



Association of the Councils of State and Supreme Administrative
Jurisdictions of the European Union i.n.p.a.

Association des Conseils d'Etat et des Juridictions administratives
suprêmes de l'Union européenne a.i.s.b.l.

Identification of the participant

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Country of exchange: Cyprus

Identification of the exchange

Hosting jurisdiction/institution: Hellenic Council of State

City: Athens

Country: Greece

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SUMMARY

Between 24 April 2026 and 30 April 2026, I had the opportunity to participate in the Exchange Program for Judges of Administrative Courts of EU States in order to complete my internship at the Council of State in Athens.

My visit to the Greek Council of State offered me valuable experiences and substantial knowledge, regarding the functioning of the judiciary and the institutional role of the country's Supreme Administrative Court. Through this experience, I had the opportunity to observe closely the manner in which justice is administered and to gain a deeper understanding of the Court's procedure.

I was particularly impressed by the neoclassical building in which the Council of State is housed, the Arsakeion Megaron, which was built in 1846 and constitutes one of the most emblematic buildings in Athens. It successfully combines historical significance with the prestige of the institution it hosts, conveying a strong sense of respect, seriousness, and responsibility.

Both during the preparation of my visit and throughout its duration, there was excellent cooperation and meaningful communication with the colleagues responsible for coordinating and supporting the programme. The guidance they provided, was continuous and exceptionally valuable, both professionally and personally, contributing significantly to the creation of an atmosphere of trust and collegiality.

The organization of the visit was exemplary in every respect, characterized by excellent planning, consistency, and attention to detail. At the same time, the positive attitude, willingness to assist, and excellent communication of all those involved contributed to making the overall experience particularly positive, constructive, and productive.



I. Programme of the exchange

During the first day of my visit, I had the opportunity to tour the emblematic building housing the Council of State. As part of the tour, I was informed both about the history of the building itself and about the establishment and evolution of the Court, which enabled me to gain a deeper understanding of its role and contribution to the development and safeguarding of the rule of law.

Subsequently, I participated in a preliminary briefing concerning the forthcoming constitutional revision, particularly regarding issues related to specific constitutional provisions. At the same time, I attended the administrative plenary session of the Court, during which an especially interesting and substantial discussion took place, regarding possible amendments to constitutional provisions. The discussions focused, *inter alia*, on matters relating to the organization of the public administration, the permanence of civil servants, the institution of the Ombudsman, as well as independent authorities and the procedure for appointing their members, including comparative references to the legal frameworks applicable in other European states. This experience proved particularly important and constructive, as it provided me with the opportunity to engage directly with contemporary issues of constitutional and administrative law and to observe firsthand the institutional dialogue taking place within the Council of State.

During the remaining days of my visit, I had the particularly valuable opportunity to attend hearings before various Chambers of the Council of State, thereby gaining substantial insight into the functioning and the scope of the Court's jurisdiction. In particular, I attended sessions of the First Chamber concerning cases, related to social security and social protection, as well as sessions of the Fourth Chamber, which examines public procurement disputes, during the pre-contractual stage.

At the same time, I had the opportunity to attend a deliberation of the Fifth Chamber, concerning matters of particular importance, relating to the protection of the natural and cultural environment. The cases discussed concerned the protection of forests, the protection of antiquities and cultural heritage, as well as issues relating to spatial planning and urban planning law. This experience enabled me to gain a deeper understanding of the manner in which the Court approaches issues of public interest and sustainable development.

In addition to observing the judicial proceedings, my colleagues prepared particularly substantial and well-documented presentations, regarding important matters falling within the Court's jurisdiction. More specifically, I was informed about the procedure for the judicial review of draft Presidential Decrees, the cassation review exercised by the Court, as well as the legislative framework governing the administration's compliance with judicial decisions. Furthermore, presentations were delivered concerning issues related to the application of the "*Ne bis in idem*" principle, in cases before the Second Chamber, involving taxes and customs duties, as well as matters connected with the application of the General Data Protection Regulation (GDPR).

Particularly useful was also the presentation regarding the operation of the Court's digital system "*AdJustice*", together with the electronic tools available for the search and study of the Court's case law, from the year of its establishment, 1929, up to the present day. Through this process, I acquired valuable knowledge concerning the modernisation of justice and the use of digital technologies in judicial practice.

