

Transposing the Framework Decision on Combating Racism and Xenophobia into the Greek Legal Order



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Article

Athanasios Chouliaras *

ABSTRACT

The article explores the transposition of Framework Decision 2008/913/JHA on combating racism and xenophobia into the Greek legal order and situates this process within the broader development of European criminal law as a hybrid and evolving field.

AUTHOR

Athanasios Chouliaras

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European criminal law constitutes a hybrid field of law, resulting from the accumulation of unrelated social, political, institutional, and legal developments rather than the application of a master plan.¹ Its itinerary has been marked by a twofold strategy: first, the creation of a unified body of criminal law directly enforceable in Member States, serving the objective of establishing an autonomous and cohesive Community legal order (Community law)² and, second, a gradual approximation of national legislations that slowly but surely leads to the configuration of a European transnational legal order built on common standards (EU law).³ The former course of action was moderately introduced with the conclusion of the EU Convention of 26 July 1995 on the protection of the financial interests of the European Communities⁴ and its two protocols.⁵ It culminated in the ambivalently received⁶ and ultimately abandoned project to create an EU-wide criminal code, known as *Corpus Juris*, for the protection of the financial interests of the European Community.⁷ The latter approach was launched within the framework of an “area of freedom, security and justice” and has been developed in a four-tier direction: the approximation of national legislations, the development of instruments based on the mutual recognition principle, the improvement of judicial cooperation mechanisms, and the development of relationships with third states.⁸ In other words, this approach presupposes the adoption of a broad European criminal policy, the basic lines of which were stipulated by the European Council in the Tampere Programme (1999-2004) and further developed in the Hague Programme (2004-2009) and the Stockholm Programme (2010-2014).⁹

The denial of concession of direct and broad criminal competence to the European Communities¹⁰ and the gradual emergence of a common European criminal policy brought about a complex situation where criminal norms evolved at two levels: while the selection of interests and values worthy of being safeguarded by the draconian means of criminal law is effectuated primarily at the European level (*primary criminalization*), their factual protection is implemented at the national level by means of the enactment of specific criminal laws and their due application by the competent national authorities (*secondary criminalization*).¹¹ In this context, the implementation of European legislation into national legal systems has become one of the most intriguing issues in contemporary criminal theory, given that criminal law cuts to the core of the national sovereignty and cultural identity of Member States.¹² Therefore, harmonisation, defined in general terms as “the convergence of the legal practice of the various legal systems based upon a common standard,”¹³ has become a keyword in the endeavour to articulate a sophisticated post-modern criminal theory clearly characterised by transnational and international traits.¹⁴

Notwithstanding the fact that the issue of harmonisation has justly provoked both positive and negative reactions, nobody could seriously challenge the simple truth that harmonisation is a growing phenomenon, especially in the European legal context.¹⁵ From this angle, one could assert that it is more constructive to critically examine the content and the technical structure of the various legal tools through which harmonisation is promoted, e.g., framework decisions,¹⁶ rather than cast doubts on their legitimacy.¹⁷ In the following, I will describe the way in which the transposition of Framework Decision 2008/913 (hereafter FD) into the Greek legal order has been attempted by presenting the work of the relative law preparation Committee of the Ministry of Justice (IV).¹⁸ Before doing so, it is necessary to briefly describe the general framework within which the FD was adopted (I), the purpose and content of the latter (II) as well as the relevant Greek legislation on the issue (III).

