

NATIONAL REPORT ON LEGAL ISSUES - GREECE

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GREECE AS A MEMBER OF THE INTERNATIONAL COMMUNITY: ACTIVITIES AT THE INTERNATIONAL ENVIRONMENTAL LAW LEVEL

Greece, situated in the southern edge of the Balkan Peninsula and having one of the richest, as well as interesting, bas-relief of mountainous and insular character, is one of the few countries in the World with such an abundant and multifarious fauna and flora. The importance and value of national biodiversity is being gradually recognised and has become widely known. This creates the necessity of the parallel increase and strengthening, by the constitutional government, of the institutional shielding of species that are threatened and under extinction, and of ecologically important areas.

Two decades ago the concept of the protection of wildlife and its ecotopes was limited to the declaration of twelve areas as national parks without any further organized measure or action of protection or preservation. However, during the last twenty years, partly because of the appearance and the infiltration of EC Environmental Law into the national legal order, the number of both species and areas of ecological significance that were put under a protective regime has impressively increased. In this context, the Greek State has declared certain areas that are within its boundaries as NATURA 2000 sites - as defined by the EC Directive 92/43 -, national sea parks, sites of World Cultural and Natural Heritage Importance (UNESCO Sites), Bio-genetical Resources - Biosphere Reserves (MAP Programme-UNESCO), and Ramsar sites -wetland areas of global interest that are under extinction. Furthermore they have identified other areas that are being protected by other international and Community texts as the EC Directive 79/409 for the protection of the world avifauna and its habitats, aesthetic forests, etc. During the same time-period, the number of the regulations as well as of the acts of environmental interest that refer and regulate almost every dimension and element of the natural and anthropogenic environment, and tend to cover the totality of the its spectrum.

At the administrative level, great institutional restructuring took place within the *Ministry of Environment, Town Planning and Public Works* that led to the modernization of its agencies and directorates. Local authorities acquired a decisive role on environmental matters and are being financed towards the fulfilment of their new tasks. Additionally, all over the country and especially close to protected areas *Centres of Environmental Information, Awareness and Sensitisation* are continually being set up. Within academia, university degrees have been upgraded so as to include, among its courses and research fields, topics of Environmental Education, Environmental Management and Environmental Law. Furthermore, one of the four ranges of activities of the Greek Ombudsman is devoted to quality of life and environmental protection. Special reference must be made to the foundation of the National Centre of

Environment and Sustainable Development as well as to the development of several environmental information databases.

The Greek State has made a rather impressive progress, in terms of the levels of compliance and harmonization with the international legal standards, in relation with the protection of the natural environment and more concretely of the national bio-diversity and natural resources. They have done so not only by participating to the relevant preparatory conferences and preliminary meetings, but also by signing, ratifying and implementing what is defined and has been agreed upon within the frame of all the international agreements and treaties of environmental character.

According to Article 28 par.1, in the Greek Constitution:

“Agreements and treaties of international texture into which the State has been adhered upon obtain hyperlegislative juridical power and institutional weight compared with the national normative and regulative acts (typical laws) but only after their ratification” (by the competent authorities by use of Ministerial Decisions, Presidential Decrees and National Acts, namely after their incorporation into the national legislative corpus).

A necessary prerequisite for the advancement of these international environmental agreements and treaties is their compatibility not only with the constitutional provisions, requisitions and with what is generally defined as “public interest”, but also with the general principles and guidelines of international law.

When referring to pure legislative practice and the application of international norms, the Greek Constitutional legislator offered particularly increased legal validity, in comparison with the relevant national legal texts. This is extremely interesting, and acquires a specific practical importance when the international texts contradict with, differentiate or deviate from the corresponding national ones. In such cases, the international conventional regulations, due to their special judicial and political gravity, rule out the application, and implicitly abrogate, the contradictory or deviated national laws even on a complementary and supplementary basis.

A special reference should be made to Article 24 of the Greek Constitution 1975/1986/2001, which is regarded as one of the most innovative and forward-looking European constitutional provisions. This provision constitutes the cornerstone of Greek environmental legislation. It defines the protection of the natural, anthropogenic and cultural environment as a basic and indispensable parameter within the execution of every public/private activity, plan or project. Moreover, it is regarded as the supreme and the utmost constitutional obligation of the State, which must fall into line with the relevant principles and requirements being set out both by the international and Community legislator.

The basic body of Greek Environmental Law is being formed and constituted using the corresponding law making on the international and European Union level as its main axis. The national legislative initiative is in most occasions limited to the ratification of the above-mentioned texts and to their incorporation into the national legal order. Furthermore, the invocation of the provisions of the Convention for the Protection of Wetlands of International Importance (RAMSAR Convention) by the Greek Conseil d'

Etat, within the context of an environmental case, contributed to an unexpected extent to the evolution of the Greek environmental law.

