pornography material has exposed the life of the minor to serious danger, and

γ) if the perpetrator of the production of child pornography material is one of the persons mentioned in cases α' to στ' of para. 2 of article 342. If the act of cases β' or γ' has resulted in the severe bodily harm of the harmed person, incarceration of at least ten years and a pecuniary punishment of between three hundred thousand and five hundred thousand euros shall be imposed and if this act [of cases β' or γ'] has resulted in the death of a human being, lifelong incarceration shall be imposed.

5. Whoever knowingly obtains access to child pornography material through information systems shall be punished with imprisonment of at least one (1) year.

Art. 348B – Solicitation of children for sexual purposes

Whoever intentionally, through information systems, proposes to a minor who has not completed his fifteenth year of age a meeting, with himself or a third person, with the purpose of committing the offences of articles 339 paras. 1 and 2 or 348A against the minor, where this proposal is followed by further acts leading to such a meeting, shall be punished with imprisonment of at least two (2) years and a pecuniary punishment of between fifty thousand and two hundred thousand euros.

Art. 348Γ – Pornographic performances involving minors

1. Whoever pushes or lures a minor into participating in pornographic performances or organizes such performances, shall be punished as follows: α) if the harmed person has not completed his twelfth year of age, with incarceration of at least ten years, β) if the harmed person has completed his twelfth but not his fourteenth year of age, with incarceration of up to ten years, γ) if the harmed person has completed his fourteenth year of age but not his fifteenth year of age, with imprisonment of at least two years, and δ) if the harmed person has completed his fifteenth year of age, with imprisonment of at least one (1) year. Whoever, having paid a relevant fee, knowingly attends a pornographic performance involving the participation of minors shall be punished in cases α' and β' of the previous sent. with imprisonment of at least two years, and in cases γ' and δ' with imprisonment of at least one year.

2. Provided that the acts of the previous paragraph have been committed through the use of coercion, violence, or threats compelling the participation of a minor in pornographic performances, or [have been committed] with the purpose of pursuing financial benefit from them [i.e., the performances], shall be imposed; α) incarceration of at least fifteen years in case α' of the previous paragraph, β) incarceration of up to fifteen years in case β', γ) incarceration of up to ten years in case γ', and δ) incarceration of up to eight years in case δ'.

3. A pornographic performance in the sense of the previous paragraphs consists of an organized live exhibition, designed for viewing or listening, including, amongst other features, the use of information and communication technology, of: α) a minor engaged in a real or simulated act of a sexual nature, or β) the sexual organs or, in general, the body of a minor in a way that manifestly causes sexual arousal.

Art. 349 – Procuring

1. Whoever, in order to serve the debauchery of others, recruits or pushes a minor into prostitution, or fosters, forces, facilitates, or participates in the prostitution of minors, shall be punished with incarceration of up to ten years and a pecuniary punishment of between ten thousand and fifty thousand euros.

2. Incarceration and a pecuniary punishment of between fifty thousand and one hundred thousand euros shall be imposed upon the responsible person, if the criminal offence was committed: α) against a person younger that fifteen years old; β) by fraudulent means; γ) by a relative by marriage or blood in ascending line or by the adoptive parent, spouse, legal guardian, or any other person entrusted with the upbringing, education, supervision, or custody of the minor, even temporarily; δ) by an employee who, in the context of his service or by taking advantage of his capacity [as an employee], commits or participates in any way in the act; ε) by the use of electronic means of communication; [or] στ) in exchange for an offer or a promise of payment in money, or of any other kind of exchange.

3. Whoever, professionally or with the purpose of monetary gain, recruits women into prostitution shall be punished with imprisonment of at least eighteen months and a pecuniary punishment. The commission of the act by an employee, who, in the context of his service or by taking advantage of his capacity [as an employee], commits or participates in any way in the act, constitutes an aggravating circumstance.

Art. 350 – Exploitation of a prostitute

A man who is financially supported, in whole or in part, by a woman who practises prostitution professionally by exploiting her relevant ill-gotten profits shall be punished with imprisonment of between six months and three years, unless he can be punished for a more severely punishable act.

Art. 351 – Sex trafficking

1. Whoever, through the use or threat of violence or other coercive means, through subjugation or abuse of power, or abduction, recruits, transports or transfers into or out of the state territory, detains, harbours, delivers with or without exchange to another person, or receives from another person a human being for the purpose of sexual exploitation committed by [the perpetrator] or any other person, shall be punished with incarceration of up to ten years and a pecuniary punishment of between ten thousand and fifty thousand euros.

2. Subject to the punishment of the [paragraph 1 above] shall be the responsible person if, in order to fulfil the same purpose, he uses fraudulent means to achieve the consent of a person, or lures the person, by taking advantage of the person's vulnerable position, with promises, gifts, payments, or the provision of other benefits.

3. Whoever knowingly engages in a lascivious act with any person subjected to the conditions described in paras. 1 and 2 shall be punished with imprisonment of at least six months.

4. With incarceration of at least ten years and a pecuniary punishment of between fifty thousand and one hundred thousand euros shall be punished the person [found] responsible in accordance with the previous paragraphs, if the act: α) is committed against a minor or is connected to the mental weakness or intellectual deficiency of the harmed person; β) has been committed by one of the persons mentioned in *lit.* γ' of para. 2 of article 349; γ) is connected to the harmed person's illegal entrance into, stay in, or exit from the country; δ) is committed professionally; ε) is committed by an employee, who commits or participates in any way in the act in the context of his service or by taking advantage of his capacity [as an employee]; or στ) has resulted in particularly serious damage to the harmed person's health or placed this person's life in serious danger.

5. If any of the acts of the first and second paragraphs resulted in the death of the harmed person, lifelong incarceration shall be imposed.

6. The sexual exploitation described in the previous paragraphs consists of the engagement in any lascivious act with the purpose of monetary gain or the use, with the purpose of monetary gain, of the body, voice, or picture of a person for the real or simulated engagement in such an act or for the provision of labour or services intended to cause sexual arousal.

Art. 351A – Lascivious acts with a minor in exchange for payment

1. The lascivious act with a minor committed by an adult in exchange for payment or other material things, or the lascivious act between minors provoked by an adult in the same way and committed before him or another adult shall be punished as follows: α) if the harmed person has not completed his tenth year of age, with incarceration of at least ten years and a pecuniary punishment of between one hun-

dred thousand and five hundred thousand euros; β) if the harmed person has completed his tenth but not his fifteenth year of age, with incarceration of up to ten years and a pecuniary punishment of between fifty thousand and one hundred thousand euros; and γ) if the harmed person has completed his fifteenth year of age, with imprisonment of at least one year and a pecuniary punishment of between ten thousand and fifty thousand euros. For the [judicial] assessment of punishment, article 83 *lit.* ε' is not applicable.

2. The habitual commission of the act by the adult in accordance with the previous paragraph constitutes an aggravating circumstance.

3. If the act of the first paragraph has resulted in the death of the harmed person, lifelong incarceration shall be imposed.

Art. 352 – Measures of security

In the cases of articles 347 para. 2, 348, 349, 350, and 351, the provisions of articles 72, 73, and 74 referring to the labour facilities and to residence restrictions are also applicable.

Art. 352A – Psychodiagnostic examination and treatment of the perpetrator and victim of criminal offences against sexual freedom and of criminal offences related to commercial sexual exploitation

1. If the victim is a minor, the suspect or the defendant for the criminal offences against sexual freedom and those related to commercial sexual exploitation of Chapter 19 of the Penal Code shall be subjected to a diagnostic examination of his psychosexual state. This examination shall be ordered, only with the consent of the person concerned, by either the competent prosecutor during the pre-trial stage or the competent investigating judge if a main investigation is being conducted, and by the court during the main proceedings.

2. If a person is convicted of a criminal offence mentioned in the previous paragraph, the court, under the condition of para. 1, may also order that he attend a programme of psychosexual therapy which can be executed either during the time that he serves his sentence or irrespective of the latter. In these programmes shall also participate persons under prosecution or those awaiting trial, as long as they consent to it, although their participation does not affect the right of defence or the presumption of innocence.

3. To a special psychological and physical examination shall also be subjected the underage victim of the acts of para. 1, in order to determine whether or not the victim requires therapy. The underage victim's therapy shall be ordered either during the pre-trial stage by the competent prosecutor or by the competent investigating judge if a main investigation is being conducted, and during the main proceedings by the court.

4. If it is considered necessary for the protection of the underage victim, the prosecutor, the investigating judge, or the court shall order the removal of the perpetrator from the victim's environment or the removal of the victim and his temporary residence in a protected environment, as well as the prohibition of contact between the perpetrator and the victim.

5. With a decree issued upon proposal of the Minister of Justice and the Minister of Health and Social Solidarity within six months from the issuance of the present law will be specified the details of the diagnostic examination and the therapy of the victim and the suspect or defendant.

