



PERMANENT MISSION OF GREECE  
GENEVA

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### NOTE VERBALE

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note Verbale, dated 10 August 2016 with regard to the letter of the Special Rapporteur on the right to freedom of opinion and expression, has the honour to attach herewith the contribution of the Ministry of Justice, Transparency and Human Rights.

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 1 November 2016



To: **The Office of the High Commissioner for Human Rights**  
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Att.: 5 pages



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**ΘΕΜΑ:** «Ερωτηματολόγιο Ειδικού Εισηγητή για την προώθηση και προστασία του δικαίωματος στην ελευθερία της γνώμης και της έκφρασης»

Σχετ.: Το με Α.Π. 37356/17-8-2016 έγγραφό σας

Σε συνέχεια του ως άνω εγγράφου σας παραθέτουμε, κατά λόγο αρμοδιότητας, στην αγγλική γλώσσα, συνεισφορά της υπηρεσίας μας αναφορικά με νομοθεσία και μέτρα πολιτικής τα οποία άπτονται ζητημάτων σχετικών με την ελευθερία της γνώμης και της έκφρασης και τους νόμους περιορισμούς της, ως ακολούθως:

#### 1. Punishment of cybercrime

The Greek regulatory framework in line with the provisions of EU legislation provides for the punishment of crimes through computer networks aiming at enhancing the effectiveness of law enforcement and the protection of fundamental rights, especially the right of everyone to hold opinions without interference, as well as the right to freedom of expression. The Ministry of Justice, Transparency and Human Rights ratified the Convention on Cybercrime and its Additional Protocol concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems and transposed into national law the Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems (and replacing Council Framework Decision 2005/222/JHA), by law no 4411/2016.

## 2. Tolerance and Freedom of Speech: Countering Hate Speech

- Criminal anti-racism legislation, as incorporated in Law 927/1979 and its amendments, punishes, inter alia, hate speech in the form of incitement to acts or activities which may result to discrimination, hatred or violence against individuals or groups of individuals on the grounds of the latter's race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity, or disability.

In September 2014, Parliament adopted Law 4285/2014, amending Law 927/1979, aiming at strengthening the country's criminal anti-racism legislation and adjusting the relevant legislative framework with EU Council Framework Decision 2008/913/JHA, on combating certain forms and expressions of racism and xenophobia by means of criminal law.

The new law punishes the following intentional conduct:

- (a) To publicly abet, instigate or incite, either orally or by the press or the internet or any other means, to acts or activities which may result to discrimination, hatred or violence against individuals or groups of individuals defined by reference to race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity or disability, in a manner which endangers public order or threatens life, liberty or physical integrity of the abovementioned persons;
- (b) To incite damage of items used by the abovementioned persons in a manner that endangers public order;
- (c) To establish or participate in an organization or union of persons of any kind which systematically pursue the commission of the abovementioned acts;
- (d) To publicly condone, trivialize, or maliciously deny, either orally or by the press or the internet or any other means, the commission or seriousness of crimes of genocide, war crimes, crimes against humanity, the Holocaust and Nazi crimes, recognized by decisions of international courts or the Hellenic Parliament, and directed against groups of individuals, or a member thereof, defined by reference to race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity, or disability, in a manner which may incite violence or hatred or threatens or insults the abovementioned groups of individuals or members thereof.

The penalties provided for the above offences is imprisonment of between three months and three years and a fine of 5,000 to 20,000 €. More severe penalties are foreseen, in case the incitement described above had as a result the commission of a crime or the perpetrator is a public official or servant, acting in that capacity.

The aforementioned acts are also punishable when they are committed through the Internet.

The punishable acts under the new law, as well as any crimes committed as a result thereof, are prosecuted *ex officio*. Victims of such offences are exempted from the obligation to pay a fee when submitting a criminal complaint or participating as a civil party in a criminal procedure.

