

Anti-discrimination Legislation in EU Member States

A comparison of national anti-discrimination legislation on the grounds of racial or ethnic origin, religion or belief with the Council Directives

GREECE

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PREFACE

The European Union (EU) is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles which are common to all Member States. The right to equality before the law and the protection of all persons from discrimination, together with the respect and promotion of the rights of minorities is essential to the proper functioning of democratic societies. Strategies and activities to combat racism, xenophobia and anti-Semitism form an integral part of the European Union's work on equality, justice and social inclusion.

The Amsterdam Treaty which entered into force in May 1999, introduced a new article 13 into the EC Treaty. The European Commission proposed a package of measures to implement article 13 in November 1999 which led to the adoption in 2000 of a Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and a Council Directive establishing a general framework for employment equality and a Council Decision establishing a Community action programme to combat discrimination.

The European Monitoring Centre on Racism and Xenophobia (EUMC) was established by the EU during 1997 as part of the EU's aim to combat racism, xenophobia and anti-Semitism more effectively at a European level. The EUMC has the task to provide the Community and its Member States with objective, reliable and comparable data at the European level on the phenomena of racism, xenophobia and anti-Semitism in order to help them when they take measures or formulate courses of action. It also undertakes studies and examines examples of good practice, formulates conclusions and opinions and publishes an Annual Report.

The EUMC as part of its work in the field of legislation commissioned a study to compare Member States' anti-discrimination legislation and the article 13 directives. Information from the study was used to produce a series of country reports. The reports aim:

- to provide an overview of existing anti-discrimination legislation on the grounds of race or ethnic origin, religion or belief in the Member States and draw a comparison with the anti-discrimination Directives;
- to support the implementation of the directives by the Member States by indicating to each Member State the developments in other Member States (with the view that by providing information on the variety of approaches adopted by Member States to deal with the same issues Member States could benefit from the experience of each other);
- to identify areas which may require further development;
- to support the European Commission in the framework of the Community Action Programme in particular under Strand 1 - Analysis and evaluation, and
- to support wider debate as the issue is of interest to a variety of sectors in society.

The information in this report is therefore not meant to be an assessment of how effective legislation is in practice, but what legislation is in place. The EUMC takes this opportunity to thank Migration Policy Group for its work on this Study and hopes that this publication will be a useful contribution to overcoming discrimination.

Beate Winkler, Director EUMC

FRAMEWORK OF THE STUDY

Joint Project 1999-2000 “Research on national and European legislation combating racism”

In 1999, The European Monitoring Centre on Racism and Xenophobia (EUMC) undertook a joint project with Migration Policy Group on “Research on national and European legislation combating racism”. The period covered in the project was from 1 May 1999 to 31 January 2000. The project carried out a comparative study on existing legislative provisions to combat discrimination on grounds of race or ethnicity and religion and belief and the proposal for a Directive concerning the elimination of racial and religious discrimination (known as Starting Line) and the proposal of the European Commission for a Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, COM (1999) 566 final, 1999/0253 (CNS).

EUMC Project 2001-2002 “Study on the comparison of the adopted Article 13 Council Directives with existing national legislation in the EU Member States”

By the end of 2000, with the adoption of Council Directives 2000/43/EC (Implementing the principle of equal treatment irrespective of racial or ethnic origin) and 2000/78/EC (Establishing a general framework for equal treatment in employment and occupation), there existed at the European Community level an actual framework for Member States on which to base, adapt or amend national legislation.

Terms of reference of the study

With the change in the legal situation at the European Community level, the EUMC decided to follow up the Joint Project of 1999 by commissioning a new study on legislation. The study would:

- produce a report on the comparison of the adopted Article 13 Council Directives with existing national legislation in the EU Member States. The grounds of discrimination to be examined in the Council Directives for the purposes of the comparative study and report would be limited to racial or ethnic origin and religion or belief; and
- update the country reports from the Joint project with Migration Policy Group (MPG): checking to see how the adopted Council Directives compare with existing legislation in all fifteen Member States; including information on any changes in legislation in the fifteen Member States that have occurred since the drafting of the Joint Project Reports.

Timeline of the study

The EUMC launched a call for tender process in May 2001 and selected Migration Policy Group to undertake the new study.

Information was collected up until September 2001. This enabled the draft reports from the study to be completed in time for submission to the meeting of the Legal Working Group to prepare the implementation of Directives 2000/43 and 2000/78 on non-discrimination into national law which was convened by the European Commission in November 2001. The Legal Working Group had an opportunity to examine the reports and make comments by 7 December 2001. Comments received by the EUMC were then examined and incorporated where relevant and as appropriate.