Art. 352B – Protection of the private life of the underage victim

Whoever, from the report of an act included in the criminal offences against sexual freedom and those related to commercial sexual exploitation until the issuance of an irrevocable judgment, publishes in any way information on incidents which could lead to the disclosure of the identity of the underage victim, shall be punished with imprisonment of up to two years.

Art. 353 – Causing scandal through acts of debauchery

1. Whoever publicly commits an act of debauchery and in this way causes scandal shall be punished with imprisonment of up to two years.

2. Whoever knowingly brutally offends the modesty of another with an act of debauchery committed before this person shall be punished with imprisonment of up to six months or a pecuniary punishment. If the act of the previous sent. is committed before a person younger than fifteen years old, [the perpetrator] shall be punished with imprisonment. For the criminal prosecution of the acts of this paragraph a criminal complaint is required.

TWENTIETH CHAPTER
Criminal offences related to marriage and family

Art. 354 – Disturbance of the family status

Whoever in any way alters or conceals the family status of a person and in particular, whoever falsely registers a child shall be punished with imprisonment.

Art. 355 – Marriage-related deception

Whoever, by fraudulent means, persuades a person to marry, yet the marriage is void or voidable, shall be punished with imprisonment if the marriage has been declared irrevocably void for this reason. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 356 – Bigamy

1. A spouse who remarries before the previous marriage has been irrevocably dissolved or annulled, as well as the person who gets married to the aforementioned spouse knowing that a marriage exists that has not been dissolved or annulled, shall be punished with imprisonment.

2. The limitation period for [the prosecution of] this act begins after one of the two marriages has been dissolved or declared void.

Art. 357 – Adultery

[Art. 357 has been abolished; see art. 6 L. 1272/1982].

Art. 358 – Violation of the obligation to pay maintenance

Whoever maliciously violates the obligation to pay maintenance imposed by law and recognized, even temporarily, by court, in such a way that the beneficiary is subjected to hardship or is forced to accept the help of other persons, shall be punished with imprisonment of up to one year.

Art. 359 – Abandonment of a pregnant woman

Whoever abandons a woman living in poverty whom he impregnated, or in any other way leaves her helpless and unable to take care of herself due to her pregnancy or childbirth, shall be punished with imprisonment of up to one year. Criminal prosecution shall only be commenced upon criminal complaint.

Art. 360 – Neglect of the supervision of a minor

1. Whoever omits to prevent a minor younger than eighteen years old, to whom he has an obligation of supervision, from committing a punishable act or engaging in prostitution, shall be punished with imprisonment of up to one year, unless he can be punished more severely according to another provision.

2. Whoever becomes responsible for the omission of the previous paragraph through negligence shall be punished with imprisonment of up to three months.

3. The punishment of para. 1 shall be increased to imprisonment of up to two years and that of para. 2 to imprisonment of up to six months if the persons that have become responsible for the omission are the parents or legal guardians under the diligent custody of whom the minor has been placed in accordance with article 122 of this Code.

4. If the act committed by the minor is a petty violation, the court may exempt from any punishment the person responsible for the omission of paras. 1–3.

TWENTY-FIRST CHAPTER
Criminal offences against honour

Art. 361 – Insulting behaviour

1. Whoever, except in cases of discreditation and defamation (articles 362 and 363), insults the honour of another person with spoken words, through actions, or in any other way, shall be punished with imprisonment of up to one year or a pecuniary punishment. The pecuniary punishment may also be imposed along with imprisonment.

2. If the insult to the honour [of another person] is not particularly severe, taking into consideration the circumstances and the individual insulted, the responsible person shall be punished with detention or a fine.

3. The provision of para. 3 of article 308 shall also apply to this case.

Art. 361A – Unprovoked insulting behaviour through actions

1. With imprisonment of at least three months shall be punished any insulting behaviour through actions (article 361 para. 1) if it has been committed without provocation from the harmed person.

2. If two or more persons have participated in the act of the previous paragraph, imprisonment of at least six months shall be imposed.

Art. 361B – [without title]

1. Whoever supplies goods, offers services, or announces by means of public invitation the provision or supply of these, yet hereto excludes, on the grounds of abhorrence, persons due to their racial characteristics, colour, national or ethnic descendance, genealogy, religion, disability, sexual orientation, or gender identity or characteristics shall be punished with imprisonment of at least three (3) months and a pecuniary punishment of at least one thousand five hundred (1,500) euros.

2. If two (2) or more persons have participated in the act of the previous paragraph, imprisonment of at least six (6) months and a pecuniary punishment of between five thousand (5,000) and twenty-five thousand (25,000) euros shall be imposed.

Art. 362 – Discreditation

Whoever in any way before a third party claims or disseminates with regard to another person a fact that can harm the honour or reputation of the latter, shall be punished with imprisonment of up to two years or a pecuniary punishment. The pecuniary punishment may also be imposed along with imprisonment.

Art. 363 – Defamation

If, in the case of article 362, the [claim about the] fact is false and the responsible person knew that it was false, he shall be punished with imprisonment of at least three months; along with the imprisonment, a pecuniary punishment may also be imposed. The deprivation of political rights in accordance with article 63 may also be imposed.

Art. 364 – Discreditation [and defamation] of a *société anonyme*

1. Whoever claims in any way before a third party or disseminates with regard to a *société anonyme* a certain fact that is related to its business practices, financial situation or dealings in general, or to the persons managing or directing it, and may harm the trust of the public in the company and its business in general, shall be punished with imprisonment of up to one year or a pecuniary punishment.

2. The defendant shall not be punished if he proves that the fact that he has claimed or disseminated is true.

3. If the defendant had known that the fact that he has claimed or disseminated is false, he shall be punished with imprisonment.

Art. 365 – Disparagement of the memory of a deceased person

Whoever disparages the memory of a deceased person with brutal or malicious insulting behaviour or through defamation (article 363) shall be punished with imprisonment of up to six months.

Art. 366 – General provisions

1. If the fact of article 362 is true, the act shall remain unpunished. Attempts at proving the veracity of the fact, however, are prohibited when the fact refers exclusively to relationships of family or private life that are not harmful to the public interest and the claim or dissemination was committed maliciously.

2. If, in the cases of articles 362, 363, 364, and 365, the fact that the responsible person has claimed or disseminated refers to a punishable act for which prosecution has been commenced, the trial for the [discreditation or defamation] shall be suspended until the end of the criminal prosecution; it is considered to be proven that the fact to which the discreditation or defamation refers is true if the judgment is one of conviction, and false, if the judgment is one of acquittal based on the fact that it has not been proven that the [discredited or defamed] person ever committed the punishable act.

3. Proving that the fact to which the discreditation refers is true does not preclude punishment for insulting behaviour if the way in which the discreditation has been expressed or the circumstances under which it has been committed indicate purpose of insult [according to article 361].

Art. 367 – [without title]

1. The following are not wrongful acts: α) unfavourable criticism of scientific, artistic, or professional projects; β) unfavourable statements contained in a document of a public authority regarding issues related to its service, as well as γ) manifestations made in the execution of legal duties, the exercise of lawful power, or for the safeguarding (protection) of a right, or due to any other justified interest, or δ) any similar cases.

2. The previous provision does not apply: α) where the aforementioned critiques and statements fulfil the constituent elements of the act of article 363, as well as β) when the manner of expression or the circumstances under which the act has been committed indicate the purpose of insult [according to article 361].

Art. 368 – Criminal complaint

1. In the cases of the articles 361, 362, 363, 364, and 365, criminal prosecution shall be commenced only upon criminal complaint. If the harmed person is a police, coastguard, fire service or healthcare services employee and the act was committed in the context of his service by a person who acted with his characteristics disguised or altered, criminal prosecution in the case of article 361 shall be commenced *ex officio*.

2. In the case of article 365, entitled to file a criminal complaint are the surviving spouse and the children of the deceased person and, if these do not exist, his parents and siblings. In the case of article 364, those entitled to file a criminal complaint include the board of directors and anyone else with a substantial legal interest.

3. If the harmed person is a public employee and the act was committed in the context of his service or for reasons related to its execution, entitled to file a criminal complaint are also his superior authority and the competent Minister.

Art. 369 – Publication of the judgment

1. Para. 3 of article 229 also applies to the cases of articles 361, 362, 363, 364, and 365 in favour of the person who filed the criminal complaint; the deadline for the publication of the judgment commences from the moment of its service to him. If the act was committed by means of an article published in the press, publication [of the judgment] must be carried out by means of the entry in a newspaper of at least the grounds and the operative part of the judgment.

2. The publisher of the newspaper or of the magazine in which the article that caused the conviction had been published is obliged to publish the whole judgment in his newspaper or magazine within eight days of the judgment being served to him, and in the same position and with the same elements as the entry of the insulting publication; otherwise he shall be subjected to imprisonment of up to one year or a pecuniary punishment.

