



**COUNTDOWN TO IMPUNITY: STATUTES OF LIMITATION
IN THE EUROPEAN UNION**

GREECE: National In-depth Assessment



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1. Introduction

Most striking cases in Greece with regard to corruption related offences and SoL involve political parties, members of the Parliament or even Cabinet Ministers. Although systemic corruption can hardly be questioned, still public awareness is lately raised mainly with regard to political scandals. To this respect cases such as *Siemens* and *Vatopedi* should be noted.

The case of *Siemens* involves *inter alia* the funding/sponsoring of political parties with several Siemens managers being already convicted on the said account by foreign Courts. At least one former Minister has confessed publicly -in the Parliament- having received such gifts. No criminal proceeding can however be instigated as according to Art.86 of the Greek Constitution a cabinet Minister can only be prosecuted after the consent of the Parliament sitting in plenum has been obtained. Such consent must be obtained before and no later than completion of the second regular session of the parliamentary term, which started after the offence was committed, otherwise the crime cannot be prosecuted. Hence, today, only criminal offences that were committed past October 2007 can be prosecuted [1]. In the case at hand, the said passive bribery offence was committed in 1997 having thus well succumbed to the applicable SoL. However judicial authorities are now pursuing the prosecution of the said former Minister on grounds of money-laundering, which was committed while he no longer was a Minister and is thus subject to a 15 years SoL. The case is still pending and the former Minister is not allowed to exit the Country.

Another well-known case is the *Vatopedi* scandal. *Vatopedi*, a holy monastery in Athos was implicated in a real-estate scandal by trading a lake -through offshore companies acting as intermediaries- for high-value state property in a deal with the then Government. The story having gone public, the land deals were annulled and two Ministers resigned. However the consent of Parliament for the prosecution of the Ministers was not obtained and the relative offences were prescribed because of the early elections of 2009, until which point the Parliament ought to have decided on the prosecution or not of the said Ministers. The new Government by claiming a different starting-point of the Sol period for the offences in question [2] set up a new commission to investigate the deal.

2. Overview of Specific Rules and Concrete Periods of SoL Applicable to Corruption

Greek criminal Law follows the trichotomy of criminal behavior into minor infringements misdemeanours and felonies. In accordance with Articles 18, 52, 53, 55 and 111 of the Penal Code [PC] the following table can be formed:

CRIME ACT	TIME LIMITATION	PENALTY
Felony	15-20 years	Life imprisonment/ 5-20 years imprisonment
Misdemeanour	5 years	10 days-5 years imprisonment/ pecuniary penalty
Minor Offence	1 year	1 day-1 month Imprisonment/fine

A. Suspension

The suspension of the limitation period is provided for in Article 113 of the PC.

i. Suspension of institution or continuation of the period of limitation.

Article 113 case 1, provides for the suspension of the period of limitation for as long as, according to a provision of law, the criminal prosecution may not be exercised or continue. Usually, such provision provides that criminal proceedings may not be instigated before a pre-trial question is resolved (thus, there is a "legal obstacle" which "blocks" the exercise of prosecution, and consequently the continuation of the limitation period).

ii. Suspension in the course of the proceedings.

According to case 2 of article 113 of the PC, the period of limitation shall be suspended during the main procedure and until the decision of the court becomes final. The *ratio* of this provision is to avoid prescription of the offence, while trial is pending.

However the suspension time period cannot exceed 5 years for felonies, 3 for misdemeanors, and 1 for minor offences. The deadline for the suspension does not apply when the postponement or suspension of the proceedings is decided pursuant to Article 30 paragraph 2 of the Code of Criminal Procedure [CCP]. This Article refers to political crimes and crimes that may affect the "international relations of the Country" for which the Minister of Justice may decide the postponement or suspension of the proceedings, a provision well criticized by GRECO in its last (third round) evaluation report of Greece. The legal issue that immerses regarding the suspension in the course of the proceedings is the starting point. According to the prevailing view, the starting point is no other than the starting point of the main procedure, namely the service on the accused of a formal and valid summons to appear at a hearing.[3]

Other grounds for suspension include according to Art. 432 of CCP the absence of the accused from his residence, unknown residence, non-appearance at the hearing or non-arrest of the accused within one month since service of summons, in which case the hearing is suspended until the accused appears or is arrested. Moreover, according to Art. 435 of CCP, in case an accused person under detention has been released on conditional terms and fails to appear or appears without lawful representation at the Court hearing, the Court *inter alia* suspends the proceedings.

iii. Does a Mutual Law Assistance (MLA) request lead to suspension of the SoL?

The international cooperation on penal crimes is accomplished on the basis of international, bilateral and multilateral conventions signed by Greece.

The Greek Ministry of Justice coordinates the realization of the scope of the above. Nevertheless, the most important part of the above cooperation between the contracting parties-countries has to do with assistance regarding Judicial and Public Prosecutor's Authorities.

Greece has signed lots of Agreements, indicatively with Romania, Yugoslavia, Egypt, Mexico, Australia, Cyprus, U.S.A, Canada e.t.c. Greek Laws have implemented the abovementioned Agreements.

By virtue of article K3 of the Convention of European Union, a European Judicial Network was constituted by the European Council in order to facilitate the procedure regarding the fight against serious crimes, including crimes of corruption.

On 28.2.2002, Eurojust was found by the European Council in order to crack down on crimes of

major importance in collaboration with other international Organizations such as Europol and OLAF.

Moreover, Greece has signed the European Convention for money laundering, as implemented by L.2655/1998, which includes provisions concerning the cooperation between European Judicial Authorities.

There is no provision indicating that an MLA request leads to the suspension of the SoL, neither in the Greek legislation nor in the above-mentioned Conventions.

B. Interruption- Absolute Period of Limitation

The Penal Code does not provide for the interruption of SoL; instead, an absolute period of limitation is provided for [4]: 25 or 20 years for felonies (20 year in case the penalty is life imprisonment or 15 years in any other case according to Art. 111, plus 5 years, which is the time limit for the interruption of the suspension according to Art. 113), 8 years for misdemeanors (thus 5 years according to Art. 111, plus 3 years, which is the time limit for the interruption of the suspension according to Art. 113), and 2 years for minor infringements (thus 1 year according to article 111, plus 1 year, which is the time limit for the interruption of the suspension according to article 113).

C. Penalties' Prescription Period

According to Art. 114 of the Penal Code the penalty of life sentence if not implemented is prescribed after 30 years, the sentence of 5-20 years imprisonment after 20 years, the sentence of 1-5 years imprisonment as well as the pecuniary penalties after 10 years and any other lighter sentence after 2 years.

D. SoL Of Administrative/Disciplinary Sanctions with Regard to Bribery Related Offences

The Civil Servants' Code (Art. 107) provides for the cases of disciplinary offences, committed by public officials. However, only instances "p" and "q" of the said Article can be considered to constitute disciplinary offences related to corruption. Case "p" is described as the exploitation, by the public official, of his position or of a piece of information he holds thanks to this position in order to satisfy his own private interests or private interests of third parties. Art. 112 paragraph 1 sets the period of limitation until the initiation of prosecution in two (2) years from the day on which the action took place (Art. 112 para. 1a'). The total duration of the limitation period until the adoption of the first disciplinary decision cannot exceed 3 years (Art. 112 para. 3). Case "q" refers more directly to corruption since the disciplinary misconduct lies in the acceptance by the public official of material favor or compensation for the handling of a case with which he is entrusted during the exercise of his duties. Although, jurisprudence has held that the acceptance of material favor should not be seen as passive bribery in criminal sense, the same court decision highlighting that the acceptance of material favor is equivalent to the general and abstract concept of undignified and unworthy conduct in Service, meaning the behavior of the staff, which is contrary to the prevailing moral and service ethics. For this offence, the period of limitation until the initiation of prosecution is set in five (5) years (Art. 112 para. 2b'). The total duration of the limitation period until the adoption of the first disciplinary decision increases and cannot exceed seven (7) years (Art.112 para. 2b').

Finally, Art. 112 para. 5 notes that the offence for which a preliminary disciplinary decision has been published, is not subject to a period of limitation. Art. 114 on the suspension of the limitation period stipulates that the criminal proceedings **do not automatically suspend the disciplinary proceedings**. The suspension is permitted under exceptional circumstances and only if the relevant

decision is duly justified.

