

ADMINISTRATION OF JUSTICE

Distinction between Courts

Courts are distinguished into administration, civil and penal courts.

Administrative disputes are settled by the Council of State and the administration courts of law.

Private disputes as well as cases of ex-parte jurisdiction are settled by civil courts.

The punishment of crimes and the taking of all measures stipulated in penal laws is assigned to the penal courts of law.

A' Civil Courts

Civil Courts are the following:

- a) Magistrate's Courts
- b) Courts of First Instance
- c) Courts of Appeals
- d) The Supreme Court (*Arios Pagos*)

a) Magistrate's Courts

You may apply to the competent Magistrate's Court:

- a) If you have differences with someone and these can be expressed in terms of money and the relevant value is up to Euro 5,900 (competent magistrate's court is the magistrate's court at the defendant's place of domicile).
- b) If you are the owner of a real property rented at a rent of up to Euro 290 per month and you wish to take legal action against the lessee for surrendering the property on the grounds of late payment of rents or expiration of the lease period.
- c) If you have differences with someone because they have caused destruction to trees, land, etc. or have made damaging installations in your neighboring property or you are threatened by a fall of their dilapidated building or are digging near the foundations of your house or are disturbing you due to repairs made to their property, or on account of the arrangement of borders of land or fences or use of paths or of running water, or if you are claiming liability to a hotelier for things you lost as a customer of their hotel or are seeking compensation or reimbursement of your expenses if you were a witness or interpreter at a court hearing.
- d) If a sworn affidavit is required of you for establishing a fact (two witnesses are also required for the issuance of a sworn affidavit).
- e) If a relation of yours has died and you have reason to have his/her domicile sealed or if, subsequently, you request the unsealing thereof (Sealing is done through the police station while unsealing is done directly by you).

f) If you have differences on account of bills or checks for an amount up to Euro 5,900 (the Justice of the Peace issues payment orders, i.e. orders that you be paid by the debtor).

g) If you petition for injunction in emergencies or for preventing an impending danger to your rights, etc. and the main case is under the jurisdiction of the magistrate's court.

In the case you petition for injunction to prevent an impending danger, you may appear before the magistrate's court alone without an attorney.

You may not appeal to a higher court against judgments rendered by magistrate's courts for amounts up to Euro 880, except to the Supreme Court by writ of cassation.

b) One-Member Court of First Instance

You may apply to the competent one-member courts of first instance, in the following cases as well:

a) If you are a relation of a minor child and you find that the child's parents do not have or cannot exercise the necessary parental care over such child.

You may petition to the court for rendering a judgment on the minor's guardianship and custody and for appointing the supervisory council and the guardian.

b) If you have differences the value of which is more than Euro 5,900.

c) If you have differences with someone, irrespective of the money value thereof, under an employment contract or if you are a professional or a craftsman and you have differences with a colleague or a customer of yours or differences under a collective labour contract or under insurance relations or for the fee of lawyers, notaries, process servers, doctors, dentists, veterinarians, midwives, engineers, chemists, real estate brokers, arbitrators, will executors, liquidators, experts, appraisers, or for the payment of insurance premiums or for the determination of support or of delivery expenses and support of a single mother or for car damages.

d) If you are a parent and have differences with your spouse on the exercise of parental care or your communication with your child.

e) If you are the owner of a horizontal property or a flat and you have differences with the other co-owners or the manager, and

f) If you seek injunction and the main case is not under the jurisdiction of the magistrate's court. The One-Member Court of First Instance has furthermore jurisdiction in all cases of ex-parte jurisdiction (e.g. birth or marriage certification for the purpose of issuance of a registration act, registration of a society, appointment of an administrator of an estate in abeyance).

c) Multi-Member Courts of First Instance

You may apply to the multi-member courts of first instance:

a) For differences over which magistrate's courts or one-member courts of first instance have no jurisdiction.

b) If you wish to appeal against a judgment rendered by a magistrate's court. (The appeal is lodged at the multi-member court of first instance within the district of which is the magistrate's court that rendered the said judgment).