TWENTY-SECOND CHAPTER
Breaches of confidentiality

Art. 370 – Breach of the confidentiality of letters

1. Whoever, unduly and with the purpose of bringing its content to his knowledge, opens a sealed letter or other sealed document, breaks into an enclosed place in which they are kept, or in any way violates the privacy of others by reading, copying, or making an imprint, in any way, of a letter or other document, shall be punished with a pecuniary punishment or imprisonment of up to one year.

2. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 370A – Breach of the confidentiality of telephone communication and oral [face-to-face] conversation

1. Whoever unduly intercepts, or by any other means interferes with a device, a connection, or a network of a telecommunication services provider, or with a hardware or software system which is used for the provision of such services, with the purpose that he or another person is informed of, or records to a physical storage medium, the content of a telephone conversation between third parties or the location and movement data of the communication in question, shall be punished with incarceration of up to ten years. The same punishment shall also be imposed for the act of the previous sent. when the perpetrator records to a physical storage medium the content of his telephone conversation with another person without the explicit consent of the latter.

2. Whoever unduly monitors by special technical means or records to a physical storage medium an oral [face-to-face] conversation between third parties or records to a physical storage medium a private act of another person shall be punished with incarceration of up to ten years. The same punishment shall also be imposed for the act of the previous sent. when the perpetrator records to a physicial storage medium the content of his conversation with another person without the explicit consent of the latter.

3. With incarceration of up to ten years shall be punished whoever makes use of the information or the physical storage medium on which this information has been recorded in the ways provided in paras. 1 and 2 of this article.

4. If the perpetrator of the acts of paras. 1, 2, and 3 of this article is a telephone communication provider, its legal representative or a member of the board of directors, the person responsible for ensuring confidentiality, an associate or a partner of the provider, or if he conducts private investigations, commits these acts professionally or habitually, or if he hoped to receive payment, incarceration of up to ten years and a pecuniary punishment of between fifty-five thousand (55,000) and two hundred thousand (200,000) euros shall be imposed.

5. If the acts of paras. 1 and 3 of this article entail the breach of military or diplomatic confidential information, or refer to confidential information regarding state security or the security of installations of public benefit, they shall be punished in accordance with articles 146 and 147 of the Penal Code.

Art. 370B – [without title]

1. Whoever unduly copies, records, uses, discloses to a third party, or in any way breaches data or computer programs which constitute state, scientific, or professional confidential information or the confidential information of an enterprise of the public or private sector, shall be punished with imprisonment of at least three months. Confidential is also considered whatever its lawful possessor treats as such due to a justified interest, especially when he has taken measures to hinder third parties from obtaining knowledge of this.

2. If the perpetrator is in the service of the possessor of the data or if the confidential [information] is of particular economic importance, imprisonment of at least one year shall be imposed.

3. If this is military or diplomatic confidential information, or confidential information regarding state security, the act provided for in para. 1 shall be punished in accordance with articles 146 and 147.

4. The acts prescribed in paras. 1 and 2 are prosecuted upon criminal complaint.

Art. 370Γ – Illegal access to an information system

1. Whoever copies or uses computer programs without the right to do so shall be punished with imprisonment of up to six months and a pecuniary punishment of between two hundred and ninety (290) and five thousand nine hundred (5,900) euros.

2. Whoever, without the right to do so, obtains access to the whole or any part of an information system or to data transmitted by telecommunication systems, by breaching the prohibitions or security measures implemented by their lawful possessor, shall be punished with imprisonment. If the act is related to international relations or state security, he shall be punished in accordance with article 148.

3. If the perpetrator is in the service of the lawful possessor of the information system or of the data, the act of the previous paragraph shall only be punished if it is explicitly prohibited according to an internal regulation or a written decision of the possessor or of a competent employee of the latter.

4. The acts of paras. 1 to 3 shall be prosecuted upon criminal complaint.

Art. 370Δ – [without title]

1. Whoever, unduly and by technical means, intercepts or records to a physical storage medium non-public transmissions of data or electromagnetic emissions

from, to, or within an information system, or interferes with them, with the purpose that he or another person is informed of their content, shall be punished with incarceration of up to ten (10) years.

2. With the punishment of para. 1 shall be punished whoever makes use of the information or the physical storage medium to which it has been recorded as described in para. 1.

3. If the acts of paras. 1 and 2 entail the breach of a military or diplomatic confidential information, or refer to confidential information regarding state security in times of war, they shall be punished according to article 146.

Art. 370E – [without title]

With imprisonment of up to two (2) years shall be punished whoever, without the right to do so and with the purpose of committing any of the criminal offences of articles 370B, 370Γ paras. 2 and 3, and 370Δ, produces, sells, procures for use, imports, possesses, distributes or otherwise makes available: α) devices or computer programs designed or adapted primarily for the purpose of committing any of the criminal offences referred to in articles 370B, 370Γ, and 370Δ, [or] (β) passwords, access codes, or other similar data by which the whole or any part of an information system can be accessed.

Art. 371 – Breach of professional confidentiality

1. Clergymen, lawyers and every kind of legal representative, notaries, doctors, midwives, nurses, chemists, and others to whom people normally entrust private confidential information due to their profession or capacity, as well as the assistants of these persons, shall be punished with imprisonment of up to one year or a pecuniary punishment if they disclose private confidential information that has been entrusted to them or has come to their knowledge due to their profession or capacity.

2. Likewise shall be punished whoever, after the death of any of the persons mentioned in para. 1 and due to this reason, becomes the possessor of documents or notes of the deceased related to the exercise of his profession or capacity and discloses private confidential information included in these [documents and notes].

3. Criminal prosecution shall be commenced only upon criminal complaint.

4. The act is not wrongful and remains unpunished if the responsible person aimed to fulfil a duty or preserve a legal, or otherwise justified, substantial interest of his, of the public, or of another person, which could not have been otherwise preserved.

TWENTY-THIRD CHAPTER
Criminal offences against property

Art. 372 – Theft

1. Whoever removes from another person's possession a movable thing belonging (in whole or in part) to another person, with the purpose of unlawfully appropriating it, shall be punished with imprisonment of at least three months, and if the object of the theft is of a particularly high value, with imprisonment of at least two years.

2. According to the present Code, movable things also include electricity [power], steam [power], and any other type of power.

3. The provision of article 72 on the referral of the responsible person to a labour facility shall also apply to this case.

Art. 373 – [without title]

As a person responsible for theft shall also be punished whoever, with the purpose of unlawfully acquiring a benefit in the form of assets for himself or a third person, removes things from a deceased person by means of tomb raiding.

Art. 374 – Aggravated cases of theft

Theft shall be punished with incarceration of up to ten years if: α) from a place intended for religious practice, a thing dedicated to this religious practice has been removed; β) a thing of scientific, artistic, archaeological, or historical value that belonged to a collection exhibited in public view, in a public building, or in any other public place, has been removed; γ) a thing being transported by any means of public transportation, placed in a location intended for the storage of things to be transported or collected, or carried by a traveller, has been removed; δ) the theft has been committed by two or more persons collaborating in order to commit thefts or robberies; ε) the act has been committed by a person who commits thefts or robberies professionally or habitually, or if the total value of the objects of the theft exceeds the sum of one hundred and twenty thousand (120,000) euros.

Art. 374A – [without title]

1. Whoever removes from another person's possession any motor vehicle intended for transport which belongs to another person with the exclusive purpose of using it for a very short period of time shall be punished with imprisonment of up to two years.

2. Criminal prosecution shall only be commenced upon criminal complaint.

3. The provision of article 384 also applies to the criminal offence of para. 1 of this article, however, in addition to returning the thing, full satisfaction of the harmed person is also required.

Art. 375 – Misappropriation

1. Whoever unlawfully appropriates a movable thing belonging (in whole or in part) to another person which came into his possession by any means shall be punished with imprisonment of up to two years and, if the misappropriated object is of a particularly high value, with imprisonment of at least one year. If the total value exceeds the sum of one hundred and twenty thousand (120,000) euros, the responsible person shall be punished with incarceration of up to ten years.

2. If the thing is of a particularly high value and has been entrusted to the responsible person out of necessity or due to his capacity as authorized representative or legal guardian of the harmed person, or [due to his capacity] as a sequestrator or a manager of another person's assets, the responsible person shall be punished with incarceration of up to ten years. If the value of the total object of the act of the previous sent. exceeds the sum of one hundred and twenty thousand (120,000) euros, this constitutes an aggravating circumstance.

3. To a thing belonging to another person shall also be assimilated: α) the price received by the responsible person for a movable thing which had been entrusted to him for sale and β) the movable thing that the responsible person acquired with the money or with any other thing, which had been entrusted to him in order to buy or to exchange respectively the acquired thing.

Art. 376 – Concealing the finding of a thing

Whoever finds a lost thing yet does not announce its finding within fourteen days to the authorities, the public, or the person entitled to the thing, shall be subject to a pecuniary punishment. If the object is of an insignificant value, the court may decide [that] the act [remain] unpunished.