E. SoL of Potential Civil Law Claims

Pursuant to Law 2957/2001, ratifying the European Civil Law Convention on Corruption, and especially Articles 2-4 thereof, an action for damages (including “moral damages”) can be brought against anyone who by committing an act of bribery or by allowing such an act to take place caused damages to another person, under the conditions set forth for torts (Arts. 914 et cet. Greek Civil Code [CC]). Likewise, Art. 3 of the said Law provides for the liability of the State or/and public legal entities in case one of their organs, in the course of its duties while being involved in an act of corruption caused damages to a third party. The said organ (public official) is jointly and severally liable. More importantly, in light of Art. 4, a contract may be annulled if it was concluded on grounds of corruption according to the provisions of Art. 154-157 of the CC. On the discretion of the party who suffered the damage, the contract may be annulled or maintain its validity while claims for damages can in any event be raised. Moreover civil liability of public officials can be pursued on the basis of Art. 105-106 of the Introductory Law of the CC, according to which claims for damages can be brought against the State for unlawful acts or omissions of its organs/public officials, without prejudice to special provisions regarding Ministers, the said public officials being in any case jointly and severally liable. Jurisprudence, however, is indicative of the prerequisites needed for implementing the said Provisions (Arts.105-6), among which prerequisites the requirement of “damage suffered” needing to be particularly founded.

As to SoL, the Convention in its Art. 7 provides that SoL cannot be shorter than 3 years since the day on which the one who has suffered the damage acquired or should have acquired knowledge thereof, establishing however also an absolute period of limitation of 10 years since the commission of the act of bribery.

According to Greek Civil Law, proceedings such as the above are subject to SoL or prescription periods after the expiry of which a lawsuit for the claim cannot be raised. The limitation periods for civil proceedings begins to run on the day on which the act leading to the damage was committed and can be prosecuted (Art.251 of CC) or the day on which a person becomes aware of the damage suffered and of the identity of the responsible person (Art.937 para.1 of CC- rule of discovery,) or should have become aware that an act of corruption has taken place (Art.147 section b’ of CC).

Once the period of limitation has expired the claim lapses (Art.272 para.1 of the Civil Code). This period lasts for five (5) years (Art.937 para.1 section a’ of CC) but there is an overall limitation period of twenty (20) years beyond which no lawsuit may be brought, regardless of the plaintiff’s date of knowledge (Art.249, 268 and 937 para 1 section b’ of CC- statutes of repose). **However**, in case the tort consists of criminally punishable deeds subject to a longer Sol, then according to Art. 937 para. 2 of CC, that longer SoL is applicable. Nevertheless, the court does not take into account ex officio SoL (Art.277 of CC) contrary to extinctive deadlines of prescription.

Suspension causes time of limitation to stop running and once the suspension has elapsed the time continues running, but in no way is the limitation period completed before an overall elapsed time of six months (Art.257 of CC).

After the interruption, on the other hand, of limitation, a new limitation period commences, identical to the previous one (Art.270 para.1 of CC), irrespective of the limitation period which has already elapsed before the interruption. The period of limitation is interrupted when the defendant acknowledges directly or indirectly the claim (Art.260 of CC) or when civil proceedings are instituted (Art.261 of CC). The grounds for suspension and interruption usually cover circumstances that hinder the claimant’s ability to bring an action, such as when the parties to an obligation are spouses, parents against their minors children, or an extra ordinary event that cannot be prevented in certain circumstances (force majeure) interferes with the civil action, or when the action is already brought for performance or for a declaration for the existence of a claim (Art.255,256,262,264 of CC).

It is important to highlight that, according to the Art. 261 of CC, if somebody files a suit, this act

interrupts the limitation period. The limitation period which is interrupted, starts again from the last procedural action done by the parties or the Court. The publication of the Court decision constitutes a procedural act. If, between two procedural acts, expires the entire duration of the limitation period, then the claim is statute-barred. (See No. 1125/2005 Decision of the Supreme Court of Justice)

Civil remedies provided in the Law enable taking legal action against liable legal persons, an option particularly interesting in Greece, where criminal liability for legal persons is not recognized.

Reformation with regard to the liability regime of politicians was anticipated with the newly modified law on tax evasion. Civil liability encompasses the responsibility for compensation which principally aims to the restitution of damage as a result of the perpetrator's actions and not to impose a sanction as in criminal liability. Therefore, (also according to the draft law -although the relative provision was not finally included and it is anticipated to pass as an Article of the Law on the Responsibility of Politicians, which is currently being drafted) the civil liability is anticipated regardless of the criminal liability, irrespectively of whether or not the criminal law proceedings are pending against a politician before any existing investigation committee or Committee for inquiries. The State may first of all, assess the damage resulting from the acts of corruption and afterwards judicially claim compensation via the Minister of National Economy that will legally represent it, filing an action against politicians who have damaged with their actions the State. If for any reason, there is no possibility for compensation, then confiscation, "freezing" of banking account, fine or imprisonment should be imposed at the same time with the Committee for inquiries of Parliament.[5] In this way, perpetrators are punished according to the general Civil Law, bypassing the limitation period. However the above mentioned are still to be tested...

F. Starting-Point of SoL With Regard to Bribery Related Offences.

In accordance with Art. 112 PC time limitation begins on the day that the crime was committed.

Especially with regard to money laundering and in specific the legalization of proceeds from criminal activities by the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of such activity to evade the legal consequences of his action (Absichtstatbestand) is considered to be a instantaneous crime, thus SoL commences on the day the conversion or transfer occurs, irrespectively of the time the result occurred.[6]

Likewise the concealment or disguise of the truth, with any manner or means, as it concerns the disposition, movement, use or the place where the property was acquired or is at present, or the ownership of the property or rights with respect to it, knowing that such property is derived from criminal activity or from an act of participation in such activity when it comes to money laundering is also considered to be an instantaneous crime, Art. 112 PC being here also applicable.[7]

However the acquisition, possession, administration or use of property, knowing, at the time of receipt or administration, that such property was derived from criminal activity or from an act of participation in such activity is considered to be a continuous crime, hence the starting-point of Sol is considered to be the point at which the illegal situation is reversed. [8]

Finally, the utilization of the financial sector by placing therein or moving through it proceeds from criminal activities for the purpose of lending false legitimacy to such proceeds is seen as an instantaneous crime, SoL beginning on the day the placing or moving of the proceeds occurred.[9]

G. The Case Of Parliament Members & Cabinet Ministers.

i. Crimes committed by members of the Parliament.

There is a constitutional provision of fundamental importance referring to the crimes committed by members of the Parliament: namely Article 86 of the Greek Constitution. According to Art.86 para.2 "prosecution, judicial inquiry, preliminary judicial inquiry or preliminary examination of serving or former members of the Cabinet or Undersecretaries shall not be permitted without a prior resolution of the Parliament", since according to Art.86 para.1: "only the Parliament has the authority to take legal action against serving or former members of the Cabinet or Undersecretaries for criminal Offences that were committed during the discharge of their duties, as specified by law [while] the institution of statutory ministerial offences is prohibited". There is merely one exception to this constitutional provision with regard to capital offences caught in the very act. The above "asylum" is applied during the service of the members of the Parliament and the consent must be given within a three-month period from the filing of the petition of the public prosecutor with the Parliament, which is suspended during the period of the cessation of the works of the Parliament in the summer.

ii. Time Restrictions

According to Art.86 para 3 of the Greek Constitution serving or former members of the Cabinet or Undersecretaries can only be prosecuted pursuant to the consent of the Parliament. Such consent must be obtained no later than the end of the second regular session (which lasts from September to June) of the parliamentary term, which commenced after the offence was committed. Moreover this consent can only be obtained through a resolution of the Parliament (for which absolute majority is needed), following a request by at least 30 members of the Parliament. It should be nonetheless noted that the immunity rule is applicable mainly for acts during the course of/in relation to the said persons' duties, as even the European Court of Human Rights has affirmed, finding also Greece liable for violating Article 6(1) ECHR -access to Court- in the case of *Syngelidis v. Greece*.^[10]

In effect, this time restriction functions as extinctive prescription period since no criminal action can be brought against the said persons unless and until the Parliament gives its consent. Grounds for suspension or enlargement of the said period of limitation are indeed needed, since there are cases where politicians evaded accountability due to the expiration of the said period of limitation.

