

**SPEECH OF MICHAEL APESSOS**  
**PRESIDENT OF THE LEGAL COUNCIL OF THE STATE**  
**OF THE HELLENIC REPUBLIC**

Dear colleagues,

Ladies and Gentlemen,

It is a great honor and a real pleasure to be with you today.

This Conference is an excellent initiative of the Serbian authorities and especially of the State Attorney's Office, actually realized, due to the OSCE Mission in Serbia.

I congratulate all institutions and all people involved in this project, which has achieved to bring **five (5) different State Attorney's Offices from five (5) different European States together, in order to present their work, to exchange experience and to explore new paths leading to the defence of the Public Interest.**

I assume that we shall identify, both, differences and similarities, during this Conference.

But, I am sure that we shall conclude that **safe-guarding the Public Interest is a common ground of all institutions that are represented** in this room, today.

And, now, let me introduce you **the Legal Council of the State (in brief, LCS).**

*History*

LCS was **established in 1882, consisting - at the time - of a Council of eight (8) Legal Counsellors**, who were appointed by the government at the ministries of Finance, of Internal Affairs, of Education, of Foreign Affairs, of National Defence, of

Justice and of Commerce, under the general command of the Legal Counsellor of the Ministry of Finance.

**Today, 135 years later, the LCS is a public institution, a collective body of approximately 440 jurists, as LCS Members, supported by an administrative staff of around 150 civil servants.**

### *Assignment*

**According to article 100A of the Greek Constitution, LCS is assigned to the legal support and representation of the State and acts as State's official Advisor and Litigator, as well as of certain Public Law Entities.**

I will refer to **some of the most important LCS tasks**, which the authorization for the legal support of the State includes, *inter alia*:

#### **1.1. Judicial and extra-judicial representation.**

- **The LCS represents the Hellenic State before the Domestic Courts of Law** and defends the State's views and interests but it **also has the task of a Counsel**. It assesses the results of a litigation and advises the administration, whether persisting on it serves the best interests of the State or ending it, is more useful.

- **The LCS also represents the Hellenic Republic before the European Court of Human Rights.**

- **Furthermore, the LCS represents the Hellenic Republic before the European Court of Justice and the General Court (especially in relation to the Common Agricultural Policy and other selected issues, such as Monetary Policy, Public Debt, V.A.T., Customs, Justice, Public Procurements etc), as well as before various EU and international organs.**

**LCS international activity includes International Centre for Settlement of Investment Disputes (ICSID) tribunals and *ad hoc* Committees, as well as other arbitral tribunals (ICC, LCIA, etc.).**

## **1.2. Claims' adjudication and dispute-settlement.**

**In this case the LCS acts as a Judge.** It is a cost-effective way, both for the individuals and the State, which aims to prevent unnecessary litigation.

Both the view of the administrative authorities and of the individual claimant are taken into account.

**The LCS decision - in favor of either party - will be based on law and on written evidence.**

**As soon as the competent state organ (the Minister of Finance and, in financial claims of less than 60.000 euros, the LCS President) signs an LCS decision, which rules in favor of the individual, that decision becomes an enforcement title.**

The State has the obligation to execute the LCS decision properly.

In case of a failure of the State to do so, the individual can succeed to enforce this title, as prescribed by law.

## **2.3. Legal Advice.**

**LCS acts as a Legal Advisor** to the Government and the public administration.

The advice sometimes can be oral and informal. That's the way to deal with simple legal issues.

**But, rendering official and written Legal Opinions is a core LCS task.**

It is up to the authorized Members of the Government (Ministers, Deputy Ministers, etc.) or of the represented entities to decide if a certain case, raising a legal question, justifies the submission of an official Request by them to LCS for the issuance of a Legal Opinion on that case.

Important legal questions are answered by LCS, acting as a collective body, meaning through Chambers or Plenary Sessions.

The form of an LCS Legal Opinion is similar to that of a judgment.

The LCS Legal Opinion can be unanimous or taken by majority, with dissenting opinions.

Questions of minor importance are answered by individual Legal Opinions.

In case that the competent administrative organ (usually, a Minister) approves the Legal Opinion, by signing it, the administration is obliged to apply the Legal Opinion and to follow the given solution in future similar cases.

**LCS advisory tasks, also include:**

- **Legal assistance (by comments or recommendations) at the stage of legislature drafting, upon request.**
- **Recommendations on appropriate legislative measures, in order to protect the public interest.**
- **Legal Opinion in relation to arbitration proceedings, involving the State.**

**This mandate is related to:**

- **Agreements on arbitration clauses for a potential future dispute-resolution through domestic arbitration,**
- **Proposals for the appointment of arbitrators on behalf of the State in pending, domestic or international, arbitration proceedings,**
- **Acceptance or not of arbitration tribunals awards.**

## **2.4. LCS also acts as a service agent of the State.**

On most cases, in litigation/arbitration proceedings vs the State, if the service of a judicial document is not effected at the Headquarters of LCS in Athens, the proceedings vs the State are void.

### *Structure*

**The LCS is structured in a mixed system of organization.**

**There is the main strategic and operational structure and the supporting administrative structure.**

**The main LCS structure involves the Central Service, the LCS Bureaus at Ministries and Public Law Entities, as well as the LCS Judicial Offices at selected major cities of the Country.**

The Central Service, with legal and administrative departments, monitors and supports the work of the other LCS units in Athens and the rest of the country.

It consists the domestic and international contact-point of LCS with Justice, Government and public administration's bodies, units and organs, as well as with the individuals, legal or natural persons.

It is also the place where the final decisions are taken, implemented and post-evaluated.