You may not appear on your own as a litigant before a multi-member court of first instance, you must always have an attorney.

d) Courts of Appeals

If you are not satisfied with a judgment rendered by an one-member or multi-member court of first instance you may appeal against it before the court of appeal within the district of which is the court of first instance. An appeal may be lodged within thirty (30) days as of the service of the judgment at first instance if you are living in Greece at a known address or within sixty (60) days if you are living abroad or have an unknown place of residence.

e) Supreme Court

The Supreme Court (*Arios Pagos*) is the highest court among the civil and penal courts of the country. Within its jurisdiction fall both the supervision of the civil and penal courts and the hearing of civil and penal cases.

Prosecution Office

The «Prosecution Office» operates within the civil and penal courts as a judicial authority independent of courts and the Executive.

It acts uniformly and indivisibly and it is entrusted with the observance of the law, the citizens' protection and the keeping of public order rules.

The Prosecution Office venue coincides with the venue of the court in which the Prosecution Office operates.

Rights and obligations for civil cases:

- Court costs are advanced by the litigant who institutes the proceedings but are finally paid by the defeated litigant.
- If you do not know of a lawyer to take your case you may apply to the bar association of your area.
- If you are destitute and cannot meet the court costs, you may apply to the magistrate's court of your place of domicile or the competent court for being provided, if you are found by the judge to be destitute, with free judicial assistance and an attorney.

Your application must be accompanied by:

- a) A certificate on your financial and professional situation issued by the mayor or the head of the community where you are living.
 - b) A certificate issued by the tax inspector of your place of residence under which it derives whether you have filed an income return to the Tax Office.
- If you are subpoenaed as a witness you must be served with the writ of summons

at least three days before the day on which you shall be examined.

You are obliged to appear and testify the actual facts within your knowledge.

If you unjustifiably fail to appear, the judge shall sentence you to payment of the costs caused by your absence and, possibly, of a fine.

If you appear but refuse to testify you may be sentenced to pay a fine.

You have the right to refuse to be examined as a witness in the following cases:

- a) If you are a clergyman or a lawyer or a notary or a doctor or a pharmacist or a nurse or a midwife or assistant to one of the above or an advisor to a litigant and have to testify on facts which came to your knowledge through the practice of your profession.
- b) If you are a relation or spouse (also ex-spouse) or fiancé of a litigant.
- If you wish to have the existence or non-existence or annulment of your marriage or of the marriage of other parties (provided you have an interest under the law) recognized, you must file an action against your spouse or, if your spouse is dead, against his/her heirs. If you are a third party you shall file an action against both spouses.
- If you are a litigant in an industrial (labour) dispute you may appear before the one-member court of first instance or the magistrate's court (depending on the amount claimed) on your own without an attorney, with an attorney or not appear and be represented by an attorney.

B' Penal Courts

Penal courts are the following:

- a) Police courts
- b) Courts of Misdemeanors (one- and three-member courts)
- c) Juvenile Courts (one- and three- member courts)
- d) Three-member Courts of Misdemeanor Appeals
- e) Three-member Courts of Felony Appeals
- f) Five-member Courts of Appeals
- g) High court of jury (first-instance)
- h) High jury courts of appeals, and
- i) Supreme Court, as a cassation Court

A police court hears offences designated as minor offences. The Judge conducts an inquiry for misdemeanors, as well as a preliminary examination upon the instruction of the prosecuting attorney.

Every magistrate's court, being a penal court, is also a police court, while every court of first instance, being a penal court, is also a court of misdemeanors.

The court which is competent to hear your appeal against judgments rendered by a police court is the one-member court of misdemeanors.

The one-member court of misdemeanors hears cases of misdemeanors punished with imprisonment of up to two (2) years or a fine of any amount, with certain exceptions (issuance of a bad check, failure to pay social security contributions, etc.) and appeals against judgments rendered by police courts.

The three-member court of misdemeanors hears cases of misdemeanors that do not fall under the competence of the one-member court of misdemeanors, minor offences of certain persons (prefects, lawyers, etc.) and appeals against judgments rendered by one-member court of misdemeanors.