Apart from this *sui generis* extinctive deadline of limitation, special SoLs are also provided for. According to Law 3126/2003, re Penal Liability of Ministers (which is also applicable to their accomplices) the statute of limitations for "punishable actions" (both felonies and misdemeanors that is) is set at a five-year-period (sic!), commencing on the day of the commitment of the offence (Art. 3 (1) of Law 3126/2003).

iii. The SoL may be suspended only for certain reasons:

- 1) For as long as the Works of the Parliament take place, during which the crime has been committed.
- 2) For as long as the main procedure takes place.
- 3) For as long as the Parliament has approved the postponement of the prosecution or the main procedure or the pre-main procedure.

H. Table of Offences.

Offences	Legal Source	Period of Limitation (years) until end of investigation or initiation of prosecution	Period of Limitation (years) until end of prosecution or sentence	Absolute Period of Limitation
Bribery				
Active Bribery of Public Officials («Ενεργητική Δωροδοκία»)	Art. 236 Greek Penal Code ¹ (hereinafter PC)	5 years	≤ 3years	8years
Passive Bribery of Public Officials («Παθητική Δωροδοκία»)	Art. 235 PC ²	5 years	≤ 3years	8 years
Passive Bribery of Judges («Παθητική Δωροδοκία Δικαστών»)	Art. 237 PC, para.1 ³	5 years	≤3years	8 years
Active Bribery of Judges («Ενεργητική Δωροδοκία Δικαστών»)	Art.237 PC, para.3 ⁴	5 years	≤3 years	8 years
«Παρακώλυση απονομής δικαιοσύνης δια δωροδοκίας δικαστών» (Obstruction of Justice via i.a. Bribery of Judges)	Art.187 PC para.2 ⁵	15 years	≤5 years	20 years
Aggravating Circumstance:	Art.187 PC para.2 in fin.	15/20 years	≤5 years	20/25 years
Aggravating Circumstance: If the value exceeds € 73.000,00 the abovementioned crimes are considered to be felonious.	Art.235 para.2, 236 para.2, 237 para.2, PC	15 years	≤5 years	20 years
Active Bribery of Members of the Parliament	Art.159 PC, para.1 ⁶	5 years	≤3 years	8 years

(«Ενεργητική Δωροδοκία Βουλευτών»)				
Passive Bribery of Members of the Parliament («Παθητική Δωροδοκία Βουλευτών»)	Art.159 PC, para.2 ⁷	5 years	≤3 years	8 years
Aggravating Circumstance: If committed against the Greek State and the prejudice caused exceeds €146.000,00 the abovementioned criminal activities are upgraded to felonies	By virtue of Law 1608/1950	15-20 years	≤5 years	20-25 years
Bribery of foreign public officials («Δωροδοκία αλλοδαπού δημόσιου λειτουργού»)	Art.2 of Law 2656/1998, re ratifying OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ⁸	5 years	≤ 3 years	8 years
Facilitating or concealing bribery of foreign public officials («Διευκόλυνση ή απόκρυψη τελέσεως δωροδοκίας αλλοδαπού δημόσιου λειτουργού»)	Art.3 of Law 2656/1998, re ratifying OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ⁹	5 years	≤ 3 years	≤ 8 years
Bribery of EC/EU officials («Δωροδοκία κοινοτικών υπαλλήλων»)	Art. 4 of Law 2802/2000, re ratifying the Convention on the fight against corruption involving officials of the E.C. or officials of Member States of the E.U. ¹⁰	5 years	≤ 3 years	8 years
Criminal Responsibility of heads of business («Ποινική ευθύνη διευθυντών επιχείρησης»)	Art. 5 of Law 2802/2000, re ratifying the Convention on the fight against corruption involving officials of the E.C. or officials of Member States of the E.U. ¹¹	5 years	≤3 years	8 years
	Art.7 of Law 2303/2000, re ratifying the Convention of the European Union on the	5 years	≤ 3 years	8 years

	protection of its financial interests ¹²			
Bribery of national/EC official against the financial interests of the E.C. («Δωροδοκία εθνικού/κοινοτικού υπαλλήλου σε βάρος των συμφερόντων της ΕΟΚ»)	Art. 3 of Law 2803/2000 re ratifying the Convention on the Protection of the European Communities' Financial Interests ¹³	5 years	≤ 3 years	8 years
Bribery of foreign public officials, of officials of international organisations («Δωροδοκία αλλοδαπών δημόσιων λειτουργών, λειτουργών διεθνών οργανισμών και μελών αλλοδαπών δημόσιων συνελεύσεων»)	Art. 3 of Law 3560/2007, re ratifying the CoE Criminal Law Convention on Corruption ¹⁴	5 years	≤ 3 years	8 years
Bribery of members of foreign public assemblies. («Δωροδοκία μελών δημόσιων συνελεύσεων»)	Art. 4 of Law 3560/2007, re ratifying the CoE Criminal Law Convention on Corruption ¹⁵	5 years	≤ 3 years	8 years
Bribery of foreign public officials, of officials of international organisations («Δωροδοκία αλλοδαπών δημόσιων λειτουργών, λειτουργών διεθνών οργανισμών και μελών αλλοδαπών δημόσιων συνελεύσεων»)	Art.4 of Law 3666/2008, re ratifying the UN Convention against Corruption ¹⁶	5 years	≤ 3 years	8 years
Bribery of members of foreign public assemblies. («Δωροδοκία μελών δημόσιων συνελεύσεων»)	Art. 5 of Law 3666/2008, re ratifying the UN Convention against Corruption ¹⁷	5 years	≤ 3 years	8 years
Active Bribery in the private sector («Ενεργητική δωροδοκία στον ιδιωτικό τομέα»)	Art. 5, para.1 sections a' and b' of Law 3560/2007, re ratifying the CoE Criminal Law Convention on Corruption ¹⁸	5 years	≤ 3 years	8 years

Passive Bribery in the private sector («Παθητική Δωροδοκία στον ιδιωτικό τομέα»)	Art. 5, section c' of Law 3560/2007, re ratifying the CoE Criminal Law Convention on Corruption ¹⁹	5 years	≤ 3 years	8 years
Aggravating Circumstance: The perpetrator of para. 1 is punished with up to 10 years imprisonment if the value of the undue advantage or exchange surpasses the amount of €73.000.	Art 5 para. 2 of law 3560/2007	15 years	≤5 years	20 years
Active Bribery of A.E.'s shareholders («Ενεργητική Δωροδοκία μετόχου Α.Ε.»)	Art.59 b) of Law 2190/1920 ²⁰ , on AE (companies limited by shares)	5 years	≤3 years	8 years
Passive Bribery of A.E.'s shareholders («Παθητική Δωροδοκία μετόχου Α.Ε.»)	Art.59 a) of Law 2190/1920 ²¹ , on AE (companies limited by shares)	5 years	≤3 years	8 years
Active Bribery for influencing the outcome of Sports-games («Δωροδοκία για αλλοίωση αποτελέσματος αγώνα.»)	Art.132 para.1 of Law 2725/1999 ²² , Amateurish-Professional Athletics,etc	5 years	≤3 years	8 years
Passive Bribery for influencing the outcome of Sports-games («Δωροληψία για αλλοίωση αποτελέσματος αγώνα»)	Art.132 para.2 of Law 2725/1999 ²³	5 years	≤3 years	8 years
Aggravating Circumstance: If the intended result occurred because of the punishable actions of the above paragraphs, the culpable would have to be punished with at least 6 months' imprisonment and a money penalty of at least €6.800.	Art.132 para.3 of Law 2725/1999	5 years	≤3 years	8 years
Embezzlement				
Embezzlement with regard to public service («Απιστία σχετική με την Υπηρεσία»)	Art.256 PC ²⁴	5 years	≤ 3 years	8 years

