Recent Amendment on the Provisions Allowing for the Interception of Secret Communications and the Combination of Personal Data, for the Prevention of Human Trafficking and other Serious Crimes (implementation of Directive 2011/36/EC).

On September 24th, 2013 the Greek Parliament voted an amendment to the special provisions for the investigation, detection and prosecution of serious crimes such as the establishment of criminal organization (Greek Code of Criminal Procedure, art. 253A; Law 2225/1994, art. 4) extending their scope to the prevention and prosecution of human trafficking. The above mentioned provisions permit the access by the competent authorities to secret communications and relevant data and provide for the conditions of real-time lawful interception of communications.

According to article 19 § 1 of the Greek Constitution, the secrecy of communications is absolutely inviolable except for national security reasons and for the criminal investigation, detection and prosecution of serious offences. The guarantees, under which the judicial authority permits the interception of secret communications, are specified by law.

Moreover, under article 9, par. 4 of Directive 2011/36/EC, “Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in organized crime or other serious crime cases, are available to persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 2 and 3.” [i.e., offences concerning trafficking in human beings; incitement, aiding and abetting to commit the above referred to offences]
According to the recently voted amendment, implementing the above mentioned Directive 2011/36/EC under the restrictions set out by the Greek Constitution, the investigation of criminal organizations and organized crime, allowing for special criminal investigative tools under strict conditions (e.g., interception of secret communications, surveillance of suspects with CCTV and other technical devices, combination of personal data, police undercover activities etc.), is now extended to the investigation and prosecution of trafficking in human beings within the meaning of the Directive 2011/36/EC.

Namely, in the cases of human trafficking, the following investigatory tools may be used:

a) The penetration of investigators in criminal organizations in order to detect crimes that the members of the criminal organization have decided to commit;

b) The controlled transfer of persons involved in such crimes;

c) The interception of secret communications of suspects;

d) The surveillance and the recording of activity outside an individual’s residence by use of Closed-circuit television equipment (CCTV), sound or image devices and/or by other technical means; and

e) The combination and processing of personal data under the conditions of the privacy legislation set out in Law 2472/97.
The above tools for investigation are permitted only under the condition that there are serious indications that the offence was committed and provided the prosecution of the criminal organization is not possible without the use of the aforementioned activities. The above conditions are monitored by the competent judicial authority supervising the investigation.