Art. 377 – Minor thefts and minor misappropriations

1. If the object of the theft or the misappropriation is a thing of little value, [the theft or misappropriation] shall be punished with imprisonment of up to six months. However, if the act has been committed out of necessity for the immediate use or consummation of the object of the theft or misappropriation, the court may decide [that] the act [remain] unpunished.

2. In the cases of this article, criminal prosecution shall be commenced only upon criminal complaint.

Art. 378 – Theft or misappropriation between relatives

A theft or misappropriation shall be prosecuted only upon criminal complaint if it has been committed: α) between relatives by blood or marriage in a direct line, adoptive parents and adopted children, spouses or *fiancés*, siblings and their spouses and *fiancés*; β) by a spouse regarding the assets left in the will of the other

spouse; [or] γ) against a legal guardian of, or carer for, the responsible person, as well as against a person with whom the responsible person or the participant is in a dependent relationship or lives in the same house.

Art. 379 – Returning the misappropriated thing

[Art. 379 has been abolished; see art. 34 L. 3904/2010].

Art. 380 – Robbery

1. Whoever, with physical violence against a person or with threats regarding imminent danger to body or life, removes from another person a movable thing belonging (in whole or in part) to another person, or forces [another person] to surrender [the thing] to him, in order to appropriate it unlawfully, shall be punished with incarceration. The commission of the act of the previous sent. by means of disguise or alteration of the perpetrator's facial characteristics constitutes an aggravating circumstance. If the person responsible for this act was carrying a military grade rifle, a 40-millimeter and above firearm, a machine gun, a submachine gun, a hand grenade, an explosive device, a heavy weapon, or an artillery weapon, he shall be punished with incarceration of at least ten years.

2. If the act resulted in the death or the severe bodily harm of a person, if the act was committed against a person in a particularly cruel manner, or if the perpetrator made use of a military grade rifle, a 40-millimeter and above firearm, a machine gun, a submachine gun, a hand grenade, an explosive device, a heavy weapon, or an artillery weapon, lifelong incarceration shall be imposed.

3. The same punishments (paras. 1 and 2) shall be imposed upon any person who, after being caught in the act of stealing, uses physical violence against a person or threats regarding imminent danger to body or life in order to retain the stolen thing.

Art. 381 – Damage to the property of another person

1. Whoever intentionally destroys or damages a thing belonging (in whole or in part) to another person, or in any other way makes its use impossible, shall be punished with imprisonment of up to two years.

2. If the object of the damage is a thing of little value or if the harm caused by the damage is negligible, the responsible person shall be punished with detention of up to six (6) months or a fine of up to three thousand (3,000) euros.

Art. 381A – Damage to computer data [i.e., illegal data interference]

1. Whoever, without the right to do so, deletes, damages, alters, or suppresses digital data on an information system, or makes their use unavailable or otherwise renders such data inaccessible, shall be punished with imprisonment of up tp three (3) years. In particularly minor cases the court may find the act not punishable, taking into consideration the circumstances of the commission [of the act].

2. The act of the first paragraph shall be punished: α) with imprisonment of between one (1) and three (3) years if it has been committed through the use of a tool designed primarily for the commission of attacks that affect a great number of information systems, or of attacks that cause serious damage, and especially attacks that cause large-scale or long-term disruption of the services [offered by] the information systems, financial damage of a particularly high value, or significant loss of data, β) with imprisonment of at least one (1) year if it has caused serious damage, and especially large-scale or long-term disruption of the services [offered by] the information systems, financial damage of a particularly high value, or significant loss of data, and γ) with imprisonment of at least one (1) year if it has been committed against information systems making part of an infrastructure for supplying the population with goods or services of critical importance. Goods or services of critical importance are considered to be, in particular, [the areas of] national defence, health, public transport, transport [in general], and energy.

3. If the acts of the previous paragraphs have been committed within the framework of a structured group of three or more persons with continuous activity that strives to commit more than one of the criminal offences defined in the present article, the responsible person shall be punished with imprisonment of at least two (2) years.

4. A criminal complaint is required for the criminal prosecution of the act of para. 1.

Art. 381B – [without title]

With imprisonment of up to two (2) years shall be punished whoever, without the right to do so and with the purpose of committing any of the criminal offences of article 381A paras. 1, 2, and 3, produces, sells, procures for use, imports, possesses, distributes, or otherwise makes available: α) devices or computer programs designed or adapted primarily for the purpose of committing any of the criminal offences referred to in article 381A, β) passwords, access codes, or other similar data by which the whole or any part of an information system can be accessed.

Art. 382 – Aggravated cases of [property] damage

1. With imprisonment of at least three months shall be punished the damage to the property of another person provided for in the first paragraph of article 381 if its commission was not provoked by the harmed person.

2. Subject to the punishment of the previous paragraph shall be the perpetrator if the object of the act stipulated in the first paragraph of article 381: α) is a thing used for public benefit; β) is of a particularly high value; [or] γ) if the damage occurred by means of fire or by one of the means stipulated in article 270.

3. If two or more persons have participated in the act provided for in the first paragraph, or if one of the circumstances of the second paragraph also concurs, imprisonment of at least six months shall be imposed.

4. Whoever causes, under the conditions of the previous article, damage or harm to an archaeological, artistic, or historical monument, or to an object placed in a public space, shall be punished with imprisonment of at least one year, unless the act is punished more severely according to another provision.

Art. 383 – General provisions

In the cases of articles 381 and 382 para. 2 *lit.* β', criminal prosecution shall be commenced only upon criminal complaint by the harmed person.

Art. 384 – Satisfaction of the harmed person

1. The punishability of the criminal offences of articles 372–374, 375–377, 381, and 382 is expunged if the responsible person, of his own volition and before being examined in any way by the authorities as regards his act, returns the thing without [causing] unlawful harm to a third person or satisfies the harmed person in full. Partial return or satisfaction only expunges punishability up to the respective part.

2. If the person responsible for the acts of para. 1, before commencement of criminal prosecution and without [causing] unlawful harm to a third person, returns the thing, and the harmed person or his heirs declare that they do not have any other claim stemming from the act, or satisfies the harmed person in full by paying, demonstrably or as declared by the harmed person or his heirs, the capital sum and any interest due for late payment, criminal prosecution shall not be commenced and the case file shall be closed with a reasoned order from the prosecutor of the misdemeanours court.

3. The person responsible for the misdemeanours provided for in articles 372, 373, 375–377, 381, and 382 shall be exempted from any punishment if, up until the end of the evidentiary procedure before the court of first instance, he returns the thing and the harmed person or his heirs declare that they do not have any further claim stemming from the act, or satisfies the harmed person in full by paying, demonstrably or as declared by the harmed person or his heirs, the capital sum and any interest due for late payment.

4. As regards the attempt of the acts of para. 1, the declaration of the harmed person or his heirs that they have been satisfied is sufficient.

5. The declaration of the harmed person or his heirs that they have been satisfied in full is valid with respect to all participants except for those declaring that they do not accept it.

Art. 384A – Repression of provocative damages

[Art. 384A has been abolished; see art. 34 L. 3904/2010].

TWENTY-FOURTH CHAPTER
Criminal offences against assets

Art. 385 – Extortion

1. Whoever, except in the cases of article 380, with the purpose of acquiring an unlawful benefit in the form of assets for himself or another person, forces a person, with threats or by means of violence, to engage in an act, omission, or tolerance that results in damage to the assets of the person who has been forced [in such a way] or [to the assets] of another person, shall be punished: α) in accordance with article 380, paras. 1 and 2, if the act was committed by means of physical violence against a person or through threats regarding imminent danger to body or life [of a person]; β) with imprisonment of at least two years, whereas the conversion or suspension of the punishment is not permitted, if the responsible person used violence or a threat to harm the enterprise, profession, office, or any other occupation that the person subjected to such force or another person exercises, or offered to provide or provides protection for preventing a third party from causing such harm. If the above acts have been committed by a person who commits such acts habitually or professionally, [this person] shall be punished with incarceration of up to ten years; γ) in any other case, [the perpetrator shall be punished] with imprisonment of at least three months.

2. The provisions of article 72 referring to a labour facility shall also apply to this case.

Art. 386 – Fraud

1. Whoever, with the purpose of acquiring an unlawful benefit in the form of assets for himself or another person, damages the assets of another by convincing a person to engage in an act, omission, or tolerance by means of knowingly depicting fabricated events as fact or by means of unduly concealing or withholding real events [facts], shall be punished with imprisonment of at least three months, and if the damage caused is particularly serious with imprisonment of at least two years.

2. The provisions of article 72 referring to a labour facility shall also apply to this case.

3. Incarceration of up to ten years shall be imposed if: α) the responsible person commits fraud professionally or habitually and the total benefit or total damage exceeds a sum of thirty thousand (30,000) euros, or β) if the benefit in the form of assets or the damage incurred exceeds in total a sum of one hundred and twenty thousand (120,000) euros.