Aggravating circumstances: if 1)the responsible used special tricks and the decrease of property is >15.000 euro or 2) if the object of the action is of total ammount > 73.000 euro ²⁵		15 years	≤ 5 years	20 years
Fraud during the course of public service («Απάτη στην Υπηρεσία»)	Art.258 PC ²⁶	5 years	≤ 3 years	8 years
Aggravating circumstances: if 1)the culpable used special tricks and the decrease of property is >15.000 euro or 2) if the object of the action is of total ammount > 73.000 euro ²⁷		15 years	≤ 5 years	20 years
Fraud against the EC financial interests. («Απάτη σε βάρος των οικονομικών συμφερόντων των Ευρωπαϊκών Κοινοτήτων.»)	Art.4 of Law 2803/2000 ²⁸	5 years	3 years	8 years
Aggravating circumstances: if 1) the damage is > 824.650 euro or 2)if the damage is > 146.735 euro ²⁹		15/20 years	≤ 5 years	20/25 years
Trading in Influence				
Trading in Influence- intermediaries with respect to public sector («Άσκηση Επιρροής-Μεσάζοντες»)	Arts.1 and 11 of Law 5227/1931 on Intermediaries ³⁰	5 years	≤ 3 years	8 years
Offering for Trading in Influence-both active as well as passive vis á vis tax regulations («Προσφορά για Άσκηση Επιρροής -ενεργητική και παθητική σχετικά με δήλωση εισοδήματος»)	Art. 5 para.1 of Law 3213/2003 ³¹	5 years	≤ 3 years	8 years
Aggravating Circumstance: the illicit enrichment exceeding € 73.000,00 or the illegal activity to be perpetrated on a	Art.5 para.2 of Law 3213/2003	15 years	≤ 5 years	20 years

regular basis				
Abuse of Functions				
Abuse of Functions («Κατάχρηση Εξουσίας»)	Art. 239 PC ³²	5 years	≤ 3 years	8 years
Aggravating circumstances: if the official, knowing exposed to prosecution or punishment an innocent or failed to prosecute a person or caused the exemption from punishment ³³		15 years	≤ 5 years	20 years
Concussion («Καταπίεση»)	Art. 244 PC ³⁴	5 years	3 years	8 years
Violation of confidentiality with regard to public service («Παραβίαση Υπηρεσιακού Απορρήτου»)	Art. 252 PC ³⁵	5 years	≤ 3 years	8 years
Violation of duties during the course of public service («Παράβαση Καθήκοντος»)	Art. 259 PC ³⁶	5 years	≤ 3 years	8 years
Illicit Enrichment				
«Παράνομος Πλουτισμός»	Art. 4 paras. 1, 3 and 4 of Law 3213/2003 ³⁷ Declaration and audit of the assets of members of parliament	5 years	≤ 3 years	8 years
<u>Aggravating Circumstance:</u> the illicit enrichment surpasses the total amount of € 73.000,00	Art. 4 ³⁸ para. 2 a), 3 and 4 of Law 3213/2003	15 years	≤ 5 years	20 years
<u>Aggravating Circumstance:</u> the respective activity to be exercised on a regular basis or the perpetrator is a habitual criminal or in case of recidivism	Art. 4 para. 2 b), 3 and 4 of Law 3213/2003	15 years	≤ 5 years	20 years
Money Laundering				
Money-Laundering (Basic Forms)	Arts. 2, 3 read in conjunction with Art. 45 para. 1 (a) of Law 3691/2008, re Prevention and suppression of money laundering, terrorist financing	15 years	≤ 5 years	20 years

	and other provisions. ³⁹			
Aggravating Circumstance: the illegal activity to be perpetrated by one acting as an employee of an obliged legal entity or in case the predicate offence is included in the offences referred to in Article 3(c), (d) and (e) above	Art.45 para.1 (b) of Law 3691/2008 ⁴⁰	15/20 years	≤5 years	20/25 years
Aggravating Circumstance: the illegal activity under Art.45 (a) to be perpetrated professionally or out of habit or the perpetrator to be a recidivist or to be acting on behalf of, for the benefit of, or as a member of a criminal or terrorist organisation or group.	Art.45 para.1 (c) of Law 3691/2008 ⁴¹	15/20 years	≤5 years	20/25 years
*Note: "Criminal responsibility for the predicate offence shall not exclude the punishment of offenders (the principal and his accomplices) for the offences referred to in items (a), (b) and (c) of this paragraph [i.e para 1 Art.45 of Law 3691/2008], if the circumstances of the money laundering acts are different from those of the predicate offence."	Art.45 para.1 (e) of Law 3691/2008			
Failure of an employee -of an obliged legal entity or any other person obliged to report suspicious transactions- to report to the competent authorities suspicious or unusual transactions	Art.45 para.1 (d) of Law 3691/2008 ⁴²	5 years	≤3 years	8 years
In case the penalty for the predicate offence is a-term of imprisonment of up to 5 years	Art.45 para.1 (f) of Law 3691/2008 ⁴³	5 years	≤3 years	8 years
In case the ML perpetrator is not an accomplice to the predicate offence but is nonetheless a linear relative of the latter's perpetrator	Art.45 para.1 (f) of Law 3691/2008 ⁴⁴	5 years	≤3 years	8 years
In case the envisaged sanction for the predicate offence is a term of imprisonment up to 5	Art.45 para.1 (i) of Law	5 years	≤3 years	8 years

years and the illegal gains do not exceed €15,000	3691/2008 ⁴⁵			
In case the circumstances referred to in item (c) of Art. 45 para.1 of Law 3691/2008 apply to the perpetrator of the predicate offence or to a third person	Art.45 para.1 (i) of Law 3691/2008 ⁴⁶	5 years	≤3 years	8 years
*note: special provisions	Art.45 para. 2, 3, 4 of Law 3691/2008 ⁴⁷			

3. BRIEF OVERVIEW OF IMPLEMENTATION OF SoL IN CORRUPTION-RELATED CRIMINAL PROCEEDING

In the absence of any official statistical data no reliable conclusion can be drawn. The lack of statistical information (either official or unofficial) is crucial as statistics is a key component - as the main if not the only performance indicator- while conducting an assessment of the enforceability and effectiveness of a Country's A-C legislation. Hence, one cannot really argue with the statement of TI in its 2010 Progress Report on the Enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, where it is stated with regard to Greece (p.36) that “the only information available is from law enforcement authorities in other jurisdictions and from the media”.

The fact that there are corruption-related cases where SoL played a key role does not by itself - *ipso facto*- render SoLs under Greek Law problematic, since there is no basis for comparison. The number of corruption-related cases dealt with yearly remains unknown as well as the number of cases dropped on grounds of prescription. This is the reason it is not possible to figure out what percentage the latter represents of the former and whether or not SoL is indeed a problem area. Nonetheless, corruption related cases dropped on grounds of prescription that were also officially presented by the Greek Authorities to GRECO and which are cited in GRECO's Third Evaluation Report on Greece can be found in Annex 2.

While now and again even OECD has recognized a 5 years SoL for bribery as an “adequate” one (which is also the case in Greece), a contextual approach is nonetheless required. Provided that the decentralized organization of the enforcement system, the lack of coordination between the complain mechanisms as well as the systemic corruption hinders prosecution - the judiciary not always being that independent - and most significantly the backlog of cases pending, a 5 years SoL may be proven to be inadequate. Enlightening as to these factors are the comments made by the General Auditor for Public Administration, who in his report for 2010 concludes that for none of the 450 corruption related cases in the Public Sector that were brought before a Court of Law within the last six years, a final judgment has been reached![11]

What cannot be doubted however is that the really short period of limitation applicable to serving and former Members of the Parliament even for felonies (5 years instead of 15/20 years under the Greek Penal Code) combined with the extinctive period of limitation as described above creates indeed an accountability gap, something reinforced by the Greek everyday reality (media disclosing one scandal after another).

4. Best practices, Weaknesses, and Recommendations.

In light of the research conducted, in Greece one can hardly speak of best practices when it comes to corruption. However the legislative instruments being rather innovating, concerns inevitably focus on enforceability issues. Among the innovative provisions also stand those providing for prioritization and speedy trial of corruption related cases as well as non suspension of disciplinary proceedings while criminal ones are pending. However the latter is not always implemented and it is quite common for disciplinary proceedings to be halted until the issuance of a final criminal court decision.