I. The General Legal Framework

The EU is, by definition, opposed to any form of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, and sexual orientation. In particular, the Treaties provide for the possibility to take action against any or all discrimination based on the above-mentioned grounds (Art. 19 TFEU (ex 13 TEC),

Arts. 3 (ex 2) and 6 TEU), while the Charter of Fundamental Rights nowadays further reinforces the right to non-discrimination (Art. 21).¹⁹

The European policy with respect to the aforesaid phenomena was set in motion on 15 July 1996 when the EU Council adopted Joint Action 96/443/JHA concerning action to combat racism and xenophobia by which the Member States undertook to ensure effective judicial cooperation in respect of offences based on racist or xenophobic behaviour.²⁰ In 2000, the foundation of the EU legal framework on the broader issue of anti-discrimination, consisting of three directives and including penal provisions, was initiated: equal treatment irrespective of racial or ethnic origin, in employment, and between men and women outside the workforce.²¹ It was further advanced on 28 November 2008 with the adoption of the FD under analysis here.²²

II. The Purpose and Content of the FD

The use of the harsh means of criminal law is justified by the fact that racism and xenophobia are direct violations of the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. Since it is acknowledged that the treatment of these serious issues requires the adoption of a variety of measures within the context of a comprehensive policy agenda, the FD concentrates on combating their particularly severe manifestations (p. 6). Its adoption is dictated by the belief that the approximation of criminal law should contribute to the effective prevention of racist and xenophobic offences, thus contributing to the promotion of a full and successful judicial cooperation between Member States (p. 12). Of course, given that the cultural and legal traditions of the latter are, to some extent, different, particularly in this field, full harmonisation of criminal laws is currently not considered possible (p. 6).

Art. 1 contains several minimum rules for the drafting of the following criminal offences:

- §1 (a) public incitement to violence or racial hatred in respect of a group of persons or a member of such a group designated by reference to race, colour, religion descent or national or ethnic origin (hate speech);
- §1 (b) public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia;
- §1 (c) public condoning, denying or grossly trivializing for a racist or xenophobic purpose of genocide, crimes against humanity and war crimes as defined in the ICC Statute (core international crimes) in a manner likely to incite violence or hatred against the aforementioned groups or members of such groups;
- §1 (d) the same act as §1 (c) with respect to crimes provided for in Art. 6 of the Charter of the International Military Tribunal (historical revisionism or negationism).
- §2 opens the possibility to punish the acts provided for in §1 only when they carried out either in a manner likely to disturb public order or that is threatening, abusive or insulting. §4 provides that the punishment of the acts defined in §1 (c) and/or (d) may depend on the previous issuance of a final decision of a national and/or international court.

Art. 2§1 compels Member States to punish the instigation of the conduct proscribed in Art. 1§1(c) and Art. 2§2 the aiding and abetting of the conduct referred to in Art. 1.

Art. 3§2 sets a maximum of at least 1 to 3 years of imprisonment as a penalty spectrum. Art. 3 prescribes that all offences other than those referred to in Arts. 1 and 2 should be subject to harsh scrutiny when

committed on racist and xenophobic grounds (*hate crimes*), either by the stipulation of an aggravating circumstance or by consideration of this factor in the sentencing phase.

Art. 5 regulates the sensitive issue of the liability of legal persons: they can be held liable for the conduct in Arts. 1 and 2 committed for their benefit by any person, acting individually or as a part of an organ of the legal person, who has a leading position within the legal person (§1). The same holds true when such conduct is carried out due to a lack of supervision or control by the aforesaid person (§2). This type of liability does not exclude criminal proceedings against natural persons who are perpetrators or accessories in the created offences. According to Art. 6, Member States should introduce effective, proportionate and dissuasive penalties – criminal or non-criminal – such as exclusion from entitlement to public benefits or aid, being placed under judicial supervision, etc.

Art. 7 reiterates that the content of the FD shall not have the effect of modifying the obligation to respect fundamental rights, including freedom of expression and association, as a result of constitutional traditions and the TEU (Art. 6).

Arts. 8 and 9 deal with procedural issues: the former requires that the initiation of investigations or prosecution should not be connected with a prior report or an accusation made by a victim of the offence, while the latter settles basic issues related to the establishment of national jurisdictions.

The 28th of November 2010 was set as a deadline for the transposition of the described provisions into national legal orders. Three years later, the degree to which the Member States have complied with the FD will be assessed. The FD will be reviewed by the Council by 28 November 2013.