Furthermore, I had the opportunity to visit the General Commission of the State for Administrative Courts, as well as the Administrative Court of First Instance of Athens, and to meet the Commissioner of State for Ordinary Administrative Courts, which contributed significantly to my broader understanding of the organization and functioning of administrative justice in Greece.

A copy of the programme of my visit is hereby attached.

II. The hosting institution

The Council of State constitutes the Supreme Administrative Court of Greece. It began its operation in 1929, and its organizational structure, was modelled on the French Conseil d'État. It exercises review of the legality of administrative acts and holds a central position within the country's system of administrative justice.

The Court is composed of Judges of three ranks: the Assistant Judges, who prepare draft reports on cases; the Associate Councilors; and the Councilors, who are the only ones holding decision-making voting power. Today, in addition to the President, the Court is staffed by ten Vice-Presidents, fifty Councilors, fifty-five Associate Councilors, and forty-two Assistant Judges.

The Council of State is divided into six Chambers, to which cases are allocated depending on their subject matter. Cases of particular importance, are referred to a broadened seven-member composition of the relevant Chamber, while matters of heightened significance, may be brought before the Plenary. Moreover, referral to the Plenary is mandatory, when a Chamber intends to declare a legislative provision unconstitutional.

The jurisdiction of the Council of State is set out in Article 95 of the Greek Constitution and includes, in particular:

- (a) the annulment, upon application, of enforceable acts of administrative authorities on grounds of excess of power or violation of law; (b) the cassation (review on points of law) of final decisions of the ordinary administrative courts; (c) the adjudication of substantive administrative disputes falling within its jurisdiction pursuant to the Constitution and laws; and (d) the examination of draft regulatory Presidential Decrees.

The Court's primary function is the exercise of annulment jurisdiction, through the review of the legality of enforceable administrative acts, particularly with regard to their compliance with the Constitution, European Union law, general principles of administrative law, and the requirements of the European Convention on Human Rights. In parallel, it exercises cassation jurisdiction, over decisions of the ordinary administrative courts, thereby ensuring the unity of case law and the uniform application of administrative law.

Of particular importance is also its advisory function, which consists of reviewing draft Presidential Decrees before their issuance, thereby operating as a preventive mechanism for the control of the regulatory action of the administration.

The internal structure of the Court, is based on specialized judicial formations, allowing for in-depth examination of specific areas of administrative law and strengthening the consistency of its case law. Its functioning is characterized by a high level of institutional organization, strict adherence to procedural safeguards, and a consistent commitment to the review of the legality of administrative action.

Proceedings before the Council of State are governed by the principles of the inquisitorial system and party initiative. Under the former, the judge is obliged to investigate *ex officio* and in depth the factual and legal elements of the case and not rely exclusively on the parties' submissions. The principle of party initiative means that the commencement of proceedings depends on the action of the interested party. Applications must be lodged within a period of sixty days from the notification of the contested act or decision.

III. The law of the host country

During my visit, I had the opportunity to be informed, through a specialized presentation, about the advisory function of the Council of State, in the examination of draft Presidential Decrees that establish rules of law. This competence is provided in Article 95(1)(d) of the Greek Constitution and is exercised by the Fifth Chamber of the Court. In essence, it constitutes a form of preventive review of the constitutionality and legality of regulatory decrees.

According to Article 43(2) and (4) of the Greek Constitution, Parliament grants legislative authorization to the administration, for the issuance of Presidential Decrees. Before their signature by the President of the Republic and their publication in the Government Gazette, the draft decrees are mandatorily submitted to the Council of State, for examination and review of legality.

During this process, the Court issues observations regarding the constitutionality and legality of the proposed provisions. Where it considers that certain provisions are unconstitutional or incompatible with the applicable legal framework, the administration is required to reconsider the draft and make the necessary amendments before its adoption. This preventive procedure

substantially contributes to reducing the risk of subsequent annulment of the provisions by the Courts.

The opinion of the Council of State is advisory in nature and does not formally bind the competent Minister. However, the submission of the draft Decree for review constitutes an essential constitutional procedural requirement for its issuance. The relevant opinions are acts of a judicial body and are not subject to annulment by an action for judicial review.