Art. 386A – Computer fraud

Whoever, with the purpose of obtaining for himself or for another person an unlawful benefit in the form of assets, damages the assets of another by manipulating the

result of digital data processing through the incorrect configuration of a computer program, through the use of incorrect or incomplete data, or through the use of data or the intervention to a computer system without the right to do so, shall be subject to the punishments of the previous article. Damage to assets exists even if the persons who have been subjected to it remain unknown. Regarding the calculation of the extent of the damage, whether one or more persons have been harmed is irrelevant.

Art. 387 – Minor fraud

If the damage caused by the fraud is of little value, the provisions of paras. 1 and 2 of article 377 shall apply accordingly.

Art. 388 – Insurance fraud

1. Whoever, with the purpose of collecting, for himself or another person, the sum for which a movable or immovable object has been insured, brings about the consequences of the risk against which the insurance has been taken out, shall be punished with imprisonment of at least six months.

2. To the same punishment shall be subjected whoever, for the aforementioned purpose, causes bodily harm to himself or worsens the consequences of any bodily harm that has occurred due to an accident.

Art. 389 – Fraudulently causing damage

1. Whoever intentionally and unlawfully damages the assets of another by convincing a person to engage in an act, omission, or tolerance by means of knowingly depicting fabricated events as fact or by means of unduly concealing or withholding real events [facts], shall be punished with imprisonment of up to two years or a pecuniary punishment.

2. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 390 – Abuse of trust

Whoever knowingly causes damage to the assets of another person, of which, according to the law or a legal transaction, he has the custody or management (in whole or in part or only with respect to a specific act), shall be punished with im prisonment of at least three (3) months. If the damage to the assets exceeds the sum of thirty thousand (30,000) euros, the perpetrator shall be punished with incarceration of up to ten (10) years.

Art. 391 – Fare evasion

Whoever uses a means of public transport intended for public use without paying the price of a ticket of any kind shall be punished with detention or a fine. Criminal prosecution shall be commenced upon criminal complaint.

Art. 392 – Deceitful acceptance of the provision of supplies and services

1. Whoever, with the intention of not paying the price, acquires foodstuffs or beverages for immediate consumption, or accepts the provision of accommodation or services, the price of which is immediately payable in accordance with trade usage, shall be punished with a pecuniary punishment or imprisonment of up to three months.

2. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 393 – General provisions

[Art. 393 has been abolished; see art. 34 L. 3904/2010].

Art. 394 – Accepting and disseminating the products of a criminal offence

1. Whoever intentionally hides, buys, receives as collateral, or in any other way takes into his possession a thing resulting from a punishable act, transfers the possession of such a thing to another person, is an accomplice to the transfer, or in any way ensures the possession of another person of it, shall be punished with imprisonment, irrespective of whether or not the person responsible for the criminal offence of which the thing resulted is to be punished or not.

2. If the object of the act of the previous paragraph is of little value, the perpetrator shall be punished with imprisonment of up to six months and criminal prosecution shall be commenced only upon criminal complaint.

3. To the things resulting from a punishable act is also assimilated their price as well as the objects that have been acquired with those things.

4. If the responsible person commits such acts professionally or habitually, if he acted out of self-interest, or if the thing is of a particularly high value, imprisonment of at least six months shall be imposed. Article 72 on referral to a labour facility shall also apply to this case.

Art. 394A – Legalization of income generated through criminal activity [i.e., money laundering]

[Art. 394A has been abolished; see art. 9 L. 2331/1995].

Art. 395 – [without title]

[Art. 395 has been abolished; see art. 34 L. 3904/2010].

Art. 396 – Obstruction of competition

Whoever, in public auctions, obstructs, with threats or by means of violence, the free competition, or, with gifts or promises, keeps away the person making or intending to make an offer, shall be punished with imprisonment.

Art. 397 – Deceiving creditors

1. The debtor who intentionally cancels, wholly or partially, the satisfaction of his creditor by damaging, destroying or rendering worthless, hiding, or expropriating without an equal and solvent exchange, any of his assets, by fabricating false debts or false legal transactions, shall be punished with imprisonment of up to two years or a pecuniary punishment, unless the act is punished more severely according to another provision.

2. Likewise shall be punished whoever commits any of these acts in favour of the debtor.

3. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 398 – Bankruptcy

With imprisonment of at least one year shall be punished the person responsible for deceitful bankruptcy under the terms stipulated in commercial law, and with imprisonment of no more than two years the person responsible for simple bankruptcy. Criminal prosecution for the offence of simple bankruptcy shall be commenced upon criminal complaint by the receiver or the bankruptcy creditor.*

Art. 399 – Obstructing the exercise of a right

1. Whoever intentionally removes or destroys, wholly or partially, a thing of which he has ownership and in this way renders the exercise of a right to usufruct, use, occupancy, security *in rem*, or retainment with respect to this thing impossible for the person holding such a right, shall be punished with imprisonment of up to two years or a pecuniary punishment.

2. Likewise shall also be punished whoever commits any of these acts in favour of the owner.

3. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 400 – Unlawful fishing

1. Whoever fishes in waters where another person has the right to fish without the permission of the latter, shall be subject to a pecuniary punishment or imprisonment of up to six months.

2. If the responsible person exercises unlawful fishing professionally or habitually, he shall be punished with imprisonment of up to two years.

3. Criminal prosecution shall be commenced only upon criminal complaint.

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* See also the provisions of arts. 171 et seq. L. 3588/2007 (Bankruptcy Code).

Art. 401 – Fishing in territorial waters

A foreigner who fishes without the right to do so in the territorial sea of the Greek state shall be subject to a pecuniary punishment or imprisonment of up to six months.

Art. 402 – General provision

[Art. 402 has been abolished; see art. 34 L. 3904/2010].

Art. 403 – Inducement of minors into debt

1. Whoever, through self-interest and by means of exploiting the intellectual deficiency or the lack of experience of a minor, accepts for himself or for a third person, on behalf of the minor yet to his detriment, the promise or assurance of the payment of a sum of money, or another provision that has monetary value, shall be subject to a pecuniary punishment or imprisonment of up to one year.

2. Subject to the same punishment shall be whoever further expropriates or gives as collateral a claim of the kind mentioned in para. 1 that he acquired from the minor, or pursues the realization of the asset-related benefits stemming from [this claim].

3. Criminal prosecution shall be commenced only upon criminal complaint.

Art. 404 – Usury

1. Whoever, in the context of a legal transaction regarding the provision of credit, its renewal, or the extension of the payment deadline, exploits the need, mental weakness, intellectual deficiency, lack of experience, or the psychological agitation of the person receiving the credit, by agreeing upon, or by receiving, benefits in the form of assets for himself or a third person, that, with respect to the particular circumstances, are manifestly disproportionate to the provision made by the responsible person [i.e., the creditor], shall be punished with imprisonment of at least six months and a pecuniary punishment.

2. Subject to the same punishments shall also be: α) whoever, irrespective of the aforementioned conditions, during the provision of a loan, the extension of the deadline for its payment, its renewal, or its discounting, agrees upon or receives for himself or a third person benefits in the form of assets that exceed the due interest rate prescribed by law; β) whoever further expropriates or gives as collateral a claim that he has acquired and that is of the kind mentioned in para. 1 or in para. 2 *lit.* α', or intends the realization of the usury benefits stemming from this claim.

3. If the responsible person commits acts of usury of the kind mentioned in paras. 1 and 2 professionally or habitually, he shall be punished with incarceration of up to ten years and a pecuniary punishment.

4. If the acts of the above paragraphs are committed by legal persons, their managers and directors are criminally liable.

Art. 405 – Profiteering

1. Whoever, regarding other legal transactions except for those mentioned in art. 404 para. 1, and under the same circumstances, agrees upon, or receives, for himself or for a third person, benefits in the form of assets exceeding the value of his [own] provision to such an extent that, with respect to the particular circumstances, the asset-related benefits are manifestly disproportionate to it [i.e., the provision made by the responsible person], shall be punished, if he commits these acts professionally or habitually, with imprisonment of at least three months and a pecuniary punishment.

2. Para. 6 of article 404 shall also apply to this case.*

Art. 406 – Inducement to stock-market-related acts

Whoever, through greed, exploits the lack of experience or mental weakness of another person by inducing him to engage in stock-market-related acts that fall outside the business or professional activity of the person being induced, that are manifestly disproportionate to that person's [i.e., victim's] assets, and may, due to this fact, lead to or accelerate his financial ruin, shall be punished with imprisonment of up to two years.

Art. 406A – Satisfaction of the harmed person

1. The punishability of the criminal offences of the articles 386 to 406 is expunged if the responsible person, of his own volition and before being examined in any way by the authorities as regards his act, satisfies the harmed person in full. Partial satisfaction only expunges punishability up to the respective part.