III. Relevant Greek Legislation in the Field of Criminal Law

Greek criminal legislation includes one relevant statute: law 927 of 25/28.6.1979 entitled “on the punishment of acts or conducts aiming at racial discriminations,” which was enacted in compliance with Art. 4 of the “International Convention on the Elimination of All Forms of Racial Discrimination.”

In particular, Art. 1§1 punishes intentional public incitement by any means to acts or conduct capable of provoking discrimination, hatred, or violence on racial or national grounds with imprisonment up to two years or a pecuniary penalty, which can be also imposed cumulatively. §2 criminalises the creation of or participation in organisations that pursue organised propaganda or any kind of activity tending towards discrimination. Art. 2 punishes expression by any means of ideas that are insulting to persons or groups of persons on the basis of their racial or national origin with imprisonment up to one year or a criminal fine, which can be also imposed cumulatively. Art. 24 of law 1419/1984 extended the application of the above-mentioned law to conduct defined in Arts. 1 and 2 in order to include perpetration on religious grounds as well.

The abolished Art. 3 used to criminalise the negation of supply of goods and services on the exclusive grounds of racial or national origin. This same conduct still constitutes a criminal offence by virtue of Art. 16§1 of law 3304/2005 that transposed into the Greek legal order Directive 2004/113/EC of 13 December 2004.

Ultimately, Art. 4 based the initiation of criminal prosecution upon the victim’s indictment. This provision was repealed by Art. 72 of law 2910/2001. Even this essential change did not alter the fact that not one single published judgement (condemnatory or absolvatory) has applied law 927 over a period of 30 years.²³ This situation changed only in 2010, when the first widely known application of the law by the criminal courts of

first and second instance of Athens resulted in an acquittal judgment that was even appealed before the Supreme Court.²⁴

IV. The New Draft Law

There is no need to substantiate why the Committee gave preference to drafting a new law rather than simply amending the existing one; the mere juxtaposition of the content of FD with that of law 927 leaves no doubt that there was no room for minor changes. However, the basic methodological choices made by the Committee in fulfilling its mandate are worth mentioning.

On the one hand, the Committee strove to avoid the mistakes made almost systematically in past efforts to implement the EU legislation into the Greek legal order. Tracing their root cause to the mere transposition without contextualization that repeatedly resulted in the literal reproduction of EU legal tools, a source of additional problems,²⁵ the Committee took into consideration the peculiarities and tradition of the Greek system of criminal law. In this context, it employed concepts and categories long used by the Greek Criminal Code and at the same time equivalent to those used by the FD. The reason is more than obvious: only the former has been thoroughly analysed by legal scholars and authoritatively interpreted by Greek courts. What is more, given that the FD is principally orientated towards the penalisation of hate speech, special care was taken to respect the freedom of expression, enshrined in Arts. 10-14 of the Greek Constitution and in Art. 10 ECHR. The meticulous study of ECtHR case law on the issue led to the punishment of hate speech only when a danger (risk) to civil peace and social order (*public order*) was immediate and imminent.

On the other hand, the Committee was mindful of the fact that criminalisation is not merely a technical (or dogmatic) enterprise but rather a process of social (re)construction as well. Consequently, an evaluation of the broader social environment within which the draft law (hereafter DL) will be applied is not only desirable but also imperative. Empirical research has identified groups defined by reference to race, religion, or national or ethnic origin as the “preferential clientele” of the criminal justice system,²⁶ whereas news broadcasts are cautiously beginning to shed light on the other side of the coin: immigrants, apart from being a suitable scapegoats, easily become the target of growing racism with endemic traits that slowly but surely develops into a fascist surge threatening Greek society as a whole and, of course, democracy. Seen through this prism, legislation is more effective when created after inclusive and extensive public debate, i.e., when both academic and popular discourse are taken into consideration. The Committee endeavoured to strike a happy medium by consulting international literature and by encouraging civil society’s actors (universities, NGOs, etc.) to take a stand on the desirability and potential content of a criminal law against racism and xenophobia with regard to FD 2008/913.

