The changing status of forensic medicine in Greece

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SUMMARY. The practice of forensic medicine in Greece is similar to that in other European countries. That is Greece follows the continental model of sudden death investigations, whose norms govern the exercise of forensic medicine through Greek criminal procedure law. In Greece, a university and Government system of forensic medicine exist and occasionally work side-by-side. University departments are strategically placed in all districts of the country. State forensic medicine services are located in Athens, Piraeus and Crete and function in parallel with the local University departments of forensic medicine. Forensic examinations on the living are also exclusively performed by the University and State Legal Medicine services. The cases are simply divided according to the counties of these areas. A recent regulation by the Supreme Court eliminated the overlapping of jurisdictions emphasizing the role of the University departments, and finally establishing a new University-oriented medico-legal system throughout Greece.

INTRODUCTION

The characteristic feature of forensic medicine in Greece is that investigation takes place only after issuance of a pertinent order by the investigative authorities (prosecutor, police and investigating judge). The philosophy of the Greek violent death investigation procedure is similar to the continental European process as it was developed in 1215 – a year associated with the seizure of trials by the clergy and which marked a common point of abandonment of the continental European and Anglo-Saxon systems of criminal justice.1

Unlike the Anglo-Saxons, the Europeans did not employ laymen in criminal investigation procedures as suggested by the Fourth Lutheran Council.2 The process then, and as it has developed up to now, is an inquisitorial system, placing the judge as the central authority to whom the accusation, inquiry and trial had been entrusted. In the course of time, the system proved to suffer from many inadequacies that led to widespread dissatisfaction. The vesting of all power in the judge connected him to the executive branch and to the gentry, which generally proved ruinous to the defendant's rights. As Montesquieu stated, power has the inherent property of abuse, which was proved true many times.2

The ideas of Voltaire, Montenieu, Rousseau, Montesquieu, Thomasius, Beccaria and the other representatives of the age of enlightenment had already prepared the way for the reformation in criminal justice that the French Revolution imposed.3 The Revolution, for that reason, can be considered also as a revolution in criminal procedure. The new criminal procedure, as reformed with the contribution of Napoleon's Code in the following decades, is the basis of current European criminal procedure.

CRIMINAL INVESTIGATION PROCEDURE LAW IN GREECE

The Greek criminal investigation procedure law has always relied on the principles of the continental European system since its formulation in 1834, shortly after Greek liberation from the Ottoman Empire in 1821. The same concepts are found in the
last codified legislation of 1-1-1951, which is currently in effect. Thus the investigative process is carried out by judicial authorities who are equipped with the constitutionally-established guarantee of life tenure and independence of opinion, and are therefore considered effective guardians of the constitutional rights of the accused. All other officials participating in the process (police, forensic pathologists and others) are under the control and direction of these authorities.\textsuperscript{3,7}

A similar criminal investigation system exists in the neighbouring countries of Bulgaria and Italy.\textsuperscript{4,5} They do not have an independent authority to carry out investigative acts, but instead are subject to judicial supervision and control. For that reason, medico-legal investigation can take place only after a previous order by a judicial authority. This causes a lack of autonomous jurisdictional powers on the part of the forensic pathologist and subordination of his office to the judicial investigators.

The Greek forensic pathologist is not empowered with the full and independent authority of his/her American colleagues. This is the procedural framework within which forensic pathology and legal medicine are practised in Greece.\textsuperscript{6} As a result, at this time, forensic medicine in Greece is to a significant degree practised by doctors trained in other specialties. This situation is reflected in the relevant legislation, and it allows the appointment of any physician to carry out medico-legal investigations.

In general terms, the application and practice of nationwide forensic medicine follows three different systems that exist in parallel. In the central and rural areas of the country, as well as in all small islands, the duties of medico-legal examinations are carried out by any available local physician appointed by the investigative authorities. This is provided for by Article 185 of the Greek Code of Criminal Investigation Procedure. According to that Article, each judicial district holds a list of medical ‘experts’, composed by all the physicians practising in that area who may be called on to conduct a medico-legal investigation.

**ORGANIZATION OF FORENSIC MEDICINE SERVICES**

The absence of medico-legal offices in the rural areas and the concomitant undertaking of their function by doctors who are not qualified in forensic pathology has occasionally resulted in poor medico-legal investigation, according to a number of studies.\textsuperscript{7,8} In the majority of criminal cases, an order-invitation can be issued by the prosecutor or district attorney to any licensed forensic pathologist who serves in another jurisdiction. Alternatively, a body can be transferred to the established university or state medico-legal unit for investigation.

The next type of application of forensic medicine, used mainly in larger cities including the capital, is the State and Universities system. There are three State medico-legal services: one each in Athens, Piraeus and one the island of Crete. The state service come under the aegis of the Ministry of Justice.

The departments of Forensic Medicine at the Universities of Athens, Thessaloniki and Alexandroupolis come under the aegis of the Ministry of Education, while the University medico-legal services in Crete belong to the Ministry of Education and the Ministry of Health. Three additional university departments are expected to become operational in Ioannina, Patra and Larisa in the near future. The departments in Crete, Athens and Thessaloniki have modern instrumentation and are staffed with personnel trained in forensic pathology, toxicology and DNA analysis. In Thessaloniki, the University department of Forensic Pathology and Toxicology has existed for more than 50 years.

