

Chapter 14A

Greece

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I. MEDIA LAW

A. SOURCES

§ 14A:1 Basic principles

There is no single legal framework regulating the Greek media sector. Indeed, different pieces of legislation govern telecommunications, broadcasting, press, publishing, entertainment, and advertising. Be that as it may, the basic

principles that are protected by the Greek Constitution and are intended to apply to the entire spectrum of Greek Media Law are cultural diversity, pluralism, freedom of expression, the fight against racial, political and religious fanaticism, the protection of minority rights, and equality. According to Article 4 of the Greek Constitution, all Greeks are equal before the law. Article 5(2) provides that all persons living within the Greek territory enjoy full protection of their life, honour and liberty irrespective of nationality, race, or language, and of religious or political beliefs. Article 14 also protects the right to freedom of expression. Until recently, racial and religious tensions were few and far between and rarely, if ever, required legal protection. Nonetheless, the inflow of immigrants over the past few years has challenged the homogeneity of the Greek society and created tensions with which the political and judicial authorities still struggle to cope.

It is envisaged that all types of media should be ruled by the principles of objectivity, accuracy, and impartiality and refrain from misleading the public and communicating inaccurate statements. However, the protection of the right to free expression is so strong that very few cases of censorship have arisen over the last three decades and restrictions on the right to freedom of expression have been rarely enforced. This is despite the fact that inaccurate and defamatory publications or broadcasts have created a substantial case backlog in Greek courts.

§ 14A:2 Constitutional sources

There are several references in the Greek Constitution that are of relevance to Greek media law. In particular:

- Article 5(1) refers to the right of all persons to develop their personality and get involved in the social, economic, and political affairs of the country,¹ provided that the persons do not infringe the rights of others or violate the Greek Constitution and Greek social mores. The scope of the protection under this particular article is quite broad and includes one's participation in all types of social, business, and political activities and formations as well as every individual's right to free choice and self-determination.

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¹Article 5(1) of Greek Constitution.

- Article 5(2) provides that the law applies equally to all persons regardless of sex, language, religion, or political opinion and extends to both men and women, to persons with different religious views, and aliens who do not speak the Greek language.² Exceptions are allowed only in cases provided by international law.
- Article 5a(1) deals with the right to information, whatever the form in which information is transmitted. Restrictions to this right may be imposed by law provided that the restrictions are absolutely necessary and justified for reasons of national security, of combating crime, or of protecting rights and interests of third parties.³
- Article 5a(2) refers to the right of participation in the so-called Information Society,⁴ which covers access to electronically transmitted information, as well as the production, exchange, and diffusion of such information. The right of participation is subject to the limitations of articles 9,⁵ 9a,⁶ and 19⁷ of the Greek Constitution: Article 9 protects privacy and family life. Article 9a deals with the protection of the collection, processing and use of personal data in electronic form. Article 19 refers to the protection of mail secrecy.
- Article 14 protects the right to freedom of expression, whether orally or in writing or through the press.⁸ Under this Article, the seizure of newspapers and other publications, whether before or after circulation, is prohibited. Seizure is allowed only by order of the public prosecutor and in cases of (a) an offence against a religion; (b) an insult against the President of the Republic; (c) a publication which discloses information on the composition, equipment and set-up of the Greek armed forces or the fortifications of the country, or which aims at the violent overthrow of the regime or is directed against the territorial integrity of the State; and (d) an obscene publication which is obviously offensive to public decency.

²Article 5(2) of Greek Constitution.

³Article 5a(1) of Greek Constitution.

⁴Article 5a(2) of Greek Constitution.

⁵Article 9 of Greek Constitution.

⁶Article 9a of Greek Constitution.

⁷Article 19 of Greek Constitution.

⁸Article 14 of Greek Constitution.

- Article 15(2) refers to the direct supervision of radio and television by the State.⁹ The National Council of Radio and Television is exclusively authorized to control and impose administrative sanctions and grant operation licenses. Supervision aims at the objective communication of information and news, the quality control of the programs, and the protection of human dignity and minors. The direct control of the State, which may also assume the form of permission prior to transmission, aims at the objective and on equal terms transmission of information and news reports, as well as of works of literature and art, at ensuring the quality level of programs mandated by the social mission of radio and television, and by the cultural development of the country.