Format and scope

The format for the study is a list of questions, some optional for the purposes of the EUMC, related directly to the articles of the Council Directives. Optional questions where included in the reports provide information related to gender discrimination and the new Protocol 12 to the European Convention on Human Rights. Optional questions were not essential for the reports (and are therefore not included in every report) as they do not relate directly to the Council Directives, but may provide useful complementary information.

The information provided indicates provisions in the Constitutions, the Criminal law, Civil law and Administrative Law of the relevant EU Member State. Every care has been taken to ensure that the translations of titles of legislation from the original language are as accurate as possible, but they are for information purposes only and should not be regarded as the definitive or official translations by the European Union. The title of the piece of legislation in its original language has been included and should be referred to.

Final Caveat

The reports cover legal aspects as well as institutional mechanisms to promote equal treatment and combat discrimination as outlined by the Council Directives. In all reports there is a description of the legal and institutional situation and an indication of whether their compatibility with the Council Directives should be reviewed, some reports may indicate case law where it exists to complement the information on the legal provision, there is an element of evaluation in the reports, but the main emphasis has been to indicate what provisions exist without necessarily trying to evaluate them. As a result there may be some discrepancy between reality and the situation reflected by the law.

The final decision whether national legislation is compatible with the Council Directives rests with the European Court of Justice.

Introductory Remarks¹

Before the adoption of the Race Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC, combating racial discrimination in Greece was principally based on the 1965 International Convention on the Elimination of all Forms of Racial Discrimination² (ICERD) and on Law 927/1979 (amended by Article 24 of Law 1419/1984) on the prevention of acts or activities related to racial or religious discrimination³. The protection of all individuals against any form of racial or religious discrimination was further reinforced in 1997, following the adoption of Law 2472 on the protection of personal data⁴. Article 2b of this law deals with “sensitive data”⁵ which includes any data concerning, amongst other things, a person’s racial or ethnic origin or religious convictions.

ICERD and the application of Law 927/1979 (amended by Article 24 of Law 1419/1984), though key developments in the fight against discrimination, cannot alone prevent acts and activities relating to racial or religious discrimination. The application of legislation needs to be combined with the creation or empowering of institutional mechanisms, the involvement of the social partners and non-governmental organisations as part of a comprehensive approach to dealing with discrimination and promoting equal treatment.

For example, it is important to note that the prosecution of offences covered by Law 927/1979 (amended by Article 24 of Law 1419/1984) can only take place if a complaint is lodged by the injured party. Factors which may influence whether complaints are brought forward under this law include the ability of potential victims of racial discrimination to access the institutional and legal mechanisms. In addition, human rights organisations, immigrants’ rights organisations and non-governmental organisations involved in combating racism and xenophobia cannot currently institute or support legal actions in this regard. Taken together these factors may contribute to reasons why very few complaints to date have been lodged based on this law⁶.

¹ This Report was prepared by the EUMC using information from its study on comparing existing national legislation in EU Member States with the Article 13 Directives (Council Directives 2000/43/EC (Implementing the principle of equal treatment irrespective of racial or ethnic origin) and 2000/78/EC (Establishing a general framework for equal treatment in employment and occupation) undertaken on behalf of the EUMC by a group of experts working jointly for the Migration Policy Group, the European Roma Rights Centre and Interights. It includes information from a previous report by Anastassia Tsoukala which was part of a joint project of the Migration Policy Group and The European Monitoring Centre on Racism and Xenophobia entitled « Research on national and European legislation combating racism ».

² Ratified and brought into force by order of Law 494/1970.

³ This refers to Law 927/1979 “On the prevention of acts or activities related to racial discrimination” (JO 139/A of 28 June 1979) and Law 1419/1984 “Amendments to the provisions of the Penal Code, the Code of Criminal Procedure and other provisions” (JO 28/A, 14 March 1984) of which Article 24 stipulates that the provisions of Law 927/1979 shall also be applicable in cases of religious discrimination and specifies that the concept of racial discrimination covers the race as well as the ethnic origin of the persons concerned. The fight against racial discrimination was recently reinforced by the ratification of the International Covenant on Civil and Political Rights of 16 December 1996 (ratified by Law 2462/1997).

⁴ JO 50/A, 10 April 1997. The Personal Data Protection Authority came into force on 10 November 1997 (Ministerial Decree 130406, 21/29 October 1997).

