



Delegation of Greece

Warsaw, 12 May 2006

**THE HUMAN DIMENSION SEMINAR
“Upholding the Rule of Law and
Due Process in Criminal Justice Systems”**

Warsaw, 10-12 May 2006

Closing Session

- Independence and impartiality of judges are fully safeguarded in Greece by the Constitution (articles 87-100) and the ordinary law.

According to them the selection of judges and prosecutors takes place after incontestable competition; the competence for their appointment, promotion and transfer belongs to the institution of justice without interference of the Executive; exclusively competent therefore is the Highest Judicial Council, consisting solely of highest judges, drawn by lot.

According to Constitution, material and personal independence of judiciary are insofar guaranteed, as judges are exercising their duties subjected only to the Constitution and the law. Court decisions are free from political influence and anyone has to comply with them.

- The “defence lawyers” are considered as a fundamental auxiliary institution in an effective Criminal Justice System.

The EU Acquis on justice system, as defined by the Copenhagen criteria, which were set up as basic conditions for the acceptance of new member-states in the EU, gives particular importance to the effectiveness of Justice, the consolidation of the Rule of Law and the reinforcement of institutions.

This Acquis is the core element for the establishment of an Area of Justice, Freedom and Security.

The principles of this EU Acquis are stemming out of the relevant constitutional functions of the EU member-states and the best practices in the field. Great influence has been exercised from the longstanding tradition of democratic societies and the experience of the Council of Europe, especially

from the framework of Human Rights (see Council of Europe Recommendation on Lawyers).

When we talk about reinforcement of judicial bodies and institutions, the Lawyers are the second important judicial body following the Judges and Prosecutors. The reinforcement of the role of a Lawyer should be done so in collegial level (bar associations), as well as in individual level (practicing lawyers).

Greece has a reliable, longstanding and democratic legal framework for lawyers. The profession is regulated by sub-regulations demanding concrete qualifications for entering the profession. Moreover, there is a codified legislation (the Code of Lawyers) and ethics provisions for the exercise of lawyers activities.

The assistance of an accused person in a criminal case by a defendant lawyer is provided by most of the articles in the Greek Penal Procedural system.

The assistance is provided both to the pre-trial stage and preliminary investigations and during the court proceedings.

The non-correct implementation of the criminal procedural provisions, may give the right to the defendant to revise or to appeal the proceedings.

The state authorities must respect and help the defence lawyers during their function. To this respect, their obligation is not limited only to the trial period, but also to the detention and incarceration period.

Based on the principles of access to justice, low cost of a trial, etc., Greece has already organized a system for grant of legal aid to poor persons (including in criminal cases).

The Greek legal system is very sensible to better protect the accused individuals. The policy is to assist and support the defence of all individuals residing in the Greek territory by legislative, administrative and social means. This is guaranteed by Constitutional Human Rights principles.

- As it became clear already from the first day of this Seminar, whatever measure we may take to safeguard the legal framework for Upholding the Rule of Law and due process in criminal justice systems, it may prove meaningless if the penal process exceeds certain time-limits.

Specific time-limits as well as the systematic judicial review of pre-trial detention are provided for in detail in Art. 287 of the Hellenic Code of Penal Procedure. Moreover recently Greece has adopted new measures with a view to shortening even further the length of the penal procedure.

We can cite, i.a., the Greek Law 3346/2005, which introduces four new procedural amendments aiming at limiting the reaction time at various stages of the penal procedure.

In addition, we have already concluded the final treatment of a new draft law concerning the compensation of the citizen, in case the reasonable duration of the trial is exceeded. With this draft law a right to compensation is established, as provided for also by the relevant Recommendation (2004) of the Council of Europe.