§ 14A:3 Codified sources

In Greece, there are numerous pieces of both primary and secondary legislation in the form of presidential decrees and ministerial decisions that make up the corps of Media Law. Primary legislation includes the Constitution, Community legislation and laws passed by the Greek parliament, whereas secondary legislation includes presidential decrees and ministerial decisions which are made by an executive authority (e.g., the President of the Republic and Ministers) under powers given to them by primary legislation. Therefore, secondary legislation implements and administers the requirements of primary legislation. As a rule, parliamentary laws are stronger than presidential decrees which, in turn, are comparatively stronger than ministerial decisions. Besides legislation directly referring to the media sector, there are several pieces of legislation that refer to areas of law, such as competition, consumer protection, and copyright, which are relevant to media.

The main codified sources regarding media include the following:

- Law 2328/1995 on Legal Status of Private Television

⁹Article 15(2) of Greek Constitution.

and Local Radio,¹ which refers to the conditions and procedures of licensing private television and radio stations, the regulation of advertising, the imposition of administrative sanctions such as license revocation, and the civil liability of the Press.

- Law 2863/2000 on the Establishment of the National Council for Radio and Television,² which refers to the setting up, status, composition, competencies, and administrative organization of the National Council for Radio and Television.
- Law 3414/2005, amending Law 3310/2005, on Measures to Ensure Transparency and the Prevention of Fraud in the Process of Public Procurement.³ The law refers to the incompatibility of the owner, shareholder or main shareholder of a mass media enterprise with his/her being, in parallel, the owner, shareholder or main shareholder of an enterprise bidding and being awarded public contracts. The law also refers to the prohibition of concluding public contracts with mass media enterprises and to the administrative and criminal penalties arising in case of a breach of this provision. The law resulted in considerable opposition from many quarters, including the European Commission.
- Law 3444/2006 on the Establishment of the National Audiovisual Archive,⁴ which refers to the establishment, scope, activities, and administration of the National Audiovisual Archive and to its cooperation with other media organizations.
- Law 3592/2007 on Concentration and Licensing of Business Media,⁵ which implemented into Greek Law EU Regulations 2002/19/EU, 2002/20/EU, 2002/21/EU,

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¹Law 2328/1995 on Legal Status of Private Television – Radio, Regulation of Issues concerning the Broadcasting Market and other provisions.

²Law 2863/2000 on the Establishment of the National Council for Radio and Television and other authorities and bodies in the area of broadcasting services.

³Law 3414/2005 on Measures to Ensure Transparency and the Prevention of Fraud in the Process of Public Procurement.

⁴Law 3444/2006 on the Establishment of the National Audiovisual Archive and other provisions.

⁵Law 3592/2007 on Concentration and Licensing of Business Media and other provisions.

2002/22/EU, and 2002/77/EU and deals with issues regarding market concentration in media, the ownership of media enterprises, the licensing procedure for private television and radio stations, and issues regarding digital television and radio.

- Article 50 of Law 3801/2009 on the Personnel of State-Owned Undertakings and Local Self-Governed Authorities,⁶ according to which radio stations that belong to political parties represented in the Parliament and that had been operating lawfully at the time Law 3592/2007 on Concentration and Licensing of Business Media entered into force, are entitled to participate in the tender process regarding the granting of establishment and operation licences for a local radio station.
- Presidential Decree 131/2003 regarding the implementation of Directive 2002/21 on E-Commerce,⁷ which refers to the minimum content of e-commerce agreements as well as to the liability of intermediaries regarding the provision of services.
- Law 1178/1981 on Civil Liability of the Press,⁸ which refers to the rights of compensation and indemnity arising from statements that were intended to insult someone's honour or reputation.

§ 14A:4 Case law sources

The Greek legal system belongs to the Civil Law tradition that is prevalent in continental Europe. Of the variants of Civil Law (e.g., French, German, Scandinavian), German civil law is the one that has most affected the Greek legal system. Greek courts are divided into civil, criminal, and administrative courts. Additionally, certain authorities are occasionally empowered with judicial authority, such as the Data Protection Authority, the Regulatory Authority for Energy, the Competition Authority, the National Broadcasting Council for Radio and Television (NCRTV), etc. The NCRTV is an independent, seven-member authority estab-

⁶Law 3801/2009 on the Personnel of State-Owned Undertakings and Local Self-Governed Authorities.

⁷Presidential Decree 131/2003 on E-Commerce- Services of the Information Society.

⁸Law 1178/1981 on Civil Liability of the Press and other provisions.