

Greece

FIRST PART - Overview of the legal situation in the Member States

System of sentences

Relevant articles of the Greek Criminal Code

56 (way of execution of sentences), 82 (conditions for converting custodial sentences), 99 (suspended sentences), 100 (suspended sentences of more than 3 years, probation) and 105 (conditional release)

The system of penalties was updated by virtue of the Law 3904/2010, which introduced a series of amendments to the above articles, aiming at enhancing and simplifying the application of the law on alternative sanctions and the execution of sentences, in order to maintain imprisonment as a sentence for serious offences and recidivists.

1) Judgements and, where applicable, probation decisions entering into the scope of this Framework Decision (Article 2)

SUSPENDED SENTENCE

- Suspended sentence

Type of judgment: judgment issued by a criminal court

Conditions:

- a. Conviction to a custodial sentence not exceeding three years,
- b. absence of prior irrevocable judgment sentencing the offender to more than one year for a felony or misdemeanour

Legal basis: Article 99 of the Criminal Code

Competent authority: court of decision.

- Conditional suspension of the sentence. Suspended sentences of more than three years.

Type of judgment: judgment issued by a criminal court

Conditions:

- a. Custodial sentence not exceeding three years,
- b. absence of prior irrevocable judgment sentencing the offender to more than one year for a felony or misdemeanour,
- c. supervision exercised by probation officer.

Legal basis: Article 100 of the Criminal Code

Competent authority: the court that delivered the judgment on probation notifies the sentenced person about the conditions under which probation is granted. These conditions listed in Part Two, item A, may be imposed either one at a time or combined (two or more).

CONDITIONAL RELEASE

Type of judgment: judgment issued by a criminal court, which does not necessarily have to be irrevocable.

Conditions: a. custodial sentence, b. part of the sentence must be served: in case of imprisonment, two-fifths of the sentence; in case of incarceration, three-fifths of the sentence; and in case of life imprisonment, at least twenty years (limitation of the required period of served sentence for sentenced persons over 70 years of age, beneficial calculation of the period of detention for sentenced persons over 65 years of age, for sentenced persons suffering from specific serious illnesses and sentenced mothers, for as long as they have their minor children with them).

Legal basis: article 105 of the Criminal Code

Competent authority: the Penal Chamber of the criminal court sitting at the place where the sentence is served.

2) Probation measures and alternative sanctions (Article 4)

a) Types of probation measures

The Greek law provides for the following conditions - probation measures (items 1-9) in article 100 of the Criminal Code. The following conditions (probation measures) may be imposed either one at a time or combined (two or more) by the court of decision provided the following circumstances are met :

- a) Imprisonment for more than three years
- b) Absence of prior irrevocable criminal sentence for felony or misdemeanour of more than one year.

If the above conditions are met, a conditional suspension of the sentence is granted, under the supervision of a probation officer (FD 2008/947, article 4, para.1j).

The correspondence of the Greek provisions with the measures provided for in article 4, para.1, of Framework Decision 2008/947 is noted in parenthesis.

- a) Compensation for the prejudice caused to the victim (FD 2008/947, article 4, para.1h)
- b) Obligation of the sentenced person to report at specified times to the police authorities of his place of residence (FD 2008/947, article 4, para.1e)
- c) Revocation of driver's licence for a period of up to one year, if the offence is a serious violation of traffic regulations.
- d) The sentenced person cannot leave his usual place of residence or other place specified by the court without permission. The permission to leave, which must be in writing and have a temporary validity, is granted to the sentenced person by the prosecutor of the criminal court, on recommendation of the probation officer, solely on grounds of employment, studies, health or family (FD 2008/947, article 4, para.1a)
- e) The removal of passport or other equivalent travel document and the prohibition to leave the country, unless a permission to leave has also been granted, pursuant to item 4, which cannot exceed one month (FD 2008/947, article 4, para.1c)
- f) Prohibition to approach or have contact with certain persons (FD 2008/947, article 4, para.1f)
- g) Fulfilment of obligations of the sentenced persons for alimony or custody to other persons.
- h) Obligation of the sentenced person to undergo therapy or special treatment and to be admitted into a specified institution (FD 2008/947, article 4, para.1k)
- i) Donation of a sum, up to ten thousand euros (€10,000.00), to a charitable foundation
- j) Obligation to carry out community service (FD 2008/947, article 4, para.1i)

Conditions in order to carry out community service:

- a) custodial sentence of up to three years,
- b) financial inability to pay the financial penalty,
- c) application by or consent of the sentenced person.

