

Greece

1. Please give examples of criminal cases, without personal data, where public prosecutors in your country have experienced significant difficulties when working with public prosecutors or other judicial bodies in other European countries. In your opinion, what are the reasons of these difficulties (e.g. types of cases which raise special difficulties linked to domestic laws or foreign legislation or procedures, lack of knowledge of the steps to be taken, lack of direct contacts, insufficient knowledge of languages or legal instruments, or problems linked to translation, undue delay, gaps or inappropriate provisions of the relevant European Conventions and bilateral agreements or other texts, etc...).

A. Introduction

The existing system of international judicial cooperation in Greece operates in a highly flexible and efficient manner. A significant contribution to this is the central role played by the Prosecutor of the Court of Appeal, within whose competence fall the examination of procedural and substantial legality of every incoming and outgoing request and the subsequent assignment of the execution of the relevant investigative acts to the most appropriate, in each case, investigatory or pre-investigatory authority (e.g. examining magistrate, misdemeanour court judge, police, customs, etc.). At the same time, the Prosecutor of the Court of Appeal has, according to Greek legislation (article 35 of the Greek Code of Criminal Procedure) the overall supervision of the interrogation. The Prosecutor has, according to the law, the right to guide, to control potential delays and to coordinate the work of those who have been assigned with the execution- processing of a request.

B. Difficulties encountered when working with public prosecutors or other judicial bodies in other European countries in the case of specific criminal cases

i. There was a case in which the Greek authorities had requested the extradition from the English authorities of a defendant accused of two premeditated homicides. The request met great difficulty and was finally processed with significant delays, despite the willingness and efforts of the competent authorities of the United Kingdom. This was primarily due to the fact that the defendant invoked the protection of HABEAS CORPUS and then the benefit of pauperis; thus, the defendant took advantage of every possibility of obstructing the procedure of extradition and by using the anachronistic system of HABEAS CORPUS succeeded in delaying the procedure.

ii. In another case Greek requests for judicial assistance were repeatedly rejected by the competent authorities of Switzerland and Germany. The main reason for this rejection was the fact that the essence of the case had previously been examined by the Swiss courts, which had decided that there is no punishable act involved. By applying the principle of 'NE BIS IN IDEM', the Swiss judicial authorities denied judicial assistance and refused to provide any information relevant to this case. In some cases in which there was no res judicata by Swiss courts, denial of judicial assistance was based upon the lack of sufficient evidence supporting the requests made by the Greek investigators, so as to justify the granting of judicial assistance.

2. Please give examples of criminal cases, without personal data, where public prosecutors in your country were satisfied with the co-operation with public prosecutors or other judicial bodies in other European countries. In your opinion, what are the reasons for this successful co-operation (e.g. types of cases which can be dealt with without difficulty, national or foreign good practices, practical measures contained in the provisions of the relevant European Conventions and bilateral agreements or other texts, etc...).

An example of excellent practice is the cooperation between Greek and French Prosecutors for the dismantling of a network of human trafficking with an action in Greece, France and other European countries. A fundamental factor of the efficient and successful cooperation was the direct contact between Greek and French Prosecutors with telephone communications

and fast coordinated actions preceding the sending of documents with the requests. This played a decisive role in the arrest of the perpetrators, as well as in collecting the evidence.

Another example of excellent practice was the cooperation between Greek and German authorities in a number of cases involving mainly money laundering in Greece by criminal activities in Germany. An important role for the successful cooperation in these cases played the 'liaison officer', who was in direct contact with the competent Greek authorities.

3. Please give details of any suggestions made by public prosecutors and other judicial bodies in your country concerning the steps which could be taken to improve co-operation between prosecutors in Council of Europe member states, including proposals for an improvement of the relevant European treaties.

There is one published article by a Greek Prosecutor of the Court of Appeal in Athens, on the European Arrest Warrant, entitled 'When and how the 'surrender' (remand/committal) of a national is possible according to Law 3251/2004.

4. Any other comments.

a). We believe that direct communication between Prosecutors of the interested countries, before submitting a formal request, as well as during the execution- satisfaction of the request, would facilitate cooperation and make it more efficient.

b). We also believe that 'liaison officers', where they exist, are a major help and extending this institution would be an improvement.

c). The issuance and distribution of circulars by the Prosecutor of the Supreme Court to inform all the parties involved in the procedure of judicial cooperation would also be crucial.