The court which is competent to hear your appeal against judgments rendered by a court of misdemeanors is the three-member court of misdemeanor appeals.

Cases of felonies are heard before three-member courts of felony appeals and high courts of jury.

Appeals against judgments rendered by the three-member courts of felony appeals and high courts of jury for felony cases are heard by five-member courts of appeals and the high jury courts of appeals respectively.

The Supreme Court, being a cassations court, hears petitions for cassation against judgments rendered by penal courts and against certain orders.

Penalties

The penalties provided for in the current Penal Code for minor offences, misdemeanors and felonies are as follows:

- a) Minor offences are punished with detention from one day to one month or a fine, unless otherwise stipulated by law.
- b) Misdemeanors are punished with imprisonment from ten days to five years or a fine.
- c) Felonies are punished with incarceration of varying duration (from five to twenty years) and the heavier ones (e.g. homicide) with a life sentence.

Rights and obligations for penal cases:

If you are the defendant or the injured party or civilly liable in a penal hearing and wish to challenge one of the hearing officials (i.e. the examiner or the judge or the prosecuting attorney or the clerk) for any legitimate reason: e.g. because he/she is a relation of a litigant or of a party having an interest in the case or because such person in the same case was examined as a witness or gave an opinion as an expert or a technical advisor or was the attorney for the defendant or another person at another stage of this case or even because you validly suspect such person for partiality, you may challenge such person from the hearing through a petition to be filed to the competent prosecuting attorney.

If you wish to challenge of a court member at the time of the hearing, you shall do so orally and this is entered in the minutes.

The petition for such challenge shall include:

- a) The grounds for such challenge, given clearly. Such grounds must specifically be referred to in the power of attorney documents as well.
- b) A description of the actual facts supporting the grounds for such challenge, and
- c) Reference to the modalities through which such grounds can be proved.

The petition is signed by yourself or your special attorney.

A penal prosecution must be instituted for any punishable act by the prosecuting attorney to the court of misdemeanors.

If, for any reason, the prosecuting attorney fails to institute a prosecution, he may be instructed to do so by the competent prosecuting attorney to the court of appeals or the Supreme Court, or the Appellate Justices Board or even the Minister of Justice.

The Minister of Justice may set aside a penal prosecution in the case of political crimes or if a disturbance in the international relations of our country is threatened. The Minister, upon a Cabinet decision to this effect, may postpone the

penal prosecution or, if this has been initiated, to request that it be set aside before its hearing.

If you are charged with a penal offence, your rights both during the preliminary and the main investigation are as follows:

1. To appear with an attorney at the time of your defense or when you are cross-examined with another defendant or a witness.
2. To communicate with your counsel.
3. To request that you read or take copies of all the investigation or preliminary investigation documents.
4. To request a term of 48 hours minimum in order to prepare your defense.
5. To refuse to make a statement in your defense.
6. To have the examiner explain all your rights to you.

If you are not allowed to exercise one of your above rights you may request the quashing of the procedure, given that this constitutes an absolute reason of nullity and is ex officio taken into account.

At the stage of the preliminary or the main investigation you must be aware that the competent prosecuting attorney has the right to be present when you give your statement or when a witness is examined.

If you are charged with a penal offence or fail to appear to a main investigation to which you have been summoned, then a peremptory writ or warrant for your arrest warrant shall be issued.

Witness

When you are summoned in writing to testify as a witness, you are required to appear before the court or the examiner.

Otherwise you shall be fined and a peremptory writ shall be issued in your name.

You may by exception refuse to testify as a witness if:

- 1) You adduce, under oath, reasons of professional secrecy.
- 2) The defendant is your spouse or blood relation up to the 2nd degree
- 3) Your testimony may incriminate you for a punishable act.

In all other cases you are required to state everything in your knowledge concerning the case examined without lying or concealing anything, that is why the penal code stipulates a penalty of 3 months to 5 years and 10 days to 2 years for the offence of perjury or false testimony not under oath respectively.

Your travel and accommodation expenses shall be covered by the authority that summoned you to appear, under the relevant legislation.