As to the weaknesses of the system: they go hand-in-hand with the proposed recommendations. Hence, also with respect to the GRECO reports Greece should codify all relevant legislation, simplifying the regulatory framework achieving thus greater rates of enforceability. The law is far from clear and organized, making thus speedy administration of justice a hard to be reached goal for the judge while simultaneously rendering impunity a probable option for perpetrators. To be exact however the complexity of the legislative framework indeed provides a series of legal instruments to be used so as to achieve in any event accountability although the work of judges may significantly be hindered and the backlog of cases sufficiently increased due to that very complexity. To that respect (decreasing the backlog of cases and towards facilitating the speedy administration of justice) a series of measures could be introduced. Creating specialized Chambers within the existing Courts, de-penalizing minor infringements or indeed dividing and transferring the jurisdiction of central courts (such as the Athens Court of First Instance) to regional Courts are only some of them.

Coming back to the Law, its complexity is not the only problem since in some cases its very content is questionable. Especially with regard to serving and former members of the Parliament the accountability gap should be filled. Not only immunity should not be read as impunity (bearing in mind the *obiter dictum* of the European Court of Human Rights in *Syngelidis vs. Greece* as cited above, according to which the immunity rule applies merely to acts related with the political persons' duties as provided for by law) but what is more the law (that is to say not the Constitution but merely law 3126/2003, re Penal Liability of Ministers that provides for a 5 year SoL both for felonies as well as misdemeanors) should be amended. SoL for members of the Parliament should indeed be equalized with SoL for common people, as there is no *ratio* other than impunity lying behind such a provision.

Official statistics and assessment of the effectiveness of the provisions concerning A-C law are always useful instruments and especially with regard to SoL, the computerization of court decisions and data being a constant demand. Indeed without performance indicators one can hardly argue either that SoL is or that is not a problem, the burden of proof lying however with the State.

In the same line of arguing, co-ordination of enforcing Authorities, training of personnel, or even establishing of a Special Prosecutorial Authority for corruption related offences (in the same fashion that was done for terrorism-related offences in Greece) are measures that could point to the right direction.

In any event, whistleblowers should enjoy a higher level of safeguards -even on a purely legislative basis- while raising public awareness and cultivating education of young people (in order for anti-corruption mentalities to be formed) are fundamental components not to be underestimated of a strategy for combating "countdown to impunity" when dealing with SoL.

5. References and Sources

¹ Newspaper “TO VIMA”, published on May 30, 2010, p.18 (in greek).

²In specific: arguing on grounds of crucial being not the time at which the Minister ordered the conclusion of the deal (2007) but the time that the said deal was actually concluded.

³ “Δίκαιο των Ποινικών Κυρώσεων” (Penal Sanctions’ Law), Law Library (ed.) 2008, p.221-226 and 230- 234.

⁴ Athanasios Kontaxis, *Penal Code*, Athens 2000.

⁵ Newspaper “TO VIMA”, published on May 30, 2010, p.A15 (in greek).

⁶ Eleni Kaberou-Dalta, Law 3691/2008 on Money Laundering, P.N.Sakkoulas (ed.), 2009, p.112.

⁷ Eleni Kaberou-Dalta, Law 3691/2008 on Money Laundering, P.N.Sakkoulas (ed.), 2009, p.123.

⁸ Eleni Kaberou-Dalta, Law 3691/2008 on Money Laundering, P.N.Sakkoulas (ed.), 2009, p.129.

⁹ Eleni Kaberou-Dalta, Law 3691/2008 on Money Laundering, P.N.Sakkoulas (ed.), 2009, p.138.

¹⁰ *Syngelidis v. Greece*, App.No 24895/2007, date of judgment 11/02/2010

¹¹ Newspaper “TO VIMA”, published on July 28, 2010 (in greek-online edition).

Annex 1: Notes Accompanying the Table of Offences

¹ Art. 236 PC: 1. One, who promises or supplies to a public official, directly or through intermediaries, benefits of any nature for the public official himself or for a third person, for the purpose that the public official, in violation of his duties, proceeds to an act or omission (future or already accomplished), which arises from his duties or conflicts therewith shall be punished by imprisonment for not less than one year. (ranging that is from one to five years).

² Art. 235 PC: 1. Any public official who in breach of his duties, demands or accepts, directly or through intermediaries, for himself or for a third party, benefits of any nature or accepts the promise thereof, for the purposes of a future or already accomplished act or omission on his part, which arises from his duties or conflicts therewith shall be punished by imprisonment for not less than one year. (ranging that is from one to five years).

³ Art. 237 para.1: One who is appointed to exercise judicial duties under statute, or who is an arbitrator, and who demands or accepts gifts or other considerations or the promise of such gifts or considerations not owed to him, with intend to conduct or decide a case assigned to him to the benefit or detriment of a party shall be punished by imprisonment for not less than one year. (ranging that is from one to five years).

⁴ Art. 237 para.3: One, who, for the above purposes, offers, promises, mediates or gives such gifts or benefits to any of the persons referred to in par. 1 of Art.237 PC or to relatives thereof shall be punished a) by imprisonment for not less than one year (ranging that is from one to five years) and b) in case the value of the gift or other consideration exceeds Euro 73.000 by imprisonment ranging from five to ten years. .

⁵ Art. 187 PC (as amended by Law 3849/2010): 2. One who by means of threat or use of violence against judicial officers, interrogators or judicial employees, witnesses, assessors and interpreters or by bribing the said persons cancels the disclosure or the prosecution and punishment of the crime of establishing or being part of a criminal organisation of para.1 Art.187 PC (involved in a series of crimes (i.e fraud, counterfeit e.t.c) shall be punished by imprisonment from five to ten years and a pecuniary penalty ranging from 100.000 to 500.000.

⁶ Art.159 PC: 1.One who, with respect to elections or voting by the Parliament or one of its Committees or by a prefectural, municipal or local government council or by a respective committee of the aforementioned bodies, offers, gives or promises to a member of the Parliament or to a member of said councils or of said committees the supply of gifts or other benefits which are not due to him in order not to take part in the election or voting or to vote in a certain way shall be punished by imprisonment for not less than one year (ranging that is from one to five years).

⁷ Art.159 PC: 2. The same penalty (of Art.159 PC para.1) shall be imposed to members of the Parliament or to members of said councils or of said committees (in Art. 159 PC para.1) in case they accept the supply or promise of gifts or other benefits which are not due to them or in case they demand such gifts or benefits in order not to take part in the election or voting or to vote in a certain way.

⁸ Para.1. Anyone who, during the exercise of international business activities and in order to acquire or maintain unfair business or other non owed, advantage, financial or not, offers, promises or gives, himself or through third parties, undue gifts or other benefits, to foreign public official, within the meaning of the Convention of OECD, which is ratified in the first article of this law, in

favour of himself or in favour of a third person, in order for the public official to act or omit something relative to his service or act contrary to his duties, is punishable with imprisonment of not less than one year.

⁹ Anyone who, in order to facilitate or conceal the commitment of the action referred to the article above:

1. Keeps accounts in addition to the books of the company.
2. Carries out transactions in addition to the books or transactions insufficiently identified.
3. Carries out nonexistent expenses or expenses whose object is incorrectly identified or
4. Uses documents with incorrect content, is punishable with imprisonment of up to three years, if the action is not punishable more heavily under a different article.

¹⁰ Para 1. The offence of bribery, when carried out by or towards members of the Commission of the European Communities, the European Parliament, the Court or the Court of Auditors of the European Communities during the exercise of their duties, is punishable as if it was carried out by or towards the Ministers of the Greek Government, the elected members of the Greek Parliament and the members of the Greek Supreme Courts, in the performance of their duties. However, the specific procedural provisions concerning the responsibility of Ministers and the other provisions referred to the prosecution and the jurisdiction of the courts do not apply. The persons mentioned above are brought before the Court of Appeal.

¹¹ Directors of enterprises or persons who have the power making of decisions or controlling enterprises are punished with imprisonment, if the action isn't punished heavier with other provision, in case a person who acts under their orders perpetrate a bribery, for the enterprise's account according to present law's notion.

