

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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<p>Resolution regarding the Function of the Independent Authorities Established by the Constitution</p>
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The Independent Authorities that have been established by the Constitution, contribute to safeguarding fundamental rights and freedoms. Their establishment and function correspond to the difficulty which the existing administrative mechanisms face in addressing multifaceted human rights protection issues posed by the use of new technologies. The independent authorities are also competent to address issues related with market economy regulation, without which individual rights and collective goods of utmost importance might be threatened. The constitutionalisation of the Independent Authorities by the 2001 revision of the constitution expressed the will to strengthen their institutional role and function in support of human rights protection without interferences by any governmental power.

The work of the Independent Authorities is both necessary and irreplaceable because of the complicated technological advancement and chaotic market economy; furthermore, it is provided for and imposed by the Constitution, because only in this way may certain rights be effectively protected and the guarantees for the rule of law preserved.

The NCHR follows closely the operation of the Independent Authorities touching upon human rights issues, on the basis of article 1 of Law 2667/1998 establishing the Commission. The importance of their role in protecting human rights is also signified by the membership of three out of five constitutionally established Independent Authorities, i.e. the Ombudsman, the Data Protection Authority and the National Council for Radio and Television, while the remaining two, i.e., Authority for the Information and Communication Security

and Privacy and High Council for Personnel Selection, safeguard certain human rights with aspects of which the Commission has repeatedly dealt.

On the basis of the non-compliance of the Administration with decision No 58/2005 of the Data Protection Authority, on November 17th 2007, which had expressly prohibited the operation of security cameras, already placed in junctions and central roads, during demonstrations, the NCHR expresses its concern for the weakening of the said Authority's competence, which is provided for by the Constitution. It also emphasizes the need for the decisions of the Authority to be respected by all State organs.

All constitutionally established Independent Authorities face human rights protection issues of similar difficulty. The unswerving respect of the Authorities' institutional independence constitutes *sine qua non* for the effective protection of human rights falling under the competence of the said Authorities. Article 101A of the Constitution also provides for the personal and functional independence of the Authorities' members so as to exclude any interference of the Administration.

The NCHR has already, with a previous decision on the matter stressed, that the selection of the members by decision of the Conference of Parliamentary Chairmen seeking unanimity or in any case by the increased majority of four fifths results in selecting personalities highly esteemed and accepted by all parties, thus reinforcing the independence of the Authorities. Moreover, article 3(2) Law 3051/2002 provides for the renewal of the members' term in manner which ensures the continuation of the Authorities' function.

On the basis of the aforementioned, the NCHR underlines that the smooth function of the Authorities requires consensual solutions combined with the selection of individuals with the necessary knowledge, skills, reputation and democratic ethos. Furthermore, in order for the Authorities to fulfill their constitutional role they need the appropriate infrastructure and human resources, for the improvement of which the State needs to see to.

The significant contribution of the Independent Authorities to the protection of human rights entails that any act against their decisions,

irrespective of origin, undermines their role and jeopardizes human rights respect.

For those reasons, the NCHR:

1. Welcomes the renewal of the term of the Ombudsman and the members of NCRT and calls upon the parliamentary parties to come to an agreement regarding the selection of the members of the other Independent Authorities.

2. Appeals to the executive and the judiciary to safeguard the institutional role of the Independent Authorities in the framework of human rights protection.

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