Juror

If you have been called as a juror in a high court of jury or jury court of appeals, you are required to attend except for one of the following reasons:

1. You or a member of your family is sick, as evidenced by a medical certificate to this effect.
2. You are required to serve in an extraordinary public service as certified by your superiors.
3. There is an important and established reason that renders your attendance impossible.

In the absence of one of the above reasons if you fail to appear you shall be

fined with Euro 59 to 120 and for any other absence within the time period in which you shall be called to serve as a juror you shall pay a fine of Euro 88 to 180.

Counsel – Compulsory appointment

In the capacity of either the injured party or the defendant you may appoint a counsel:

- At the stage of preliminary proceedings (up to two).
- At the hearing (up to three).

If you are unable to appoint a counsel you may file a request to this effect to the presiding judge.

If you are charged with a felony and have no counsel the presiding judge shall appoint a counsel to whom the entire legal file shall be provided.

Flagrant offence

Flagrant is a crime at the time of its commission or a crime recently committed. The act is considered to be recent in particular when, immediately after its commission, the perpetrator is chased and caught but also when the perpetrator is caught anywhere but has on his person objects or traces under which it may be concluded that such person committed the crime at a very recent time. In all cases this lasts until midnight of the day next to the day on which the act was committed.

Charges

Who file charges

You may file charges when an offence has been committed against you (suit) or if you wish to report any punishable act which is ex officio prosecuted (e.g. homicide).

Where charges may be filed

You may file charges in person or through your special attorney, directly to the prosecuting attorney to the court of misdemeanors or the police station, in writing or orally.

Order for forensic examination

If you have sustained bodily injury, you may request of the service where you filed charges to issue an order for your examination by the Forensic Division.

House search

1) During the day

A search in your house is conducted only in cases it is validly reasoned that a crime is being committed or for arresting a person inside your house who is lawfully prosecuted or if the search aims at certifying or establishing a crime through the identification or finding of objects related to it.

Who conducts the search

The search is conducted by police officers or employees assigned police duties (Financial Crime Prosecution Force, harbor police, customs authorities, etc.).

Under the Constitution, a judicial officer (prosecuting attorney or judge) must be present during the search.

2) During the night

In order for a search to be conducted during the night one of the following conditions must be in place in addition to the ones above specified for conducting a search during the day:

- a) To arrest of a lawfully prosecuted person.
- b) To catch in the act a person committing a felony or misdemeanor in the house.
- c) In case of assembly in a house where games of chance are played by profession or the house is used as a place of debauchery by profession.

Furthermore, a search during the night is conducted in any public place or place accessible to everyone, if there are valid suspicions that a crime shall be ascertained or objects shall be found connected thereto. If the search is conducted by a Hellenic Police Officer or non-commissioned Officer a judicial functionary must be present.

Conversion of imprisonment penalty into money

A penalty is converted into money when:

1. It is not in excess of two years, unless the court finds, in a justified judgment, that the pecuniary penalty is not enough to dissuade the perpetrator from committing other punishable acts.
2. It is between two and three years, in which case the court at its discretion may convert it into a pecuniary penalty.

C' Courts of Administration

Courts of administration are the following:

- a) First Instance Courts of Administration
- b) Appellate Courts of Administration
- c) Council of State
- d) State Audit Council

How we apply to the courts of administration

Depending on the type of the administrative difference. For administrative disputes of substance an appeal is lodged. In case of indemnification an action is instituted. Such legal remedies are instituted before the First Instance Courts of Administration.

For cases of quashing a petition for quashing (annulment) is lodged before either the Appellate Court of Administration or the Council of State.

For public servants' difference an appeal is instituted before either the Appellate Courts of Administration or the Council of State.

Administrative differences of substance

Administrative differences of substance are those for which a Court of Administration recognizes the existence of a right or finds damage or loss to the administered party by an act or omission of administration. In such cases the damage

is restored and compensation is fixed.

Which are the disputes for quashing

Disputes for quashing are those for which a Court of Administration checks the legality and quashes the administrative act.