In detail, the DL is composed of ten articles dealing both with substantial and procedural issues. Art. 1 declares the purpose of the draft law – combating particularly serious forms of racism and xenophobia – while Art. 2 defines core concepts like hatred and religion, including the lack of any religious belief. Art. 3 declares as a criminal offence any public intentional incitement to violence or hatred against a group of persons or a member of such a group, defined by reference to race, colour, religion, national or ethnic origin, sexual orientation, or even against property used exclusively by these persons or groups (*hate speech*), in a manner that could endanger public order (*endangerment or anticipatory crime*). Therefore, the danger need not be either abstract or concrete but potential in the sense that the court must evaluate whether it could have materialised under certain circumstances. Punishment consists of imprisonment ranging from six months to three years, and the pecuniary penalty ranges from €1000-€5000, imposed cumulatively. If the conduct of §1 brought about as an immediate consequence the actual commission of another crime, §2 provides for a penalty enhancement, increasing to one to five years of imprisonment and €3000-€10,000 in pecuniary penalties. §3 penalises the creation of or participation in organisations whose activity falls under the scope of §1. The sentence would be imprisonment for a maximum of two years.

Art. 4§1 penalises the public condonement, denial, or annihilation of core international crimes and crimes provided for in Art. 6 of the Charter of the International Military Tribunal when perpetrated as described in Art. 1§1 (c) and (d) of the FD and with the additional condition that their occurrence has been established by the final decision of a national or international court (§2). The sentence equals maximum imprisonment of two years and a monetary penalty ranging from €1000-€3000.

Art. 5 stipulates that the commission of the crimes typified in Arts. 3 and 4 is even possible through the Internet under the additional condition that the perpetrator is physically present in Greece, regardless of whether the material used is hosted to a web server located outside of Greece or vice versa (*territoriality principle*).

Art. 6 institutes corporate liability for the conduct referred to in Arts. 3 and 4 when committed by any person holding a leading position within the legal person and acting individually or as a part of an organ of the legal person for the benefit or on the part of the legal person or simply through the latter. §2 renders the legal person liable even when an inferior employee commits the prohibited conduct as a consequence of lack of control or dereliction of duty by superiors. Provided that Greek law follows the old axiom “*societas delinquere non potest*,”²⁷ the stipulated sanctions are not criminal sanctions. They comprise administrative fines, disqualification from the practice of commercial activities, exclusion from entitlement to public benefits or aid, etc. They can be imposed cumulatively or alternatively, and their severity and temporary or permanent character is governed by the following factors: gravity, degree of fault, economic size of the legal person, and recidivism. The sanctions are imposed by the Minister of Justice after hearing the representatives of the legal person and can, of course, be challenged before the administrative courts. §5 underscores that corporate liability does not exclude the civil, disciplinary, or criminal liability of the physical perpetrators of the offences.

Art. 7 adds some linguistic modifications to Art. 79§3 of the Greek Criminal Code, stipulated by Art. 23§1 of law 3719/2008, which provides for a general aggravating sentencing clause for the commission of any offence involving hatred against a group of persons or a person defined by reference to race, colour, religion, national or ethnic origin, or sexual orientation. In other words, the offender must first be found guilty of the basic offence, and then the court deliberates whether there is sufficient evidence of a bias to apply a penalty enhancement (*hate crime*).

Art. 8 awards to a union of persons or organisations with a registered office in Greece the right to appear at the criminal trial in the capacity of damaged complainant (civil party) but only in support of the criminal charge. Such a right is only conferred upon organisations in consultative relationship with the Economic and Social Council of the United Nations.²⁸

Lastly, Art. 9 repeals law 927/1979, and Art. 10 dictates that the new law shall enter into force on the day of its publication in the Government Gazette.