¹² If a person who actually exercises direction duties or has the power making of decisions or controlling the enterprise, for the benefit of which one of referral in art.3,4,5,6,9,10 actions has committed, against the European Communities' financial interests, he didn't avert this action in breach of his duties, is punished with imprisonment, if he isn't punished heavier with other provision.

¹³ 1. Active and passive bribery perpetrators of officials, who are provided in Articles 2 and 3 of 27.9.1996 Protocol of the Convention for the protection of financial interests of the European Communities, which is ratified by that law, are punished by imprisonment of at least one year.

2. The perpetrators of acts as defined in para.1 of the present Article shall be punished by imprisonment ranging from five to ten years in case the value of gifts exceeds the amount of seventy three thousand (73.000) euro.

3. In these cases the Court orders the confiscation of the gifts supplied or their value.

¹⁴ 1. The provisions of Arts. 235, 236, 237 and 238 of the Greek Penal Code are also applicable in cases of active and passive bribery by/of public officials, judges, jury, arbitrators of any State party to the present Convention .

2. The provisions of Articles 235, 236 and 238 of the Penal Code shall apply to the acts of active and passive bribery from and to officers or other staff with any contractual relationship, within the meaning of the relevant staff regulations, any public, international or supranational body or institution to which the Hellenic Republic is a member, and to any person seconded or not, which carries out duties corresponding to those who carry out these civil officers or staff.

3. The provisions of Articles 237 and 238 of the Penal Code shall apply to the acts of active and passive corruption referred to persons pursuing judicial duties or arbitrator tasks or jury at international courts, whose jurisdiction is accepted by the Hellenic Republic. As to the acts of active

and passive corruption from and to other officials of those international courts, shall apply the provisions of Articles 235, 236 and 238 of the penal code.

¹⁵ The provisions of Article 159 of the Penal Code shall apply to:
(a) acts of active and passive corruption from and to any person who is a member of any public assembly, that is exercising legislative or administrative powers namely member of the Parliament or Committee, or any Council of Local Authorities in any other State part of the Convention that shall be ratified by this law and
(b) acts active and passive bribery from and to members of parliamentary assemblies, international or supranational organisations, in which the Hellenic Republic is a member.

¹⁶ 1. The provisions of Articles 235, 236, 237 and 238 of the Penal Code shall apply to the acts of active and passive bribery from and to public officials and judges, including the jury and the arbitrators of another State party to this Convention.

2. The provisions of Articles 235, 236 and 238 of the Penal Code shall apply to the acts of active and passive bribery from and to officers or other staff with any contractual relationship, within the meaning of the relevant staff regulations, any public, international or supranational body or institution to which the Hellenic Republic is a member, and to any person seconded or not, which carries out duties corresponding to those who carry out these civil officers or staff.

3. The provisions of Articles 237 and 238 of the Penal Code shall apply to the acts of active and passive corruption referred to persons pursuing judicial duties or arbitrator tasks or jury at international courts, whose jurisdiction is accepted by the Hellenic Republic. As to the acts of active and passive corruption from and to other officials of those international courts, shall apply the provisions of Articles 235, 236 and 238 of the penal code.

¹⁷ 1. The provisions of Article 159 of the Penal Code shall apply to the acts of active and passive bribery from and to any person who is a member public assembly, who is exercising legislative or administrative powers, who is member of the Parliament or Committee of the Parliament, or member of the Council of Local Authorities in any other State part of the Convention that shall be ratified by this law.

2. The provisions of paragraphs 1, 2 and 5 of Article 159 of the Penal Code shall apply to the acts of active and passive bribery, from and to members of parliamentary assemblies, international or supranational organizations, in which the Hellenic Republic is a member.

¹⁸ Anyone, who in the course of his business duties willingly promises, gives or provides directly or indirectly any undue financial advantage or exchange to anyone who directs or works for, in any capacity, private sector entities, for himself or for anyone else, for an action or a breach of his duties, as they are defined by the law, the contract of employment, the bylaw, the supervisors' orders or directions or as they are arised by the kind of job, is punished with one to five years imprisonment.

The action isn't punished, if the articles' 236 para.3 of Penal Code prerequisites are applied and in that case the present or benefit which distrained or turned in, ascribes to the donor and the article 238 of Penal Code is not applied.

¹⁹ The same punishment is imposed to any director or employee, in any capacity, in private sector entities, who in the course of his business duties willingly, demands or receives straightly or indirectly any undue financial advantage for himself or any other or accepts a promise of such advantage or exchange for an action or a breach of his duties.

²⁰ The following are punished with imprisonment of up to one year and a money penalty of at least €1.000 or with either of the above penalties:

b) Anyone who knowingly provides special benefits or promises of such benefits for the purposes of the above sections.

²¹ a) Anyone who knowingly accepts for an illegal cause special benefits in order to vote in a certain way in the General Meeting or in order not to be present in the General Meeting.

²² Anyone who demands or receives gifts or other utilities or any other grantings or promise of them, in order to alter in favor of or against an athletic association, athletic company limited by shares or a part of rewarded athletes, the outcome of a game, any collective or individual sport which conducted or will be conducted, is punished with at least 3 months' imprisonment and a money penalty of at least € 3.000.

²³ The same punishment is imposed to everyone who according to para.1 offers, gives or promises to an athlete, an arbitrator or an administrative agent or other person who associates in any way with the athlete, the arbitrator, the association, the athletic company limited by shares or the part of rewarded athletes, gift, utilities or any other grantings.

²⁴ An official who, during the imposition, collection, or administration of taxes, duties, fees or other revenue, decreases, being privy to that fact, and in order to benefit himself or another, the public, communal or community property, whose administration is confided in him, is punishable with imprisonment: a) of at least six months; b) if the decrease is of great value, with imprisonment of at least two years,

²⁵ c) with incarceration of up to ten years if: [a] the responsible used special tricks and the decrease of the estate is of particularly great value that exceeds the amount of 15.000 euro or [b] the object of the action is of a total amount of more than 73.000 euro.

²⁶ An official who illegally embezzles money or other movable things that he received or holds due to his property, and if still he was not competent in this matter, is punished: a) with imprisonment of not less than six months; b) with imprisonment of at least two years, if the object of the action is particularly of great value;

²⁷ c) with incarceration of up to ten years if: [aa] the responsible used special tricks and the object of the action is particularly of great value and exceeds the amount of 15.000 euro or [bb] if the object of the action is of a total amount of more than 73.000 euro

²⁸ Whoever, with the use of false, incorrect or incomplete statements or documents or by concealing or not revealing information, through the violation of a specific obligation, or by using, contrary to their destination, the resources which had been allocated to him or the benefits that have been lawfully acquired, collects or deducts or illegally reduces not owed resources of the general budget of the European Communities or budgets managed by them or on their behalf is punishable with imprisonment.

²⁹ 2. If the damage exceeds the amount of 281.000.000 drachmas (824.650 euro), incarceration ranging from five to ten years is imposed and if the damage exceeds the amount of 50.000.000 drachmas (146.735 euro) five years incarceration to life-sentence is imposed.

³⁰ Anyone who receives a fee or other consideration or a promise of such fee or consideration in favor of himself or a third party by falsely or accurately alleging that due to his relations or his capacity or in general due to his influence and power, he may act as an intermediary in the conclusion of a contract with the State or with public enterprises or other public legal persons or

cause any deed or failure of such persons or their employees, representatives or instruments, shall be punished by imprisonment of at least three months along with a fine.

³¹ Whoever demands, receives or accepts promise of economic return for himself or third person in order that he or the third person exercises influence in person indebted in statement so that he takes decision that is reduced in his official duties, he is punished with imprisonment of up to 2 years and pecuniary sentence from 15.000 Euro until 750.000 Euro. With the same sentence is punished and the one that promises or offers economic return in other, in order that the one that receives it or the third person exercises influence in person indebted in statement so that it takes decision that is reduced in his official duties. In any case he is incurious irrespectively of whether or not the influence was exercised or whether or not the influence that was exercised leads to the intended result.

