Judicial independence is a mostly important pillar of a democratic society. The insulation of the judiciary from the legislative and executive powers, guarantees the rule of law and the protection of individuals and their rights.

The scope of this speech is to present the highlights, of the Greek legal system on this topic, and the way such an independence is guaranteed.

1. The principal rules establishing the judiciary independence are contained in the Constitution, the supreme law to which all legislation has to abide. Furthermore, according to article 93 of the Constitution, Courts are bound not to apply an act or statute whose content is contrary to the Constitution. This provision empowers the judiciary to control any legislation affecting their independence, examine its conformity with the relevant provisions of the Constitution and in negative case deny it.

2. Turning now to the specific rules that guarantee the realization of the judicial independence, I shall refer to Article 87 of the Constitution providing that judges enjoy functional and personal independence and that they aresubject only to the Constitutions and the laws.

a) Firstly, functional independence refers to the freedom from interference by the executive or legislative power .It is expressed through the obligation of judges to review the legality of administrative acts and the constitutionality of statutory legislation. It denotes also the lack of hierarchical control of inferior courts by superior courts in the exercise of their judicial functions and entails critical restrictions to the legislative power, regarding cases pending before the courts, or cases resolved by final court decisions.

I

b) Secondly the personal independence of the judiciary prescribes that judge will be free from any influence of the executive. Important in that aspect is the principle of the self administration of Justice and the restriction of the Ministry of Justice to the coordination of the organizational and infrastructure matters, and the provision of the necessary for their function financial and administrative support.

The main guarantees of the judicial independence constitutionally established and includes :

aa)Appointment for life. That means that a judge cannot be dismissed for any other reasons than those provided by the Constitution and according to the procedural guarantees established therein. According to article 88 para 4 of the Constitution, judicial functionaries may be dismissed only pursuant a thoroughly reasoned court judgment, on the grounds of a criminal conviction or a grave disciplinary breach or illness or disability or professional incompetence, confirmed as specified by law.

Otherwise all judges are compulsorily retired : those who are members of the first instance courts and the Courts of appeal at the age of 65, and those who are members of the Supreme Courts, at the age of 67.

bb) A further guarantee of independence of the judiciary towards the executive is provided by Article 89 of the Constitution according to which not only the participation of judicial functionaries in the government is not permitted, but also the assignment of administrative duties is prohibited. Judges are also excluded from the performance of any remunerated service or the exercise of any profession.

As an exemption to the rule judges are allowed to be elected members of the Academy or university professors and are permitted to participate in committees of disciplinary, auditing or judicial nature and in law drafting committees.

cc) Special care is taken for the remuneration of the judges. Article 88 para 2 of the Constitution provides that the remuneration of judicial functionaries shall be commensurate with their office. According to a well established case law the remuneration of the judges –considering their rank- should never be inferior to the fees of the highest remunerated public official. For the resolution of legal matters affecting the remuneration of judges a special court of the highest rank is established.

3. Recruiting and training of judges is governed by law *368912008.*

In order to be eligible to hold judicial office, individuals must be Greek citizens, between the age of twenty eight and forty and must hold a university law degree. The **practice** requirements are not so important. Two years of membership to the Bar (one year to those who have a master in law) or five years in the exercise of the duties of a Court's clerk, is the qualification needed for the participation to the entry competition for the National; School of Judges. It is also provided, of course, that the candidates should not be convicted for a criminal offence and they should not suffer any physical or mental incapacities, that can adversely affect the exercise of their duties.

The entry competition and the number of candidates are publicly announced. The competition is conducted by a **five** member committee composed by the three judges of the highest

rank, a university professor and a lawyer having at least 20 years of practice.

The candidates who pass the introductory competition must complete the theoretical and practical training provided by the National School of Judges(which is also responsible for the continuous training of the judiciary) .

That training lasts for 16 months and is divided to three stages, of which the two first are theoretical and the third practical.

During the two theoretical stages the performance of the candidates is continuously evaluated. At the end of the second term the trainees have to pass successfully oral and written examinations, after which they are appointed for practice at the areas of Justice (administrative, civil, etc,) as indicated in their initial application to the National School.

After the successful completion of their practical training the candidates are appointed as judges on probation for a period of eighteen months.

4. The career of judges is the field where self administration plays a mostly. important role. Article 90 of the Constitution provides that promotion assignments to posts, transfer, detachments and transfers to another branch of judicial function aries is decided by the Supreme Judicial Council. This Council is composed of the President of the respective highest court and its members are judges of the same court chosen by lot among those having served at this post for at least two years. In the Supreme Council participate also, without right to vote, two members of the judiciary of the branch to which the decision to be made, refers, who must hold the rank of Judge of Appeals or equivalent, and who are chosen also by lot.

The Minister of Justice or the member of the Judiciary concerned, if they do not agree with a decision of the Supreme Judicial Council, have the right of appeal to the respective Supreme Court, the judgment of which is final and binding.

5. Consistent with the principle of self governance of the Judiciary, Article 91 of the Constitution entrusts responsibility for disciplinary to judicial organs. Disciplinary action may be initiated by the Minister of Justice and certain high ranked judicial functionaries for misconduct contrary to the obligation and duties of the judges, including a delay in the execution of their tasks, the breach of confidentiality.

Disciplinary authority over judicial functionaries from and above the rank of the Supreme Civil and Criminal Court, or a rank corresponding therefore is exercised by the Supreme Disciplinary Council which is composed by the president of one of the three Supreme Courts, four vice presidents or members of the same courts and two university professors of the faculty of law.

Disciplinary cases against all others judges are heard, in the first and second instance by Councils composed of regular judges chosen by lot.

The respect of the time schedule obliges for a restriction to the most important aspects of the independence of the Judiciary, as guaranteed in Greece. I would be happy if anyone of the participants is interested for further details, to supply him with any further information and documentation.