V. Provisional Conclusion

According to Art. 34§2 TEU (repealed by the Treaty of Lisbon), “framework decisions shall be binding upon the Member States as to the result to be achieved but shall leave to the national authorities the choice of form and methods.” The DL makes sufficiently clear Greece’s obligation to criminalise racist and xenophobic offences (*hate speech* and *hate crime*) and, in doing so, takes full advantage of the national margins of appreciation accorded by the FD: the elements of the offence of Art. 3 should endanger public order, the offence definition in Art. 4 presupposes the final decision of a national or international law, and Art. 7 preserves a

penalty enhancement for hate crimes instead of creating a new substantive offence. In the spirit of the letter of DF, the DL:

- Protects sexual orientation;
- Recognises that either people or property can be victims;
- Touches upon organised forms of racist offences that are far more dangerous and harmful;
- Deals with perpetration through the Internet;
- Establishes corporate responsibility, not only when the offences are committed for the benefit of but also on account of or through the legal person;
- Recognises as a civil party organisations with established activity in the protection of human rights;
- Highlights the broader security dimension and community impact of racist and xenophobic crimes.

The Committee, by drafting a sophisticated law, has already covered half of the itinerary. The other half, consisting of its right and proper application, remains to be seen.

Athanasios Chouliaras

Attorney at law, LL.M., and PhD candidate at Democritus University of Thrace (Greece)

(Research grant from Alexander S. Onassis Public Benefit Foundation).

Contact: achoulia@law.duth.gr

1. * Although the author served as a member of the law preparation Committee of the Ministry of Justice, Transparency and Human Rights, this article exclusively reflects his personal opinions. He wishes to thank Prof. Dr. V. Karydis, also a member of the aforesaid Committee, for his valuable comments on an earlier draft, as well as M. Billis for providing him with bibliographical material.
A. Klip, *European Criminal Law. An Integrative Approach*, Antwerp-Oxford-Portland, Intersentia, 2009, p. 1 *et seq.*↔
2. D. Mouzakis, "On the criminal competence of European Communities," *Poinika Chronika*, 2004, p. 485 *et seq.*; P. Filopoulos, "Community Law and national Criminal Law," *Poinika Chronika*, 2003, p. 289 *et seq.* (both in Greek).↔
3. This methodological differentiation stems from the unique institutional framework of the EU, which, after the adoption of the Treaty of Maastricht in 1992 (OJ C 191/01, 29.7.1992, ratified by Greece with law 2077/1992), is based on a three-"pillar" structure. Each of these pillars involves a different manner in which the legislation is adopted, its binding effect, and its compliance monitoring. The first pillar comprises the three Communities (EC, Euratom, and ECSC), and its