These university departments are involved with the teaching of forensic sciences (pathology, toxicology, serology, anthropology, clinical forensic medicine and medical ethics) which are mandatory to all medical students in Greece. The seven universities include in their curricula one or two semesters' instruction in forensic medicine. Postgraduate education in the field of forensic medicine leading to a masters or doctorate degree has not yet been formulated. Nevertheless, all departments of forensic medicine have established an independent process for training the young physicians in theory and practice. The postgraduate student is eligible for a masters degree after 1 year, or a doctorate degree after 3 years. The programmes, tests, practice and final defence are described by the medical school which offers the degree according to the regulations existing in the university.

The speciality of forensic pathology, leading to an official licence, is the exclusive responsibility of university departments. Forensic pathology has been recognized by an enactment of the Ministry of Health and Education as a separate field of specialization since 1955. Training involves 3 years of postgraduate study in the departments of Forensic Medicine at the Universities of Crete, Athens or Thessaloniki. The student spends 1 year in the study of anatomic pathology and the other 2 years in the study of forensic pathology and toxicology. There have been recent discussions and suggestions for a course consisting of 5 years' training (2 years on anatomic principles and 3 years in forensic pathology).
Unfortunately, the number of graduates qualifying in forensic pathology is disappointingly small — this reflects the universal problem of this branch of medicine.\textsuperscript{10} Unlike the teaching and specialization in forensic medicine, which follow a uniform style and are an exclusive responsibility of the University departments, the everyday practice and application of forensic pathology lacks uniformity.\textsuperscript{10} Athens and Crete are served simultaneously in the same territorial jurisdiction by two different services (one State-run and one University-run service). The previous legislation (Law 1910, Article 6, par. 1 and Law 1649/1986, Article 5, par. 4) in these parts of Greece did not clearly allow the university departments to perform autopsies and conduct medico-legal investigations in favour of the State services. The factors which led to modification of the law included: difficulties in teaching undergraduate students, training and specialization and problems in the everyday medico-legal practice, demanding updated tools and methods in investigations.

FORENSIC EXAMINATIONS ON THE LIVING

In all Forensic Medicine departments, the forensic pathologists are responsible for the medical examinations in sexual offence cases and they may also act as police surgeons. Usually, the pathologist is alone or assisted by a general practitioner or gynaecologist while undertaking a clinical examination in cases of rape. However, in times of emergency or where no forensic pathologist is available, the police may request that any medical doctor assist them in these serious matters.\textsuperscript{11}

The same practice is applied in drug cases, where the participation of a psychiatrist and a toxicologist is mandatory to determine the state of drug dependence in a person under custody. Drug addicts must receive specific treatment, according to the Law (Law 1729/87: Fighting Against the Spread of Narcotics and Protection of Youth and Law 2161/93: Modification and amendments of the Law 1729). The report of forensic specialists in a drug case (psychiatrists, pathologists and toxicologists) must contain data about the existence and extent of dependence on certain substances.\textsuperscript{12} Information such as the daily dose required to avoid withdrawal syndrome, influence of the drug on the behaviour and conscience of the addict, and the recommended suitable treatment should be contained in the report. The inability of the addict to terminate the drug abuse on his/her own must also be identified.

The clinical/laboratory report is then submitted to the District Attorney, who is empowered to decide whether to send the case to the Minor Crime Court or Examining Judge (Interrogator) and further to Crime Court. Hair testing on addicts is usually applied to evaluate the systematic past-exposure to the drug.\textsuperscript{13} Our data collected from several drug cases clearly shows that even up to 5 months after preliminary imprisonment of addicts, the detection of the drug in the total hair samples of the addicts is possible. Sectional analysis of hair samples provides substantial information as to the extent of drug use during certain periods in the past.\textsuperscript{13} In the cases regarding the living, issuance of a pertinent order by the investigative authorities (police and examining judge) is not obligatory to perform a forensic examination. Living people voluntarily report their case in a forensic medical report.

NEW LAW LEGISLATION AND CONSEQUENCES

The new Law (Law 2071/92, Article 123, par 4), ratified in 1992, allows that in these two jurisdictions, the investigating officer can order either the State service or a university department of forensic medicine to investigate any case (in all other jurisdictions the responsibility is of the local universities). Relevant to this is a recent regulation by the Supreme Court which equalizes the case work (Supreme Court enactment No 3065/11-5-1996). Nevertheless, in the meantime a natural resolution of preference occurred in favour of university departments or State services.

The department of Forensic Medicine at the University of Crete has successfully cooperated with the State service, staffed by one anatomic pathologist, to analyse all autopsy specimens from cases investigated by the State service in its toxicology unit, and deal with all cases in the jurisdiction of Crete. Death investigations consist mainly of traffic accidents, natural cases, drowning, overdose related to heroin abuse, accidental deaths and some intentional poisonings (suicides or homicides) in which the circumstances are unclear and an adequate comprehensive toxicological examination is necessary.\textsuperscript{14,15} The situation is similar in the central and northern part of Greece.\textsuperscript{20-24} The department of Forensic Medicine and Toxicology at the University of Athens has already begun carrying out violent death investigations along with the State services of legal medicine of the Ministry of Justice. It is believed that this department will soon become the main medico-legal office in the capital which carries out toxicological examinations on every specimen sent by the Authorities in the rural areas of central Greece and the islands.
University departments of forensic medicine are empowered by Law (705/45, Article 11, par 3) to collaborate with the State services of the Ministry of Justice where difficult cases are concerned (e.g. homicides, body identification etc.) which need extensive clarification and application of modern scientific tools.

In terms of the European Union, efforts have been made to formalize the practice of medico-legal methodology. Greece is mainly represented by the University departments and Professors of forensic pathology and toxicology.

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