The international agreements and treaties of environmental interest that have been ratified by the Greek State cover a wide range of environmental topics and issues from the protection of marine environment to the protection of wildlife.

MARINE ENVIRONMENT

The protection of marine environment constitutes, both in the international and the national legal order, one of the most significant areas upon which the legislative policy on environmental issues is being executed and implemented. More concretely, Greece has signed and ratified the following international agreements:

1. UN Convention on the Law of the Sea, Montego Bay, signed 10/12/1982, set into force 5/11/1994, ratified by Law 2321/1995 (Official Gazette A 130),
2. Agreement on the Implementation of the XIth Part of the UN Convention on the Law of the Sea, New York, signed 28/8/1994, ratified by Law 2321/1995 (OG A 130),
3. Agreement on the Prevention from Oil Pollution (OILPOL), Brussels, signed 12/5/1954, ratified by Law 4529/1966 (OG A 154)
4. Agreement on Civil Liability for Oil Pollution Damage, Brussels, signed 29/11/1969, ratified by Law 314/1976 (OG A 106),
5. Protocol amending the Agreement of 1969 on Civil Liability for Oil Pollution Damage, London, signed 19/11/1976, ratified by Presidential Decree 81/1989 (OG A 36),
6. Protocol amending the Agreement of 1992 on Civil Liability for Oil Pollution Damage, London, signed 27/11/1992, ratified by Presidential Decree 197/1995 (OG A 36),
7. Agreement on the Foundation of the International Compensation Fund for Oil Pollution Damage, London, signed 18/10/1971, ratified by Law 1638/1986 (OG A 108),
8. Protocol amending the Agreement of 1971 on the Foundation of the International Compensation Fund for Oil Pollution Damage, London, signed 19/11/1976, ratified by Presidential Decree 270/1995 (OG A 151),
9. Protocol amending the Agreement of 1971 on the Foundation of the International Compensation Fund for Oil Pollution Damage, London, signed 27/11/1992, ratified by Presidential Decree 270/1995 (OG A 151),
10. Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Material, London-Mexico City-Moscow-Washington, signed 29/12/1972, ratified by Law 1147/1981 (OG A 110),
11. International Convention for the Prevention of Pollution from Ships (MARPOL), London, signed 2/11/1973, ratified by Law 1269/1982 (OG A 89),
12. Protocol I Relating to the International Convention for the Prevention of Pollution from Ships, London, signed 17/2/1978, ratified by Law 1269/1982 (OG A 89),

13. Protocol II Relating to the International Convention for the Prevention of Pollution from Ships, London, signed 2/10/1983, ratified by Law 1269/1982 (OG A 89),
14. Convention for the Readiness, Cooperation and Coping with the Oil Pollution, London, signed 30/11/1990, ratified by Law 2252/1994 (OG A 192).

Greece has also signed the International Convention Relating to Intervention on the High Seas in Case of Oil Pollution Casualties (1969), on the 14th of April 1970 but has not yet ratified it. Special reference should be made to the existence and operation of the Mediterranean System of Environmental Protection, which although not yet put into effect is characterised by its integrity and its full harmonisation with both the international and European Community standards. Greece has signed and ratified both the International Convention for the Protection of the Mediterranean Sea Against Pollution (Barcelona, 16/12/1976, ratified by Law 855/1978 OG A 235) and the following protocols:

1. Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Barcelona, 16/12/1976, ratified by Law 855/1978 OG A 235).
2. Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency (Barcelona, 16/12/1976, ratified by Law 855/1978 OG A 235).
3. Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources (Athens, 19/6/1980, ratified by Law 1634/1986 OG A 104).
4. Protocol Concerning Mediterranean Specially Protected Areas (Geneva, 3/4/1982, ratified by Law 1634/1986 OG A 104).

REGIONAL LEGISLATIVE POLICY

As far as the sector of Regional Legislative Policy on Environmental Issues is concerned, the Greek State has committed to a substantial amount of bilateral agreements for Environmental Cooperation with four Balkan Countries (Albania, Bulgaria, Former Yugoslav Republic of Macedonia, Turkey) and Cyprus. Specially with the latter, there is an agreement for Cooperation on Environmental Protection and Sustainable Development Issues (Nicosia, 11/12/1995, ratified by Law 242/1996 OG A 147).

After Balkan Environmental NGOs in Albania, the "Former Yugoslav republic of Macedonia" and Greece started pressuring the governments of their respective countries the trilateral Prespa Declaration was drafted and signed. This legal text aims at establishing the groundwork for the establishment of a common trans-boundary policy for the sustainable use of the local natural resources and the sustainable development of the areas surrounding the lake.