⁵ The collection of which is strictly regulated.

⁶ In fact, two complaints have been lodged, in 1986 and 1993, by the Central Jewish Council against the journal *Stochos*.

Attention was drawn to this by the National Co-ordination Committee, created in 1997, during the European Year Against Racism and Xenophobia, which proposed an amendment to Law 927/1979 (amended by Article 24 of Law 1419/1984) whereby, on the one hand, offences covered by this Law⁷ might be prosecuted, either following a complaint by the injured party or ex officio and, on the other hand, the above-mentioned organisations might constitute themselves as civil claimants before the criminal courts. The Ministry of Justice accepted these recommendations and, following the law 2910/2001 on immigration policy, acts of racism are prosecuted ex officio. It should also be pointed out that though this law is applied only towards migrants, as it does not cover Greek citizens who can be victims of discriminations based on their racial or ethnic origin, it serves to illustrate the value of Government and civil society working together to tackle common issues.

In addition, in the review of mechanisms to promote equal treatment and combat discrimination, it may be interesting to note the role of the Secretariat-General for Equality which operates within the Ministry of Internal Affairs, Public Administration and Decentralisation. Its main task is to safeguard the rights of both sexes and protect them from any form of political discrimination based on gender.

Article 1⁸

Is there any legal framework at national level that puts into effect the principle of equal treatment, or that is designed to combat discrimination on the basis of racial or ethnic origin and/or on the basis of nationality and/or on the basis of religion or belief? If so, what is the nature of this framework?

The equal treatment of any person legally present on the territory is guaranteed by several legal texts. Article 5, paragraph 2, of the Constitution assures the absolute protection of the life, honour and liberty of any person present on the territory, irrespective of nationality, race, language, religion or political convictions. Similarly, Article 57 of the Civil Code, on assault causing bodily harm, may be invoked by any person present on the territory, since Article 4 of the Code accords the same rights to aliens and to nationals. Jurisprudence further allows that any manifestation of racial discrimination constitutes an illegal assault causing bodily harm. Finally, equal treatment for any person present on the territory is also provided for by the 1965 International Convention on the Elimination of all Forms of

⁷ Article 1, paragraph 1 renders illegal acts inciting racially motivated discrimination, hatred or violence; Article 1, paragraph 2 makes illegal propaganda and activities which lead to racial discrimination; Article 2 makes illegal the public expression of ideas which are offensive to an individual or a group of individuals on the basis of their racial or ethnic origin.

⁸ Discrimination on the grounds of race and ethnic origin are covered by the Council Directive 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (further: **Racial Equality Directive**); discrimination on the grounds of religion and belief (but only in employment and occupation) are covered by the Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (further: **Employment Equality Directive**); until Article 5 the provisions of the two Directives correspond in content and numbering; as of Article 5, the contents of articles corresponds, but the numbering differs; the reports follows the numbering of the Race Directive; the numbers of the corresponding articles on religion and belief in the Employment Directive will be mentioned in a footnote.

Racial Discrimination (ICERD). It is important to clarify in this respect that, although the provisions of Law 927/1979 (amended by Article 24 of Law 1419/1984) do indeed protect all persons present on the territory against different forms of racial or religious discrimination, no provision is made for violations of the principle of equal treatment.

The Employment Code (Law 2683/1999) ensures that civil servants are free to express their political, philosophical, religious and scientific beliefs and opinions.

Furthermore, wishing to ratify the accords of application of the Schengen Agreement, in 1997, the legislature adopted Law 2472 on the protection of personal data which is mentioned above.

A new law (2910/2001) on immigration policy was passed in May 2001. This law regulates the conditions of entry and residence of foreigners in Greece and appoints the bodies responsible for drawing up and applying policy on foreigners, the aim being to maintain order, avoid illegal immigration, guarantee respect for foreigners' human rights and their social integration and, at the same time, maintain social cohesion in Greece.

The law aims to safeguard the fundamental rights of foreigners. The law includes inter alia mandatory insurance cover and the same employment rights and obligations as Greek employees from the point of view of pay, working terms and conditions, mandatory nine-year education etc. Acts of racism are prosecuted *ex officio*, to facilitate access to the legal system by foreigners.

Article 2.1 and Article 2.2(a) and 2.2(b)

Is there a definition of direct and indirect discrimination in your national legal system? Is there a need to introduce definitions of direct and indirect discrimination, as defined in Article 2.2(a) and 2.2(b) of the Directives, into national legislation?