- At operational level, implementation of anti-racist legislation is further expected to improve through the work of the National Council against Racism and Intolerance, an inter-ministerial body recently established (law 4356/2015), with the participation of the National Commission for Human Rights, UNHCR, RVRN and other important stakeholders and in cooperation with the Greek Ombudsman. One of the main tasks of the National Council is the development of a comprehensive strategy against racism and discrimination. The Council has already formed three working groups focusing on the investigation of bias motivation, combatting hate speech through intercultural and inter-religious dialogue and human rights and anti-racism education.
- As regards, especially, hate speech on-line, Greece is taking part on a regular basis in the sub-group on combatting hate speech on-line, under the auspices of the European Commission, elaborating on policies and measures implementing the Code of Conduct agreed between the European Commission and the IT Companies.
- Hate speech policies are inextricably linked with the development of counter- and alternative narratives and with the intensification of education on human rights issues. Therefore, the National Council against Racism and Intolerance is steadily working on measures aiming at implementing an anti-racism policy through information, education and "changing the point of view", planning the application of these measures in the near future.
- Furthermore, the Ministry of Justice has a very constructive cooperation with the Council of Europe and OSCE as regards training of police officers, judges and public prosecutors on racist violence issues. Training and awareness raising against hate speech online is of great importance as we expect that it will familiarize the Greek law enforcement bodies with the methods of recognizing and notifying the companies of illegal hate speech on line.
- Greece is also participating to European programmes for combatting hate speech on line, such as "no hate speech movement" (Ministry of Education) or C.O.N.T.A.C.T. (Hellenic League for Human Rights). Greek CSOs play a crucial role in the field of fighting against hatred on line.

### **3. Personal data protection**

- Article 9A of the Hellenic Constitution: "All persons have the right to be protected from the collection, processing and use, especially by electronic means, of their personal data, as

specified by law. The protection of personal data is ensured by an independent authority, which is constituted and operates as specified by law".

- Law 3471/2006 "Protection of personal data and privacy in the electronic communications sector and amendment of law 2472/1997" (Incorporation of the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector).

This law provides for the protection of fundamental human rights and privacy in particular, and the establishment of the conditions for the processing of personal data and the reservation of communication confidentiality in the electronic communications sector (article 1).

- Law 3917/2011 "Retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks, use of surveillance systems with the obtaining or recording of sound or image at public areas and relative provisions"

The provisions of Chapter A of this law incorporated in the national legislation the Community Law provisions of Directive 2006/24/EC, which established the obligation of retention of specific data of subscribers and registered users in the scope of electronic communications in order to verify, investigate and prosecute criminal offences.

Additionally, the regulations of this law provide further measures on the effective protection of the retained data of communication of subscribers and registered users. The provisions of Chapter B of the Law specify in a clear and concise manner the requirements for the installation and operation of surveillance systems with the obtaining and recording of sound or image at public areas.

- Law 3783/2009 "Identification of owners and users of equipment and services for mobile telephony and other provisions"

This law provides for the identification of owners and users of equipment and services for mobile telephony of prepaid talktime and of subscribers with contracts, or other form of mobile telephony, for national security reasons and for the detection of particularly criminal offences.

#### **4. Child Pornography**

Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography and Council Framework Decision 2009/948/JHA were incorporated into our national legislation by law no 4267/2014. Amendments were made to the already applicable crimes of the 19TH Chapter of the Special Part of the CC in which crimes against sexual freedom

and crimes of financial exploitation of sexual life, specifically art. 339 par. 4, 348 A, 348 B CC, were included. The aforementioned legislative amendments have introduced also the crime of the pornographic minors' depictions art. 348 C CC.

Additional amendments brought changes to specific articles of the General Part of the CC in order to achieve the expansion of the jurisdiction of the Hellenic Legal Order for crimes using the internet as a mean of their commission (art.5 par. 3 CC) and integrate specific crimes in the principle of universal justice so as their prosecution to become feasible (art. 8 period h CC).

Furthermore art. 18, L.4267/2014 provides that appropriate measures are taken against websites that contain or disperse child pornography material. This provision lays down rules for the procedure of deletion, barring of access of these web sites or deactivation of the domain.

**Η ΠΡΟΪΣΤΑΜΕΝΗ ΤΗΣ ΓΕΝ. ΔΙΕΥΘΥΝΣΗΣ**

**Μ. Αρβανίτη**

**Εσωτ. Διανομή:**

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**Ακριβές αντίγραφο**

**Η Προϊσταμένη του Τμήματος**

**κ.α.α.**

**Α. Λιάκου**