

## **Shaping Public Policy: the Potential Role of a Constitutional Court**

Konstantinos Margaritis

Beyond dispute, the laws and regulatory measures promulgated by the government are considered to be a major expression of public policy within the State. However, in the words of Thomas Paine (Rights of Man, 1791) “a Constitution is a thing antecedent to a government and a government is only the creature of a Constitution. The Constitution of a country is not the act of a government, but of the people constituting the government”. Hence, the laws applied in a particular State must comply with the Constitution of that State.

In the Constitution of Greece this principle can be found in article 93, par. 4 which explicitly expresses that “the courts shall be bound not to apply a statute whose content is contrary to the Constitution”. What can be easily observed is that Greece encompasses the diffused model of constitutional review, with all courts being potentially engaged in the review procedure. In addition, the Greek model is concrete in the sense that courts incidentally resolve matters of constitutionality, when examining an actual case before them.

Nevertheless, several so called “grey zones” have been pointed out, issues that the aforementioned constitutional review model does not identify. The aim of this paper is twofold: on one hand to acknowledge certain constitutionality issues that could be better examined by a constitutional court; on the other hand, to argue that the protection of fundamental rights will be strengthened before a constitutional court. At the end, the contribution of a court with such powers in shaping public policy will be evaluated.

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