The concept of direct discrimination in terms of racial and religious discrimination is not defined either by Law 927/1979 (amended by Article 24 of Law 1419/1984) or through jurisprudence, nor by ICERD. Consequently, compatibility with Article 2.2(a) of the Directives should be reviewed.

The concept of indirect discrimination in terms of racial and religious discrimination is not defined either by Law 927/1979 (amended by Article 24 of Law 1419/1984), nor through jurisprudence, nor by ICERD. Consequently, compatibility with Article 2.2(b) of the Directives should be reviewed.

Article 2.3

Is unlawful harassment an identifiable concept in national law? Is there a definition of harassment in the national law that corresponds to that in the Directive? Is it necessary to introduce such a definition into national legislation?

The concept of harassment in relation to the race or ethnic origin or religion or belief of a person or a group of persons is not defined either by Law 927/1979 (amended by Article 24 of Law 1419/1984) nor through jurisprudence nor by ICERD. Consequently, compatibility with Article 2.3 of the Directives should be reviewed.

Article 2.4

Is it unlawful under national law to give instruction to discriminate on the grounds of racial or ethnic origin or religion and belief? Is it deemed to be discrimination? Is there a need to introduce a similar principle in national law?

Article 1, paragraph 1, of Law 927/1979 (amended by Article 24 of Law 1419/1984) makes illegal incitement to acts or activities which are liable to provoke racial or religious discrimination, but there is no provision relating to issuing instructions to someone to discriminate on the grounds of racial or ethnic origin or religion or belief .

However, it does appear that, in the case of this example, Article 21 of the Penal Code could be applied. This states that, where instruction is given to commit an illegal act, it is the person giving the instruction, who will be held responsible, if the instruction is given in the form contained in the law, and the law does not authorise the person receiving the instruction to examine its legality. But, since the scope of this provision is rather general, it would aid clarification if compatibility with the provisions of Article 2.4 of the Directives were reviewed.

Article 3.1⁹

Does the definition of ‘racial and ethnic discrimination’ and ‘discrimination on the grounds of religion and belief’ apply to all the fields of application listed in Article 3, both in the private and the public sectors?

Article 5 of ICERD, which refers to equal treatment irrespective of racial or ethnic origin, lists only some of the areas covered by Article 3.1 of the Directives.

To be more specific, in relation to Article 3.1(a) of the Directives, Article 5 of ICERD mentions the right to work, but not the conditions for access to employment, to self-employment and to occupation; with regard to 3.1 (b) Article 5 of ICERD stipulates a right to training whereas the Directive focuses on access to all types and to all levels of vocational guidance, (advanced) vocational training and retraining; Article 5 of ICERD in comparison with Article 3.1(c) of the Directive does not include employment and working conditions relating to dismissal; Article 5 of ICERD limits itself to the right to form and join trade unions, but Article 3.1(d) of the Directives is broader in the types of organisation that one can be a member of or involved in and further includes the benefits provided by

⁹ Article 3.1 of the Employment Equality Directive does not include the fields e) social protection, including social security and health care f) social advantages g) education h) access to goods and services, including housing, so the prohibition of religious discrimination of the Employment Equality Directive does not cover these fields

these organisations; Article 3.1 (e) is broader than Article 5 ICERD in that it mentions social protection and does not limit healthcare to public health, Article 3.1 (f) of the Directive stipulates social advantages which is not covered by Article 5 ICERD; and finally Article 3.1 (h) of the Directive includes the supply of goods and services in addition to access to goods and services which takes it further than Article 5 ICERD. In addition, Article 5 of ICERD does not specify whether the above rights are guaranteed in both the private and public sectors.

Compatibility with Article 3.1 of the Directive should therefore be reviewed.

Article 3.2

To what extent, if any, does national legislation go beyond the Directive in prohibiting discrimination on the ground of nationality?

National legislation goes beyond Article 3.2 of the Directives insofar as Article 1, paragraph 1 of the 1965 International Convention also prohibits any discrimination based “on descent or national or ethnic origin”.

Article 4

Do exemptions relating to genuine and determining occupational requirements exist at national level? Is it necessary to restrict any exemptions to those defined in Article 4?

The provisions of the Employment Code stipulate that “only Greek citizens shall be appointed as civil servants”. Citizens from Member States of the European Union may be appointed, unless the appointment comes under the exemption in Article 48 (4) of the EC Treaty. As specifically regards the appointment of nationals from Member States of the European Union as civil servants, the provisions of Law 2431/1996 allow them “to be appointed or recruited to positions or special duties which do not involve the direct or indirect exercise of political power or the performance of tasks to safeguard the general interests of the state or other public-sector agencies”.