After completion of the review by the Council of State and signature of the draft by the competent Minister, the Decree is submitted for signature to the President of the Republic. In practice, although the Council of State's opinion is not formally binding, but advisory, in nature, the President of the Republic will usually not proceed with the issuance of a Decree where the Court has issued a negative opinion or where the administration has failed to incorporate the legality remarks formulated during the review of the draft.

IV. The comparative law aspect in your exchange

Greek administrative law and the administrative law applied in the Republic of Cyprus present significant similarities, as both belong to the continental European legal tradition and are founded on the principles of the rule of law, the legality of administrative action, and judicial protection of the individual. At the same time, they also exhibit substantial differences, which stem from the distinct constitutional and historical development of the two states, as well as from the particular influences that shaped their respective legal systems.

Greek administrative law has been decisively influenced by the French administrative model and is characterised by the existence of a distinct system of administrative justice. A central role within this system, is played by the Council of State, which functions as the Supreme Administrative Court and exercises both annulment and cassation jurisdiction. The existence of specialised administrative courts at multiple levels, strengthens the development of a coherent and highly specialised body of administrative case law.

By contrast, the administrative law of the Republic of Cyprus has been shaped under the strong influence of the Anglo-Saxon legal system, due to the British colonial period, combined with influences from both Greek and continental European law. In the Cypriot legal order, the review of administrative action, was originally exercised by the Supreme Court of Cyprus within the framework of its constitutional jurisdiction under Article 146 of the Constitution. Following judicial reforms, Law 131(I)/2015 established the Administrative Court of the Republic of Cyprus, and later, Law 73(I)/2018 created the Administrative Court of International Protection, both of which exercise specialised administrative jurisdiction.

A common feature of both systems is the possibility of judicial review of administrative acts, aimed at ensuring the legality of administrative action and the protection of fundamental rights. In both legal orders, administrative courts examine issues of excess of power, violation

of law, abuse of discretion, breach of the principles of good administration, and infringement of constitutionally protected rights.

However, a significant difference lies in the structure and scope of judicial review. In Greece, the system of administrative justice is more institutionally organised and hierarchical, with a clear distinction between annulment jurisdiction and full administrative jurisdiction. In contrast, in Cyprus, the Administrative Court exercises only a review of legality and not a review on the merits of administrative acts, with the exception of tax cases, in which the Court may exercise judicial review on the merits.

Of particular interest is also the different approach to the review of regulatory administrative action. In Greece, the Council of State exercises a preventive review of legality over draft Presidential Decrees through its advisory function before they enter into force. In the Republic of Cyprus, there is no equivalent institutionalised preventive judicial review of regulatory acts, which cannot be directly challenged by an application for annulment, but only indirectly, through the issuance of an individual administrative act, allowing for incidental review.

Constitutional review in the Republic of Cyprus is exercised mainly in a decentralized and *ex post* manner, within the adjudication of specific disputes by the competent courts. Each court has the power to assess incidentally the compatibility of legislative provisions with the Constitution and to refuse their application in case of unconstitutionality. At the same time, the Constitution, also provides for a form of preventive constitutional review of legislation. In particular, under Article 140 of the Constitution, the President of the Republic may, before the promulgation of a law passed by the House of Representatives, refer it to the Supreme Constitutional Court of Cyprus, requesting an opinion as to whether the law or any provision thereof is contrary to the Constitution or to European Union law.

This procedure constitutes an institutional mechanism of preventive constitutional review aimed at safeguarding constitutional order and ensuring the compatibility of national legislation with EU law before it enters into force. It seeks to prevent the incorporation into the legal order of provisions that may violate fundamental constitutional principles or obligations arising from the European acquis.

This competence of the Supreme Constitutional Court is of particular importance, as it operates preventively and strengthens the institutional balance between the legislative and judicial branches, while also providing enhanced guarantees for the protection of constitutional legality. Furthermore, Greek administrative law is characterised by a more developed body of general principles of administrative law, shaped largely through the case law of the Council of State, such as the principles of proportionality, legitimate expectations, and legal certainty. Comparable principles are also recognised in the Cypriot legal order, particularly through the influence of EU law and the European Convention on Human Rights. However, their development is more closely linked to constitutional jurisprudence and common law principles, such as the binding force of judicial precedent.