### *Legal personnel*

**4.1. The so-called main-personnel, consists of the LCS Members, meaning jurists, who were admitted and hired, following successful (written and oral) public exams.**

These exams are open only to lawyers or judges with certified knowledge of at least one foreign language.

**4.2. The legal work which is related to court hearings is usually carried out by a single LCS Member, although it is not a rare occurrence that important cases are being prepared by teams of LCS jurists.**

On the contrary, **decisions concerning cases of high interest and official legal opinions on important legal questions are taken in a collective manner by LCS Three - Member Committees, LCS Chambers or LCS Plenary, meaning formations, which consist of LCS Members of a certain hierarchy rank. Decisions are taken by majority.**

**Only the President, the Vice-Presidents and the Legal Counsellors of the State can be members of the Chambers and of the Plenary with a voting right.**

**Each LCS Chamber is formed by a Vice-President and Legal Councillors, following a decision of the President, issued at the beginning of each judicial year.**

**The LCS Plenary can be Full (all members) and Regular (one of the two divisions of the Full Plenary).**

**4.3. The LCS Members start their careers as Legal Representatives, acting mostly as Litigators before substance courts.**

There are 240 posts of Legal Representatives.

A Legal Representative can be promoted to a Senior Advisor.

**A Senior Advisor can plead before the supreme courts, mostly in annulment proceedings. Furthermore, the Senior Advisor can give personal, oral or written advice.**

**In case of a serious legal question, the Senior Advisor prepares a draft legal opinion, which will be referred, discussed, decided and rendered as an official Legal Opinion by an LCS Chamber or the LCS Plenary.**

The posts of Senior Advisors are 130.

A Senior Advisor can be promoted to a Legal Counsellor of the State.

**The Legal Counsellor participates with a voting right in LCS Chambers and LCS Plenary sessions, before the Plenary sessions of Supreme Courts, may be appointed as Head of an LCS Bureau, gives advice to the members of the Government and to the Governors of Public Law Entities.**

**There is a number of 60 Legal Counsellors of the State today.**

**Nine (9) Vice-Presidents and one (1) President form the top of the hierarchic pyramid.**

**The promotion of a Legal Counsellor to a LCS Vice-President and the promotion of a Vice President or a Legal Counsellor to LCS President is effected (after a proposal of the LCS supervisory authority, meaning the Minister of Finance) by a decision of the Ministerial Council.**

**The President's appointment is for a, non-renewable, four (4) year period .**

By the expiration of the 4-year term, the President is - automatically - retired, by law.

The President, the Vice Presidents and the Legal Counsellors are also retired at the age of sixty seven (67).

**The Vice-Presidents chair the LCS Chambers and perform any special task assigned by the President.**

**One of the Vice-Presidents is appointed (by President's decision) as President of the Supreme Disciplinary Board that judges on disciplinary responsibility of civil servants, in a final way.**

**Another Vice-President is appointed as Inspector, in order to evaluate the work of the Senior Advisors, while the evaluation of the Legal Representatives is effected by specially appointed Legal Counsellors.**

**The President is the Head of the LCS institution, of the main LCS personnel and of the administrative staff.**

**The President calls and chairs the LCS Plenary sessions and certain LCS Boards.**

**He issues regulatory decisions and grants mandates to the LCS Members for handling cases before domestic and international courts (ECJ,ECHR etc), as well as domestic and international arbitration tribunals (ICSID, ICC etc.).**

**In certain cases, the President can grant a mandate to Associate State Lawyers or foreign law firms.**

**The President is also the Greek Government's Agent before the European Court of Human Rights.**

**In his capacity as the Agent of the Hellenic Republic, the President plays a double role:**

**He acts as a Counsel to the Republic and as a Supreme State - Authority for the implementation of the European Convention for Human Rights in the country's territory.**

**The Agent co-operates with national authorities, as well as with the competent departments of the Council of Europe, for the definition of the**

necessary measures (individual and general), which need to be implemented, to ensure that the ECHR judgments will be properly executed.

The Agent informs the Committee of the Permanent Representatives of the Council of Europe (*via* the Greek Permanent Delegation in Strasbourg) about the progress of that implementation and he participates in the activities of the Council, on a regular basis.

The Agent co-operates with the other Agents, in order to contribute to their common supportive duty, in relation to the Protection of Human Rights.

*The international legal affairs supportive LCS mechanism*

There is a special LCS Central Service department for the international legal affairs, in relation to ECHR, European Court, courts of foreign jurisdictions and international arbitrations.

The department has a monitoring role and it is the relevant LCS contact - point.

The International Legal Affairs Department is also responsible for the translation of every ECHR judgment in cases of Greek interest and for uploading them in the official LCS site ( [www.nsk.gov.gr](http://www.nsk.gov.gr)).

*The new challenges and the role of State Attorney's Offices*

I have been an LCS Member since 1977.

A career, which started in the 20<sup>th</sup> century and is ending in the 21<sup>st</sup> century.

A lot of things have changed.

**The State and its role have changed.**

Being part of this new globalization era, **the State has become more flexible, more open, more understanding.**

But, all these good things have resulted to **heavier and complex new state obligations.**

**The State has to respond promptly, in order to safeguard its essential interests, the interests of the people, as well as the public assets.**

**The State Attorney's Offices have a key - role to play.**

**The State - Attorney's Office has to defend the State and sometimes defend it against organized groups of interests with means and money, that a State cannot always afford.**

**The State Attorney's Office has to advise the administration, in order to facilitate the meeting of the State's obligations towards the people and the international community.**

**The State Attorney's Office has to fight with the administration's prejudice, yesterday's mentality, old customs and habits.**

It is a hard task.

But, I am an optimist.

**The new legal generation has the required strength, education and mentality to co-operate and to determine the best practices for the Public Interest's Protection.**

Thank you for your attention.

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