³² An official charged with tasks such as the prosecution or investigation of criminal offenses: a) if he used illegally blackmailing means in order to achieve any written or oral submission of an accused, a witness or an expert, is punishable with imprisonment of at least one year, if the act is not punishable more heavily under the articles 137 and 138B;

³³ b) if, being privy to that fact, he exposed someone innocent to prosecution or punishment or omitted to prosecute a person or caused the exemption from punishment, is punishable by incarceration up to ten years.

³⁴ Official who, being privy to that fact, collects taxes, duties, fees or other revenue, judicial expenses or other rights that are not owed is punishable with imprisonment of at least three months.

³⁵ The official, except for the cases referred to the articles 248, 249, 250 and 251, who, by violating his duties, communicates to someone else: (a) something that he knows only because of his service or (b) document that is confided in him or accessible because of his service, if he committed one of these actions in order to benefit himself or harm the State or another person, is punishable with imprisonment of not less than three (3) months.

³⁶ An official who, intentionally, violates the duties of his service in order to yield to himself or to another person an illegal benefit or to harm the State or another person, is punishable with imprisonment of up to two years, if this action is not punishable by another criminal provision.

³⁷ 1:Anyone liable to disclosure, benefiting from his capacity acquires or earns for a third party illicit proprietary benefit, is punished with at least 3 years' imprisonment and a money penalty ranging from €20.000 to € 1.000.000.

3:Third parties that receive the illicit proprietary benefit produced by the committing of the offenses of para. 1 and 2, by the knowingly liable to disclosure, are punished with the penalties of para. 1 and 2.

4:The above provisions are applied if the liable's to disclosure or the third party's action is not more severely punished heavier with any other provision.

³⁸ The perpetrator is punished with 10 years imprisonment and a money penalty ranging from € 30.000 to € 1.500.000: a),b).

³⁹ Art. 45 para.1 (a) of Law 3691/2008: Persons who have committed money laundering shall be punished with imprisonment of up to 10 years and a pecuniary penalty of €20,000 to €1,000,000. Moreover money laundering is defined by Arts.2 and 3 of the said Law.

In specific:

Art.2 : 2. The following conduct shall be regarded as money laundering, i.e. legalization of proceeds from the criminal activities listed in Article 3:

- a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of such activity to evade the legal consequences of his action;
 - b) the concealment or disguise of the truth, with any manner or means, as it concerns the disposition, movement, use or the place where the property was acquired or is at present, or the ownership of the property or rights with respect to it, knowing that such property is derived from criminal activity or from an act of participation in such activity;
 - c) the acquisition, possession, administration or use of property, knowing, at the time of receipt or administration, that such property was derived from criminal activity or from an act of participation in such activity;
 - d) the utilization of the financial sector by placing therein or moving through it proceeds from criminal activities for the purpose of lending false legitimacy to such proceeds;
 - e) the setting up of organization or group comprising two persons at least, for committing one or more of the acts defined above under a to d and the participation in such organization or group.
3. Money laundering shall be regarded as such even where the activities which generated the property to be laundered were carried out in the territory of another country, provided that they would be a predicate offence if committed in Greece and are punishable according to the law of such other country.
4. Terrorist financing is the offence defined in paragraph 6 of in Article 187A of the Penal Code, as amended by paragraph 1 of Article 53 thereof.
5. Knowledge, intent or purpose required as an element of the activities mentioned in paragraphs 2 and 3 may be inferred from objective factual circumstances.

Art.3: ***Criminal activities*** – ***Predicate offences***
“Criminal activities” shall denote the commission of one or more of the following offences (hereinafter referred to as “predicate offences”):

- a) participation in an organized criminal group (Article 187 of the Penal Code);
- b) terrorist activities and terrorist financing (Article 187A of the Penal Code);
- c) passive bribery (Article 235 of the Penal Code);
- d) active bribery (Article 236 of the Penal Code);
- e) bribery of judges (Article 237 of the Penal Code);
- f) trafficking in human beings (Article 323A of the Penal Code);
- g) computer fraud (Article 386A of the Penal Code);
- h) sexual exploitation (Article 351 of the Penal Code);
- i) the offences provided for in Articles 20, 21, 22 and 23 of Law 3459/2006 re: “Codified Law on narcotic drugs” (Government Gazette 103 A);
- j) the offences provided for in Articles 15 and 17 of Law 2168/1993 re: “Weapons, ammunition, explosives etc.” (Government Gazette 147 A);
- k) the offences provided for in Articles 53, 54, 55, 61 and 63 of Law 3028/2002 re: “Protection of antiquities and cultural heritage in general” (Government Gazette 153 A);
- l) the offences provided for in Article 8, paragraphs 1 and 3, of Legislative Decree 181/1974 re: “Protection from ionised radiation” (Government Gazette 347 A);
- m) the offences provided for in Article 87, paragraphs 5, 6, 7, and 8, and Article 88 of Law 3386/2005 re: “Entry, residence and social integration of non-citizens on Greek territory” (Government Gazette 212 A);
- n) the offences provided for in the third, fourth and sixth Articles of Law 2803/2000 re: “Protection of the financial interests of the European Communities” (Government Gazette 48 A);

- o) bribery of a foreign civil servant and facilitation or concealment of the commission of such crime, as provided for in Articles 2 of Law 2656/1998 : “Ratification of the Convention on Bribery of Foreign Public Officials in international business transactions” (Government Gazette 265 A);
- p) bribery of employees of the European Communities or of the European Union Member States, as provided for: a) in Articles 2, 3, and 4 of the Treaty on Combating bribery of employees of the European Union or of European Union Member States, which was ratified by the first article of Law 2802/2000 (Government Gazette 47 A) and b) in the third and fourth article of Law 2802/2000;
- q) the offences provided for in Articles 29 and 30 of Law 3340/2005 re: “Protection of the capital market from actions by persons holding privileged information and from actions of market manipulation” (Government Gazette 112 A);
- r) any other offence punishable by deprivation of liberty for a minimum of more than six months and having generated any type of economic benefit.

⁴⁰ Art.45 para.1 (b) of Law 3691/2008: The perpetrator of the offence referred to in (a) above shall be punished with imprisonment (i.e. a term from 5 to 20 years) and a pecuniary penalty of €30,000 to €1,500,000 if he acted as an employee of an obliged legal entity or the predicate offence is included in the offences referred to in Article 3(c), (d) and (e) above, even if a term of imprisonment of less than 5 years is envisaged for these offences.

⁴¹ Art.45 para.1 (c) of Law 3691/2008: The perpetrator of the offence referred to in (a) above shall be punished with imprisonment of at least 10 years and a pecuniary penalty of €50,000 to €2,000,000 if he engages in these activities professionally or out of habit or he is a recidivist or has acted on behalf of, for the benefit of, or as a member of a criminal or terrorist organization or group.

⁴² Art.45 para.1 (d) of Law 3691/2008: An employee of an obliged legal entity or any other person obliged to report suspicious transactions shall be punished with a term of imprisonment up to 2 years if he intentionally fails to report to the competent authorities suspicious or unusual transactions or activities or provides false or misleading data, in breach of the relevant legal, administrative or regulatory provisions and rules, provided that his act is not punishable with heavier criminal sanctions.

⁴³ Art.45 para.1 (f) of Law 3691/2008: If the envisaged penalty for the predicate offence is a-term of imprisonment up to 5 years, offender shall be punished for the ML offence with a term of imprisonment of at least 1 year (up to 5 years) and a pecuniary penalty of €10,000 to €500,000.

⁴⁴ Art.45 para.1 (f) of Law 3691/2008: The same sanction (i.e. imprisonment of at least 1 year (up to 5 years) and a pecuniary penalty of €10,000 to €500,000.) shall apply to any ML perpetrator who is not an accomplice to the predicate offence if he is a lineal relative of the perpetrator of the predicate offence by blood or affinity, or a collateral relative of up to second degree, or a spouse, adoptive parent or adopted child thereof.

***Note:** According however to Art.45 para.1 (g) and (h) of Law 3691/2008: "g) If the perpetrator of the predicate offence was convicted for this offence, imposed on him or a third person of those referred to in the second sentence of item (f) for committing ML of the illicit proceeds generated by the same predicate offence, **may not exceed the penalty imposed for the commission of the predicate offence.**

h) The provisions of items f) and g) shall not apply to the circumstances of item c) above and to the predicate offences referred to in case b) of this article.