Which are the tax disputes

Tax disputes are mainly disputes created by the imposition of taxes, customs duties, dues and contributions of municipal taxes, dues and contributions, disputes under acts imposing sanctions on account of violations of tax law or under a claim for the reimbursement of tax paid inadvertently, without being due or on account of revocation of a tax return.

You may apply to the competent Courts of Administration:

1. If you claim social security money in case of illness, delivery or death of a relation of yours and your social security fund refuses to satisfy your claim.
2. If you are a farmer and seek compensation for your crop that was destroyed by adverse weather conditions (e.g. frost).
3. If you are a laborer and suffered an accident at work or if you are unemployed and seek unemployment money from your social security fund.
4. If you wish to contest the results of prefectural or municipal or community elections or elections of public entities.
5. If you are a permanent employee in the Public sector or a Local Government Organization or a Public Entity and your claim concerns difference of your pay for the future or the past (not pension).
6. If you suffered a damage from unlawful acts or omissions or tangible actions of an officer of the State, a Municipality or Community (Local Government Organization) or other Public Entity.

You may apply to the competent Appellate Courts of Administration:

1. If you wish to contest the results of prefectural elections.
2. In the case of disputes under administration contracts (e.g. construction of public works, state purchasing), having first filed an objection or petition for remedy before the competent administrative authority indicated in the relevant law.
3. If you are a public civil servant and have differences concerning your official status (depending on your rank and capacity the Council of State may be competent).

Legal Remedies

Against judgments rendered by courts of administration

How we appeal to a court of higher instance (appeal-cassation) against judgments rendered by first- or second-instance courts.

An appeal is allowed against judgments rendered by first instance courts of administration in disputes of substance, with the exception of certain cases, when the dispute is for less than a specified amount, currently Euro 590. Against judgments for annulling disputes rendered by the court of appeals (e.g. official status of civil servants) the appeal is lodged with the Council of State.

A cassation before the Council of State is allowed against judgments of Appellate Courts of Administration rendered following appeals against judgments

rendered by first-instance Courts of Administration.

Where are legal remedies filed

At the office of the court that rendered the challenged judgment.

Legal Recourse

Where are legal aids (recourse – action – petition for annulment (quashing), etc.) filed

- a) In a tax case, it shall be filed or served at the tax office that issued the relevant act.
- b) In all other cases it shall be filed at the office of the competent court of first instance.

Petition for quashing before the Council of State

The petition is filed either at the Registry of the Council of State or at any other public authority.

In the latter case, a filing act must be prepared on the body of the petition for quashing, indicating the details of the authority where the petition is filed, the full name and title of the receiving officer, the filing date and its reference number. Such act must be signed by the filing party and the party receiving the legal document.

Who signs the petition for quashing. Attendance by a lawyer at the hearing

The petition for quashing may be signed by you. In such a case, the hearing must be attended by an attorney appointed either under a notarial power of attorney bearing a date that is the date of the hearing at the latest or upon your oral statement to the court.

Who signs legal aids and remedies

If the petition for quashing is signed by your attorney, then the hearing need not be attended by an attorney, however you who have signed the petition for quashing must be authorized either by filing to the court a power of attorney or by appearing and stating at the hearing that you acknowledge the signature of your attorney.

Who signs other disputes

For other disputes in first instance- and appellate courts of administration the legal document must be signed by an attorney who must also attend the hearing, except for:

- a) Disputes the value of which is up to Euro 590.
- b) Disputes between social security organizations and insured parties or employers.
- c) Disputes concerning provisional judicial protection (stay of proceedings and injunction in general).

State Audit Council

The State Audit Council hears:

- All pension disputes
- Cases concerning the liability of civil and military public servants and employees of Public Entities for any damage caused to the state by fraud or

negligence.

The State Audit Council audits:

- Expenditures of the state, Local Government Organizations and Public Entities (on a preventive or suppressive basis).
- Contracts of a very high value, in which one contracting party is the State or other legal entity which, under the law, ranks on a par with the State.
- The accounts of public accountable parties and Local Government Organizations as well as other legal persons which are, under the law, subject to such audit.

The State Audit Council renders opinion on bills concerning pensions or recognition of service so that entitlement to pension be established.