2. If the person responsible for the acts of para. 1, before commencement of criminal prosecution, satisfies the harmed person in full by paying, demonstrably or as declared by the harmed person or his heirs, the capital sum and any interest due for late payment, criminal prosecution shall not be commenced and the case file shall be closed with a reasoned order from the prosecutor of the misdemeanours court.

3. The person responsible for the misdemeanours provided for in articles 386 to 406 shall be exempted from any punishment if, up until the end of the evidentiary procedure before the court of first instance, he satisfies the harmed person in full by paying, demonstrably or as declared by the harmed person or his heirs, the capital sum and any interest due for late payment.

4. The provisions of article 384 paras. 4 and 5 shall apply accordingly.

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* Para. 2 of article 405 refers to a provision of article 404 that has since been abolished.

5. The provisions of the above paragraphs shall not apply to the criminal offence of article 309 if the act is committed against the state, a legal person of public law, or organizations of local self-government of the first and second level.

TWENTY-FIFTH CHAPTER
Begging and vagrancy

Art. 407 – Begging

Whoever begs due to indolence, out of the [simple] desire for money, or does so habitually, shall be punished with detention of up to six (6) months or a fine of up to three thousand (3,000) euros. The pecuniary punishment may also be imposed along with the detention.

Art. 408 – Vagrancy

[Art. 408 has been abolished; see art. 1 para. 12 L. 2207/1994].

Art. 409 – Neglecting to prevent a person from begging or vagrancy

Subject to imprisonment of up to six months or a pecuniary punishment shall be: α) whoever pushes into begging, or omits to prevent from begging or vagrancy, persons who are under his custody or in a dependent relationship with him; [or] β) whoever, for his financial benefit or the financial benefit of another person, delivers, or supplies others with, individuals who are under the age of eighteen or who have completed this age but are physically or mentally disabled, in order to evoke, due to their young age or any physical or mental illness or disability, the sympathy or curiosity of the public.

Art. 410 – General provision

The provision of article 72 on referral to a labour facility shall also apply to the cases of articles 407–409.

TWENTY-SIXTH CHAPTER
Petty violations

I. General provisions

Art. 411 – Responsibility for petty violations committed by others

Factory owners, other managers, or foremen in any industry including artisanal industries, as well as contractors and merchants, are responsible for any petty violation committed by their subordinates or their representatives, which are related to

ordered or forbidden acts and relevant to the performance of their tasks, if they are aware of them and are able to prevent them, or if it is possible that negligence regarding their due supervision be attributed to them.

Art. 412 – Recidivists or habitual petty offenders

1. Whoever, though punished repeatedly or at least twice within a two-year period with detention for the same or a related petty violation, commits a new petty violation of the same kind, shall be punished with detention increased by up to two times that [punishment of detention] defined by law for the committed petty violation.

2. The same [provision] shall apply, regardless of the time of punishment, if, through the combination of the most recent petty violation with the preceding ones, it is proven that the responsible person commits petty violations habitually or professionally.

II. Specific petty violations

Art. 413 – Accepting awards and remuneration from a foreign power

A Greek national who accepts a salary, pension, title, honorary decoration or other distinctive sign from a foreign power without the explicit permission of the [Greek] Government, shall be punished with detention of up to three months, a fine, or both of these punishments.

Art. 414 – Unlawful practice of a profession

1. Whoever, without permission from an authority, practices a profession, for the exercise of which the law requires permission, shall be punished with a fine or detention.

2. This provision shall not apply: α) when the permission required by law exists exclusively for tax purposes and β) in those cases specially prescribed by law.

Art. 415 – Unauthorized change of name

Whoever, without permission from an authority, changes his surname, or takes up another family's surname, shall be punished with detention.

Art. 416 – Causing anxiety

Whoever intentionally causes anxiety to another person or mobilizes the authorities or the armed forces by falsely requesting help, unduly using danger signals, making false or superstitious announcements, or [spreading] rumours, shall be punished with detention or a fine, unless the act is punished more severely according to another provision.

Art. 417 – Disturbance of the peace

Whoever publicly disturbs the activities, leisure, or night-time tranquillity of [local] residents with excessive noise produced while exercising a profession or caused by any other means, or with noises, quarrels, or any other acts, shall be punished with detention or a fine.

Art. 418 – Excess of night-time hours

If restaurants or other places of public recreation and entertainment fail to suspend their operation during those night-time hours set by the police, a fine or detention shall be imposed: α) upon the manager of the premises who tolerates others staying beyond these hours, and β) upon patrons who remain in the premises after being urged to leave by the manager of the premises or a police officer.

Art. 419 – Public spectacles-related violations

Subject to a fine or detention shall be whoever organizes public spectacles, theatre, or other public performances, without the permission of the police authority, as well as whoever violates, in relation to such spectacles or performances, the provisions issued by the authorities regarding their place, time, or procedures.

Art. 420 – Violation of street-related provisions

Whoever violates those provisions issued by a competent authority, police provisions in particular, designed to ensure the safety, order, comfort, peace, or cleanliness of the public streets, squares, or waters, shall be punished with a fine or detention of up to two months.

Art. 421 – Violation of coast-related provisions

With a fine or detention of up to two months shall be punished whoever violates those provisions of the competent authority, police provisions in particular, issued in order to protect the coasts, the seashore, the banks of lakes and rivers, or plantations and other installations on them.

Art. 422 – Neglecting to prevent harm caused by poisoning

Whoever knows that the use of a thing may result in the danger of human or animal poisoning and omits to prevent said danger by the means available to him, shall be punished with detention of up to two months or a fine.

Art. 423 – Unlawful manufacture and provision of poisons

With detention of up to two months or a fine, unless another provision imposes a more severe punishment, shall be punished whoever: α) manufactures, sells, or otherwise supplies poison without the required permission from the authorities.

Para. 2 *lit.* α' of article 414 shall also apply to this case; [or] β) violates the provisions of the competent authority, police provisions in particular, on the manufacture, sale, or supply of a poison, or becomes by any of these actions responsible for any negligence that may result in the harm of another person or any animal belonging to another.

Art. 424 – Violations related to the safekeeping and transportation of poisons

Subject to the punishments of article 423, unless another provision imposes a more severe punishment, shall be whoever: α) in any way possesses poison and fails to store it diligently so as to avoid any alteration or harmful use of it; [or] β) violates the provisions of the competent authority, in particular the police, related to the safekeeping or transportation of poison.

Art. 425 – Interaction dangerous to the health of others

If a person suffering from a contagious disease comes into any personal contact with another person that may lead to the immediate transmission of the disease, he shall be punished with detention of up to five months or a fine.

Art. 426 – Violation of provisions on deceased persons

Whoever violates the provisions issued by the competent authority on public health protection regarding the exposure of the deceased in public view or [the provisions] on the time, place, or way of interment, shall be punished with detention of up to two months or a fine.

Art. 427 – Violation of sanitation [and hygiene] provisions

Whoever violates the provisions of the competent authority, the police in particular, on sanitation [and hygiene standards] regarding: α) waters, whether used by humans or not; β) foods exhibited or intended for sale; γ) shops or other places of food manufacture or sale; δ) any craft, trade, industry, or other professional practice, and ε) generally, any relation, act, or omission which may affect public sanitation [and hygiene], shall be punished with a fine or detention of up to two months, unless the act is punished more severely according to another provision.

Art. 428 – Pollution

Whoever throws at other persons, the houses of others, any other building, or the fenced enclosures of others, litter or other objects that may cause disturbance to another person shall be punished with a fine or detention.

Art. 429 – Violation of provisions on foods

1. With a fine or detention of up to three months shall be punished whoever violates the provisions of the competent authority, the police in particular, concerning:

α) the subjection of foodstuffs to the supervision or testing of an authority; β) merchants' food procurement and storage obligations; γ) the place or the time, the legitimate price or other details regarding the sale of foodstuffs and the general issues related to their trade and supply.

2. The provision of para. 1 shall not apply to cases where the violation is regulated by a special provision.

Art. 430 – Violation of provisions on flood prevention

Whoever violates provisions issued by the competent authority, the police in particular, on the avoidance of damages caused by waters, shall be punished with a fine or detention of up to two months.

Art. 431 – Obstruction of traffic

Whoever hinders, without the right to do so, traffic in public places on land or water, or by any means obstructs or puts in danger its safe circulation, shall be punished with a fine or detention of up to two months, unless this act is punished more severely according to another provision.

Art. 432 – Unlawful manufacture and supply of explosives

With detention of up to three months or a fine, unless another provision imposes a more severe punishment, shall be punished whoever: α) without the required permission from an authority, manufactures, sells, or otherwise supplies gunpowder or any other explosive substance, a flammable firework, or a caustic substance. Para. 2 *lit.* α' of article 414 shall also apply to this case; β) violates the provisions of the competent authority, police provisions in particular, concerning the manufacture, sale, or any other form of supply, the storage, transportation, or use, of any similar object; or γ) becomes responsible, with respect to any of these actions, for any kind of negligence that could result in harm to a human being or damage to a thing belonging to another person.