Compatibility with the directive should be reviewed.

Article 5¹⁰

Are there any specific measures that aim to ensure or promote full equality or to compensate for disadvantages linked with racial or ethnic origin and religion or belief? Is the government considering adopting such measures?

The only case of positive discrimination formally provided for by the legislature concerns the members of the Muslim minority in Thrace. It relates to the adoption of Law

¹⁰ Article 7 in the Employment Equality Directive

2341/1995¹¹, which, by exception to the general rules for admission to higher education establishments following national competition, sets a quota of places which are reserved for members of this minority. The application of this provision since the 1996/97 academic year has allowed large numbers of young people from this minority, who were previously effectively deprived of access to higher education establishments because of their poor command of Greek, to pursue university courses in Greece.

The Muslim minority in Thrace is also the subject of several other positive action measures. These measures fall into two categories. First, there are those which are aimed at a subgroup of this minority, the Pomaks, who live mostly in isolated mountain regions. In order to allow their young people to pursue their education in a regular manner, the State covers all the costs incurred by them going to the secondary education establishments nearest to where they live. The second category of measures is addressed at the minority as a whole and involves the implementation of two educational programmes aimed at improving their command of Greek and the adjustment of Muslim pupils to the Greek education system.

In addition, the government has adopted a series of positive action measures aimed at members of the Roma/gypsy communities.

These measures include:

- the establishment and continued operation, with effect from the 1995/96 school year, of a primary school for Roma/gypsy pupils in the Prefecture of Iraklion (Crete);
- the systematic provision in this Prefecture of medical visits to the encampment of the Roma/gypsy communities and on-the-spot vaccination;
- the implementation in this Prefecture of a hygiene programme comprising the maintenance of cleanliness in the encampment of the Roma/gypsy communities through regular involvement of staff from the municipal cleaning staff;
- the construction of four classrooms, paid for by the municipality of Aspropyrgos (Prefecture of Attiki), to cater for the educational needs of young Roma/gypsies;
- the implementation by the Ministry of Interior, Public Administration and Decentralisation of a finance programme for the local authorities to improve the living conditions and social integration of the Roma/gypsy communities;
- the implementation in 1996 by the Ministry of National Education and Religions of a programme covering the whole country for the purpose of improving the integration of young Roma/gypsies in schools. Nevertheless, it is important to emphasise that the success of this programme was considerably compromised by the weakness of its application;
- the implementation of a pilot scheme entitled “The Society of West Attiki and the Roma/Gypsies” which aims to raise awareness in Greek society of the problems faced by the Roma/gypsies and of the implementation of an action plan aimed at improving their living conditions and integration. This programme, devised by the Prefecture of West Attiki and the non-governmental organisation, the Hellenic Institute for Solidarity and Co-operation, was financed by the Ministry of Interior, Public Administration and Decentralisation and by the European Commission;

¹¹ JO 208/A, 6 October 1995.

- the implementation in 1998 by the Ministry of Health and Welfare of several programmes, the aims of which are to raise awareness among public servants, the national police force and teachers of the problems faced by Roma/gypsies, to adapt educational materials to the needs of young Roma/gypsies and to create youth centres in the regions where Roma/gypsy communities live;
- the establishment in 1998 by the Ministry of National Education and Religions of a system of identity cards which would allow Roma/gypsy pupils, who frequently have to move around the country with their parents, to change schools more easily;
- development in progress of a system of satellite schools in the regions where Roma/gypsy communities live.

In addition to this, the legislature adopted a positive action measure in relation specifically to the children of immigrants: Articles 34 and 35 of Law 2413/1996¹² make provision for the creation of multicultural primary and secondary schools, aimed at groups of young people with diverse educational, social or cultural characteristics, where the curriculum is adapted to suit the particular needs of these young people.

Article 6¹³

Are there any measures that protect the principle of equal treatment at national level that go beyond the minimum requirements of the Directive?

The law makes no provision for measures which go beyond the provisions of the Directives.

Article 7.1¹⁴

Are legal procedures available for the enforcement of the obligations under the Directive for those who consider themselves wronged?

Law 927/1979 (amended by Article 24 of Law 1419/1984) does not establish any specific legal procedure. Consequently, complaints by persons who consider themselves wronged are lodged and dealt with by the courts in accordance with the normal rules of procedure of the judicial system. However, since the provisions of the above-mentioned law do not cover all the cases provided for by the Directives, compatibility with the Directives should be reviewed.