Competent authority: the court of decision; competent authority for the supervision of the provision of work: the prosecutor who is competent for the execution of the sentence

Legal basis: article 82, para.5 and 6, of the Greek Criminal Code

In any event, the Penal Chamber of the Criminal Court sitting at the place where the sentence is served may impose to the person being conditionally released certain obligations relating to his way of life, especially the place of residence (article 106, in conjunction with article 110 of the Greek Criminal Code). The Greek Criminal Code (article 67) also provides for the prohibition to exercise certain professional activity as a subsequent sentence and the prohibition of residence as a safety measure (article 73).

b) Other probation measures/alternative sanctions

1. Criminal reconciliation

Law 3904/2010 (article 17) introduces in the Greek law the measure of criminal reconciliation as an alternative criminal justice procedure. The measure applies when criminal proceedings have been initiated for felonies stipulated in articles 375 (embezzlement), 386 (fraud), 386A (computer fraud), 390 (disloyalty) and 404 (usury) of the Criminal Code. The new article 308 B of the Code of Criminal Procedure specifies the conditions for application and the procedure of criminal reconciliation.

It should be noted that criminal reconciliation is not applied when felonies are committed against the State, Public Legal Entities and local authorities.

2. Conversion of custodial sentence into a financial penalty (Article 82 of the Criminal Code)

Conditions: custodial sentence up to three years

Competent authority: the court of decision

Type: judgment, which does not have to be irrevocable, just final.

Legal basis: article 82 of the Criminal Code

Classification: alternative sanction, maintaining, however, the character of custodial sentence.

3. Home detention (article 56 of the Criminal Code: way of execution of sentences and safety measures)

Conditions: custodial sentence

Sentenced persons over 75 years of age

Competent authority: the court of decision, provided that the age limit is attained at the time of the hearing. Subsequently, the Penal Chamber of the Criminal Court. Supervision and revocation are exercised by the prosecutor who is competent for the execution of the home detention measure.

4. Day release (Law 2776/1999 Penitentiary Code, articles 59-62)

Purpose: employment of sentenced persons outside the prison without continuous supervision

Conditions:

- a) The sentenced person must have served one-fifth of the sentence (in case of imprisonment) or two-fifths of the sentence (in case of incarceration), without beneficially calculating the days of work in the detention facility, and the duration of his detention must be at least two months. In case of life imprisonment, no less than two years must remain until the sentenced person is entitled to apply for conditional release,
- b) no criminal proceedings must be pending against the sentenced person for another felony, and
- c) the sentenced person must have a proven employment outside the prison or accept to be employed at a recommended job.

5. Sentence served partially (Law 2776/99 Penitentiary Code article 63)

Conditions: Sentenced persons serving custodial sentences, converted into financial sentences, may apply to the Court in charge of the execution of their penalties asking to serve their sentence partially.

c) Provisions on the special treatment of perpetrators of specific offences

Please find below indicative provisions of the Greek legislation on disqualifications due to conviction for certain offences:

1. A custodial sentence cannot be converted into a financial sentence, pursuant to article 82 of the Greek Criminal Code, in case of conviction for the felony of drug trafficking (article 82, para.10). Moreover, prohibition to exercise a professional activity for one to five years (article 15 of Law 1729/87), prohibition of residence at a certain place (article 17), stricter requirements for conditional release (article 19A) exist for persons sentenced under the Law 1729/87, Prevention of the spread of narcotics, protection of youth and other provisions. -see, also, Law 3459/2006: Code of laws on narcotics.

2. Law 3727/2008 article 1: Persons currently prosecuted or sentenced for crimes against sexual exploitation of children and financial exploitation of the sexual abuse of children cannot exercise a professional activity, in the public or the private sector, involving contact with children.

3. Law 3528/2007, Civil Servants' Code
article 8

1. The following persons cannot be appointed as civil servants:

a) Persons sentenced for a felony or, irrespective of the sanction, for theft, embezzlement (and embezzlement during service), fraud, extortion, forgery, breach of trust by a lawyer, bribery, oppression, breach of trust in office, breach of duty, aggravated defamation, as well as any offence against sexual exploitation or financial exploitation of sexual life.

b) Persons awaiting trial for a felony or misdemeanour referred to in case (a), even if the offence has been statute-barred.

c) Persons who, due to a conviction, have been deprived of their civil rights, for the length of such deprivation.

d) Persons under legal guardianship (full or partial)

Article 149

De jure discharge from public service due to criminal conviction

Civil servants shall be de jure removed/discharged from service, provided that an irrevocable court judgment:

a)has convicted them to a sentence of at least incarceration or any sentence for a misdemeanour referred to in case (a) of para.1 of article 8 hereof or any sentence for desertion,

b)has imposed deprivation of civil rights.

Discharge from service enters into force the day of publication of the irrevocable criminal sentence.

4. Revocation of driver's licence for a period of up to one year, if the offence is a serious violation of traffic regulations.

(article 100 Suspended sentences of up to three years. Probation para.3c)