

Art. 47 CFR,
Access to collective redress and standing
of associations
in the context of environmental damages
and,
consumer rights
from the point of view of Greek case law

(1) Environmental damages

- CoS 1607/2019

“WORLD WIDE FUND FOR NATURE (WWF)-GREECE”, “GREENPEACE HELLAS” and “CLIENT EARTH” v. Greek State

The Court accepted the standing of the two first: taking into consideration their purpose as preservers of the natural legacy and protectors of the natural and human resources in Greece

- Denied the access to the trial to the third :

“CLIENT EARTH”:

- established and domiciled in Great Britain
- statutory purpose : the association relies on initiatives "**throughout the European Union**" and to seek, "**without geographical restrictions**", to reduce industrial emissions across Europe and to reduce of greenhouse gases.
- Bases active active legitimacy in:
- **the cross-border nature of the effects of lignite burning on plants** invokes: - the Treaty on European Union, which requires effective judicial protection

-Article 47 of the Charter of Fundamental Rights of the European Union.

- Legal interest substantiated upon:

(A) **Directive 2010/75 / EU** "on industrial emissions ..."

(B) **Directive 2011/92 / EU** "on the assessment of the effects of certain public and private projects on the environment ..."

[Articles 1 and 11 : "For the purposes of this definition, non-governmental organizations promoting environmental protection and meeting the requirements laid down by the relevant national legislation, are considered to have vested interests "(art. 1 par. 2 par. e')]

(C) **the Aarhus Convention** (: Directive 2003/35 / EC, L 156, as in force), ratified by Greek Law 3422/2005, in article 3 par. 9

(D) the decisions of Courts of other countries of the European Union (decision of 15.12.2017 of the *Court of First Instance of Brussels* and *French Conseil d 'Etat* of 27 May 1991)

- The Greek Council of State:

implied national law (article 47 of presidential decree 18/1989)

*It is necessary to have **a link to the action**, according to certain local criteria, depending on the **type of project** and the **extent of consequences**.*

- *a project whose effects extend beyond the territorial region or even the country in which it takes place,*
- *that can cause direct and specific serious consequences within a radius much larger than its country of establishment or*
- *in the case of significant activities taking place near the border with another State.*

(2) consumer rights-personal data

(i) Decision 147/2004 of the supreme civil Court of Greece (Arios Pagos)

“Consumer Association - The Quality of Life” v. Eurobank

complaining for abusive clauses and breach of personal data in loan contracts and credit cards

article 10 par. 9 of greek law 2251/1994, which is a transposition into national law of Directive 93/13/EC:

"consumer associations that have **at least five hundred active members** and **have been registered in the register of consumer associations at least two years ago** can file any kind of lawsuit for the protection of the general interests of consumer public (collective action)". the decision produces its effects against everyone, even if they were not litigants.

violation of Law 2472/1997 for the personal data---->

the collective action according to article 10 par. 9 of Law 2251/1994

(ii) Multimember First Grade Court of Athens 334/2016

Court of Appeal of Athens 334/2016

Arios Pagos 948/2021

Several consuming associations v. Eurobank

additional intervention: “Swiss Franc Borrowers Association”

Eurobank: posed an objection of lack of active legitimacy

(1) the plaintiffs associations are not bodies representing and protecting the interests of *an indefinite number of consumers, but separate individuals with infringed individual rights*

(2) article 10 § 16 of Law 2251/1994 is not fulfilled, because the disputed lawsuit concerns both **the mortgage loans** and **the loans to professionals** for professional use and so the forts category does not complement the demanding of the law number of 30 consumers

The Courts: referred to the **article 10 p. 16 of Law 2251/1994**

(1)

- a) the association instituting the collective action must have been established **in accordance with article 10 par. 1** the protection of the interests of the consumer public,
- b) the association has been **registered in the Consumer Register one year before** the initiation of the lawsuit and
- c) the association has a total of **at least 500 active members.**

without the need to invoke and prove the element of representation and protection of the interests of an indefinite number of consumers

(2)

-the lawsuit does not distinguish between the affected borrowers from the mortgage contracts and the contracts, which serve professional purposes

- the illegal conduct harms the interests of at least thirty consumers, with professional or not professional contracts (**Article 10 par. 16 last part of the previous law**)

Conclusions:

- the Greek courts resort to the **principle of procedural autonomy** in order to permit access to the trial to associations and legal persons.
- the courts often make an **expansive interpretation** of the national procedural law in order to facilitate the access of associations and legal persons to the trial.
- the principle of effectiveness in the light of article 47 is rarely adopted. As a result appear diversity in the treatment of similar cases between the member states.
- the above mentioned rules on standing posed by the national law may cause a major gap, in comparison with the principle of effectiveness imposed by article 47 CFR.
- Unwillingness of the Greek courts to present preliminary questions in this field, maybe because of the time-consuming process.

Thank you for the attention