Article 7.2¹⁵

Is it possible for national associations or other legal entities to engage in legal proceedings for the enforcement of rights under the Directive?

¹² “Greek education abroad, multicultural education and other provisions”, JO 124/A, 17 June 1996.

¹³ Article 8 in the Employment Equality Directive

¹⁴ Article 9.1 in the Employment Equality Directive

¹⁵ Article 9.2 in the Employment Equality Directive

As has already been noted, in the case of the offences covered by Law 927/1979 (amended by Article 24 of Law 1419/1984), proceedings may only be brought if the injured parties lodge a complaint. The National Co-ordination Committee mentioned above has in 1997 proposed that the law be amended so that organisations such as human rights organisations, migrant rights organisations and non-governmental organisations in general could constitute themselves as civil claimants before the criminal courts. The Ministry of Justice accepted this recommendation, but concrete measures have yet to be adopted.

Compatibility with the Directive should therefore be reviewed.

Article 7.3¹⁶

What time limits apply to the bringing of an action?

According to Articles 111 and 112 of the Penal Code, these offences are barred by a time limit of five years, calculated from the date when the offence was committed. But since the offences covered by Law 927/1979 (amended by Article 24 of Law 1419/1984) may only be prosecuted if a complaint is lodged by the injured party, Article 117 of the Penal Code stipulates that, if the complaint is not lodged within three months of the victim becoming aware of the offence, this offence can no longer be the subject of prosecution.

Article 8¹⁷

Does the principle of the reversal or easing of the burden of proof in cases of racial and religious discrimination exist in national law?

Are there comparable provisions in national law in relation to gender discrimination?

According to the legislation in force, the burden of proof, in civil cases, falls to the victims of racial and religious discrimination. However, an exception has already been introduced to this general rule of procedure, following the adoption of Directive 97/80/EC on the burden of proof in cases of discrimination based on sex. Article 4 of this Directive makes provision for a reversal of the burden of proof in civil cases by requiring the defendant to provide the proof that no discrimination took place.

Compatibility with the Directive should therefore be reviewed.

Article 9¹⁸

Is the Directive's definition of victimisation to be found in national law?

¹⁶ Article 9.3 in the Employment Equality Directive

¹⁷ Article 10 in the Employment Equality Directive

¹⁸ Article 11 in the Employment Equality Directive.

The legislature does not make any provision to protect people from victimisation in cases of racial and religious discrimination.

Compatibility with the Directive should therefore be reviewed.

Article 10¹⁹

Which steps are necessary to ensure sufficient public awareness of existing laws? What arrangements currently exist to ensure that anti-discrimination legislation has been or will be brought to the attention of the public?

Does the government need to act to ensure that by means of information and training, and where necessary by effective sanctions, all officials and other representatives of the public authorities at every level abstain from any racially or religiously discriminatory speech or behaviour in the exercise of their functions?

Under Article 7 of ICERD “States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship among...racial or ethnic groups...”. A framework therefore already exists, although there does not appear currently to be provisions for public information on the Directive. On the other hand, further training modules for police employees have been established, including courses on:

- the meaning and the causes (socio-political, economic and cultural) of racist and xenophobic crimes;
- the prevention of such crimes;
- the rights of asylum seekers and refugees;
- the freedom of movement and right to settle for aliens;
- constitutional guarantees regarding arrest and detention;
- relations between police personnel and immigrants;
- social behaviour, settling and protection of Roma/gypsy communities;
- social minorities and the inequalities to which they are subjected;
- fundamental rights and freedoms.

Similarly, training for border guards includes modules on constitutional law, focusing on issues relating to the protection of human rights in general. Provision for training of relevant public officials and bringing information related to the Directive to the attention of the persons concerned, including those mentioned above, should be reviewed with compatibility with the Directive in mind.

¹⁹ Article 12 in the Employment Equality Directive, which has the following phrase in addition to Article 10 "for example at the workplace".

Article 11²⁰

Are there any measures to promote the social dialogue on the issues of the Directives at national level?

Regarding measures taken to promote social dialogue and guarantee that employers and employment associations collaborate on the above matters, Law 2738/1999 on collective agreements in the public administration has been passed and applied for a second year. The provisions of this law give employees the right to negotiate their working terms and conditions through their trades union. These terms and conditions may include terms guaranteeing that the principle of equal treatment of all employees, irrespective of race, religion, ethnic origin or belief is applied, and that they are protected from any form of political discrimination.