Art. 433 – Violation of provisions on fire prevention

With detention of up to three months or a fine shall be punished, unless another provision imposes a more severe punishment, whoever: α) uses fire or means of lighting imprudently and negligently, in a way that could result in harm to a human being or damage to a thing belonging to another person; and β) violates the provisions issued by the competent authority, the police in particular, on the prevention of the danger of arson.

Art. 434 – Violation of construction provisions

With detention or a fine, unless another provision imposes a more severe punishment, shall be punished whoever: α) violates the provisions issued by the compe-

tent authority, the police in particular, on the safety or hygiene of construction sites, on the regulation of the general orderliness of construction, or on the prevention of dangers that may arise from construction; β) during construction, becomes responsible for any negligence that could result in harm to a human being or damage to a thing belonging to another person; γ) becomes responsible for one of the acts mentioned in *lit.* α' and β' during the execution of any other similar task or a demolition.

Art. 435 – Causing danger with animals

Whoever: α) allows a wild animal or a dangerous animal to roam freely; β) omits to take the precautions required for the prevention of harm by these animals or the measures ordered by the competent authority; γ) keeps a dangerous wild animal without the permission of the police; [or] δ) induces dogs to attack humans, shall be punished with a fine or detention of up to two months.

Art. 436 – Causing danger with a weapon

With detention or a fine, unless another provision imposes a more severe punishment, shall be punished whoever, regarding the possession, use, or delivery of a weapon to another person: α) violates the provisions of the competent authority, those of the police in particular; [or] β) becomes responsible for any negligence in a way that could result in harm to another person.

Art. 437 – Causing danger by throwing stones

Whoever throws at other persons, at the houses of others, or any other buildings, into yards, gardens, or fenced enclosures, or into places in which people usually reside or which they frequent, stones or other hard objects with the potential to cause harm to a human being or the property of others, shall be punished with a fine or detention.

Art. 438 – Omissions regarding the securing of wells etc.

With a fine or detention of up to two months shall be punished whoever, in places frequented by people: α) leaves uncovered, unfenced, or in other way unguarded, wells, basements, pits, cliffs, or other cavities, artificial or natural, in a way that could cause danger to another person; [or] β) places, without the permission of the police, traps, machinery for automated shooting, or other similar installations that could result in danger to another person.

Art. 439 – Neglecting the supervision of insane persons

Whoever neglects their duty of supervision of an insane person, in such a way that danger to another person could result from such neglect, shall be punished with a fine or detention.

Art. 440 – Dangerous state of alcohol intoxication

1. Whoever, in a state of voluntary alcohol intoxication, causes danger to a person or a substantial disturbance of the public order shall be punished with a fine or detention, unless the act is punished more severely according to another provision.

2. Subject to the same punishment shall be whoever, while occupied with tasks requiring special attention, places himself in a state of alcohol intoxication, as well as whoever, while intoxicated, occupies himself with such tasks.

Art. 441 – Denial of medical treatment by doctors

Doctors and midwives who, without justified grounds, refuse to perform their duties, or in the performance of their duties become responsible for any negligence that could result in danger to another person, shall be punished with a fine or detention of up to three months, unless the act is punished more severely according to another provision.

Art. 442 – Neglecting to declare the discovery of a dead body

Whoever fails to immediately declare to the authorities the discovery of a dead body shall be punished with a fine.

Art. 443 – Secret and premature burial

Whoever: α) without the required permission of an authority, inters or in any other way disposes of, or dissects, a dead body, as well as whoever β) violates the provisions issued by the competent authority on the prevention of premature burial, disposal, or dissection of a dead body, shall be punished with a fine or detention of up to three months.

Art. 444 – Neglecting to declare foreigners etc.

Whoever violates the police provisions on the registration, or declaration to an authority, of foreigners whom one provides with accommodation or rents a house to, shall be punished with a fine or detention, unless the act is punished more severely according to another provision.

Art. 445 – Violation of provisions on private employees

Whoever violates police provisions on private employees or servants shall be punished with a fine or detention.

Art. 446 – Unlawful cutting of keys etc.

With a fine or detention of up to two months shall be punished: α) the locksmiths and other craftsmen or merchants who, without permission of the police authority, deliver spare keys or other tools for opening locks to any person; β) the locksmiths and other craftsmen who: αα) cut keys for doors, chambers, or storage facilities

without the permission of the police authority, or without the consent of the possessor of the residence or other immovable or movable object, or [without the consent of] the representative of the possessor; ββ) open locks of any kind when requested by a person, without an order from an authority or without ensuring that the person who requests the opening of things is their possessor or his representative.

Art. 447 – Violations regarding weights and measures

With a fine or detention, unless the act is punished more severely according to another provision, shall be punished: α) the professional found having in his possession scales, measures, or weights that are appropriate for the exercise of their profession but do not have the legal accuracy certification mark required by law, or that are indeed inaccurate; [or] β) whoever violates the provisions of the competent authority, the police in particular, on scales, weights, and measures.

Art. 448 – Violations regarding price-fixing

Whoever, except in the case of article 429 and every other special provision of law, violates the provisions of the competent authority on price-fixing shall be punished with a fine or detention.

Art. 449 – Manufacture and sale of products without a trademark

Whoever manufactures or sells gold or silver products that do not bear a legal trademark shall be punished with a fine.

Art. 450 – Causing danger regarding the circulation of currency

With a fine shall be punished whoever: α) manufactures, sells, or brings into circulation in any way objects which are so similar to gold or silver coins, notes, or documents that are treated as notes under article 214, that they are likely to be regarded as genuine; [or] β) manufactures seals, reliefs, slabs, or other moulds that can be used for the manufacture of any of the objects of *lit.* α'.

Art. 451 – Unlawful manufacture of tools for coinage

With a fine or detention of up to three months shall be punished whoever, without the written permission of an authority, manufactures, procures, or delivers to anyone other than the authorities or the legal beneficiary: α) seals, reliefs, slabs, or other moulds that can be used for the manufacture of metal or paper currency, documents that are treated as notes under article 214, official stamps (article 218), or official attestations or certificates; [or] β) imprints of the moulds or models of the aforementioned official documents, attestations, or certificates.

Art. 452 – Refusal to accept currency

Whoever refuses to accept as payment currency lawfully circulating in the country shall be punished with a fine.

Art. 453 – Unlawful production of private seals

With a fine shall be punished whoever, upon the order of unknown or untrustworthy persons, without a detailed examination nor protecting himself from potential abuse, produces or delivers private symbols, seals, or forms of bills of exchange used by some commercial houses.

Art. 454 – Violation of provisions on pawnshops

Whoever violates the provisions of the competent authority regarding pawnshops shall be punished with a fine, detention of up to three months, or both of these punishments.

Art. 455 – Concealment of homicide

Whoever committed any homicide that is to remain unpunished according to the provisions of articles 22 and 25, and did not declare it immediately to the nearest authority, shall be punished with a fine or detention.

Art. 456 – Land encroachment

1. Whoever intentionally and without the right to do so encroaches upon another person's immovable property, a public or private street or square, or the boundaries separating properties by digging, ploughing, or any other means, shall be punished with a fine or detention of up to three months.

2. Criminal prosecution shall be commenced only upon criminal complaint, unless the aforementioned street or square is for common use.

Art. 457 – Violation of the deprivation of a right

Whoever has been permanently or temporarily deprived of a specific right due to conviction for a criminal offence, yet continues to exercise it, shall be punished with a fine or detention of up to three months, unless the act is punished more severely according to another provision.

TWENTY-SEVENTH CHAPTER
Final provisions

Art. 458 – Violation of administrative provisions

Whoever intentionally violates an imperative or prohibitive provision of administrative law shall be punished with a fine of at least fifty-nine (59) euros, if the special provision refers to this article with respect to the penal sanction of the violation.

Art. 458A – Violation of EU regulations

Whoever intentionally violates sanctions or restrictive measures imposed through E.U. regulations against states, entities, organizations, or natural or legal persons, shall be punished with imprisonment of up to two years, unless another provision stipulates a more severe punishment. The provisions of the previous sent. [of the present article] also apply if the acts mentioned in it are not punishable according to the laws of the country in which they were committed.

Art. 459 – Violation of police provisions

Whoever violates a police provision regarding an object or purpose other than those specifically mentioned in the previous chapter shall be punished with a fine or detention.

THIRD BOOK
TRANSITIONAL PROVISIONS*

Art. 460 – [without title]

The Penal Code shall be in force from 1 January 1951.

Art. 461 – [without title]

From the entry into force of the Penal Code, the Penal Law of 3 November 1836 and any provision that modified this law are abolished.

