

Greece's contribution of Working Group III: Accountability of Judges

As regards to their disciplinary liability, all judicial officers are governed by the provisions of the Courts and Judicial Officers Status Organisation Code, codified law 1756/1988 (Government Gazette A' 35).

A disciplinary offense is any liable and charged act or in general, a behaviour of a judicial officer while in or off duty provided it is contrary to his/her requirements arising from the Constitution and the provisions in force or is incompatible to his/her office and impairs his/her prestige or the prestige of justice in general (Article 91 section 1).

The disciplinary penalties that may be inflicted on a judicial officer are: a) reprimand in writing, b) penalty with withholding the two-days' net earnings up to the three-months' net earnings, c) provisional suspension from functions for a period of ten days to six months and d) final suspension (Article 43 sect.1).

Courts and disciplinary councils exercise the disciplinary jurisdiction to judicial officers.

The courts in charge of inflicting the penalty of final suspension are the Plenary of the State Council or the Plenary of the Supreme Court and the Plenary of the Audits State Council.

These Courts constituted in accordance with their by-laws judge the persons that committed disciplinary offenses following their referral by the respective disciplinary councils (Article 95 sect.1, 2, 3).

The Higher Disciplinary Council as stipulated in article 91 of the Constitution is in charge of judging at first and last degree the disciplinary offenses and of inflicting all the disciplinary penalties, except for the final suspension, on

the members of the State Council and of the Supreme Court, on the prosecutor and the deputy prosecutors at the Supreme Court, on the members of the Audits State Council, the general Commissioner and deputy Commissioner of the State at the Audits State Council, as well as on the general Commissioner, the Commissioner and the deputy commissioners of the State of the Ordinary Administrative Courts (Article 95 sect.4)

The formation and the function of the Higher Disciplinary Council as per article 91 of the Constitution are regulated in the provisions of article 96 of the Courts and Judicial Officers Status Organisation Code.

The Courts and Judicial Officers Status Organisation Code also provide for the composition and function of the following disciplinary councils:

- 1) The Seven-Member and the Nine-Member Disciplinary Council of the State Council
- 2) The Seven-Member and the Nine-Member Disciplinary Council of the Supreme Court
- 3) The Seven-Member and the Nine-Member Disciplinary Council of the Audits State Council and
- 4) The Five-Member Disciplinary Council of the Civil and the Administrative Courts of Appeal.

The Disciplinary Councils of civil and criminal justice Courts of Appeal function within the Courts of Appeal of Athens, of Piraeus, of Thessaloniki and of Patras, and they are formed by a Justice of the Court of Appeal and four judges at the Court of Appeal.

The Seven-Member and the Nine-Member Disciplinary Councils of the State Councils, of the Supreme Court and of the Audits State Council are formed by the respective number of commissioned judges, appointed each year by means of drawing lots.

The Minister of Justice, the less senior Vice-President of the State Council, the Prosecutor at the Supreme Court and the Head of Inspection, the less senior vice-president of the Audits State Council, the Justice of the Court of Appeal (civil or administrative) and the Prosecutor at the Court of Appeal (Article 99 sect.1) are the competent disciplinary bodies that exercise the disciplinary prosecution according to the law.

The Minister of Justice and the competent body that exercises the disciplinary prosecution are entitled to lodge an appeal against a sentence or an acquittal within a month as of the date of notification of the judgment to them.

A person punished and a person discharged upon a diminutive reasoning is entitled to lodge an appeal within a month as of the date of service of the judgment to him/her (Article 105 sect.2).

From the record of a judicial officer the following are written off and are not taken into consideration at the time of deliberation: the sentence of reprimand (is written off and not taken into consideration) a year later, the sentence of a penalty (is written off and not taken into consideration) two years later, and the temporary suspension (is written off and not taken into consideration) five years later, if during those periods no new disciplinary penalty has been inflicted on that person (Article 106 sect.4).

A court judgment inflicting the sentence of final suspension is forwarded to the Minister of Justice in order for a Presidential Decree to be issued (Article 107 sect.4).

Judicial officers are restituted by cancellation or infliction of a lighter disciplinary penalty, they occupy the vacancy respective to their rank, provided it exists, otherwise they are redundant and occupy a post when it will be vacated. A person that will be acquitted recovers his/her seniority order (Article 107 sect.6).