⁴⁵ Art.45 para.1 (i) of Law 3691/2008: If the envisaged sanction for the predicate offence is a term

of imprisonment up to 5 years and the illegal gains do not exceed €15,000, the penalty for money laundering shall be a term of imprisonment of up to 2 years.[...]

⁴⁶ Art.45 para.1 (i) of Law 3691/2008: [...] If the circumstances referred to in item (c) apply to the perpetrator of the predicate offence or to a third person, the penalty for money laundering shall be a term of imprisonment of at least 2 years and a pecuniary penalty from €30,000 to €500,000.

⁴⁷ Art.45 para.2.: Criminal prosecution and conviction of the perpetrator of the predicate offence shall not be a precondition for prosecuting and convicting someone for money laundering.

Art.45 para.3.: When the respondent's criminal liability is rejected by the Court, he is acquitted because the act is no longer prosecutable or because the person who suffered damage has obtained satisfaction for the predicate offence (provided that under the law satisfaction may bring about this result), criminal liability shall also be eliminated or the offender shall be acquitted of the relevant ML acts. This provision **shall not apply where criminal liability has been eliminated due to prescription.**

Art.45 para.4.: Where this article provides for cumulative custodial sentences and pecuniary penalties, Article 83(e) of the Criminal Code shall not apply.

Annex 2: Prescription related case law (as cited by GRECO)

"in decision No. 688 of 30 March 2007, the Supreme Court quashed a decision issued by the Council of the Appeal Judges of Athens ordering that the accused be taken to court for misdemeanour offences of active and passive bribery allegedly committed on 4 March 2002 (bribery of an official serving in a prison, who received a car for services given to the briber) and ordered a permanent bar on prosecution for these offences: the reasoning stated that the time period between the commission of the offence and the decision of the Supreme Court, during which judicial proceedings on the substance of the case had not started and therefore could not be suspended, was longer than five years and therefore exceeded the period of limitation foreseen for such misdemeanour offences;

in decision No. 227 of 2008, the Supreme Court stated that statutes of limitation of the concrete case should be examined by relevant courts at every level of the proceedings, including by the Supreme Court. The case concerned a surgeon, member of the National Health System, accused of a misdemeanour of passive bribery for requesting money from a patient in order to give him the best care possible during his surgery. The act was allegedly committed on 24 May 1999. The case had then been adjudicated by the Court of Appeal of Athens and then submitted to the Supreme Court for insufficient motivation. The Supreme Court stated that in this case, as the period between the facts and its decision was longer than eight years (five years limitation period, plus three years suspension period for misdemeanours), and there was a reason for quashing the decision of the lower court, the prosecution was barred permanently"

(decisions provided to GRECO as official data-Source: GRECO third round evaluation report on Greece, para.101)

Annex 3: questionnaire

- 1) Were there any cases in recent years where investigation or prosecution/trial of criminal offences was terminated because of the expiration of SoL periods?
a) such cases are quite common b) there were not many cases c) such cases are exceptionally rare d) there were no such cases d) I don't know
- 2) Were there any cases in recent years where investigation or prosecution/trial of corruption-related offences was terminated because of the expiration of SoL periods?
a) such cases are quite common b) there were not many cases c) such cases are exceptionally rare d) there were no such cases d) I don't know
- 3) Do you think there should be different provisions concerning the SoL period for the corruption related offences in comparison with other crimes?
- 4) Is the legislation concerning the corruption-related offences clear and specific (in comparison with other criminal offences) so as the speed of detection, investigation and prosecution/trial is secured?
a) they are evidently specific b) they are rather specific c) no significant particularities d) no particularities at all
In case you choose a) or b), please elaborate on these difficulties.
- 5) Can you trace the reasons why the corruption related crimes are delayed to be reported or are not reported at all?
- 6) Can you trace the basic reasons for which the investigation or the prosecution of corruption related offences is delayed or doesn't start at all?
- 7) In your opinion, are the periods of SoL for criminal offences in general long enough?
a) they are long enough b) they should be longer by a year or two c) they should be considerably extended d) I don't know
In case you choose c), please indicate how and how long they should be extended.
- 8) In your opinion, are the periods of criminal SoL for corruption-related offences long enough?
a) they are long enough b) they should be longer by a year or two c) they should be considerably extended d) I don't know
If you choose c), please indicate how and how long they should be extended.
- 9) Are the grounds for interruption, suspension/extension of SoL comprehensive enough? If not, what would you propose to add or remove?
- 10) Is it necessary to provide for specific periods of SoL or specific grounds for interruption, suspension/extension of SoL for corruption-related offences?
a) yes b) no c) I don't know
If yes, please indicate which grounds are necessary.
- 11) If the provided prescription period is considered short, is there any practice bypassing the

problem via prosecution of the certain action that composes the relative with the corruption offence as another offence?

- 12) In your opinion, does the legislative provision for the SoL period of the criminal offences in general finds difficulties in its application?

Civil Proceedings

- 13) Were there any cases in recent years where victims of corruption-related offences claimed for damages through a civil lawsuit?

a) it is common that victims claim for damages b) there were rare cases where victims have claimed for damages c) there were no such cases d) I don't know

- 14) If there were only a few cases where the victims claimed for damages, why did that happen, according to your opinion?

- 15) Are prescription periods in civil proceedings relevant in this respect?

a) very relevant b) rather relevant c) rather irrelevant d) irrelevant e) I don't know

If you choose cases a) or b), please elaborate.

- 16) Are prescription periods in civil proceedings long enough?

a) they are long enough b) they should be longer by a year or two c) they should be considerably extended d) I don't know

If you choose case c), please indicate how and how long they should be extended

Administrative/Disciplinary Offences

- 17) Were there any cases in recent years of imposition of administrative sanctions in legal persons for corruption related offences? If yes, such cases are common or rare?

- 18) Were there any cases in recent years of imposition of administrative sanctions in natural persons for corruption related offences? If yes, such cases are common or rare?

- 19) In your opinion, is the provided prescription period responsible for the final imposition or not of the administrative sanctions? If yes, please explain.

- 20) In your opinion, is the prescription period for administrative offences long enough?

- 21) Were there any cases in recent years of application of disciplinary measures for corruption related offences? If yes, such an application is a common practice or not?

- 22) In your opinion, is the prescription period for disciplinary sanctions responsible for the final imposition or not of these sanctions?

- 23) In your opinion, is the prescription period for disciplinary offences long enough?

- 24) How common it is for the administrative/disciplinary sanctions to be imposed as pretence and for the relevant corruption related criminal responsibilities to be suppressed?

Annex 4: Answers to questionnaire

Question	Yes	No	N/A	NEED IMPROVEMENTS	RARELY
Q. 1	50%	50%	0	0	0
Q. 2	25%	50%	0	0	25%
Q. 3	100%	0	0	0	0
Q. 4	100%	0	0	0	0
Q. 5	<ul style="list-style-type: none"> Tolerance of the society regarding corruption matters Solidarity among colleagues 100% Complaints Lack of electronic database Inadequate public sector 	0	0	0	0
Q. 6	as above 75%	25%			
Q. 7	0	0	0	100%	0
Q. 8	0	0	0	100%	0
Q. 9	50%	50%	0	0	0
Q. 10	100%	0	0	0	0
Q. 11	50%	25%	25%	0	0
Q. 12	100%	0	0	0	0
Q. 13	0	0	75%	0	25%
Q. 14	0	0	75%	25%	0
Q. 15	25%	0	75%	0	0
Q. 16	0	0	50%	50%	0
Q. 17	0	0	25%	0	75%
Q. 18	0	0	0	0	100%
Q. 19	50%	50%	0	0	0
Q. 20	100%	0	0	0	0
Q. 21	50%	0	0	0	50%
Q. 22	50%	0	50%	0	0
Q.23	50%	0	50%	0	0
Q.24	75%	25%	0	0	0

Answers provided by the Legal Council of State, Members of the Athens Bar Association, and civilians.