Additionally Greece has concluded a considerable amount of agreements with Former Socialist Republic of Yugoslavia relating to issues of environmental character, among which the most significant are the two Memorandums of cooperation for the joint regulation and utilisation of natural resources in areas that are currently under the territorial domain of the "Former Yugoslav republic of Macedonia". The first one deals with the Cooperation for the determination and the regulation of the flow of Axios River as

well as the exploitation of its resources while the second one defines the joint regulation and institution of the minimum level of the lake Doirani as well as its utilisation.

Although it is doubtful whether the government of the "Former Yugoslav republic of Macedonia" will bring back and reactivate the pre-mentioned bilateral conventional texts, undoubtedly we are now seeing the resurgence of the issue in the political arena, as exemplified by the recent meeting of experts and local NGOs. The main issue being discussed is the determination of those measures and methods that will lead not only to the elevation and revival of the lake's ecosystem, but also to local economic development of the areas surrounding the lakes on both sides of the borders.

As far as the Greek-Bulgarian cooperation on environmental issues is concerned, there are two basic legal documents that constitute bilateral environmental agreements between the two states and focus on the use and exploitation of the water potential of certain trans-boundary rivers. The first of them was signed in 1964, concerns the Rivers Nestos, Strymonas, Ardas and Maritsa and foresees the drafting of installations and infrastructure of mutual interest as well as the collection and exchange of information of environmental interest and character. The second one refers to the utilization of the water-potential of Nestos River and was signed on the 22nd of December 1995. However, both conventional texts need an immediate revision and renewal as also a realistic restructuring of its targets in order they could fulfill their aims.

Finally, on the level of Greek-Turkish cooperation on issues of environmental protection and exploitation of natural resources, a rather significant agreement was concluded between the corresponding governments regarding the preservation and management of the Evros River Delta, and its surrounding areas, as a protected area. The ulterior target of this agreement is the achievement of the sustainable development of the wider area and the joint materialisation and execution of environmental education and information programmes. This approach is placed among the wider efforts of both governments to achieve consensus in terms of views and principles on soft-policy issues.

INLAND WATERS

In relation with the inland waters, the Greek State has ratified not only the Convention on Wetlands of International Importance Specially as Water flow Habitat, or RAMSAR Convention as it is better known (Ramsar, 2/2/1971, set into force 21/12/1975) by virtue of Presidential Decree 191/1974 (OG A 350). It has also ratified its amendments, namely the Paris Protocol (Paris, 3/12/1982, set into Force 1/10/1986, ratified by Law 1751/1988, OG A 26) and the Regina Protocol (Regina, Canada, 28/5-3/6/1987, ratified by Law 1950/1991, OG A 84). Within the same frame, the Greek State has ratified the Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes (Helsinki, 1/3/1992, ratified by Law 2425/1996, OG A 148). More specifically, Greece has been appointed and assigned at the Head of the Working Committee for Legal and Administrative Issues, which has as its main tasks:

- the supervision and the surveillance of the progress of enforcement and compliance of the contracting members with the provisions of the Convention
- the granting of political and financial aid to the member-states so as to improve the efficiency and the level of enforcement and actual implementation of each relevant legal text
- and the coordination of the corresponding committees and organs that are being set out in the frame of bilateral or multilateral agreements dealing with issues of environmental protection and cooperation on a trans-boundary level.

PROTECTION OF NATURAL ENVIRONMENT, WILDLIFE AND BIO-DIVERSITY

Within this sector, the Greek State constantly participates in all the corresponding fora and has achieved the ratification of all the relevant international conventional texts. Basically, it is contracting member and has incorporated into the national legislative corpus by virtue of Law 1126/1981 (OG A 32) the Convention Concerning the Protection of the World Cultural and Natural Heritage that was concluded and signed in Paris on the 16th of November 1972.

However, the activation of the competent national authorities on the international level was launched on the 6th of December of 1951 when the International Plant Protection Convention was signed in Rome that was ratified by Law 2014/1992 (OG A 29). Additionally, Greece constitutes a contracting member of the Convention Concerning Timber Wood (Geneva, 18/11/1983, ratified by Law 1761/1988, OG A 105) and of the Convention on International Trade in Endangered Species of Wild Fauna and Flora-CITES (Washington, 3/3/1973, set into force 1/7/1975, ratified by Law 2055/1992, OG A 105). The latest legal text has become the main international tool for the protection and the preservation of thousands of endangered wildlife species as it can be adjusted to the most complicated requirements and urgent needs in terms of world trade and environmental protection.

Moreover, Greece has already become a contracting member of the Convention on Protection of Migratory Species of Wildlife known as the Bonn Convention (Bonn, 23/6/1979, ratified by Law 2719/1999, OG A 106f) and of the Bern Convention For the Protection of Flora and Wildlife Fauna of the Natural Environment in Europe (Bern, 19/9/1979, set into force 1/6/1982, ratified by Law 1335/1983, OG A 32).

