CHAPTER 5

Legal Framework in Greece Regarding the ABS Regime, Implementation Gaps and Issues Requiring National and International Attention

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Greece is situated on the southern end of the Balkan Peninsula, is part of the European eastern Mediterranean Sea and it has a total surface of 132,000 km², islands included. It is extremely rich in biodiversity with a wide variety of plants, animals, ecosystems and landscapes.1

Greece is a “biodiversity hot-spot” area for Europe since it is an important region for the European fauna and flora because of its high endemism,2 but it is also a land of the many rare species refugees.3 The flora of Greece is one of the richest in Europe consisting of 6,437 native plant taxa (species and subspecies), which correspond to approximately 50% of the plants of Europe, while 1,442 species and subspecies are endemic in the country.4

With regard to the fauna of Greece, according to official inventory5 23,130 species of land and freshwater have been recorded, in which 3,500 species of sea are not included. If a number of more species that has been recorded but not included in lists is added, the total number could reach about 30,000 species.6

The main objective of this study is to detect and record through a critical lens, and to evaluate the Greek legislation in terms of both public and private law, with regard to ABS. With regard to public law, this approach is performed under the light of the relevant ratified international conventions on biodiversity,

the Nagoya Protocol\textsuperscript{7} and the Regulation of the European Parliament and of the Council on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (hereafter, “EU Regulation on ABS”).

The (public and private) law statutes are juxtaposed on the basis of the meaning that the EU Regulation on ABS attributes to the term “access,” \textit{i.e.} acquisition of genetic resources in accordance with the applicable legislation or regulatory requirements of the Party to the Nagoya Protocol.\textsuperscript{8} Moreover, we do not examine the issue of the legislative regulation of traditional knowledge held by indigenous and local communities, since according to the 3rd National Report on Convention on Biological Diversity (CBD), there are no such communities in Greece within the meaning of CBD.\textsuperscript{9}

The statutes, the majority of which have been and still are in force simultaneously, are presented in two parts, distinguishing public and private law instruments. In each part, the statutes are examined in chronological order, divided into thematic units, so that the content and the differentiations of the regulations will be distinguished. The applicable statutes are presented through a critical analysis in both parts.

In the third part of the study, we formulate critical comments, we express considerations and we submit proposals for the elaboration of the necessary national regulatory framework.

I Access According to Public Law – The Current Legislative Framework

The applicable legislation is presented on the basis of the 1975 Constitution, a special provision of which renders the protection of the environment and biodiversity an obligation of the state.\textsuperscript{10} This provision forms the foundation for every future statute, and, therefore, the regulatory framework regarding access constantly expands and evolves. By contrast, the statutes that have been issued prior to the Constitution’s entry into force exhibit a different approach to these issues, as is demonstrated below.

\begin{itemize}
  \item \textsuperscript{8} Nagoya Protocol Article 3.
  \item \textsuperscript{9} Third National Report on CBD, Greece, 8-4-2008, pp. 76, 79.
  \item \textsuperscript{10} Greek Constitution Article 24.
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