In summary, despite their historical and structural differences, both Greek and Cypriot administrative law, serve the same fundamental purpose: ensuring the legality of administrative action, protecting the rights of individuals, and consolidating the principles of the rule of law within the framework of a modern democratic state.

V. The European aspect of your exchange

During my visit, I had the opportunity to be informed about the legal issues concerning the application of the principle of “*Ne bis in idem*” in cases involving the evasion of customs duties and taxes, which fall within the jurisdiction of the Second Chamber of the Council of State. This principle is enshrined in Article 4(1) of Protocol No. 7 of the European Convention on Human Rights (ECHR).

The application of this principle, has acquired particular significance in administrative law through the case-law of the European Court of Human Rights (ECtHR), especially following the “*Engel*” and “*Zolotukhin*” judgments, where the Court broadened the concept of a “*criminal charge*” under the ECHR. According to these criteria, even administrative sanctions may be considered “*criminal in nature*” when they are characterized by a high degree of deterrence and severity. Consequently, the imposition of administrative fines, may fall within the scope of Article 4 of Protocol No. 7.

This issue became particularly relevant in the Greek legal order, in cases of smuggling, which under Greek law constitutes a customs offence consisting of the evasion of duties and taxes upon the import, export, or disposal of goods. The offence requires, at the criminal level, intent, namely knowledge on the part of the offender that their conduct will deprive the State of the relevant duties and taxes. At the same time, however, the same factual conduct may also give rise to an administrative offence, leading to the imposition of an administrative fine that may be up to several times the amount of the evaded duties.

A distinctive feature of Greek legislation is that the administrative offence, does not require the same level of culpability as the criminal offence, as it does not necessarily presuppose intent or knowledge. Nevertheless, the underlying factual basis of both proceedings, remains the same, raising important questions regarding the application of the “*Ne bis in idem*” principle. This issue was further complicated by the constitutionally established system of separate jurisdictions in Greece. In Judgment No. 2067/2011, the Second Chamber of the Council of State held, by majority, that the “*Ne bis in idem*” principle, did not apply to disputes concerning administrative customs fines. The Court reasoned that binding the administrative judge to an acquittal by the criminal courts, would contradict the constitutionally guaranteed autonomy of the administrative and criminal jurisdictions, and that the administrative court could not be deprived of its competence due to a prior criminal acquittal. The Court also emphasized that, at the time of ratification of Protocol No. 7, Greece could not have foreseen the subsequent evolution of the ECtHR’s case-law expanding the notion of “*criminal charge*” to include administrative sanctions of a punitive nature.

This approach was directly challenged by the ECtHR in *Kapetanios and Others v. Greece* (Application No. 3453/12, 30 April 2015). The Court held that administrative customs fines were clearly of a criminal nature, due to their severity and magnitude, and therefore fell within the scope of Article 4(1) of Protocol No. 7. Consequently, the imposition of administrative sanctions following a final acquittal for the same essential facts, constituted a violation of the “*Ne bis in idem*” principle. The Court noted that Greek law already limited the autonomy of jurisdictions by recognizing the binding effect of criminal convictions on administrative courts. It further, indicated that no violation would arise, if criminal and administrative sanctions formed part of a single coherent system or if there were adequate coordination between the two procedures.

Following the *Kapetanios* judgment, the Greek legislature amended Article 5(2) of the Code of Administrative Court Procedure. The provision now states that administrative courts are bound, not only by final criminal convictions, but also by final acquittals, unless the acquittal is based on the absence of elements that are not required for the administrative offence. However, significant issues continued to arise regarding procedural application. In particular, Article 5(4) provides that administrative courts must take into account *res judicata* from criminal judgments *ex officio*, only if it is apparent from the case file. In Judgment No. 2403/2015, the Council of State rejected a cassation appeal alleging a violation of “*Ne bis in idem*”, holding that the final acquittal had not been properly proven before the administrative courts, as the burden of invoking and proving the final criminal judgment rested with the parties.