PROTECTION OF COMMON GOODS

As far as the international protection of the common goods, despite the absence of a special scientific delegation in the continent of Antarctica, Greece participates to the conventional system that aims at the protection of the living resources of the area. More concretely, the Greek State signed not only the Convention Concerning the Protection of Environment in Antarctica (Washington, 1/12/1959, ratified by Law 1629/1986, OJ A 9) but also the Protocol of the Antarctic Convention for the Protection of Environment (Madrid, 4/10/1991, ratified by Law 2293/1995, OG A 41) and the Convention for the Preservation of the Marine Biological Resources of Antarctica (Campera, 20/5/1980, ratified by Law 1660/1986, OG A 187).

The Greek State has also ratified the UN Framework Convention on Climate Change (New York, 9/5/1992, ratified by Law 2205/1994, OG A 60), the Convention on Bio-diversity (Rio de Janeiro, 5/6/1992, ratified by Law 2204/1994, OG A 59) as well as the Convention on Desertification and dryness aiming to combat these phenomena in countries suffering from them (Paris, 14/10/1994, ratified by Law 2468/1997, OG A 32).

Finally, Greece has adhered into the following particularly remarkable international environmental agreements:

- 1) Convention for the Environmental Impact Assessment in Trans-boundary Context (Espoo, Finland, 25/2/1991, ratified by Law 2540/1997, OG A 249),
- 2) Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes (Helsinki, 17/3/1992, set into force 6/10/1996, ratified by Law 2546/1997, OG A 256),
- 3) Convention on Trans-boundary Effects of Industrial Accidents (Helsinki, 17/3/1992, ratified by Law 2546/1997, OG A 256),
- 4) Convention on Long-range Trans-boundary Air Pollution (Geneva, 13/11/1979, set into force 16/3/1983, ratified by Law 1374/1983, OG A 91),
- 5) Vienna Convention of the Protection of the Ozone Layer (Vienna, 22/3/1985, set into force 22/9/1988, ratified by Law 1818/1988, OG A 253),
- 6) Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal, 16/9/1987, set into force 1/1/1989, ratified by Law 1818/1988, OG A 253),
- 7) Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (London, 29/6/1990, set into force 10/8/1992, ratified by Law 2110/1992, OG A 206),
- 8) Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Copenhagen, 25/2/1992, set into force 1/1/1994, ratified by Law 2262/1964, OG A 206),
- 9) Convention for the Protection of the Architectural Heritage of Europe (Granada, 3/10/1985, set into force 1/12/1987, ratified by Law 2039/1992, OG A 61),
- 10) European Convention on the Protection of Archaeological Heritage (London, 6/5/1969, set into force 20/11/1970, ratified by Law 1127/1981, OG A 32),
- 11) Convention Concerning the Protection of the World Cultural and Natural Heritage (Paris, 16/11/1972, set into force 17/12/1975, ratified by Law 1126/1981, OG A 32),
- 12) Convention on Protection of Cultural Goods in Case of Armed Disputes (Hague, 14/5/1954, set into force 7/8/1956, ratified by N.1114/1981, OG A 6),
- 13) Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water (Moscow, 5/8/1963, ratified by Law 4335/1963, OG A 173),
- 14) Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bread and Ocean Floor and in the Subsoil Therefor (Washington, London, Moscow, 11/2/1971, ratified by Law 1528/1985, OG A 41),
- 15) Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal (Basel, 22/3/1989, ratified by Law 2203/1994, OG A 58),

- 16) Convention on Early Notification of a Nuclear Accident (Vienna, 26/9/1986, ratified by Law 1938/1991, OG A 36),
- 17) Vienna Convention on Civil Liability for Nuclear Damage (Paris, 29/8/1960, ratified by Law 336/1969, OG A 269),
- 18) Convention on Complete Prohibition of Nuclear Tests (New York, ratified by Law 2686/1999, OG A 38),
- 19) Open Partial Agreement on Prevention, Protection and Organization of Aid Against Big Natural and Technological Disasters (Strasbourg, March 1987, ratified by Law 2031/1992, OG A 54),
- 20) Convention on the Prohibition of Military Or Any Other Unfriendly Use of Technical Methods of Environmental Alteration (Geneva, 18/5/1977, ratified by Law, 1362/1983, OG A 78),
- 21) Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (Vienna, 26/9/1986, ratified by Law 1937/1991, OG A 35),
- 22) Convention on Energy Charter and its Protocol on the Energy Efficiency and the Relevant Environmental Issues (Lisbon, 23/12/1994, ratified by Law 2476/1997, OG A 58).