Art. 462 – [without title]

In cases where the Military Penal Code and other special laws refer to an article of the abolished Penal Law, from the entry into force of the Penal Code these references shall concern the corresponding provisions of this [Penal] Code.

Art. 463 – [without title]

The punishments of detention, imprisonment, incarceration [*ειρκτή*], and temporary or lifelong restraint [*δεσμά*] provided for in special criminal laws shall be defined and applied, from the entry into force of the present Penal Code, in accordance with articles 51 to 55. Incarceration [*ειρκτή*] and temporary restraint [*δεσμά*] correspond to temporary incarceration, and lifelong restraint [*δεσμά*] corresponds to lifelong incarceration.

Art. 464 – [without title]

The punishment limits provided for in special laws remain in force.

Art. 465 – [without title]

Provisions of special laws according to which, in addition to the convicted person, a third party shall also be liable for the payment of a pecuniary punishment or pecuniary satisfaction are not abrogated.

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* In the third book of the Greek Penal Code the titles of specific listed laws are only important from a historical perspective. Therefore, they are not translated into English and are only referred to by their official number and year of enactment.

Art. 466 – [without title]

Provisions of special laws stipulating supplementary punishments, or other consequences in addition to those provided for in the Penal Code, are not abrogated.

Art. 467 – [without title]

In cases where special laws punish attempt and complicity with the same punishment as that of the completed criminal offence, the judge may impose a more lenient punishment according to article 42 para. 1 of the Penal Code.

Art. 468 – [without title]

In cases where special laws determine a limitation period [for the prosecution of criminal offences] that differs from the one mentioned in article 111 of the Penal Code, the limitation period is considered to be the final expiration time limit prescribed in these [special] laws, if this time limit lasts for at least one year. Otherwise, the limitation period is one year. When special laws do not determine a final expiration time limit, the limitation period [for the prosecution] of the punishable acts provided for in these [laws] is the time limit defined in article 111 of the Penal Code.

Art. 469 – [without title]

Custodial punishments irrevocably imposed upon minors who had not completed their 17th year of age when the act was committed, are considered, from the entry into force of the Penal Code, to be punishments of confinement in a correctional facility; the upper limit of this confinement is the duration of the punishment determined in the judgment and the lower limit is half of this period by application of the provisions of para. 3 of article 127 and articles 129 and 132 of the [present] Code. If the imposed punishment is the death penalty or lifelong restraint [*δεσμά*], this punishment is converted *ipso jure* into the punishment of confinement in a correctional facility. The upper limit of this confinement is twenty years and the lower limit is ten years.

Art. 470 – [without title]

In cases α' and β' of para. 3 article 5 L. 5017/1931, the Greek criminal courts shall try felonies or misdemeanours committed on board foreign aircraft, if the conditions of articles 6 and 7 of the Penal Code are fulfilled. In cases γ' and δ', prosecution always occurs in accordance with Greek penal laws, regardless of the laws of the state of nationality of the aircraft.

Art. 471 – [without title]

The following provisions are not abrogated: 1) the provisions of the L. ΤΟΔ' of 1871 […]; 2) the provisions of the L. ΓΩΛΣΤ' of 1911 […]; 3) the provisions on

forest damage etc. of article 219 L. 4173 […], as well as all special penal provisions of this law, except for those of article 473, which are abolished; 4) the provisions on rural theft, rural damage, and the moving of boundary markers of M.L. 1010 of 1939 […]; 5) the penal provisions of L.D. 136 of 1946 […], as all aforementioned provisions were subsequently amended; 6) the provisions of M.L. 375 of 1936 […], as this law was amended and supplemented subsequently.

Art. 472 – [without title]

For as long as it is therein provided, the following provisions remain temporarily in force: 1) the provisions of articles 2 and 3 L. 453 of 1945 […]; 2) the provisions of article 5 of Constitutional Act 19 of 1945; 3) the provisions of Resolution Γ΄ of 1946 […], as amended and supplemented with subsequent provisions, and 4) every other special penal provision in force for a certain period of time.

Art. 473 – [without title]

1. From the entry into force of the Penal Code are abolished: α) all provisions included in special laws regulating the extent of punishment in cases of concurrence and recidivism and β) those provisions excluding application for temporary release from prison, conditional suspension of the execution of punishment, and conversion of detention or imprisonment into a fine or pecuniary punishment.

2. The following provisions are also abolished: 1) L. 811 of 1917 […], as subsequently amended, except for articles 8, 10, and 11. 2) L. ΓΩΙΗ' […], as subsequently amended. 3) L.D. of 4 July 1933, as amended by ratification Law 5986 and by M.L. 1294 of 1938 (except for articles 15–19). 4) Para. 3 of article 102 L. 1165 (Customs Code), as replaced by article 3 of M.L. 2081 of 1939. 5) Articles 3 and 10 L. Γ ΜΔ […]. 6) Article 27 para. 9 L. 971 of 1917 […], as subsequently amended. 7) Articles 1, 2, and 3 L. 5096 on complementing the provisions of the Penal Law. 8) The provision of article 1 sentence 3 L. Γ'Ν […], according to which a pecuniary punis hment shall be imposed upon the possessor of a car in the case of an offence being imputed to the driver. 9) L. ΑΡΚΒ […], except for article 5. 10) Article 1 L. ΑΡΟΒ […]. 11) Article 5 L. ΓΩΛΖ […]. 12) Article 34 sent. δ' L. 3632 on stock exchanges. 13) Articles 9 and 10 L. 3090 on prison reform laws. 14) Articles 9 and 10 L. 202 on amending the provisions on the organization of courts. 15) Article 60 L. 6094 on organizing the secretary of the courts. 16) L. 755 of 1917 […]. 17) L. 1592 on duels, except for articles 7 and 8. 18) L. 2111 on offences against the freedom to work. 19) Article 1 L. 2918 on amending L. ΓΦΑ and 389 […]. 20) Articles 1 to 7 L. 1681 on truancy and begging. 21) Articles 4 and 5 L. 1682 on loitering and begging. 22) Articles 66, 67, and 68 L.D. of 17 July 1923/16 August 1923 […]. 23) Paras. 1, 2, and 3 of article 13 L. 3316 on the water supply of Athens-Piraeus. 24) The last sent. of article 7 L.D. 5/20 May 1926 […]. 25) Para. 5 of article 7 L. 4862 on foreign schools. 26) L. 4092 on the protection of the asset rights, except for article 3. 27) No. 7 of article 232 L.D. 11 March 1929

[…], as ratified by L. 4173 of 1929. 28) Articles 41 to 45 L. 4277 on correspondence by telegraph as well as article 2 L. 4275 on correspondence by telephone as far as, through this article, articles 41 to 45 also apply to telephone communications. 29) Paras. 6 and 7 of article 8 L. 4332 on ratifying the contract between the state and the National Bank regarding the Establishment of the Agricultural Bank. 30) No. 6 of article 24 P.D. 23/28 November 1929 […], as replaced by article 4 M.L. 1966 of 1939. 31) Articles: 14, as replaced by article 8 L. 6243/1934, and 15 L. 4581 on mail correspondence, and article 9 L. 6243/1934, as complemented by article 2 M.L. 1814 of 1939. 32) No. 1 of article 72 and article 73 L. 4639 on professional cooperatives established mandatorily. 33) Articles 57, 59, and 61 L. 4755 on stamp duties. 34) The eighth sent. of *lit.* β' of no. 11 of article 42 […] and the last sent. of no. 8 of article 43 […] of L. 4841 on automobiles and the obligations of drivers. 35) Article 58 L. 4971 on the organization of the city police. 36) Article 16 L. 6015 on the fire service. 37) Para. 2 of article 107 M.L. 7/8 June 1935 […]. 38) No. 3 of the single article of L. 5004 […]. 9) Articles 4 to 10 L. 5016 on the ratification of the International Geneva Convention of 20 April 1929 […]. 40) Articles 10, 11, 12, 13, 17 18, 19, and 20 to 28 L. 5060 on the press etc. […], the second sent. of articles 3 and 4 L. 5999 on amending L. 5060. 41) Article 13 L. 5425 on the mortgage register. 42) Articles 3 and 4 L. 5458/1934 […]. 43) Article 4 L. 6439/1934 […]. 44) Article 5 M.L. of 19 November 1935 […], as amended. 45) Article 9 L. ATIB […]. 46) L. B' on the counterfeiting of postage stamps etc. of foreign states. 47) The fifth sent. of article 13 L. 5911 on school textbooks. 48) Articles 15 to 25 L.D. of 13 December 1923 […]. 49) Articles 1 and 2 L. 1390/1944 […]. 50) The second sent. of para. 1 of article 2 M.L. 2724/1940 […].

In general, any provision included in special laws is abolished if it refers to matters regulated by the Penal Code in its special part.

The Minister of Justice is assigned with the publication and execution of this Decree.

Index*

* The numbers refer to articles of the Penal Code.

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