The ECtHR, revisiting the issue, held that once the acquittal judgment had been brought to the attention of the administrative courts, they were obliged to examine *ex officio* its implications under the “*Ne bis in idem*” principle. Failure to do so was incompatible with the ECHR. Nevertheless, in Judgment No. 1993/2016, the Council of State maintained its jurisprudence, placing particular emphasis on procedural autonomy and national rules on the burden of proof. It held that neither the ECHR nor the Strasbourg case-law imposed an obligation on administrative courts to investigate of their own motion the existence and finality of criminal judgments.

In its subsequent judgment of 10 December 2024, the ECtHR found that the Greek administrative courts and the Council of State, had again violated Article 4(1) of Protocol No. 7. The Court reiterated that where a final acquittal has been brought before the administrative courts, they are required to examine *ex officio* its consequences, in light of the “*Ne bis in idem*” principle.

Against this background, the potential activation by the Council of State of the advisory opinion mechanism introduced by Protocol No. 16 to the ECHR becomes particularly relevant. Through this procedure, national Supreme Courts, may request advisory opinions from the ECtHR on questions of interpretation of the Convention prior to delivering a final judgment.

VI. “Good Practice” within the host jurisdiction

The backlog of pending cases before the Administrative Court of Cyprus, remains particularly high, creating significant challenges in ensuring the timely administration of justice, within a reasonable period. For this reason, continuous efforts are being made to accelerate proceedings, with particular emphasis on clearing older cases and reducing accumulated delays.

Similar issues are faced by administrative justice in Greece. In this context, of particular importance, is the recent procedural reform introduced by Law 5119/2024, which establishes new procedural rules for cases falling within the jurisdiction of the Council of State. The new provisions apply exclusively to legal remedies, filed after 15 September 2024 and aim primarily at accelerating administrative litigation and improving the management of the judicial workload.

This reform introduces a stricter and more centralized procedural framework, designed to reduce delays previously observed in case adjudication. In particular, it provides for strict deadlines for the transmission and submission of the administrative case file by the administration. At the same time, the possibility of adjournments is significantly restricted. Adjournments are now granted only for serious reasons, upon submission of a written request and payment of a fee, thereby reinforcing procedural discipline and preventing abusive practices that previously led to prolonged delays.

Furthermore, a short fifteen-day deadline is introduced for the submission of written pleadings by lawyers following the hearing of the case, while quantitative limits are also imposed on the length of principal pleadings, which may not exceed thirty pages. Particularly strict is also the provision according to which, in the event of failure to serve the application within the prescribed time limit, it is dismissed as inadmissible. In addition, the submission of documents on the day of the hearing is prohibited, with the aim of preventing procedural surprise between the parties and ensuring the smooth and efficient conduct of proceedings.

This reform, reflects a broader trend towards modernizing administrative procedural law and strengthening the efficiency of administrative justice, also in light of the obligation to comply with Article 6 of the European Convention on Human Rights, which guarantees the right to a hearing within a reasonable time. This procedural framework, is also of particular relevance to the Republic of Cyprus. Given that the Administrative Court of Cyprus also faces a significant number of pending cases, the adoption of similar procedural tools could substantially contribute to the acceleration of administrative proceedings and the improvement of the overall effectiveness of the judicial system.



VII. The benefits of the exchange

The exchange significantly enhanced my understanding of comparative administrative law and judicial practice. It provided practical insight into the functioning of the Greek Council of State and broadened my perspective on administrative adjudication within a European context. The knowledge gained will contribute to my professional development and can be shared with colleagues through discussions and the exchange of best practices.

VIII. Suggestions

The exchange programme was highly beneficial. A possible improvement to the programme would be the introduction of the opportunity to observe proceedings not only before the Council of State, but also before the Administrative Courts of First Instance and the Administrative Courts of Appeal. Such an experience would provide a more comprehensive understanding of the functioning of administrative justice at all levels of jurisdiction and would allow for a deeper appreciation of the practical application of administrative law in everyday judicial practice. Furthermore, it would contribute to a better understanding of the course of an administrative dispute from the first-instance stage to the highest level of judicial review, offering a more complete and comparative perspective on administrative procedure.

19.5.2026