Article 12²¹

Are there any measures to promote the dialogue with non-governmental organisations at national level?

Since the 1990s, the government has established a dialogue with non-governmental organisations involved in combating racial discrimination. This collaboration is well illustrated by the creation in 1997 of a National Co-ordination Committee, comprising representatives of the public authorities and members of non-governmental organisations. The remit of this Committee consists of developing and formulating recommendations to be communicated to the relevant authorities in relation to combating racial discrimination by focusing on racism in everyday life; existing legislation and its enforcement; the dissemination of information to the public and the media; and issues relating to employment.

Article 13²²

Is there a specialised body to promote equal treatment, irrespective of race or ethnic origin at national level? If so, what are its powers and duties? Is such a body effective?

If not, would the government need to act in order to give this body such specific powers? What would be the procedure?

The Office of the Ombudsman, although it is not a specialised body for combating racial discrimination, created in 1997²³ and operating under the provisions of Law 2477/1997 as an independent administrative authority, in part fulfils the requirements of Article 13 of the Directive in that it can receive complaints and conduct an investigation into acts or

²⁰ Article 13 in the Employment Equality Directive.

²¹ Article 14 in the Employment Equality Directive

²² There is **no** article in the Employment Equality Directive corresponding with Article 13 of the Racial Equality Directive on specialised bodies

²³ Law 2477/1997 (JO 59/A, 18 April 1997).

omission by the public administration and may touch on matters relating to racial discrimination.

It is important to point out that the Ombudsman cannot be referred to in cases of *lis alibi pendens*, but it may receive a complaint, even if the complainant has not exhausted all other routes of legal recourse. As far as the significance of its decision is concerned, although this is not binding on the courts, if the same case is ever subsequently brought before the courts its influence on deliberations is far from negligible. On the other hand, if the same case is ever brought before the courts and, for a second time, before the Ombudsman, the decision of the court is binding on the Ombudsman.

However, as its powers are limited, since it can only be referred to in disputes between private individuals and the public services, it cannot completely fulfil the remit assigned to this type of organisation by the Directive.

The National Committee for Human Rights, created in 1998²⁴, also partially fulfils the requirements of Article 13 of the Directive, insofar as it publishes an annual report on the protection of human rights and may make recommendations to the governmental courts in order to improve this protection. Unlike the Office of the Ombudsman, it may make reference to all cases of racial discrimination observed in the territory of the country, but it cannot receive complaints or initiate inquiries in this respect.

Options to ensure compatibility with the Directive may include extending the remit of either of these two organisations in line with the provisions of the Directive or consideration to the creation of a specific specialised body to combat racial discrimination, in accordance with the provisions of Article 13 of the Directive.

Article 14²⁵

Is action needed to ensure that national law guaranteeing equal treatment between individuals, irrespective of racial or ethnic origin and religion or belief, takes priority over other laws, regulations or administrative provisions?

Do national legislative or administrative procedures provide for declaring null and void those provisions in agreements, contracts or rules that relate to professional activity, workers and employers that are contrary to the principle of equal treatment?

According to Article 28, paragraph 1, of the Constitution, conventions and other international legal texts ratified by the government form an integral part of national legislation and take precedence over any national provisions to the contrary. Similarly, compliance with the Directives requires the abolishment of any laws, regulations and administrative provisions which are contrary to the principle of equal treatment established by the Directive and this will also apply to the areas highlighted under Article 14 (b) of the Racial Equality Directive and Article 16 (b) of the Employment Equality Directive.

²⁴ Law 2667 “Creation of a National Committee for Human Rights and a National Commission on Bioethics” (JO 281/A, 18 December 1998).

²⁵ Article 16 in the Employment Equality Directive

Article 15²⁶

*Is there a need for further effective and proportionate sanctions, penalties and remedies?
Do equivalent provisions already exist on the national level in other areas?*

In cases, where the legislature has made provision for sanctions, they appear to be proportionate and potentially effective. However, two distinct areas are encountered in the prevention of any form of racial or religious discrimination. The first is linked to the need to ensure that the implementation of the law is effective; the second is linked to the need to ensure that provisions are put in place to make certain forms of racial or religious discrimination illegal.

In Greek legislation on the elimination of racial or religious discrimination although ICERD lists the spheres in which the government should guarantee the desired equal treatment, in one or more of these areas, Law 927/1979 (amended by Article 24 of Law 1419/1984) does not establish sanctions in cases of the principle of equal treatment being violated.