goal is to create an internal market. The second pillar is directed towards the development of a common defence and foreign policy. The third pillar is related to cooperation in the areas of justice and home affairs, which was replaced in 1997 by the area of freedom, security and justice (Treaty of Amsterdam, OJ C 340/144, 10.11.1997, ratified by Greece with law 2691/1999) and finally consolidated in 2001 (Treaty of Nice, OJ C 80/1, 10.3.2001, ratified by Greece with law 3001/2002). Criminal law is a subsidiary enforcement instrument in the first pillar, one of the main instruments in the third pillar, and totally irrelevant in the second pillar. The Treaty of Lisbon concluded in 2007 (OJ C 306/1, 17.12.2007, ratified by Greece with law 3671/2008), which became law on 1.12.2009, has abolished the pillar structure and introduced a single institutional framework, merging the internal market and the area of freedom, security and justice (Art. 3§§2 and 3 TEU, see consolidated version: OJ C 83, 30.3.2010). This development also entails the application of the principles of the former area on the latter. Klip, *op. cit.*, p. 13 *et seq.* See also C. Mylonopoulos, "The European Criminal Law after the Treaty of Lisbon," *Poinika Chronika*, 2011, p. 81 *et seq.*↔
4. Also known as the "PIF" Convention. OJ C 316, 27/11/1995, pp. 49-57, ratified by Greece with law 2802/2002.↔
5. The first protocol deals with the issue of corruption by or against national and Community officials (OJ C 313, 23.10.1996, pp. 2-10), whereas the second deals with the issues of fraud and money laundering (OJ C 221, 19.7.1997, pp. 12-22), ratified by Greece with law 2802/2002.↔
6. Greek scholars received this project with scepticism; see, e.g., the contributions of D. Spinellis *et al.*, in *Yperaspisi*, 1999, p. 3 *et seq.*, p. 605 *et seq.*, p. 621 *et seq.*, p. 1091 *et seq.*, p. 1103 *et seq.*, p. 1115 *et seq.*, respectively. See also M. Kaiafa-Gbandi, *Criminal Law in the European Union. Important aspects and perspectives for development*, Sakkoulas S.A., Athens-Thessaloniki, 2003, esp. p. 63 *et seq.* (all in Greek).↔
7. M. Delmas-Marty (ed.), *Corpus Juris: portant dispositions pénales pour la protection des intérêts financiers de l'Union européenne*, Economica, Paris, 1997. See also M. Delmas-Marty and J.A.E. Vervaele (ed.), *The Implementation of the Corpus Juris in the Member States*, Vol. I-III (2000), Vol. IV (2001), Intersentia, Antwerpen-Groningen-Oxford, Date published???.↔
8. D. Papagiannis, *The European area of freedom, security and justice*, Athens-Komotini, A.N. Sakkoulas, 2001 (in Greek).↔
9. Tampere European Council 15/16 October 1999. The conclusions of this European Council constitute the Tampere Programme, available at: http://www.europarl.europa.eu/summits/tam_en.htm#c, OJ C 53/1, 3/3/2005 and OJ C 115/1, 4/5/2010, respectively. See also the Action Plans: OJ C 019, 23.01.1999, pp. 1-15, OJ C 198, 12.08.2005, pp. 1-22 and COM(2010) 171 final, 20.4.2010, respectively.↔

