

The impact of mental disorders on criminal responsibility: A comparative analysis of insanity and diminished responsibility doctrines in the legal frameworks of Greece and Cyprus

Evangelou K¹, Pavlidou L¹, Belimezakis N¹, Zervas V¹, Hadjiphilippou M², Louka C³

¹ Department of Medicine, National and Kapodistrian University of Athens, Athens, Greece

² Department of Nursing, National and Kapodistrian University of Athens, Athens, Greece

³ Department of Chemistry, University of Cyprus, Nicosia, Cyprus

INTRODUCTION

Mental disorders can compromise the cognitive and volitional capacities that ground criminal responsibility, but legal responses differ by jurisdiction. Greece and Cyprus share historical roots and both adopt a “disease of the mind” model, yet their frameworks have diverged.

Greece’s 2019 Penal Code reform (Law 4619/2019) codified a two-tier model: Article 34 on complete lack of capacity and Article 36 on significantly reduced capacity, explicitly tied to forensic psychiatric assessment.

In Cyprus, Criminal Code Cap. 154 §12 and Criminal Procedure Cap. 155 §70, read with the Psychiatric Care Law 77(I)/1997, maintain a unitary insanity doctrine coupled with procedures for hospitalisation / supervision. Diminished responsibility is not legislated but was developed case-by-case in sentencing.

These structural choices shape the questions put to experts, the range of verdicts available to judges, and the long-term management of mentally disordered offenders.

AIM

To compare how the criminal law of Greece and Cyprus regulates insanity and diminished responsibility, and to explore forensic consequences for assessment, verdicts and sentencing.

METHODS

Doctrinal analysis of:

Greek Penal Code Provisions:

- Article 34 on incapacity for culpability due to mental or intellectual disorder or disturbance of consciousness, abolishing criminal responsibility; and
- Article 36 on markedly reduced capacity under the same conditions, requiring imposition of a mitigated penalty, except in self-induced states.

Cypriot legislation:

- Criminal Code Cap. 154 §12 on “*phrenopathy*”, where disease of the mind abolishes capacity to understand the nature or wrongfulness of an act; and
- Criminal Procedure Cap. 155 §70 on mental disorder of the accused, unfitness to plead, hospitalisation orders and linkage with the Psychiatric Care Law 77(I)/1997 for duration and review.

Moreover, a review of key Cypriot judgments illustrating application of §12, implicit use of diminished responsibility at sentencing and judicial comments on legislative gaps was conducted. The Greek framework is examined through statutory text and contemporary forensic-psychiatric practice rather than detailed case law, reflecting its recent codification.

RESULTS

In both systems, insanity requires a qualifying “mental disorder” or “disease of the mind” that at the material time abolishes either understanding of the nature or wrongfulness of the act, or the capacity to act accordingly. Greek Article 34 expressly embraces both cognitive and volitional elements and uses terminology familiar to practicing psychiatrists. Cypriot §12 similarly follows the M’Naghten tradition but remains framed in older language about “*phren*” (=mind), placing emphasis on the accused’s inability to understand or to know they ought to abstain.

Greece recognises a clear intermediate category. Where the same conditions as Article 34 do not fully eliminate culpability but significantly reduce it, Article 36 mandates a mitigated sentence under Article 83, barring self-induced impairment. This statutory tier invites nuanced forensic opinions about degrees of capacity and supports proportionate sentencing. Cyprus lacks a codified diminished responsibility defence; instead, the Supreme Court has treated major psychiatric disturbance that falls short of §12 as a powerful mitigating factor, particularly in homicide and serious violence cases. This jurisprudential approach allows flexibility but can create variability and less predictable outcomes.

Greek law embeds forensic psychiatric

assessment throughout the criminal process, with options for security measures and treatment following an Article 34 finding, and ordinary or reduced penalties under Article 36. In Cyprus, Cap. 155 §70 provides a structured response when fitness to stand trial is questioned or when an accused is acquitted under §12: courts may order detention in a state psychiatric centre or outpatient psychiatric supervision, with duration and review governed by general mental health legislation rather than penal tariffs. This creates a hybrid regime where the criminal court triggers a pathway that is then largely clinical.

For experts in Greece, the statutory distinction between total and significantly reduced capacity provides a clear framework for opinion, encouraging detailed description of how specific symptoms impaired reality testing, moral understanding and behavioural control. For experts in Cyprus, the absence of a formal diminished responsibility doctrine places more weight on explaining whether §12 is met and, if not, how far responsibility is nonetheless attenuated for sentencing purposes. For judges, the Greek model offers more structured guidance but requires careful scrutiny of self-induced states; the Cypriot model offers wide discretion but has prompted repeated judicial calls for legislative modernisation and for hospital-order-type options tailored to forensic patients.

CONCLUSION

The comparison shows a convergence in the insanity test but divergence in how partial impairment is treated and how mentally disordered offenders are managed after verdict. Greece’s codified two-tier system enhances conceptual clarity and reinforces the integration of forensic psychiatry into proportional sentencing. Cyprus relies on a unitary statutory defence supplemented by case law and mental health legislation, preserving flexibility but risking inconsistency and under-specification of intermediate states of responsibility. For both jurisdictions, clearer links between criminal courts, forensic services and general psychiatric care (and outcome monitoring of insanity and diminished responsibility cases) could improve fairness, public protection and therapeutic prospects for mentally disordered offenders.

CORRESPONDENCE

Kyriacos Evangelou; National and Kapodistrian University of Athens; NKUA
evangeloukyriacos@gmail.com

Lydia Pavlidou; National and Kapodistrian University of Athens; NKUA
lydiapav00@gmail.com