Similarly, Article 1, paragraph 1, of this law establishes legal sanctions in cases of incitement in relation to racial or religious discrimination but makes no provision for sanctions in cases of instruction in relation to racial or religious discrimination. More specifically, Article 1, paragraph 1, of Law 927/1979 (amended by Article 24 of Law 1419/1984) stipulates that any person, who publicly, whether orally, through the press or written texts, through images or by any other means, deliberately incites acts or activities likely to provoke discrimination, hatred or violence towards persons or a group of persons because of their racial or ethnic origin or their religion, is liable for a prison sentence of a maximum of two years and/or a fine.

There are two things to be said about this provision. First, as noted in the ECRI report (97) 52²⁷, it does not clearly define the difference between nationalist discourse and xenophobic discourse, which is likely to incite the above-mentioned actions. The scope of the sanctions could thereby be weakened. Secondly, regarding the media, sanctions can only be imposed against this type of incitement if it is of an overtly racist nature. This is because, with regard to the constitutional protection of freedom of expression and freedom of information (Article 14 of the Constitution), Article 1, paragraph 1, of this law can only be invoked if the racist discourse represents a clear and imminent threat to rights and values protected by the law. As a result, racist discourse disseminated throughout the press can only be punished, if it directly incites its audience to commit acts such as those described in Article 1, paragraph 1, of the law or, at the very least, if it engenders strong racist feelings in these people which are likely to lead to the committing of such acts.

In addition to the sanctions provided for by the above-mentioned law, in cases of incitement to racial discrimination, provision is also made for disciplinary sanctions in cases of violations of Article 5 of Regulation 1 of the National Radio and Television Council on the Radio and Television Journalists' Code of 20 June 1991²⁸, which prohibits

²⁶ Article 17 in the Employment Equality Directive

²⁷ ECRI's country-by-country approach, Report on Greece, doc. (97) 52, p. 6.

²⁸ JO 421/B, 21 June 1991.

the presentation of persons in a manner which is likely, in specific circumstances, to promote negative discrimination to the detriment of a section of the population based, amongst other things, on race.

In addition, the legislature punishes the establishment or the activities of any organisation, which encourages such incitement, as well as membership of such an organisation. However, it has not made provision for sanctions against financial or any other kind of support for an organisation of this nature. More specifically, Article 1, paragraph 2, of the law mentioned above stipulates that any person, who establishes or joins an organisation, which has as its aim organised propaganda or any sort of activity relating to racial or religious discrimination is liable for a prison sentence of a maximum of two years and/or a fine.

Similarly, Law 927/1979 (amended by Article 24 of Law 1419/1984) makes no provision for sanctions against acts or practices of racial or religious discrimination exercised by a public authority or institution. Neither does it make any provision for sanctions, if this discrimination is perpetrated against institutions. The only sanctions, which can be applied in this respect, are of a disciplinary nature and are only mentioned here insofar as they may be applied against public radio and television stations. These are sanctions established for cases of the violation of Article 4, paragraph 2, of Regulation 3 of the National Radio and Television Council on the advertising code of 11 July 1991²⁹, which prohibits the broadcasting on radio or television of advertising which introduces racial or religious discrimination.

The legislature does not make provision for any sanctions against the funding, defence or support by a public authority or institution of racial or religious discrimination by an individual, group or organisation. Similarly, it makes no provision for sanctions against officials or other representatives of the public authorities, at all levels, if, in the exercise of their duties, they use language or behave in a manner which is racially discriminatory. Nevertheless, it may be considered that this offence is in part provided for by Article 2 of the law in question, which stipulates that any person who publicly, whether orally, through the press or written texts, through images or by any other means, expresses ideas which are offensive to a person or a group of persons because of their racial or ethnic origin or their religion, is liable for a prison sentence of a maximum of one year and/or a fine.

In the disciplinary sphere, the new disciplinary regulations for the National Police, which came into force in 1996, establishes sanctions against any member of staff of the national police, in the event of their behaving in a manner which violates human rights in general. If the disciplinary infringement also constitutes an offence, the public prosecutor's office must be informed so that it can prosecute the officers concerned.

Consequently, compatibility with the Directive should be reviewed.

²⁹ JO 538/B, 18 July 1991.

Article 16³⁰

What action (if any) has already been taken in order to comply with the Directives?

No action has yet been taken to ensure the implementation of the Directives.

³⁰ Article 18 of the Employment Equality Directive