10. This seems to be the dominant opinion in theory. Mouzakis, *op. cit.*, pp. 506-507. Filopoulos, *op. cit.*, pp. 294-296, p. 317. For a review of the various opinions and, in particular, for the contrary position, see also P. Staggos, "The proper legal basis for the enactment of the Corpus Juris under the Treaty establishing the European Economic Community," *Yperaspisi*, 1999, p. 1123 *et seq.*↔
11. G. Nikolopoulos, *State, Penal Power and European Integration. A Criminological Approach*, Kritiki, Athens, 2002. G. Nikolopoulos, *The European Union as an Agent of Criminal Policy, The "Hague Programme" and its application*, Nomiki Vivliothiki, Athens, 2008 (both in Greek).↔
12. A. Psarouda-Benaki, "Towards a 'European' Criminal Law?," *Poinika Chronika*, 2003, pp. 964-965 (in Greek).↔
13. Klip, *op. cit.*, p. 23. See also A. Klip, "Definitions of harmonisation" and U. Nelles, "Definitions of harmonisation," both in: A. Klip and H. van der Wilt (eds.), *Harmonisation and harmonising measures in criminal law*, Royal Netherlands Academy of Arts and Sciences, Amsterdam, 2002, p. 23 *et seq.*, p. 31 *et seq.*, respectively.↔
14. M. Delmas-Marty, M. Pieth and U. Sieber, U. (eds.), *Les Chemins de l'Harmonisation Pénale*, Paris, Société de législation comparée, 2008, esp. the editors' contributions in Part II entitled "Éléments d'une théorie de l'harmonisation pénale," p. 369 *et seq.*↔
15. W. Perron, "Perspectives of the Harmonisation of Criminal Law and Criminal Procedure in the European Union," in: E.J. Husabø and A. Strandbakken (ed.), *Harmonization of Criminal Law in Europe*, Antwerp-Oxford, Intersentia, 2005, p. 5 *et seq.*↔
16. M. Kaiafa-Gbandi, "European Integration and Criminal Law – contemporary development," *Poiniki Dikaosini*, 2001, p. 1284 *et seq.* S. Pavlou, "Criminal Law and the 'Framework Decisions' of EU – another (dangerous) entranceway of the European criminal law into the Greek one," *Poinika Chronika*, 2004, p. 961 *et seq.* S. Pavlou (ed.), *Framework Decisions*, Law & Economy-P.N. Sakkoulas, Athens, 2005 (all in Greek).↔
17. The legal basis of framework decisions was Arts. 29, 31, and 34§2 (b) TEU. The Treaty of Lisbon replaces framework decisions with directives (Arts. 67§3 and 83 TFEC). According to Art. 10 of the Protocol (No 36) on transitional provisions, framework decisions will continue to have effect for a period of five years after the date of entry into force of the Treaty of Lisbon.↔
18. After the revision of the new draft law by Ministry of Justice leaders, it will be posted in a blog-like platform in the Internet for electronic review, i.e., citizens and organizations can post their comments, suggestions, and criticisms on an article-by-article basis (for more information on these new transparency and openness policies of the Greek Government, see <http://diavgeia.gov.gr/en>). Afterwards it will be tabled in the Parliament, where it may be amended and will finally be voted on.↔
19. OJ C 83/396, 30.3.2010. See also the "International Convention on the Elimination of All Forms of Racial Discrimination" of 21 December 1965, ratified by Greece with Decree 494/1970.↔
20. OJ L 185, 24.7.1996, p. 5. See also the "Commission Communication of 13 December 1995 on racism, xenophobia and anti-semitism" (COM(95) 653 final - 95/0355(CNS)). There are also prior joint declarations on the broader issue of discrimination with no real legal value. For a detailed presentation of the relevant instruments, see D. Martin, "Racial Discriminations and Community Law," *Nomiko Vima*, 1997, p. 931 *et seq.* (Greek trans.).↔
21. Directive 2000/43/EC of 29 June 2000 (OJ L 180/22, 19.7.2000), Directive 2000/78/EC of 27 November 2000 (OJ L 303/16, 2.12.2000), and Directive 2004/113/EC of 13 December 2004 (OJ L 373, 21.12.2004, pp. 37-43), respectively. The first two directives were transposed into the Greek legal order with law 3304/2005 and the third with law 3769/2009.↔
22. OJ L 328/55, 6.12.2008.↔
23. For this research, the database of Athens Bar Association as well as the legal database "NOMOS" were used. See also G. Apostolakis, "Penal suppression of racial, national and religious discriminations," *Poiniki Dikaosini*, 2002, p. 1184 (in Greek).↔
24. *Areios Pagos* Judgement 2/2010, published in *Poiniki Dikaosini*, 2010, p. 533 *et seq.* (confirming the judgement of the Appeal Court).↔
25. Prof. Pavlou has eloquently reproached this practice as being uncritical and even "subservient." Pavlou, *op. cit.*, p. 962.↔
26. See, as an indication, V. Karydis, *The immigrants' criminality in Greece. Issues of theory and criminal policy*, Papazisis, Athens, 1996. V. Karydis, *Aspects of Social Control in Greece. Moral Panics, Criminal Justice*, Ant. N. Sakkoulas, Athens-Komotini, 2010. G. Nikolopoulos, "Internationalization of criminal policy and criminalization of immigrants in the 'area of freedom, security and justice': General perspective," in: *Prof. Iakovos Farsedakis Honorary Volume*, Vol. II, Nomiki Vivliothiki, Athens, 2011, p. 1385 *et seq.* (all in Greek).↔
27. C. Mylonopoulos, "Corporate Criminal Liability and Greek Law," *Revue Hellénique de Droit International*, 1/2010, p. 471 *et seq.*↔
28. See detailed information at <http://esango.un.org/paperless/Web?page=static&content=intro>↔

* Author statement

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